Board of Chiropractic Examiners
2525 Natomas Park Drive, Suite 260
Sacramento, California 95833-2931
Telephone (916) 263-5355 FAX (916) 263-5369
CA Relay Service TT/TDD (800) 735-2929
Consumer Complaint Hotline (866) 543-1311
http://www.chiro.ca.gov

NOTICE OF PUBLIC MEETING

Notice is hereby given that a meeting of the **Board of Chiropractic Examiners** will be held as follows:

Thursday, June 21, 2007
9:30 a.m.
Life Chiropractic College West
25001 Industrial Blvd.
Hayward, California 94545
510.780.4500

AGENDA

PUBLIC SESSION
Call to Order

Richard Tyler, D.C., Chair
Frederick Lerner, D.C., Vice-Chair
Francesco Columbu, D.C., Secretary
Jim Conran, Public Member
Judge James Duvaras (Ret.), Public Member
Hugh Lubkin, D.C.

Approval of Palmer Chiropractic College-Florida application

Chiropractic Colleges Renewal Requirements

Petition for Reinstatement of Revoked Licenses
- Parviz Kavoossi
- Douglas A. Gainer
- Harold E. Turk

Petition for Early Termination of Probation
- Kenneth P. Meyers, D.C.

CLOSED SESSION
Deliberation on Disciplinary Matters and Action on Disciplinary Decisions
Pursuant to California Government Code Section 11126(c)(3)
Discussion on Pending Litigation
Pursuant to California Government Code Section 11126 (e)1

PUBLIC SESSION
Call to Order

Approval of Minutes
March 1, 2007, Open Session
April 19, 2007, Open Session

Committee Reports

- Administration
  - Discussion and Action on Board Member Procedure Manual
- Enforcement
- Legislative
  - Discussion and Action on AB 1137
  - Discussion and Action on SB 801
- Manipulation Under Anesthesia (MUA)
  - Discussion on Committee's Purpose and Workplan

CLOSED SESSION

Deliberation on Personnel Matters and Action on Personnel Decisions

Pursuant to California Government Code Section 11126 (a)(1)

- Interviews and Selection of Executive Director

PUBLIC SESSION

Call to Order

Announcements

- Next Board Meeting – August 16, 2007, San Diego

Public Comment

New Business

- Future Agenda Items
- Other Issues

Adjournment

Meetings of the Board of Chiropractic Examiners are open to the public except when specifically noticed otherwise in accordance with the Public Meetings 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.**

The meeting is accessible to the physically disabled. If a person needs disability-related accommodations or modifications in order to participate in the meeting, please make a request no later than five working days before the meeting to the Board by contacting Marlene Valencia at (916) 263-5355 ext. 5363 or sending a written request to that person at the Board of Chiropractic Examiners, 2525 Natomas Park Drive, Suite 260, Sacramento, CA 95833. Requests for further information should be directed to Ms. Valencia at the same address and telephone number.

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APPLICATION FOR APPROVAL OF CHIROPRACTIC COLLEGES ACADEMIC YEARS JULY 1, 2004 – JUNE 30, 2007

The Board of Chiropractic Examiners is required by Title 16, Section 330 of the California Code of Regulations to approve chiropractic colleges for applicant licensure purposes. To ensure that your college is evaluated for approval for the three-year period beginning July 1, 2004, please complete this application and return it to the Board's office.

1. Name of chiropractic college: Palmer College of Chiropractic Florida

   Address: 4777 City Center Parkway

   City: Port Orange State: FL Zip Code: 32129-4153

2. Type of approval sought: ☒ Initial Approval ☐ Continued Approval

3. Accredited by the Council on Chiropractic Education (CCE)?..... ☒ Yes ☐ No
   If yes: Date application for reaffirmation of accreditation is due: March 2015
   Date application for continued accreditation is due: _____

4. Has the school entered into any resolutions or agreements with CCE that deviate from the Commission on Accreditation (COA) standards?..... ☐ Yes ☒ No
   If yes, please list: _____

5. Accredited by any other accrediting agency?..... ☒ Yes ☐ No
   If yes: Name of accrediting body: North Central Association of Colleges and Schools
   Date of application for continued accreditation is due: 2008

6. Affiliated with a health science teaching center?..... ☐ Yes ☒ No

   If yes, please identify: _____

   If no, please state briefly how clinical instruction is provided:

   Classroom instruction, Observation and Practical Experience in Campus and Outreach Clinic Settings

7. Please enclose a copy of the college's bulletin, catalogue and a copy of the last CCE inspection report.

8. Does the school:

   a. Provide all students with training in performing completed histories and physicals? ..... [X] Yes [ ] No
   b. Cover all subjects currently required by sections 331.12.2? ..... [X] Yes [ ] No

9. What is the ratio of full-time faculty members to students? 1:12 (includes faculty FTE)

10. Does the actual clinical experience provided to each student include?:

Examining, Diagnosing and Treatment	[X] Yes	[ ] No
Spinal Analysis	[X] Yes	[ ] No
Palpation	[X] Yes	[ ] No
Chiropractic Philosophy	[X] Yes	[ ] No
Symptomatology	[X] Yes	[ ] No
Laboratory and Physical Diagnosis	[X] Yes	[ ] No
X-ray Interpretation	[X] Yes	[ ] No
Postural Analysis	[X] Yes	[ ] No
Diagnostic Impressions	[X] Yes	[ ] No
Adjustive Technique	[X] Yes	[ ] No
Psychological Counseling	[X] Yes	[ ] No
Demonstration and Practice of Physical Therapy Procedures	[X] Yes	[ ] No

11. Do the minimum graduation requirements for each student include?:

25 Physical Examinations, of which at least 10 must be outside patients	[X] Yes	[ ] No
25 Urinalyses	[X] Yes	[ ] No
20 CBC's	[X] Yes	[ ] No
10 Blood Chemistries	[X] Yes	[ ] No
30 X-ray Examinations	[X] Yes	[ ] No
10 Proctologic Examinations	[X] Yes	[ ] No
10 Gynecologic Examinations	[X] Yes	[ ] No
250 Patient Treatments (Visits)	[X] Yes	[ ] No
Written interpretation of at least 30 different X-ray series, while a senior in the clinic	[X] Yes	[ ] No
500 Hours of Practical Clinical Experience	[X] Yes	[ ] No

12. Please use the space below to provide any comments or additional information you believe will be helpful to the Board in evaluating this application.

(See attachment.)

Please complete the chart below detailing the number of hours taught in each required subject area.

