



## **NOTICE OF TELECONFERENCE ENFORCEMENT COMMITTEE MEETING**

### **Committee Members**

Laurence Adams, D.C., Chair  
David Paris, D.C.  
Rafael Sweet

**The Board of Chiropractic Examiners' (Board) Enforcement Committee will meet by teleconference on:**

**Friday, December 8, 2023  
12:30 p.m. to 2:30 p.m.  
(or until completion of business)**

**The Committee may take action on any agenda item.**

**Teleconference Instructions:** The Enforcement Committee will hold a public meeting via Webex Events. Pursuant to the statutory provisions of Government Code section 11133, neither a public location nor teleconference locations are provided.

To access and participate in the meeting via teleconference, attendees will need to click on, or copy and paste into a URL field, the link below and enter their name, email address, and the event password, or join by phone using the access information below:

<https://dca-meetings.webex.com/dca-meetings/j.php?MTID=me424cf4a6d031ef4ebc5ffb967e269e6>

### **If joining using the link above**

Webinar number: 2494 830 7106  
Webinar password: BCE128

### **If joining by phone**

+1-415-655-0001 US Toll  
Access code: 2494 830 7106  
Passcode: 223128

Instructions to connect to the meeting can be found at the end of this agenda.

Members of the public may, but are not obligated to, provide their names or personal information as a condition of observing or participating in the meeting. When signing into the Webex platform, participants may be asked for their name and email address. Participants who choose not to provide their names will be required to provide a unique identifier, such as their initials or another alternative, so that the meeting moderator can identify individuals who wish to make a public comment. Participants who choose not to provide their email address may utilize a fictitious email address in the following sample format: [XXXXX@mailinator.com](mailto:XXXXX@mailinator.com).

**Note:** Members of the public may also submit written comments to the Committee on any agenda item by Tuesday, December 5, 2023. Written comments should be directed to [chiro.info@dca.ca.gov](mailto:chiro.info@dca.ca.gov) for Committee consideration.

## **AGENDA**

1. **Call to Order / Roll Call / Establishment of a Quorum**
2. **Review and Possible Approval of June 8, 2023 Committee Meeting Minutes**
3. **Update on Board's Enforcement Program**
4. **Review, Discussion, and Possible Recommendation Regarding Proposal to Update the Minimum Supervision and Training Requirements for Unlicensed Individuals Who Perform Specified Support Services Within a Chiropractic Practice (amend California Code of Regulations [CCR], Title 16, section 312)**
5. **Review, Discussion, and Possible Recommendation Regarding Proposal to Update the Record Keeping and Retention Requirements for Chiropractic Patient Records (amend CCR, Title 16, section 318)**
6. **Review, Discussion, and Possible Recommendation Regarding Proposal to Update the Board's *Disciplinary Guidelines and Model Disciplinary Orders* and Implement the Uniform Standards for Substance Abusing Licensees (amend CCR, Title 16, section 384)**
7. **Public Comment for Items Not on the Agenda**  
Note: Members of the public may offer public comment for items not on the agenda. However, 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).]
8. **Future Agenda Items**  
Note: Members of the Committee and the public may submit proposed agenda items for a future Committee meeting. However, the Committee may not discuss or take action on any proposed matter except to decide whether to place the matter on the agenda of a future meeting. [Government Code Section 11125.]
9. **Adjournment**

This agenda can be found on the Board's website at [www.chiro.ca.gov](http://www.chiro.ca.gov). The time and order of agenda items are subject to change at the discretion of the Committee Chair and may be taken out of order. In accordance with the Bagley-Keene Open Meeting Act, all meetings of the Board are open to the public.

## BCE Enforcement Committee Meeting Agenda

December 8, 2023

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The Board plans to webcast this meeting at <https://thedcapage.wordpress.com/webcasts/>. Webcast availability cannot, however, be guaranteed due to limitations on resources or other technical difficulties that may arise. The meeting will not be canceled if webcast is not available. If you wish to participate or to have a guaranteed opportunity to observe, please attend the meeting via Webex Events.

Government Code section 11125.7 provides the opportunity for the public to address each agenda item during discussion or consideration by the Committee prior to it taking any action on said item. Members of the public will be provided appropriate opportunities to comment on any issue before the Committee, but the Committee Chair may, at their discretion, apportion available time among those who wish to speak. Members of the public will not be permitted to yield their allotted time to other members of the public to make comments. Individuals may appear before the Committee to discuss items not on the agenda; however, the Committee can neither discuss nor take official action on these items at the time of the same meeting (Government Code sections 11125 and 11125.7(a)).

This meeting is being held via Webex Events. The meeting is accessible to individuals with disabilities. A person who needs a disability-related accommodation or modification to participate in the meeting may make a request by contacting the Board at:

**Telephone:** (916) 263-5355

**Email:** [chiro.info@dca.ca.gov](mailto:chiro.info@dca.ca.gov)

**Telecommunications Relay Service:** Dial 711

**Mailing Address:**

Board of Chiropractic Examiners

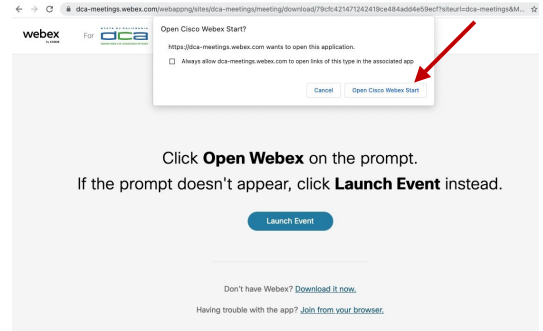
1625 N. Market Blvd., Suite N-327

Sacramento, CA 95834

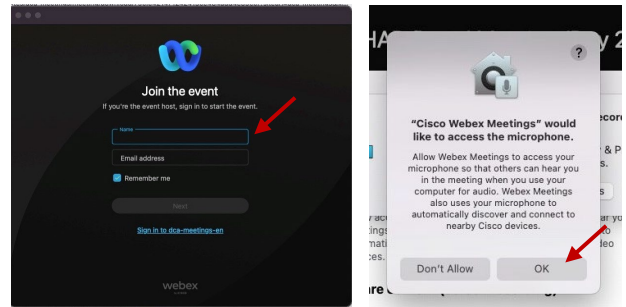
Providing your request at least five (5) business days before the meeting will help to ensure availability of the requested accommodation.

## If joining using the meeting link

- 1 Click on the meeting link. This can be found in the meeting notice you received.
- 2 If you have not previously used Webex on your device, your web browser may ask if you want to open Webex. Click "Open Cisco Webex Start" or "Open Webex", whichever option is presented. DO NOT click "Join from your browser", as you will not be able to participate during the meeting.



- 3 Enter your name and email address\*. Click "Join as a guest". Accept any request for permission to use your microphone and/or camera.

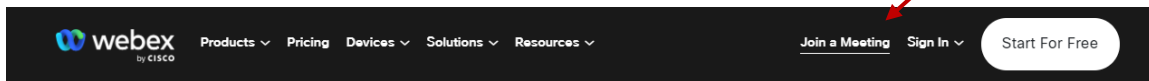


\* Members of the public are not obligated to provide their name or personal information and may provide a unique identifier such as their initials or another alternative, and a fictitious email address like in the following sample format: XXXXX@mailinator.com.

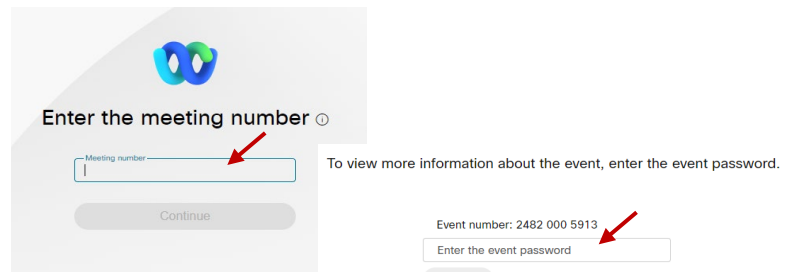
OR

## If joining from Webex.com

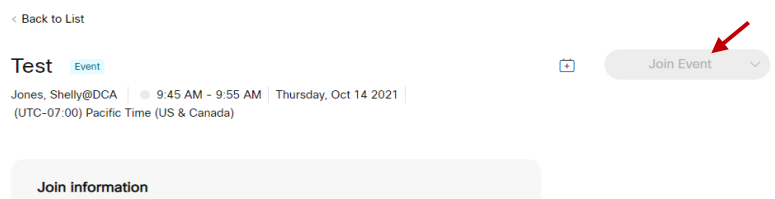
- 1 Click on "Join a Meeting" at the top of the Webex window.



- 2 Enter the meeting/event number and click "Continue". Enter the event password and click "OK". This can be found in the meeting notice you received.



- 3 The meeting information will be displayed. Click "Join Event".



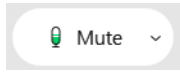
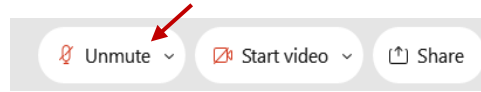
OR

## Connect via telephone\*:

You may also join the meeting by calling in using the phone number, access code, and passcode provided in the meeting notice.

### Microphone

Microphone control (mute/unmute button) is located on the command row.

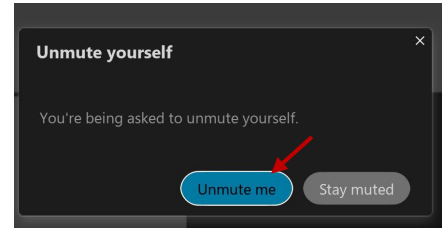


Green microphone = Unmuted: People in the meeting can hear you.



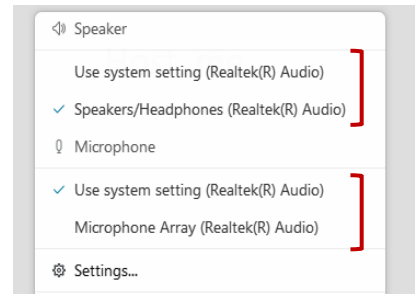
Red microphone = Muted: No one in the meeting can hear you.

*Note: Only panelists can mute/unmute their own microphones. Attendees will remain muted unless the moderator enables their microphone at which time the attendee will be provided the ability to unmute their microphone by clicking on "Unmute Me".*



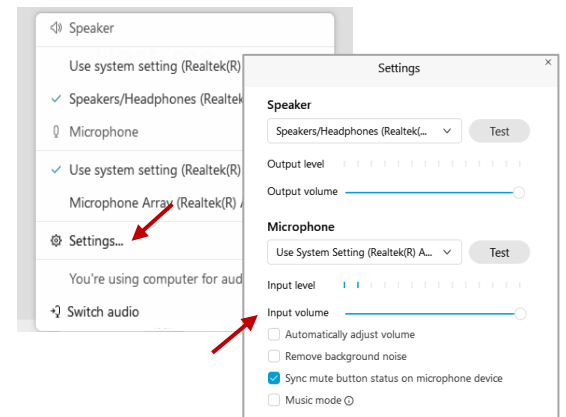
### If you cannot hear or be heard

- 1 Click on the bottom facing arrow located on the Mute/Unmute button.
- 2 From the pop-up window, select a different:
  - Microphone option if participants can't hear you.
  - Speaker option if you can't hear participants.



