

BOARD OF CHIROPRACTIC EXAMINERS

Expedited Licensure and Application Requirements

Title 16, California Code of Regulations (CCR), Section 321

Section 100 CHANGE WITHOUT REGULATORY EFFECT

Pursuant to Title 1, Division 1, Chapter 1, Article 2, Section 100(b)(3), of the California Code of Regulations (CCR), the Department of Consumer Affairs, Board of Chiropractic Examiners (Board) submits this written statement explaining why the proposed amendments to the Chiropractic License Application form, section 321 of Article 3, Division 4, of Title 16 of the CCR do not materially alter any requirement, right, responsibility, condition, prescription, or other regulatory element of any CCR provision.

Subject to the approval of the Office of Administrative Law, the Board will add to, revise, or delete text in the CCR as follows:

A. Form 09A-1 (Rev. 6/17) [Application for a License to Practice Chiropractic]

1. Addition of Questions Related to Expedited Licensure pursuant to Business and Professions Code 135.4.

Assembly Bill (AB) 2113 (Low, Chapter 186, Statutes of 2020), effective January 1, 2021, added Business and Professions Code (BPC) Section 135.4¹, which requires boards and bureaus under the Department of Consumer Affairs to expedite the initial licensure process for the following applicants:

1. Refugees pursuant to section 1157 of title 8 of the United States Code;

¹ Business and Professions Code Section 135.4, effective January 1, 2021:

- (a) Notwithstanding any other law, a board within the department shall expedite, and may assist, the initial licensure process for an applicant who supplies satisfactory evidence to the board that they have been admitted to the United States as a refugee under Section 1157 of Title 8 of the United States Code, have been granted asylum by the Secretary of Homeland Security or the Attorney General of the United States pursuant to Section 1158 of Title 8 of the United States Code, or they have a special immigrant visa (SIV) that has been granted a status under Section 1244 of Public Law 110-181, under Public Law 109-163, or under Section 602(b) of Title VI of Division F of Public Law 111-8.
- (b) Nothing in this section shall be construed as changing existing licensure requirements. A person applying for expedited licensure under subdivision (a) shall meet all applicable statutory and regulatory licensure requirements.
- (c) A board may adopt regulations necessary to administer this section.

2. Those granted asylum by the Secretary of Homeland Security or the Attorney General of the United States pursuant to section 1158 of title 8 of the United States Code; or,
3. Individuals with a special immigrant visa that have been granted a status pursuant to section 1244 of Public Law 110-181, Public Law 109-163, or section 602(b) of title VI of division F of Public Law 111-8.

The Board proposes adding the following language to its form to comply with AB 2113:

Business and Professions Code Section 135.4 provides that the Board must expedite, and may assist, the initial licensure process for certain applicants described below.

C. Were you admitted to the United States as a refugee pursuant to section 1157 of title 8 of the United States Code?

D. Were you granted asylum by the Secretary of Homeland Security or the United States Attorney General pursuant to section 1158 of title 8 of the United States Code?

E. Do you have a special immigrant visa that has been granted a status under section 1244 of Public Law 110-181, Public Law 109-163, or section 602(b) of title VI of division F of Public Law 111-8, relating to Iraqi and Afghan translators/interpreters or those who worked for or on behalf of the United States government?

*If you answered yes to questions C through E, you must attach evidence of your status as a refugee, asylee, or special immigrant visa holder. Failure to do so may result in application review delays.

The form will also contain boxes labeled “Yes” and “No” for applicants to check.

This is a change without regulatory effect because the Board proposes to amend the Application to elicit information necessary to comply with a new California statute. (1 Cal. Code Regs., tit. 1, § 100, subd. (a)(6).) The form does not presently elicit the information necessary to comply with BPC section 135.4, and the Board is required to provide and does not have discretion to decline expedited licensure for applicants falling within the categories delineated in section 135.4. (Cal. Code Regs., tit. 1, § 100, subd. (a)(6)(A) & (B).)

2. Revise Statement Related to an Applicant’s Disciplinary History pursuant to Business and Professions Code 480.

Assembly Bill (AB) 2138 (Low, Chapter 186, Statutes of 2020), effective July 1, 2020, amended BPC section 480² to prohibit boards and bureaus under the

² Business and Professions Code Section 480, effective July 1, 2020:

Department of Consumer Affairs from requiring an applicant to disclose any information or documentation regarding their criminal history.

The Board proposes to amend language on its application to comply with AB 2138 and provide applicants clarity regarding application requirements for licensure.

On page 3 of the application, the phrase beginning, “If you answer “Yes” to questions 4 through 11, provide certified hearing/court documents” should be removed.

This is a change without regulatory effect because the Board is proposing to make its regulations consistent with a changed California statute. (1 Cal. Code Regs., tit. 1, § 100, subd. (a)(6).) The form is inconsistent with section 480 (f)(2), effective July 1, 2020, and the Board does not have discretion to require an applicant to disclose any information or documentation regarding the applicant’s criminal history. (Cal. Code Regs., tit. 1, § 100, subd. (a)(6)(A) & (B).)

3. Deletion of Statement and Questions Related to an Applicant’s Criminal History pursuant to Business and Professions Code 480.

The Board proposes to amend language on its application to comply with AB 2138 and provide applicants clarity regarding application requirements for licensure.

