

**NOTICE OF TELECONFERENCE**  
**LICENSING & CONTINUING EDUCATION COMMITTEE MEETING**

**June 1, 2018**

**1:00 p.m. – 2:30 p.m. or until completion of business**

One or more Committee Members will participate in this meeting at the teleconference sites listed below. Each teleconference location is accessible to the public and the public will be given an opportunity to address the Licensing, Continuing Education and Public Relations Committee at each teleconference location. The public teleconference sites for this meeting are as follows:

**Teleconference Meeting Locations:**

901 P Street, Suite 142A  
Sacramento, CA 95814  
(Board Staff)

Dionne McClain, D.C.  
6360 Wilshire Blvd., #410  
Los Angeles, CA 90048  
(323) 653-1014

Heather Dehn, D.C.  
4616 El Camino Ave., #B  
Sacramento, CA 95821  
(916) 488-0202

**AGENDA**

- 1. Call to Order & Establishment of a Quorum**
- 2. Approval of October 6, 2017 Committee Meeting Minutes**
- 3. Review and Discussion of Strategic Plan Goal 1**
- 4. Review and Discussion of Pending CE Provider applications; Possible Recommendation to the Full Board**
- 5. Review and Discussion on Possible Revisions to Sections 360-366 of Title 16 of the California Code of Regulations Regarding Continuing Education; Possible Recommendation to the Full Board**
- 6. Review and Discussion on Possible Revisions to Sections 330-331.15 of the California Code of Regulations Regarding Curriculum; Possible Recommendation to the Full Board**
- 7. Public Comment on Items Not on the Agenda**  
*Note: The Committee may not discuss or take action on any matter raised during this public comment section that is not included on this agenda, except to decide whether to place the matter on the agenda of a future meeting. [Government Code Sections 11125, 11125.7(a).] Public comment is encouraged; however, if time constraints mandate, comments may be limited at the discretion of the Chair.*
- 8. Future Agenda Items**  
*Note: The Committee may not discuss or take action on any matter raised during this future agenda*

*Items section that is not included on this agenda, except to decide whether to place the matter on the agenda of a future meeting. [Government Code Sections 11125.]*

**9. Adjournment**

**LICENSING & CONTINUING EDUCATION**  
**COMMITTEE**

Dionne McClain., D.C.  
Heather Dehn, D.C.

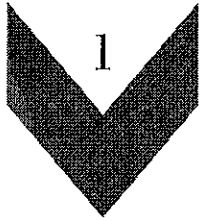
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Meetings of the Board of Chiropractic Examiners' Committee are open to the public except when specifically noticed otherwise in accordance with the Open Meeting Act. Public comments will be taken on agenda items at the time the specific item is raised. The Board's Committee may take action on any item listed on the agenda, unless listed as informational only. All times are approximate and subject to change. Agenda items may be taken out of order to accommodate speakers and to maintain a quorum. The meeting may be cancelled without notice. For verification of the meeting, call (916) 263-5355 or access the Board's Web Site at [www.chiro.ca.gov](http://www.chiro.ca.gov).

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The meeting facilities are accessible to individuals with physical disabilities. A person who needs a disability-related accommodation or modification to participate in the meeting may make a request by contacting the Board at (916) 263-5355 or e-mail [chiro.info@dca.ca.gov](mailto:chiro.info@dca.ca.gov) or send a written request to the Board of Chiropractic Examiners, 901 P Street, Suite 142A, Sacramento, CA 95814. Providing your request at least five (5) business days before the meeting will help to ensure availability of the requested accommodation.

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# Licensing and Professional Qualification

*Ensure the continuous competency of all Doctors of Chiropractic by promoting licensing standards, professional conduct and requirements for continuing education.*

- 1.1 Interface with the Council on Chiropractic Education in order to explore the possibility of revising entrance requirements at chiropractic colleges to enhance the quality and caliber of graduates.

<b>Objective Measurement</b>				
A determination of the path to take is made.				
<b>Action Item</b>	<b>Responsible Party</b>	<b>Initiation Date</b>	<b>Proposed Completion Date</b>	<b>Completion Date</b>
1.1.1 Discuss objective scope with licensing committee at next meeting.	EO and Licensing Committee			Q1 2017
1.1.2 Invite CCE representative to participate in a licensing committee meeting to discuss possibility of enhancing entrance requirement.	EO and Licensing Committee		Q4 2017	
1.1.3 Depending on results of CCE meeting, partner with SOLID to possibly convene a task force to discuss entrance requirements (FCLB, CCE, CCA, ACA).	EO and Licensing Committee	Q4 2017	TBD	
1.1.4 Determine if there is data to share with Board regarding national discussion.	EO and Licensing Committee	Q4 2017	Q2 2018	

- 1.2 Establish approval standards for continuing education providers to enhance the quality of education being provided.

<b>Objective Measurement</b>				
Regulations are in place.				
<b>Action Item</b>	<b>Responsible Party</b>	<b>Initiation Date</b>	<b>Proposed Completion Date</b>	<b>Completion Date</b>
1.2.1 Convene two focus groups (North and South) to gather information from stakeholders regarding potential standards.	Licensing Manger			Q1 2016
1.2.2 Licensing Committee determines final regulatory language regarding approval standards.	Licensing Committee		Q4 2018	
1.2.3 Prepare regulatory package	Policy Analyst	Q4 2018		

- 1.3 Develop and implement an auditing process for continuing education courses to confirm compliance with requirements and conduct quality control of the courses.

<b>Objective Measurement</b>				
Developed auditing mechanism to maintain quality of CE courses and integrity of the CE process.				
<b>Action Item</b>	<b>Responsible Party</b>	<b>Initiation Date</b>	<b>Proposed Completion Date</b>	<b>Completion Date</b>
1.3.1 Review regulations to determine criteria for course content.	CE Manager		TBD	
1.3.2 Develop an auditing form/checklist for CE courses.	CE Manager	Q2 2018		
1.3.3 Provide a quarterly list of new CE providers and dates for upcoming courses to the Licensing, Continuing Education, & Public Relations Committee.	CE Manager			Q3 2017 (Quarterly)
1.3.4 The Licensing, Continuing Education, & Public Relations Committee assigns auditors to attend CE courses and audit providers.	CE Manager		TBD	

1.3.5 Submit audit forms to the CE Manager and take action as appropriate.	CE Manager		TBD	
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1.4 Research and implement possible technological solution(s) that address Stakeholders' current inability to utilize online services in order to enhance efficiency and convenience of Board services.

<b>Objective Measurement</b>				
Successful online services provided to Stakeholders.				
<b>Action Item</b>	<b>Responsible Party</b>	<b>Initiation Date</b>	<b>Proposed Completion Date</b>	<b>Completion Date</b>
1.4.1 Meet with DCA OIS to discuss the current IT system and possible alternatives.	EO			Q3 2016
1.4.2 Partner with SOLID to map licensing and enforcement processes to determine business needs.	AEO		Q2 2017	Q1 2018
1.4.3 Provide DCA OIS with assessment and obtain recommendations for possible IT options.	AEO and Management Team		TBD	
1.4.4 If determination is made that BreEZe meets business needs work with OIS to implement BreEZe.	AEO and Management Team		TBD	
1.4.5 If determination is made that BreEZe does not meet business needs work with OIS to implement alternative.	AEO and Management Team		TBD	

- 1.5 Continue to explore updating chiropractic college curriculum requirements to better align them with contemporary health care education.

<b>Objective Measurement</b>				
New regulations implemented regarding curriculum requirements.				
<b>Action Item</b>	<b>Responsible Party</b>	<b>Initiation Date</b>	<b>Proposed Completion Date</b>	<b>Completion Date</b>
1.5.1 Ask California Chiropractic colleges to recommend necessary and preferred changes to BCE curriculum regulations.	Licensing Committee Chair		Q2 2017	Q1 2018
1. 5.2 Bring recommended regulatory language to Licensing Committee to make a determination.	Chiropractic College Representatives		TBD	
1. 5.3 Licensing Committee makes recommendation to full Board.	Licensing Committee Chair		TBD	
1.5.4 Regulatory process begins.	Policy Analyst		TBD	

- 1.6 Develop and implement a new continuing education course regarding BCE laws.

<b>Objective Measurement</b>				
New regulation in place regarding the "Top Ten Violations".				
<b>Action Item</b>	<b>Responsible Party</b>	<b>Initiation Date</b>	<b>Proposed Completion Date</b>	<b>Completion Date</b>
1.6.1 Collect data on enforcement statistics for recently licensed chiropractors and determine trends.	Enforcement Manager		Q1 2018	
1.6.2 Identify the top ten most common violations.	Enforcement Manager		Q2 2018	
1.6.3 Present trends to licensing committee for their review.	Enforcement Manager		Q3 2018	
1.6.4 Licensing Committee makes recommendation to full Board. Note: incorporate with 1.2 regulation package.	Licensing Committee		Q4 2017	

1.6.5 Create a regulation to require CE providers to incorporate the top ten violations in ethics and law course. Note: incorporate with 1.2 regulation package.	Policy Analyst		TBD	
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- 1.7 Evaluate and make a determination about amending the Chiropractic Practice Act to affirm that the Board's mandate maintains consistency with contemporary practice.

<b>Objective Measurement</b>				
Determination is made regarding the direction to take in dealing with the practice act.				
<b>Action Item</b>	<b>Responsible Party</b>	<b>Initiation Date</b>	<b>Proposed Completion Date</b>	<b>Completion Date</b>
1.7.1 Partner with SOLID to convene stakeholder focus groups to discuss the direction of the profession.	AEO		Q3 2018	
1.7.2 Determine if consensus is met among stakeholders.	EO and Board Chair		Q3 2018	
1.7.3 Determine whether amending the practice act is necessary to achieve goals.	EO and Board Chair		Q4 2018	
1.7.4 Board to make determination regarding further action.	Board Members		Q4 2018	

## Proposed Amendments to BCE's Continuing Education Regulations

### Major Policy Issues for Consideration by the Licensing & Continuing Education Committee.

#### Qualifying Subject Areas

Staff strongly recommends refining the subject areas for which the Board will grant CE Credit. The Board should consider eliminating subjects which are vague or overly comprehensive, such as: Philosophy of Chiropractic; Principles of Practice; Wellness; etc. Providers regularly submit applications for courses that use these titles to describe topics that aren't focused in any substantive way on knowledge and competencies related to patient care.

Narrowing the list to specific, well-defined topics will clarify the law and streamline the course review process by establishing parameters for determining whether a course meets the requirements for approval. More importantly, these topics will ensure that training required by the Board is consistent with our Consumer Protection Mandate.

Following are suggestions for subjects directly related to core competencies and patient care.

1. Assessment ~~and diagnostic~~ procedures to include physical, orthopedic, and neurological ~~procedures~~ testing.
2. Radiology (including diagnostic imaging and interpretation).
3. Interpretation of blood and urinalysis test results.
4. Evidence-based ~~peer reviewed chiropractic treatment~~ clinical intervention.
5. Chiropractic adjustive techniques or chiropractic manipulation techniques.
6. Physical medicine modalities and therapeutic procedures.
7. Communicable Diseases.
8. Nutrition.
9. Special population care, which shall include, but not be limited to, geriatric, pediatric, HIV, and transgender care as related to the practice of chiropractic. Instruction in this subject area must be directly related to patient care.
10. Proper and ethical billing and coding, including accurate and effective record keeping and documentation of evaluation, treatment and progress of a patient. This is not to include practice building or patient recruitment/retention or business techniques or principles that teach concepts to increase patient visits or patient fees per case.
11. Ethics and law: including but not limited to: truth in advertising; professional boundaries; mandatory reporting requirements for child abuse/neglect, elder abuse/neglect, and spousal or cohabitant abuse/neglect; and review of the specific laws, rules and regulations related to the practice of chiropractic in the State of California.
12. Sexual Boundaries between doctors and patients, including but not limited to misconduct or harassment between a licensee, patient, and staff.
13. Cardiopulmonary resuscitation, basic life support and use of an automated external defibrillator (\*Note: This will probably be addressed elsewhere in the CE Regs).



## **Mandatory Hours**

To ensure all licensees receive ongoing training in areas critical to quality of care and patient safety, the Board should identify those subject areas that are essential to the safe practice of chiropractic. Staff recommends requiring annual training, as quantified, in each of the following subject areas (14 hours total):

- Four (4) hours of continuing education in assessment and diagnostic procedures (as specified in Qualifying Subject Areas #1).
- Four (4) hours in Chiropractic adjustive techniques and/or chiropractic manipulation techniques (as specified in Qualifying Subject Areas #5).
- Two (2) hours in ethics and law (as specified in Qualifying Subject Areas #11).
- Two (2) hours in sexual boundaries (as specified in Qualifying Subject Areas #12).
- Two (2) hours in Record Keeping (as specified in Qualifying Subject Area #10)

The remaining 10 hours may be satisfied through any of the 8 other Qualifying Subject Areas.



State of California  
Edmund G. Brown Jr., Governor

Agenda Item 15  
June 5, 2018

## Update, Discussion and Possible Action on Enforcement Committee Meeting Agenda

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### **Purpose of the item**

The Board will receive an update from the May 31, 2018 committee meeting.

### **Action(s) requested**

N/A

### **Background**

Following the completion and approval of the 2014-2017 BCE Strategic Plan, the Board developed standards to evaluate expert consultants and defined their responsibilities to establish consistency among expert consultant reports. Following modifications to the program, questions have remained regarding the efficacy of the program. In an effort to assuage the feelings of Board members, Committee members agreed to complete a review of the Expert Witness Program.

May 31, 2018, the Enforcement Committee met to review and discuss the Strategic Plan goals assigned to the Committee and possible changes to the Board's expert witness program, the application, and training materials.

### **2017-2019 BCE Strategic Plan**

Strategic Plan Action item 2.1.4, "Publish Expert Witness Guidelines in the Licensees and Publications tabs of Board website" has been an ongoing topic of discussion in this Committee. The Committee discussed the revisions to the Expert Witness program to ensure consistency among expert consultant reports. Additionally, the Committee was informed that Strategic Plan Action item 2.4.1, "Create an outreach document that provides information on potential violations resulting from social media activity" has been completed. The outreach document was included in the Winter/Spring 2018 newsletter.

### **Review of the Expert Witness Program**

Prior to the May 31, 2018 Committee meeting, staff completed a comprehensive review of the Board's expert witness program. Upon completion of the review, staff determined that there were several policy questions for the Committee to discuss before moving forward with any changes to the program.

At the May 31, 2018 meeting, the Committee discussed various policy issues such as minimum monthly practice hours for experts, experience requirements, disqualification criteria and a sample expert report versus a statement of qualifications. During the discussion, the Committee members approved staff recommendations with amendments to the document.

**Recommendation(s)**

N/A

**Next Step**

N/A

**Attachment(s)**

- 2017-2019 Strategic Plan – Goal 2
- Expert witness policy discuss document
- SME application



State of California  
Edmund G. Brown Jr., Governor

**NOTICE OF TELECONFERENCE**  
**ENFORCEMENT COMMITTEE MEETING**

**May 31, 2018**  
**12:00 p.m.**

901 P Street, Suite 142A  
Sacramento, CA 95814  
(916) 263-5355

The Board's address listed above is a location that is accessible to the public. Each teleconference location is accessible to the public and the public will be given an opportunity to address the Board at each teleconference location. One or more Board Members will participate in this meeting at the teleconference sites listed below. The public teleconference sites for this meeting are as follows:

**Teleconference Meeting Locations:**

Sergio Azzolino, D.C.  
1545 Broadway St., Suite 1A  
San Francisco, CA 94109  
(415) 563-3800

Dionne McClain, D.C.  
6360 Wilshire Blvd, Suite 410  
Los Angeles, CA 90048  
(323) 563-4014

**AGENDA**

- 1. Call to Order**
- 2. Review and Discussion regarding Enforcement Committee Action Items from the 2017-2019 BCE Strategic Plan**
- 3. Review, Discussion and Possible Action regarding Expert Witness Program**

**4. Public Comment**

*Note: The Committee may not discuss or take action on any matter raised during this public comment section that is not included on this agenda, except to decide whether to place the matter on the agenda of a future meeting. [Government Code Sections 11125, 122507(a).] Public comment is encouraged; however, if time constraints mandate, comments may be limited at the discretion of the Chair.*

**5. Future Agenda Items**

*Note: The Board may not discuss or take action on any matter raised during this public comment section that is not included on this agenda, except to decide whether to place the matter on the agenda of a future meeting. [Government Code Sections 11125.]*

## 6. Adjournment

### **ENFORCEMENT COMMITTEE**

Sergio Azzolino, D.C., Chair

Dionne McClain, D.C

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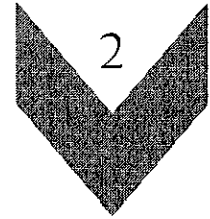
Meetings of the Board of Chiropractic Examiners are open to the public except when specifically noticed otherwise in accordance with the Open Meeting Act. Public comments will be taken on agenda items at the time the specific item is raised. The Board may take action on any item listed on the agenda, unless listed as informational only. All times are approximate and subject to change. Agenda items may be taken out of order to accommodate speakers and to maintain a quorum. The meeting may be cancelled without notice. For verification of the meeting, call (916) 263-5355 or access the Board's Web Site at [www.chiro.ca.gov](http://www.chiro.ca.gov).

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# Enforcement



*Enforce laws and regulations to ensure consumer protection*

- 2.1 Develop and disseminate educational tools and materials that better inform stakeholders of the enforcement process.

<b>Objective Measurement</b>				
Materials created and disseminated.				
<b>Action Item</b>	<b>Responsible Party</b>	<b>Initiation Date</b>	<b>Proposed Completion Date</b>	<b>Completion Date</b>
2.1.1 Establish a two-member committee of the Board to review current enforcement data and publications available and determine if content and format is sufficient for Board needs.	Board Chair and EO	Q3 2017		Q3 2017
2.1.2 New two-member committee to work with staff to develop new or revise existing materials if necessary.	Two-member committee	Q3 2017		Ongoing
2.1.3 Create outreach publications and materials educating public on complaint process. * Reference 3.2.2	Enforcement Committee		On hold	
2.1.4 Publish Expert Witness Guidelines in the Licensees and Publications tabs of Board website.	Licensing Manger	Q3 2017		Q3 2018

- 2.2 Collaborate with professional associations to establish a code of ethics that promote higher ethical standards for licensees.

<b>Objective Measurement</b>				
Determination is made regarding next steps.				
<b>Action Item</b>	<b>Responsible Party</b>	<b>Initiation Date</b>	<b>Proposed Completion Date</b>	<b>Completion Date</b>
2.2.1 Review CCA's code of ethics at enforcement committee meeting	Enforcement Committee	Q3 2017		Q3 2017
2.2.2 Determine whether additional action is necessary or not.	Board Chair and EO	Q3 2017		Q3 2017

- 2.3 Collaborate with other regulatory entities to increase their awareness of unlicensed practice (i.e., pastoral) and promote increased enforcement efforts to better safeguard the public.

<b>Objective Measurement</b>				
Other healthcare Boards/Bureaus awareness increased.				
<b>Action Item</b>	<b>Responsible Party</b>	<b>Initiation Date</b>	<b>Proposed Completion Date</b>	<b>Completion Date</b>
2.3.1 Communicate with other healthcare Boards/healing arts regarding cross-cutting enforcement issues.	EO	Ongoing		Ongoing
2.3.2 Track complaints and outcomes related to cross-cutting enforcement issues.	Enforcement Manager	Q2 2017		Ongoing

2.4 Educate licensees about enforcement issues related to social media in order to mitigate occurrences of these violations.

