BOARD of CHIROPRACTIC EXAMINERS
STATE OF CALIFORNIA

State of California
Edmund G. Brown Jr., Governor

NOTICE OF TELECONFERENCE
ENFORCEMENT COMMITTEE MEETING
January 12, 2016
1:30 p.m.

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 Enforcement Committee at each teleconference location. The public teleconference sites for this meeting are as follows:

Teleconference Meeting Locations:

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

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

Frank Ruffino, Public Member
Veterans Home of California
700 E. Naples Ct.
Chula Vista, CA 91911
(619) 482-6010

AGENDA

1. **Call to Order**

2. **Approval of Minutes**
   May 12, 2015

3. **Discussion and Possible Action Regarding Development of Consumer Complaint Brochure; Recommendation to Full Board**

4. **Discussion and Possible Action Regarding Proposal That Requires Licensees Post a Notice in Their Place of Practice Advising Consumers That They are Licensed by the Board of Chiropractic Examiners (Board) and How to Contact the Board; Recommendation to Full Board**

5. **Discussion and Possible Action Regarding Proposal to Require That Licensees who are on Probation with the Board to Provide Notice of License Status to Their Patients and Prospective Patients; Recommendation to Full Board**

6. **Discussion and Possible Action Regarding Proposal to Issue a Citation and Fine Specifically for Failure to Comply with Mandatory Continuing Education Requirements; Recommendation to Full Board**

7. **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 & 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

9. Adjournment

ENFORCEMENT COMMITTEE
Sergio Azzolino, D.C., Chair
Heather Dehn, D.C.
Frank Ruffino, Public Member

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.

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 Marlene Valencia at (916) 263-5355 ext. 5363 or e-mail marlene.valencia@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.

Agenda Item 2

BOARD of CHIROPRACTIC EXAMINERS
STATE OF CALIFORNIA

State of California
Edmund G. Brown Jr., Governor

Board of Chiropractic Examiners
TELECONFERENCE MEETING MINUTES
Enforcement Committee
May 12, 2015
901 P Street, Suite 142A
Sacramento, CA 95814

DRAFT

Committee Members Present
Sergio Azzolino, D.C., Chair
Heather Dehn, D.C.
Frank Ruffino

Staff Present
Robert Puleo, Executive Officer
Sandra Walker, Compliance Manager
Dixie Van Allen, Policy Associate Governmental Program Analyst
Spencer Walker, Attorney III
Rebecca Rust, Associate Governmental Program Analyst
Christina Bell, Associate Governmental Program Analyst

Public Present
Marcus McCarther, DCA Executive Office

Call to Order
Dr. Azzolino called the meeting to order at 1:07 p.m.

Roll Call
Dr. Dehn called the roll. Dr. Azzolino, Dr. Dehn and Mr. Ruffino were all present and located at the addresses posted on the Agenda.

Approval of March 13, 2015 Minutes

MOTION: DR. DEHN MOVED TO APPROVE THE MINUTES
SECOND: MR. RUFFINO SECONDED THE MOTION
VOTE: 3-0 (DR. AZZOLINO – AYE, DR DEHN - AYE, MR. RUFFINO – AYE)

MOTION CARRIED

Discussion and Possible Action Regarding Amendments to the Board of Chiropractic Examiners Disciplinary Guidelines
Mr. Puleo stated that the Board originally needed to adopt the SB 1441 Uniform Standards for Substance Abusing Licensees. The Board was incorporating this with the changes to our Disciplinary Guidelines; however, we recently received a legal opinion from the Department of Consumer Affairs' (DCA) Legal Division stating that adoption of regulations incorporating SB 1441 Standards are optional. Mr. Puleo recommended tabling this Agenda item until further clarification is received from DCA's legal counsel.

Dr. Azzolino asked if the Board could move the Disciplinary Guidelines forward without resolving the SB 1441 issue. Mr. Puleo stated that we could move forward since we are only reviewing the provisions right now. If we get to the point where we need to adopt a regulation and still don't have a decision on SB 1441, we could adopt the Disciplinary Guidelines, adopt SB 1441 and incorporate it by reference in our Disciplinary Guidelines as a separate regulation package in the future. Dr. Azzolino stated he is comfortable with the current changes to the Disciplinary Guidelines that were made.