### If your microphone volume is too low or too high

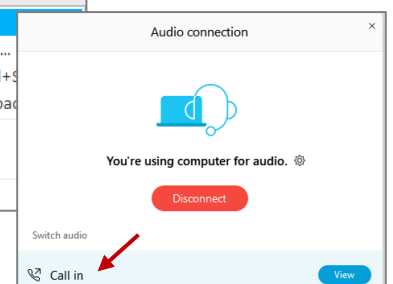
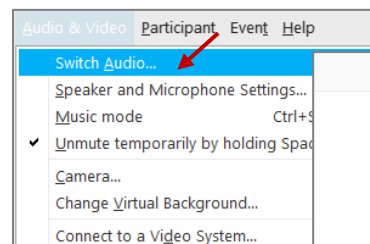
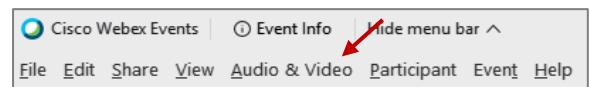
- 1 Locate the command row – click on the bottom facing arrow located on the Mute/Unmute button.
- 2 From the pop-up window:
  - Click on "Settings...":
  - Drag the "Input Volume" located under microphone settings to adjust your volume.



### Audio Connectivity Issues

If you are connected by computer or tablet and you have audio issues or no microphone/speakers, you can link your phone through Webex. Your phone will then become your audio source during the meeting.

- 1 Click on "Audio & Video" from the menu bar.
- 2 Select "Switch Audio" from the drop-down menu.
- 3 Select the "Call In" option and following the directions.



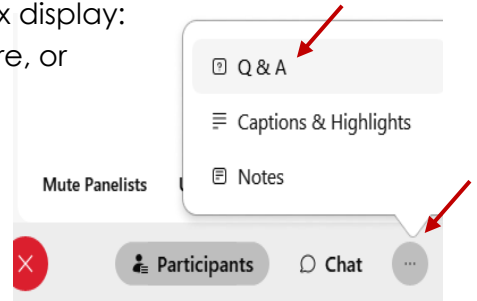
The question-and-answer (Q&A) and hand raise features are utilized for public comments.

*NOTE: This feature is not accessible to those joining the meeting via telephone.*

### Q&A Feature

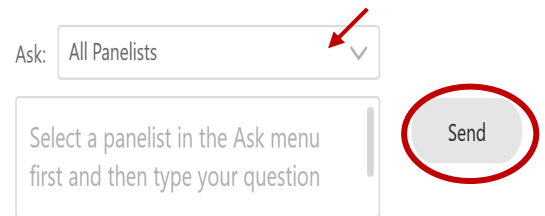
1 Access the Q&A panel at the bottom right of the Webex display:

- Click on the icon that looks like a “?” inside of a square, or
- Click on the 3 dots and select “Q&A”.



2 In the text box:

- Select “All Panelists” in the dropdown menu,
- Type your question/comment into the text box, and
- Click “Send”.



OR

### Hand Raise Feature

- 1
- Hovering over your own name.
  - Clicking the hand icon that appears next to your name.
  - Repeat this process to lower your hand.

If connected via telephone:

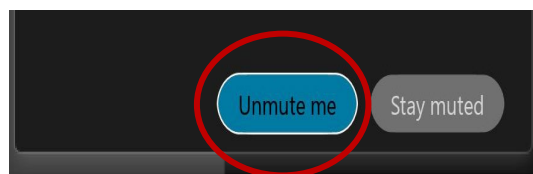
- Utilize the raise hand feature by pressing \*3 to raise your hand.
- Repeat this process to lower your hand.

### Unmuting Your Microphone



The moderator will call you by name and indicate a request has been sent to unmute your microphone. Upon hearing this prompt:

- Click the **Unmute me** button on the pop-up box that appears.

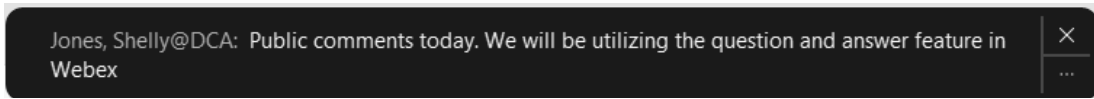


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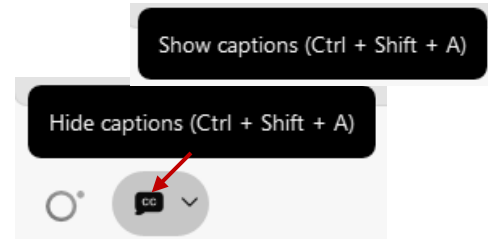
If connected via telephone:

- Press \*3 to unmute your microphone.

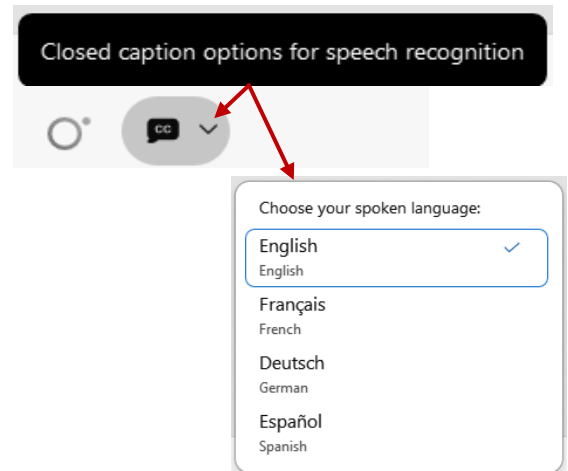
Webex provides real-time closed captioning displayed in a dialog box on your screen. The captioning box can be moved by clicking on the box and dragging it to another location on your screen.



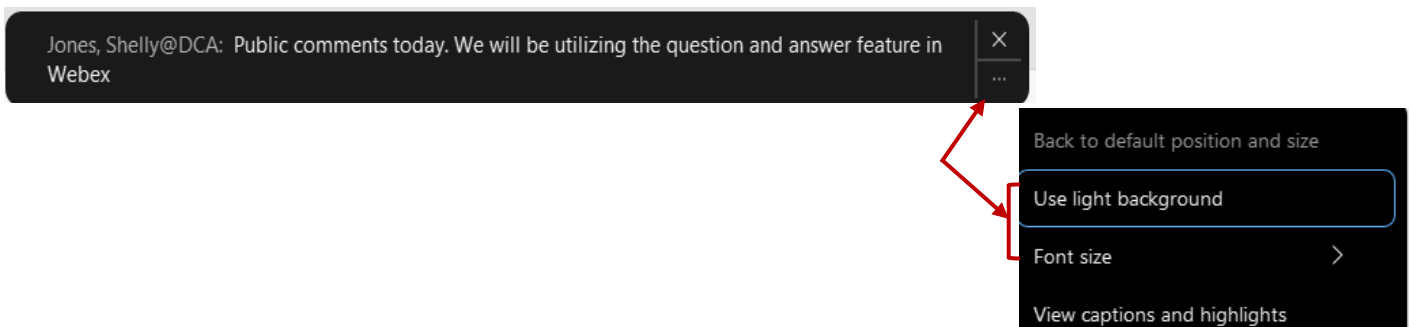
The closed captioning can be hidden from view by clicking on the closed captioning icon. You can repeat this action to unhide the dialog box.



You can select the language to be displayed by clicking the drop-down arrow next to the closed captioning icon.



You can view the closed captioning dialog box with a light or dark background or change the font size by clicking the 3 dots on the right side of the dialog box.





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**Agenda Item 1  
December 8, 2023**

**Call to Order / Roll Call / Establishment of a Quorum**

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**Purpose of the Item**

Laurence Adams, D.C., Chair of the Board's Enforcement Committee, will call the meeting to order. Roll will be called by David Paris, D.C.

**Committee Members**

Laurence Adams, D.C., Chair  
David Paris, D.C.  
Rafael Sweet





**Agenda Item 2  
December 8, 2023**

**Review and Possible Approval of June 8, 2023 Committee Meeting Minutes**

**Purpose of the Item**

The Committee will review and possibly approve the minutes of the previous meeting.

**Action Requested**

The Committee will be asked to make a motion to approve the June 8, 2023 Committee meeting minutes.

**Attachment**

- June 8, 2023 Enforcement Committee Meeting Minutes (Draft)



**BOARD OF CHIROPRACTIC EXAMINERS  
ENFORCEMENT COMMITTEE  
MEETING MINUTES  
June 8, 2023**

In accordance with the statutory provisions of Government Code section 11133, the Enforcement Committee of the Board of Chiropractic Examiners (Board) met via teleconference/Webex Events with no physical public locations on June 8, 2023.

**Committee Members Present**

Laurence Adams, D.C., Chair  
David Paris, D.C.

**Committee Member Absent**

Rafael Sweet (Excused)

**Staff Present**

Kristin Walker, Executive Officer  
Tammi Pitto, Assistant Executive Officer  
William Walker III, Enforcement Manager  
Amanda Ah Po, Enforcement Analyst  
Sabina Knight, Board Counsel, Attorney III, Department of Consumer Affairs (DCA)  
Steven Vong, Regulatory Counsel, Attorney III, DCA

**1. Call to Order / Roll Call / Establishment of a Quorum**

Dr. Adams called the meeting to order at 12:00 p.m. Dr. Paris called the roll. Mr. Sweet was excused from the meeting. Drs. Adams and Paris were present, and a quorum was established.

**2. Review and Possible Approval of March 2, 2023 Committee Meeting Minutes**

**Motion: Dr. Paris moved to approve the minutes of the March 2, 2023 Enforcement Committee meeting.**

**Second: Dr. Adams seconded the motion.**

**Public Comment:** None.

**Vote: 2-0 (Dr. Adams-AYE and Dr. Paris-AYE).**

**Motion: Carried.**

### 3. Update on Board's Enforcement Program

Ms. Walker explained the statutory provisions of Government Code section 11133 that currently allow the Board to conduct meetings remotely with no physical locations will expire on June 30, 2023, and the Board will need to revert to the traditional teleconference meeting requirements within the Bagley-Keene Open Meeting Act beginning July 1, 2023. She stated that the July 20, 2023 Board meeting will be conducted as a hybrid meeting with a primary physical location at the DCA headquarters building in Sacramento, and Board members will have the option to either travel to that meeting location or participate remotely via Webex from a publicly identified and accessible meeting location.

She shared that Austin Maha was recently hired to fill the Administrative Technician position and will be providing front desk and general office support and handling all cashiering duties. She also announced that Tammi Pitto was promoted to the Assistant Executive Officer position effective June 1, 2023.

Ms. Walker updated the Committee on the following bills:

- Assembly Bill (AB) 765 (Wood) [Physicians and surgeons: medical specialty titles] was held in the Assembly Appropriations Committee and is dead for 2023.
- AB 1028 (McKinnor) [Reporting of crimes: mandated reporters] passed the Assembly on May 31, 2023, and is pending assignment in the Senate.
- AB 1707 (Pacheco) [Health professionals and facilities: adverse actions based on another state's law] passed the Assembly on May 22, 2023, and is scheduled to be heard by the Senate Business, Professions and Economic Development Committee on June 19, 2023.
- Senate Bill (SB) 372 (Menjivar) [Department of Consumer Affairs: licensee and registrant records: name and gender changes] passed the Senate on May 22, 2023, and is scheduled to be heard by the Assembly Business and Professions Committee on June 20, 2023.
- SB 802 (Roth) [Licensing boards: disqualification from licensure: criminal conviction] passed the Senate on April 13, 2023, and has been referred to the Assembly Business and Professions Committee.

She also noted there are eight pending regulatory proposals that affect the Board's Enforcement Program and highlighted the enforcement statistics within the meeting materials. She explained staff in the Enforcement Unit have been focusing on disciplinary cases, and as a result, the number of pending disciplinary cases decreased from 107 as of July 1, 2022, to 58 as of May 31, 2023, and the number of probationers

being monitored by the Board increased from 64 to 73 during that same timeframe.

Dr. Adams asked about the status of the Board's proposal to amend the continuing education (CE) regulations. Ms. Walker replied that staff is drafting the regulatory package for DCA approval and noted that the proposals to update the CE requirements and establish minimum penalties for sexual misconduct cases are the highest priority for staff.

Drs. Paris and Adams congratulated Ms. Pitto on her recent promotion to the Assistant Executive Officer position.