<b>Objective Measurement</b>				
Documents posted and licensees informed.				
<b>Action Item</b>	<b>Responsible Party</b>	<b>Initiation Date</b>	<b>Proposed Completion Date</b>	<b>Completion Date</b>
2.4.1 Create an outreach document that provides information on potential violations resulting from social media activity.	Enforcement Manager and Committee	Q3 2017	Q2 2018	Q4 2017
2.4.2 Post outreach document on BCE newsletter, website and social media.	Licensing Manager	Q3 2017	Q1 2019 and ongoing	Q4 2017





**SPECIALIZATIONS**

Diplomate of (Organization)	Date Attained	Specialty

**SECTION 2 –PROFESSIONAL QUALIFICATIONS**

Year of Initial Licensure:	Are you actively treating patients? YES <input type="checkbox"/> NO <input type="checkbox"/>
Current Status of License (i.e., active; inactive):	What percentage of time, per month?
Have you ever been employed by or provided services to the Board? If so, when and what services did you provide?	YES <input type="checkbox"/> NO <input type="checkbox"/>
Have you, at any time in the past two years, worked for an insurance carrier, self-insured plan, third party administrator, or chiropractic claims review company? If yes, attach a description of the services you provided and your employment relationship with the above-mentioned entities.	YES <input type="checkbox"/> NO <input type="checkbox"/>
Are you a State of California Qualified Medical Evaluator? YES <input type="checkbox"/> -QME Cert No.: _____ NO <input type="checkbox"/>	Had disciplinary action against QME Appointment? YES <input type="checkbox"/> NO <input type="checkbox"/>
If yes, attach a copy of the certificate.	

**SECTION 3 –COURT EXPERT WITNESS EXPERIENCE and KNOWLEDGE**

Have you testified in court as an Expert witness as a Doctor of Chiropractic? YES <input type="checkbox"/> I have this experience No <input type="checkbox"/> I do NOT have this experience
<p>If yes, how many total years have you testified as a Chiropractic Expert witness? _____</p> <p><b>Within the last 3 years:</b> How many times have you testified as a Chiropractic Expert witness? _____ How often? _____</p> <p>What was the approximate date of your last Chiropractic Expert court testimony: _____</p> <p>You may describe your court experience on a separate attachment if necessary.</p>
<p>Do you have knowledge and experience with presenting testimony in court or arbitrations as an expert in medical and legal proceedings?</p> <p><input type="checkbox"/> I have extensive knowledge and experience *</p> <p><input type="checkbox"/> I have some knowledge and experience</p> <p><input type="checkbox"/> I have minimal knowledge and experience</p> <p><input type="checkbox"/> I have no knowledge and experience</p> <p><b>*If you have checked the boxes indicating extensive knowledge and experience, provide explanation on a separate sheet</b></p>

Do you have knowledge of and ability to interpret current laws and regulations in Expert testimony?

- I have extensive knowledge and experience \*
- I have some knowledge and experience
- I have minimal knowledge and experience
- I have no knowledge and experience

**\*If you have checked the boxes indicating extensive knowledge and experience, provide explanation on a separate sheet**

#### **SECTION 4 –KNOWLEDGE AND EXPERIENCE**

**For each phrase listed below, please mark the statement that most accurately represents the depth of your knowledge and experience in the field of Chiropractic:**

- A. Knowledge and skill in case review of medical records (including x-rays) for the purpose of medical and legal proceedings.
- I have extensive knowledge and experience \*
  - I have some knowledge and experience
  - I have minimal knowledge and experience
  - I have no knowledge and experience
- B. Knowledge of and ability to interpret current chiropractic laws and regulations, including standard of care.
- I have extensive knowledge and ability \*
  - I have some knowledge and ability
  - I have minimal knowledge and ability
  - I have no knowledge and ability
- C. Knowledge and experience rendering opinion or summary of findings regarding treatment utilization or questionable billing issues.
- I have extensive knowledge and experience \*
  - I have some knowledge and experience
  - I have minimal knowledge and experience
  - I have no knowledge and experience
- D. Knowledge and experience in performing case management / peer review evaluations regarding the professional conduct of licensees as required by chiropractic related law.
- I have extensive knowledge and experience \*
  - I have some knowledge and experience
  - I have minimal knowledge and experience
  - I have no knowledge and experience
- E. Knowledge and experience in reviewing chiropractic laws and regulations and rendering written opinions relating to the review of chiropractic related laws and regulations.
- I have extensive knowledge and experience \*
  - I have some knowledge and experience
  - I have minimal knowledge and experience
  - I have no knowledge and experience

**\*If you have checked the boxes indicating extensive knowledge and experience, provide explanation on a separate sheet.**

## SECTION 5 –ACADEMIC APPOINTMENTS

Have you ever held any academic appointments at any college or university? YES  NO

If yes, attach a description of each appointment and your job duties.

## SECTION 6 –PUBLICATIONS

Please list all published articles and texts which you have written:

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Have you developed or assisted in the development of chiropractic statutes, regulations, and/or guidelines?  
YES  NO  If yes, attach a description of each experience.

## SECTION 7 –DISCIPLINARY INFORMATION

Have you ever been involved in a malpractice lawsuit or arbitration proceeding related to your treatment of a patient? YES  NO

If yes, attach an explanation on a separate attachment, for each lawsuit or arbitration complaint.

Are there currently any medical malpractice lawsuits or arbitration claims pending against you?

YES  NO

If yes, attach an explanation on a separate attachment, for each lawsuit or arbitration complaint.

Has your professional liability insurance coverage ever been denied, limited, or cancelled by the action of any insurance company? YES  NO

If yes, attach an explanation on a separate attachment, for each occurrence.

**Be sure to answer all questions. If you answer “yes” to any of the following, attach an explanation on a separate piece of paper.**

**(A)** Has your chiropractic license (in this state or another state) or any health related professional licensing or disciplinary body in any state, territory or foreign jurisdiction, or any branch of the military, denied, limited, placed on probation, restricted, suspended, cancelled or revoked any professional license, certificate, or registration granted to you, or imposed a fine, reprimand, or taken any other action against you?  
YES  NO

**(B)** Has your participation in any private, state, or federal health insurance program ever been the subject of disciplinary action? YES  NO

**(C)** Has any other type of professional sanction, discipline, or other adverse action ever been taken against you? YES  NO

**(D)** Have you ever been the subject of an investigation by any private, state, or federal health insurance program? YES  NO

**(E)** Have you ever been convicted of a misdemeanor or felony or are you currently under indictment for any alleged criminal activities? YES  NO

**(F)** Have you ever been the subject of an administrative, civil, or criminal complaint or investigation regarding sexual misconduct? YES  NO

**(G)** Have you ever voluntarily surrendered a professional license, staff privileges or consented to a limitation of the same pending a review or investigation? YES  NO

**(H)** Are there any other issues that should be disclosed that may have an adverse impact on your ability to deliver effective and objective professional services? YES  NO

**SECTION 8 –PERSONAL SUMMARY/WRITING SAMPLE**

**Attach a 1-page typed document, answering the following question** (include an overview of your qualifications, including experience and training):

***Why do you want to be an expert witness for the California Board of Chiropractic Examiners?***

If available, provide a sample copy of your most recent Med/Legal or Expert Consultant report written by you. Be sure to redact all personal and confidential information.  - A sample report is unavailable

**SECTION 9 –REFERENCES**

**List two professional references who can verify your knowledge and ability to perform the necessary functions of an Expert for the Board:**

Name: (Last, First)	Relationship:
Company	Telephone No.:
Address:	
City:	State: ZIP Code:

Name: (Last, First)	Relationship:
Company	Telephone No.:
Address:	
City:	State: ZIP Code:

**SECTION 10 –AFFIDAVIT**

**Please Read and Initial each Paragraph**

I hereby certify that I have not knowingly withheld any information that might adversely affect my appointment as an expert reviewer and the answers given by me are true and correct to the best of my knowledge. I further certify that I, the undersigned applicant, have personally completed this application. \_\_\_\_\_

I hereby authorize the Board to thoroughly investigate all of the information I have provided on this application, including attachments, as well as my references, work record, education and other matters related to my suitability for appointment as an expert and, further, authorize the references I have listed to disclose to the Board any and all letters, reports and other information related to my work records, without giving me prior notice of such disclosure. In addition, I hereby release the Board, my current and former employers and all other persons, corporations, partnerships and associations from any and all claims, demands or liabilities arising out of or in any way related to such investigation or disclosure. \_\_\_\_\_

***I hereby certify that the information provided is true, correct and complete to the best of my knowledge.***

**Signature of Applicant:** \_\_\_\_\_ **Date:** \_\_\_\_\_



State of California  
Edmund G. Brown Jr., Governor

## Review, Discuss, and Possible Action on Expert Witness Program

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### **Purpose of the item**

The Committee will discuss possible changes to the current expert witness program.

### **Action(s) requested**

The committee will be asked to approve the recommendations as discussed.

### **Background**

The Committee has expressed interest in reviewing the current standards to evaluate expert consultants in an effort to ensure consistency among expert consultant reports.

At the February 8, 2018 Enforcement Committee meeting, members reviewed current expert consultant training materials and discussed existing deficiencies in the materials and the expert referral process. Additionally, the Committee discussed the possibility of a revision in the criteria and standards for expert consultant selection to ensure effectiveness and consistency in the expert consultant selection process.

At the February 8, 2018 meeting, the Committee also decided to continue working with staff to enhance the expert witness selection criteria, standards, process, training materials, and application.

### **Staff has completed a comprehensive review of DCA Board's Expert Review programs**

#### **1. Policy questions for the Committee**

- a. Should there be a minimum monthly practice hour requirement for SMEs? For example, *"must have an active practice (Defined as at least 80 hours a month in direct patient care, clinical activity, or teaching, at least 40 hours are in direct patient care)"*
- b. Is a ten-year minimum as a licensed professional sufficient to participate?
- c. Specific criteria for disqualification?
  - i. Disciplinary issues
  - ii. Incomplete application
  - iii. Does not meet years of practice requirement
  - iv. Active employment relationship with an insurance company
  - v. Disciplinary action taken against a QME appointment
- d. CE hours for participation in SME training? Up to 4 or 6?

## **Recommendations for discussion**

1. Sample expert report and/or statement of qualifications for applicants
2. Committee member review of SME applications
  - a. Staff will complete initial screening of applicants
  - b. Screened applications and sample expert written exercises will be provided to committee members for review and rating
3. Committee members interview potential candidates for selection
  - a. Reviewed and rated applicants meeting established criteria will be chosen for committee interview
  - b. If committee commits to this process, discussion of where interviews would take place and with what frequency (For example: Committee Members would interview SME candidates in Northern and Southern California twice a year until the Board has a robust pool of experts for consideration)
4. Committee members required to attend mandatory SME training
  - a. Once SMEs are chosen, a training would be convened where Committee members, staff, DAGs and SMEs would receive a comprehensive training

## **Recommendation(s)**

- Creation of a 1-page recruitment document that enumerates the minimum criteria to submit an application for review. Additionally, it would include information such as compensation for services provided, requirements of a subject matter expert, and any other personal or physical characteristics required.
- Update of current SME Training slide show
- Update of current SME guidebook

## **Next Step**

N/A

## **Attachment(s)**

- 2017-2019 Strategic Plan – Goal 2
- Expert witness policy discussion document
- SME application





**Agenda Item 16  
June 5, 2018**

**Update, Discussion and Possible Action on Government & Public Relations  
Committee Meeting Agenda**

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**Purpose of the item**

The Board will receive an update from the most recent Government & Public Affairs Committee Meeting.

**Action(s) requested**

No action required

**Background**

The Government & Public Affairs Committee met on May 21, 2018 to review and discuss the Strategic Plan Action Items delegated to the Committee, changes to the Board Member Administrative Procedure Manual (BMAPM) and multiple legislative proposals that would impact the program.

**Board Member Administrative Procedure Manual (BMAPM)**

The BCE Administrative Procedure Manual was created to serve as a reference guide regarding the function of the BCE and its committees, roles of board members, and procedures for board and committee meetings. The Administrative Procedure Manual also provides general information regarding board operating procedures, administration and staff, and other policies and procedures.

At the May 21, 2018 Committee meeting, members discussed and approved the inclusion of sections into the BMAPM referring to the role of Board Officers, Bagley-Keene Open Meetings Act, periodic fee audits, and clarification regarding when strategic planning should take place.

**Election Procedures**

At the February 24, 2018 Board meeting, members expressed frustration with the enumerated process chosen to elect officers in January 2018. Due to the confusion and concern with the process, staff completed a survey of DCA programs to determine best



practices for electing Board Officers. After a comprehensive review of over ten programs, staff develop a recommendation for Committee to review.

At the May 21, 2018 meeting, the Committee reviewed and discussed the staff recommended and approved it for Board consideration.

### **2018 Legislative Session**

During the current legislative session, there are several bills staff has monitored. SB 1480 (Hill) Professions and vocations, which is the vehicle that is carrying the Board's proposed new fee schedule, SB 1448 (Hill) Healing arts licensees: probation status: disclosure, is Senator Hill's most recent patient notification bill, and AB 2138 (Chiu) Licensing boards: denial of application: revocation or suspension of licensure: criminal conviction, proposes changes to the way programs deal with denial, suspension, and revocation of a license in circumstances involving criminal convictions.

**SB 1480 (Hill)** would codify code a new fee schedule into the in the B&P code where all the Board's fee could be easily found. This bill would make it easier for both licensees and the public to locate the fees. By adopting the fee as proposed, this bill will ensure the Board's solvency into the near future. **The committee took a support position on this bill.**

**SB 1448 (Hill)** would enhance consumer protection by requiring chiropractors to disclose their probationary status to a patient before the first visit following a probation order. This disclosure would provide vital information to consumers without requiring them to go out of their way discover a licensee's disciplinary history. **The committee took a support position on this bill.**

**AB 2138 (Chiu)** would limit the Board's discretion to deny a new license application, or suspend or revoke an existing license based on a criminal conviction(s). Staff is concerned that this bill would restrict our ability to appropriately assess an applicant or licensee's ability to practice safely. Additionally, as currently written, this bill would cause significant confusion for applicants, licensees, and the Board, which may result in delayed hearings and a significant increase in challenges to Board decisions. The Author's office is aware of these concerns and has plans to amend many of the bill's provisions. **Committee took a watch position on the bill understanding that staff will continue to work with the Author's office and DCA to resolve any significant issues.**

### **Recommendation(s)**

N/A



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**Next Step**

N/A

**Attachment(s)**

- Government & Public Affairs Committee Meeting Agenda
- Strategic Plan – Goal 3 and Goal 4
- Board Member Administrative Procedure Manual
- Election of Officers Policy discussion document
- SB 1480 bill analysis/text
- SB 1448 bill analysis/text
- AB 2138 bill analysis/text



State of California  
Edmund G. Brown Jr., Governor

**NOTICE OF TELECONFERENCE**  
**GOVERNMENT AFFAIRS & PUBLIC RELATIONS COMMITTEE MEETING**

**May 21, 2018**

**1 p.m. to 3 p.m. or until close of business**

901 P Street, Suite 142A  
Sacramento, CA 95814  
(916) 263-5355

The Board's address listed above is a location that is accessible to the public. Each teleconference location is accessible to the public and the public will be given an opportunity to address the Board at each teleconference location. One or more Board Members will participate in this meeting at the teleconference sites listed below. The public teleconference sites for this meeting are as follows:

**Teleconference Meeting Locations:**

Heather Dehn, D.C.  
4616 El Camino Ave, Suite B  
Sacramento, CA 95821  
916-488-0202

Corey Lichtman, D.C.  
538 Stevens Ave  
Solana Beach, CA 92075  
858-760-6300

**AGENDA**

- 1. Call to Order**
- 2. Review, Discuss, and Possible Action on 2017-2019 Strategic Plan Goals**
- 3. Review, Discussion, and Possible Action on changes to the Board Member Administrative Procedure Manual**
- 4. Review, Discussion, and Possible Action to Amend Board Election Procedures**
- 5. Review, Discussion, and Possible Action on SB 1480 (Hill) Professions and vocations**
- 6. Review, Discussion, and Possible Action on SB 1448 (Hill) Probation status: disclosure**
- 7. Review, Discussion, and Possible Action on AB 2138 (Chiu) Denial of application: revocation or suspension of licensure: criminal conviction**

## 8. Public Comment

*Note: The Committee may not discuss or take action on any matter raised during this public comment section that is not included on this agenda, except to decide whether to place the matter on the agenda of a future meeting. [Government Code Sections 11125, 122507(a).] Public comment is encouraged; however, if time constraints mandate, comments may be limited at the discretion of the Chair.*

## 9. Future Agenda Items

*Note: The Board may not discuss or take action on any matter raised during this public comment section that is not included on this agenda, except to decide whether to place the matter on the agenda of a future meeting. [Government Code Sections 11125.]*

## 10. Adjournment

### **GOVERNMENT AFFAIRS & PUBLIC RELATIONS COMMITTEE**

Heather Dehn, D.C., Chair  
Corey Lichtman, D.C.

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Meetings of the Board of Chiropractic Examiners are open to the public except when specifically noticed otherwise in accordance with the Open Meeting Act. Public comments will be taken on agenda items at the time the specific item is raised. The Board may take action on any item listed on the agenda, unless listed as informational only. All times are approximate and subject to change. Agenda items may be taken out of order to accommodate speakers and to maintain a quorum. The meeting may be cancelled without notice. For verification of the meeting, call (916) 263-5355 or access the Board's Web Site at [www.chiro.ca.gov](http://www.chiro.ca.gov).

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The meeting facilities are accessible to individuals with physical disabilities. A person who needs a disability-related accommodation or modification in order to participate in the meeting may make a request by contacting the Board at (916) 263-5355 ext. 5362 or e-mail [chiro.info@dca.ca.gov](mailto:chiro.info@dca.ca.gov) or send a written request to the Board of Chiropractic Examiners, 901 P Street, Suite 142A, Sacramento, CA 95814. Providing your request at least five (5) business days before the meeting will help to ensure availability of the requested accommodation.

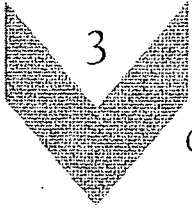
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State of California  
Edmund G. Brown Jr., Governor

T (916) 263-5355  
F (916) 327-0039  
TT/TDD (800) 735-2929  
Consumer Complaint Hotline  
(866) 543-1311

Board of Chiropractic Examiners  
901 P Street, Suite 142A  
Sacramento, California 95814  
[www.chiro.ca.gov](http://www.chiro.ca.gov)



## Public Relations and Outreach

*Communicate with consumers, licensees, governmental entities and stakeholders about the current and evolving practice of chiropractic and the regulation of the profession.*

- 3.1 Establish a process to utilize media outlets to strengthen Board relationships with media and to increase public awareness of Board functions.

Objective Measurement				
Process is in place.				
Action Item	Responsible Party	Initiation Date	Proposed Completion Date	Completion Date
3.1.1 Partner with DCA Public Affairs to identify resources available to increase public awareness.	Government Affairs Committee	Q4 2017		Q4 2017

- 3.2 Foster relationships with legislators to educate them about the role of the Board in regulating the chiropractic profession.

Objective Measurement				
Educated Legislature				
Action Item	Responsible Party	Initiation Date	Proposed Completion Date	Completion Date
3.2.1 Continue to schedule annual Meet & Greets with legislative offices and provide relevant information.	Government Affairs Committee		Ongoing	
3.2.2 Create outreach publications and materials educating the public on complaint process.	Enforcement Committee		Ongoing	
3.2.3 Be responsive to inquiries from legislators and their staff.	EO and Policy Analyst		Ongoing	

- 3.3 Identify and prioritize opportunities for Board member interactions with schools, associations, and CE providers to educate students and licensees about the role of the Board and to better facilitate reciprocal communication.

<b>Objective Measurement</b>				
Number of events attended by Board Members increased.				
<b>Action Item</b>	<b>Responsible Party</b>	<b>Initiation Date</b>	<b>Proposed Completion Date</b>	<b>Completion Date</b>
3.3.1 Establish a calendar of events sponsored by applicable entities.	Policy Analyst	Q3 2017		Q4 2017
3.3.2 Request administrative approval to travel to out of state events.	Licensing Manager		Ongoing	
3.3.3 Send a letter from Board Chair to appropriate entities offering to send a Board member representative to address meetings at schools and associations and provide information about Board activities, resources permitting.	Board Chair and EO		Ongoing	
3.3.4 Encourage licensed Board members to become active in their local chiropractic community.	Board Chair and EO		Ongoing	
3.3.5 Establish a tracking log to monitor Board member participation at outreach opportunities.	Policy Analyst	Q4 2017		Q4 2017
3.3.6 Create standard presentation(s) for Board members to present, i.e. enforcement, licensing, role of the Board. *Representing the Board at public or private events needs to be at the approval of the Board Chair and EO.	Policy Analyst	Q4 2017		Q4 2017



# Laws and Regulations

*Ensure that statutes and regulations strengthen and support the Board's mandate and mission.*

- 4.1 Create a process in which the Board Chair establishes a two-person committee per regulation proposal that functions to aid in streamlining the time devoted to coordinating regulation packages.

