STATE OF CALIFORNIA ARNOLD SCHWARZENEGGER, Governor

Board of Chiropractic Examiners
2525 Natomas Park Drive, Suite 260
Sacramento, California 95833-2931
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CA Relay Service TT/TDD (800) 735-2929
Consumer Complaint Hotline (866) 543-1311
www.chiro.ca.gov

NOTICE OF PUBLIC MEETING – CORRECTED COPY
ENFORCEMENT COMMITTEE

December 2, 2010
9:00 a.m.
Holiday Inn LAX
9901 La Cienega Blvd.
Los Angeles, CA 90045
(310) 649-5151

AGENDA

1. **CALL TO ORDER**

2. **Approval of Minutes**
   July 8, 2010

3. **Advertising Enforcement Issues**
   California Code of Regulations 311, Business and Professions Code 17500, Business and Professions Code 651

4. **Scope of Chiropractic Care, Limitations, and Exclusive Treatment**
   California Code of Regulations 302

5. **Chiropractic Patient Records**
   California Code of Regulations 318

6. **Updating Existing Regulations**

7. **Enforcement Oversight – Auditing of Enforcement Program**

8. **PUBLIC COMMENT**

9. **FUTURE AGENDA ITEMS**

10. **ADJOURNMENT**

ENFORCEMENT COMMITTEE
Hugh Lubkin, D.C., Chair
Francesco Columbu, D.C.
Frederick Lerner, D.C.

The Board of Chiropractic Examiners' paramount responsibility is to protect California consumers from the fraudulent, negligent, or incompetent practice of chiropractic care.

A quorum of the Board may be present at the Committee meeting. However, Board members who are not on the committee may observe, but may not participate or vote. Public comments will be taken on agenda items at the time the specific item is raised. The 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@chiro.ca.gov or send a written request to the Board of Chiropractic Examiners, 2525 Natomas Park Drive, Suite 260, Sacramento, CA 95833. 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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BOARD OF CHIROPRACTIC EXAMINERS
MEETING MINUTES
Enforcement Committee
July 8, 2010
2525 Natomas Park Drive, Suite 100
Sacramento, CA 95833

DRAFT

Committee Members Present
Hugh Lubkin, D.C., Chair
Francesco Columbu, D.C.
Frederick Lerner, D.C.

Staff Present
Robert Puleo, Interim Executive Officer
Linda Shaw, Staff Services Manager
Sandra Walker, Staff Services Manager
Dixie Van Allen, Associate Governmental Program Analyst
Valerie James, Office Technician

Call to Order

Dr. Lubkin called the meeting to order at 10:08 a.m.

Roll Call

Dr. Columbu called the roll. All committee members were present.

Approval of May 6, 2010 Minutes

MOTION: DR. LERNER MOVED TO APPROVE THE MINUTES.
SECOND: DR. COLUMBU SECONDED THE MOTION.
VOTE: 2-0-1
MOTION CARRIED.

Enforcement Oversight

The committee discussed the possible establishments/entities to audit cases within the Board's enforcement program. Dr. Lerner suggested that prior to starting the work on contracting for services, we should check with our Legal Counsel on the legality of the scope of work the Board is seeking.

Enforcement Process Improvement

This agenda item was combined with the discussion of the above agenda item.

Expert Reviewer and Witness Training

Mr. Puleo spoke on the recruitment and training of expert reviewers and witnesses. He feels the program is working well and will continue to with active recruitment and training.

Dr. Lerner suggested to provide training in northern and southern California and would like to work on the training material. Mr. Puleo suggested having a Board Member, Deputy Attorney General and an existing expert reviewer/witness to conduct the training classes.

Proposed Regulations Based on Provisions of SB 1111 (Negrete-McLeod)

Dr. Lubkin and Dr. Lerner reported on the proposed regulation. Dr. Lubkin had various comments on the proposed regulations. Mr. Puleo will bring Dr. Lubkin's comment to our Legal Counsel for review.