**Public Comment:** None.

**4. Review, Discussion, and Possible Recommendation Regarding Discipline Against Licensees by Other Public Agencies and Licensee Reporting of Convictions, Disciplinary Actions, and Other Violations to the Board (amend California Code of Regulations [CCR], Title 16, sections 304 and 314)**

Ms. Pitto explained at the May 19, 2016 Board meeting, as part of a planned comprehensive Consumer Protection Enforcement Initiative (CPEI) regulatory package, the Board approved proposed language to amend CCR, title 16, sections 304 (Discipline by Another Jurisdiction) and 314 (Law Violators) and to add CCR, title 16, section 317.3 (Licensee Reporting Requirements), and staff later merged section 317.3 with section 314 to place the licensee reporting requirements in a single section.

She noted at that time, the Board was seeking to amend CCR, title 16, section 304 to broadly make any disciplinary action of a professional license by a state or federal agency or foreign government constitute unprofessional conduct and grounds for disciplinary action against a licensee. She shared staff's recommendation for the Committee, and ultimately the Board, to discuss this concept and consider whether the regulation should be limited to discipline by another agency that is substantially related to the practice of chiropractic.

Ms. Pitto further explained that CCR, title 16, section 314 makes it the duty of every licensee to notify the Executive Officer of any violation of the Chiropractic Initiative Act or Board regulations, and staff recommends potentially: 1) expanding this requirement to include suspected or actual violations; 2) allowing the notification to be made by filing a complaint; and 3) establishing a deadline for making this notification to the Board.

She added that the proposed subdivision (b) of CCR, title 16, section 314 would require a licensee to report a felony charge, a felony or misdemeanor conviction, or any disciplinary action to the Board within 30 days of the action, and staff recommends also requiring licensees to report any arrest to the Board within 30 days.

Dr. Paris indicated CCR, title 16, section 314 has always been interpreted to require any

licensee to report any violation that was brought to their attention to the Board, but some of the proposed language within the meeting materials appears to only reflect self-reporting. He emphasized the importance of clarifying the language to clearly state that licensees are obligated to report any known violations to the Board. He also noted the proposed language for CCR, title 16, section 304 within the meeting materials states that any disciplinary action from another licensing entity constitutes unprofessional conduct and suggested the Committee discuss narrowing that broad, definitive language.

Ms. Knight informed the Committee that most of the other DCA healing arts boards have similar provisions within their regulations, and the Board has discretion when imposing discipline and staff evaluates each situation on a case-by-case basis.

Dr. Adams questioned whether licensees should be required to report arrests and criminal charges to the Board because those matters have not yet been adjudicated. Ms. Walker explained the Board already receives licensee arrest notifications through the Department of Justice (DOJ) and handles them by opening a case, evaluating the circumstances and pending charges, and determining whether the matter requires an immediate referral to the Attorney General's office to make a criminal court appearance on behalf of the Board and recommend practice restrictions during the pending criminal proceeding, such as in cases involving allegations of sexual assault. She indicated routine criminal cases that do not pose an immediate risk to public safety are tracked by staff until the conviction occurs, and at that point, staff determines if the conviction is substantially related to the practice of chiropractic and warrants action by the Board. She noted the Board does not always receive the arrest notifications from DOJ and emphasized the importance of staff receiving timely notifications of licensee arrests so they can make the initial assessment of the matter and determine whether it needs to be immediately referred to the Attorney General's office to protect the public.

Ms. Walker further explained the difference between licensee reporting of actions under the proposed language for CCR, title 16, section 314 and the Board's authority to take disciplinary action based on those actions under CCR, title 16, sections 304 and 317. She reiterated the public safety benefits of ensuring all arrests, convictions, and disciplinary actions by other agencies are reported to the Board, and assured the Committee that staff, and ultimately the Board, still exercise discretion when determining which actions warrant disciplinary action by the Board. She redirected the Committee to the proposed language for CCR, title 16, section 304 within the meeting materials and stated that language may be too broad by allowing the Board to discipline a licensee for any disciplinary action taken by another agency. She suggested adopting the same "substantially related to the practice of chiropractic" standard that is already used by the Board when evaluating criminal convictions.

Dr. Adams indicated Ms. Walker's explanations cleared up his questions and concerns. Dr. Paris shared his support for including the "substantially related" language in CCR, title 16, section 304, and requested that the language for CCR, title 16, section 314,

subdivision (b) be clarified so it is easily understood that a licensee must report any violations of the Chiropractic Initiative Act or Board regulations, not just those committed by themselves, to the Board. He emphasized the need for the language to fully describe the licensee's obligation to report a violation committed by any licensee or unlicensed individual so the Board can investigate and take appropriate action. Ms. Knight suggested inserting "any violation [...] by any individual" to further clarify the text. Drs. Adams and Paris concurred.

**Motion: Dr. Paris moved to recommend that the proposed text to amend CCR, title 16, sections 304 (Discipline by Another Jurisdiction) and 314 (Licensee Reporting Requirements) be moved to the full Board for consideration with the following changes: 1) add "substantially related to the practice of chiropractic" to section 304; 2) add "by any individual" to subdivision (a) of section 314; and 3) add self-reporting of arrests to subdivision (b) of section 314.**

**Second: Dr. Adams seconded the motion.**

**Public Comment:** A caller identified as "ML" stated it is important to always include unlicensed activity, licensees on probation, and former licensees who have been revoked for misconduct so there are no loopholes in the Board's regulations.

**Vote: 2-0 (Dr. Adams-AYE and Dr. Paris-AYE).**

**Motion: Carried.**

**5. Review, Discussion, and Possible Recommendation Regarding the Filing and Evaluation Process for Petitions for Reinstatement, Reduction of Penalty, and Early Termination of Probation (amend CCR, Title 16, section 365 and add CCR, Title 16, section 385)**

Ms. Walker provided background information regarding a pending CPEI regulatory proposal to establish regulations for the process for petitioning the Board for reinstatement of a license or reduction of penalty. She asked the Committee to engage in a policy discussion regarding the minimum requirements that must be met before an individual is qualified to be heard before the Board. She stated CCR, title 16, section 365 currently requires an individual to complete the CE requirements for each year their license has been revoked or surrendered. She recalled that the Continuing Education Committee briefly discussed this regulation when developing the comprehensive CE proposal and recommended that the Enforcement Committee consider setting a maximum cap of four years of CE requirements, or 96 hours, and requiring successful completion of the National Board of Chiropractic Examiners (NBCE) Part IV examination if their license has been revoked or surrendered for over five years. She asked the Committee to discuss whether the NBCE Part IV examination requirement should be met before the individual can be heard by the Board or required as a condition precedent to reinstating the license in the petition decision. She also referenced the

petition processes at other DCA healing arts boards and noted that some boards prohibit individuals from being heard while they are currently under sentence for any criminal offense or while any accusation or petition to revoke probation is pending against them. She highlighted how those programs also request a detailed narrative statement with the petition application outlining the individual's specific request, rehabilitation efforts, and plans for practice and require the individual to submit verified recommendations from other licensees with their petition. She concluded by also suggesting that the Board establish a process for the handling of abandoned petition applications, such as the one-year period used during the licensure process.

Dr. Adams commended staff for their work on the regulatory proposal and their recommendations to the Committee. Dr. Paris liked the format and structure of the Medical Board of California's petition application. He supported staff's recommendations of establishing a one-year abandonment process and requiring petitioners to provide two letters of recommendation with their petition package.

Dr. Adams supported the Continuing Education Committee's recommendations of setting a cap of four years of CE and requiring the successful completion of the NBCE Part IV examination after four or five years of nonpractice. Dr. Paris suggested it may be more beneficial for the Board to reinstate the petitioner's license and provide them with six months or one year to pass the examination instead of requiring the examination prior to being heard by the Board. Dr. Adams agreed. Dr. Paris added there is value in the person being in practice while preparing for the NBCE Part IV examination because it requires hands-on practice and clinical experience. Dr. Adams concurred and commented that taking and passing the NBCE Part IV examination, particularly after five years of nonpractice, ensures public protection. Ms. Walker suggested that making the NBCE Part IV examination a condition precedent to license reinstatement could be an effective option because the petitioner would be unable to practice until they have demonstrated their competency to the Board by passing the practical examination.

Dr. Adams questioned the benefit of requiring a petitioner to complete both CE and the NBCE Part IV examination because the examination preparation will require them to study the current principles of chiropractic practice. He suggested requiring CE for those who have been revoked or surrendered for four years or less and mandating the NBCE Part IV examination in lieu of CE after five years of nonpractice. Dr. Paris explained that the NBCE Part IV examination primarily focuses on the clinical components of physical examination and technique with some case management, and it does not cover all of the mandated CE categories. He recalled the Board wanted all petitioners to complete CE and additionally require an examination in cases where the Board questions the petitioner's clinical competency, such as after an extended period of nonpractice. Dr. Adams added successful completion of the NBCE Part IV examination ensures the petitioner possesses the minimum competency to safely practice chiropractic.

Dr. Paris asked Ms. Walker for clarification regarding the potential options for imposing the CE and NBCE Part IV examination requirements. Ms. Walker explained the options

for mandating CE and/or the NBCE Part IV examination as a requirement that must be fulfilled before the petitioner can be heard by the Board or adding the requirement to the Board's *Disciplinary Guidelines* and imposing it through the petition decision. She added that CCR, title 16, section 365 establishes the CE as a requirement prior to being heard by the Board, so staff verifies that the petitioner has completed the necessary CE hours before their application is deemed complete and scheduled to be heard by the Board. She explained that by adding the NBCE Part IV examination as a recommended condition to the Board's *Disciplinary Guidelines*, the Board could impose the condition in most cases while still retaining its discretion to make deviations when appropriate, such as when the individual has already demonstrated their competency through other means.

Drs. Adams and Paris expressed their support for the Board retaining its discretion when imposing the NBCE Part IV examination for petition decisions and agreed with discussing that item further when considering the proposed changes to the Board's *Disciplinary Guidelines*.

Drs. Adams and Paris continued their discussion of setting a maximum of four years of CE in CCR, title 16, section 365. Dr. Paris requested that the language reflect that the petitioner must complete the proportionate amount of mandated CE as part of the requirement. Ms. Walker confirmed the petitioners would be required to complete the same mandatory CE categories as licensees and would be prohibited from receiving credit for repeating a CE course. Dr. Adams concurred.

Ms. Walker asked if the Committee agreed with staff's recommendations to prevent a petition from being heard while the individual is under sentence for a criminal offense or while an accusation or petition to revoke probation is pending against them. Drs. Adams and Paris concurred.

**Motion: Dr. Paris moved to recommend that the Committee's suggested changes and recommendations for CCR, title 16, sections 365 and 385 be finalized by staff and moved to the full Board for consideration at a future meeting.**

**Second: Dr. Adams seconded the motion.**

**Public Comment:** None.

**Vote: 2-0 (Dr. Adams-AYE and Dr. Paris-AYE).**

**Motion: Carried.**

Dr. Paris requested that staff consider developing a petition application similar to the one used by the Medical Board of California. Ms. Walker confirmed that staff will be significantly updating the Board's petition forms before presenting them to the full Board for approval.



## 6. Public Comment for Items Not on the Agenda

**Public Comments:** ML commented that the Board is working on regulations for supervision of unlicensed individuals, including revoked licensees, within a chiropractic office and stated she would also like to see these policies include an integrative office setting where a chiropractor works with licensees in other professions.

Falkyn Luouxmont stated the Licensing Committee made no progress during the May 12, 2023 meeting on his request to amend CCR, title 16, section 331.12.2, subdivision (e) to allow for a partial point in cases where the student performed an evaluation, but did not perform an adjustment because no subluxation was detected. He requested that the Licensing Committee members be reassigned if the requested language to amend this regulation is not presented to the full Board for consideration at the July 20, 2023 meeting.

