

# TITLE 16. BOARD OF CHIROPRACTIC EXAMINERS DEPARTMENT OF CONSUMER AFFAIRS

## INITIAL STATEMENT OF REASONS

**Hearing Date:** No hearing has been scheduled for the proposed action.

**Subject Matter of Proposed Regulations:** Filing of Addresses and Contact Information

**Section Affected:** Amend section 303 of Division 4 of Title 16 of the California Code of Regulations (CCR)<sup>1</sup>

### **Background and Statement of the Problem:**

The Board of Chiropractic Examiners (Board) regulates the practice of chiropractic in California, including approximately 12,500 licensed doctors of chiropractic, 141 providers of chiropractic continuing education, and 20 chiropractic colleges located throughout the United States and Canada. The Board was created on December 21, 1922, through the Chiropractic Initiative Act of California (Act), as the result of an initiative measure approved by California voters on November 7, 1922.

Protection of the public is the Board's highest priority when exercising its licensing, regulatory, and enforcement functions, and the Board's vision is ensuring California consumers receive high-quality, patient-centered and collaborative care. The primary methods by which the Board achieves this objective are: establishing minimum standards for chiropractic colleges, licensure and practice, and continuing education programs; issuing licenses to eligible applicants; investigating complaints against licensees and disciplining them for violating provisions of the Act, the Board's regulations, and other laws that govern the practice of chiropractic; and monitoring licensees who have been placed on probation.

The Act, section 4(b), authorizes the Board to adopt regulations as it deems proper and necessary for the performance of its work, the effective enforcement and administration of the Act, the establishment of educational requirements for license renewal, and the protection of the public. The Act, section 4(e), authorizes the Board to do any and all things necessary or incidental to the exercise of its powers and duties.

The Act, section 10(a), authorizes the Board to, by rule or regulation, adopt, amend, or repeal rules of professional conduct appropriate to the establishment and maintenance of a high standard of professional service and the protection of the public. Finally, the Act, section 10(b), authorizes the Board to refuse to grant, or suspend or revoke, a

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<sup>1</sup> Unless otherwise noted, all references to the CCR hereafter are to Title 16.

license to practice chiropractic in this state, or place the licensee upon probation or issue a reprimand to the licensee for violation of the rules and regulations adopted by the Board in accordance with the Act, or for any cause specified in the Act.

Existing law, CCR section 303, requires a licensee to file a current place of practice address and notify the Board of a change of address within 30 days of any change.

In 2022, the Legislature passed Senate Bill (SB) 1434 (Roth, Chapter 623, Statutes of 2022), amending Business and Professions Code (BPC) section 1001 to require the Board to include licensees' telephone numbers and email addresses in the Board's directory. BPC section 1001 also authorizes the Board to require licensees to furnish such information as the Board may deem necessary to enable it to compile the directory, and requires licensees to immediately report a change in contact information.

BPC section 27, subdivisions (a) and (d), requires the Board to provide specified information regarding its licensees on the internet and prohibits the inclusion of personal information. BPC section 136 requires a licensee to notify the Board at its principal office of any change in their mailing address within 30 days after the change, unless the Board specifies a shorter time period by regulations.

The Board has drafted the following proposal amending CCR section 303 (Filing of Addresses):

- Amend introductory paragraph by adding (a) before "Each person", capitalizing "board", deleting "his proper and current place of practice address of his principal office and, where appropriate, each and every sub-office," and adding "the following information".
- Add (a)(1) Address of Record which requires licensees to provide a mailing address to the Board that will be an address of record and used for communication with the Board, disclosure to the public, and publication on the Board's online license information system and in the Board's directory. A non-public, alternate physical address is also required when the public address of record is a post office box or other private mailbox service.
- Add (a)(2) Telephone Number which requires licensees to provide a business telephone number for communication with the Board and inclusion in the Board's directory. Alternatives are also provided for licensees who only have a personal telephone number or who do not have a telephone number.
- Add (a)(3) Email Address which requires licensees to provide a business email address for communication with the Board and inclusion in the Board's directory. Alternatives are also provided for licensees who only have a personal email address or who do not have an email address.