<b>Objective Measurement</b>				
Reduced timelines for completed regulation packages.				
<b>Action Item.</b>	<b>Responsible Party</b>	<b>Initiation Date</b>	<b>Proposed Completion Date</b>	<b>Completion Date</b>
4.1.1 Board Chair appoints two person committees	Board Chair and EO			Q1 2017
4.1.2 Policy analyst to gather relevant background information to inform two-person committee	Policy Analyst		Ongoing	
4.1.3 Review regulation information packet developed by staff	Two-person Committee		Ongoing	
4.1.4 Work with appropriate stakeholders to draft regulation language	Two-person Committee		Ongoing	
4.1.5 Two person committee present proposed regulation to the full Board.	Two-person Committee		Ongoing	
4.1.6 If approved promulgate regulation.	Policy Analyst		Ongoing	

- 4.2 Explore the feasibility of promulgating a regulation that requires licensees to provide their current email address to the Board to facilitate better outreach and communication.

Objective Measurement				
Make a determination regarding mandate of email				
Action Item	Responsible Party	Initiation Date	Proposed Completion Date	Completion Date
4.2.1 Discuss with legal counsel and obtain a legal opinion regarding requiring an email address.	EO and Policy Analyst	Q2 2018	Q2 2018	
4.2.2 Put an email field on license application.	Policy Analyst		TBD	
4.2.3 If mandate is not feasible per 4.2.1 explore possibility of revising renewal form to capture email address as an option.	AEO and Licensing Manager		TBD	

MARCUS -

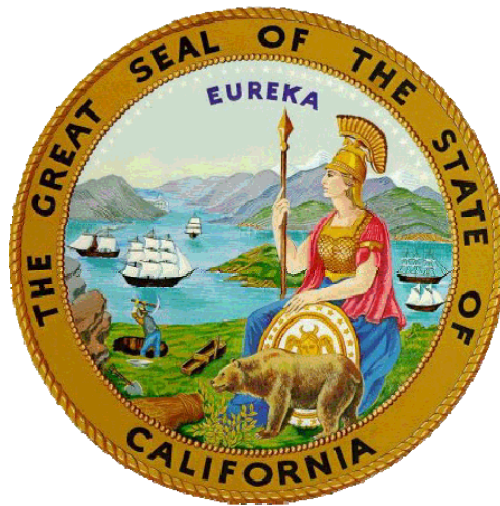
Ken - Formal request to legal - email  
 - opinion draft of June 15<sup>th</sup>  
 no mandate by regulator  
 BO specific

HO - Access to opinion by June 15<sup>th</sup> ;

# State of California

## BOARD OF CHIROPRACTIC EXAMINERS BOARD MEMBER ADMINISTRATIVE PROCEDURE MANUAL

Adopted October 2007  
Revised May 2018



Edmund G. Brown Jr., Governor  
*State of California*

### MISSION STATEMENT

To protect the health, welfare, and safety of the public through licensure, education and enforcement in chiropractic care.

# BOARD MEMBER ADMINISTRATIVE PROCEDURE MANUAL

## **Members of the Board**

Heather Dehn, D.C., Chair  
Corey Lichtman, D.C., Vice Chair  
Sergio Azzolino, D.C., Secretary  
Frank Ruffino,  
Dionne McClain, D.C.

## **Executive Officer**

Robert C. Puleo

This procedure manual is a general reference including a review of some important laws, regulations, and these basic Board policies in order to guide the actions of the Board Members and ensure Board effectiveness and efficiency. The Chiropractic Initiative Act of 1922 (the Act) will be referenced and summarized throughout this procedure manual.

This Administrative Procedure Manual, regarding Board Policy, can be amended by four affirmative votes of any current or future Board.

# BOARD MEMBER ADMINISTRATIVE PROCEDURE MANUAL

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# BOARD MEMBER ADMINISTRATIVE PROCEDURE MANUAL

## CHAPTER 1. Introduction

### Overview

The Board of Chiropractic Examiners (Board) was created on December 21, 1922, through an initiative measure approved by the electors of California on November 7, 1922.

The Act states it is... “An act prescribing the terms upon which licenses may be issued to practitioners of chiropractic, creating the State Board of Chiropractic Examiners and declaring its powers and duties, prescribing penalties for violation hereof, and repealing all acts and parts of acts inconsistent herewith...”

The powers and authority of the Board is specifically defined in Section 4 of the Act. In general, the board is a policy-making and administrative review body comprised pursuant to the provisions of Section 1 to 20 of the Act. The Board, when full, is comprised of seven Members, five professional and two public, each appointed by the Governor. The Board’s paramount purpose is to protect California consumers through the enforcement of the Act, other applicable laws and the California Code of Regulations related to the Practice of Chiropractic, identified herein as the Board’s regulations. The Board is also mandated by the Initiative to supervise licensees, chiropractic colleges, and continuing education for relicensing.

### Acronyms

ALJ	Administrative Law Judge
AG	Office of the Attorney General
APA	Administrative Procedure Act
BCE	Board of Chiropractic Examiners
B&P	Business and Professions Code
CalHR	California Department of Human Resources
CATS	Computer Assisted Testing Service
CCCP	California Code of Civil Procedure
CCR	California Code of Regulations
CE	Continuing Education
CLEAR	Council on Licensure Enforcement & Regulations
DAG	Deputy Attorney General
DCA	Department of Consumer Affairs
DOF	Department of Finance
DOI	Department of Insurance
DWC	Division of Workers Compensation
EO	Executive Officer
FCLB	Federation of Chiropractic Licensing Boards
NBCE	National Board of Chiropractic Examiners
SAM	State Administrative Manual
SCIF	State Compensation Insurance Fund
VCGCB	Victim Compensation and Government Claims Board

# BOARD MEMBER ADMINISTRATIVE PROCEDURE MANUAL

## General Rules of Conduct

All Board Members shall act in accordance with their oath of office, and shall conduct themselves in a courteous, professional and ethical manner at all times. The Board serves at the pleasure of the governor, and shall conduct their business in an open manner, so that the public that they serve shall be both informed and involved, consistent with the provisions of the Bagley-Keene Open Meeting Act and all other governmental and civil codes applicable to similar boards within the State of California.

- ❖ Board Members are part of a state regulatory board and your individual rights to make independent public comments or statements takes a second place to supporting a uniform public presentation of a cohesive board.
- ❖ Board Members shall comply with all provisions of the Bagley-Keene Open Meeting Act and other applicable rules, regulations, codes and laws governing public employees.
- ❖ Board Members shall not speak or act for the Board without proper preauthorization from the Chair and/or EO prior to making any statement or press release. When possible, only the Chair or EO will make public statements or press statements.
- ❖ Board Members shall not privately or publicly lobby for, publicly endorse, or otherwise engage in any personal efforts that would tend to promote their own personal or political views or goals, as it pertains to issues related to jurisdiction of the Board, when those views or goals are in direct opposition to an official position adopted by the Board.
- ❖ Board Members shall not accept gifts from applicants, licensees, or members of the profession while serving on the Board. All Fair Political Practices Act Rules shall be followed.
- ❖ Board Members shall maintain the confidentiality of confidential documents and information related to Board business. Always confirm with the EO whether information is public and may be disclosed. The public's access should be from a source other than a BCE Member.
- ❖ Board Members should avoid discussion of confidential Board business with petitioners, licensees or persons not authorized to receive confidential and restricted enforcement information. Failure to do so may result in the Board Member having to recuse him/herself due to conflict of interest issues. All consumers, applicants and licensees with enforcement related questions, concerns or complaints should be referred to the EO or Chair.
- ❖ Board Members shall commit adequate time to prepare for their Board responsibilities including the reviewing of Board meeting notes, administrative



## **BOARD MEMBER ADMINISTRATIVE PROCEDURE MANUAL**

cases to be reviewed and discussed, and the review of any other materials provided to the Board Members by staff, related to official Board business.

- ❖ Submission of votes have time requirements that are critical to meeting legal timeframe constraints. Board members shall make every attempt to meet the deadlines identified by Board staff and meet the vote submission requirement established by the Board.
- ❖ BCE Members shall submit reimbursement records each month to facilitate timely reimbursement.
- ❖ All travel for Board related business, other than routine Board meetings and Committee Meetings, must be submitted in writing and preapproved by the Chair and EO before travel.
- ❖ Board Members shall recognize the equal role and responsibilities of all other Board Members and interact with one another in a polite and professional manner.
- ❖ Board Members shall act fairly, be nonpartisan, impartial, and unbiased in their role of protecting the public and enforcing the Chiropractic Initiative Act.
- ❖ Board Members shall uphold the principle that the Board's primary mission is to protect the public.
- ❖ Board Members shall follow the guidelines set forth in Executive Order 66-2.
- ❖ Board Members shall comply with all State, Department, and Board required trainings.

# BOARD MEMBER ADMINISTRATIVE PROCEDURE MANUAL

## CHAPTER 2. Board Members & Meeting Procedures

### **Membership** (§1 Initiative Act)

Board Members are appointed and serve in accordance with Section 1 of the Initiative Act.

### **Role of Board Officers** (Board Policy)

#### Board Chair

- Acts as spokesperson for the Board of Chiropractic Examiners (attends legislative hearings and testifies on behalf of the Board, attends meetings with stakeholders and Legislators on behalf of Board, talks to the media on behalf of the Board, and signs letters on behalf of the Board).
- Meets and/or communicates with the Executive Officer (EO) on a regular basis.
- Provides oversight to the Executive Officer in performance of the EO duties.
- Verifies accuracy and approves timesheets, approves travel and signs travel expense claims for the EO.
- Coordinates the EO annual evaluation process including contacting DCA Office of Human Resources to obtain a copy of the Executive Officer Performance Evaluation Form, distributes the evaluation form to members, and collates the ratings and comments for discussion.
- Communicates with other Board Members for Board business in compliance with the Open Meetings Act.
- Approves Board Meeting agendas.
- Chairs and facilitates Board Meetings.
- Signs specified full board enforcement approval orders.
- Establishes Committees and appoints Chairs and members.
- Establishes 2-Person committees/subcommittees and/or task forces to research policy questions when necessary.

#### Vice Chair

- Is Back-up for the duties above in the President's absence

#### Secretary

- Calls the roll at each Board meeting and reports that a quorum has been established
- Calls the roll for each action item
- Approves Board meeting agenda

## BOARD MEMBER ADMINISTRATIVE PROCEDURE MANUAL

### Committee Chair

- Approves Committee agenda
- Chairs and facilitates Committee meeting
- Reports the activities of the Committee to the full Board.

### **Board Meetings and Offices** (§6 Initiative Act)

Board meetings must be consistent with the Initiative Act and follow the terms and provisions of the Bagley-Keene Open Meeting Act.

### **Board Meetings** (Government Code Section 11120 et seq. - Bagley-Keene Open Meeting Act)

The Board complies with the provisions of the Government Code Section 11120, et seq., commonly referred to the Bagley-Keene Open Meeting Act Robert's Rules of Order, as long as there is no conflict with any superseding codes, laws or regulations.

All Meetings shall follow the provisions of the Bagley-Keene Open Meeting Act.

Any meetings deviating from a standard public meeting may be called, when required, in accordance with the Bagley-Keene Open Meeting Act, Government Code Section 11125.4

Whenever practical and appropriate, the Board should utilize available technology to conduct meetings so as to minimize the time and expenditures associated with staff and Board Member travel as well as the cost of renting meeting space.

### **Quorum** (§3 Initiative Act)

A majority of the Board (four Members) is required to constitute a quorum. The Board shall follow the provisions of §3 of the Initiative Act requiring a quorum of four (4) Members to carry any motion or resolution, to adopt any rule or disciplinary action, or to authorize the issuance of any license provided for within the Act.

## **BOARD MEMBER ADMINISTRATIVE PROCEDURE MANUAL**

### **Board Member Attendance at Board Meetings (Board Policy)**

Being a Member of the Board is a serious commitment of time and effort to the governor, and the people of the State of California. Board Members shall attend a minimum of 75% of all scheduled committee meetings and scheduled Board meetings. In extraordinary circumstances, the Chair may excuse a Board Member from this obligation. If a Member is unable to attend a Board Meeting, he or she must contact the Board Chair or the Executive Officer, and provide a verbal notice followed by a written explanation of their absence as soon as possible thereafter.

### **Public Attendance at Board Meetings (Government Code Section 11120 et seq.)**

Meetings are subject to all provisions of the Bagley-Keene Open Meeting Act. This Act governs meetings of the state regulatory Boards and meetings of committees of those Boards where the committee consists of more than two Members. It specifies meeting notice, agenda requirements, and prohibits discussing or taking action on matters not included on the agenda. If the agenda contains matters which are appropriate for closed session, the agenda shall cite the particular statutory section and subdivision authorizing the closed session.

### **Agenda Items (Board Policy)**

Board Members may submit agenda items for a future Board meeting during the "Future Agenda Items" section of a Board meeting or directly to Executive Officer 21 days prior to a Board meeting

Agenda item requests shall be placed on the Board or Committee meeting agenda within two meetings from receipt of the original request.

In the event of a conflict in scheduling an agenda topic, the Board Secretary will discuss the proposed agenda item with the Board Chair, and the Board Chair shall make the final decision to schedule the item at the upcoming or following Board Meeting. The Board Secretary will work with the Executive Officer to finalize the agenda.

### **Notice of Meetings (Government Code Section 11120 et seq.)**

Meeting notices, including agendas, for Board meetings will be sent to persons on the Board's mailing list at least 10 calendar days in advance, as specified in the Bagley-Keene Open Meeting Act. The notice shall include a staff person's name, work address, and work telephone number who can provide further information prior to the meeting.

## **BOARD MEMBER ADMINISTRATIVE PROCEDURE MANUAL**

### **Notice of Meetings Posted on the Internet** (Government Code Section 11125 et seq.)

Meeting notices shall be posted on the Board's web site at least 10 days in advance of the meeting, and include the name, address, and telephone number of staff who can provide further information prior to the meeting.

### **Board Meeting Locations** (Board Policy – 2013 Strategic Plan)

The Board holds meetings at various geographic locations throughout the state to increase accessibility. It is recommended that at least one meeting per year is held in Sacramento, one in Southern California, and one at a California Chiropractic College. All meeting locations will be scheduled subject to available space and budget limitations.

### **Bagley-Keene Open Meetings Act** (Board Policy)

The Bagley-Keene Open Meeting Act prohibits a majority of the members of the board from discussing, deliberating or taking action on any board business outside of a public meeting of the board. (Gov. Code § 11121.5, subdivision(b)(1).)

If Board Members have concern regarding the nature of a communication, questions should be directed to the Executive Officer or Legal Counsel.

### **E-Mail Ballots** (Government Code Section 11526 and Board Policy)

The Board must approve any proposed decision or stipulation before the formal discipline becomes final and the penalty can take effect.

Proposed stipulations and decisions are e-mailed to each Board Member for his or her vote. For stipulations, a background memorandum from the assigned deputy attorney general accompanies the e-mail ballot. A two-week deadline generally is given for the e-mail ballots for stipulations and proposed decisions to be completed and returned to the Board's office.

Board Members are required to submit a vote on no less than 75% of proposed stipulations and decisions provided for review. If a Board Member is unable to meet this minimum requirement, the Board Member may be subject to a conversation from the Board Chair or Vice Chair.

## **BOARD MEMBER ADMINISTRATIVE PROCEDURE MANUAL**

### **Holding Disciplinary Cases for Board Meetings (Board Policy)**

When voting on e-mail ballots for proposed disciplinary decisions or stipulations, a Board Member may wish to discuss a particular aspect of the decision or stipulation before voting. If this is the case, the ballot must be marked “hold for discussion,” and the reason for the hold must be provided on the mail e-ballot. This allows staff the opportunity to prepare information being requested.

If one vote is cast to hold a case for discussion, the case is set aside and not processed (even if four votes have been cast on a decision). Instead the case is scheduled for a discussion during a closed session at the next Board meeting.

If the matter is held for discussion, staff counsel will preside over the closed session to assure compliance with the Administrative Procedure Act and Open Meeting Act.

If the Board Member is comfortable voting on the matter, but wishes to discuss the policy behind the decision or case, the ballot should be marked “Policy Issue for Discussion. I have voted above. Issue: \_\_\_\_\_.” The Executive Officer will respond directly to the Member. If still unresolved or if the matter is to be referred to the Board, the policy issue will be placed on the agenda for discussion at the next Enforcement Committee Meeting.

Any time a Member votes to “hold for discussion” the Chair, EO and Legal Counsel will discuss the Member’s concern(s) for educational purposes and to evaluate if any administrative policy modifications should be proposed.

### **Record of Meetings (Board Policy)**

All original video and audio recordings are to be maintained and archived indefinitely and never destroyed. The typed minutes are only a summary, not a transcript, of each Board meeting. They shall be prepared by Board staff and submitted for review by Board Members before the next Board meeting.

Board minutes must be approved or disapproved at the next scheduled meeting of the Board. When approved, the minutes shall serve as the official record of the meeting. The minutes of each Board meeting shall be maintained for 27 years per the Board’s retention schedule.

### **Recording (Government Code Section 11124.1(b))**

The meeting may be audio and video recorded by the public or any other entity in accordance with the Bagley-Keene Open Meeting Act, the members

## **BOARD MEMBER ADMINISTRATIVE PROCEDURE MANUAL**

of the public may tape record, videotape or otherwise record a meeting unless they are disruptive to the meeting and the Chair has specifically warned them of their being disruptive, then the Chair may order that their activities be ceased.

The Board may place audio and video recorded public board meetings on its web site at [www.chiro.ca.gov](http://www.chiro.ca.gov).

### **Meeting Rules (Board Policy)**

The Board will use Robert's Rules of Order, to the extent that it does not conflict with state law (e.g., Bagley-Keene Open Meeting Act or other state laws or regulations), as a guide when conducting the meetings. Questions of order are clarified by the Board's legal counsel.

### **Public Comment (Board Policy)**

Public comment is always encouraged and allowed, however, if time constraints mandate, time limits may be imposed at the discretion of the Chair. Due to the need for the Board to maintain fairness and neutrality when performing its adjudicative function, the Board shall not receive any information from a member of the public regarding matters that are currently under or subject to investigation, or involve a pending or criminal administrative action.

1. If, during a Board meeting, a person attempts to provide the Board with any information regarding matters that are currently under or subject to investigation or involve a pending administrative or criminal action, the person shall be advised that the Board cannot properly consider or hear such substantive information and the person must be instructed to refrain from making such comments.
2. If, during a Board meeting, a person wishes to address the Board concerning alleged errors of procedure or protocol or staff misconduct involving matters that are currently under or subject to investigation or involve a pending administrative or criminal action, the Board will address the matter as follows:
  - a. Where the allegation involves errors of procedure or protocol, the Board may designate either its Executive Officer or a Board employee to review whether the proper procedure or protocol was followed and to report back to the Board.
  - b. Where the allegation involves significant staff misconduct, the Board shall direct the Executive Officer to review the allegation and to report back to the Board.

## **BOARD MEMBER ADMINISTRATIVE PROCEDURE MANUAL**

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3. The Board may deny a person the right to address the Board and have the person removed if such person becomes disruptive at the Board meeting. The Board accepts the conditions established in the Bagley-Keene Open Meeting Act and appreciates that at times the public may disapprove, reprimand, or otherwise present an emotional presentation to the Board, and it is the Board's duty and obligation to allow that public comment, as provided by law.



# BOARD MEMBER ADMINISTRATIVE PROCEDURE MANUAL

## **CHAPTER 3. Travel & Salary Policies & Procedures**

Board related travel incurs additional expenses and potential liabilities. The State incurs liability risk any time a Board member travels to represent the BCE, regardless of whether the Board member pays for their own travel expenses. Board members must complete the appropriate paperwork and follow established policies and procedures for timely reimbursement of travel claims.

### **Travel Approval (Board Policy)**

Travel arrangements for regularly scheduled Board meetings and committee meetings do not require prior approval. Any other Board related travel requires preapproval by the Board Chair and Executive Officer. Expenses and per diem reimbursement are provided to Board members in accordance with established State travel reimbursement rules.

### **Travel Arrangements (Board Policy)**

Board Members who prefer to make their own travel arrangements are encouraged to coordinate with the Staff Travel Liaison on lodging accommodations. You need to obtain an original receipt to submit for reimbursement. Always seek hotels that charge the state rate. Preauthorization is required if the state rate is to be exceeded.