Subject	Minimum Hours Required	Hours Completed by Applicant
Anatomy, including embryology, histology, and human dissection	616	616
Physiology (must include laboratory work)	264	312
Biochemistry, clinical nutrition, and dietetics	264	264
Pathology, bacteriology, and toxicology	440	440
Public health, hygiene and sanitation, and emergency care	132	151
Diagnosis **Please include other subjects and hours not listed on this section.** * Minimum Additional Diagnostic Subjects	**792 including:** 1) E.E.N.T. 2) Serology 3) Dermatology 4) Syphilology 5) Geriatrics 6) x-ray interpretation 7) Neurology	804 Including: 1) 24 2) 11 3) 6 4) 24 5) 36 6) 179 7) 60 *464
Obstetrics, gynecology and pediatrics	132	132
Principles and practice of chiropractic **Please include other subjects and hours not listed on this section.**	**518 including:** 1) chiro. technique 2) chiro. philosophy 3) orthopedics 4) x-ray technique& radiation protection 5) **430 hours clinic** including office procedures	1,380 Including: 1) 300 2) 96 3) 12 4) 72 5) 900
Physiotherapy	120	140
Psychiatry	32	45
Electives	660	660
Total hours	4,400	4,944

Clinical Experience	Minimum Number Required	Number Completed by Applicant
1) Physical Examinations	25 (10 not student patients)	1) 25 (10 not student patients)
2) Urinalysis	25	2) 25
3) CBC's	20	3) 20
4) Blood chemistries	10	4) 10
5) X-ray examinations	30	5) 30
6) Proctologic examinations	10	6) 10
7) Gynecologic examinations	10	7) 10
8) Patient treatments including diagnostic, adjustive technique, and patient evaluation	250	8) 250
9) Written interpretation of X-ray (film or slide)	30	9) 30
10) Practical clinical experience hours	518	10) 518
11) Physiotherapy procedures performed by the student on their own clinic patients	30	11) 30

Pursuant to Section 4 of the Chiropractic Initiative Act of California and Title 16, California Code of Regulations, Section 331.11, the California Board of Chiropractic Examiners will only approve chiropractic colleges that strictly adhere to the standards adopted by The Council on Chiropractic Education, Commission on Accreditation. Failure to comply with this requirement will result in denial of approval status or be cause for revocation of continued approval.

I certify under the penalty of perjury that the foregoing information contained in this application and any attachments here to are true and correct, and that all subjects referred to herein are contained within the established curriculum as set forth in California Code of Regulations, Title 16, Section 331.12.2. Providing false information or omitting required information may constitute grounds for denial of approval status.

Signature of President

5/3/07
Date

Larry G. Patten
Type or Print President's Name

(affix college seal)

90A-2
Rev. 2/04

STATE OF CALIFORNIA ARNOLD SCHWARZENEGGER, Governor

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   Address: 4777 City Center Parkway

   City: Port Orange State: FL Zip Code: 32129-4153

2. Type of approval sought: ☒ Initial Approval ☐ Continued Approval

3. Accredited by the Council on Chiropractic Education (CCE)? ☒ Yes ☐ No
   If yes: Date application for reaffirmation of accreditation is due: May 2006
   Date application for continued accreditation is due: _____

4. Has the school entered into any resolutions or agreements with CCE that deviate from the Commission on Accreditation (COA) standards? ☐ Yes ☒ No
   If yes, please list: _____

5. Accredited by any other accrediting agency? ☒ Yes ☐ No
   If yes: Name of accrediting body: North Central Association of Colleges and Schools
   Date of application for continued accreditation is due: 2008

6. Affiliated with a health science teaching center? ☐ Yes ☒ No

   If yes, please identify: _____

   If no, please state briefly how clinical instruction is provided:

   Classroom instruction, Observation and Practical Experience in Campus and Outreach Clinic Settings

7. Please enclose a copy of the college's bulletin, catalogue and a copy of the last CCE inspection report.

8. Does the school:

   a. Provide all students with training in performing completed histories and physicals? ..... [X] Yes [ ] No

   b. Cover all subjects currently required by sections 331.12.2? ..... [X] Yes [ ] No

9. What is the ratio of full-time faculty members to students? 1:14

10. Does the actual clinical experience provided to each student include?:

Examining, Diagnosing and Treatment	[X] Yes	[ ] No
Spinal Analysis	[X] Yes	[ ] No
Palpation	[X] Yes	[ ] No
Chiropractic Philosophy	[X] Yes	[ ] No
Symptomatology	[X] Yes	[ ] No
Laboratory and Physical Diagnosis	[X] Yes	[ ] No
X-ray Interpretation	[X] Yes	[ ] No
Postural Analysis	[X] Yes	[ ] No
Diagnostic Impressions	[X] Yes	[ ] No
Adjustive Technique	[X] Yes	[ ] No
Psychological Counseling	[X] Yes	[ ] No
Demonstration and Practice of Physical Therapy Procedures	[X] Yes	[ ] No

11. Do the minimum graduation requirements for each student include?:

25 Physical Examinations, of which at least 10 must be outside patients	[X] Yes	[ ] No
25 Urinalyses	[X] Yes	[ ] No
20 CBC's	[X] Yes	[ ] No
10 Blood Chemistries	[X] Yes	[ ] No
30 X-ray Examinations	[X] Yes	[ ] No
10 Proctologic Examinations	[X] Yes	[ ] No
10 Gynecologic Examinations	[X] Yes	[ ] No
250 Patient Treatments (Visits)	[X] Yes	[ ] No
Written interpretation of at least 30 different X-ray series, while a senior in the clinic	[X] Yes	[ ] No
500 Hours of Practical Clinical Experience	[X] Yes	[ ] No

12. Please use the space below to provide any comments or additional information you believe will be helpful to the Board in evaluating this application.

Please complete the chart below detailing the number of hours taught in each required subject area.