Dr. Dehn asked about whether the "prior Warnings" referred to on page 5, item 3; were from the Board. It was determined item 3 should read: Prior warnings by the Board ~~of record~~, including final citations issued within the last 5 years.

Mr. Puleo stated he would like the Disciplinary Guidelines to move forward and pointed out that there will be plenty of opportunities to make changes during the rulemaking process.

MOTION: DR. AZZOLINO MOVED TO RECOMMEND THAT THE BOARD ADOPT THE PROPOSED DISCIPLINARY GUIDELINES WITH THE LANGUAGE REVISIONS TO NUMBER 3 ON PAGE 5.
SECOND: DR. DEHN SECONDED THE MOTION
VOTE: 3-0 (DR. AZZOLINO – AYE, DR. DEHN – AYE, MR. FUFFINO – AYE)

MOTION CARRIED

Discussion and Possible Action Regarding the Incorporation of SB 1441 Uniform Standards Related to Substance Abusing Licensees into the Board of Chiropractic Examiners Disciplinary Guidelines
Mr. Walker requested that this agenda item be tabled until the Department of Consumer Affair's Chief Counsel can obtain clarification from the Attorney General's Office.

Discussion and Possible Action Regarding a Possible Statutory Change to Government Code Section 11522 Which Would Allow the Board to Assign Petitions for Reinstatement or Reduction of Penalty to an Administrative Law Judge
Mr. Walker stated that there is a provision in the Government Code that allows the Boards to assign Petitions for Reinstatement and Petitions for Reduction of Penalty to an Administrative Law Judge (ALJ). Those cases would be handled in the same manner as any other administrative disciplinary case. Mr. Walker asked if the Board if interested in continuing to conduct petitioner hearings at Board meetings or assign such petitions to an ALJ. Dr. Azzolino asked about the advantage and disadvantage for both scenarios.

Mr. Walker stated the advantage is the Board can handle other issues rather than having to hear petitioner cases during Board meetings. However, the disadvantage would be if the Board assigns these cases to an ALJ and the ALJ submits a proposed decision, the Board may decide to non-adopt the ALJs decision. This would prolong the process.

Mr. Ruffino stated that he believes the petitioner hearings should continue to be conducted at Board meetings. Dr. Azzolino believes there is great value in being able to see the petitioners face to face and ask questions directly. Dr. Azzolino would like to see the process remain the way it is.

MOTION: MR. RUFFINO MOVED TO RECOMMEND THAT THE BOARD NOT TO SEEK A STATUTORY CHANGE TO GOVERNMENT CODE SECTION 111522 WHICH WOULD ALLOW THE BOARD TO ASSIGN PETITIONS FOR REINSTATEMENT OR REDUCTION OF PENALTY TO AN ALJ.
SECOND: DR. AZZOLINO SECONDED THE MOTION
VOTE: 3-0 (DR. AZZOLINO – AYE, DR. DEHN – AYE, MR. RUFFINO – AYE)

MOTION CARRIED

Discussion and Review of the Question on the Petitioner Application(s)
Dr. Azzolino clarified that the concern was regarding question #3, which requires petitioners to disclose all discipline against a license. He stated that petitioners fail to disclose the Board's discipline on their petition application.

Mr. Walker stated that "territory" is not listed in #3 of the petition application(s). U.S. territories and the military do report to the National Practitioner Data Bank. Dr. Azzolino suggested adding "by another licensing agency" because we want to know about discipline from other countries.

Mr. Puleo stated the application still needs revisions but the core issue we are discussing today is clarifying that the petitioner does not have to disclose the discipline the Board imposed on them. However, we also need to make other technical amendments to the petitioner application. We will work on those to make sure they are consistent with the licensing application.

Mr. Walker asked if this item is being tabled or being forwarded to the Board meeting. Mr. Puleo advised that Dr. Azzolino's report to the Board will clarify that question #3 has been revised and will not require petitioners to disclose discipline by the Board.