### **Out-of-State Travel (SAM Section 700 et seq.)**

Out-of-state travel for all persons representing the state of California is controlled and must be approved by the Governor's Office. Permission for out-of-state travel must be obtained through the Executive Officer. Individual Board Members can not authorize out-of-state travel. Board Members will be reimbursed for actual lodging expenses, supported by vouchers, and will be reimbursed for meal and supplemental expenses. Keep all original receipts and submit with your travel expense claim.

### **Travel Claims (SAM Section 700 et seq.)**

Rules governing reimbursement of travel expenses for Board Members are the same as for management-level state staff. All expenses shall be claimed on the appropriate travel expense claim forms. The Board Liaison maintains these forms and completes them as needed.

The Executive Officer's travel and per diem reimbursement claims shall be submitted to the Board Chair for approval.

## **BOARD MEMBER ADMINISTRATIVE PROCEDURE MANUAL**

It is advisable for Board Members to submit their travel expense forms immediately after returning from a trip and not later than thirty days following the trip.

### **Salary Per Diem**

**(§1 Initiative Act and B&P Code Section 103)**

Compensation in the form of salary per diem and reimbursement of travel and other related expenses for Board Members is regulated by the B&P Code Section 103. Board Members are paid out of the funds of the Board, as provided for within the Chiropractic Initiative Act.

### **Salary Per Diem**

**(Board Policy)**

Accordingly, the following general guidelines shall be adhered to in the payment of salary per diem or reimbursement for travel:

1. A salary per diem or reimbursement for travel-related expenses shall be paid to Board Members for attendance at official Board or committee meetings.

Attendance at gatherings, events, hearings, conferences or meetings other than official Board or committee meetings shall be approved by the Board Chair & Executive Officer prior to the Board Member's travel and attendance.

The term "day actually spent in the discharge of official duties" shall mean such time as is expended from the commencement of a Board or committee meeting until that meeting is adjourned.

2. For Board-specified work, Board Members will be compensated for actual time spent performing work authorized by the Board Chair. This may also include, but is not limited to, authorized attendance at other gatherings, events, meetings, hearings, or conferences, such as the FCLB, NBCE, CE, Ambassador at Large, Lectures, etc.. Work also includes preparation time for Board or committee meetings and reading and deliberating mail ballots for disciplinary actions.
3. Reimbursable work does not include miscellaneous reading and information gathering unrelated to Board business and not related to any meeting, preparation time for a presentation and participation at meetings not related to official participation of the Members duties with the Board.
4. Board Members may participate on their own (i.e., as a citizen or professional) at an event or meeting but not as an official Board representative unless approved in writing by the Chair. Requests must

## **BOARD MEMBER ADMINISTRATIVE PROCEDURE MANUAL**

be submitted in writing to the Chair for approval and a copy provided to the Executive Officer. However, Board Members should recognize that even when representing themselves as “individuals,” their positions might be misconstrued as that of the Board and a BCE Member must use their best effort to continue to clarify this separation.

# BOARD MEMBER ADMINISTRATIVE PROCEDURE MANUAL

## CHAPTER 4. Board Officers & Committees

### **Officers of the Board**

(§3 Initiative Act)

The Board shall elect at the first meeting of each new year a Chair, Vice Chair and Secretary from the Members of the Board as specified in the Initiative Act.

### **Officer Vacancies**

(Board Policy)

The chain of administrative protocol starts with the Chair. If unavailable or recused, the Vice-Chair shall take over the duties of the Chair until the Chair returns. If the Vice-Chair is unavailable, the Secretary shall take over the duties of the Chair until the Vice Chair or Chair returns.

If the Chair becomes unable to fulfill their duties, the Vice-Chair will become the Chair until the next scheduled election. The new Chair may appoint their choice of Vice-Chair. The Secretary will remain the same. If any other officer (Vice-Chair or Secretary) becomes unavailable, the Chair shall appoint a replacement until the next general elections.

### **Communication Between Officers**

(Board Policy)

The Chair, Vice-Chair and Secretary must have timely and effective communication for the efficient operation of the BCE. Failure to respond to email correspondences or failing to address specific topics is inconsistent with professionalism and if a repetitive failure to communicate persists, this will be discussed in a meeting with that officer the Chair and EO to resolve the concern. If all parties agree that communication can not be resolved, the Chair may agendize the ongoing concern and, if necessary, call for a special election at the next full Board Meeting.

### **Committee Appointments**

(Board Policy)

The Chair shall establish committees, whether standing or special, as he or she deems necessary.

The composition of the committees and the appointment of the Members shall be determined by the Board Chair. The Chair may consult with the Vice Chair or Secretary and the Executive Officer. All conversations must be consistent with Bagley Keene Open Meeting Act Restrictions which mandate that no more than two Members can actively discuss Board business.

# BOARD MEMBER ADMINISTRATIVE PROCEDURE MANUAL

## **Standing Committees** (Board Policy)

The Board has three standing committees:

### **1. Licensing, Continuing Education, and Public Relations Committee**

The Committee proposes policies and standards regarding chiropractic colleges, doctors of chiropractic, satellite offices, corporation registration, and continuing education providers and courses. The Committee also develops strategies to communicate with the public through various forms of media.

### **2. Enforcement and Scope of Practice Committee**

The Committee proposes regulations, policies, and standards to ensure compliance with chiropractic law and regulations. The Committee continuously seeks ways to improve the Board's enforcement activities.

### **3. Government Affairs and Strategic Planning Committee**

The Committee proposes and reviews policies, procedures, to address audit and sunset review deficiencies.

The Committee works directly with the Executive Officer and staff to monitor budget expenditures, trends, and the Contingent Fund levels.

The Committee shall monitor individual line item expenditure and look for anomalies with a three-year pattern for purposes of preparing a budget change proposal to correct either an under or over expenditure.

The committee will review and recommend positions on legislative bills that affect the Board. The guidelines for identifying, tracking, analyzing, taking positions on proposed legislation are set forth in the BCE "Legislative Bill Tracking" manual.

The Committee oversees all administrative issues regarding BCE operations.

This Committee develops draft strategic plans and monitors the Board's progress in achieving goal and objectives. The Board must develop a strategic plan once every three years. The Committee must report progress on the strategic plan annually beginning in 2013.

## **Committee Meetings** (Board Policy)

Each of these committees is comprised of at least two Board Members. Staff provides technical and administrative input and support. The committees are an important venue for ensuring that staff and Board Members share

## **BOARD MEMBER ADMINISTRATIVE PROCEDURE MANUAL**

information and perspectives in crafting and implementing the Board's objectives and goals.

The Board's committees allow Board Members, the public, stakeholders and staff to discuss and conduct problem solving on issues related to the Board's objective and goals.

The committees are charged with coordinating Board efforts to reach the Board's objective and goals and achieving positive results on its performance measures.

The Board Chair designates one member of each committee as the committee's chairperson.

The committee chair will work with the Executive Officer and the Board Chair to set the committee's goals and meeting agendas. The Committee Chair coordinates the committee's work, ensures progress toward the Board's priorities, and presents reports at each meeting.

During any public committee meeting, comments from the public are encouraged, and the meetings themselves are frequently public forums on specific issues before a committee. Committees shall comply with the Bagley-Keene Open Meeting Act.

### **Attendance at Committee Meetings**

**(Board Policy and Government Code Section 11122.5 et seq.)**

If a Board Member wishes to attend a meeting of a committee of which he or she is not a member, the Board Member must notify the committee chair, Executive Officer, and Board Chair.

Board Members who are not members of the committee which is meeting cannot sit at the dais, make any comment, or ask or answer any questions. Only committee members may vote during the committee meeting.

The Board's legal counsel works with the Executive Officer to assure that all meetings meet the requirements for a public meeting and are properly noticed.

Whenever possible, the Board's legal counsel shall attend committee meetings.

# BOARD MEMBER ADMINISTRATIVE PROCEDURE MANUAL

## CHAPTER 5. General Operating Procedures

### **Board Member Addresses**

#### **(Board Policy)**

Board Member addresses and telephone numbers are confidential and shall not be released to the public without expressed authority of the individual Board Member. A roster of Board Members is maintained for public distribution on the Board's web site using the Board's address and telephone number.

Request for DMV Confidential Status may be submitted on the completed DMV form to the Executive Officer, who will sign the form

### **Board Member Written Correspondence and Mailings**

#### **(Board Policy)**

All correspondence, press releases, articles, memoranda or any other communication written by any Board Member in his or her official capacity must be approved by the Board Chair and Executive Officer. The Executive Officer will reproduce and distribute the document and a copy in a chronological file.

### **Request to Access Licensee or Applicant Records**

#### **(Board Policy)**

Board Member shall not access a licensee's, or applicant's file without the Executive Officer's knowledge and approval. Records or copies of records shall not be removed from the Board's office at any time.

### **Communications with Other Organizations & Individuals**

#### **(Board Policy)**

All communications relating to any Board action or policy to any individual or organization shall be made only by the Chair of the Board, his or her designee, or the Executive Officer.

The Board has an "Ambassador at Large" program allowing Board Members to speak at public or private functions.

Any Board Member who is contacted by any of the above should inform the Board Chair or Executive Officer of the contact immediately.

## **BOARD MEMBER ADMINISTRATIVE PROCEDURE MANUAL**

All correspondence shall be issued on the Board's standard letterhead and will be disseminated by the Executive Officer.

### **Press Statements and Contacts** **(Board Policy)**

Members shall direct press inquiries to the Executive Officer who will work in conjunction with DCA Public Affairs Office to respond. Only the Board Chair or Executive Officer are authorized to publically represent the Board to the press or news agents, reporters or agencies.

### **Business Cards** **(Board Policy)**

Business cards will be provided to each Board Member with the Board Member's name and official BCE e-mail address. The business cards will provide the Board office address, telephone and fax numbers, and website address.

Board Members' personal business cards shall not reference or list their appointment as a BCE Member.

### **BCE Identification Cards** **(Board Policy)**

BCE Members shall be issued an identification card from BCE that states they are appointed, commissioned and duly sworn, and if an officer of the BCE, that shall be stated.



# BOARD MEMBER ADMINISTRATIVE PROCEDURE MANUAL

## CHAPTER 6. Board Administration & Staff

### **Executive Officer** (§3 Initiative Act)

The Board employs an Executive Officer and establishes his/her salary in accordance with the State law.

The Executive Officer is responsible for the financial operations and integrity of the Board, and is the official custodian of records. The Executive Officer is an “exempt” employee, who serves at the pleasure of the Board, and may be terminated, in accordance with the provisions of the Bagley-Keene Open Meeting Act.

### **Executive Officer Evaluation** (Board Policy)

At the first Board meeting of each fiscal year or at any time thereafter as determined by the Board, the Board evaluation of the Executive Officer is presented by the Board Chair, or his/her Board Member designee, during a closed session. Board Members provide information to the Chair on the Executive Officer’s performance in advance of this meeting. If the Board members have concerns with an Executive Officer’s performance, the Board members should consult with the Deputy Director of DCA’s Legal Affairs Office.

### **Board Administration** (Board Policy)

Strategies for the day-to-day management of programs and staff shall be the responsibility of the Executive Officer as an instrument of the Board. The Executive Officer supervises and administers the staff. Board Members shall not directly discipline, reprimand, or otherwise supervise staff.

### **Board Staff** (§4 Initiative Act)

Employees of the Board, with the exception of the Executive Officer, are civil service employees. Their employment, pay, benefits, discipline, termination, and conditions of employment are governed by myriad civil service laws and regulations and often by collective bargaining labor agreements.

Because of this complexity, the Board delegates this authority and responsibility for management of the civil service staff to the Executive Officer as an instrument of the Board.

## BOARD MEMBER ADMINISTRATIVE PROCEDURE MANUAL

Board Members may express any staff concerns to the Executive Officer but shall refrain from involvement in any civil service matters. Board Members shall not become involved in the personnel issues of any state employee.

### **Board Budget** (Board Policy)

One member of the Board, designated by the Board Chair, and the Executive Officer or the Executive Officer's designee will attend and testify at legislative budget hearings to communicate all budget issues to the Administration and Legislature. The Executive Officer or his/her designee shall communicate regularly with DCA's Budget Office and report all issues to the Board.

### **Strategic Planning** (Board Policy)

The Board must develop a strategic plan in the year of the Joint Sunset Review Oversight Hearings. ~~once every three years, beginning in 2013~~. The Government Affairs Committee shall have overall responsibility for the Board's strategic planning process and shall assist staff in the monitoring and reporting of the strategic plan to the Board.

### **Periodic Fee Audit** (Board Policy)

The Board shall periodically conduct a fee audit to determine if the revenue earned from current fees is sufficient to maintain the Board's reserve and solvency into the future. The Board shall conduct the fee analysis every three to five years using the 2017 methodology. Finally, at the Board Meeting proceeding the completion of the report, the results of the fee audit shall be provided to the Board for review.

# BOARD MEMBER ADMINISTRATIVE PROCEDURE MANUAL

## CHAPTER 7. Other Policies & Procedures

### **Various Other Tasks and Responsibilities**

#### **(Board Policy)**

Promotion of public safety is enhanced with goal orientation and focus. The Board shall also assign Board Members and/or staff to serve as liaison to the following:

- FCLB
- NBCE
- Ambassador at Large Presentations
- Lectures
- Attend Meetings of Other Regulatory Boards
- Meetings with Colleges and State Associations

This process shall be overseen by the Vice-Chair in consultation with the Chair.

### **Board Member Disciplinary Actions**

#### **(Board Policy)**

If a Board Member violates any provision of the Administrative Procedure Manual, the Chair will either telephone or write to that Member identifying the concern. If the matter is not resolved, the Chair may agendaize the matter at the next Board meeting.

If the violation concerns the Chair's conduct, the Vice-Chair will handle the matter until it is resolved.

### **Terms and Removal of Board Members**

#### **(§2 Initiative Act)**

The Governor shall appoint the Members of the Board. Each appointment shall be for the term of four years, except that an appointment to fill a vacancy shall be for the unexpired term only. Each Member shall serve until his successor has been appointed and qualified or until one year has elapsed since the expiration of his term whichever first occurs.

No person shall serve more than two consecutive terms on the Board nor be eligible for appointment thereafter until the expiration of four years from the expiration of such second consecutive term, effective January 2, 1974. The Governor may remove a Member from the Board after receiving sufficient proof of the inability or misconduct of said Member.

## **BOARD MEMBER ADMINISTRATIVE PROCEDURE MANUAL**

### **Resignation of Board Members (Government Code Section 1750 (b))**

In the event that a Board Member chooses to resign, a letter shall be sent to the Governor's Office with the effective date of the resignation. Written notification is required by state law. A copy of this letter shall also be sent to the Board Chair and the Executive Officer.

### **Resignation of Board Members (Board Policy)**

In the event that a Board Member chooses to resign, the Board Member or the Executive Officer should notify the Governor's Office of Appointments.

### **Conflict of Interest (Government Code Section 87100)**

Board Members are responsible for complying with the California Political Reform Act (Government Code Sections 81000-91014).

Board Members must file a Statement of Economic Interest (Form 700) upon appointment to office, upon leaving office, and on an annual basis in between.

No Board Member may make, participate in making, or in any way attempt to use his or her official position to influence a governmental decision in which he or she knows or has reason to know he or she has a financial interest.

Any Board Member who has a financial interest shall disqualify him or herself from making or attempting to use his or her official position to influence the decision.

Any Board Member who feels he or she is entering into a situation where there is a potential for a conflict of interest should immediately consult the Executive Officer or the Board's legal counsel.

### **Contact with Licensees and Applicants (Board Policy)**

Board Members shall not intervene on behalf of a licensee or applicant for licensure for any reason. They should forward all correspondence, contacts or inquiries to the Executive Officer.

### **Contact with Respondents (Board Policy)**

Board Members should not directly participate in complaint handling and resolution or investigations. To do so would subject the Board Member to disqualification in any future disciplinary action against the licensee.

## **BOARD MEMBER ADMINISTRATIVE PROCEDURE MANUAL**

Board Members should not discuss pending disciplinary matters with any parties to such matters, including the respondent, his/her attorney, BCE enforcement staff, and DAGs. If a Board Member is contacted by a party to a disciplinary matter, the Board Member should refer the individual to the Executive Officer. When in doubt, the Board Member should seek advice from the Executive Officer or the Board's Legal Counsel.

### **Service of Legal Documents (Board Policy)**

If a Board Member is personally served as a party in any legal proceeding related to his or her capacity as a Board Member, he or she must contact the Executive Officer immediately.

### **Serving as an Expert Witness (Executive Order 66.2)**

Pursuant to Executive Order 66-2, no employment, activity, or enterprise shall be engaged in by any gubernatorial appointee which might result in, or create the appearance of resulting in any of the following:

1. Using the prestige or influence of a State office for the appointee's private gain or advantage.
2. Using state time, facilities, equipment, or supplies for the appointee's private gain or advantage, or the private gain or advantage of another.
3. Using confidential information acquired by virtue of State involvement for the appointee's private gain or advantage, or the private gain or advantage of another.
4. Receiving or accepting money or any other consideration from anyone other than the State for the performance of an act which the appointee would be required or expected to render in the regular course of hours of his or her State employment or as a part of the appointee's duties as a State officer.

### **Request for Grants (Board Policy)**

All requests for funding allocations to Board specific projects shall be approved by the Board during a regularly scheduled meeting.

Any requests for grants outside of Board business or projects must be made by the Executive Officer at the Chair's direction. If a Board Member makes an individual request, a copy of the request shall be forwarded to the Executive Officer as soon as possible.

## **BOARD MEMBER ADMINISTRATIVE PROCEDURE MANUAL**

The mechanism for receipt, management, and dispersal of funds shall be pre-arranged and approved by the Board.

### **Gifts from Licensees and Applicants (Board Policy)**

Gifts of any kind create potential obligations or conflicts of interest and should therefore be declined or reported pursuant to the California Political Reform Act.

### **Ex Parte Communications (Government Code Section 11430.10 et seq.)**

The Government Code contains provisions prohibiting ex parte communications. An “ex parte” communication is a communication to the decision-maker made by one party to an enforcement action without participation by the other party. While there are specified exceptions to the general prohibition, the key provision is found in subdivision (a) of section 11430.10, which states:

“While the proceeding is pending, there shall be no communication, direct or indirect, regarding any issue in the proceeding to the presiding officer from an employee or representative of an agency that is a party or from an interested person outside the agency, without notice and an opportunity for all parties to participate in the communication.”

Board Members are prohibited from an ex parte communication with Board enforcement staff, a licensee or a respondent while a proceeding is pending.

Occasionally, an applicant who is being formally denied licensure, or a licensee against whom disciplinary action is being taken, will attempt to directly contact Board Members. If the communication is written, the person should read only far enough to determine the nature of the communication. Once he or she realizes it is from a person against whom an action is pending, they should reseal the documents and send them to the Executive Officer.

If a Board Member receives a telephone call from an applicant under any circumstances or licensee against whom an action is pending, he or she should immediately tell the person they cannot speak to them about the matter and inform the Executive Officer and the Board’s legal counsel.

If the person insists on discussing the case, he or she should be told that the Board Member will be required to recuse him or herself from any participation in the matter. Therefore, continued discussion is of no benefit to the applicant or licensee.

## **BOARD MEMBER ADMINISTRATIVE PROCEDURE MANUAL**

If a Board Member believes that he or she has received an unlawful ex parte communication, he or she should contact the Executive Officer and the Board's legal counsel.

### **The Honoraria Prohibition (Government Code Section 89503) (FPPC Regulations, Title 2, Division 6)**

As a general rule, Members of the Board should decline honoraria for speaking at, or otherwise participating in, professional association conferences and meetings. A Member of a state Board is precluded from accepting an honorarium from any source, if the Member would be required to report the receipt of income or gifts from that source on his or her statement of economic interest.

Board Members are required to report income from, among other entities, professional associations and continuing education providers. Therefore, a Board Member should decline all offers for honoraria for speaking or appearing before such entities.

There are limited exceptions to the honoraria prohibition. The acceptance of an honorarium is not prohibited under the following circumstances: (1) when a honorarium is returned to the donor (unused) within 30 days; (2) when an honorarium is delivered to the State Controller within thirty days for donation to the General Fund (for which a tax deduction is not claimed); and (3) when an honorarium is not delivered to the Board Member, but is donated directly to a bona fide charitable, educational, civic, religious, or similar tax exempt, non-profit organization.