Specifically, the paragraph beginning, “If you answer “Yes” to questions 10 or 11” on page 4 should be deleted. Furthermore, the Board proposes to delete questions 10 and 11, which require an applicant for licensure to disclose the following information:

- 10. Have you ever been convicted or pled guilty or pled nolo contendere to ANY offense (include every misdemeanor or felony) of any local, state, or federal law of any state, territory, foreign country, or U.S. federal jurisdiction?
Yes__ No__

This includes every citation, infraction, misdemeanor and/or felony, including traffic violations of \$500 or more. NOTE: Convictions that were adjudicated in the juvenile court, dismissed per Penal Code section 1000.3, or convictions two years or older under California Health and Safety Code sections 11357(b),(c),(d), (e) or section 11360(b) should NOT be reported. Convictions that were later expunged from the records of the court or set aside

(f) A board shall follow the following procedures in requesting or acting on an applicant’s criminal history information:

(1) A board issuing a license pursuant to Chapter 3 (commencing with Section 5500), Chapter 3.5 (commencing with Section 5615), Chapter 10 (commencing with Section 7301), Chapter 20 (commencing with Section 9800), or Chapter 20.3 (commencing with Section 9880), of Division 3, or Chapter 3 (commencing with Section 19000) or Chapter 3.1 (commencing with Section 19225) of Division 8 may require applicants for licensure under those chapters to disclose criminal conviction history on an application for licensure.

(2) Except as provided in paragraph (1), a board shall not require an applicant for licensure to disclose any information or documentation regarding the applicant’s criminal history. However, a board may request mitigating information from an applicant regarding the applicant’s criminal history for purposes of determining substantial relation or demonstrating evidence of rehabilitation, provided that the applicant is informed that disclosure is voluntary and that the applicant’s decision not to disclose any information shall not be a factor in a board’s decision to grant or deny an application for licensure.

pursuant to sections 1203.4, 1203.4a, or 1203.41 of the California Penal Code or equivalent non-California law MUST be disclosed. Proof of Dismissal: If you have obtained a dismissal of your conviction(s) pursuant to Penal Code sections 1203.4, 1203.4a, or 1203.41, please submit a certified copy of the court order dismissing the conviction(s) with your application.

- 11. Is any criminal action pending against you, or are you currently awaiting judgment and sentencing following entry of a plea or jury verdict?
Yes__ No__

This is a change without regulatory effect because the Board is proposing to make its regulations consistent with a changed California statute. (1 Cal. Code Regs., tit. 1, § 100, subd. (a)(6).) The form is inconsistent with BPC section 480 (f)(2), effective July 1, 2020, and the Board does not have discretion to require an applicant to disclose any information or documentation regarding the applicant’s criminal history. (Cal. Code Regs., tit. 1, § 100, subd. (a)(6)(A) & (B).)

4. Revise Application Fee to Practice Chiropractic pursuant to Business Professions Code 1006.5

Senate Bill (SB) 1480 (Hill, Chapter 571, Statutes of 2018), effective January 1, 2019, amended Business and Professions Code (BPC) Section 1006.5³ to codify the Board’s new fee schedule, where all its fees can be easily found.

Therefore, the Board proposes to amend language on its application to comply with BPC Section 1006.5 and provide applicants clarity regarding the application fee for licensure.

On page 1 of the application, under the “Fees” subheading, the application fee should be revised to strike “\$100.00” and add instead “\$371.00”.

Furthermore, the Board proposes to amend the following language from 16 CCR 321 to provide applicants clarity regarding the application fee for licensure:

“An Application for a License to Practice Chiropractic shall be submitted on an application form entitled “Application for License to Practice Chiropractic” (No. 09A-1 (Rev. ~~6/17~~11/20)), which is hereby incorporated by reference, accompanied by such evidence, statements, or documents as are therein required, and filed with the board at its office in Sacramento, with the required nonrefundable application fee of ~~one hundred dollars (\$100.00)~~ three hundred seventy-one dollars (\$371.00).”

This is a change without regulatory effect because the Board is proposing to make its regulations consistent with a changed California statute. (1 Cal. Code Regs., tit. 1, § 100, subd. (a)(6).) The form is presently inconsistent with BPC section 1006.5 effective January 1, 2019, and the Board is only seeking to revise its application fee because the statute supersedes 16 CCR section 321. The Board proposes to amend CCR section 321 to comply with SB 1480 and provide applicants clarity regarding

³ Business and Professions Code Section 1006.5, effective January 1, 2019:
(a) Fee to apply for a license to practice chiropractic: three hundred seventy-one dollars (\$371).

the application fee for licensure. (Cal. Code Regs., tit. 1, § 100, subd. (a)(6)(A) & (B).)

4. Corrections to Heading

The Board proposes to amend the form's heading to reflect Governor Gavin Newsom's name. Therefore, "Edmund G. Brown Jr., Governor" should be deleted and replaced with "Gavin Newsom, Governor". The Board also proposes to update the header of the form to include contact information for the Board.

This is a change without regulatory effect because the Board is merely correcting the form's heading to add the current governor, Gavin Newsom, and include current contact information for the Board. (1 Cal. Code Regs., tit. 1, § 100, subd. (a)(4).)

5. General Changes

The Board is also seeking to make a number of grammatical, punctuation, and capitalization changes throughout the form. (1 Cal. Code Regs., tit. 1, § 100, subd. (a)(4).)

B. 16 CCR 321

1. 16 CCR 321 presently provides:

.... "Application for License to Practice Chiropractic" (No. 09A-1 (Rev. 6/17), which is hereby incorporated by reference....

As explained, herein, the Board proposes to update the form revision date to November 2020. Accordingly, the Board proposes to strike "Rev. 6/17" and replace it with "Rev. 11/20."

This is a change without regulatory effect because the Board proposes amending 16 CCR 321 to refer to the most recent version of the application. (1 Cal. Code Regs., tit. 1, § 100, subd. (a)(4).)