Public Comment
None

Future Agenda Items
None

Adjournment
Dr. Azzolino adjourned the meeting at 1:54 p.m.

DRAFT

Agenda Item 3

File a Complaint

To obtain a complaint form, please visit our Forms and Applications web page.

About Complaints

The Board of Chiropractic Examiners protects consumers through licensing and enforcement functions. The Board has the authority to require licensees to abide by provisions of the Chiropractic Initiative Act, Business and Professions Code, and those sections of the California Code of Regulations relating to the practice of chiropractic. Most Board actions alleging violations of these laws result from written complaints from a variety of sources.

All written complaints received by the Board are reviewed by the Enforcement Unit to determine whether the Board has jurisdiction, and if so, to prioritize the complaints.

Complaints alleging sexual misconduct, gross negligence/incompetence and insurance fraud are given priority attention and may be referred immediately to investigation. The Board also has jurisdiction over other categories of complaints, including but are not limited to, conviction of a criminal offense, deceptive or misleading advertising, and unlicensed practice.

The Board does not have jurisdiction in fee or billing disputes, general business practices, and personality conflicts. However, other civil channels are available to handle these issues.

How Do I File a Complaint?

All complaints must be in writing. Please provide a statement, which describes the nature of your complaint and include specific details and documentary evidence related to your complaint. This may include patient records, photographs, contracts, invoices, and correspondence. It is not necessary to refer to specific sections of the law which you feel have been violated. While anonymous complaints will be reviewed, they may be impossible to pursue without support from the complainant. The information contained in your complaint will determine what action the Board will take.

How the Board Handles Your Complaint

Following receipt of a complaint, the Board mails a notice of receipt to the complainant. Each complaint is reviewed to determine the course of action for the alleged violation or whether the Board has jurisdiction. In most instances, the Board cannot effectively investigate cases where the complainant wants to remain anonymous. California law requires the Board to have clear and convincing evidence of a violation in order to sustain disciplinary action. Consequently, the Board's investigative process can be lengthy.

Substantiated Complaints

If a complaint is substantiated after review or investigation, there are different actions that can be taken against the license. Formal disciplinary action may range from a public reprimand, probation or even license revocation. As an alternative to formal discipline, the Board can issue a citation. Citations are considered sanctions and are issued in cases involving minor violations of a law or regulation governing the practice of chiropractic. The Board has authority to issue citations to chiropractors for specified violations of law. Citations are not formal discipline, although they constitute a public record of the action taken.

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BOARD of CHIROPRACTIC EXAMINERS
STATE OF CALIFORNIA

State of California
Edmund G. Brown Jr., Governor

Consumer Complaint Form

Please Print or Type

Please provide all the requested information.

COMPLAINT REGISTERED AGAINST				
Name of Chiropractor:			Phone: ( )	
Practice Name:				
Practice Address:	City:	County	State:	Zip Code:

PERSON REGISTERING COMPLAINT			
Name of Person Registering Complaint:		Work Phone: ( )	
Address:		Home Phone: ( )	
City:	County:	State:	Zip Code:
Have you filed a complaint with any other organization? (Please specify)			

DETAILS OF THE COMPLAINT	
Type of Illness or Injury/Reason for Appointment:	Date of Visit(s):

State your complaint in detail: (Attach additional sheets if necessary.)

NOTICE: Except for the name of the chiropractor, all information requested is voluntary, but failure to provide the requested information may delay or prevent the investigation of your complaint. Provide as much information as possible in connection with the complaint. Information on this form will be used in part to determine whether a violation of state law has occurred. If a violation is substantiated, the information may be transmitted to other governmental agencies, including the Attorney General's Office.