## 7. Future Agenda Items

**Public Comment:** ML requested the following future agenda items: 1) legislative changes to implement interim restrictions such as a chaperone on licensees who are accused of sexual misconduct or assault to protect patients while an investigation is conducted; 2) mandatory professional boundaries training, including sexual harassment and assault prevention, for licensees every few years because California employment laws do not require this training for licensees with less than five employees; and 3) a discussion between the Board and the Physical Therapy Board of California to clarify language regarding which services chiropractors, physical therapists, and unlicensed individuals can perform. ML stated that she also submitted written comments to the Board and was one of four women who testified against a former chiropractor whose license was revoked in December 2021 for sexual misconduct.

Dr. Paris noted the Board receives and reviews all written comments received and thanked the public for submitting them. Dr. Adams concurred.

## 8. Adjournment

Dr. Adams adjourned the meeting at 1:53 p.m.



**Agenda Item 3  
December 8, 2023**

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**Update on Board's Enforcement Program**

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**Purpose of the Item**

The Executive Officer and Board staff will provide the Committee with an update on the Board's Enforcement Program activities and statistics.

**Action Requested**

This agenda item is informational only and provided as a status update to the Committee. No action is required or requested at this time.

**Attachment**

- Executive Officer's December 5, 2023 Memo to Committee Members Regarding Enforcement Program Activities and Statistics



# MEMORANDUM

## Agenda Item 3 Attachment

<b>DATE</b>	December 5, 2023
<b>TO</b>	Members of the Board of Chiropractic Examiners' Enforcement Committee
<b>FROM</b>	Kristin Walker, Executive Officer
<b>SUBJECT</b>	<b>Update on Board's Enforcement Program</b>

This report provides an overview of recent Board of Chiropractic Examiners' (BCE) Enforcement Program activities.

### Board and Committee Meetings

The following upcoming meetings have been scheduled:

- December 8, 2023 – Enforcement Committee (Teleconference)
- January 12, 2024 – Board (Teleconference)

### Board Personnel Updates

Recruitment efforts are currently underway to refill a vacant Associate Governmental Program Analyst position, a vacant Special Investigator position, and a vacant Staff Services Manager I position in the Enforcement Unit.

### Legislation Affecting the Board's Enforcement Program

#### **Assembly Bill (AB) 765 (Wood) Physicians and surgeons: medical specialty titles.**

This bill, known as the California Patient Protection, Safety, Disclosure, and Transparency Act, would make it a misdemeanor for any person who does not have a valid, unrevoked, and unsuspended physician and surgeon certificate to use any medical specialty title, as specified, or any titles, terms, letters, words, abbreviations, description of services, designations, or insignia indicating or implying the person is licensed to practice medicine. This bill was held under submission in the Assembly Appropriations Committee and is dead for 2023.

**AB 1028 (McKinnor) Reporting of crimes: mandated reporters.** This bill would, on or after January 1, 2025, remove the requirement that a health practitioner make a report to law enforcement when they suspect a patient has suffered physical injury caused by assaultive or abusive conduct, and instead, require a health practitioner who provides medical services to a patient whom the health practitioner knows or reasonably suspects is experiencing any form of domestic violence or sexual violence to provide

brief counseling, education, or other support, and offer a warm handoff or referral to local and national domestic violence or sexual violence advocacy services before the end of the patient visit. This bill was held under submission by the Senate Appropriations Committee and is dead for 2023.

**[AB 1707 \(Pacheco, Chapter 258, Statutes of 2023\)](#) Health professionals and facilities: adverse actions based on another state's law.** This bill prohibits a DCA healing arts board from denying an application for licensure or suspending, revoking, or otherwise imposing discipline upon a licensee on the basis of a civil judgment, criminal conviction, or disciplinary action in another state if that judgment, conviction, or disciplinary action is based solely on the application of another state's law that interferes with a person's right to receive sensitive services that would be lawful if provided in this state. This bill was approved by the Governor on September 27, 2023.

**[Senate Bill \(SB\) 143 \(Committee on Budget and Fiscal Review, Chapter 196, Statutes of 2023\)](#) State government.** This trailer bill includes provisions that allow for remote public meetings without noticed physical locations until December 31, 2023, and language to implement the Federal License Portability Law for Servicemembers, and was approved by the Governor on September 13, 2023.

**[SB 372 \(Menjivar, Chapter 225, Statutes of 2023\)](#) Department of Consumer Affairs: licensee and registrant records: name and gender changes.** This bill requires a DCA board to update a licensee's or registrant's license by replacing references to the former name or gender on the license or registration, as specified, if the board receives documentation, as described, from the licensee or registrant demonstrating that the licensee's or registrant's legal name or gender has been changed. If the board operates an online license verification system, the bill requires the board to replace references to the licensee's or registrant's former name or gender with the individual's current name or gender, as applicable, on the publicly viewable information displayed on the internet. The bill prohibits a board from publishing the licensee's or registrant's former name or gender online, and instead, requires the board to post an online statement directing the public to contact the board for more information. For specified licensees or registrants, the board is prohibited from posting enforcement records online, but is required to post an online statement stating the individual was previously subject to an enforcement action and directing the public to contact the board, as prescribed. This bill provides that all records related to a request to update an individual's license or registration under these provisions are confidential and not subject to public inspection or disclosure. The bill requires the board, if requested by a licensee or registrant, to reissue any license created by the board and conferred upon the licensee or registrant, and prohibits the board from charging a higher fee for reissuing a license with an updated legal name or gender than the fee it charges for reissuing a license with other updated information. This bill was approved by the Governor on September 23, 2023.

**SB 447 (Atkins, Chapter 199, Statutes of 2023) GO-Biz.** This bill, among other things, repeals the provisions that prohibit a state agency and the Legislature from requiring any of its employees, officers, or members to travel to, or from approving a request for state-funded or state-sponsored travel to, states with discriminatory laws. This bill was approved by the Governor on September 13, 2023.

**SB 544 (Laird, Chapter 216, Statutes of 2023) Bagley-Keene Open Meeting Act: teleconferencing.** This bill enacts an additional, alternative set of provisions under which a state body may hold a meeting by teleconference. The bill was approved by the Governor on September 22, 2023.

**SB 802 (Roth) Licensing boards: disqualification from licensure: criminal conviction.** This bill would require a DCA board to notify an applicant in writing within 30 days after a decision is made to deny an application for licensure based solely or in part on the applicant's conviction history, of all of the following: 1) the denial or disqualification of licensure; 2) any existing procedure the board has for the applicant to challenge the decision or request reconsideration; 3) that the applicant has the right to appeal the board's decision; and 4) the processes for the applicant to request a copy of their complete conviction history and question the accuracy or completeness of the record pursuant to Penal Code sections 11122 through 11127. Existing law requires this written notification to be sent to the applicant but does not specify a timeframe during which it must be transmitted. This bill was held in the Assembly Business and Professions Committee and is dead for 2023.

## **Proposed Regulations Affecting the Enforcement Program**

### Production Phase – Pending Notice and 45-Day Public Comment Period

- 1. Delegation of Certain Functions to the Executive Officer (Amend California Code of Regulations [CCR], Title 16, Section 306):** This regulatory proposal will delegate additional functions to the Executive Officer to expedite the Board's handling of disciplinary cases. The Board approved the proposed regulatory text at its October 19, 2023 meeting. Staff is preparing the regulatory package for this proposal and plans to submit it to DCA for review in December 2023.
- 2. Conforming Changes to the Board's Citation Program (Amend CCR, Title 16, Sections 390.4 and 390.5):** This regulatory proposal makes conforming changes to the Board's system for issuing citations for consistency with the required provisions of BPC section 125.9. The Board approved the proposed regulatory text at its October 19, 2023 meeting. Staff is preparing the regulatory package for this proposal and plans to submit it to DCA for review in December 2023.
- 3. Repeal Successful Examination (Obsolete Provision) [Repeal CCR, Title 16, Section 354]:** This proposal will repeal an obsolete provision in the Board's regulations that conflicts with other existing laws and regulations that prohibit the

unlicensed practice of chiropractic. Staff is preparing the regulatory package for this proposal and plans to submit it to DCA for review in December 2023.

- 4. Sexual Contact with a Patient and Required Actions Against Registered Sex Offenders (Add CCR, Title 16, Sections 384.1 and 384.2):** This Consumer Protection Enforcement Initiative (CPEI) proposal will require any proposed decision containing a finding of fact that a licensee engaged in any act of sexual contact, as defined, or is subject to registration as a sex offender in any tier, to contain an order of revocation and prohibit the decision from containing a stay of the revocation. In addition, this proposal will require any Board decision containing a finding of fact that a licensee engaged in any act of sexual contact to contain an order of revocation, and require the Board to deny or revoke a license for any applicant, licensee, or petitioner who is subject to registration as a sex offender in any tier and prohibit the Board from issuing a stay of the revocation for any individual who is subject to registration as a tier two or three offender. The Board approved the proposed regulatory text at its April 20, 2023 meeting. Staff is preparing the regulatory package for this proposal and plans to submit it to DCA for review in December 2023.
- 5. Discipline by Other Public Agencies and Licensee Reporting Requirements (Amend CCR, Title 16, Sections 304 and 314):** This CPEI proposal will update the reporting of licensee arrests, convictions, and discipline by other public agencies and clarify a licensee's duty to report any violation of the statutes and regulations governing the practice of chiropractic to the Board. The Board approved the proposed regulatory text at its July 20, 2023 meeting. Staff is preparing the regulatory package for this proposal and plans to submit it to DCA for review in December 2023.

Concept Phase – Pending Board Approval of Proposed Text

- 6. Filing and Evaluation Process for Petitions for Reinstatement, Reduction of Penalty, or Early Termination of Probation (Add CCR, Title 16, Section 385):** This CPEI proposal will update and enhance the process for petitions for reinstatement, reduction of penalty, and early termination of probation before the Board. This proposal was discussed by the Enforcement Committee at its June 8, 2023 meeting and is planned to be presented to the Board for approval at its January 12, 2024 meeting.

Concept Phase – Proposals Being Developed at Committee Level

- 7. Supervision of Unlicensed Individuals at Chiropractic Practices (Amend CCR, Title 16, Section 312):** This CPEI proposal will clarify the role of and delineate the activities that can be performed by unlicensed individuals within a chiropractic practice, define and establish the supervision requirements by a licensed doctor of chiropractic, and require that unlicensed individuals follow and provide only the

treatment defined in the supervising doctor’s treatment plan. The Enforcement Committee will continue its discussion of this proposal during its December 8, 2023 meeting.

8. **Record Keeping Requirements for Chiropractic Patient Records, Including Retention and Disposition of Records Upon Closure of Practice or Death/Incapacity of Licensee (Amend CCR, Title 16, Section 318):** This proposal will update the record keeping requirements to specify the necessary documentation for the patient history, complaint, diagnosis/analysis, and treatment and to differentiate between an initial patient encounter and an established patient visit. In addition, this proposal will specify the retention period and requirements for the disposition of patient records. The Enforcement Committee will continue its discussion of this proposal during its December 8, 2023 meeting.
9. **Disciplinary Guidelines and Uniform Standards for Substance Abusing Licensees (Amend CCR, Title 16, Section 384):** This proposal will update the *Disciplinary Guidelines and Model Disciplinary Orders* and implement the Uniform Standards for Substance Abusing Licensees. The Enforcement Committee will continue its discussion of this proposal during its December 8, 2023 meeting.