- Add (b) and amend the requirement for licensees to notify the Board of any change of address to include their telephone number and email address and specify that any change in address or contact information must be provided within 15 calendar days of any change.
- Add (c) defining “internal administrative use” as the use of a licensee’s non-public address or contact information by the Board to contact or locate a licensee regarding a licensing matter or investigation.
- Add (d) specifying that failure to comply with the requirements of this section constitutes unprofessional conduct and shall subject the licensee to disciplinary action.

At the April 20, 2023 meeting, the Board approved proposed text amending CCR section 303, directed staff to commence the formal rulemaking process, and authorized the Executive Officer to make any non-substantive or technical changes to the package. Since then, Board staff have corrected technical errors that have no substantive effect on the regulation.

**Anticipated benefits from this regulatory action:**

This proposal benefits the health and welfare of California residents by ensuring the Board has oversight and the ability to locate and communicate with licensed doctors of chiropractic by telephone, email, or mail. Members of the public will benefit as the Board’s ability to protect the public and consumers from harm will be enhanced through quick and effective communication with licensees by telephone or email. The public will also benefit through the inclusion of additional licensee contact information in the Board’s directory.

**Specific purpose of, and rationale for, each adoption, amendment, or repeal:**

1. Amend the title of Section 303 to “Filing of Addresses and Contact Information”.

Purpose: The title of CCR section 303 is being amended from “Filing of Addresses” to “Filing of Addresses and Contact Information”.

Rationale: It is necessary to change the title of this section to include the term “contact information” which covers the collection of telephone numbers and email addresses pursuant to BPC section 1001.

2. Add (a), capitalize “Board”, delete “his proper and current place of practice address of his principal office and, where appropriate, each and every sub-office,” and add “the following information”.

Purpose: The introductory paragraph is being amended to add “(a)” before “Each person”, capitalize “Board”, delete “his proper and current place of practice address of

his principal office and, where appropriate, each and every sub-office,” and add “the following information”.

Rationale: The capitalization of the term “Board” is a technical, non-substantive edit. It is necessary to delete “his proper and current place of practice address of his principal office and, where appropriate, each and every sub-office,” and add more specific information in new subsections (a)(1) through (3) because BPC section 1001 now requires the Board to also collect licensees’ telephone numbers and email addresses. Additionally, the term “proper and current place of practice address of his principal office” is vague and causes problems for some licensees who either do not have a physical practice address or are located in a rural area and cannot receive mail at their actual practice address.

The Board will still require the filing of the licensees’ address of record and contact information at its office. This existing language is broadly interpreted as any form of filing with the Board, including, but not limited to, mail, email, fax, renewal forms, or electronically through the Board’s Connect user portal, as licensees have done in the past.

### 3. Add (a)(1) Address of Record.

Purpose: This new subsection requires licensees to provide a mailing address as a designated address of record for all communication from the Board and disclosure to the public. This subsection also requires licensees to provide an alternate physical address solely for the Board’s internal administrative use if their address of record is a post office box or other private mailbox service.

Rationale: It is necessary to add this subsection because BPC section 27 requires the Board to provide each licensee’s address of record on the internet, BPC section 136 requires licensees to notify the Board of any changes to their mailing address, and BPC section 1001 requires the Board to compile a directory containing licensees’ addresses. The Board requires a mailing address as a default means of communication.

BPC section 27 also requires the Board to allow a licensee to provide a post office box number or other alternate address, instead of the licensee’s home address, as the address of record. This section allows the Board to require a licensee who has provided a post office box number or other alternative mailing address as their address of record to also provide a physical business address or residence address only for the Board’s internal administrative use and not for disclosure as the address of record or on the internet.

Through this new subsection, the Board is ensuring conformance with the provisions of BPC sections 27, 136, and 1001 by replacing the prior requirement for licensees to file a “proper and current place of practice address of his principal office” with a new requirement to file their mailing address which will be designated as their “address of

record,” a common term utilized by the boards and bureaus within the Department of Consumer Affairs.