Subject	Minimum Hours Required	Hours Completed by Applicant
Anatomy, including embryology, histology, and human dissection	616	624
Physiology (must include laboratory work)	264	264
Biochemistry, clinical nutrition, and dietetics	264	264
Pathology, bacteriology, and toxicology	440	444
Public health, hygiene and sanitation, and emergency care	132	132
Diagnosis **Please include other subjects and hours not listed on this section.** * Minimum Additional Diagnostic Subjects	**792 including:** 1) E.E.N.T. 2) Serology 3) Dermatology 4) Syphilology 5) Geriatrics 6) x-ray interpretation 7) Neurology	854 including: 1) 24 2) 12 3) 24 4) 24 5) 60 6) 204 7) 96 *408
Obstetrics, gynecology and pediatrics	132	132
Principles and practice of chiropractic **Please include other subjects and hours not listed on this section.**	**518 including:** 1) chiro. technique 2) chiro. philosophy 3) orthopedics 4) x-ray technique& radiation protection 5) **430 hours clinic** including office procedures	1416 including: 1) 288 2) 108 3) 36 4) 84 5) 900
Physiotherapy	120	120
Psychiatry	32	36
Electives	660	660
Total hours	**4,400**	4,944

Clinical Experience	Minimum Number Required	Number Completed by Applicant
1) Physical Examinations	25 (10 not student patients)	1) 25
2) Urinalysis	25	2) 25
3) CBC's	20	3) 20
4) Blood chemistries	10	4) 10
5) X-ray examinations	30	5) 30
6) Proctologic examinations	10	6) 10
7) Gynecologic examinations	10	7) 10
8) Patient treatments including diagnostic, adjustive technique, and patient evaluation	250	8) 250
9) Written interpretation of X-ray (film or slide)	30	9) 30
10) Practical clinical experience hours	518	10) 720
11) Physiotherapy procedures performed by the student on their own clinic patients	30	11) 30

Pursuant to Section 4 of the Chiropractic Initiative Act of California and Title 16, California Code of Regulations, Section 331.11, the California Board of Chiropractic Examiners will only approve chiropractic colleges that strictly adhere to the standards adopted by The Council on Chiropractic Education, Commission on Accreditation. Failure to comply with this requirement will result in denial of approval status or be cause for revocation of continued approval.

I certify under the penalty of perjury that the foregoing information contained in this application and any attachments here to are true and correct, and that all subjects referred to herein are contained within the established curriculum as set forth in California Code of Regulations, Title 16, Section 331.12.2. Providing false information or omitting required information may constitute grounds for denial of approval status.

Signature of President

May 11, 2005
Date

Donald P. Kern, D.C.
Type or Print President's Name

(affix college seal)

90A-2
Rev. 2/04

Palmer Florida first submitted its application for Board approval in May of 2005. Despite the fact that it is a branch campus of the oldest chiropractic school in the country, is fully CCE accredited, and is approved by all 49 other states, the California Board has not yet acted on the application. Palmer is alone among the CCE accredited chiropractic colleges in not having California Board approval.

The high quality of Palmer Florida was recently reaffirmed by CCE when it renewed Palmer's accreditation for a full eight year period, the longest period of time for which accreditation is granted. This eight year accreditation period further establishes that Palmer Florida graduates are qualified to join the California chiropractic community.

In addition to meeting or exceeding the requirements for CCE accreditation, Palmer meets the California specific requirements contained in the California Act and Regulations. The detailed information contained in this application demonstrates such compliance. Further, in connection with applying for California approval the undersigned has carefully reviewed the California Act and Regulations and hereby certifies that from the time Palmer Florida first submitted its application in May 2005 through the present, Palmer Florida has always met or exceeded all of the California requirements for Board approval.[1]

It would be unfair to Palmer graduates and a disservice to the California public to prevent the over 400 well trained chiropractors who graduated from Palmer Florida during the past year and a half from sitting for the California licensing exam if they choose to do so. Palmer Florida therefore respectfully requests that the Board approve Palmer with an effective date of December 1, 2005, so that all of Palmer Florida's graduates will be eligible to sit for the California licensing examination.

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[1] Unfortunately, due to an error, for a period of time Palmer Florida's manual stated that graduates were to perform twenty physical examinations, instead of the twenty-five required by the regulations. As soon as this unfortunate mistake was discovered, it was immediately corrected. Palmer reviewed its records and believes that all Palmer Florida graduates completed 25 physical examinations as required by California.

Discipline (*=lab required)	Sub Discipline	California Required Hours	Track	Quarte	CCF Hrs		Total Contact Hours
Group I							
Anatomy*		616				616	
			Structure	1	72		
			Structure	2	81.6		
			Structure	3	84		
			Structure	4	24		
			Structure	5	44		
			Structure	6	64		
			Foundation	4	12		
Anatomy	Gross Anatomy		Foundation	5	12		393.6
			Structure	1	12		
			Structure	2	7.2		
			Structure	3	12		
			Structure	4	12		
Anatomy	Embryology		Structure	5	2		45.2
	Histology*		Structure	1	24		
	(particular emphasis		Structure	2	7.2		
Anatomy	on Neurology)		Structure	5	2		33.2
			Structure	1	24		
			Structure	2	24		
			Structure	3	24		
			Structure	4	24		
			Structure	5	24		
Anatomy	Human Dissection*		Structure	6	24		144
Group II							
Physiology*		264				312	
Physiology	Blood and Lymph		Function	5	12	12	12
Physiology	Circulation		Function	5	12	12	12
Physiology	Respiration		Function	5	12	12	12
Physiology	Excretion		Function	4	16	16	16
Physiology	Digestion		Function	4	16	16	16
Physiology	Metabolism		Function	4	16	16	16
Physiology	Endocrine		Function	3	48	48	48
Physiology	Exercise		Function	5	12	12	12
Physiology	Special Senses		Function	3	36	36	36
			Function	2	60		
			Function	3	12		
			Foundations	4	12		
Physiology	Nervous System		Foundations	5	12	96	96
			Foundations	3	12		
Physiology	Biomechanics		Function	2	24	36	36

Group III							
Biochemistry & Nutrition		264				264	
Biochemistry	chemistry of food		Function	1	125	125	125
Biochemistry	Digestion & Metabolism		Function Function	4 6	1 36	37	37
Nutrition	Diatetics and clinical nutrition in the prevention and treatment of illness.		Function Function	9 3	84 12	96	96
Biochemistry	cellular biochemistry		Foundations	5	6	6	6
Group IV							
Pathology		440				440	
Pathology	General and Special*		Function Function Function Function Function Function Structure Foundations	1 2 3 4 5 6 6 5	7 24 24 59 48 83 20 6		271
Pathology	Bacteriology* Serology Parasitology		Structure Structure Structure	4 37 4	30 37 30	97	97
Pathology	Toxicology		Foundations Foundations	6 7	24 12	36	36
Pathology	Neurology		Function	2	24	24	24
Pathology	Biomechanics		Function	4	12	12	12

