

CALIFORNIA BOARD OF CHIROPRACTIC EXAMINERS' RESPONSES TO IDENTIFIED ISSUES AND STAFF RECOMMENDATIONS IN BACKGROUND PAPER

**Joint Sunset Review Oversight Hearing, March 7, 2022
Senate Committee on Business, Professions, and Economic Development
and Assembly Committee on Business and Professions**

BCE ADMINISTRATION ISSUES

ISSUE #1: (BOARD COMPOSITION) Does BCE's composition need to be updated to include additional members of the public or non-chiropractic medical professionals?

Staff Recommendation: *The Committees should discuss whether a proposal to alter the BCE's composition may be beneficial to the Board, patients, and the public.*

BCE Response: The Board of Chiropractic Examiners' ("BCE" or "Board") mission is to protect the health, welfare, and safety of the public through licensure, education, and enforcement in chiropractic care. The seven Board member positions, including two public members, are appointed by the Governor and are held accountable by the Governor's administration. The Board conducts its business transparently through open public meetings consistent with its duty to protect and serve the public, not the chiropractic profession.

During prior sunset reviews, the Board expressed its receptivity to the idea of increasing public representation on the Board, as the Board recognizes the beneficial perspectives gained by public members on the issues that face consumers and the profession. However, the fiscal concerns related to amending the Chiropractic Initiative Act through the ballot initiative process remain a deterrent to updating the composition of the Board.

The current Board has not discussed and does not have an official position on the issue of adding non-chiropractic medical professionals to the Board. The Board plans to consider this recommendation during the strategic planning session in August 2022.

ISSUE #2: (REGULATIONS) What is the current timeframe for BCE regulatory packages to be approved and finalized?

Staff Recommendation: *BCE should provide the Committees with an update on pending regulations and the current timeframes for regulatory packages. In addition, the BCE should inform the Committees of any achieved efficiencies in promulgating regulations in recent years.*

BCE Response: BCE is pleased to report that the creation of the new Regulations Unit within the Department of Consumer Affairs (DCA) Office of Legal Affairs has reduced the timeframes for reviewing regulatory packages and provides valuable support to BCE

in developing and promulgating regulations. During this reporting period, BCE's average timeframe for completing the entire regulatory process was about two years, and through collaboration with DCA's Regulations Unit, BCE plans to achieve further efficiencies in completing its regulatory workload during the next reporting period.

The primary issue facing BCE's regulatory program is the workload that remains in the concept development phase prior to the formal departmental and agency regulatory review process. Below is the status of BCE's pending regulations:

- **Approval of Chiropractic Schools and Educational Requirements (California Code of Regulations [CCR], Title 16, Sections 330-331.16):** This regulatory proposal will amend curriculum standards to ensure chiropractic colleges are aligned with the metrics identified by the accrediting body, the Council on Chiropractic Education (CCE), as well as eliminate any unduly prescriptive content that could be restrictive to the evolving nature of higher education. This rulemaking file is currently being developed by staff and is planned to be noticed in fiscal year 2022-23.
- **Chiropractic Records Retention/Disposition of Patient Records Upon Closure of Practice or Death/Incapacity of Licensee:** This regulatory proposal will amend BCE's minimum record keeping requirements to specify the retention period and disposition of patient records. This proposal is being developed by staff for review and discussion by the Board's Enforcement Committee.
- **Consumer Protection Enforcement Initiative (CPEI):** This regulatory proposal will add or amend 12 sections of BCE's regulations to establish stricter reporting and disclosure requirements for licensees and applicants and increase BCE's enforcement authority. BCE staff has been working on the CPEI regulation package and determined that additional changes are necessary prior to proceeding with the regulatory process. To expeditiously move this proposal forward, BCE divided it into six smaller regulation packages grouped by general topic. BCE staff is working with DCA Regulations Unit legal counsel to develop and update proposed language for each of the regulation packages and will present them to the Enforcement Committee, and ultimately the Board, for review and discussion at future meetings in 2022.
- **Continuing Education Requirements and Mandatory Cardiopulmonary Resuscitation (CPR) Certification for All Licensees (CCR, Title 16, Sections 361-366):** This regulatory proposal will establish minimum requirements for continuing education providers, establish parameters for continuing education course approvals, and mandate CPR certification for all licensees. The goal is to protect patients by expanding the background check for continuing education providers and by aligning the mandatory course categories with the core competencies necessary for a doctor of chiropractic to safely practice in California. This proposal is currently being developed by the Board's Licensing & Continuing Education Committee.