**Statistics**

<b>Enforcement Activity</b>	<b>FY 2021-22</b>	<b>FY 2022-23</b>	<b>FY 2023-24*</b>
<b>Complaints Received</b>	507	486	236
<b>Complaints Closed</b>	577	397	241
<b>Pending Complaints</b>	355	511	506
<b>Citations Issued</b>	37	10	8
<b>Fines Assessed</b>	\$58,500	\$21,000	\$9,750
<b>Fines Collected</b>	\$37,126	\$49,594	\$35,500
<b>AG Cases Opened/Initiated</b>	58	18	8
<b>Accusations Filed</b>	53	22	5
<b>Restriction Orders Granted</b>	2	2	1
<b>Withdrawn/Dismissed</b>	4	3	2
<b>AG Cases Closed</b>	48	37	12
<b>AG Cases Pending</b>	107	61	57
<b>License Applications Denied</b>	0	0	0
<b>Revocation</b>	14	5	1

Enforcement Activity	FY 2021-22	FY 2022-23	FY 2023-24*
Surrender of License	13	7	4
Probation with Suspension	0	2	0
Probation Only	13	22	3
Public Repeal	1	1	1
Cost Recovery Ordered	\$410,494	\$197,955	\$112,757
Cost Recovery Collected	\$73,491	\$34,938	\$38,559
Monitored Probationers	64	73	71

\*As of December 5, 2023

## Strategic Plan

At the October 27, 2022 meeting, the Board adopted its [2022–2026 Strategic Plan](#). On November 29-30, 2022, and December 5, 2022, BCE staff participated in action planning sessions with DCA’s SOLID Training and Planning Solutions to identify the specific tasks and actions that staff will take to implement each objective within the strategic plan. Staff presented the action plan to the Board at the January 20, 2023 meeting.

Four objectives from the Strategic Plan have been assigned to the Enforcement Committee:

**Objective 2.1:** Implement updated Disciplinary Guidelines, Uniform Standards for Substance Abusing Licensees, and Consumer Protection Enforcement Initiative (CPEI) regulations, to provide consistency and clarity in disciplinary penalties, help educate licensees and the public, and deter violations.

Start Date: Q1 2023

End Date: Q4 2025

Success Measure: Completed regulation process for all three areas (Disciplinary Guidelines, Uniform Standards for Substance Abusing Licensees, and CPEI regulations).

Task Number	Task Description	Responsible Party	Due Date	Status
2.1.1	Disciplinary Guidelines & Uniform Standards – finish developing the proposed guidelines.	Assistant Executive Officer	Q1 2023	In Progress



<b>Task Number</b>	<b>Task Description</b>	<b>Responsible Party</b>	<b>Due Date</b>	<b>Status</b>
2.1.2	Disciplinary Guidelines & Uniform Standards – vet through Regulatory Counsel and DAG Liaison (AG’s office).	Assistant Executive Officer	Q1 2023	On Hold (pending completion of task 2.1.1)
2.1.3	Disciplinary Guidelines & Uniform Standards – present proposal to Enforcement Committee.	Enforcement Lead	Q2 2023	On Hold (pending completion of tasks 2.1.1 and 2.1.2)
2.1.4	Disciplinary Guidelines & Uniform Standards – present proposal to Board.	Enforcement Lead	Q4 2023	On Hold (pending completion of tasks 2.1.1-2.1.3)
2.1.5	Disciplinary Guidelines & Uniform Standards – begin regulatory process.	Assistant Executive Officer	Q1 2024	On Hold (pending completion of tasks 2.1.1-2.1.4)
2.1.6	Disciplinary Guidelines & Uniform Standards – complete regulatory process.	Assistant Executive Officer	Q1 2025	On Hold (pending completion of tasks 2.1.1-2.1.5)
2.1.7	CPEI (12 regulations) – develop an action plan for the different regulations (assign to committees) and formalize plans with committee chairs to clarify assignments.	Executive Officer	Q1 2023	In Progress
2.1.8	CPEI – develop proposals.	Assistant Executive Officer	Q4 2023	In Progress
2.1.9	CPEI – vet through DCA Regulatory Counsel.	Assistant Executive Officer	Q4 2023	In Progress

Task Number	Task Description	Responsible Party	Due Date	Status
2.1.10	CPEI – present proposals to appropriate Committees.	Enforcement Lead / Licensing Lead	Q1 2024	In Progress
2.1.11	CPEI – present proposals to Board.	Enforcement Lead / Licensing Lead	Q3 2024	In Progress
2.1.12	CPEI – begin regulatory process.	Assistant Executive Officer	Q4 2024	On Hold (pending completion of tasks 2.1.7-2.1.11)
2.1.13	CPEI – complete regulatory process.	Assistant Executive Officer	Q4 2025	On Hold (pending completion of tasks 2.1.7-2.1.12)

**Objective 2.2:** Streamline internal enforcement processes and standards, including complaint intake, investigations, and case management activities, to increase efficiency and ensure timely action.

Start Date: Q4 2022  
 End Date: Q2 2025

Success Measure: Enforcement Program is meeting the established performance measure targets.

Task Number	Task Description	Responsible Party	Due Date	Status
2.2.1	Conduct process review with OIO.	Enforcement Analysts	Q4 2022	Complete
2.2.2	Document baseline processing times.	Executive Officer	Q1 2023	Complete

Task Number	Task Description	Responsible Party	Due Date	Status
2.2.3	Standardize internal enforcement process – make sure all standards are met each time – considering OIO recommendations.	Assistant Executive Officer and Enforcement Manager	Q1 2023	In Progress
2.2.4	Update duty statements for staff in Enforcement Unit, separating case management from investigations (increasing specialization).	Executive Officer	Q1 2023	In Progress
2.2.5	Update and document all processes/procedures.	Assistant Executive Officer and Enforcement Manager	Q2 2023	In Progress
2.2.6	Update training of all staff, cross-train on all tasks.	Enforcement Manager	Q2 2023	In Progress
2.2.7	Measure impact of process improvements on enforcement timeframes.	Executive Officer	Q2 2025	On Hold (pending completion of tasks 2.2.1-2.2.6)

**Objective 2.3:** Improve the effectiveness of the Enforcement Program by implementing Expert Witness program enhancements, including recruitment, training, and ongoing assessment of subject matter experts in specific areas of chiropractic practice.

Start Date: Q1 2023  
 End Date: Q4 2025

Success Measure: Program enhancements implemented, observed improvement in expert reports, and higher success rate at hearings.

<b>Task Number</b>	<b>Task Description</b>	<b>Responsible Party</b>	<b>Due Date</b>	<b>Status</b>
2.3.1	Begin recruitment process for new SMEs.	Executive Officer	Q1 2023	In Progress
2.3.2	Staff review SME applications.	Enforcement Manager	Q1 2023	On Hold (pending completion of 2.3.1)
2.3.3	Enforcement Committee members interview and vet potential SMEs.	Enforcement Committee	Q2 2023 – ongoing	On Hold (pending completion of tasks 2.3.2 and 2.3.3)
2.3.4	Contract with SMEs selected.	Enforcement Lead	Q2 2023 – ongoing	On Hold (pending completion of tasks 2.3.1-2.3.3)
2.3.5	Train SMEs.	Executive Officer and Assistant Executive Officer	Q3 2023 – ongoing	On Hold (pending completion of tasks 2.3.1-2.3.4)
2.3.6	Measure effectiveness of expert witnesses (success ratio, input from Deputy Attorney General [DAG]).	Assistant Executive Officer and Enforcement Manager	Q4 2023 – ongoing	In Progress
2.3.7	Report on effectiveness of SMEs to Enforcement Committee and provide any further recommendations.	Enforcement Lead	Q4 2023 – ongoing	On Hold (pending completion of tasks 2.3.1-2.3.6)
2.3.8	Continue monitoring effectiveness of Expert Witness Program (identify benchmarks – outcomes and hearing success).	Executive Officer and Enforcement Committee	Q4 2025 – ongoing	On Hold (pending completion of tasks 2.3.1-2.3.7)

**Objective 2.4:** Develop and implement clearly defined standards for licensee recordkeeping by updating regulations to provide consistency and clarity to licensees, the public, and other stakeholders.

Start Date: Q4 2022  
 End Date: Q4 2024

Success Measure: Adopted updated standards for licensee recordkeeping into regulation.

Task Number	Task Description	Responsible Party	Due Date	Status
2.4.1	Review and discuss requirements in other states.	Executive Officer and Enforcement Committee	Q4 2022	Complete
2.4.2	Develop a regulatory proposal for consideration by the Enforcement Committee.	Executive Officer	Q1 2023	In Progress
2.4.3	Have Legal/Regulations Counsel review proposal.	Executive Officer	Q1 2023	In Progress
2.4.4	Present proposal to Enforcement Committee for review, discussion, and possible recommendation to Board.	Executive Officer	Q2 2023	In Progress
2.4.5	Obtain Board approval of proposal.	Executive Officer	Q4 2023	On Hold (pending completion of tasks 2.4.1-2.4.4)
2.4.6	Begin regulatory process (formally submitting to DCA for approval, ready for Director's Review).	Assistant Executive Officer and Enforcement Lead	Q4 2023	On Hold (pending completion of tasks 2.4.1-2.4.5)

<b>Task Number</b>	<b>Task Description</b>	<b>Responsible Party</b>	<b>Due Date</b>	<b>Status</b>
2.4.7	Complete regulatory process.	Assistant Executive Officer and Enforcement Lead	Q4 2024	On Hold (pending completion of tasks 2.4.1-2.4.6)



## Agenda Item 4 December 8, 2023

### **Review, Discussion, and Possible Recommendation Regarding Proposal to Update the Minimum Supervision and Training Requirements for Unlicensed Individuals Who Perform Specified Support Services Within a Chiropractic Practice (amend California Code of Regulations [CCR], Title 16, section 312)**

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#### **Purpose of the Item**

The Committee will discuss minimum supervision and training requirements for unlicensed individuals who provide specified support services within a chiropractic practice.

#### **Action Requested**

The Committee will be asked to continue their discussion regarding this proposal and provide policy direction to staff.

#### **Background**

At the August 29, 2016 Board meeting, as part of a planned comprehensive Consumer Protection Enforcement Initiative (CPEI) regulatory package, the Board approved proposed language to amend California Code of Regulations (CCR), title 16, section 312 (Supervision of Unlicensed Individuals).

During the December 16, 2021 Board meeting, the Board voted to divide the CPEI regulation package into six proposals grouped by topic. Section 312 was separated and placed in a single topic proposal.

#### **Amend CCR, Title 16, Section 312 (Supervision of Unlicensed Individuals)**

The purpose of the proposal to amend CCR, title 16, section 312 is to clarify the role of and delineate the activities that can be performed by unlicensed individuals within a chiropractic practice, define and establish the supervision requirements by a licensed doctor of chiropractic, and require that unlicensed individuals follow and provide only the treatment defined in the supervising doctor of chiropractic's treatment plan.

At the December 9, 2022 meeting, the Committee discussed the proposed language that had been approved by the Board in 2016, the role of the supervising doctor of chiropractic in the preparation of the orders and treatment plan, and requirements for that licensee's physical presence at the facility. The Committee also discussed prohibiting former licensees whose licenses were revoked or surrendered from

performing any unsupervised patient treatments and noted how the terms “work week” and “readily available” are too vague.

During the March 2, 2023 meeting, the Committee reviewed research on the regulation of chiropractic assistants in other states and provided feedback to staff on the proposed language to amend CCR, title 16, section 312 (Attachment 1 reflects these changes). The Committee also discussed the need to develop and implement a minimum level of training, examination, or experience requirements for staff within a chiropractic practice.

At this meeting, staff will present potential options for establishing minimum training, examination, or experience requirements for unlicensed staff within a chiropractic practice, along with similar regulations for medical assistants in California (refer to Attachment 2), for the Committee’s consideration. Following staff’s presentation, the Committee will be asked to continue their policy discussion regarding this regulatory proposal.