In light of this prohibition, Members should report all offers of honoraria to the Board Chair so that he or she, in consultation with the Executive Officer and staff counsel, may determine whether the potential for conflict of interest exists.

### **Board Member Orientation (Business & Professions Code Section 453 and Board Policy)**

B&P Section 453 requires every newly appointed Board Member, within one year of assuming office, to complete a training and orientation program offered by DCA regarding, among other things, his or her functions, responsibilities, and obligations as a Member of a Board.

Per DCA Legal Opinion, Board Member Orientation Training is required for newly appointed Board Members and reappointed Board Members as every appointment is considered a new appointment.

It is the BCE's policy that new Board Members shall, to the extent possible complete the orientation training within six months of assuming office.

## **BOARD MEMBER ADMINISTRATIVE PROCEDURE MANUAL**

Additional training shall be provided at the request of the Board or individual Board Members.

### **Ethics Training**

**(Government Code Section 11146)**

California law requires all appointees to take an ethics orientation within the first six months of their appointment and to repeat this ethics orientation every two years throughout their term.

### **Sexual Harassment Prevention Training**

**(Government Code Section 12950.1)**

Board Members are required to undergo sexual harassment prevention training and education once every two years. Staff will coordinate the training.

### **Board Member Onboarding and Orientation**

**(Board Policy - 2013 BCE Strategic Plan)**

Within six months of initial appointment, each new Board Member shall travel to the Board office in Sacramento for orientation and onboarding meetings with the Executive Officer and one Board Member (as assigned by the Board Chair). Prior to the orientation, the new Board Member shall review their Board Member binder (provided by Board staff), and prepare questions for discussion. Items to be covered in this meeting include introductions to Board staff, review of staff roles and responsibilities, administrative processes, historical information about the Board, collaboration between staff and Board Members and overall expectations. The Executive Officer shall notify the Board Chair once the meeting has occurred.

### **Injury to a Board Member**

**(Labor Code Section 4600)**

If you are or believe you may have been injured, notify the Executive Officer. Injuries are required to be reported and this assists the Executive Officer in remaining compliant with the Labor Code Rules and Regulations. The reported injury will be reviewed by State Compensation Insurance Fund. They have the option to either accept or deny that claim. If the claim is denied, and you believe you have a legitimate claim, you should consult with an attorney. If the claim of injury is accepted by the insurance carrier, then treatment is provided in accordance with the California Labor Code (L.C.). Specifically: L.C. 4600(a) Medical, surgical, chiropractic, acupuncture, and hospital treatment, including nursing, medicines, medical and surgical supplies, crutches, and apparatuses, including orthotic and prosthetic devices and services, that is reasonably required to cure or relieve the injured worker from the effects of his or her injury shall be provided by the employer.



## **BOARD MEMBER ADMINISTRATIVE PROCEDURE MANUAL**

If You Have Additional Questions: Ask the Executive Officer or Staff Counsel. You can also call the Department of Industrial Relations, Division of Workers Compensation at (800) 736-7401 or go to the DWC web site at <http://www.dir.ca.gov/dwc>.

### **Addendums**

Applicable provisions of the following:

- Executive Order 66-2
- Government Code
- State Administrative Manual
- Bagley-Keene Open Meeting Act
- Business and Professions Code
- Initiative Act
- Labor Code

**Board of Chiropractic Examiners  
Government Affairs Conference Call – May 8, 2018  
Optional Procedures for Nominating and Electing Board Officers**

**1) Nomination/Voting Sequence:**

- a) Nominations for all offices conclude before any voting begins<sup>i</sup>.
- b) Nominations for each office are followed by the voting for that office.

**2) Nomination Procedure<sup>ii</sup>:**

- a) By roll call at the January Board Meeting
- b) By roll call at the last Board Meeting of the prior calendar year
- c) By ballot at the January Board Meeting
- d) By ballot at the last Board Meeting of the prior calendar year
- e) By opening the floor and allowing nominations to be made without a motion, second, or roll call
- f) By mail/email to the Executive Officer or Legal Counsel by a pre-determined date.

**3) Determining Nominees:**

- a) Only Self Nominations<sup>iii</sup>
- b) Only nominations by another Member
- c) Either of the above.

**4) Voting Procedures (Voting must take place at the January Board Meeting):**

- a) Vote by Roll Call: EO or Legal Counsel would state the names of the nominees for the office and then call the roll. Members would state the name of the nominee they're voting for.<sup>iv</sup>
- b) Vote by Ballot – (If nominations for all office conclude before voting begins): Members would receive a ballot listing all officer positions followed by the nominees for each office. Once completed, the ballots would be collected and handed to the EO or Legal Counsel, who would read the votes out loud.
- c) Vote by Ballot – (If nominations for each office are followed by the vote for that office<sup>v</sup>): Once the nominees for a given office have been determined, Members will receive a Ballot for that office and a space to write in the name of the nominee they're voting for. Ballots would be collected and handed to the EO or Legal Counsel, who would read the voted out loud.

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<sup>i</sup> This option potentially disadvantages a candidate who loses an election for a position voted on earlier unless they're nominated for more than one office. The Board can allow a member to be nominated for multiple offices and, if that member is elected to the Chair or Vice Chair position he/she could waive nomination(s) for subsequent offices.

<sup>ii</sup> If option a) is selected in Scenario #1, Options for Scenario #2 will be limited to a), c) or e).

<sup>iii</sup> Self-nomination:

- Ensures that only Members who have an interest in serving will be considered for a given position.
- Prevents one member from exercising influence over the others based on who that member nominated.
- Avoids the potential of conclusions being drawn based on who received the most nominations.

<sup>iv</sup> Board may want to predetermine the order of the roll call (e.g., alphabetical, chair votes last, etc.)

<sup>v</sup> This option would necessitate nominations being made at the January meeting.

**Board of Chiropractic Examiners**  
**Government Affairs Conference Call – May 8, 2018**  
**Optional Procedures for Nominating and Electing Board Officers**

Staff Recommendation:

Members have been presented with variables to consider when adopting procedures for the Nomination and Selection of Board Officers. After considering all of the variables, individually and in combination, Staff recommends the following:

- Nominations and Elections should both occur at the January Meeting each year.
- Nominations for each office should be immediately followed by the voting for that office.
- Members should nominate themselves for a position they have interest in. Nomination by peer should not be an option as it potentially influences the vote of other members. Also, nomination by peer may result in someone with no interest in holding an office being considered for that office.
- After Members have been provided opportunity to nominate themselves for a position, the nomination process should be closed, and each member should receive a personal ballot upon which to name the nominee of their choice. Members can choose to abstain if they prefer to not vote for any of the nominees.
- Ballots would be collected and handed to either the EO or Legal Counsel, who would read the name of each member and their choice of nominees. Votes would be tallied, and the winner announced. Voting by ballot, while not confidential, facilitates free expression by waiting until all votes have been cast prior to announcing each Board Member's vote
- Once selection of Chair is complete, the process would repeat for Vice Chair, and then Secretary.

## **Board of Chiropractic Examiners Bill Analysis**

**Bill Number:** SB 1480  
**Author:** Senator Jerry Hill  
**Bill Version:** Amended May 10, 2018  
**Subject:** Professions and vocations  
**Sponsor:** Author  
**Status of Bill:** Referred to the Appropriations Committee.

### **Summary:**

This bill is the Senate Business and Professions Omnibus fee bill that amends the law related to various DCA programs including the Board of Chiropractic Examiners.

This bill makes technical and clarifying amendments to Section 5 of the Initiative Act, removes the current application fee, and amends Section 12 of the Chiropractic Initiative Act to refer to the Business and Professions Code where a comprehensive fee schedule has been established. Specifically, this bill would codify the schedule of fees changed by the BCE.

### **Existing Law:**

- Provides for the licensure and regulation of chiropractors by the State Board of Chiropractic Examiners
- Establishes a renewal fee of \$300
- Authorizes the Legislature to amend the Board's fees

### **This Bill Would:**

- Delete the provisions in the Initiative Act setting the annual renewal fee and codify the fee schedule in the Business and Professions Code.
- Codify the following schedule of fees in the B&P Code:
  - Fee to apply for a license to practice chiropractic: three hundred seventy-one dollars (\$371).
  - Fee for initial license to practice chiropractic: one hundred eighty-six dollars (\$186).
  - Fee to renew an active or inactive license to practice chiropractic: three hundred thirteen dollars (\$313).
  - Fee to apply for approval as a continuing education provider: eighty-four dollars (\$84).
  - Biennial continuing education provider renewal fee: fifty-six dollars (\$56).
  - Fee to apply for approval of a continuing education course: fifty-six dollars (\$56) per course.
  - Fee to apply for a satellite office certificate: sixty-two dollars (\$62).
  - Fee to renew a satellite office certificate: thirty-one dollars (\$31).

- Fee to apply for a license to practice chiropractic pursuant to Section 9 of the Chiropractic Initiative Act: three hundred seventy-one dollars (\$371).
- Fee to apply for a certificate of registration of a chiropractic corporation: one hundred eighty-six dollars (\$186).
- Fee to renew a certificate of registration of a chiropractic corporation: thirty-one dollars (\$31).
- Fee to file a chiropractic corporation special report: thirty-one dollars (\$31).
- Fee to apply for approval as a referral service: five hundred fifty-seven dollars (\$557).
- Fee for an endorsed verification of licensure: one hundred twenty-four dollars (\$124).
- Fee for replacement of a lost or destroyed license: fifty dollars (\$50).
- Fee for replacement of a satellite office certificate: fifty dollars (\$50).
- Fee for replacement of a certificate of registration of a chiropractic corporation: fifty dollars (\$50).
- Fee to restore a forfeited or canceled license to practice chiropractic: double the annual renewal fee specified in subdivision
- Fee to apply for approval to serve as a preceptor: thirty-one dollars (\$31).
- Fee to petition for reinstatement of a revoked license: three hundred seventy-one dollars (\$371).
- Fee to petition for early termination of probation: three hundred seventy-one dollars (\$371).
- Fee to petition for reduction of penalty: three hundred seventy-one dollars (\$371).

This bill would make technical and clarifying amendments to Sections 5 and 12 of the Initiative Act.

**Background:**

In the first quarter of 2017, the Board was notified that without a fee increase, insolvency was likely in FY 2018/19. There were multiple factors that contributed to the pending deficit, including but not limited to, an increase in departmental and statewide pro-rata, increased overhead costs, unanticipated one-time expenses, and a slight decrease in revenue due to a gradual decline in the licensee population.

To avoid insolvency, the Board worked with the Legislature to place a temporary fee increase into SB 547 (Hill), which contained a 1-year fee increase from \$250 to \$300, and stabilize the Board's fund for the budget year. This bill was signed by Governor Brown on 10/2/2017. The auditor presented his findings and recommendations to the Board at the 10/24/2017 Board meeting.

Following work with the Legislature, the Board contracted for a fee audit study that would determine a factual basis for any future increase in fees charged by the Board.

**Fiscal Impact:**

According to the BCE fee audit study, the Board will generate approximately an additional \$465,500 in additional revenue with the fees at full cost. The new fee structure will maintain Board solvency into the near future.

**Support & Opposition:**

No support or opposition on file.

**Staff's Recommended Position: SUPPORT**

Since the Board's fees are spread between the Initiative Act and regulations, this bill would create a unified fee schedule thus making it easier for both licensees and the public to locate the fees. By aligning the Board's fee with the actual cost to provide services, this bill will ensure the Board's solvency into the near future.

AMENDED IN SENATE MAY 10, 2018

AMENDED IN SENATE APRIL 17, 2018

**SENATE BILL**

**No. 1480**

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**Introduced by Senator Hill**

February 16, 2018

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An act to amend Sections 101, 328, 2499.5, 2816, 2892.6, 2895, 3147, 3680, 4518, 4548, 4809.7, 4830, ~~and 4836.2~~ 4836.2, and 11506 of, and to add Sections 1007, 2892.7, 4518.1, 4826.4, 4829.5, and 4841.2 to, the Business and Professions Code, ~~and~~ to amend Sections 7000, 7103, 8731, 8778.5, 8785, 103775, and 103780 of the Health and Safety Code, *and to amend an initiative act entitled "An act prescribing the terms upon which licenses may be issued to practitioners of chiropractic, creating the State Board of Chiropractic Examiners, and declaring its powers and duties, prescribing penalties for violation thereof, and repealing all acts and parts of acts inconsistent herewith" approved by voters on November 7, 1922, (the Chiropractic Act) by amending Sections 5 and 12 of the act, relating to professions and vocations. vocations, and making an appropriation therefor.*

LEGISLATIVE COUNSEL'S DIGEST

SB 1480, as amended, Hill. Professions and vocations.

Existing

(1) Existing law establishes the Department of Consumer Affairs, and specifies the various boards ~~and~~ ~~bureaus~~ that comprise the department.

This bill would make technical changes to that provision.

Existing

(2) Existing law requires the Director of Consumer Affairs to implement complaint prioritization guidelines for boards to use in prioritizing their respective complaint and investigative workloads.

This bill would require the director to amend those guidelines to include the category of “allegations of serious harm to a minor, as specified.”

(3) Existing law regulates the practice of podiatric medicine by the California Board of Podiatric Medicine and prescribes various fees relating to, among others, an application, licensure, and renewal. All revenue received by the board is required to be deposited into the Board of Podiatric Medicine Fund, which is available to the board upon appropriation by the Legislature.

This bill would revise those fee provisions by, among other things, deleting the oral examination fee and increasing, until January 1, 2021, the amount of the biennial renewal fee.

(4) Existing law, the Nursing Practice Act, establishes various fees in connection with the issuance of licenses under the act, and requires those fees to be deposited in the Board of Registered Nursing Fund, available to the Board of Registered Nursing upon appropriation by the Legislature. Existing law establishes that the fee paid by a registered nurse for an evaluation of his or her qualifications to use the title “public health nurse” shall be not less than \$500 or more than \$1,500.

This bill would instead establish a fee for that purpose of not less than \$300 or more than \$1,000, would establish a penalty for failure to renew a certificate to practice as a public health nurse within the prescribed time, and would require the Board of Registered Nursing to reimburse any registered nurse who paid more than \$300 for an evaluation between April 5, 2018, and December 31, 2018.

(5) Existing law, the Vocational Nursing Practice Act, provides for the regulation of vocational nurses by the Board of Vocational Nursing and Psychiatric Technicians of the State of California, establishes the Vocational Nursing and Psychiatric Technician Fund, and makes those funds available to the board upon appropriation by the Legislature. Existing law prescribes various fees in connection with the issuance of licenses under the act and requires the board to collect a biennial fee not to exceed \$200 from a continuing education course provider.

This bill would instead require the board to collect an initial approval and a biennial renewal fee of \$150 unless a higher fee, not to exceed \$250, is established by the board. The bill would also require the board to collect an initial approval and a biennial renewal fee of \$150, unless



*a higher fee, not to exceed \$250, is established by the board, from any provider of a course in intravenous therapy, blood withdrawal, or intravenous therapy with blood withdrawal. The bill would revise the fees and fee amounts to be assessed under the act, including, but not limited to, application, examination, and renewal fees.*

**Existing**

(6) *Existing law, the Optometry Practice Act, provides for the licensure and regulation of the practice of optometry by the State Board of Optometry. Existing law authorizes a person to renew an expired optometrist license by paying specified fees and filing a form prescribed by the board.*

This bill would also authorize the renewal of expired statements of licensure, branch office licenses, and fictitious name permits by filing an application for renewal and paying renewal and delinquency fees prescribed by the board.

(7) *Existing law, the Naturopathic Doctors Act, provides for the regulation of the practice of naturopathic medicine by the Naturopathic Medicine Committee within the Osteopathic Medical Board of California. Existing law establishes various fees in connection with the issuance of a license to practice naturopathic medicine, which are deposited in the Naturopathic Doctor's Fund and are available to the committee upon appropriation by the Legislature.*

*This bill would revise those provisions by, among other things, increasing the application, initial licensing, and renewal fees, and establishing a fee for a certified license verification.*

(8) *Existing law provides for the licensure and regulation of psychiatric technicians by the Board of Vocational Nursing and Psychiatric Technicians of the State of California, and authorizes the board, if it adopts a continuing education program, to collect a fee from continuing education course providers. Existing law also prescribes various fees in connection with the issuance of a psychiatric technician license.*

*This bill would instead require the board, if it adopts a continuing education or blood withdrawal program, to collect an initial approval and a biennial renewal fee from a provider of a course in continuing education or blood withdrawal, as specified. The bill would also revise the fees and fee amounts required for licensure as a psychiatric technician.*

The

(9) *The Veterinary Medicine Practice Act regulates the practice of veterinary medicine by the Veterinary Medical Board and makes a violation of its provisions a crime. Existing law separately provides immunity from liability to a veterinarian or registered veterinary technician who renders services during certain states of emergency.*

This bill would authorize a California-licensed veterinarian at a registered premises located within a 25-mile radius of any declared condition of emergency to, in good faith, provide veterinary services without establishing a veterinarian-client-patient relationship and dispense or prescribe a dangerous drug or device where failure to provide services or medications may result in loss of life or intense suffering. The bill would provide immunity from liability for a veterinarian providing those services.

Existing law excludes specified persons from the provisions regulating the practice of veterinary medicine, including veterinary medicine students in 2 specified schools of veterinary medicine who participate in diagnosis and treatment, as specified.

This bill would instead exclude students from any veterinary medical program accredited by the American Veterinary Medical Association Council on Education who participate in diagnosis or treatment with direct supervision, or surgery with immediate supervision, subject to specified conditions.

Existing law provides for a veterinary assistant controlled substance permit issued by the Veterinary Medical Board to qualified applicants and authorizes the board to deny, revoke, or suspend a veterinary assistant controlled substance permit for specified reasons.

This bill would add to those list of reasons the conviction of a crime substantially related to the qualifications, functions, or duties of veterinary medicine, veterinary surgery, or veterinary dentistry. The bill would also authorize the board, in addition to denial, revocation, or suspension, to issue a probationary veterinary assistant controlled substance permit.

The bill would prohibit a graduate of a veterinary college from performing animal health care tasks otherwise performed by a registered veterinary technician, except as specified, and would require a veterinarian to offer a consultation to the client each time he or she initially prescribes, dispenses, or furnishes a dangerous drug, as defined, to an animal patient in an outpatient setting. Because a violation of that provision would be a crime, the bill would impose a state-mandated local program.

*Existing law requires the Veterinary Medical Board to establish a regular inspection program, and provides that the board is required to make every effort to inspect at least 20% of veterinary premises annually.*

*This bill would instead require the board to inspect at least 20% of veterinary premises annually.*

*(10) Existing law requires a person to meet specified requirements in order to use the title "certified common interest development manager," and requires a certified common interest development manager to make specified disclosures to the board of directors of a common interest development before providing services to the common interest development. Existing law repeals those provisions governing certified common interest development managers on January 1, 2019.*

*This bill would delete the repeal provision, thereby extending those provisions indefinitely.*

*(11) Existing law, the Chiropractic Act, enacted by initiative, provides for the licensure and regulation of chiropractors by the State Board of Chiropractic Examiners, which is composed of 7 members appointed by the Governor, and establishes an application fee of not more than \$100 and, on and after January 1, 2019, a renewal fee of \$250. Existing law authorizes the Legislature to fix the amounts of the fees payable by applicants and licensees, and directs the deposit of these fees into the State Board of Chiropractic Examiners' Fund, a continuously appropriated fund.*

*This bill would delete the provisions providing for the application and renewal fees and would instead establish a schedule of regulatory fees necessary to carry out the responsibilities required by the Chiropractic Initiative Act, including, among others, application and renewal fees for licensure, fees to apply for approval for a continuing education course, and satellite office certificate fees. By increasing specified fees and establishing new fees for deposit into a continuously appropriated fund, the bill would make an appropriation.*

*The*

*(12) The bill would also make technical changes to various provisions of the Health and Safety Code by eliminating cross-references to obsolete provisions governing cemeteries.*

*The*

*(13) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.*

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: ~~no~~ yes. Fiscal committee: yes. State-mandated local program: yes.