Public Comment

No public comment.

Mr. Puleo introduced the Compliance Unit staff. Dr. Lerner extended his willingness to come to the office and speak on any scope of practice questions or issues.

Future Agenda Items

No future agenda items.

Adjournment

Dr. Lubkin adjourned the meeting at 11:08 a.m.

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§311. Advertisements.

Constructive educational publicity is encouraged, but the use by any licensee of advertising which contains misstatements, falsehoods, misrepresentations, distorted, sensational or fabulous statements, or which is intended or has a tendency to deceive the public or impose upon credulous or ignorant persons, constitutes grounds for the imposition of any of the following disciplinary penalties:

(a) Suspension of said licensee's right to practice in this State for a period not exceeding one (1) year.

(b) Placing said licensee upon probation.

(c) Taking such other action, excepting the revocation of said licensee's license, in relation to disciplining said licensee as the board in its discretion may deem proper.

Business and Professions Code 17500.

It is unlawful for any person, firm, corporation or association, or any employee thereof with intent directly or indirectly to dispose of real or personal property or to perform services, professional or otherwise, or anything of any nature whatsoever or to induce the public to enter into any obligation relating thereto, to make or disseminate or cause to be made or disseminated before the public in this state, or to make or disseminate or cause to be made or disseminated from this state before the public in any state, in any newspaper or other publication, or any advertising device, or by public outcry or proclamation, or in any other manner or means whatever, including over the Internet, any statement, concerning that real or personal property or those services, professional or otherwise, or concerning any circumstance or matter of fact connected with the proposed performance or disposition thereof, which is untrue or misleading, and which is known, or which by the exercise of reasonable care should be known, to be untrue or misleading, or for any person, firm, or corporation to so make or disseminate or cause to be so made or disseminated any such statement as part of a plan or scheme with the intent not to sell that personal property or those services, professional or otherwise, so advertised at the price stated therein, or as so advertised. Any violation of the provisions of this section is a misdemeanor punishable by imprisonment in the county jail not exceeding six months, or by a fine not exceeding two thousand five hundred dollars ($2,500), or by both that imprisonment and fine.

Business and Professions Code 651.

(a) It is unlawful for any person licensed under this division or under any initiative act referred to in this division to disseminate or cause to be disseminated any form of public communication containing a false, fraudulent, misleading, or deceptive statement, claim, or image for the purpose of or likely to induce, directly or indirectly, the rendering of professional services or furnishing of products in connection with the professional practice or business for which he or she is licensed. A "public communication" as used in this section includes, but is not limited to, communication by means of mail, television, radio, motion picture, newspaper, book, list or directory of healing arts practitioners, Internet, or other electronic communication.
(b) A false, fraudulent, misleading, or deceptive statement, claim, or image includes a statement or claim that does any of the following:
(1) Contains a misrepresentation of fact.
(2) Is likely to mislead or deceive because of a failure to disclose material facts.
(3) (A) Is intended or is likely to create false or unjustified expectations of favorable results, including the use of any photograph or other image that does not accurately depict the results of the procedure being advertised or that has been altered in any manner from the image of the actual subject depicted in the photograph or image.
(B) Use of any photograph or other image of a model without clearly stating in a prominent location in easily readable type the fact that the photograph or image is of a model is a violation of subdivision (a). For purposes of this paragraph, a model is anyone other than an actual patient, who has undergone the procedure being advertised, of the licensee who is advertising for his or her services.
(C) Use of any photograph or other image of an actual patient that depicts or purports to depict the results of any procedure, or presents "before" and "after" views of a patient, without specifying in a prominent location in easily readable type size what procedures were performed on that patient is a violation of subdivision (a). Any "before" and "after" views (i) shall be comparable in presentation so that the results are not distorted by favorable poses, lighting, or other features of presentation, and (ii) shall contain a statement that the same "before" and "after" results may not occur for all patients.
(4) Relates to fees, other than a standard consultation fee or a range of fees for specific types of services, without fully and specifically disclosing all variables and other material factors.
(5) Contains other representations or implications that in reasonable probability will cause an ordinarily prudent person to misunderstand or be deceived.
(6) Makes a claim either of professional superiority or of performing services in a superior manner, unless that claim is relevant to the service being performed and can be substantiated with objective scientific evidence.
(7) Makes a scientific claim that cannot be substantiated by reliable, peer reviewed, published scientific studies.
(8) Includes any statement, endorsement, or testimonial that is likely to mislead or deceive because of a failure to disclose material facts.
(c) Any price advertisement shall be exact, without the use of phrases, including, but not limited to, "as low as," "and up," "lowest prices," or words or phrases of similar import. Any advertisement that refers to services, or costs for services, and that uses words of comparison shall be based on verifiable data substantiating the comparison. Any person so advertising shall be prepared to provide information sufficient to establish the accuracy