### **Attachments**

1. Proposed Language to Amend California Code of Regulations, Title 16, Section 312 (Draft for Committee Discussion)
2. Regulations for Medical Assistants (California Code of Regulations, Title 16, Sections 1366–1366.4)

### **External Research on Chiropractic Assistants**

- [Chiropractic Assistant Regulations/Statutes/Policies Research](#) by Sarah Spardy, American University Washington College of Law (Posted on FCLB Website)



**Proposed Language to Amend California Code of Regulations, Title 16,  
Section 312**

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

(a) 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. This section shall not apply to the following:

(1) An individual licensed by another healing arts board under Division 2 of the Business and Professions Code and acting within the scope of their license; or

(2) An exemption is hereby created for A chiropractic student doctors participating in a board approved preceptorship or postceptorship programs through a chiropractic college approved by the Board pursuant to Article 4, Section 330 et seq.

(b) The licensed doctor of chiropractic shall initially examine and prepare a written treatment plan and orders 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.

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

(a1) 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.

(b2) 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 Ddoctor of Cchiropractic.

“Immediate and dDirect supervision” means the licensed Ddoctor of Cchiropractic shall be at all times on the premises present in the same chiropractic facility where the examinations are being conducted. The licensed Ddoctor of Cchiropractic shall be responsible for the verification of the recorded findings and will be solely responsible for rendering a conclusion based on the findings.

(c3) Unlicensed individuals may administer physical physiotherapy treatments as an adjunct to chiropractic adjustment, provided the physical physiotherapy treatment is conducted as directed by the licensed doctor of chiropractic's written treatment plan and, at a minimum, under the adequate indirect supervision of a licensed Doctor of Chiropractic.

Adequate "Indirect supervision" means shall include all of the following:

(1) ~~The~~ licensed doctor of chiropractic shall be physically present in the same chiropractic facility with the unlicensed individual during at least fifty twenty-five percent (25%) of the facility's patient care hours each monthany 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 on-call and readily available to the said individual within fifteen (15) minutes by direct verbal communication at all other times for advice, assistance and instruction, unless another licensee is physically present at the facility or on-call. The individual shall also be trained to immediately activate emergency medical services during an emergency.

(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.~~

(34) The doctor shall ~~provide~~ perform periodic reevaluation of the patient and reassessment of the treatment plan and the patient's progress toward meeting treatment goalsprogram and of the individual's performance in relation to the patient. "Periodic reevaluation" shall mean at least once every thirty (30) 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.~~

(d5) ~~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 Unlicensed individuals may mark X-ray films administered generated by a licensed Doctor of 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~~ The licensed doctor of chiropractic is responsible for any pathological entities covered or obstructed by the markings.

(eb) Unlicensed individuals may not: administer

(1) Generate X-rays unless they hold a valid X-ray technician certificate from issued by the Department of Public Health Services, Radiologic Health Branch, or participate under the direct supervision of a licensed Doctor of Chiropractic in 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:

(1A) Positioning of patient;

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

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

(4D) Developing of films. However, the Department of Public Health Services 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 student interns 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 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 former licensee of the Board, or of any healing arts board under Division 2 of the Business and Professions Code, whose license was revoked or surrendered through disciplinary action shall be prohibited from independently participating in any form of patient treatment or billing and must perform all activities within the facility under the direct supervision of a licensed doctor of chiropractic.

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

NOTE: Authority cited: Section 4(b) of the Chiropractic Initiative Act of California (Stats. 1923, p. lxxxviii). Reference: Section 15 of the Chiropractic Initiative Act of California (Stats. 1923, p. lxxxviii) and Section 25668.1, California Health and Safety Code; Section 30403 of Title 17, California Administrative Code.

**§ 1366. Additional Technical Supportive Services.**

16 CA ADC § 1366

Barclays Official California Code of Regulations

Barclays California Code of Regulations  
Title 16. Professional and Vocational Regulations  
Division 13. Medical Board of California (Refs & Annos)  
Chapter 3. Affiliated Healing Arts  
Article 2. Medical Assistants

16 CCR § 1366

**§ 1366. Additional Technical Supportive Services.**Currentness

(a) A medical assistant may perform additional technical supportive services such as those specified herein provided that all of the following conditions are met:

- (1) Each technical supportive service is not prohibited by another provision of law, including Section 2069(c) of the code, or these regulations, and is a usual and customary part of the medical or podiatric practice where the medical assistant is employed;
- (2) The supervising physician or podiatrist authorizes the medical assistant to perform the service and shall be responsible for the patient's treatment and care;
- (3) The medical assistant has completed the training specified in Sections 1366.2, 1366.3, and 1366.4 and has demonstrated competence in the performance of the service;
- (4) A record shall be made in the patient chart or other record, including a computerized record, if any, of each technical supportive service performed by the medical assistant, indicating the name, initials or other identifier of the medical assistant, the date and time, a description of the service performed, and the name of the physician or podiatrist who gave the medical assistant patient-specific authorization to perform the task or who authorized such performance under a patient-specific standing order.
- (5) The supervising physician or podiatrist may, at his or her discretion, provide written instructions to be followed by a medical assistant in the performance of tasks or supportive services. Such written instructions may provide that a physician assistant or registered nurse may assign a task authorized by a physician or podiatrist.

(b) A medical assistant in accordance with the provisions of subsection (a) may perform additional technical supportive services such as the following:

- (1) Administer medication orally, sublingually, topically, vaginally or rectally, or by providing a single dose to a patient for immediate self-administration. Administer medication by inhalation if the medications are patient-specific and have been or will be routinely and repetitively administered to that patient. In every instance, prior to administration of medication by the medical assistant, a licensed physician or podiatrist, or another person authorized by law to do so shall verify the correct medication and dosage. Nothing in this section shall be construed as authorizing the administration of any anesthetic agent by a medical assistant.
- (2) Perform electrocardiogram, electroencephalogram, or plethysmography tests, except full body plethysmography. Nothing in this section shall permit a medical assistant to perform tests involving the penetration of human tissues except for skin tests as provided in Section 2069 of the code, or to interpret test findings or results.
- (3) Apply and remove bandages and dressings; apply orthopedic appliances such as knee immobilizers, envelope slings, orthotics, and similar devices; remove casts, splints and other external devices; obtain impressions for orthotics, padding and custom molded shoes; select and adjust crutches to patient; and instruct patient in proper use of crutches.
- (4) Remove sutures or staples from superficial incisions or lacerations.
- (5) Perform ear lavage to remove impacted cerumen.
- (6) Collect by non-invasive techniques, and preserve specimens for testing, including urine, sputum, semen and stool.
- (7) Assist patients in ambulation and transfers.

(8) Prepare patients for and assist the physician, podiatrist, physician assistant or registered nurse in examinations or procedures including positioning, draping, shaving and disinfecting treatment sites; prepare a patient for gait analysis testing.

(9) As authorized by the physician or podiatrist, provide patient information and instructions.

(10) Collect and record patient data including height, weight, temperature, pulse, respiration rate and blood pressure, and basic information about the presenting and previous conditions.

(11) Perform simple laboratory and screening tests customarily performed in a medical office.

(12) Cut the nails of otherwise healthy patients.

(c) Nothing in this section prohibits the administration of first aid or cardiopulmonary resuscitation in an emergency.

(d) Nothing in these regulations shall be construed to authorize a medical assistant to practice physical therapy.

(e) Nothing in these regulations shall be construed to modify the requirement that a licensed physician or podiatrist be physically present in the treatment facility as required in Section 2069 of the code.

(f) A medical assistant may also fit prescription lenses or use any optical device in connection with ocular exercises, visual training, vision training, or orthoptics pursuant to Sections 2544 and 3042 of the code, but nothing in these regulations shall require a technician performing only those functions permitted by Sections 2544 and 3042 of the code to be qualified as a medical assistant.

### Credits

NOTE: Authority cited: Sections 2018 and 2071, Business and Professions code. Reference: Sections 2069 and 2070, Business and Professions Code.

### HISTORY

1. Renumbering and amendment of former article 4 (sections 1376-1377.1) to article 2 (sections 1366 and 1366.1); effective thirtieth day thereafter (Register 83, No. 32). For prior history, see Registers 79, No. 49; 78, No. 12; and 77, No. 35.

2. Renumbering and amendment of former section 1366 to section 1366.1 and new section filed 3-20-92; operative 4-20-92 (Register 92, No. 13).

3. Change without regulatory effect repealing subsection (b)(4) and the introductory portion of subsection (d) filed 11-17-94 pursuant to section 100, title 1, California Code of Regulations in accordance with the Judgment of the Superior Court of California for the County of Sacramento entered on 5-25-94, Case Nos. 532588 and 531542 (Register 94, No. 46).

4. Amendment of subsection (a)(1), new subsection (b)(4), repealer of subsection (d) and subsection relettering filed 2-14-96; operative 3-15-96 (Register 96, No. 7).

5. Repealer of subsection (b)(4) and subsection renumbering pursuant to *California Optometric Association v. The Division of Licensing of the Medical Board of California*, Sacramento Superior Court Case 96 AS 01599, judgment entered June 12, 1997. Filed 12-12-97; operative 12-12-97 pursuant to Government Code Section 11343.4(d) (Register 97, No. 50).

This database is current through 11/24/23 Register 2023, No. 47.

Cal. Admin. Code tit. 16, § 1366, 16 CA ADC § 1366

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END OF DOCUMENT

[Home Table of Contents](#)**§ 1366.1. Training to Perform Venipuncture, Injections and Inhalation of Medication.**

16 CA ADC § 1366.1

Barclays Official California Code of Regulations

Barclays California Code of Regulations  
 Title 16. Professional and Vocational Regulations  
 Division 13. Medical Board of California (Refs & Annos)  
 Chapter 3. Affiliated Healing Arts  
 Article 2. Medical Assistants

16 CCR § 1366.1

**§ 1366.1. Training to Perform Venipuncture, Injections and Inhalation of Medication.**Currentness

In order to administer medications by intramuscular, subcutaneous and intradermal injection, to perform skin tests, or to perform venipuncture of skin puncture for the purposes of withdrawing blood, a medical assistant shall have completed the minimum training prescribed herein. Training shall be for the duration required by the medical assistant to demonstrate to the supervising physician, podiatrist, or instructor, as referenced in Section 1366.3(a)(2), proficiency in the procedures to be performed as authorized by Sections 2069 or 2070 of the code, where applicable, but shall include no less than:

- (a) Ten (10) clock hours of training in administering injections and performing skin tests, and/or
- (b) Ten (10) clock hours of training in venipuncture and skin puncture for the purpose of withdrawing blood, and
- (c) Satisfactory performance by the trainee of at least ten (10) each of intramuscular, subcutaneous, and intradermal injections and ten (10) skin tests, and/or at least ten (10) venipunctures and ten (10) skin punctures.
- (d) For those only administering medication by inhalation, ten (10) clock hours of training in administering medication by inhalation.
- (e) Training in (a) through (d) above, shall include instruction and demonstration in:
  - (1) pertinent anatomy and physiology appropriate to the procedures;
  - (2) choice of equipment;
  - (3) proper technique including sterile technique;
  - (4) hazards and complications;
  - (5) patient care following treatment or test;
  - (6) emergency procedures; and
  - (7) California law and regulations for medical assistants.

**Credits**

NOTE: Authority cited: Section 2018, Business and Professions Code. Reference: Sections 2069 and 2070, Business and Professions Code.

**HISTORY**

1. Renumbering and amendment of former section 1366.1 to section 1366.3 and renumbering and amendment of former section 1366 to section 1366.1 filed 3-20-92; operative 4-20-92 (Register 92, No. 13).

This database is current through 11/24/23 Register 2023, No. 47.