*The people of the State of California do enact as follows:*

1 SECTION 1. Section 101 of the Business and Professions  
2 Code, as added by Section 4 of Chapter 828 of the Statutes of  
3 2017, is amended to read:

- 4 101. The department is comprised of the following:
- 5 (a) The Dental Board of California.
  - 6 (b) The Medical Board of California.
  - 7 (c) The State Board of Optometry.
  - 8 (d) The California State Board of Pharmacy.
  - 9 (e) The Veterinary Medical Board.
  - 10 (f) The California Board of Accountancy.
  - 11 (g) The California Architects Board.
  - 12 (h) ~~The Bureau~~ *State Board* of Barbering and Cosmetology.
  - 13 (i) The Board for Professional Engineers, Land Surveyors, and  
14 Geologists.
  - 15 (j) The Contractors' State License Board.
  - 16 (k) The Bureau for Private Postsecondary Education.
  - 17 (l) The Bureau of Electronic and Appliance Repair, Home  
18 Furnishings, and Thermal Insulation.
  - 19 (m) The Board of Registered Nursing.
  - 20 (n) The Board of Behavioral Sciences.
  - 21 (o) The State Athletic Commission.
  - 22 (p) The Cemetery and Funeral Bureau.
  - 23 (q) The Bureau of Security and Investigative Services.
  - 24 (r) The Court Reporters Board of California.
  - 25 (s) The Board of Vocational Nursing and Psychiatric  
26 Technicians.
  - 27 (t) The Landscape Architects Technical Committee.
  - 28 (u) The Division of Investigation.
  - 29 (v) The Bureau of Automotive Repair.
  - 30 (w) The Respiratory Care Board of California.
  - 31 (x) The Acupuncture Board.
  - 32 (y) The Board of Psychology.
  - 33 (z) The California Board of Podiatric Medicine.

- 1 (aa) The Physical Therapy Board of California.
- 2 (ab) The Arbitration Review Program.
- 3 (ac) The Physician Assistant Committee.
- 4 (ad) The Speech-Language Pathology and Audiology and
- 5 Hearing Aid Dispensers Board.
- 6 (ae) The California Board of Occupational Therapy.
- 7 (af) The Osteopathic Medical Board of California.
- 8 (ag) The Naturopathic Medicine Committee.
- 9 (ah) The Dental Hygiene Committee of California.
- 10 (ai) The Professional Fiduciaries Bureau.
- 11 (aj) The State Board of Chiropractic Examiners.
- 12 (ak) The Bureau of Real Estate Appraisers.
- 13 (al) The Structural Pest Control Board.
- 14 (am) The Bureau of Cannabis Control.
- 15 (an) Any other boards, offices, or officers subject to its
- 16 jurisdiction by law.
- 17 (ao) This section shall become operative on July 1, 2018.

18 SEC. 2. Section 328 of the Business and Professions Code is  
19 amended to read:

20 328. (a) In order to implement the Consumer Protection  
21 Enforcement Initiative of 2010, the director, through the Division  
22 of Investigation, shall implement "Complaint Prioritization  
23 Guidelines" for boards to utilize in prioritizing their respective  
24 complaint and investigative workloads. The guidelines shall be  
25 used to determine the referral of complaints to the division and  
26 those that are retained by the health care boards for investigation.

27 (b) Neither the Medical Board of California nor the California  
28 Board of Podiatric Medicine shall be required to utilize the  
29 guidelines implemented pursuant to subdivision (a).

30 (c) On or before July 1, 2019, the director shall amend the  
31 guidelines implemented pursuant to subdivision (a) to include the  
32 category of "allegations of serious harm to a minor" under the  
33 "urgent" or "highest priority" level.

34 SEC. 3. Section 1007 is added to the Business and Professions  
35 Code, to read:

36 1007. Notwithstanding any other law, the amount of regulatory  
37 fees necessary to carry out the responsibilities required by the  
38 Chiropractic Initiative Act and this chapter are fixed in the  
39 following schedule:

- 1 (a) Fee to apply for a license to practice chiropractic: three  
2 hundred seventy-one dollars (\$371).
- 3 (b) Fee for initial license to practice chiropractic: one hundred  
4 eighty-six dollars (\$186).
- 5 (c) Fee to renew an active or inactive license to practice  
6 chiropractic: three hundred thirteen dollars (\$313).
- 7 (d) Fee to apply for approval as a continuing education  
8 provider: eighty-four dollars (\$84).
- 9 (e) Biennial continuing education provider renewal fee: fifty-six  
10 dollars (\$56).
- 11 (f) Fee to apply for approval of a continuing education course:  
12 fifty-six dollars (\$56) per course.
- 13 (g) Fee to apply for a satellite office certificate: sixty-two dollars  
14 (\$62).
- 15 (h) Fee to renew a satellite office certificate: thirty-one dollars  
16 (\$31).
- 17 (i) Fee to apply for a license to practice chiropractic pursuant  
18 to Section 9 of the Chiropractic Initiative Act: three hundred  
19 seventy-one dollars (\$371).
- 20 (j) Fee to apply for a certificate of registration of a chiropractic  
21 corporation: one hundred eighty-six dollars (\$186).
- 22 (k) Fee to renew a certificate of registration of a chiropractic  
23 corporation: thirty-one dollars (\$31).
- 24 (l) Fee to file a chiropractic corporation special report:  
25 thirty-one dollars (\$31).
- 26 (m) Fee to apply for approval as a referral service: five hundred  
27 fifty-seven dollars (\$557).
- 28 (n) Fee for an endorsed verification of licensure: one hundred  
29 twenty-four dollars (\$124).
- 30 (o) Fee for replacement of a lost or destroyed license: fifty  
31 dollars (\$50).
- 32 (p) Fee for replacement of a satellite office certificate: fifty  
33 dollars (\$50).
- 34 (q) Fee for replacement of a certificate of registration of a  
35 chiropractic corporation: fifty dollars (\$50).
- 36 (r) Fee to restore a forfeited or canceled license to practice  
37 chiropractic: double the annual renewal fee specified in subdivision  
38 (c).
- 39 (s) Fee to apply for approval to serve as a preceptor: thirty-one  
40 dollars (\$31).

1 (i) Fee to petition for reinstatement of a revoked license: three  
2 hundred seventy-one dollars (\$371).

3 (u) Fee to petition for early termination of probation: three  
4 hundred seventy-one dollars (\$371).

5 (v) Fee to petition for reduction of penalty: three hundred  
6 seventy-one dollars (\$371).

7 SEC. 4. Section 2499.5 of the Business and Professions Code  
8 is amended to read:

9 2499.5. The following fees apply to certificates to practice  
10 podiatric medicine. The amount of fees prescribed for doctors of  
11 podiatric medicine shall be determined by the board and shall be  
12 as described below. Fees collected pursuant to this section shall  
13 be fixed by the board in amounts not to exceed the actual costs of  
14 providing the service for which the fee is collected.

15 (a) Each applicant for a certificate to practice podiatric medicine  
16 shall pay an application fee of ~~no more than~~ one hundred dollars  
17 (\$100) at the time the application is filed. If the applicant qualifies  
18 for a certificate, he or she shall pay a fee ~~not to exceed of~~ one  
19 hundred dollars ~~(\$100) nor less than five dollars (\$5) for the~~  
20 ~~issuance of the certificate. (\$100).~~

21 ~~(b) The oral examination fee shall be seven hundred dollars~~  
22 ~~(\$700), or the actual cost, whichever is lower, and shall be paid~~  
23 ~~by each applicant. If the applicant's credentials are insufficient or~~  
24 ~~if the applicant does not desire to take the examination, and has~~  
25 ~~so notified the board 30 days prior to the examination date, only~~  
26 ~~the examination fee is returnable to the applicant. The board may~~  
27 ~~charge an examination fee for any subsequent reexamination of~~  
28 ~~the applicant.~~

29 (e)

30 (b) Each applicant who qualifies for a certificate, as a condition  
31 precedent to its issuance, in addition to other fees required by this  
32 section, shall pay an initial license fee. The initial license fee shall  
33 be eight hundred dollars (\$800). The initial license shall expire  
34 the second year after its issuance on the last day of the month of  
35 birth of the licensee. The board may reduce the initial license fee  
36 by up to 50 percent of the amount of the fee for any applicant who  
37 is enrolled in a postgraduate training program approved by the  
38 board or who has completed a postgraduate training program  
39 approved by the board within six months prior to the payment of  
40 the initial license fee.

## **Board of Chiropractic Examiners Bill Analysis**

**Bill Number:** SB 1448  
**Author:** Senator Jerry Hill  
**Bill Version:** Amended April 9, 2018  
**Subject:** Professions and vocations  
**Sponsor:** Author  
**Status of Bill:** Referred to the Appropriations Committee.

### **Summary:**

This bill would require various healing arts professionals including chiropractors, to disclose their probationary status to a patient prior to the patient's first visit following a probationary order.

### **Existing Law:**

- Authorizes various healing arts Boards to discipline licensees by placing them on probation.
- Requires healthcare licensing boards to create and maintain a central file that includes specific information on any conviction, judgement or settlement in excess of \$3,000, any public complaints, and disciplinary information as specified
- Requires the central file include any exculpatory or explanatory statements provided by the licensee.

### **This Bill Would:**

- Require, on and after July 1, 2019, that licensees of various programs including the Board of Chiropractic Examiners (BCE) provide a patient, patient's guardian, or healthcare surrogate with a disclosure prior to the patient's first visit if the licensee is on probation on or after July 1, 2019. The disclosure shall contain the following:
  - a) The licensee's probationary status
  - b) The length of the probation and the end date
  - c) All practice restrictions placed on the licensee by the licensing board
  - d) The board's phone number
  - e) 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 site
- Requires licensees to obtain a signed copy of the disclosure outlined above from the patient, patient's guardian, or health surrogate.



- Provides an exemption to the disclosure requirement:
  - a) if the patient is unconscious or otherwise unable to comprehend the disclosure and if a guardian or health care surrogate is unavailable to comprehend the disclosure and sign the receipt of disclosure;
  - b) if the visit occurs in an emergency room and the licensee who will be treating the patient during the visit is not known to the patient until immediately prior to the start of the visit
  - c) if the licensee does not have a direct treatment relationship with the patient.
- Requires the Board to provide the disclosure information outlined above on the Board’s website page devoted to the licensee on probation.

**Background:**

According to the author’s office:

The Medical Board revokes the licenses of about 108 doctors each year for misconduct, but they also negotiate probation with about 124 doctors which allow them to keep practicing. A study by the California Research Bureau found that doctors who engage in misconduct are 30 percent more likely to reoffend.

Hospitals and malpractice insurers are already notified when a doctor is placed on probation, but patients are left in the dark. The only way they can find out their doctor’s probation status is if they have computer and internet access and try to navigate the Medical Board’s website and read through lengthy legal documents.

**Fiscal Impact:**

Potential minor and absorbable costs related to technological changes to the Board’s website that would enable posting of probation summary information as described in this bill.

**Support & Opposition:**

Support:

- Center for Public Interest Law
- Consumer Attorneys of California
- Consumer Federation of California
- Consumer Watchdog

Opposition:

- California Academy of Family Physicians
- Osteopathic Physicians and Surgeons of California

## Arguments:

### Pro:

- According to the Consumer Attorneys of California, “Under current procedures for probation, doctors are not required to disclose their probation status to their patients. This provides an opportunity for unscrupulous doctors to violate the terms of their probation and deprives patients the opportunity to make an informed decision regarding their medical provider. SB 1448 would ensure that patients are fully informed by requiring doctors to notify patients of their probation status, the terms and conditions of their probation, and tell them how to find more information.”
- According to Consumer Federation of California, “SB 1448’s requirements are not onerous - only those doctors whom the Medical Board has determined merit serious disciplinary action would be required to report their status. This amounts to less than one half of one percent of the total active licensee population. SB 1448 requirement for physicians to disclose their probationary status directly to their patients is essential in light of the varied availability of internet in California, as well as the fact that seniors are most likely to seek healthcare yet are also the group most likely to say they never go online. Information relating to a doctor’s probationary status should be provided affirmatively.”
- According to Consumer Watchdog, “Patients have a right to know if their doctor has been disciplined for causing patient harm. Women from all walks of life, from hospital employees to Olympic athletes, have come forward to tell their stories of sexual assault at the hands of their doctors and to demand lawmakers act to protect other patients from the same abuse.”

### Con:

- The California Academy of Family Physicians opposes this bill stating that “the patient notification process outlined in this bill will ultimately cut into the time in which patient care can be provided. When the MBC issues probation as a fair disciplinary action, they are consciously allowing a physician to continue to practice based on that particular case and circumstance. SB 1448 will also have the consequence of influencing physician’s decision making about defense against an MBC accusation. It will discourage settlements and encourage more physicians to pursue full hearings, which will slow the hearing process for all cases before the MBC This results in a bad outcome for overall patient protection.”
- According to the Osteopathic Physicians and Surgeons of California, “the addition of an onerous reporting requirement for physicians is unlikely to provide additional protections for patients, but instead will cause confusion and take away time available for valuable patient care...This type of reporting requirement would also serve as a deterrent for physicians who voluntarily seek assistance. An additional concern for the [Osteopathic Medical Board] is that physicians who would otherwise stipulate to a probationary order

would, rather than settling, request administrative hearings for a chance to avoid probation, which would result in additional enforcement costs to the board.”

**Staff’s Recommended Position: Support**

This bill would enhance consumer protection by requiring chiropractors to disclose their probationary status to a patient before the first visit following a probation order. This disclosure will provide vital information to consumers without requiring them to go out of their way discover a licensee’s disciplinary history.

AMENDED IN SENATE APRIL 9, 2018

SENATE BILL

No. 1448

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Introduced by Senator Hill

February 16, 2018

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~~An act to amend Section 11600 of the Health and Safety Code, relating to public health.~~ *An act to add Sections 1007, 2228.1, 2228.5, 2459.4, 3663.5, and 4962 to the Business and Professions Code, relating to healing arts.*

LEGISLATIVE COUNSEL'S DIGEST

SB 1448, as amended, Hill. ~~Controlled substances: educational programs.~~ *Healing arts licensees: probation status: disclosure.*

*Existing law, the Medical Practice Act, establishes the Medical Board of California for the licensing, regulation, and discipline of physicians and surgeons. Existing law establishes the California Board of Podiatric Medicine within the Medical Board of California for the licensing, regulation, and discipline of podiatrists. Existing law, the Osteopathic Act, enacted by an initiative measure, establishes the Osteopathic Medical Board of California for the licensing and regulation of osteopathic physicians and surgeons and requires the Osteopathic Medical Board of California to enforce specified provisions of the Medical Practice Act with respect to its licensees. Existing law, the Naturopathic Doctors Act, establishes the Naturopathic Medicine Committee within the Osteopathic Medical Board of California for the licensing and regulation of naturopathic doctors. Existing law, the Chiropractic Act, enacted by an initiative measure, establishes the State Board of Chiropractic Examiners for the licensing and regulation of chiropractors. Existing law, the Acupuncture Licensure Act, establishes the Acupuncture Board for the licensing and regulation of*

acupuncturists. Existing law authorizes each of these regulatory entities to discipline its licensee by placing her or him on probation, as specified.

This bill, on and after July 1, 2019, would require those regulatory boards to require a licensee to provide a separate disclosure, as specified, to a patient or a patient's guardian or health care surrogate before the patient's first visit if the licensee is on probation pursuant to a probationary order made on and after July 1, 2019. The bill would also require those regulatory boards to provide specified information relating to licensees on probation on the regulatory entity's online license information Internet Web site.

~~The California Uniform Controlled Substances Act requires the Attorney General, the California State Board of Pharmacy, and other agencies to carry out educational programs designed to prevent and deter misuse and abuse of controlled substances. Existing law authorizes, in connection with these programs, the Attorney General to take certain actions, including, among others, promoting better recognition of the problems of misuse and abuse of controlled substances within the regulated industry and among interested groups and organizations.~~

~~This bill would also specifically require the Medical Board of California and the Osteopathic Medical Board of California to carry out those educational programs.~~

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

- 1     SECTION 1. This act shall be known, and may be cited, as the
- 2     Patient's Right to Know Act of 2018.
- 3     SEC. 2. Section 1007 is added to the Business and Professions
- 4     Code, to read:
- 5     1007. (a) On and after July 1, 2019, except as otherwise
- 6     provided in subdivision (c), the board shall require a licensee to
- 7     provide a separate disclosure that includes the licensee's probation
- 8     status, the length of the probation and the probation end date, all
- 9     practice restrictions placed on the licensee by the board, the
- 10    board's telephone number, and an explanation of how the patient
- 11    can find further information on the licensee's probation on the
- 12    licensee's profile page on the board's online license information
- 13    Internet Web site, to a patient or the patient's guardian or health
- 14    care surrogate before the patient's first visit following the

1 *probationary order while the licensee is on probation pursuant to*  
2 *a probationary order made on and after July 1, 2019.*

3 *(b) A licensee required to provide a disclosure pursuant to*  
4 *subdivision (a) shall obtain from the patient, or the patient's*  
5 *guardian or health care surrogate, a separate, signed copy of that*  
6 *disclosure.*

7 *(c) A licensee shall not be required to provide a disclosure*  
8 *pursuant to subdivision (a) if any of the following applies:*

9 *(1) The patient is unconscious or otherwise unable to*  
10 *comprehend the disclosure and sign the copy of the disclosure*  
11 *pursuant to subdivision (b) and a guardian or health care surrogate*  
12 *is unavailable to comprehend the disclosure and sign the copy.*

13 *(2) The visit occurs in an emergency room or an urgent care*  
14 *facility or the visit is unscheduled, including consultations in*  
15 *inpatient facilities.*

16 *(3) The licensee who will be treating the patient during the visit*  
17 *is not known to the patient until immediately prior to the start of*  
18 *the visit.*

19 *(4) The licensee does not have a direct treatment relationship*  
20 *with the patient.*

21 *(d) On and after July 1, 2019, the board shall provide the*  
22 *following information, with respect to licensees on probation and*  
23 *licensees practicing under probationary licenses, in plain view on*  
24 *the licensee's profile page on the board's online license*  
25 *information Internet Web site.*

26 *(1) For probation imposed pursuant to a stipulated settlement,*  
27 *the causes alleged in the operative accusation along with a*  
28 *designation identifying those causes by which the licensee has*  
29 *expressly admitted guilt and a statement that acceptance of the*  
30 *settlement is not an admission of guilt.*

31 *(2) For probation imposed by an adjudicated decision of the*  
32 *board, the causes for probation stated in the final probationary*  
33 *order.*

34 *(3) For a licensee granted a probationary license, the causes*  
35 *by which the probationary license was imposed.*

36 *(4) The length of the probation and end date.*

37 *(5) All practice restrictions placed on the license by the board.*

38 *(e) "Board" for purposes of this section means the State Board*  
39 *of Chiropractic Examiners.*

1     *SEC. 3. Section 2228.1 is added to the Business and Professions*  
2     *Code, to read:*

3     2228.1. (a) *On and after July 1, 2019, except as otherwise*  
4     *provided in subdivision (c), the board shall require a licensee to*  
5     *provide a separate disclosure that includes the licensee's probation*  
6     *status, the length of the probation and the probation end date, all*  
7     *practice restrictions placed on the licensee by the board, the*  
8     *board's telephone number, and an explanation of how the patient*  
9     *can find further information on the licensee's probation on the*  
10    *licensee's profile page on the board's online license information*  
11    *Internet Web site, to a patient or the patient's guardian or health*  
12    *care surrogate before the patient's first visit following the*  
13    *probationary order while the licensee is on probation pursuant to*  
14    *a probationary order made on and after July 1, 2019.*

15    (b) *A licensee required to provide a disclosure pursuant to*  
16    *subdivision (a) shall obtain from the patient, or the patient's*  
17    *guardian or health care surrogate, a separate, signed copy of that*  
18    *disclosure.*

19    (c) *A licensee shall not be required to provide a disclosure*  
20    *pursuant to subdivision (a) if any of the following applies:*

21    (1) *The patient is unconscious or otherwise unable to*  
22    *comprehend the disclosure and sign the copy of the disclosure*  
23    *pursuant to subdivision (b) and a guardian or health care surrogate*  
24    *is unavailable to comprehend the disclosure and sign the copy.*

25    (2) *The visit occurs in an emergency room or an urgent care*  
26    *facility or the visit is unscheduled, including consultations in*  
27    *inpatient facilities.*

28    (3) *The licensee who will be treating the patient during the visit*  
29    *is not known to the patient until immediately prior to the start of*  
30    *the visit.*

31    (4) *The licensee does not have a direct treatment relationship*  
32    *with the patient.*

33    (d) *On and after July 1, 2019, the board shall provide the*  
34    *following information, with respect to licensees on probation and*  
35    *licensees practicing under probationary licenses, in plain view on*  
36    *the licensee's profile page on the board's online license*  
37    *information Internet Web site.*

38    (1) *For probation imposed pursuant to a stipulated settlement,*  
39    *the causes alleged in the operative accusation along with a*  
40    *designation identifying those causes by which the licensee has*

1 expressly admitted guilt and a statement that acceptance of the  
2 settlement is not an admission of guilt.