of that comparison. Price advertising shall not be fraudulent, deceitful, or misleading, including statements or advertisements of bait, discount, premiums, gifts, or any statements of a similar nature. In connection with price advertising, the price for each product or service shall be clearly identifiable. The price advertised for products shall include charges for any related professional services, including dispensing and fitting services, unless the advertisement specifically and clearly indicates otherwise.
(d) Any person so licensed shall not compensate or give anything of value to a representative of the press, radio, television, or other communication medium in anticipation of, or in return for, professional publicity unless the fact of compensation is made known in that publicity.
(e) Any person so licensed may not use any professional card, professional announcement card, office sign, letterhead, telephone directory listing, medical list, medical directory listing, or a similar professional notice or device if it includes a statement or claim that is false, fraudulent, misleading, or deceptive within the meaning of subdivision (b).
(f) Any person so licensed who violates this section is guilty of a misdemeanor. A bona fide mistake of fact shall be a defense to this subdivision, but only to this subdivision.
(g) Any violation of this section by a person so licensed shall constitute good cause for revocation or suspension of his or her license or other disciplinary action.
(h) Advertising by any person so licensed may include the following:
(1) A statement of the name of the practitioner.
(2) A statement of addresses and telephone numbers of the offices maintained by the practitioner.
(3) A statement of office hours regularly maintained by the practitioner.
(4) A statement of languages, other than English, fluently spoken by the practitioner or a person in the practitioner's office.
(5) (A) A statement that the practitioner is certified by a private or public board or agency or a statement that the practitioner limits his or her practice to specific fields.
(i) For the purposes of this section, a dentist licensed under Chapter 4 (commencing with Section 1600) may not hold himself or herself out as a specialist, or advertise membership in or specialty recognition by an accrediting organization, unless the practitioner has completed a specialty education program approved by the American Dental Association and the Commission on Dental Accreditation, is eligible for examination by a national specialty board recognized by the American Dental Association, or is a diplomate of a national specialty board recognized by the American Dental Association.
(ii) A dentist licensed under Chapter 4 (commencing with Section 1600) shall not represent to the public or advertise accreditation either in a specialty area of practice or by a board not meeting the requirements of clause (i) unless the dentist has attained membership in or otherwise been credentialed by an accrediting organization that is recognized by the board as a bona fide organization for that area of dental practice. In order to be recognized by the board as a bona fide accrediting organization for a specific area of dental practice other than a specialty area of dentistry authorized under clause (i), the organization shall condition membership or credentialing of its members upon all of the following:
(I) Successful completion of a formal, full-time advanced education program that is affiliated with or sponsored by a university based dental school and is beyond the dental degree at a graduate or postgraduate level.
(II) Prior didactic training and clinical experience in the specific area of dentistry that is greater than that of other dentists.