Cal. Admin. Code tit. 16, § 1366.1, 16 CA ADC § 1366.1



[Home Table of Contents](#)**§ 1366.2. Training to Perform Additional Technical Supportive Services.**

16 CA ADC § 1366.2

Barclays Official California Code of Regulations

Barclays California Code of Regulations  
Title 16. Professional and Vocational Regulations  
Division 13. Medical Board of California (Refs & Annos)  
Chapter 3. Affiliated Healing Arts  
Article 2. Medical Assistants

16 CCR § 1366.2

**§ 1366.2. Training to Perform Additional Technical Supportive Services.**Currentness

Prior to performing any of the additional technical supportive services provided in Section 1366, a medical assistant shall receive such training as, in the judgement of the supervising physician, podiatrist or instructor, as referenced in Section 1366.3(a)(2), is necessary to assure the medical assistant's competence in performing that service at the appropriate standard of care. Such training shall be administered pursuant to either subsection (a)(1) or (a)(2) of Section 1366.3.

**Credits**

NOTE: Authority cited: Sections 2018 and 2071, Business and Professions Code. Reference: Sections 2069, 2070 and 2071, Business and Professions Code.

**HISTORY**

1. New section filed 3-20-92; operative 4-20-92 (Register 92, No. 13).

This database is current through 11/24/23 Register 2023, No. 47.

Cal. Admin. Code tit. 16, § 1366.2, 16 CA ADC § 1366.2

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**END OF DOCUMENT**



[Home Table of Contents](#)**§ 1366.3. Administration of Training.**

16 CA ADC § 1366.3

Barclays Official California Code of Regulations

Effective: April 1, 2022

Barclays California Code of Regulations  
Title 16. Professional and Vocational Regulations  
Division 13. Medical Board of California (Refs & Annos)  
Chapter 3. Affiliated Healing Arts  
Article 2. Medical Assistants

Effective: April 1, 2022

16 CCR § 1366.3

**§ 1366.3. Administration of Training.**Currentness

(a) Training required in Sections 1366, 1366.1 or 1366.2 may be administered in either of these settings:

(1) Under a licensed physician or podiatrist, who shall ascertain the proficiency of the medical assistant; or under a registered nurse, licensed vocational nurse, physician assistant or a qualified medical assistant acting under the direction of a licensed physician or podiatrist who shall be responsible for determining the content of the training and the proficiency of the medical assistant except that training to administer medication by inhalation shall be provided by a licensed physician or respiratory care practitioner; or

(2) In a secondary or adult education program in a public school authorized by the Department of Education, in a community college program provided for in Part 48 of Division 7 of the Education Code, or a postsecondary institution accredited by an accreditation agency recognized by the United States Department of Education or approved by the Bureau for Private Postsecondary Education under Sections 94885 or 94887 of the Education Code and all regulations adopted pursuant to those sections. A licensed physician or podiatrist shall serve as advisor to the medical assistant training program. The instructor in a public school setting shall possess a valid teaching credential issued by the Commission on Teacher Credentialing. The instructor in a private postsecondary institution shall meet the requirements of Section 94885(a)(5) of the Education Code and all regulations adopted pursuant to that section.

(b) The supervising physician or podiatrist, pursuant to subsection (a)(1) or the instructor pursuant to subsection (a)(2) shall certify in writing the place and date such training was administered, the content and duration of the training, and that the medical assistant was observed by the certifying physician, podiatrist, or instructor to demonstrate competence in the performance of each such task or service, and shall sign the certification. More than one task or service may be certified in a single document; separate certifications shall be made for subsequent training in additional tasks or services.

(c) For purposes of this section only, a "qualified medical assistant" is a medical assistant who:

(1) is certified by a medical assistant certifying organization approved by the Board;

(2) holds a credential to teach in a medical assistant training program at a community college; or

(3) is authorized to teach medical assistants in a private postsecondary institution accredited by an accreditation agency recognized by the United States Department of Education or approved by the Bureau for Private Postsecondary Education.

**Credits**

NOTE: Authority cited: Sections 2018 and 2071, Business and Professions Code. Reference: Sections 2069, 2070 and 2071, Business and Professions Code.

**HISTORY**

1. Renumbering and amendment of former section 1366.1 to section 1366.3 filed 3-20-92; operative 4-20-92 (Register 92, No. 13).
2. Amendment of subsections (a)(1)-(2) filed 10-26-94; operative 11-25-94 (Register 94, No. 43).

3. Amendment of subsections (a)(1) and (a)(2), new subsections (c)-(c)(3) and amendment of NOTE filed 3-23-99; operative 4-22-99 (Register 99, No. 13).

4. Amendment of subsections (a)(2) and (c)(1) filed 2-1-2022; operative 4-1-2022 (Register 2022, No. 5). (Filing deadline specified in Government Code section 11349.3(a) extended 60 calendar days pursuant to Executive Order N-40-20.)

This database is current through 11/24/23 Register 2023, No. 47.

Cal. Admin. Code tit. 16, § 1366.3, 16 CA ADC § 1366.3

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[Home Table of Contents](#)**§ 1366.31. Approved Certifying Organizations.**

16 CAADC § 1366.31

Barclays Official California Code of Regulations

Effective: April 1, 2022

Barclays California Code of Regulations  
Title 16. Professional and Vocational Regulations  
Division 13. Medical Board of California (Refs & Annos)  
Chapter 3. Affiliated Healing Arts  
Article 2. Medical Assistants

Effective: April 1, 2022

16 CCR § 1366.31

**§ 1366.31. Approved Certifying Organizations.**Currentness

(a) An organization that certifies medical assistants may apply to the Board for approval. This application shall include the following information:

- (1) Name and address of the applicant;
- (2) Applicant's federal employee identification number (FEIN);
- (3) Name, address and telephone number of a contact person for the applicant;
- (4) Documentation establishing that the applicant is accredited by the National Commission for Certifying Agencies (NCCA);
- (5) Name, address and telephone number of the organization that validated the applicant's certifying examination;
- (6) Information sufficient to establish that the certifying organization meets the standards set forth in subsection (b).

(b) For purposes of Section 1366.3(c)(1), an organization that certifies medical assistants shall be approved if it meets all of the following standards:

- (1) Requires all applicants for certification to successfully complete a psychometrically valid examination that is secure, is occupationally relevant and tests for the skills and procedures outlined in Section 1366;
- (2) Has a requirement for certification of a medical assistant in one or more of the following:
  - (A) Graduation from a medical assistant training program meeting the requirements under Section 1366.3(a)(2);
  - (B) A minimum of two (2) years of experience as a practicing medical assistant within five (5) years immediately preceding the date of examination;
  - (C) Military training or schooling equivalent to that described in subsections (A) or (B) above;
  - (D) Employment at the time of certification as an instructor in an accredited medical assistant program or institution meeting the requirements under Section 1366.3(a)(2) for certification of a medical assistant;
- (3) Requires its certificate holders to obtain a minimum of 60 hours of continuing education related to the practice of medical assistants over a five (5)-year period.

(c) A medical assistant certifying organization approved prior to the requirement for NCCA accreditation shall reapply for and obtain Board approval by meeting all of the requirements of this section by January 1, 2027, or its approval shall be terminated.

**Credits**

NOTE: Authority cited: Sections 2018 and 2071, Business and Professions Code. Reference: Sections 2069, 2070 and 2071, Business and Professions Code.

## HISTORY

1. New section filed 3-23-99; operative 4-22-99 (Register 99, No. 13).
2. Amendment filed 2-1-2022; operative 4-1-2022 (Register 2022, No. 5). (Filing deadline specified in Government Code section 11349.3(a) extended 60 calendar days pursuant to Executive Order N-40-20.)

This database is current through 11/24/23 Register 2023, No. 47.

Cal. Admin. Code tit. 16, § 1366.31, 16 CA ADC § 1366.31

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**§ 1366.32. Report of Changes by Certifying Organization; Review by Division.**

16 CA ADC § 1366.32

Barclays Official California Code of Regulations

Barclays California Code of Regulations  
Title 16. Professional and Vocational Regulations  
Division 13. Medical Board of California (Refs & Annos)  
Chapter 3. Affiliated Healing Arts  
Article 2. Medical Assistants

16 CCR § 1366.32

**§ 1366.32. Report of Changes by Certifying Organization; Review by Division.**

Currentness

(a) An approved certifying organization shall notify the division within 30 days thereafter of any changes related to the standards contained in Section 1366.31.

(b) The division shall review each approved certifying body at least once every 5 years for compliance with the standards set forth in Section 1366.31. The division may, in its discretion, review any certifying organization that has submitted a notice of changes as required by subsection (a).

**Credits**

NOTE: Authority cited: Sections 2018 and 2071, Business and Professions Code. Reference: Sections 2069, 2070 and 2071, Business and Professions Code.

**HISTORY**

1. New section filed 3-23-99; operative 4-22-99 (Register 99, No. 13).

This database is current through 11/24/23 Register 2023, No. 47.

Cal. Admin. Code tit. 16, § 1366.32, 16 CA ADC § 1366.32

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**END OF DOCUMENT**

[Home Table of Contents](#)**§ 1366.33. Permit Processing Times--Approved Certifying Organizations (Section 2071).**

16 CA ADC § 1366.33

Barclays Official California Code of Regulations

Barclays California Code of Regulations  
Title 16. Professional and Vocational Regulations  
Division 13. Medical Board of California (Refs & Annos)  
Chapter 3. Affiliated Healing Arts  
Article 2. Medical Assistants

16 CCR § 1366.33

**§ 1366.33. Permit Processing Times--Approved Certifying Organizations (Section 2071).**Currentness

(a) Within 60 working days of receipt of an application pursuant to Section 1366.31 for an approved certifying organization registration, the division shall inform the applicant in writing whether it is complete and accepted for filing or that it is deficient and what specific information or documentation is required to complete the application. An application is considered complete if it is in compliance with the requirements of Section 1366.31.

(b) Within 100 calendar days from the date of filing of a completed application, the division shall inform the applicant in writing of the decision regarding the application for an approved certifying organization registration.

**Credits**

NOTE: Authority cited: Sections 2018 and 2071, Business and Professions Code. Reference: Sections 2069, 2070 and 2071, Business and Professions Code.

**HISTORY**

1. New section filed 3-23-99; operative 4-22-99 (Register 99, No. 13).

This database is current through 11/24/23 Register 2023, No. 47.

Cal. Admin. Code tit. 16, § 1366.33, 16 CA ADC § 1366.33

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**END OF DOCUMENT**

[Home Table of Contents](#)**§ 1366.4. Training in Infection Control.**

16 CA ADC § 1366.4

Barclays Official California Code of Regulations

Barclays California Code of Regulations  
Title 16. Professional and Vocational Regulations  
Division 13. Medical Board of California (Refs & Annos)  
Chapter 3. Affiliated Healing Arts  
Article 2. Medical Assistants

16 CCR § 1366.4

**§ 1366.4. Training in Infection Control.**Currentness

Each medical assistant shall receive training in the Center for Disease Control "Guidelines for Infection Control in Hospital Personnel" (July 1983) and shall demonstrate to the satisfaction of the supervising physician, podiatrist or instructor that he or she understands the purposes and techniques of infection control.

**Credits**

NOTE: Authority cited: Sections 2018 and 2071, Business and Professions Code. Reference: Sections 2069, 2070 and 2071, Business and Professions Code.

**HISTORY**

1. New section filed 3-20-92; operative 4-20-92 (Register 92, No. 13).

This database is current through 11/24/23 Register 2023, No. 47.

Cal. Admin. Code tit. 16, § 1366.4, 16 CA ADC § 1366.4

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**END OF DOCUMENT**



**Agenda Item 5  
December 8, 2023**

**Review, Discussion, and Possible Recommendation Regarding Proposal to  
Update the Record Keeping and Retention Requirements for Chiropractic Patient  
Records (amend CCR, Title 16, section 318)**

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**Purpose of the Item**

The Committee will discuss potential changes to the Board's current record keeping and retention requirements for chiropractic patient records.

**Action Requested**

The Committee will be asked to continue their discussion regarding this proposal and provide policy direction to staff.