Signature _____ Date _____

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

Board of Chiropractic Examiners

AUTHORIZATION FOR RELEASE OF PATIENT RECORDS

Patient Name: _____

Date of Birth: _____ Social Security Number: _____

I, the undersigned hereby authorize:

Chiropractor _____ Chiropractor _____

Facility _____ Facility _____

Address _____ Address _____

_____ _____

Phone Number _____ Phone Number _____

Chiropractor _____ Chiropractor _____

Facility _____ Facility _____

Address _____ Address _____

_____ _____

Phone Number _____ Phone Number _____

to disclose records in the course of my diagnosis and treatment, including medical, psychiatric, alcohol and drug abuse records to the **BOARD OF CHIROPRACTIC EXAMINERS, ENFORCEMENT PROGRAM**. This disclosure of records authorized herein is required for official use, including investigation and possible administrative proceedings regarding any violations of the laws of the State of California. This authorization shall remain valid until the Board of Chiropractic Examiners of the State of California completes its investigation and proceedings arising out of the complaint and/or investigation.

A copy of this authorization shall be as valid as the original. I understand that I have a right to receive a copy of this authorization upon my request.

Signature: _____ _____

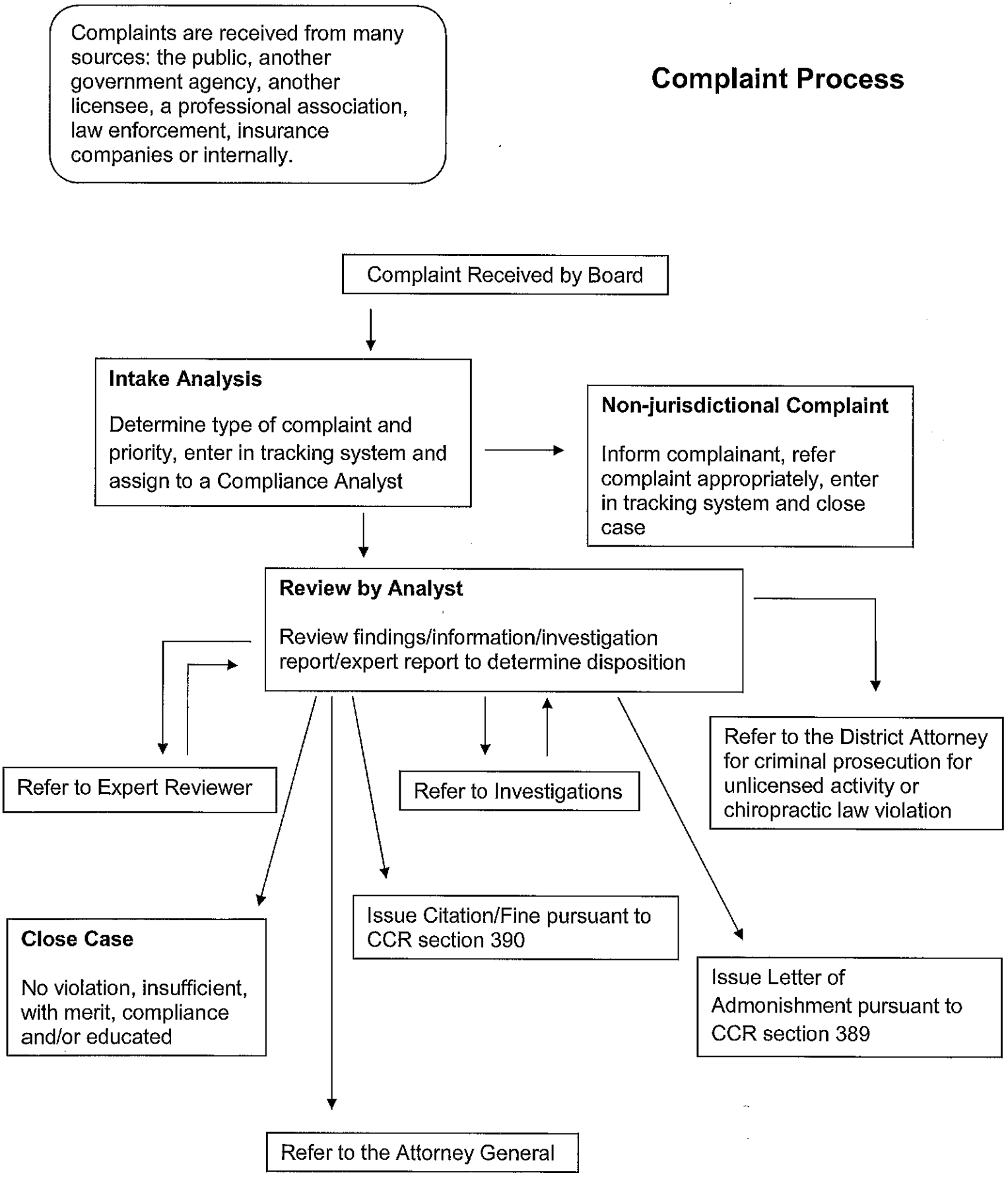
Patient Date

Or: _____ _____ _____

Legal Representative Relationship Date

Rev. 11/03

Complaint Process



Agenda Item 4

California Board of Chiropractic Examiners

Notice to Consumers

Proposed Language

Adopt section 308.1 in Article 1, Division 4, of Title 16 of the California Code of Regulations to read as follows:

308.1. Notice to Consumers

(a) A licensee engaged in the practice of chiropractic shall provide notice to each patient of the fact that the licensee is licensed and regulated by the board. The notice shall include the following statement and information:

NOTICE TO CONSUMERS

Chiropractic doctors are licensed and regulated by the Board of Chiropractic Examiners

(916) 263-5355

www.chiro.ca.gov

(b) The notice required by this section shall be provided by one of the following methods:

(1) Prominently posting the notice in an area visible to patients on the premises where the licensee provides the licensed services, in which case the notice shall be in at least 40-point type in Arial font.

(2) Including the notice in a written statement, signed and dated by the patient or the patient's representative and retained in that patient's medical records, stating the patient understands the chiropractor is licensed and regulated by the board.