The address of record will be used for all official communications from the Board, disclosed to the public, posted on the Board’s online license information system, and included in the Board’s directory. Licensees who use a post office box or other private mailbox service as their address of record will also be required to provide an alternate physical address for the Board’s internal administrative use only. This requirement ensures the Board’s staff can physically locate the licensee at their business or residence, if necessary, regarding a licensing matter or investigation.

#### 4. Add (a)(2) Telephone Number.

Purpose: This new subsection requires licensees to provide a business telephone number that is disclosed to the public in the Board’s directory. There is also an alternative to provide a personal telephone number solely for the Board’s internal administrative use if the licensee does not have a business telephone number, or to inform the Board that the licensee does not have a telephone number.

Rationale: It is necessary to add this subsection because BPC section 1001 requires the Board to compile a directory containing the telephone number of licensees, and to prevent the disclosure of a licensee’s personal information, the Board will only collect business telephone numbers for this purpose. If a licensee does not have a business telephone number and only has a personal telephone number, they may provide their personal telephone number only for the Board’s internal administrative use. If a licensee does not have a telephone, they must disclose that fact to the Board in writing so the Board can differentiate between licensees without telephones and those who have not complied with the filing requirement.

The Board also uses telephone as a means to promptly locate and communicate with its licensees regarding licensing matters or investigations, and needs to have licensees’ current telephone numbers to effectively fulfill its mission of consumer protection.

#### 5. Add (a)(3) Email Address.

Purpose: This new subsection requires licensees to provide a business email address that is disclosed to the public in the Board’s directory. There is also an alternative to provide a personal email address solely for the Board’s internal administrative use if the licensee does not have a business email address, or to inform the Board that the licensee does not have email.

Rationale: It is necessary to add this subsection because BPC section 1001 requires the Board to compile a directory containing the email address of licensees, and to prevent the disclosure of a licensee’s personal information, the Board will only collect business email addresses for this purpose. If a licensee does not have a business email

address and only has a personal email address, they may provide their personal email address only for the Board's internal administrative use. If a licensee does not have email, they must disclose that fact to the Board in writing so the Board can differentiate between licensees without email and those who have not complied with the filing requirement.

The Board also uses email as a means to promptly locate and communicate with its licensees regarding licensing matters or investigations, and needs to have licensees' current email addresses to effectively fulfill its mission of consumer protection.

6. Add (b) and amend change of address provision.

Purpose: This subsection requires licensees to immediately notify the Board of any and all changes to their address of record, alternate physical address, telephone number, or email address, or some or all of the above, by providing their old and new contact information within 15 calendar days of any change in writing.

Rationale: It is necessary to add this subsection as BPC section 136 requires a licensee to notify the Board at its principal office of any change in their mailing address within 30 days after the change, unless the Board specifies by regulations a shorter time period. Additionally, BPC section 1001 requires licensees to immediately report any change in contact information to the Board.

The Board is proposing to reduce the timeframe for notifying the Board of any change in address or contact information from 30 days to 15 calendar days because Government Code section 11506 specifies that a licensee may file a notice of defense in a disciplinary case within 15 days after service of the accusation. Government Code section 11505, subdivision (c), allows the Board to serve the accusation by registered mail to the latest address on file with the agency. By reducing this change in address or contact information notification timeframe to 15 calendar days, the Board can ensure that accusations against licensees are properly served to their current mailing address and avoid the additional time and expense in carrying out, and later vacating, a default decision due to a change in a licensee's address after the 15-day deadline for filing a notice of defense.

7. Add (c) and define "internal administrative use".

Purpose: The term "internal administrative use" is being defined as the use of a licensee's non-public address or contact information by the Board to contact or locate a licensee regarding a licensing matter or investigation.

Rationale: It is necessary to add this subsection to clarify the circumstances under which a licensee's personal information – an alternate physical address, personal telephone number, or personal email address – may be used by the Board.



8. Add (d) regarding unprofessional conduct.

Purpose: This new subsection will specify that failure to comply with the requirements of this regulation constitutes unprofessional conduct and shall subject the licensee to disciplinary action.