Group V							
Public Health		**132**				**151**	
Public Health	Hygiene & Sanitary procedures		Foundations	6	12	12	12
Public Health	First Aid/emergancy care		Function Structure	5 9	12 12	24	24
	Minor surgery						
Public Health	Prevention of disease, AIDS		Function Structure Foundations	6 9 9	1 6 3	10	10
Public Health	Public Health Department Regulations		Foundations Foundations	8 9	12 33	45	45
Public Health	Venipuncture		Care	5	12	12	12
Public Health	CPR		Care	5	12	12	12
Public Health	Patient Education		Foundations	3	36	36	36
Group VI							
Diagnosis		**792**				**804**	
Diagnosis	Physical		Function Function Care Care Care Care Care Clinic Clinic Clinic	5 7 1 2 4 6 8 10 11 12	48 84 44 12 24 12 24 60 60 60	428	428
Diagnosis	EENT		Function	3	24	24	24
Diagnosis	Clinical laboratory		Structure Structure	7 8	24 12	36	36
Diagnosis	Differential Diagnosis / Neurology		Structure	7	60	60	60
Diagnosis	Geriatrics		Structure	9	36	36	36
Diagnosis	Dermatology		Structure	9	6	6	6
Diagnosis	Syphilology		Function Structure	4 9	12 12	24	24
Diagnosis	Roentgenology -Technique -Interpretation		Care Care Care Function Structure	1 5 6 8 6	4 36 12 115 12	179	179
Diagnosis	Serology		Structure	8	11	11	11

Group VII							
Ob / Gyn & Peds		132	Structure Care Care Foundations Function	8 8 9 7 8	24 4 96 3 5	132	132
Group VIII							
Principles & Practice of Chiropractic		518 incl. 430 of Clinic				1380	
Principles & Practice of Chiropractic	Adjustive Technique		Care Care Care Care Care Care	2 3 4 5 6 7	60 72 48 32 60 24	300	300
Principles & Practice of Chiropractic	Chiropractic Philosophy		Care Foundations Foundations Foundations	1 1 2 8	12 36 36 12	96	96
Principles & Practice of Chiropractic	Orthopedics		Care	6	12	12	12
Principles & Practice of Chiropractic	X-ray technique & radiation protection		Care Structure Structure	4 7 8	24 24 24	72	72
Principles & Practice of Chiropractic	Clinic	430	Clinic	10 11 12	240 240 240	720	720
Principles & Practice of Chiropractic	Office Procedures private office and case management writing and composition of reports and forms for insurance claims provisions, rules and regulations of the Chiropractic Act. Rules and Regulations of the Radiographic Tecnology Certification Committee of the state		Clinic	10 11 12	60 60 60	180	180

Psychiatry	Psychiatry	32	Foundations	7	45	45	45
Physiotherapy	Physiotherapy theory, principles and use of the standard recognized PT equipment and procedures -Requires 30 office visits using PT on their own clinic patients	120	Care Care	7 8	72 68	140	140
Electives		660				660	
			CEPE	I II	24 24	48	48
	Communication Ethical Behavior Ethics & Jurisprudence Psychiatry		Clinic Foundations Foundations Foundations Foundations Foundations	9 8 10 11 12 13	60 12 60 60 60 60	312	312
			PDQ	13	300	300	300
							4944

STATE OF CALIFORNIA ARNOLD SCHWARZENEGGER, Governor

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DRAFT

BOARD OF CHIROPRACTIC EXAMINERS

PUBLIC SESSION MINUTES

Thursday, March 1, 2007
9:00 a.m. to 5:00 p.m.
State Capitol, Assembly Room 126
Sacramento, CA 95814

BOARD MEMBERS PRESENT

Richard Tyler, D.C., Secretary
Judge James Duvaras, Ret.
Francesco Columbu, D.C.
Frederick Lerner, D.C.
Hugh Lubkin, D.C.

BOARD MEMBERS ABSENT

James Conran

STAFF PRESENT

Catherine Hayes, Executive Director
David Hinchee, Assistant Executive Director
Jana Tuton, Deputy Attorney General
Lavella Matthews, Licensing Program Analyst
Marlene Valencia, Business Services Assistant

GUESTS PRESENT

Sarbjit Dhesi, D.C.
Charles G. Davis, D.C., ICAC
Rick Skala, D.C.
Carole M. Arbuckle
George Cate, Sen. BP & Ed Comm.
John Bueler, D.C., CCA
Bill Howe, CCA
Bill Updyke, D.C., CCA
Patrick Walborn, D.C.
Ed Cremata
Roger Calton
Louise Phillips
David Oranen
Azita Banooni
Kendra Holloway, D.C.
Al Dockus

Call to Order

Dr. Tyler called the meeting to order at 9:05 a.m.

Roll Call

Dr. Tyler called the roll. All members were present.

Dr. Tyler introduced and welcomed the newest Board member, Frederick Lerner, D.C., who was appointed by the Governor on February 16, 2007.

Approval of Minutes

- December 14, 2006, Open Session

JUDGE DUVARAS MOVED TO ADOPT THE DECEMBER 14, 2006 OPEN SESSION MINUTES. DR. LERNER SECONDED THE MOTION. VOTE: 4-0. MOTION CARRIED.

Election of Officers

Dr. Tyler requested nominations for Chair.

Judge Duvaras nominated Dr. Tyler. There being no further nominations, Dr. Tyler closed the nominations for Chair.

DR. TYLER CALLED FOR A VOTE. DR. TYLER WAS ELECTED AS CHAIR. VOTE: 4-0.

Dr. Tyler requested nominations for Vice Chair. Dr. Columbu nominated Dr. Lerner. There being no further nominations, Dr. Tyler closed the nominations for Vice Chair.

DR. TYLER CALLED FOR A VOTE. DR. LERNER WAS ELECTED AS VICE CHAIR. VOTE: 4-0.

Dr. Tyler requested nominations for Secretary. Dr. Lerner nominated Dr. Columbu. There being no further nominations, Dr. Tyler closed the nominations for Secretary.

DR. TYLER CALLED FOR A VOTE. DR. COLUMBU WAS ELECTED AS SECRETARY. VOTE: 4-0.

Chairperson's Report

Dr. Tyler asked Judge Duvaras to head a committee to establish policies or bylaws for the Board. Judge Duvaras accepted.

Dr. Tyler announced that delegates for the National Board of Chiropractic Examiners are due Monday March 5, 2007. Dr. Lerner was chosen as the delegate and Dr. Columbu as the alternate for National Board of Chiropractic Examiners.