**Background**

At the April 16, 2015 Board meeting, the Board approved proposed text to amend California Code of Regulations (CCR), title 16, sections 318 and 312.2 to implement consumer notice requirements after the death or incapacity of a licensee or the termination or relocation of practice, including guidelines for when a chiropractic practice closes and a Notice of Termination of Practice and Transfer of Records form. However, at that time, the Board did not commence the regulatory process and the pending regulatory proposal was placed on hold.

The Committee has also recently discussed how the Board's current record keeping regulation – CCR, title 16, section 318 – does not: 1) delineate the necessary documentation for the patient history, complaint, diagnosis/analysis; and treatment; 2) differentiate between an initial patient encounter and established patient visit; or 3) address the handling of records upon the closure or sale of a practice or following the death or incapacitation of a licensee.

During the March 2, 2023 meeting, the Committee reviewed an initial draft of proposed language to amend CCR, title 16, section 318 to address the three issues identified by the Committee and staff, along with the original text and notice requirements that were contemplated by the Board in 2015. Staff subsequently revised the proposed text based on the Committee's input (see Attachment).

At this meeting, the Committee is asked to continue its policy discussion on this proposal to update the record keeping requirements for chiropractic patient records and impose notification requirements to patients in the event of the death, incapacity, or retirement of a licensee or upon the closure or sale of a chiropractic practice.



**Attachment**

- Proposed Language to Amend California Code of Regulations, Title 16, Section 318  
(Draft for Committee Discussion)

**Proposed Language to Amend California Code of Regulations, Title 16,  
Section 318**

**§ 318. Chiropractic Patient Records/ and Accountable Billings.**

(a) Creation of Chiropractic Patient Records and Required Content. Chiropractic patient records shall be contemporaneously and legibly documented during each patient encounter in the patient file. Each licensed doctor of chiropractic shall ensure the content of their records is accurate and supports all diagnoses, recommendations, treatments/services rendered, and billings.

At a minimum, the chiropractic patient file shall contain the following records:

- (1) The patient's full name and date of birth;
- (2) Signed written informed consent as specified in Section 319.1;
- (3) Documentation of the initial patient visit, including the:
  - (A) Date and purpose of the visit;
  - (B) Patient history;
  - (C) Description of the patient's symptom(s) or complaint(s) in terms of onset, provocation/palliation, quality, region/radiation, severity, and time.
  - (D) Patient's gender, height, and weight;
  - (E) Patient's vital signs as clinically indicated;
  - (F) Diagnostic imaging or laboratory tests as clinically indicated;
  - (G) Examination and findings;
  - (H) Assessment and diagnosis with the applicable diagnosis code(s);
  - (I) Prognosis;
  - (J) Treatment plan and goals of care, including any recommendations or orders;
  - (K) Any treatment(s) or service(s) provided with the applicable procedure code(s) and the patient's response; and
  - (L) The full name and signature of the doctor of chiropractic who examined the patient and developed the treatment plan.

(4) Documentation of any subsequent patient visit(s), including the:

(A) Date and purpose of the visit;

(B) Any changes in history or complaint(s) since the last visit;

(C) Assessment of any change(s) in the patient's condition since the last visit;

(D) Periodic reexamination as clinically indicated;

(E) Any modification to the treatment plan or goals of care;

(F) The full name and either the signature or initials of the treating doctor of chiropractic.

(5) Any records or reports obtained from other health care providers, imaging facilities, or laboratories.

(6) Documentation of any correspondence or communications with the patient or with any other party regarding the patient, such as a legal representative, an insurance company, or another health care provider.

(a) Retention of Chiropractic Patient Records. Each licensed ~~chiropractor~~ doctor of chiropractic is required to maintain all active and inactive chiropractic patient records for five (5) years from the date of the doctor's patient's last treatment of the patient visit, or at least three (3) years after the patient reaches the age of twenty-one (21), whichever occurs later, unless state or federal laws require a longer period of retention. Active chiropractic records are all chiropractic records of patients treated within the last twelve (12) months. Chiropractic patient records shall be classified as inactive when there has elapsed a period of more than twelve (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 (10) 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.~~

(c) Disposal of Chiropractic Patient Records. A licensed doctor of chiropractic may dispose of chiropractic patient records through confidential destruction or permanent deletion after the minimum retention period specified in subdivision (b) has passed.

(d)(1) Transfer of Chiropractic Patient Records Due to Incapacity or Death of a Licensee. Each licensed doctor of chiropractic shall establish a plan for the transfer and maintenance of their chiropractic patient records for the minimum retention period specified in subdivision (b) to another licensed doctor of chiropractic in the event they become incapacitated, deceased, or otherwise unable to practice chiropractic.

(2) In the event a doctor of chiropractic becomes incapacitated, dies, or is or will be otherwise unable to practice, within sixty (60) days, the doctor of chiropractic's personal representative, succeeding doctor of chiropractic, heir, trustee, executor, administrator, or conservator shall provide written notice to the Board and to each patient by first class mail to the patient's last known address or by secure electronic message to the patient's last known email address. The notice shall contain the following information:

(A) A statement that the doctor of chiropractic is or will no longer practicing chiropractic and the date that the doctor ceased or will cease practicing;

(B) The name, mailing address, and contact information of the custodian of the patients' chiropractic patient records;

(C) Instructions for how the patient may access, inspect, or obtain a copy of their chiropractic patient records, including any fee for providing the records in accordance with Health and Safety Code section 123110, subdivision (j); and

(D) Instructions for how the patient may submit a claim for a refund for any prepaid treatment(s) or service(s) not rendered by the doctor of chiropractic prior to the termination of practice.

(e) Retirement or Sale or Closure of a Practice. In the event that a doctor of chiropractic plans to retire or sell or close their practice, the doctor of chiropractic shall establish a plan for the maintenance of their chiropractic patient records for the minimum retention period specified in subdivision (b) and provide written notice to the Board and to each

patient by first class mail to the patient's last known address or by secure electronic message to the patient's last known email address at least thirty (30) days prior to the date of retirement or sale or closure of the practice. The written notice shall contain the information specified in subdivision (d)(2)(A)–(D).

(b) Accountable Billings. Each licensed ~~chiropractor~~ doctor of chiropractic is required to ensure accurate billing of ~~his or her~~ their 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~~ their 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 4000-4(b), ~~Business and Professions Code (of the Chiropractic Initiative Act of California, (Stats. 1923, p. 4xxxviii)).~~ Reference: Section 4000-4(b), ~~Business and Professions Code (of the Chiropractic Initiative Act of California, (Stats. 1923, p. 4xxxviii))~~ and Section 123110 of the Health and Safety Code.



**Agenda Item 6  
December 8, 2023**

**Review, Discussion, and Possible Recommendation Regarding Proposal to Update the Board's *Disciplinary Guidelines and Model Disciplinary Orders* and Implement the Uniform Standards for Substance Abusing Licensees (amend CCR, Title 16, section 384)**

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**Purpose of the Item**

The Committee will receive an update from staff on the development of revisions to the Board's *Disciplinary Guidelines and Model Disciplinary Orders* and the Committee will discuss guidelines and recommended probation terms and conditions when granting a petition for reinstatement of licensure.

**Action Requested**

The Committee will be asked to continue its policy discussion regarding recommended probation terms and conditions when reinstating a license following a petition hearing.

**Background**

For the past several years, the Board has been working on updates to its *Disciplinary Guidelines and Model Disciplinary Orders* and the implementation of the Uniform Standards for Substance Abusing Licensees.

At the July 17, 2014 meeting, the Board reviewed and discussed the three options to “trigger” the application of the Uniform Standards: 1) a presumption unless rebutted by the licensee; 2) conducting a clinical diagnostic evaluation of the licensee; or 3) finding evidence establishing the licensee is a substance-abusing licensee after providing notice and conducting a hearing. The Board voted to approve the third option for applying the Uniform Standards.

During the October 6, 2022 meeting, the Committee discussed proposed updates to the standard and optional terms and conditions of probation to protect the public and strengthen the effectiveness of the Board's probation monitoring program. In addition to clarifying the language within the existing terms and conditions of probation and removing redundant requirements, the proposed changes include:

- Adding new standard conditions of probation requiring probationers to maintain a current and active license, reimburse the Board for its probation monitoring costs, practice a minimum of 24 hours per week while on probation, not serve as a continuing education instructor while on probation, file their current contact

information and employment status, and notify their patients of their probation status, as required by Business and Professions Code section 1007.

- Adding new optional conditions of probation for the Part IV national examination, an ethics and boundaries assessment/examination, and limitations on practice locations.
- Bolstering the optional conditions of probation for practice monitoring and third-party chaperone requirements.

During the March 2, 2023 meeting, the Committee discussed the recommended penalties for violations of the statutes and regulations within the Board's jurisdiction. The Board's current Disciplinary Guidelines contain four categories of violations as follows:

- Category I: Violations which are relatively minor, but are potentially harmful, or for repeated violations of a relatively minor nature
  - Minimum penalty: Revocation stayed, one to two years' probation
- Category II: Violations with a more serious potential for harm, for violations which involve greater disregard for chiropractic law and public safety, or for violations which reflect on ethics, care exercised, or competence
  - Minimum penalty: Revocation stayed, three years' probation
- Category III: Less egregious criminal convictions involving moral turpitude, sexual misconduct, or fraudulent acts committed in connection with the licensee's practice, or cases involving gross negligence/incompetence, capping, steering, accepting fees for patient referrals, excessive treatment, or failure to refer a patient to another licensed care provider
  - Minimum penalty: Revocation stayed, 30 days' suspension, five years' probation
- Category IV: More egregious cases including, but not limited to, fraudulent activity, physical violence, sexual misconduct, excessive treatment, or improper use of license in connection with sexual acts
  - Penalty: revocation

Following discussion, the Committee determined that California Code of Regulations, title 16, sections 310.2 (Use of the Title by Unlicensed Persons), 312 (Unlicensed Practice), and 317, subdivision (x) (Unprofessional Conduct: Substitution of a Spinal Manipulation for Vaccination) should be elevated from Category I to Category II violations due to the potential for patient harm.

During the Committee's last meeting on June 8, 2023, the Committee discussed potential guidelines for imposing the National Board of Chiropractic Examiners (NBCE) Part IV examination as a term and condition of probation when granting a petition for reinstatement of licensure to an individual who has been out of practice for five or more years.

At this meeting, staff will provide the Committee with an update on the revisions to the Board's *Disciplinary Guidelines and Model Disciplinary Orders* that are expected to be completed in early 2024.

Following staff's update, the Committee will be asked to engage in a policy discussion regarding the establishment of guidelines for imposing the following terms and conditions of probation when granting a petition for reinstatement of licensure:

1. National Board of Chiropractic Examiners (NBCE) Part IV Examination
2. NBCE Special Purposes Examination for Chiropractic (SPEC) Post-Licensure Examination
3. California Chiropractic Law Examination (CCLE)
4. Ethics and Boundaries Assessment (EBAS)
5. Practice Monitoring/Supervised Practice





**Agenda Item 7**  
**December 8, 2023**

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## **Public Comment for Items Not on the Agenda**

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### **Purpose of the Item**

At this time, members of the public may offer public comment for items not on the meeting agenda.

The Committee may not discuss or take action on any matter raised during this public comment section that is not included on the agenda, except to decide whether to place the matter on the agenda of a future meeting. [Government Code Sections 11125, 11125.7, subd. (a).]



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**Agenda Item 8**  
**December 8, 2023**

## **Future Agenda Items**

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### **Purpose of the Item**

At this time, members of the Committee and the public may submit proposed agenda items for a future Committee meeting.

The Committee may not discuss or take action on any proposed matter except to decide whether to place the matter on the agenda of a future meeting. [Government Code Section 11125.]



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**Agenda Item 9**  
**December 8, 2023**

## **Adjournment**

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**Time:** \_\_\_\_\_