- **Delegation of Authority to the Assistant Executive Officer and Citation Program (CCR, Title 16, Sections 306, 389, 390, 390.3, 390.4, and 390.5):** This regulatory proposal will delegate to the Assistant Executive Officer the authority to expedite enforcement and administrative functions on behalf of the Executive Officer. Additionally, this proposal will ensure consistency with Business and Professions Code section 125.9 regarding BCE’s citation program and criteria established for evaluating compliance with a citation and order of abatement. BCE plans to notice this package in fiscal year 2022-23.
- **Disciplinary Guidelines and Uniform Standards for Substance Abusing Licensees (CCR, Title 16, Section 384):** BCE staff has been developing a regulatory proposal to update the *Disciplinary Guidelines and Model Disciplinary Orders* and implement the Uniform Standards for Substance Abusing Licensees, and has determined that additional changes are necessary prior to proceeding with the regulatory process. Through collaboration with DCA regulatory legal counsel, staff is making necessary updates and revisions to BCE’s *Disciplinary Guidelines* and will present proposed language to amend CCR, title 16, section 384, incorporate the revised *Disciplinary Guidelines* by reference, and implement the Uniform Standards, to the Enforcement Committee, and ultimately the Board, for review and discussion at future meetings in 2022.
- **Record Keeping Requirements for Chiropractic Patient Records (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. BCE staff will work with DCA regulatory legal counsel on proposed language to amend this regulation and will present it to the Board’s Enforcement Committee for review at a future meeting.

Currently, BCE has only one staff position dedicated to completing regulatory and policy work for the Board, and due to staff vacancies, this position is often redirected to assist with performing BCE’s essential business functions, such as licensing and enforcement work. BCE management has made these pending regulatory proposals the top priority for this year and is actively working to move these concepts forward. To make that happen, and as part of a broader effort to make BCE’s internal operations more efficient, BCE management is working closely with DCA’s Office of Human Resources on a reorganization plan to separate the existing “Administrative/Licensing Unit” into two distinct units and reclassify and redirect an existing vacant position to the Administrative Unit to assist with BCE’s regulatory workload.

ISSUE #3: (STRATEGIC PLAN) What is the status of the BCE’s strategic plan? In addition, what will be the priorities for upcoming strategic planning sessions?

Staff Recommendation: BCE should provide the Committees with an update on the status of upcoming meetings for the BCE strategic plan. The Board should also inform the Committees the Board’s priorities for the strategic plan.

BCE Response: The Board is currently working with DCA's SOLID Training and Planning Solutions (SOLID) to develop its next strategic plan. This process began in January 2022 with preliminary work by BCE staff and SOLID to establish a timeline and plan for the activities needed to create the next strategic plan. On March 1, 2022, BCE distributed a survey to its external stakeholders to gather important input and perspectives on how the Board is doing by identifying strengths, weaknesses, opportunities, and threats for the future direction of the Board. In addition, SOLID conducted staff focus groups and interviewed Board members and leadership to help shape the framework and agenda for the Board's strategic planning session. In spring 2022, SOLID will compile and analyze the results from the survey, focus groups, and interviews into an environmental scan document to be discussed during strategic planning.

During the Board's all-day strategic planning session on August 18, 2022, the Board will focus on the trends identified through the environmental scan, as well as this sunset review, and develop objectives for the new strategic plan in the areas of licensing and professional qualifications, enforcement, public relations and outreach, laws and regulations, and organizational development. SOLID will then use the information gathered at the planning session to draft BCE's next strategic plan for review and approval by the Board during the October 27, 2022 meeting. After the strategic plan has been adopted by the Board, SOLID will develop a comprehensive action plan for BCE to guide the completion of the strategic plan objectives by identifying major tasks, assigning responsible parties, and establishing due dates.

BUDGET ISSUES

ISSUE #4: (FUND CONDITION AND FEES) BCE states the need for a statutory fee increase based on the result of a recent fee audit. Does the Board anticipate the need to further increase fees proposed by the fee study? What is causing the need for multiple fee increases over such a short period of time?