Dr. Tyler read a statement regarding the direction of the Board of Chiropractic Examiners. Dr. Tyler stated that with the Board's permission he would like to send it to the various chiropractic publications.

Dr. Tyler then called for a closed session. Dr. Tyler asked that everyone leave the room with the exception of Cynthia Butler, Shawn Steele and Catherine Hayes. Jana Tuton informed the Board that a closed session is with only Board members and Board staff. Dr. Tyler stated that he would then like to have Board members and David Hinchee remain.

The meeting was recessed into closed session at 9:20 a.m. and reconvened into open session at 9:50 a.m.

Dr. Tyler stated that due to time schedules of certain people in the audience he moved to Exhibit Q, Discussion Regarding Manipulation Under Anesthesia (MUA). Dr. Tyler asked anyone who would like to speak regarding this issue to please step forward.

Patrick Shannon, an attorney with the law firm of Greenberg Traurig and Roger Calton, an attorney with the law firm of Calton & Burns, both were representing Dr. Ed Cremata, D.C. Along with them were Ed Cremata, D.C. and Charles Davis, D.C., with the International Chiropractors Association of California (ICAC). Mr. Shannon commented that manipulation under anesthesia (MUA) is chiropractic in nature, MUA is taught in chiropractic schools and that MUA does not violate the use of drugs because the chiropractor is not involved in the administration of anesthesia. Mr. Shannon further stated that he was asked in a previous Board meeting if there were any outstanding contradiction cases. Mr. Shannon continued by stating that the Tain case in no way contradicts, but in fact, reaffirms the authority of the Board of Chiropractic Examiners to make scope of practice decisions. Mr. Shannon then asked the Board if they are prepared to make a resolution reaffirming their position since 1990 that MUA is legal and within the scope and secondly, are they prepared to initiate a rulemaking to solidify that.

Judge Duvaras made a motion that the Board of Chiropractic Examiners reaffirms its longstanding interpretation that manipulation as part of a MUA procedure is authorized under the Chiropractic Initiative Act and is not made illegal simply because the patient is under anesthesia. The acts ban on the practice of medicine and the use of drugs pertains only to the activity of a doctor of chiropractic by his or her own hand and does not preclude a doctor of chiropractic from performing manipulation in a procedure where a qualified anesthesia provider is exclusively responsible for the drugs.

JUDGE DUVARAS MOVED TO REAFFIRM THAT MUA IS AUTHORIZED UNDER THE CHIROPRACTIC INITIATIVE ACT AND IS NOT ILLEGAL. DR. LERNER SECONDED THE MOTION. VOTE: 4-0. MOTION CARRIED.

Judge Duvaras requested that MUA be placed on the next Board meeting agenda to initiate a rulemaking to clarify that MUA is within the scope of practice under the act. All members agreed.

Petition Hearing for Reinstatement of Revoked License

Administrative Law Judge Ann Sarli presided over the following petition hearings:

- Carlos Seals
- David J. Oranen
- Thomas J. Wiltse

Petition for Early Termination of Probation

Administrative Law Judge Ann Sarli presided over the following petition hearings:

- Azita Banooni, D.C.
- Geoffrey A. Hodies, D.C.
- William W. Schrader, D.C.

Following the petitioners oral testimonies, the Board heard public statements from Robert Levanthal, Larry Hagman, and Dr. Peter Martin regarding Palmer College Florida. Mr. Levanthal stated that Palmer College Florida first submitted its application on May 18, 2005 seeking approval from the Board, He continued by saying Palmer College Florida is fully accredited by the Council

on Chiropractic Education (CCE). Mr. Levanthal asked the Board to approve the Palmer College Florida application that is on file and to make the approval retroactive to December 1, 2005.

JUDGE DUVARAS MOVED TO APPROVE THE APPLICATION OF PALMER COLLEGE FLORIDA AND MAKE IT RETROACTIVE TO DECEMBER 1, 2005. DR. COLUMBU SECONDED THE MOTION. VOTE: 4-0. MOTION CARRIED.

The Board then recessed for lunch at 1:30 p.m. The Board reconvened into executive session at 2:30 p.m. to consider Mr. Seals, Mr. Oranen and Mr. Wiltse's Petition for Reinstatement of Revoked License and Drs. Banooni, Hodies and Schrader's Petition for Early Termination of Probation.

Dr. Tyler, D.C. called the Board into open session at 3:02 p.m. All Board members were present.

Dr. Tyler, D.C. introduced and welcomed the newest Board member, Hugh Lubkin, D.C., who was appointed by the Governor on March 1, 2007. Dr. Lubkin, D.C. joined the meeting at 3:02 p.m.

Program Reports

Administration

Mr. Hinchee reminded Dr. Tyler that the Board needs to select Federation of Chiropractic Licensing Boards (FCLB) delegates. Dr. Tyler stated that he would call Mr. Hinchee with that information.

Budget Update

Mr. Hinchee referred to Exhibit H, regarding the Board's current expenditures. Mr. Hinchee stated that the budget is doing well. Dr. Columbu, D.C. questioned the expenses for IT services rendered by Powell Consulting. Mr. Hinchee explained that the expenses are due to excessive computer mishaps and frequent repairs to the server. Dr. Columbu, D.C. asked if it was normal for the Board staff to have laptops and remote access. Mr. Hinchee responded by recommending the removal of remote access to all Board staff. Following a brief discussion regarding the removal of remote access by all Board staff, Dr. Lerner made a motion.

Dr. Lerner, D.C. stated that he would like to see the policies for other State agencies. Dr. Lerner, D.C. then asked Mr. Hinchee to obtain guidelines from other agencies and present it to the Board as an agenda item at a future meeting.

Cost Recovery Data

Judge Duvaras asked how the Board is doing on collecting attorney fees. Mr. Hinchee referred to Exhibit K. Judge Duvaras suggested that it should be made part of the stipulation that the fees are paid within so many days. Mr. Hinchee stated that it should be a staff project and involve Judge Duvaras to find a solution on how to plan on cost recovery. Dr. Tyler, D.C. asked Judge Duvaras to meet with staff and prepare a plan on cost recovery and report back to the Board at the next Board meeting.

Strategic Plan

Mr. Hinchee referred to Exhibit I, the proposed Strategic Plan and stated that it was prepared by Mr. Hinchee based on the prior approved version prepared by Catherine Hayes. Dr. Tyler, D.C. suggested this item be tabled for discussion until the next Board meeting.

Mr. Hinchee indicated that after the committee assignments have been made, the Regulation Committee can work on the fee regulations.