(III) Successful completion of oral and written examinations based on psychometric principles.
(iii) Notwithstanding the requirements of clauses (i) and (ii), a dentist who lacks membership in or certification, diplomate status, other similar credentials, or completed advanced training approved as bona fide either by an American Dental Association recognized accrediting organization or by the board, may announce a practice emphasis in any other area of dental practice only if the dentist incorporates in capital letters or some other manner clearly distinguishable from the rest of the announcement, solicitation, or advertisement that he or she is a general dentist.
(iv) A statement of certification by a practitioner licensed under Chapter 7 (commencing with Section 3000) shall only include a statement that he or she is certified or eligible for certification by a private or public board or parent association recognized by that practitioner's licensing board.
(B) A physician and surgeon licensed under Chapter 5 (commencing with Section 2000) by the Medical Board of California may include a statement that he or she limits his or her practice to specific fields, but shall not include a statement that he or she is certified or eligible for certification by a private or public board or parent association, including, but not limited to, a multidisciplinary board or association, unless that board or association is
(i) an American Board of Medical Specialties member board,
(ii) a board or association with equivalent requirements approved by that physician and surgeon's licensing board, or
(iii) a board or association with an Accreditation Council for Graduate Medical Education approved postgraduate training program that provides complete training in that specialty or subspecialty. A physician and surgeon licensed under Chapter 5 (commencing with Section 2000) by the Medical Board of California who is certified by an organization other than a board or association referred to in clause (i), (ii), or (iii) shall not use the term "board certified" in reference to that certification, unless the physician and surgeon is also licensed under Chapter 4 (commencing with Section 1600) and the use of the term "board certified" in reference to that certification is in accordance with subparagraph (A). A physician and surgeon licensed under Chapter 5 (commencing with Section 2000) by the Medical Board of California who is certified by a board or association referred to in clause (i), (ii), or (iii) shall not use the term "board certified" unless the full name of the certifying board is also used and given comparable prominence with the term "board certified" in the statement. For purposes of this subparagraph, a "multidisciplinary board or association" means an educational certifying body that has a psychometrically valid testing process, as determined by the Medical Board of California, for certifying medical doctors and other health care professionals that is based on the applicant's education, training, and experience. For purposes of the term "board certified," as used in this subparagraph, the terms "board" and "association" mean an organization that is an American Board of Medical Specialties member board, an organization with equivalent requirements approved by a physician and surgeon's licensing board, or an organization with an Accreditation Council for Graduate Medical Education approved postgraduate training program that provides complete training in a specialty or subspecialty. The Medical Board of California shall adopt regulations to establish and collect a reasonable fee from each board or association applying for recognition pursuant to this subparagraph. The fee shall not exceed the cost of administering this subparagraph. Notwithstanding Section 2 of Chapter 1660 of the Statutes of 1990, this subparagraph shall become operative July 1, 1993. However, an administrative agency or accrediting organization may take any action

