

## **Board of Chiropractic Examiners Final Statement of Reasons**

Hearing Date: No Hearing Scheduled

Subject Matter of Proposed Regulations: Application for License and Continuing Education Requirements

Sections affected: Amend Section 321 in Article 3 and section 364 in Article 6, of Title 16, Division 4 of the California Code of Regulations (CCR).

### **Updated Information:**

When the original Notice of Proposed Action and the text of the regulations were posted on the Board of Chiropractic Examiners website, hard copies of the notice package were not sent out to interested parties. Immediately upon discovery, a notice of extension of written comment period was issued and hard copies of the notice package were sent to interested parties.

Following the close of the 45-day comment period, from January 19, 2016 to March 14, 2016, staff discovered that the Notice Regarding Information Collection and Access on the Board's licensure application did not contain the most recent information regarding the use of an individual taxpayer identification number for an application for licensure. The Notice Regarding Information Collection and Access was updated and the regulatory text was modified to reflect the update to the licensure application form which has been incorporated by reference.

Upon additional review of the application modified with this regulation package, staff determined that non-substantive changes were needed to the disclosure information on the application form. Additionally, the application forms modification dates were updated to reflect that changes were made in May 2016. These changes were made and noticed for a 15-day review.

Following the closure of the 15-day modified text review period, from May 24, 2016 to June 8, 2016, the Board did not receive any comments from the public.

The executive officer added the statement "which is hereby incorporated by reference," to incorporate the revised application and new forms into the Board's regulation. The Board has made this determination because including the entire multi-page application would be cumbersome, unduly expensive, and otherwise impractical to publish into the CCR. The application is/and will be made available upon request and is available to applicants on the Board's website.

In consultation with legal counsel, the executive officer non-substantively modified the Order of Adoption language by removing unnecessary section citations unrelated to prechiropractic college credits.

Following a disapproval decision rendered by the Office of Administrative Law (OAL), the Board proceeded to make the necessary changes to the concerns raised by OAL. Once the changes were completed, the full Board approved the changes at a Board meeting on June 14, 2017.

These non-substantive changes were noticed to the public for a 15-day comment period that ended July 7, 2017.

One comment was received during the public comment period. The comment received discussed the organization's support for the changes to the application and amendments to the way Continuing Education (CE) hours can be provided to licensees for participation in an exam development workshop.

At the July 25, 2017 Board Meeting, the Board accepted the comment and agreed to take no action to amend or change the regulation. The comment received was supportive of the changes the Board aims to make and thus it does not require or request a change to the regulation. Additionally, the Board adopted the changes to the regulation and delegated authority to the Executive Officer to complete the rulemaking and submit it to OAL for final review.

The Modified Initial Statement of Reasons is included in the file. There were no substantial changes made during the rulemaking process that would affect the purpose or rationale stated in the Modified Initial Statement of Reasons.

### **Determination and Impact**

**Local Mandate:** Proposed regulation does not impose a local mandate.

#### **Businesses Impact:**

The Board concludes that the proposal is unlikely to create or eliminate any jobs for the profession, the proposal will not create new businesses or eliminate existing businesses, and the proposal is unlikely to impact the "expansion of businesses" because the national trend of student enrollment in chiropractic colleges and number of licensed chiropractors reported by each state over the last five years remains relatively consistent.

The Board has made an initial determination that the proposed regulatory action would have no significant statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states and the creation, elimination or expansion of California businesses. This proposal would specifically impact applicants who are past and present members of the military

and their spouses/legal partners as well as undocumented applicants by authorizing licensing application processing privileges granted by the Legislature. The Board's proposed regulations are intended to implement Section 1000-5 of the Business and Professions Code (Chiropractic Initiative Act of California, Stats. 1923 p. 1xxxviii, Government Code section 11019.11 and BPC sections 27, 30, 114.3, 114.5, 115.4, 115.5, 135.5, 480 and 802(a) in a manner that will provide the greatest protection to the people of California. Chiropractic businesses are most commonly sole practitioners, but also include partnerships or corporations. The national trend statistics show no significant increases or decreases in student enrollment in chiropractic colleges or in the numbers of licensed chiropractors throughout the United States from 2010 through 2013.

### **Small Businesses Impact:**

The Board has determined that the proposed regulatory action would have no significant statewide economic impact directly affecting small businesses.

### **Consideration of Alternatives:**

The Board considered the alternative of maintaining the status quo, but the law requires these changes and maintaining the status quo thus is not an option. However, the proposed changes are necessitated or required from laws passed by the Legislature requiring Department of Consumer Affairs' boards to expedite the licensing process for U.S. military members, inquire in all applications whether an applicant is serving in, or has previously served in the United States military and require every state agency to request on any written form or publication, whether an applicant has ever served in the U.S. military. Additionally, the Legislature has required DCA boards to waive the renewal fees, continuing education requirements, and other renewal requirements for any licensee or registrant called to active duty as a member of the U.S. Armed Forces or the California National Guard and requires boards within DCA to expedite the licensure process for applicants who are married to or in a domestic partnership or other legal union with an active duty member of the U.S. military, stationed in California, and who holds a current license in another state, district or territory of the U.S. in the profession for which they are seeking licensure. The Board does not have the option to not implement these changes mandated by the Legislature.

Further, the Board has considered various proposals to increase licensee participation as Subject Matter Experts in the two-day examination workshop to update the California Law and Professional Practice Examination (CLPPE) with current standards and practice in chiropractic. In order to maintain the integrity and validity of the CLPPE, a periodic review and revision of the examination must be performed by licensees. However, without offering CE credit to licensees as an incentive for participating in the workshops, the financial hardship caused by missing two days of work is too high for a large number of licensees to participate.

The Board has made an initial determination that no reasonable alternatives to the proposed amended regulations would be either more cost-effective in carrying out the

purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed regulation. With the legislature mandating the Boards within DCA to expedite the licensure process for applicants serving as active duty members of the U.S. military, the Board determined that no reasonable alternative to the proposed regulation would be more effective or less burdensome to accomplish the task set out by the legislature.

**Objections or Recommendations/Responses**

The Board received no written or verbal comments regarding the proposed regulatory action.