3 (2) For probation imposed by an adjudicated decision of the  
4 board, the causes for probation stated in the final probationary  
5 order.

6 (3) For a licensee granted a probationary license, the causes  
7 by which the probationary license was imposed.

8 (4) The length of the probation and end date.

9 (5) All practice restrictions placed on the license by the board.

10 (e) Section 2314 shall not apply to this section.

11 SEC. 4. Section 2228.5 is added to the Business and Professions  
12 Code, to read:

13 2228.5. (a) On and after July 1, 2019, except as otherwise  
14 provided in subdivision (c), the board shall require a licensee to  
15 provide a separate disclosure that includes the licensee's probation  
16 status, the length of the probation and the probation end date, all  
17 practice restrictions placed on the licensee by the board, the  
18 board's telephone number, and an explanation of how the patient  
19 can find further information on the licensee's probation on the  
20 licensee's profile page on the board's online license information  
21 Internet Web site, to a patient or the patient's guardian or health  
22 care surrogate before the patient's first visit following the  
23 probationary order while the licensee is on probation pursuant to  
24 a probationary order made on and after July 1, 2019.

25 (b) A licensee required to provide a disclosure pursuant to  
26 subdivision (a) shall obtain from the patient, or the patient's  
27 guardian or health care surrogate, a separate, signed copy of that  
28 disclosure.

29 (c) A licensee shall not be required to provide a disclosure  
30 pursuant to subdivision (a) if any of the following applies:

31 (1) The patient is unconscious or otherwise unable to  
32 comprehend the disclosure and sign the copy of the disclosure  
33 pursuant to subdivision (b) and a guardian or health care surrogate  
34 is unavailable to comprehend the disclosure and sign the copy.

35 (2) The visit occurs in an emergency room or an urgent care  
36 facility or the visit is unscheduled, including consultations in  
37 inpatient facilities.

38 (3) The licensee who will be treating the patient during the visit  
39 is not known to the patient until immediately prior to the start of  
40 the visit.



1 (4) The licensee does not have a direct treatment relationship  
2 with the patient.

3 (d) On and after July 1, 2019, the board shall provide the  
4 following information, with respect to licensees on probation and  
5 licensees practicing under probationary licenses, in plain view on  
6 the licensee's profile page on the board's online license  
7 information Internet Web site.

8 (1) For probation imposed pursuant to a stipulated settlement,  
9 the causes alleged in the operative accusation along with a  
10 designation identifying those causes by which the licensee has  
11 expressly admitted guilt and a statement that acceptance of the  
12 settlement is not an admission of guilt.

13 (2) For probation imposed by an adjudicated decision of the  
14 board, the causes for probation stated in the final probationary  
15 order.

16 (3) For a licensee granted a probationary license, the causes  
17 by which the probationary license was imposed.

18 (4) The length of the probation and end date.

19 (5) All practice restrictions placed on the license by the board.

20 (e) Section 2314 shall not apply to this section.

21 (f) For purposes of this section:

22 (1) "Board" means the California Board of Podiatric Medicine.

23 (2) "Licensee" means a person licensed by the California Board  
24 of Podiatric Medicine.

25 SEC. 5. Section 2459.4 is added to the Business and Professions  
26 Code, to read:

27 2459.4. (a) On and after July 1, 2019, except as otherwise  
28 provided in subdivision (c), the board shall require a licensee to  
29 provide a separate disclosure that includes the licensee's probation  
30 status, the length of the probation and the probation end date, all  
31 practice restrictions placed on the licensee by the board, the  
32 board's telephone number, and an explanation of how the patient  
33 can find further information on the licensee's probation on the  
34 licensee's profile page on the board's online license information  
35 Internet Web site, to a patient or the patient's guardian or health  
36 care surrogate before the patient's first visit following the  
37 probationary order while the licensee is on probation pursuant to  
38 a probationary order made on and after July 1, 2019.

39 (b) A licensee required to provide a disclosure pursuant to  
40 subdivision (a) shall obtain from the patient, or the patient's

1 guardian or health care surrogate, a separate, signed copy of that  
2 disclosure.

3 (c) A licensee shall not be required to provide a disclosure  
4 pursuant to subdivision (a) if any of the following applies:

5 (1) The patient is unconscious or otherwise unable to  
6 comprehend the disclosure and sign the copy of the disclosure  
7 pursuant to subdivision (b) and a guardian or health care surrogate  
8 is unavailable to comprehend the disclosure and sign the copy.

9 (2) The visit occurs in an emergency room or an urgent care  
10 facility or the visit is unscheduled, including consultations in  
11 inpatient facilities.

12 (3) The licensee who will be treating the patient during the visit  
13 is not known to the patient until immediately prior to the start of  
14 the visit.

15 (4) The licensee does not have a direct treatment relationship  
16 with the patient.

17 (d) On and after July 1, 2019, the board shall provide the  
18 following information, with respect to licensees on probation and  
19 licensees practicing under probationary licenses, in plain view on  
20 the licensee's profile page on the board's online license  
21 information Internet Web site.

22 (1) For probation imposed pursuant to a stipulated settlement,  
23 the causes alleged in the operative accusation along with a  
24 designation identifying those causes by which the licensee has  
25 expressly admitted guilt and a statement that acceptance of the  
26 settlement is not an admission of guilt.

27 (2) For probation imposed by an adjudicated decision of the  
28 board, the causes for probation stated in the final probationary  
29 order.

30 (3) For a licensee granted a probationary license, the causes  
31 by which the probationary license was imposed.

32 (4) The length of the probation and end date.

33 (5) All practice restrictions placed on the license by the board.

34 (e) A violation of this section shall not be punishable as a crime.

35 (f) For purposes of this section:

36 (1) "Board" means the Osteopathic Medical Board of  
37 California.

38 (2) "Licensee" means a person licensed by the Osteopathic  
39 Medical Board of California.

1     *SEC. 6. Section 3663.5 is added to the Business and Professions*  
2     *Code, to read:*

3     3663.5. (a) *On and after July 1, 2019, except as otherwise*  
4     *provided in subdivision (c), the committee shall require a licensee*  
5     *to provide a separate disclosure that includes the licensee's*  
6     *probation status, the length of the probation and the probation*  
7     *end date, all practice restrictions placed on the licensee by the*  
8     *committee, the committee's telephone number, and an explanation*  
9     *of how the patient can find further information on the licensee's*  
10    *probation on the licensee's profile page on the committee's online*  
11    *license information Internet Web site, to a patient or the patient's*  
12    *guardian or health care surrogate before the patient's first visit*  
13    *following the probationary order while the licensee is on probation*  
14    *pursuant to a probationary order made on and after July 1, 2019.*

15    (b) *A licensee required to provide a disclosure pursuant to*  
16    *subdivision (a) shall obtain from the patient, or the patient's*  
17    *guardian or health care surrogate, a separate, signed copy of that*  
18    *disclosure.*

19    (c) *A licensee shall not be required to provide a disclosure*  
20    *pursuant to subdivision (a) if any of the following applies:*

21    (1) *The patient is unconscious or otherwise unable to*  
22    *comprehend the disclosure and sign the copy of the disclosure*  
23    *pursuant to subdivision (b) and a guardian or health care surrogate*  
24    *is unavailable to comprehend the disclosure and sign the copy.*

25    (2) *The visit occurs in an emergency room or an urgent care*  
26    *facility or the visit is unscheduled, including consultations in*  
27    *inpatient facilities.*

28    (3) *The licensee who will be treating the patient during the visit*  
29    *is not known to the patient until immediately prior to the start of*  
30    *the visit.*

31    (4) *The licensee does not have a direct treatment relationship*  
32    *with the patient.*

33    (d) *On and after July 1, 2019, the committee shall provide the*  
34    *following information, with respect to licensees on probation and*  
35    *licensees practicing under probationary licenses, in plain view on*  
36    *the licensee's profile page on the committee's online license*  
37    *information Internet Web site.*

38    (1) *For probation imposed pursuant to a stipulated settlement,*  
39    *the causes alleged in the operative accusation along with a*  
40    *designation identifying those causes by which the licensee has*

1 expressly admitted guilt and a statement that acceptance of the  
2 settlement is not an admission of guilt.

3 (2) For probation imposed by an adjudicated decision of the  
4 committee, the causes for probation stated in the final probationary  
5 order.

6 (3) For a licensee granted a probationary license, the causes  
7 by which the probationary license was imposed.

8 (4) The length of the probation and end date.

9 (5) All practice restrictions placed on the license by the  
10 committee.

11 (e) A violation of this section shall not be punishable as a crime.

12 SEC. 7. Section 4962 is added to the Business and Professions  
13 Code, to read:

14 4962. (a) On and after July 1, 2019, except as otherwise  
15 provided in subdivision (c), the board shall require a licensee to  
16 provide a separate disclosure that includes the licensee's probation  
17 status, the length of the probation and the probation end date, all  
18 practice restrictions placed on the licensee by the board, the  
19 board's telephone number, and an explanation of how the patient  
20 can find further information on the licensee's probation on the  
21 licensee's profile page on the board's online license information  
22 Internet Web site, to a patient or the patient's guardian or health  
23 care surrogate before the patient's first visit following the  
24 probationary order while the licensee is on probation pursuant to  
25 a probationary order made on and after July 1, 2019.

26 (b) A licensee required to provide a disclosure pursuant to  
27 subdivision (a) shall obtain from the patient, or the patient's  
28 guardian or health care surrogate, a separate, signed copy of that  
29 disclosure.

30 (c) A licensee shall not be required to provide a disclosure  
31 pursuant to subdivision (a) if any of the following applies:

32 (1) The patient is unconscious or otherwise unable to  
33 comprehend the disclosure and sign the copy of the disclosure  
34 pursuant to subdivision (b) and a guardian or health care surrogate  
35 is unavailable to comprehend the disclosure and sign the copy.

36 (2) The visit occurs in an emergency room or an urgent care  
37 facility or the visit is unscheduled, including consultations in  
38 inpatient facilities.

1 (3) *The licensee who will be treating the patient during the visit*  
2 *is not known to the patient until immediately prior to the start of*  
3 *the visit.*

4 (4) *The licensee does not have a direct treatment relationship*  
5 *with the patient.*

6 (d) *On and after July 1, 2019, the board shall provide the*  
7 *following information, with respect to licensees on probation and*  
8 *licensees practicing under probationary licenses, in plain view on*  
9 *the licensee's profile page on the board's online license*  
10 *information Internet Web site.*

11 (1) *For probation imposed pursuant to a stipulated settlement,*  
12 *the causes alleged in the operative accusation along with a*  
13 *designation identifying those causes by which the licensee has*  
14 *expressly admitted guilt and a statement that acceptance of the*  
15 *settlement is not an admission of guilt.*

16 (2) *For probation imposed by an adjudicated decision of the*  
17 *board, the causes for probation stated in the final probationary*  
18 *order.*

19 (3) *For a licensee granted a probationary license, the causes*  
20 *by which the probationary license was imposed.*

21 (4) *The length of the probation and end date.*

22 (5) *All practice restrictions placed on the license by the board.*

23 (e) *A violation of this section shall not be punishable as a crime.*

24 SECTION 1. ~~Section 11600 of the Health and Safety Code is~~  
25 ~~amended to read:~~

26 ~~11600. The Attorney General, the Board of Pharmacy, the~~  
27 ~~Medical Board of California, the Osteopathic Medical Board of~~  
28 ~~California, and other agencies shall carry out educational programs~~  
29 ~~designed to prevent and deter misuse and abuse of controlled~~  
30 ~~substances. In connection with these programs, the Attorney~~  
31 ~~General may do all of the following:~~

32 ~~(a) Promote better recognition of the problems of misuse and~~  
33 ~~abuse of controlled substances within the regulated industry and~~  
34 ~~among interested groups and organizations.~~

35 ~~(b) Assist the regulated industry and interested groups and~~  
36 ~~organizations in contributing to the reduction of misuse and abuse~~  
37 ~~of controlled substances.~~

38 ~~(c) Consult with interested groups and organizations to aid~~  
39 ~~them in solving administrative and organizational problems.~~

1     ~~(d) Assist in the education and training of state and local law~~  
2     ~~enforcement officials in their efforts to control misuse and abuse~~  
3     ~~of controlled substances.~~

O

## **AB 2138 (Chiu) Denial of application: revocation or suspension of licensure; criminal conviction**

Board of Chiropractic Bill Analysis will be provided as a supplemental handout at the Board meeting.

AMENDED IN ASSEMBLY MAY 25, 2018

AMENDED IN ASSEMBLY APRIL 2, 2018

CALIFORNIA LEGISLATURE—2017–18 REGULAR SESSION

**ASSEMBLY BILL**

**No. 2138**

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**Introduced by Assembly Members Chiu and Low**

February 12, 2018

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An act to amend Sections 7.5, 480, 481, 482, 488, 490, 492, 493, 499, and 11345.2 of, *and* to add Section 481.5 to, ~~and to repeal Section 490.5 of,~~ the Business and Professions Code, relating to professions and vocations.

LEGISLATIVE COUNSEL'S DIGEST

AB 2138, as amended, Chiu. Licensing boards: denial of application: revocation or suspension of licensure: criminal conviction.

Existing law provides for the licensure and regulation of various professions and vocations by boards within the Department of Consumer Affairs. Existing law authorizes a board to deny, suspend, or revoke a license or take disciplinary action against a licensee on the grounds that the applicant or licensee has, among other things, been convicted of a crime, as specified. Existing law provides that a person shall not be denied a license solely on the basis that the person has been convicted of a felony if he or she has obtained a certificate of rehabilitation or that the person has been convicted of a misdemeanor if he or she has met applicable requirements of rehabilitation developed by the board, as specified. Existing law also prohibits a person from being denied a license solely on the basis of a conviction that has been dismissed, as specified. Existing law requires a board to develop criteria to aid it when considering the denial, suspension, or revocation of a license to



determine whether a crime is substantially related to the qualifications, functions, or duties of the business or profession the board regulates and requires a board to develop criteria to evaluate the rehabilitation of a person when considering the denial, suspension, or revocation of a license.

This bill would revise and recast those provisions to instead authorize a board to, among other things, deny, revoke, or suspend a license on the grounds that the applicant or licensee has been convicted of a crime only if the applicant or licensee is presently incarcerated or if the conviction, as defined, occurred within the preceding 5 years, except for violent felonies, and would require the crime to be directly and adversely related to the qualifications, functions, or duties of the business or profession. The bill would prohibit a board from denying a person a license based on the conviction of a crime, or on the basis of acts underlying a conviction for a crime, if the conviction has been dismissed or expunged, if the person has made a showing of rehabilitation, if the person has been granted clemency or a pardon, or if an arrest resulted in a disposition other than a conviction. The bill would provide that these provisions relating to denial, revocation, or suspension of a license would supersede contradictory provisions in specified existing law.

The bill would require the board to develop criteria for determining whether a crime is directly and adversely related to the qualifications, functions, or duties of the business or profession. The bill would require a board to find that a person has made a showing of rehabilitation if certain conditions are met. The bill would require a board to follow certain procedures when requesting or acting on an applicant's or licensee's criminal history information. The bill would also require a board to annually submit a report to the Legislature and post the report on its Internet Web site containing specified deidentified information regarding actions taken by a board based on an applicant or licensee's criminal history information.

Existing law authorizes a board to deny a license on the grounds that an applicant knowingly made a false statement of fact that is required to be revealed in the application for licensure.

This bill would prohibit a board from denying a license based solely on an applicant's failure to disclose a fact that would not have been cause for denial of the license had the fact been disclosed.

~~Existing law authorizes a board to suspend a license if a licensee is not in compliance with a child support order or judgment.~~

~~This bill would repeal that authorization.~~

Existing law authorizes specified agencies to take disciplinary action against a licensee or deny a license for professional misconduct if the licensee has successfully completed certain diversion programs or alcohol and drug problem assessment programs.

This bill would instead prohibit a board from taking disciplinary action against a licensee or denying a license for professional misconduct if the licensee has successfully completed certain diversion programs or alcohol and drug problem assessment programs or deferred entry of judgment.

Existing law authorizes a board after a specified hearing requested by an applicant for licensure to take various actions, including imposing probationary conditions on the license.

This bill would additionally authorize a board to grant the license and immediately issue a public reapproval. The bill would limit probationary terms or restrictions placed on a license by a board to 2 years or less and would authorize additional conditions to be imposed only if the board determines that there is clear and convincing evidence that additional conditions are necessary to address a risk shown by clear and convincing evidence. The bill would require a board to develop criteria to aid it in considering the imposition of probationary conditions and to determine what conditions may be imposed. The bill would authorize a licensee or registrant whose license or registration has been placed on probation to petition the board for a change to that probation one year from the effective date of the board's decision, would require the board to issue a decision on the petition within 90 days, and would deem the petition granted if the board does not file a decision denying the petition within 90 days.

This bill would also make necessary conforming changes.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

- 1 SECTION 1. Section 7.5 of the Business and Professions Code
- 2 is amended to read:
- 3 7.5. (a) A conviction within the meaning of this code means
- 4 a judgment following a plea or verdict of guilty or a plea of nolo
- 5 contendere or finding of guilt. Any action which a board is
- 6 permitted to take following the establishment of a conviction may
- 7 be taken when the time for appeal has elapsed, or the judgment of

1 conviction has been affirmed on appeal or when an order granting  
2 probation is made suspending the imposition of sentence. However,  
3 a board may not deny a license to an applicant who is otherwise  
4 qualified pursuant to subdivision (b) or (c) of Section 480.

5 (b) Nothing in this section shall apply to the licensure of persons  
6 pursuant to Chapter 4 (commencing with Section 6000) of Division  
7 3.

8 (c) Except as provided in subdivision (b), this section controls  
9 over and supersedes the definition of conviction contained within  
10 individual practice acts under this code.

11 SEC. 2. Section 480 of the Business and Professions Code is  
12 amended to read:

13 480. (a) (1) Notwithstanding any other provision of this code,  
14 a board may deny a license regulated by this code on the grounds  
15 that the applicant has been convicted of a crime or has been subject  
16 to formal discipline only if either of the following conditions are  
17 met:

18 (A) The applicant has been convicted of a crime for which the  
19 applicant is presently incarcerated or for which the conviction  
20 occurred within the preceding five years. However, the preceding  
21 five year limitation shall not apply to a conviction for a violent  
22 felony, as defined in Section 667.5 of the Penal Code.

23 The board may deny a license pursuant to this subparagraph only  
24 if the crime is directly and adversely related to the qualifications,  
25 functions, or duties of the business or profession for which  
26 application is made.

27 (B) The applicant has been subjected to formal discipline by a  
28 licensing board within the preceding five years based on  
29 professional misconduct that would have been cause for discipline  
30 before the board for which the present application is made and that  
31 is directly and adversely related to the qualifications, functions,  
32 or duties of the business or profession for which the present  
33 application is made. However, prior disciplinary action by a  
34 licensing board within the preceding five years shall not be the  
35 basis for denial of a license if the basis for that disciplinary action  
36 was a conviction that has been dismissed pursuant to Section  
37 1203.4, 1203.4a, or 1203.41 of the Penal Code or a comparable  
38 dismissal or expungement.

39 (2) Denial of a license includes denial of an unrestricted license  
40 by issuance of a restricted or probationary license.

1 (b) Notwithstanding any other provision of this code, a person  
2 shall not be denied a license on the basis that he or she has been  
3 convicted of a crime, or on the basis of acts underlying a conviction  
4 for a crime, if he or she has obtained a certificate of rehabilitation  
5 under Chapter 3.5 (commencing with Section 4852.01) of Title 6  
6 of Part 3 of the Penal Code, has been granted clemency or a pardon  
7 by a state or federal executive, or has made a showing of  
8 rehabilitation pursuant to Section 482.