contemplated by this subparagraph relating to the establishment or approval of specialist requirements on and after January 1, 1991.
(C) A doctor of podiatric medicine licensed under Chapter 5 (commencing with Section 2000) by the Medical Board of California may include a statement that he or she is certified or eligible or qualified for certification by a private or public board or parent association, including, but not limited to, a multidisciplinary board or association, if that board or association meets one of the following requirements:
(i) is approved by the Council on Podiatric Medical Education,
(ii) is a board or association with equivalent requirements approved by the California Board of Podiatric Medicine, or
(iii) is a board or association with the Council on Podiatric Medical Education approved postgraduate training programs that provide training in podiatric medicine and podiatric surgery. A doctor of podiatric medicine licensed under Chapter 5 (commencing with Section 2000) by the Medical Board of California who is certified by a board or association referred to in clause (i), (ii), or (iii) shall not use the term "board certified" unless the full name of the certifying board is also used and given comparable prominence with the term "board certified" in the statement. A doctor of podiatric medicine licensed under Chapter 5 (commencing with Section 2000) by the Medical Board of California who is certified by an organization other than a board or association referred to in clause (i), (ii), or (iii) shall not use the term "board certified" in reference to that certification. For purposes of this subparagraph, a "multidisciplinary board or association" means an educational certifying body that has a psychometrically valid testing process, as determined by the California Board of Podiatric Medicine, for certifying doctors of podiatric medicine that is based on the applicant's education, training, and experience. For purposes of the term "board certified," as used in this subparagraph, the terms "board" and "association" mean an organization that is a Council on Podiatric Medical Education approved board, an organization with equivalent requirements approved by the California Board of Podiatric Medicine, or an organization with a Council on Podiatric Medical Education approved postgraduate training program that provides training in podiatric medicine and podiatric surgery. The California Board of Podiatric Medicine shall adopt regulations to establish and collect a reasonable fee from each board or association applying for recognition pursuant to this subparagraph, to be deposited in the State Treasury in the Podiatry Fund, pursuant to Section 2499. The fee shall not exceed the cost of administering this subparagraph.
(6) A statement that the practitioner provides services under a specified private or public insurance plan or health care plan.
(7) A statement of names of schools and postgraduate clinical training programs from which the practitioner has graduated, together with the degrees received.
(8) A statement of publications authored by the practitioner.
(9) A statement of teaching positions currently or formerly held by the practitioner, together with pertinent dates.
(10) A statement of his or her affiliations with hospitals or clinics.
(11) A statement of the charges or fees for services or commodities offered by the practitioner.
(12) A statement that the practitioner regularly accepts installment payments of fees.
(13) Otherwise lawful images of a practitioner, his or her physical facilities, or of a commodity to be advertised.
(14) A statement of the manufacturer, designer, style, make, trade name, brand name, color, size, or type of commodities advertised.

(15) An advertisement of a registered dispensing optician may include statements in addition to those specified in paragraphs (1) to (14), inclusive, provided that any statement shall not violate subdivision (a), (b), (c), or (e) or any other section of this code.
(16) A statement, or statements, providing public health information encouraging preventative or corrective care.
(17) Any other item of factual information that is not false, fraudulent, misleading, or likely to deceive.
(i) Each of the healing arts boards and examining committees within Division 2 shall adopt appropriate regulations to enforce this section in accordance with Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code. Each of the healing arts boards and committees and examining committees within Division 2 shall, by regulation, define those efficacious services to be advertised by businesses or professions under their jurisdiction for the purpose of determining whether advertisements are false or misleading. Until a definition for that service has been issued, no advertisement for that service shall be disseminated. However, if a definition of a service has not been issued by a board or committee within 120 days of receipt of a request from a licensee, all those holding the license may advertise the service. Those boards and committees shall adopt or modify regulations defining what services may be advertised, the manner in which defined services may be advertised, and restricting advertising that would promote the inappropriate or excessive use of health services or commodities. A board or committee shall not, by regulation, unreasonably prevent truthful, nondeceptive price or otherwise lawful forms of advertising of services or commodities, by either outright prohibition or imposition of onerous disclosure requirements. However, any member of a board or committee acting in good faith in the adoption or enforcement of any regulation shall be deemed to be acting as an agent of the state.
(j) The Attorney General shall commence legal proceedings in the appropriate forum to enjoin advertisements disseminated or about to be disseminated in violation of this section and seek other appropriate relief to enforce this section. Notwithstanding any other provision of law, the costs of enforcing this section to the respective licensing boards or committees may be awarded against any licensee found to be in violation of any provision of this section. This shall not diminish the power of district attorneys, county counsels, or city attorneys pursuant to existing law to seek appropriate relief.
(k) A physician and surgeon or doctor of podiatric medicine licensed pursuant to Chapter 5 (commencing with Section 2000) by the Medical Board of California who knowingly and intentionally violates this section may be cited and assessed an administrative fine not to exceed ten thousand dollars ($10,000) per event. Section 125.9 shall govern the issuance of this citation and fine except that the fine limitations prescribed in paragraph (3) of subdivision (b) of Section 125.9 shall not apply to a fine under this subdivision.

§302. Practice of Chiropractic.