Enforcement

List of Complaints

Mr. Hinchee referred to Exhibits J, and reported on the List of Complaints and the various types of complaints the office receives.

Pending Disciplinary Actions

Mr. Hinchee referred to Exhibit L. Dr. Lerner, D.C. asked what the codes "L" and "A" mean. Mr. Hinchee stated that he did not know, but would find out and let them know.

Licensing

License Statistics

Ms. Matthews reported on Exhibit M and reported on the license statistics.

California Law and Professional Practices Exam (CLPPE) Statistics

Mr. Hinchee referred to Exhibit N, and reported on the number of applicants who have taken the exam.

Review of Palmer Chiropractic College-Florida

Mr. Hinchee referred to Exhibit O, and stated that this is the timeline and supporting documents for the Palmer Chiropractic College, Florida application.

Web License Lookup Statistics

Mr. Hinchee referred to Exhibit P, and reported on the amount and type of license lookups that the Board's website receives.

Dr. Tyler, D.C. would like to add the discussion of pro-adjuster concerns to the next agenda.

Announcements

The next meeting is expected to occur on April 19, 2007, in Los Angeles. Dr. Tyler, D.C. stated that he would contact Mr. Phillips to inquire about having the Board's next meeting at the Southern California University of Health Sciences. There will be a committee meeting on June 21, 2007 in Sacramento.

Public Comment

Charles Davis, D.C. representing ICAC, stated that he would like to revisit and discuss the 50 minutes of CE instructional hours that are equivalent to one hour. He also commented on the need to discuss Regulations 306 and 306.1 at a future meeting.

Barbara Stanfield, D.C., former chair of the Board, voiced concerns about the actions taken by the Board today.

Eric Rice, commented that there is no way that a server can be totally secured.

Dr. Tyler, D.C. adjourned the public session at 3:55 p.m.

STATE OF CALIFORNIA ARNOLD SCHWARZENEGGER, Governor

Board of Chiropractic Examiners
2525 Natomas Park Drive, Suite 260
Sacramento, California 95833-2931
Telephone (916) 263-5355 FAX (916) 263-5369
CA Relay Service TT/TDD (800) 735-2929
Consumer Complaint Hotline (866) 543-1311
http://www.chiro.ca.gov

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BOARD OF CHIROPRACTIC EXAMINERS

PUBLIC SESSION MINUTES

Thursday April 19, 2007

9:30 a.m.

Four Points by Sheraton LAX
9750 Airport Boulevard
Los Angeles, CA 90045

BOARD MEMBERS PRESENT

Richard Tyler, D.C., Chair
Frederick Lerner, D.C., Vice-Chair
Francesco Columbu, D.C., Secretary
Jim Conran
Hugh Lubkin, D.C.
Judge James Duvaras, Ret.

STAFF PRESENT

Brian J. Stiger, Acting Executive Director
LaVonne Powell, DCA Senior Staff Counsel
Lavella Matthews, Senior Licensing Program Analyst
Marlene Valencia, Business Services Assistant

GUESTS PRESENT

Mike Sackett, D.C., SCUHS
Steve Hartzell, PTBL
Joseph Cobbs
James Barrass, D.C.
B. Stanfield, D.C.
John Bueller, D.C., CCA
Jeffrey Nabatmama
Charles Davis, ICAC
Kathleen Hamilton
Roger Calton
Ed Cremata, National Academy of MUA Physicians
Kristine Shultz, CCA
Steven Jaffe, D.C., SCHUS
Kendra Holloway, D.C., LCCW
Cherrie DeWonda, OUIUS
Steven Becker, D.C.
Sarbjit Dhesi, D.C.
J.L. Moore
Craig Gunderson, D.C., AFICC
Carlos Negrete

Call to Order

Dr. Tyler called the meeting to order at 9:32 a.m.

Roll Call

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

Approval of Minutes

- March 1, 2007, Open Session

Dr. Tyler asked for a motion to approve the March 1, 2007 open session minutes.

JUDGE DUVARAS MOVED TO ADOPT THE MARCH 1, 2007 OPEN SESSION MINUTES. DR. COLUMBU SECONDED THE MOTION. DISCUSSION WAS REQUESTED.

Dr. Columbu discussed changes he would like made to the minutes. It was agreed that staff would review the proposed changes and compare with records.

FOLLOWING A DISCUSSION, BOARD MEMBERS AGREED TO TABLE THIS SO THAT STAFF CAN REVIEW THE PROPOSED CHANGES AND PREPARE THE MARCH 1, 2007 OPEN SESSION MINUTES FOR APPROVAL AT THE NEXT BOARD MEETING.

- March 23, 2007, Open Session

Dr. Tyler asked for a motion to approve the March 23, 2007 open session minutes.

JUDGE DUVARAS MOVED TO ADOPT THE MARCH 23, 2007 OPEN SESSION MINUTES. DR. LERNER SECONDED THE MOTION. VOTE: 6-0. MOTION CARRIED.

Petition for Early Termination of Probation

Administrative Law Judge Tim Thomas presided over the following petition hearings:

- John F. Koningh D.C.

Petition Hearing for Reinstatement of Revoked License

Administrative Law Judge Tim Thomas presided over the following petition hearings:

- Anthony T. Johnson
- Joseph Cobbs
- Jeffrey Nabatmama

Mr. Robert J. Montoya did not appear for his hearing. Following the petitioners oral testimonies, the Board reconvened into closed session at 12:03 p.m. to consider Dr. Koningh's Petition for Early Termination of Probation and Mr. Johnson, Mr. Cobbs and Mr. Nabatmama's Reinstatement of Revoked License.

The Board recessed for lunch at 12:30 p.m.

Dr. Tyler called the Board into open session at 1:15 p.m. All Board members were present.

Dr. Tyler announced that due to guest speaker's time constraints, he moved to the Executive Director Search Committee Report agenda item. Dr. Lubkin introduced Jeffrey Sears, Staff Service Manager I, with Department of Consumer Affairs Office of Human Resources. Mr. Sears explained the process of appointing an Executive Director. Mr. Sears proposed that after the committee has screened the candidates and narrowed down to the top 3 candidates, those candidates would then be presented at a Board meeting for the full Board to interview and make a selection. Mr. Sears said the entire process takes about 2 months. Mr. Sears also reported that executive officer's are exempt from civil service and salaries are set by the Department of Personnel Administration in conjunction with the Governor's Office. He continued by saying that the Board initiative allows the Board to set the salary with the approval of the Department of Finance. Mr. Sears stated that the salary for the executive officer is set at Level M which is $6,694-$7,239 per month.