Rationale: It is necessary to add that failure to comply with CCR section 303 is unprofessional conduct to ensure that licensees comply with the filing requirements and that the Board has an enforcement mechanism to address violations. CCR section 317 lists circumstances of unprofessional conduct under an “including, but not limited to” enumerated list, and CCR section 317, subsection (m) specifies that a violation of any provision of the Act or the Board’s regulations constitutes unprofessional conduct. This new subsection further clarifies that failure to comply with these requirements subjects a licensee to disciplinary action by the Board.

9. Amend Note.

Purpose: The Note is being amended to add the authority to adopt the proposal pursuant to BPC section 1001, add the references to BPC sections 12.5, 27, 136, and 1001 in the regulations, and correct the citation of the Chiropractic Initiative Act of California in the authority and reference sections.

Rationale: The Board cites BPC section 1001 as its authority to collect licensees’ telephone numbers and email addresses, and adds BPC sections 12.5, 27, 136, and 1001 as references in the regulations. Additionally, the citations to the Act in the authority and reference sections have been updated for accuracy.

**Underlying Data**

Technical, theoretical, or empirical studies, reports, or documents relied upon:

- Senate Bill 1434 (Roth, Chapter 623, Statutes of 2022)
- Board of Chiropractic Examiners’ February 24, 2023 Licensing Committee Meeting Agenda, Materials, and Minutes – Agenda Item 4
- Board of Chiropractic Examiners’ April 20, 2023 Board Meeting Agenda, Materials, and Minutes – Agenda Item 12B

**Business Impact:**

The Board has made the initial determination that the proposed regulations will not have a significant statewide adverse economic impact directly affecting businesses including the inability of California businesses to compete with businesses in other states. This initial determination is based on the following facts:

Existing law, CCR section 303, already requires licensed doctors of chiropractic to file their current place of practice address with the Board at its office in Sacramento and notify the Board of any changes within 30 days. Licensees may file their place of practice address with the Board and notify the Board of any changes by emailing, faxing, or mailing the information to the Board's office or updating their address electronically through the Board's Connect user portal.

This proposal would, instead, require licensees to file their mailing address, alternate physical address, if applicable, telephone number, and email address and notify the Board of any changes within 15 days using these same submission methods. This proposal is not anticipated to result in additional costs to licensees or businesses or to have any adverse impact on businesses, including those owned or operated by licensees.

### **Economic Impact Assessment:**

The Board has determined that this regulatory proposal will have the following effects:

- It will not create jobs or eliminate jobs within the State of California because the proposal only updates the requirements for licensees of the Board to file their current mailing address and contact information with the Board. The proposed changes to these filing requirements will not affect the number of jobs within the state.
- It will not create new business or eliminate existing businesses within the State of California because the proposal only updates the requirements for licensees of the Board to file their current mailing address and contact information with the Board. The proposed changes to these filing requirements will not affect the number of businesses within the state.
- It will not affect the expansion of businesses currently doing business within the State of California because the proposal only updates the requirements for licensees of the Board to file their current mailing address and contact information with the Board. The proposed changes to these filing requirements will not impact the expansion of business within the state.
- This regulatory proposal benefits the health and welfare of California residents by ensuring the Board maintains a current mailing address and contact information for each of its licensees and shares that information with the Board through its directory.
- This regulatory proposal does not affect worker safety because it has nothing to do with worker safety.



- This regulatory proposal does not affect the state's environment because it has nothing to do with the environment.

**Specific Technologies or Equipment:**

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

**Consideration of Alternatives:**

No reasonable alternative to the regulatory proposal would be either more effective in carrying out the purpose for which the action is proposed or would be as effective or less burdensome to affected private persons and equally effective in achieving the purposes of the regulation in a manner that ensures full compliance with the law being implemented or made specific.

No such alternatives have been proposed, however, the Board welcomes comments from the public.

**Description of reasonable alternatives to the regulation that would lessen any adverse impact on small business:**

No such alternatives have been proposed, however, the Board welcomes comments from the public.