9 (c) Notwithstanding any other provision of this code, a person  
10 shall not be denied a license on the basis of any conviction, or on  
11 the basis of the acts underlying the conviction, that has been  
12 dismissed pursuant to Section 1203.4, 1203.4a, or 1203.41 of the  
13 Penal Code, or a comparable dismissal or expungement. An  
14 applicant who has a conviction that has been dismissed pursuant  
15 to Section 1203.4, 1203.4a, 1203.41, or 1203.42 of the Penal Code  
16 shall provide proof of the dismissal if it is not reflected on the  
17 report furnished by the Department of Justice.

18 (d) Notwithstanding any other provision of this code, a board  
19 shall not deny a license on the basis of an arrest that resulted in a  
20 disposition other than a conviction, including an arrest that resulted  
21 in an infraction, citation, or a juvenile adjudication.

22 (e) A board may deny a license regulated by this code on the  
23 ground that the applicant knowingly made a false statement of fact  
24 that is required to be revealed in the application for the license. A  
25 board shall not deny a license based solely on an applicant's failure  
26 to disclose a fact that would not have been cause for denial of the  
27 license had it been disclosed.

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

30 (1) A board shall not require an applicant for licensure to  
31 disclose any information or documentation regarding the  
32 applicant's criminal history.

33 (2) If a board decides to deny an application based solely or in  
34 part on the applicant's conviction history, the board shall notify  
35 the applicant in writing of all of the following:

36 (A) The denial or disqualification of licensure.

37 (B) Any existing procedure the board has for the applicant to  
38 challenge the decision or to request reconsideration.

39 (C) That the applicant has the right to appeal the board's  
40 decision.

1 (D) The processes for the applicant to request a copy of his or  
2 her complete conviction history and question the accuracy or  
3 completeness of the record pursuant to Sections 11122 to 11127  
4 of the Penal Code.

5 (g) (1) For a minimum of three years, each board under this  
6 code shall retain application forms and other documents submitted  
7 by an applicant, any notice provided to an applicant, all other  
8 communications received from and provided to an applicant, and  
9 criminal history reports of an applicant.

10 (2) Each board under this code shall retain the number of  
11 applications received for each license and the number of  
12 applications requiring inquiries regarding criminal history. In  
13 addition, each licensing authority shall retain all of the following  
14 information:

15 (A) The number of applicants with a criminal record who  
16 received notice of denial or disqualification of licensure.

17 (B) The number of applicants with a criminal record who  
18 provided evidence of mitigation or rehabilitation.

19 (C) The number of applicants with a criminal record who  
20 appealed any denial or disqualification of licensure.

21 (D) The final disposition and demographic information,  
22 including, but not limited to, voluntarily provided information on  
23 race or gender, of any applicant described in subparagraph (A),  
24 (B), or (C).

25 (3) (A) Each board under this code shall annually make  
26 available to the public through the board's Internet Web site and  
27 through a report submitted to the appropriate policy committees  
28 of the Legislature deidentified information collected pursuant to  
29 this subdivision. Each board shall ensure confidentiality of the  
30 individual applicants.

31 (B) A report pursuant to subparagraph (A) shall be submitted  
32 in compliance with Section 9795 of the Government Code.

33 (h) "Conviction" as used in this section shall have the same  
34 meaning as defined in Section 7.5.

35 (i) This section supersedes any contradictory provision in a  
36 licensing act under this code or initiative act referred to in Division  
37 2 (commencing with Section 500) that authorizes license denial  
38 based on a criminal conviction, arrest, or the acts underlying an  
39 arrest or conviction.

1 SEC. 3. Section 481 of the Business and Professions Code is  
2 amended to read:

3 481. (a) Each board under this code shall develop criteria to  
4 aid it, when considering the denial, suspension, or revocation of  
5 a license, to determine whether a crime is directly and adversely  
6 related to the qualifications, functions, or duties of the business or  
7 profession it regulates.

8 (b) Criteria for determining whether a crime is directly and  
9 adversely related to the qualifications, functions, or duties of the  
10 business or profession a board regulates shall include all of the  
11 following:

12 (1) The nature and gravity of the offense.

13 (2) The number of years elapsed since the date of the offense.

14 (3) The nature and duties of the profession in which the applicant  
15 seeks licensure or in which the licensee is licensed.

16 (c) A board shall not deny a license based in whole or in part  
17 on a conviction without considering evidence of rehabilitation.

18 (d) Each board shall post on its Internet Web site a summary of  
19 the criteria used to consider whether a crime is considered to be  
20 directly and adversely related to the qualifications, functions, or  
21 duties of the business or profession it regulates consistent with this  
22 section.

23 SEC. 4. Section 481.5 is added to the Business and Professions  
24 Code, to read:

25 481.5. (a) Probationary terms or restrictions placed on a license  
26 by a board shall be limited to two years or less. Any additional  
27 conditions may be imposed only if the board determines that there  
28 is clear and convincing evidence that additional conditions are  
29 necessary to address a risk shown by clear and convincing  
30 evidence.

31 (b) Each board under this code shall develop criteria to aid it  
32 when considering the imposition of probationary conditions or  
33 restrictions to determine what conditions may be imposed to  
34 address a risk shown by clear and convincing evidence.

35 (c) (1) A licensee or registrant whose license or registration  
36 has been placed on probation may petition the board for a change  
37 to the probation, including modification or termination of  
38 probation, one year from the effective date of the decision. The  
39 board shall issue its decision on the petition within 90 days of  
40 submission of the petition. The petition shall be deemed granted

1 by operation of law if the board does not file a decision denying  
2 the petition within 90 days of submission of the petition.

3 (2) The one-year time period to petition for modification or  
4 termination of penalty shall control over longer time periods under  
5 a licensing act under this code or initiative act referred to in  
6 Division 2 (commencing with Section 500).

7 SEC. 5. Section 482 of the Business and Professions Code is  
8 amended to read:

9 482. (a) Each board under this code shall develop criteria to  
10 evaluate the rehabilitation of a person when doing either of the  
11 following:

12 (1) Considering the denial of a license by the board under  
13 Section 480.

14 (2) Considering suspension or revocation of a license under  
15 Section 490.

16 (b) Each board shall find that an applicant or licensee has made  
17 a showing of rehabilitation if any of the following are met:

18 (1) The applicant or licensee has completed the criminal  
19 sentence at issue without a violation of parole or probation.

20 (2) (A) The applicant or licensee documents that he or she has  
21 worked in a related field continuously for at least one year prior  
22 to licensure or successfully completed a course of training in a  
23 related field, unless the board finds a public record of an official  
24 finding that the applicant committed professional misconduct in  
25 the course of that work.

26 (B) Work in a related field may include, but is not limited to,  
27 work performed without compensation and work performed while  
28 incarcerated.

29 (C) "Related field," for purposes of this paragraph, means a  
30 field of employment whose duties are substantially similar to the  
31 field regulated by the board.

32 (3) The applicant or licensee has satisfied criteria for  
33 rehabilitation developed by the board.

34 SEC. 6. Section 488 of the Business and Professions Code is  
35 amended to read:

36 488. Except as otherwise provided by law, following a hearing  
37 requested by an applicant pursuant to subdivision (b) of Section  
38 485, the board may take any of the following actions:

39 (a) Grant the license effective upon completion of all licensing  
40 requirements by the applicant.

1 (b) Grant the license effective upon completion of all licensing  
2 requirements by the applicant, grant the license and immediately  
3 issue a public reproof pursuant to Section 495, immediately revoke  
4 the license, stay the revocation, and impose probationary conditions  
5 on the license, which may include suspension.

6 (c) Deny the license.

7 (d) Take other action in relation to denying or granting the  
8 license as the board in its discretion may deem proper.

9 SEC. 7. Section 490 of the Business and Professions Code is  
10 amended to read:

11 490. (a) (1) In addition to any other action that a board is  
12 permitted to take against a licensee, a board may suspend or revoke  
13 a license on the ground that the licensee has been convicted of a  
14 crime for which the applicant is presently incarcerated or for which  
15 the conviction occurred within the preceding five years. However,  
16 the preceding five year limitation shall not apply to a conviction  
17 for a violent felony, as defined in Section 667.5 of the Penal Code.

18 (2) The board may suspend or revoke a license pursuant to this  
19 subdivision only if the crime is directly and adversely related to  
20 the qualifications, functions, or duties of the business or profession  
21 for which application is made.

22 (b) Notwithstanding any other provision of law, a board may  
23 exercise any authority to discipline a licensee for conviction of a  
24 crime that is independent of the authority granted under subdivision  
25 (a) only if both of the following are met:

26 (1) The crime is directly and adversely related to the  
27 qualifications, functions, or duties of the business or profession  
28 for which the licensee's license was issued.

29 (2) The licensee was convicted of the crime within the preceding  
30 five years or is presently incarcerated for the crime. However, the  
31 preceding five year limitation shall not apply to a conviction for  
32 a violent felony, as defined in Section 667.5 of the Penal Code.

33 (c) Notwithstanding any other provision of this code, a board  
34 shall not suspend or revoke a license on the basis of a conviction,  
35 or of the acts underlying a conviction, where that conviction has  
36 been dismissed pursuant to Section 1203.4, 1203.4a, 1203.41, or  
37 1203.42 of the Penal Code or a comparable dismissal or  
38 expungement.

39 (d) Notwithstanding any other provision of this code, a board  
40 shall not suspend or revoke a license on the basis of an arrest that



1 resulted in a disposition other than a conviction, including an arrest  
2 that resulted in an infraction, citation, or juvenile adjudication.

3 (e) The board shall use the following procedures in requesting  
4 or acting on a licensee's criminal history information:

5 (1) A board shall not require a licensee to disclose any  
6 information or documentation regarding the licensee's criminal  
7 history.

8 (2) If a board chooses to file an accusation against a licensee  
9 based solely or in part on the licensee's conviction history, the  
10 board shall notify the licensee in writing of the processes for the  
11 licensee to request a copy of the licensee's complete conviction  
12 history and question the accuracy or completeness of his or her  
13 criminal record pursuant to Sections 11122 to 11127, inclusive,  
14 of the Penal Code.

15 (f) (1) For a minimum of three years, each board under this  
16 code shall retain all documents submitted by a licensee, notices  
17 provided to a licensee, all other communications received from or  
18 provided to a licensee, and criminal history reports of a licensee.

19 (2) Each board under this code shall retain all of the following  
20 information:

21 (A) The number of licensees with a criminal record who received  
22 notice of potential revocation or suspension of their license or who  
23 had their license suspended or revoked.

24 (B) The number of licensees with a criminal record who  
25 provided evidence of mitigation or rehabilitation.

26 (C) The number of licensees with a criminal record who  
27 appealed any suspension or revocation of a license.

28 (D) The final disposition and demographic information,  
29 including, but not limited to, voluntarily provided information on  
30 race or gender, of any applicant described in subparagraph (A),  
31 (B), or (C).

32 (3) (A) Each board under this code shall annually make  
33 available to the public through the board's Internet Web site and  
34 through a report submitted to the appropriate policy committees  
35 of the Legislature deidentified information collected pursuant to  
36 this subdivision. Each board shall ensure the confidentiality of the  
37 individual licensees.

38 (B) A report pursuant to subparagraph (A) shall be submitted  
39 in compliance with Section 9795 of the Government Code.

1 (g) (1) This section supersedes any contradictory provision in  
2 a licensing act under this code or initiative act referred to in  
3 Division 2 (commencing with Section 500) that authorizes action  
4 based on a criminal conviction, arrest, or the acts underlying an  
5 arrest or conviction.

6 (2) This section shall not prohibit any agency from taking  
7 disciplinary action against a licensee for professional misconduct  
8 in the course and scope of the licensee's profession that is based  
9 on evidence that is independent of an arrest.

10 ~~SEC. 8. Section 490.5 of the Business and Professions Code~~  
11 ~~is repealed.~~

12 ~~SEC. 9.~~

13 *SEC. 8.* Section 492 of the Business and Professions Code is  
14 amended to read:

15 492. (a) Notwithstanding any other provision of law, successful  
16 completion of any diversion program under the Penal Code,  
17 successful completion by a licensee or applicant of any  
18 nonstatutory diversion program, deferred entry of judgment, or  
19 successful completion of an alcohol and drug problem assessment  
20 program under Article 5 (commencing with Section 23249.50) of  
21 Chapter 12 of Division 11 of the Vehicle Code, shall prohibit any  
22 board from taking disciplinary action against a licensee or from  
23 denying a license for professional misconduct.

24 (b) This section shall not prohibit any agency established under  
25 Division 2 (commencing with Section 500) of this code, or any  
26 initiative act referred to in that division, from taking disciplinary  
27 action against a licensee for professional misconduct in the course  
28 and scope of the profession, which is based on evidence that is  
29 independent of an arrest.

30 ~~SEC. 10.~~

31 *SEC. 9.* Section 493 of the Business and Professions Code is  
32 amended to read:

33 493. (a) Notwithstanding any other provision of law, in a  
34 proceeding conducted by a board within the department pursuant  
35 to law to deny an application for a license or to suspend or revoke  
36 a license or otherwise take disciplinary action against a person  
37 who holds a license, upon the ground that the applicant or the  
38 licensee has been convicted of a crime directly and adversely  
39 related to the qualifications, functions, and duties of the licensee  
40 in question, the record of conviction of the crime shall be

1 conclusive evidence of the fact that the conviction occurred, but  
2 only of that fact.

3 (b) (1) Criteria for determining whether a crime is directly and  
4 adversely related to the qualifications, functions, or duties of the  
5 business or profession the board regulates shall include all of the  
6 following:

- 7 (A) The nature and gravity of the offense.
- 8 (B) The number of years elapsed since the date of the offense.
- 9 (C) The nature and duties of the profession.

10 (2) A board shall not categorically bar an applicant based solely  
11 on the type of conviction without considering evidence of  
12 rehabilitation.

13 (c) As used in this section, “license” includes “certificate,”  
14 “permit,” “authority,” and “registration.”

15 ~~SEC. 11. Section 1005 of the Business and Professions Code~~  
16 ~~is amended to read:~~

17 ~~1005. The provisions of Sections 12.5, 23.9, 29.5, 30, 31, 35,~~  
18 ~~104, 114, 115, 119, 121, 121.5, 125, 125.6, 136, 137, 140, 141,~~  
19 ~~143, 163.5, 461, 462, 475, 480, 484, 485, 487, 489, 490, 491, 494,~~  
20 ~~495, 496, 498, 499, 510, 511, 512, 701, 702, 703, 704, 710, 716,~~  
21 ~~730.5, 731, and 851 are applicable to persons licensed by the State~~  
22 ~~Board of Chiropractic Examiners under the Chiropractic Act.~~

23 ~~SEC. 12.~~

24 ~~SEC. 10. Section 11345.2 of the Business and Professions Code~~  
25 ~~is amended to read:~~

26 11345.2. (a) An individual shall not act as a controlling person  
27 for a registrant if any of the following apply:

28 (1) The individual has entered a plea of guilty or no contest to,  
29 or been convicted of, a felony. If the individual’s felony conviction  
30 has been dismissed pursuant to Section 1203.4, 1203.4a, or 1203.41  
31 of the Penal Code, the bureau may allow the individual to act as  
32 a controlling person.

33 (2) The individual has had a license or certificate to act as an  
34 appraiser or to engage in activities related to the transfer of real  
35 property refused, denied, canceled, or revoked in this state or any  
36 other state.

37 (b) Any individual who acts as a controlling person of an  
38 appraisal management company and who enters a plea of guilty  
39 or no contest to, or is convicted of, a felony, or who has a license  
40 or certificate as an appraiser refused, denied, canceled, or revoked

- 1 in any other state shall report that fact or cause that fact to be
- 2 reported to the office, in writing, within 10 days of the date he or
- 3 she has knowledge of that fact.

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State of California  
Edmund G. Brown Jr., Governor

Agenda Item 17  
June 5, 2018

## Update, Discussion and Possible Action on Pending Rulemaking

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### **Purpose of the item**

The Board will receive a status update on pending regulatory proposals.

### **Action(s) requested**

No action requested at this time.

### **Background**

The Board currently has nine regulatory proposals in various stages of completion.

### **Recommendation(s)**

No recommendations at this time.

### **Next Step**

N/A

### **Attachment(s)**

1. BCE regulation tracking sheet
2. BCE regulation summary sheet

## BCE List of Prioritized Proposed Regulatory Changes

### Group A – Legislatively Mandated

### Status

1	Application for Licensure (CCR Section 321)	May 1, 2017 the Board received a disapproval letter from OAL and was granted a second extension in December 2017. Package was submitted to OAL on 4/25/18 for approval. OAL has until 6/4/18 to provide the Board with a response.
2	Consumer Protection Enforcement Initiative	Rulemaking was submitted to DCA for initial review on 9/7/17. Package is currently with legal.
3	Revisions to BCE Disciplinary Guidelines & Uniform Standards for Substance Abusing Licensees	Package under development at the Board.

### Group B

### Status

1	Delegation of Authority to the Assistant Executive Officer	Rulemaking was submitted to DCA for initial review on 9/7/17. Package is currently with legal.
3	Mandatory Cardiopulmonary Resuscitation (CPR) Certification for all licensees	Package under development at the Board.
4	Comprehensive Revisions/Updates to CCR Article 4 (Sections 330 – 331.16) – Approved Schools & Qualifications of Applicants (Curriculum Requirements)	Licensing Committee is working with stakeholders to develop this package. Chiropractic Colleges have submitted recommended changes regarding this regulatory proposal.

### Group C

### Status

1	Chiropractic Records Retention/Disposition of Patient Records Upon Closure of Practice or Death/Incapacity of Licensee	Approved rulemaking process 4/16/15
2	Continuing Education Requirements (CE Provider and Course Approval)	Package under development at the Board. Committee is currently working through policy issues regarding this regulatory proposal.
3	Amend or Repeal CCR Section 354 - Successful Examination (Obsolete provision)	Rulemaking not yet started

## BCE List of Prioritized Proposed Regulatory Changes

<b>Proposed Regulation</b>	<b>Proposed Change(s)</b>
Application for Licensure (CCR Section 321)	The BCE will amend the application for licensure to comply with new legislation which will assist agencies in identifying past or present members of the military and their spouses in order to expedite the licensure process for these individuals. Additionally, the regulation would amend the CE regulations for consistency with the provisions of BPC section 114.3 to waive renewal fees, continuing education requirements, and other requirements for active duty members of the U.S. military. Also, the regulation proposes to allow the Board to award up to 16 hours of CE credit to licensees who participate in the review and revision of the California Law and Professional Practices Examination.
Consumer Protection Enforcement Initiative	The proposed changes would add or amend 12 sections within the California Code of Regulations that would establish stricter reporting and disclosure requirements by licensees and applicants and increase the board's enforcement authority and access to critical information for use in investigations.
Uniform Standards for Substance Abusing Licensees	The BCE will need to review and possibly amended the SB 1441 Uniform Standards for Substance Abusing Licensees. Ultimately, the Uniform Standards will be incorporated by reference into the Board's Disciplinary Guidelines.
Delegation of Authority to the Assistant Executive Officer	The proposed regulation would delegate to the Board's Assistant Executive Officer the authority to approve settlement agreements for revocation, surrender, and interim suspension of a license, or allow the Executive Officer to delegate this function to another designee.
Revisions to BCE Disciplinary Guidelines	The BCE's Disciplinary Guidelines are being revised to streamline the enforcement process and provide greater protection to consumers.
Mandatory Cardiopulmonary Resuscitation (CPR) Certification for all licensees	The regulation will add a new section CCR 371.1 which would require as a condition of licensure and license renewal all licensees maintain current CPR certification or basic life support from specified entities approved by the Board. Also, a licensee may earn 2 hours of CE for completion of CPR/BLS course. The regulation would also make technical and clarifying amendments for consistency and clarity.
Comprehensive Revisions/Updates to CCR Article 4 (Sections 330 – 331.16) – Approved Schools & Qualifications of Applicants (Curriculum Requirements)	
Chiropractic Records Retention/Disposition of Patient Records Upon Closure of Practice or Death/Incapacity of Licensee (Amendment to CCR Sections 312.2 and 318)	
CE Requirements (CE Provider and Course Approval)	
Amend or Repeal CCR Section 354 - Successful Examination (Obsolete provision)	