Dr. Tyler stated that he would like to have candidates appear before Board at the next Board meeting. Mr. Stiger stated that he would like to clarify that his purpose in the first meeting of the Executive Director Search Committee was to introduce Mr. Sears to Dr. Lubkin. Mr. Stiger would like it to be on record that because he may or may not be a candidate for the executive director position,so he will no longer be involved in anymore meetings.

Review of New Application for Board Approval as a Chiropractic College

Mr. Stiger stated that a new application had been posted on the website since fall of last year. It is the staff's recommendation that the application be moved to a committee for research and recommendation at a future Board meeting. Mr. Stiger stated its recommending the Board revert back to the old application at this time. Dr. Tyler asked for a motion.

JUDGE DUVARAS MOVED TO ACCEPT THE RECOMMENDATION OF THE BOARD STAFF. DR. LUBKIN SECONDED THE MOTION. VOTE: 6-0. MOTION CARRIED.

Palmer Chiropractic College-Florida Decision

Mr. Stiger reported that last week Board staff and legal staff met with Palmer College representatives. The college has committed to providing the Board the necessary information, including a new application, to make a decision. Board staff recommended that the decision be reconsidered, and anticipates a successful resolution in 10 days. Once the application is received it will be brought before the Board at the next meeting. Dr. Tyler asked for a motion of reconsideration of motion that granted the application at the March 1, 2007 meeting.

DR. LERNER MOVED TO RECONSIDER THE MARCH 1, 2007 MOTION THAT GRANTED THE APPLICATION. DR. COLUMBU SECONDED THE MOTION. Dr. Tyler asked for comment. Judge Duvaras asked to hear from the Palmer College representative. Mr. Robert Levanthal confirmed Mr. Stiger's report. **VOTE: 6-0. MOTION CARRIED.**

Ms. Powell stated that in order to move forward, there needs to be a motion to rescind the March 1, 2007 approval. Dr. Tyler asked for a motion.

DR. LERNER MOVED TO RESCIND THE MARCH 1, 2007 APPROVAL OF PALMER CHIROPRACTIC COLLEGE-FLORIDA. DR. LUBKIN SECONDED THE MOTION. VOTE: 6-0. MOTION CARRIED.

Out-of-State College Application

Mr. Stiger stated this is a duplicative agenda item.

Chair's Report

Dr. Tyler introduced and welcomed the newest Board member, Jim Conran who was appointed by the Governor on February 23, 2007.

Dr. Tyler appointed Drs. Lerner and Lubkin to the Administrative Committee; Dr. Lerner, Mr. Conran and Judge Duvaras to the Examination and Licensing Committee; Drs. Columbu and Lubkin to the Enforcement Committee; Mr. Conran and Drs. Lerner and Lubkin to the Legislative Committee; Drs. Tyler and Lubkin to the Continuing Education Committee; Judge Duvaras and Dr. Lubkin to the Regulations Committee; and Mr. Conran, Drs. Tyler and Lubkin and the Board Executive Officer to the Sunset Review Committee.

Executive Director's Report

Mr. Stiger reported on recent changes to ensure the security of the Board's business and personal information. Locks have been changed on both the exterior and interior doors; secured the computer network by eliminating remote access; staff has access to the building during normal business hours; staff attended mandatory training regarding the safeguarding of personal information. In order to improve customer service, phone coverage is now rotated amongst all staff. We are also in the process of updating our website to include a Press Release link and a Subscription List. The Board has implemented a Media Relations Policy to ensure that all media inquiries are directed to the Executive Director. The Board has also entered into a Short Term Contract with the Department of Consumer Affairs for Personnel, Legal and Fiscal Services. This contract will expire at the end of the fiscal year.

Mr. Stiger also reported on two recent bills, AB1113 and SB801, which were released this week. Board staff will analyze, track and report on those bills at the next meeting.

Mr. Stiger stated that both Mr. Conran and Dr. Lubkin will attend the Federation of Chiropractic Licensing Boards in St. Louis, Missouri on May 2-6, 2007.

Procedure for Placing Items on the Agenda

Mr. Stiger read the procedure for placing items on the agenda. After a discussion, it was agreed that Mr. Stiger will revise the procedure and present it at the next Board meeting.

Dr. Columbu would like to see contact information on website. Mr. Stiger agreed that it is a good suggestion and primary contact information will be on the website.

Board Member training on Bagley-Keene Open Meetings Act

Ms. Powell advised the Board members on concerns such as the when there are more than two members discussing an issue, that they don't violate the act; the public has a right to make comment; we always need to have an agenda item regarding public comment; the Board follows Robert Rules of Order in order to conduct a meeting however, if it conflicts with the open meetings act, then the Board needs to follow the open meetings act; keep motions simple; closed session must be noticed properly and cite the government code that allows the Board to discuss in closed session; agendas must be noticed to the public 10 days before a meeting; the agenda can not be changed once it is noticed. Ms. Powell also discussed the Administrative Procedures Act, Enforcement. Ms. Powell stated that Board members need to respect the boundary and not discuss any complaints with licensees. Board members are only entitled to hear the proposed decision. Ms. Powell encouraged members to have a copy of the disciplinary guidelines next to them while going over discipline cases.

Program Reports

Budget Update

Mr. Stiger reported on the Board's budget and stated that the Budget is "healthy". During discussion, Judge Duvaras asked about cost recovery. Mr. Stiger referred to agenda item K. Ms. Powell recommended reviewing the tax intercept program at the Respiratory Board. Ms. Powell also stated that there is movement in legislature regarding cost recovery.

Statistics

Mr. Stiger reported on Enforcement statistics over the last three fiscal years. During discussion, Dr. Columbu recommended the Enforcement Unit prioritize the complaints so that the investigators can be used for more serious issues. Dr. Lubkin shared his concerns by asking if the investigators being used for complaints such as the license not being properly displayed or are we using them for more serious allegations. After discussion, it was agreed that, depending on the nature of the complaint, it could be cost effective to be more pro-active in the Enforcement Unit, such as sending a letter to the chiropractor versus conducting a whole investigation. Mr. Stiger stated that he would look into these issues.

Charles Davis, D.C., expressed his concerns regarding reimbursement to the doctor if the doctor wins a case. He further commented on his desire to put Regulations 306.1 and 306 on a future agenda.

Mr. Stiger stated that it is staff's recommendation that Regulations 306.1 and 306 be assigned to the Enforcement Committee for review on how it should be implemented.