(3) Including the notice in a statement on letterhead, discharge instructions, or other document given to a patient or the patient's representative, where the notice is placed immediately above the signature line for the patient in at least 14-point type.

NOTE: Authority cited: Sections 1000-4(b), Business and Professions Code (Chiropractic Initiative Act of California, Stats. 1923, p. 1xxxviii), Reference: Section 138, Business and Professions Code.

NOTICE TO CONSUMERS

Chiropractic doctors are licensed and regulated by the Board of Chiropractic Examiners

(916) 263-5355

www.chiro.ca.gov

Agenda Item 5

Proposed Disciplinary Guidelines Language

Motion was carried at the May 12, 2015 Enforcement Committee Meeting, to recommend that the Board adopt the proposed language.

Notice to Patients

Respondent shall notify all current and potential patients of his/her ~~the~~ probation requirements by posting a copy of the final Decision and Order in this matter and by giving a form designated by the Board, for each patient to sign. Respondent shall post a copy of the Decision within public view inside common areas within the practice which includes the front desk, the examination room(s) and patient reception room(s). Patient ~~especially any term or condition of probation which will affect their treatment or the confidentiality of their records. Such~~ notification shall be signed by each patient prior to continuing or commencing treatment. Respondent shall submit, upon request by the Board, satisfactory evidence of compliance with this term of probation. ~~Terms of probation which require such notification include, but are not limited to, suspension of practice, supervised practice, and restricted practice.~~

BOARD of CHIROPRACTIC EXAMINERS
STATE OF CALIFORNIA

State of California
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PATIENT NOTIFICATION

The chiropractor, named below, has been placed on probation with the Board of Chiropractic Examiners. Conditions of probation require that the chiropractor notify you, the patient, of his/her probationary status.

Chiropractor's Name: John Doe License # DC- 12345

Term of Probation: From _____ to _____

The terms and conditions of the above chiropractor's probation are detailed in Accusation 2010-XXX. Following are term(s) and condition(s) that may affect your treatment:

- ✓ Dr. Do D.C. must have a third-party chaperone while consulting, examining and/or treating female patients.

The Section Below is to be Completed by the Patient

Print Name: _____

Signature: _____ Date: _____

Your signature verifies that you have been given the opportunity to read the Board's Decision in case 2015-XXX that places this chiropractor on probation.