(a) Scope of Practice.
(1) A duly licensed chiropractor may manipulate and adjust the spinal column and other joints of the human body and in the process thereof a chiropractor may manipulate the muscle and connective tissue related thereto.
(2) As part of a course of chiropractic treatment, a duly licensed chiropractor may use all necessary mechanical, hygienic, and sanitary measures incident to the care of the body, including, but not limited to, air, cold, diet, exercise, heat, light, massage, physical culture, rest, ultrasound, water, and physical therapy techniques in the course of chiropractic manipulations and/or adjustments.
(3) Other than as explicitly set forth in section 10(b) of the Act, a duly licensed chiropractor may treat any condition, disease, or injury in any patient, including a pregnant woman, and may diagnose, so long as such treatment or diagnosis is done in a manner consistent with chiropractic methods and techniques and so long as such methods and treatment do not constitute the practice of medicine by exceeding the legal scope of chiropractic practice as set forth in this section.
(4) A chiropractic license issued in the State of California does not authorize the holder thereof:
(A) to practice surgery or to sever or penetrate tissues of human beings, including, but not limited to severing the umbilical cord;
(B) to deliver a human child or practice obstetrics;
(C) to practice dentistry;
(D) to practice optometry;
(E) to use any drug or medicine included in materia medica;
(F) to use a lithotripter;
(G) to use ultrasound on a fetus for either diagnostic or treatment purposes; or
(H) to perform a mammography. 4 5
(5) A duly licensed chiropractor may employ the use of vitamins, food supplements, foods for special dietary use, or proprietary medicines, if the above substances are also included in section 4057 of the Business and Professions Code, so long as such substances are not included in materia medica as defined in section 13 of the Business and Professions Code.
The use of such substances by a licensed chiropractor in the treatment of illness or injury must be within the scope of the practice of chiropractic as defined in section 7 of the Act.
(6) Except as specifically provided in section 302(a)(4), a duly licensed chiropractor may make use of X-ray and thermography equipment for the purposes of diagnosis but not for the purposes of treatment. A duly licensed chiropractor may make use of diagnostic ultrasound equipment for the purposes of neuromuscular skeletal diagnosis.
(7) A duly licensed chiropractor may only practice or attempt to practice or hold himself or herself out as practicing a system of chiropractic. A duly licensed chiropractor may also advertise the use of the modalities authorized by this section as a part of a course of chiropractic treatment, but is not required to use all of the diagnostic and treatment modalities set forth in this section. A chiropractor may not hold himself or herself out as being licensed as anything other than a chiropractor or as holding any other healing arts license or as practicing physical therapy or use the term "physical therapy" in advertising unless he or she holds another such license.
(b) Definitions.
(1) Board. The term "board" means the State Board of Chiropractic Examiners.
(2) Act. The term "act" means the Chiropractic Initiative Act of California as amended.

§318. Chiropractic Patient Records/Accountable Billings.

(a) Chiropractic Patient Records. Each licensed chiropractor is required to maintain all active and inactive chiropractic patient records for five years from the date of the doctor's last treatment of the patient. Active chiropractic records are all chiropractic records of patients treated within the last 12 months. Chiropractic patient records shall be classified as inactive when there has elapsed a period of more than 12 months since the date of the last patient treatment.

All chiropractic patient records shall be available to any representative of the Board upon presentation of patient's written consent or a valid legal order. Active chiropractic patient records shall be immediately available to any representative of the Board at the chiropractic office where the patient has been or is being treated. Inactive chiropractic patient records shall be available upon ten days notice to any representative of the Board. The location of said inactive records shall be reported immediately upon request.

Active and inactive chiropractic patient records must include all of the following:

(1) Patient's full name, date of birth, and social security number (if available);

(2) Patient gender, height and weight. An estimated height and weight is acceptable where the physical condition of the patient prevents actual measurement;

(3) Patient history, complaint, diagnosis/analysis, and treatment must be signed by the primary treating doctor. Thereafter, any treatment rendered by any other doctor must be signed or initialed by said doctor;

(4) Signature of patient;

(5) Date of each and every patient visit;

(6) All chiropractic X-rays, or evidence of the transfer of said X-rays.