Staff Recommendation: *BCE should provide an update on the status of discussions with licensees and the Department of Finance to assist the Legislature in charting a course forward that allows BCE to have the resources to conduct its important work. This should include discussions of cost-saving measures, fee increases, and long-term plans to bolster the reserve balance to sustainable levels.*

BCE Response: As a special fund entity, BCE's annual budget is funded exclusively by the chiropractic profession through licensing and other regulatory fees. Despite ongoing efforts to closely monitor and limit BCE's expenses, increasing operating and enforcement costs continue to outpace the annual revenue received through licensing and regulatory fees. Without an increase in revenue, BCE's fund is projected to become insolvent by fiscal year 2023-24.

In order to determine the level to set its fees, BCE contracted with Matrix Consulting Group to conduct a fee analysis, assess the current fees charged, and determine what the fees should be based on actual workload and expenditures. As a result of this analysis, Matrix Consulting Group concluded BCE is under-recovering its costs by approximately \$1.4 million and the majority of these costs relate to BCE's Continuing Education (CE) Program.

BCE is seeking to realign its fees with the actual costs associated with providing specific services, and is working with DCA's Budget Office to develop a final proposed fee schedule that will equitably distribute BCE's operational costs between applicants, licensees, and CE providers based on their utilization of BCE's services and provide long-term stability for BCE's fund. The Board will review and discuss the final fee proposal during its April 22, 2022 meeting.

The prior fee study that provided the basis for the last fee increase by BCE did not account for costs associated with the Business Modernization IT Project, repayment of the \$2.689 million loan obtained from the Bureau of Automotive Repair (BAR), or the unanticipated and substantial rate increase for legal services provided to the Board by the Attorney General's Office. The current fee study by Matrix Consulting Group takes these factors into account, along with a future growth factor to rebuild six months of reserves within five years.

Despite BCE's efforts to control costs and delay purchases, the increases in state employee compensation and the Attorney General's Office billing rates, along with the factors that were not considered during the prior fee study, have created the need for an additional fee increase for BCE to avoid insolvency, as there are currently no alternative mechanisms to fund BCE's administrative and enforcement expenses.

The Board expects to achieve some savings in its operational expenses through increased use of the new Connect system to automate licensing functions and reduced travel costs with the use of videoconferencing technology to conduct meetings and interviews. In addition, after BCE has repaid the BAR loan, the Board will reassess its fund condition to determine if a portion of its fees can be reduced.

ISSUE #5: (FEE INCREASES AND BARRIERS TO CHIROPRACTIC PROFESSIONALS) With the need for statutory fee increases, has BCE considered how to minimize the impact of these fee increases on early-career chiropractic professionals or on underrepresented chiropractic professionals?

Staff Recommendation: *BCE should update the Committees on the impacts of proposed fee increases on current and future licensees.*

BCE Response: BCE used a prior fee study as the basis for setting the initial license application fees that are currently being charged to applicants. The latest fee study conducted by Matrix Consulting Group revealed how efficiencies gained in the initial license process through increased use of BCE's new Connect system have reduced the overall costs for obtaining initial licensure as a doctor of chiropractic in California.

Through BCE's new fee proposal, the Board is seeking to realign its fees with the actual cost of providing those fee-based services and will reduce the initial cost of licensure for new applicants from \$557 to \$482.

Although the National Board of Chiropractic Examiners' [Practice Analysis of Chiropractic 2020](#) indicates diversity is increasing in the chiropractic profession, the Board recognizes women and racial minorities are underrepresented in the chiropractic community. The Board notes that the proposed increase of in the annual license renewal fee is marginal compared to the other significant barriers facing new graduates and those who may be interested in entering the chiropractic profession, such as the cost of a chiropractic education program, including student loan debt payments, and the expenses incurred while establishing a new chiropractic practice. Although doctors of chiropractic are increasingly working in integrated health care settings, the majority of licensees still practice independently in solo practice or with associate licensees in the same office. Licensees are primarily self-employed and in addition to patient care, they face the challenges of managing their own practice – starting a small business, acquiring and maintaining the physical space and equipment needed to practice, and supervising office and support staff.

The Board has not formally studied the impacts of licensing fees or these other challenges on early-career or underrepresented professionals and plans to discuss this topic during the strategic planning session for inclusion in the Board's next strategic plan.

BCE LICENSING ISSUES

ISSUE #6: (RECIPROCAL LICENSE REQUIREMENTS) BCE requires applicants that hold active licenses from other states and are seeking license reciprocity in California to have completed training and evaluation equivalent to California requirements. How do California licensing requirements compare to other states? Has the BCE considered revising license reciprocity requirements for candidates holding chiropractic licenses in other states or allow reciprocity with candidates who are licensed in other countries?