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

Agenda Item 6

California Board of Chiropractic Examiners

Reprimand for Failure to Comply with CE Requirements

Proposed Language

Amend section 371 in Article 7.5, Division 4, of Title 16 of the California Code of Regulations to read as follows:

§ 371. Annual License Renewals and Restoration.

(a) This section shall apply to non-disciplinary license renewal and restoration. Disciplinary license restoration conditions are defined in Section 1000-10 of the Business and Professions Code (Chiropractic Initiative Act of California, Stats. 1923 p.1xxxviii).

(b) A license shall expire annually on the last day of the licensee's birth month. For purposes of this section, the following terms have the following meanings:

(1) "License in forfeiture" is a license that has not been renewed within 60 days following its expiration date.

(2) "Inactive license" has the meaning specified in Business and Professions Code 700.

(3) "Cancelled license" is a license that has been expired for a period of three (3) consecutive years.

(c) To renew an active license, a licensee shall complete and submit a "Renewal" form (R1HDC, Rev. 06/11), which is incorporated by reference, pay the appropriate fee specified in Section 370(a) prior to the expiration date of the license, and complete the board's continuing education requirements that were in effect during the license renewal period.

(d) To renew an inactive license, a licensee shall complete and submit a "Renewal" form (R1HDC, Rev. 06/11) and pay the appropriate fee specified in Section 370(a) prior to the expiration date of the license.

(e) To renew and restore a license in forfeiture, a licensee shall complete and submit a "Forfeiture Notice" form (D1HDC, Rev. 06/11) and an "Application for Restoration of License" form (Revision date 04/11), which are incorporated by reference, pay the appropriate fees specified in Section 370(b) and have met one of the following continuing education requirements:

(1) Completed the board's continuing education requirements that were in effect at the time of each license renewal period;

(2) Practiced in another state under an active valid license and completed all continuing education requirements for that state for each license renewal period the license was expired;

(3) Passed the National Board of Chiropractic Examiners (NBCE) Special Purposes Examination for Chiropractic examination within six (6) months prior to submitting the Application for Restoration of License.

(f) To restore an inactive license to active status, a licensee shall complete and submit an "Inactive to Active Status Application" form (Revision date 02/10), which is incorporated by reference, pay the appropriate fee specified in Section 370(c) prior to the expiration date of the license, and complete continuing education equivalent to that required for a single license renewal period.

(g) To restore a cancelled license, a licensee shall complete and submit an "Application for Restoration of License" form (Revision date 04/11), pay the appropriate fee specified in Section 370(b), and have met one of the following continuing education requirements:

(1) Completed the board's continuing education requirements that were in effect at the time of each license renewal period;

(2) Practiced in another state under an active valid license and completed all continuing education requirements for that state for each license renewal period the license was expired;

(3) Passed the National Board of Chiropractic Examiners (NBCE) Special Purposes Examination for Chiropractic examination within six (6) months prior to submitting the Application for Restoration of License.

(h) The board will not process incomplete applications nor complete applications that do not include the correct fee as specified in Section 370.

(i) In addition to any other requirement for renewal or restoration of a license, a licensee shall disclose whether, since the last renewal of his or her license, he or she has been convicted of any violation of the law in this or any other state, the United States, or other country. However, licensees are not required to disclose traffic infractions that resulted in fines of less than five hundred dollars ($500) that did not involve alcohol, dangerous drugs, or controlled substances.

(j) Failure to comply with the Board's continuing education requirements shall result in a violation of this section which would constitute unprofessional conduct and the licensee shall be subject to discipline by the Board.

Authority cited: Sections 1000-4(b), 1000-4(e), 1000-10(a), and 1000-10(b), Business and Professions Code (Chiropractic Initiative Act of California (Stats. 1923 p. lxxxviii)).
Reference: Sections 1000-4(b), 1000-10(a), 1000-10(b), Business and Professions Code (Chiropractic Initiative Act of California (Stats. 1923 p. lxxxviii)).