(b) Accountable Billings. Each licensed chiropractor is required to ensure accurate billing of his or her chiropractic services whether or not such chiropractor is an employee of any business entity, whether corporate or individual, and whether or not billing for such services is accomplished by an individual or business entity other than the licensee. In the event an error occurs which results in an overbilling, the licensee must promptly make reimbursement of the overbilling whether or not the licensee is in any way compensated for such reimbursement by his employer, agent or any other individual or business entity responsible for such error. Failure by the licensee, within 30 days after discovery or notification of an error which resulted in an overbilling, to make full reimbursement constitutes unprofessional conduct.

Auditing of Enforcement Program

ENTITY CONTACTED	OUTCOME
Department of Consumer Affairs	Feasible
Department of Finance	Submit Scope of Work in Spring. May not be feasible due to workload
Department of Managed Health Care	Not feasible due to workload
Department of Health Services	No response
Department of Social Services	No response

Board of Chiropractic Examiners
Audit No.
Audit Period:

Auditor: _____
Reviewer: _____

AUDIT PROGRAM – Enforcement Audit	Auditor's Initials & Date	Work Paper Reference
PURPOSE To perform a limited scope audit of the enforcement function; Areas to review will be efficiency and effectiveness; In addition, we will recommend improvements in the board's enforcement processes to better protect the public.		
I. AUDIT SCOPE The scope of this audit will include a limited review of the board's enforcement program; including: • internal controls, • review of act and regulations, • evaluation of the board's written procedures and processes for each category of the enforcement program, • prioritization of cases, • monitoring progress, including appropriate follow-up, • management review of cases, • case closure, • public disclosure. The audit period is _____.		
II. OBJECTIVES To determine if the board has: • established policies and procedures to guide staff in effectively handling enforcement activities; and • complied with applicable laws and regulations, • established a methology for appropriately prioritizing cases, • established a process for management review of critical cases, • appropriately referred cases to experts when needed, on a timely basis, • established an effective method of ensuring cases are closed appropriately; neither too soon nor too late, and • appropriately disclosed the outcome of cases to the public.		
III. AUDIT STANDARDS The audit is to be conducted in accordance with the *International Standards for the Professional Practice of Internal Auditing*, issued by the Institute of Internal Auditors.		

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AUDIT PROGRAM – Enforcement Audit	Auditor's Initials & Date	Work Paper Reference
IV. APPLICABLE RULES, REGULATIONS & GUIDELINES • The Chiropractic Initiative Act of California • California Code of Regulations §301-390.6		
V. PRELIMINARY AUDIT STEPS 1) Review background information material necessary to become familiar with the board: (a) Review the board's website and obtain information on the board's operating environment and activities. Review board meeting minutes. (b) Obtain and review prior and current (if available) Sunset Reports and recommendations. • Document issues and recommendations noted in prior/current reports that may relate to the scope of the audit. (c) Obtain and review prior audit working papers, audit reports (internal or external), and other external reviews. • Document issues/weaknesses and identify areas to be included in the audit scope and/or require follow-up. 2) Review, obtain understanding of, and document pertinent laws, regulations, policies and procedures over the enforcement program: • Applicable Initiative Act, Penal Code, • Applicable California Code of Regulations, • State and departmental policies and procedures, where applicable. 3) Obtain the monthly statistical reports prepared for the Executive Officer. Do a quick review to determine if cases add up and are in sync with the previous month's numbers. Identify any discrepancies for follow-up. 4) Summarize preliminary audit work and identify preliminary auditable activities, act and regulations. 5) Prepare preliminary audit planning document. 6) Contact board and arrange an entrance conference. 7) Prepare engagement letter and submit to auditee. 8) Conduct entrance conference to explain our audit process and plan. • Document the date, location, attendees and titles, and discussion that occurred at the entrance conference. 9) Finalize audit-planning document.		