Staff Recommendation: BCE should provide the Committees with information about reciprocity requirements and whether statutory updates are necessary.

BCE Response: To be eligible for licensure as a doctor of chiropractic in California through interstate reciprocity, an applicant must:

- Have graduated from a Board-approved chiropractic college and completed the minimum number of hours and subjects as were required by California law at the time the applicant's license was issued.
- Completed equivalent successful examination in each of the subjects examined in California in the same year as the applicant was issued a license in the state from which they are applying.

- Hold a valid and up-to-date license in the state from which they are reciprocating and that state must reciprocate with California.
- Have five years of chiropractic practice.
- Take and pass the California Chiropractic Law Examination.
- Pay the non-refundable application fee and the initial licensure fee, if licensure is granted.

If an applicant is unable to meet these requirements, they must apply through the standard initial license application process. Currently, the processes and requirements for both pathways to licensure in California are very similar, except reciprocity allows for licensure under prior formats of the national examination and requires at least five years of licensure in another state.

California's licensing requirements are generally comparable to other states, as applicants must complete pre-chiropractic education, graduate from an approved chiropractic college, submit fingerprints for a background check, and pass a national examination and state-specific jurisprudence examination.

The Board shares the Committees' interest in developing efficient pathways to licensure as a doctor of chiropractic in California through interstate and international reciprocity and plans to consider this issue during its strategic planning session in August 2022.

ISSUE #7: (CE) What accountability metrics are in place to ensure CE earned through distance learning is appropriate? Are licensees complying with CE requirements, as demonstrated in ongoing audits BCE staff conducts to determine CE was actually completed?

Staff Recommendation: BCE should address how it will ensure that chiropractors across the state can continue to access required CE training, the accountability for those courses, and the status of CE evaluation and discussions.

BCE Response: BCE ensures the quality of CE instruction by conducting a thorough review and approval of CE providers and the courses they offer to California licensees to fulfill the annual CE requirement. In addition to providing the course content, instructor's background, and advertisements for BCE review, providers of CE courses offered through distance learning must also: explain the appropriate level of technology required for a licensee to successfully participate in the course; make technical assistance available to participants; include security measures to protect the participant's identity and course content from unauthorized access; and establish a deadline for completion of the course. BCE holds CE providers accountable for their courses through random audits of course content and attendance records.

The Board's Licensing & Continuing Education Committee is developing comprehensive changes to BCE's CE requirements to expand the background check and minimum requirements for CE providers and to align the course categories with the core competencies necessary for licensees to safely practice in California. The Committee

recognizes the benefits of live, interactive online learning, including the accessibility it provides to licensees located in remote areas of the state. In response to the expiration of the CE waivers, the Committee made a motion to move forward with a regulatory proposal to narrow the definition of distance learning to asynchronous coursework, thereby giving coursework completed via live, interactive videoconferencing platforms the same standing as the traditional in-person classroom learning environment, with the exception of chiropractic adjustive technique courses, which must be held in-person due to the hands-on nature of the instruction on this subject matter. This proposal would also provide the Board with the authority to grant exemptions to the continuing education requirements in cases where licensees have been affected by a state of emergency, such as a pandemic or wildfire. The Board is scheduled to consider this proposal during its April 22, 2022 meeting.

As noted in the Board's report, in fiscal years 2017-18 through 2019-20, BCE audited CE records of 3,456 licensees and found 531 cases, or 15.4%, where licensees had failed to comply with the annual CE requirement. Of the 531 failed audits, BCE found 101 cases (2.9%) where licensees had failed to take any CE during the license renewal period which was audited, 107 cases (3.1%) where licensees failed to respond to BCE's audit notices, and 323 cases (9.4%) where licensees completed CE but were missing some of the required hours or mandatory topic areas. BCE took appropriate enforcement action against these licensees by issuing letters of admonishment or citations and fines for these failed audits.

Beginning in fiscal year 2020-21, BCE temporarily paused the CE audits due to the waivers issued by DCA that allowed licensees additional time to comply with the CE requirement. BCE is preparing to resume the CE audits in May 2022 at an initial rate of 10% and will be closely monitoring the results of the audits to ensure licensees are complying with the annual CE requirement.

