

Board of Chiropractic Examiners
INITIAL STATEMENT OF REASONS

Hearing Date: November 17, 2011

Subject Matter of Proposed Regulations: Patient Records

Sections Affected:

The proposed regulation would amend Section 318, which is contained in Article 2 in Division 4 of Title 16 of the California Code of Regulations (CCR).

Introduction:

The Chiropractic Initiative Act Business and Professions Code (BPC) Section 1000 – 4(b) (Chiropractic Initiative Act Stats. 1923, p. 1xxxviii) authorizes the Board of Chiropractic Examiners (Board) to adopt regulations as they may deem proper and necessary for the performance of its work, the effective enforcement and administration of this act, the establishment of educational requirements for license renewal, and the protection of the public.

Currently, the Board's regulations require all inactive and active patient records to be maintained by the chiropractor for five years from the date of the doctor's last treatment of the patient. This retention requirement may conflict with other state and federal laws requiring longer periods of retention for patient records. Further, the preciseness of this provision may lead the chiropractor to an incorrect assumption that this record retention requirement supersedes any other requirements in state or federal laws requiring longer periods of record retention.

Additionally, the Board recently adopted California Code of Regulations (CCR) Section 319.1 requiring a signed written informed consent to be included in the patient file, under specified circumstances. Currently, CCR Section 318 defines the contents of active and inactive chiropractic patient record files and informed consent should be added to these requirements for consistency with the recently adopted Section 319.1.

Specific Purpose and Factual Basis of each adoption, amendment, or repeal:

Section 318 (a) is amended:

The purpose of the amendment to this regulation is to establish the Board's record retention provision as a minimum requirement to clarify that the Board's requirement may be superseded by other state or federal laws which require a period of longer retention and to provide a complete listing of documents comprising a patient file, including informed consent as specified in Section 319.1.

This proposal is necessary to ensure the Board's record retention requirement does not conflict with other state or federal laws which require a longer period of retention and for consistency with the patient file requirements in Section 319.1. The addition of subparagraph (a)(7), relating to informed consent, is necessary for enforcement of a

newly adopted regulation, CCR Section 319.1, and requires a signed written informed consent to be included in the patient file when a proposed treatment poses a risk of material harm.

Underlying Data:

- Board Meeting Minutes – December 2, 2010 and (Proposal approved)

Business Impact:

This regulation will not have a significant adverse economic impact on businesses. This initial determination is based on the following facts or evidence/documents/testimony:

This proposal would establish the Board's existing 5-year record retention requirement as a minimum retention period ensuring that licensees follow other state or federal laws requiring longer periods of retention and include informed consent as part of the requirements of a patient record. These requirements will not impose any additional costs upon businesses.

Specific Technologies or Equipment:

This regulation does not mandate the use of specific technologies or equipment.

Consideration of Alternatives:

No reasonable alternative to the regulation would be either more effective in carrying out the purpose for which the action is proposed, or would be as effective and less burdensome to affected private persons than the proposed regulation.