AUDIT PROGRAM – Enforcement Audit	Auditor's Initials & Date	Work Paper Reference
VI. INTERNAL CONTROL REVIEW & RISK ANALYSIS 1) Obtain an understanding of the internal control structure over the Board's Enforcement program. a. Obtain and review current organization chart, relevant flowcharts and internal policies and procedures affecting the enforcement program. b. Interview appropriate staff to obtain an understanding of how enforcement activities are handled, tracking and monitoring systems, processes, and procedures currently implemented. • Interview key board personnel about their procedures, and prepare a narrative describing the current process. This should include complaint intake and the decision points which determine where a case will go next. • Determine and document what the current decision review process consists of. • Identify the computer systems used in the Enforcement process (i.e. CAS, something else?) Interview board personnel about their data entry practices; consistency among staff, exceptions from policy and reasons why. Obtain any written procedures documenting data entry processes. • Determine which date the board inputs as the "investigation completed" date, plus other key dates that might present a consistency problem, • Identify training provided to enforcement personnel to determine where gaps may be occurring, • Sample a few enforcement case files to determine whether basic file organization or lack thereof will be an issue during field work, • Identify strengths and weaknesses in the operations reviewed above. 2) Summarize the results of the review. 3) Perform a risk analysis and identify auditable activities for fieldwork. 4) Arrange for appropriate access to CAS, or any other reporting tools used by the board in order to perform enforcement case file testing.		
VII. AUDIT PROCEDURES – FIELD WORK 1) **Enforcement Process** a. Obtain audit universe for closed and pending complaint files and select representative samples for testing. In most cases, 40 case files should be adequate.		

AUDIT PROGRAM – Enforcement Audit	Auditor's Initials & Date	Work Paper Reference
b. Perform testing of case files to determine compliance with applicable laws and regulations, adequate complaint processing, monitoring, public disclosure, and management review. • Identify the board's tracking methodology for cases. • Identify cases which stand out for either being closed immediately or lingering for a very long time, and ensure some of these are included in the audit sample. Also, categorize the sample by case type. • Determine if case files show evidence of management review. • Determine if cases were appropriately prioritized (i.e. most serious threats to the public worked on first, least serious matters possibly handled by non-sworn staff, etc.) • Review case files for completeness, accuracy, organization and adequacy of documentation. • Determine if experts were appropriately utilized in a timely manner • For cases referred to the AG's office, identify processing times both at the board and the AG. Identify untimely delays for follow-up and recommended improvements. • Determine if citation and fine and/or disciplinary actions are adequately disclosed on the board's license look-up function on the board's web-site, in accordance with the board's Initiative Act and/or CCR requirement. c. Summarize the results and determine materiality of exceptions. Decide if additional sampling is needed.		
VIII. COMPLETION 1) Summarize fieldwork results; Prepare point sheets for all reportable conditions. 2) Complete work papers to assure that they are properly headed, indexed, signed, dated, and cross-referenced. Cross-reference each exception to the appropriate working paper. In addition, each work paper should include, or be referenced to, a statement of purpose, source, analysis and conclusion. 3) Prepare a summary, which documents the purpose, objectives, procedures, results/conclusions and recommendations of the audit. 4) Submit work papers and point sheets for review. 5) Conduct exit conference to discuss issues with appropriate management and Executive Officer. • Document the date, location, attendees and titles, and discussion that occurred at the entrance conference. 6) Prepare draft report and request written response 30 days from issuance.		

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• Make sure report includes overview of the board, description of significant changes during the audit period, the operating environment the board works under, applicable laws & regs, makeup of the board, and major activities undertaken. • The report should quote the Professional Practices Framework (IIA). Prepare draft audit report and distribute as appropriate. 7) Once written audit response has been received, incorporate it into the report and issue as a final report. 8) Present finds at subsequent Board Meetings. **IX. FOLLOW-UPS** • 180-day • 360-day		

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