Also, through BCE's Business Modernization IT Project, BCE is working with DCA's Office of Information Services and the software vendor to implement CE provider and course applications and records in the Connect system. As part of this project, BCE is planning to integrate primary source verification of CE records by Board-approved CE providers and incorporate that data into licensees' records in the system with a goal of achieving 100% licensee compliance with the Board's CE requirements at the time of license renewal.

ISSUE #8: (PERFORMANCE-BASED ASSESSMENT OF LICENSEE COMPETENCY)
Has the Board considered adding performance-based assessment of licensee competency in addition to or in lieu of CE coursework?

Staff Recommendation: The Board should provide information about the positive and negative impacts that could arise from utilizing performance-based assessment of licensee competency, either in addition to or in lieu of CE coursework, and whether the BCE has considered this possibility for the future.

BCE Response: The Board has not discussed utilizing performance-based assessments of licensee competency in lieu of, or in addition to, the annual CE requirement for license renewal. The Board plans to discuss this issue during the strategic planning session in August 2022.

However, the Board's Licensing & Continuing Education Committee has discussed requiring examinations and course evaluations in Board-approved CE courses as part of the comprehensive updates to the Board's CE requirements. In addition, concerns regarding a licensee's competency are often brought to the Board's attention through the complaint, investigation, and disciplinary process. The Board is committed to consumer protection and safety, and routinely orders ethics and boundaries assessments, post-licensure examinations for assessing clinical competency, and mental and physical evaluations in cases where the Board questions a licensee's continued ability and fitness to practice chiropractic.

BCE ENFORCEMENT ISSUES

ISSUE #9: (ENFORCEMENT TIMEFRAMES) Since the last sunset review, the BCE has reduced the time required to complete formal discipline, but it still has not been able to meet the target timeframes set by the BCE and DCA. Has the Board considered implementing additional measures to reduce enforcement timeframes?

Staff Recommendation: *The BCE should provide an update on enforcement timeframes and efforts for efficiency and swift resolution of disciplinary cases.*

BCE Response: BCE is committed to protecting consumers through its robust Enforcement Program and previously set an aggressive goal of closing investigations within an average of 120 days, as well as imposing discipline within the DCA-wide standard timeframe of 540 days. By leveraging technology and reorganizing existing staff duties, BCE expects to achieve these targets within the next few years.

Technological Changes

BCE has been collaborating with DCA's Office of Information Services and three other programs to develop and implement a new application, licensing, and enforcement system known as "Connect." Through this effort, BCE created a system-integrated complaint form for the public and transitioned all new complaints and investigations to the Connect system effective July 1, 2021, to streamline the complaint intake and investigation process. In November 2021, BCE added its remaining enforcement processes – citation and fine, discipline, and probation monitoring – to the Connect system.

In addition, as a direct result of the COVID-19 pandemic, BCE's enforcement staff began using remote videoconferencing technology to conduct interviews of

complainants, licensees, other witnesses, and probationers, which resulted in a significant reduction in staff time and travel expenses.

BCE is currently working on refinements to the Connect system to enhance the reporting tools and provide more comprehensive data to allow the Board to identify and track emerging and trending consumer protection issues, as well as measure effects of the Board's policy and regulatory changes on enforcement cases. Also, as noted in BCE's report, some contributing factors to case aging that are outside of BCE's control include the amount of time it takes for licensee arrests to eventually result in convictions, hearing scheduling with the Office of Administrative Hearings, licensee requests for hearing continuances, and witness availability for hearings. BCE is seeking the ability to use data from the Connect system to differentiate between the "active" investigation and "inactive" waiting phases of its enforcement cases to better identify specific areas where BCE can improve its enforcement processes.

Reorganization of BCE's Enforcement Unit

In addition to technological improvements, BCE has also been focusing on a reorganization of its staff to achieve further efficiencies in its internal operations. In January 2022, BCE added a clerical position to the Enforcement Unit to perform complaint intake activities, provide general information to the public, and support the existing analyst and investigator positions. BCE is also working with DCA's Office of Human Resources to separate the duties of the analysts within the Enforcement Unit. Currently, these analysts are responsible for cases from receipt through closure, including the disciplinary process. BCE is planning to designate a few staff positions to primarily perform desk investigations of complaints received while other staff focus on case management activities, such as mediating minor complaints, tracking arrest and conviction cases, issuing citations and fines, carrying out the discipline process, and monitoring licensees placed on probation. Through this increased specialization of duties performed by the enforcement analysts, BCE expects to reduce overall timeframes for its investigations and disciplinary cases.

