

**TITLE 16. BOARD OF CHIROPRACTIC EXAMINERS  
DEPARTMENT OF CONSUMER AFFAIRS (DCA)**

**INITIAL STATEMENT OF REASONS**

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

**Subject Matter of Proposed Regulations:** Repeal of Successful Examination Regulation

**Section Affected:** Repeal section 354 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 license to practice chiropractic in this state, or place the licensee upon probation or

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

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, the Act, section 5, states it shall be unlawful for any person to practice chiropractic in this state without a license to do so, and section 15 specifies that it is a misdemeanor for any person to practice or attempt to practice chiropractic, or use the title “chiropractor” or “D.C.” or any word or title to induce, or tending to induce belief that they are engaged in the practice of chiropractic without first complying with the provisions of the Act.

CCR section 310.2, “Use of Title by Unlicensed Persons”, prohibits a person from engaging in the practice of chiropractic without holding an active license issued by the Board, and section 312 prohibits an unlicensed individual from diagnosing, analyzing, or performing a chiropractic adjustment.

CCR section 354, titled “Successful Examination”, was adopted by the Board effective November 17, 1979, and permits applicants who are notified in writing by the Board of successful completion of the Board examination to immediately commence the practice of chiropractic in California pending the receipt of their certificate.

To obtain a license to practice as a doctor of chiropractic in California, applicants must go through multiple steps, starting with taking and passing the Board examination, known as the California Chiropractic Law Examination (CCLE), and paying a \$137 fee for their initial license to practice chiropractic pursuant to Business and Professions Code (BPC) section 1006.5, subdivision (b). The Board’s staff then performs a final review of their application package, confirms all licensure requirements have been met and no cause exists to deny a license, and issues a doctor of chiropractic license to the applicant. Upon the issuance of a new license, the Board’s online license information system, DCA Search, automatically updates in real-time to display the new licensee’s public information. If cause exists to deny a license, the Board’s staff follows the procedures for denying a license specified in BPC section 485.

CCR section 354 is problematic because it conflicts with existing laws and regulations that prohibit the unlicensed practice of chiropractic (the Act, sections 5 and 15, CCR section 310.2 and 312 and BPC section 1006.5), since the regulation suggests that that completion of the Board examination allows practice, when the licensing process requires the Board to collect a fee and evaluate an application after a successful examination. CCR section 354 is also contrary to the public’s expectation that only duly licensed doctors of chiropractic may practice chiropractic within the state, as it suggests that a successful examinee can practice, when a successful examinee does not necessarily have their application approved yet and has not yet officially obtained a license from the Board.

Based on these issues, the Board has drafted a proposal to repeal CCR section 354 (Successful Examination) in its entirety. At the January 20, 2023 meeting, the Board approved proposed text repealing CCR section 354, directed staff to commence the

formal rulemaking process, and authorized the Executive Officer to make any non-substantive or technical changes to the package.

**Anticipated benefits from this regulatory action:**

This proposal benefits the health and welfare of California residents by helping ensure that only appropriately qualified and licensed doctors of chiropractic may engage in the practice of chiropractic in California through eliminating a potentially conflicting regulatory provision that could be interpreted as allowing a successful examination applicant to practice without meeting other licensure requirements. Repealing CCR section 354 helps clarify the licensure process.

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

- Repeal Section 354. Successful Examination.

Purpose: This regulatory proposal will repeal CCR section 354 in its entirety.

Rationale: It is necessary to repeal this regulation because it conflicts with other provisions of law – the Act, sections 5 and 15, and CCR sections 310.2 and 312 – that prohibit the unlicensed practice of chiropractic. It is also contrary to the public’s expectation that only duly licensed doctors of chiropractic may practice chiropractic in the state.

This regulation also endangers the public because it allows applicants who may ultimately be denied licensure by the Board or issued a probationary license with specific terms and conditions, such as practice restrictions or limitations, to practice chiropractic without any oversight or monitoring by the Board during the period of time between their passing of the CCLE and the Board’s final decision either denying licensure or granting a probationary license.

Additionally, on average, the Board’s staff issues new doctor of chiropractic licenses to eligible applicants within 11 days of receipt of the initial license fee by the Board.<sup>2</sup> The public protection afforded by ensuring that only duly licensed doctors of chiropractic may practice within the state outweighs the benefits of allowing applicants to commence practice upon successful completion of the CCLE and prior to the issuance of their initial license.

**Underlying Data**

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

- Board of Chiropractic Examiners’ December 9, 2022 Enforcement Committee Meeting Agenda, Materials, and Minutes – Agenda Item 6

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<sup>2</sup> Source: Board of Chiropractic Examiners’ Quarterly Licensing Performance Measures, FY 2023–24

- Board of Chiropractic Examiners' January 20, 2023 Board Meeting Agenda, Materials, and Minutes – Agenda Item 14C
- Board of Chiropractic Examiners' Quarterly Licensing Performance Measures, FY 2023–24

### **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:

This proposal repeals a provision of the Board's regulations that allows applicants for licensure to begin practicing immediately upon written notification of successful completion of the Board examination. This provision conflicts with existing law, and the public's expectation, that only appropriately qualified and licensed individuals may practice chiropractic in California.

The repeal of this regulation is not anticipated to result in additional costs to applicants or businesses or to have any adverse impact on businesses, including those owned or operated by applicants.

### **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 repeals a provision that allows applicants for licensure to begin practicing immediately upon successful completion of the Board examination and prior to the issuance of a license.
- It will not create new business or eliminate existing businesses within the State of California because the proposal only repeals a provision that allows applicants for licensure to begin practicing immediately upon successful completion of the Board examination and prior to the issuance of a license.
- It will not affect the expansion of businesses currently doing business within the State of California because the proposal only repeals a provision that allows applicants for licensure to begin practicing immediately upon successful completion of the Board examination and prior to the issuance of a license.
- This regulatory proposal benefits the health and welfare of California residents by ensuring only appropriately qualified and licensed doctors of chiropractic may engage in the practice of chiropractic in California.

- 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.