ISSUE #10: (PRACTICE VIOLATIONS) Has the Board sought additional enforcement measures to curb the spread of medical misinformation within the chiropractic community?

Staff Recommendation: *BCE should provide an update on efforts to prevent the spread of medical misinformation within the chiropractic community, particularly in regard to the COVID-19 pandemic. In addition, BCE should describe how it plans to address unlicensed activity and professional conduct violations in regard to chiropractors providing services or medical advice beyond the scope of their training or legal practice.*

BCE Response: Consistent with the Board's mission to protect the health, welfare, and safety of the public, the Board has urged licensees to follow all public health guidelines issued by the Centers for Disease Control and Prevention and the California Department of Public Health.

Since March 2020, BCE has received a total of 132 complaints against licensees regarding the content of their advertising or the spread of misinformation about the ongoing COVID-19 pandemic. BCE was unable to substantiate the allegations or meet its burden of proof to be able to take action in 82 (62.1%) of those cases, as many of the complaints were filed anonymously or with limited information on the alleged violation.

BCE found 33 cases (25%) where licensees were advertising or inferring that chiropractic care and/or nutritional supplements could help patients reduce their risk of COVID-19 infection. In many cases, BCE found misleading information on licensees' websites with claims about the "immune boosting" effects of chiropractic along with general health, nutritional, and wellness advice. BCE took an educational approach to these investigations by notifying the licensees of the complaints, reviewing their responses, and closing the cases after the questionable or unsupported claims were removed from the licensees' websites or other advertisements. BCE also issued two citations and referred one egregious case for disciplinary action, and 14 complaints remain under investigation at this time.

The Board continues to encourage licensees and the public to report any misinformation within the chiropractic profession so BCE's Enforcement Unit can investigate and take appropriate action.

ISSUE #11: (ENFORCEMENT DISCLOSURES) The Patient's Right to Know Act requires BCE licensees to disclose probationary status to patients. The BCE recommended in their report that two exemptions be removed from this Act (BPC § 1007 subdivision (c)) to strengthen consumer protection. Are there any additional measures that can be taken to ensure consumers are aware of the probationary status of licensees?

Staff Recommendation: BCE should provide information on the impacts of amending the Patient's Right to Know Act.

BCE Response: Business and Professions Code (BPC) section 1007 requires licensees placed on probation on or after July 1, 2019, to provide a separate disclosure that includes the licensee's probation status, the length of the probation, the probation end date, all practice restrictions placed on the licensee by the Board, the Board's telephone number, and an explanation of how the patient can find further information on the licensee's probation on the licensee's profile page on the Board's online license information website, and obtain a signed copy of that disclosure from the patient, or the patient's guardian or health care surrogate, except under the conditions specified in subdivision (c).

BCE's Enforcement Unit conducts detailed intake interview sessions with each licensee placed on probation to ensure they understand and will comply with the terms and conditions of their probation. Since this notification requirement became effective, BCE staff has been consistently receiving questions from probationers related to the exemptions specified in BPC section 1007, subdivision (c), for "unscheduled visits" and

when “the licensee is not known to the patient until immediately prior to the start of the visit,” presumably in an attempt to find an avenue to circumvent this important patient notification requirement.

The Board finds this troubling as these two scenarios – unplanned visits and an unknown licensee providing treatment – illustrate situations where it is imperative that patients be informed of the licensee’s probationary status by the licensee, as the patients may not have had the opportunity to independently research the licensee’s background using BCE’s license search system prior to the visit.

Removing these two exemptions from BPC section 1007, subdivision (c), will protect the health, welfare, and safety of California chiropractic patients by ensuring they are properly notified of a licensee’s probationary status and can make informed decisions prior to receiving chiropractic care. These proposed amendments to this statute may negatively impact licensees placed on probation by the Board, particularly those who currently may be using these exemptions to avoid notifying their patients of their probationary status, but the Board believes the increased consumer protection provided through these proposed changes outweighs any potential negative impact to licensees who have been disciplined and placed on probation by the Board.

As an additional measure to ensure consumers are aware of the probationary status of licensees, BCE will continue to emphasize the importance for the public to use BCE’s online license search system to check the license status, background, and disciplinary records of a doctor of chiropractic prior to seeking care from that provider. This valuable online search tool allows the public to directly access up-to-date information regarding citations, accusations, and disciplinary actions against BCE licensees from their smartphone, tablet, or computer.

COVID-19

ISSUE #12: (IMPACTS OF THE COVID-19 PANDEMIC) Since March 2020, there have been a number of waivers issued through Executive Orders that impact BCE operations, BCE licensees, providers, and patients throughout the state. Do any of these waivers warrant an extension or statutory changes? How has the BCE addressed issues resulting from the pandemic and how does the Board aim to continue to address these issues as the pandemic endures?

Staff Recommendation: BCE should update the Committees on the impact to licensees and patients stemming from the pandemic and potential challenges for future doctors of chiropractic. BCE should discuss any statutory changes that are warranted as a result of the pandemic.

BCE Response: As portal-of-entry health care providers, doctors of chiropractic are members of the essential workforce and have continued to provide direct patient care and treatment throughout the COVID-19 pandemic.

The Board has not formally studied the impacts of the ongoing pandemic on licensees and chiropractic patients but plans to consider this issue during its upcoming strategic planning session in August 2022. The Board is aware that many doctors of chiropractic in California have experienced revenue losses due to decreased patient visits and higher costs to maintain their practices.

The Board also continues to monitor the increased use of telehealth in the chiropractic profession and will discuss any potential need for statutory or regulatory changes during its strategic planning session. Licensees who currently utilize telehealth in their practices must comply with existing laws and regulations relating to chiropractic care and BCE has not observed an increase in complaints relating to telehealth visits.

In response to the expiration of the waivers that were issued by the DCA Director, the Board is pursuing regulatory changes to provide permanent solutions to address the underlying need for the waivers. For example, BCE has developed a regulatory proposal to amend CCR, title 16, sections 330 through 331.16 (Approval of Chiropractic Schools and Educational Requirements) to align the curriculum standards for chiropractic colleges with the metrics identified by the accrediting body, the Council on Chiropractic Education (CCE), and eliminate any unduly prescriptive content that could be restrictive to the evolving nature of higher education. BCE plans to notice this package in fiscal year 2022-23.

In addition, as noted in response to Issue #7, the Board's Licensing & Continuing Education Committee recently voted to move forward with a regulatory proposal to narrow the definition of distance learning to asynchronous coursework, thereby giving coursework completed via live, interactive videoconferencing platforms the same standing as the traditional in-person classroom learning environment, with the exception of chiropractic adjustive technique courses, which must be held in-person due to the hands-on nature of the instruction on this subject matter. This proposal would also provide the Board with the authority to grant exemptions to the continuing education requirements in cases where licensees have been affected by a state of emergency, such as a pandemic or wildfire. The Board is scheduled to consider this proposal during its April 22, 2022 meeting.

BCE continues to support telework opportunities for its employees and recently upgraded its telephone and fax services to allow staff to utilize those services while they are teleworking or in the office. BCE has also increased its use of teleconferencing and collaboration tools and has been developing its new licensing and enforcement processes in the Connect system to support both office and remote work environments. However, BCE's current fund condition has prevented BCE from being able to purchase the necessary IT equipment to allow staff to effectively telework in a remote-centered environment on a full-time basis. As a result, BCE currently offers up to two days per week of remote work for its analytical staff and clerical support staff must perform their duties in the office.

TECHNICAL CHANGES

ISSUE #13: (TECHNICAL CHANGES MAY IMPROVE EFFECTIVENESS OF BCE OPERATIONS) There are amendments to BCE's Practice Act that are technical in nature but may improve BCE operations and the enforcement of the Act.

Staff Recommendation: *The Committees may wish to amend the Act to include technical clarifications.*

BCE Response: At this time, the Board does not have any recommended revisions to the Chiropractic Initiative Act. The Board plans to discuss this issue, including potential challenges with amending the Act, during its strategic planning session in August 2022 for consideration as a possible objective in BCE's next strategic plan.

CONTINUED REGULATION OF THE PROFESSION BY THE CURRENT PROFESSION BY THE BOARD OF CHIROPRACTIC EXAMINERS

ISSUE #14: (REGULATORY REVIEW) Review of the regulatory functions of the BCE.

Staff Recommendation: *BCE should be reviewed again on a future date to be determined.*

BCE Response: The Board agrees with the recommendation and thanks the Committees for this review.