Roger Calton, an attorney, stated that he has seen an increase in claims by insurance companies against patients. Mr. Calton expressed his concerns regarding the privacy of the patients who are not making the complaint themselves.

Cost Recovery Data

This topic was discussed during the Budget Update.

License Statistics

Ms. Matthews reported on the license statistics. Dr. Lerner would like to see comparison figures on future reports.

California Law and Professional Practices Exam (CLPPE) Statistics

Ms. Matthews reported on the 2007 Quarterly CLPPE exams. After brief discussion, it was agreed that Board staff will prepare the report so that it is easier to read.

Discussion and Action: Approval of CE Courses

Ms. Powell reported that there was some confusion in regards to the title of this agenda. MS. Powell met with Genie Mitsuhara in the CE unit for clarification. Ms. Powell stated that if there is a syllabus then lecturer notes are not needed. Ms. Mitsuhara is working on a wish list to streamline the process and suggestions will be brought to the CE committee.

Manipulation under Anesthesia (MUA) decision

Dr. Tyler stated his views and the Board members views have already been made known that they feel MUA is within the pervue of the chiropractic practice. He added that there is now ongoing litigation and it is his understanding has nothing to do with the process but is a condition of fraud. Dr. Tyler stated that he doesn't feel it's the type of thing the Board should be engaged in and asked how the members would like to handle it. Judge Duvaras stated that he would like to hear comments from the public.

Dr. Tyler asked for a motion regarding the reconsideration of Board's motion to reaffirm MUA as authorized under the Chiropractic Initiative Act; stating that it was not the intention of the Board to interfere in a criminal case or any ongoing enforcement case.

JUDGE DUVARAS MOVED TO RECONSIDER THE MARCH 1, 2007 MOTION TO REAFFIRM MUA AS AUTHORIZED UNDER THE CHIROPRACTIC INITIATIVE ACT. DR. LUBKIN SECONDED THE MOTION. VOTE: 6-0. MOTION CARRIED.

Charles Davis, D.C., expressed his feelings and spoke in favor of MUA.

Ed Cremata, D.C., spoke in favor of MUA. He also expressed his feelings regarding the professionalism of the Board.

Roger Calton, Attorney at Law, expressed his feelings and spoke in favor of MUA.

Kristin Shultz, representing the California Chiropractic Association, expressed her feelings and spoke in favor of MUA.

Sarbjit Dhesi, D.C, expressed his feelings and spoke in favor of MUA. Dr. Dhesi referenced a case involving MUA and Worker's Compensation, noting that the judge in the case said that everything was legal and all was done correctly.

Ms. Powell recommended the Board make a motion to rescind its motion of March 1, 2007 reaffirming its position on MUA that it is in its scope of practice however, the rescinding of the motion does not change the Board's longstanding position that MUA is in within the scope of practice.

MR. CONRAN MOVED THAT THE BOARD RESCIND ITS MOTION OF MARCH 1, 2007 AND IN DOING SO ALSO AFFIRMS ITS BELIEF THAT MUA IS WITHIN THE SCOPE OF PRACTICE. THERE WAS NO SECOND MOTION. MOTION FAILED.

Ms. Powell recommended the Board make a motion that the motion of March 1, 2007 to reaffirm that MUA is within the scope of practice was in no way intended to interfere with the criminal case in San Joaquin County and the Board acknowledges that the appropriate means to have this affirmed as scope of practice is through the regulatory process.

JUDGE DUVARAS MOVED THE MOTION RECOMMENDED BY MS. POWELL. DR. LERNER SECONDED THE MOTION. VOTE: 6-0. MOTION CARRIED.

Sunset Review Committee's Recommendation

Mr. Stiger reported on the nine recommendations that were made. Mr. Stiger commented on the recommendations that required the staff to take an action. Mr. Stiger addressed issue #6 reported that Board staff met with Office of Administrative Law (OAL) to discuss the fee regulation. The OAL director commented that he did not foresee any problem with the Board's fee regulation proposal. Mr. Stiger also stated that Board staff researched the fee structure to determine to the basis for the fees and a background paper has been prepared. Staff is waiting for the assignment of a regulation committee so that it can be presented for discussion and recommendation to the Board for a full vote. Mr. Stiger continued with issue #7 and reported that as part of the regulation review and revisions that need to be

made to the current regulations, Board staff is in the process of preparing a summary to be associated with the various citations. Mr. Stiger addressed issue #8 and reported that this item still needs to be researched and worked out with legal counsel. Mr. Stiger stated that at the next meeting he could provide additional reports on these issues.

Announcements

It was announced that the next Board meeting will be held on June 21, 2007. There was discussion on having a meeting of the committee's prior to the next Board meeting. The date will be determined.

New Business

Dr. Lerner commented that while researching how other Board's operate. He would like to see a discussion for periodic Board publication on the next Board agenda.

Public Comment

Dr. Clum expressed his concerns regarding previously approved institutions would be re-approved in 3-year cycles. Dr. Clum continued by stating that there is nothing in regulation or law to this effect. The institutions have cooperated and provided requested information. However, at this time, there is no regulation to support this behavior. He would like to suggest that while the Board is looking at other regulations, that this matter be taken into consideration for regulation and put it into place.

Jim Barris expressed his concerns regarding the renewal of his California license. He currently needs 288 Continuing Education units (CEU) in order to renew his inactive license. He currently has 204 CEU. He is requesting that he be able to renew his license with the provision that he obtain the remaining 84 CEU within 6 months. Mr. Barris also wanted to say the Genie in the CEU department is "a gem".

Carlos Negrete, general counsel to the World Chiropractic Alliance (WCA) and Dr. Terry Rondberg. He voiced his concern and upset over recent articles by the Sacramento Bee, placing the certain Board members integrity and commitment into question. He said that it should be noted that the Sacramento Bee was contacted by the WCA but refuse to correctly report the story.

Stephen Hartzell, Executive Officer with the California Physical Therapy Board. Mr. Hartzell commented that he wanted to introduce himself and let the Board know that routinely he or a staff person will be at our meetings and will be available if there are any common interests for discussion.

Following public comment, the Board recessed into closed session for deliberations on disciplinary matters and action on disciplinary decisions.

Dr. Tyler adjourned the public meeting at 4:33 p.m.

BOARD OF CHIROPRACTIC EXAMINERS
BOARD MEMBER
ADMINISTRATIVE MANUAL

June 15, 2007

DRAFT

Mission Statement (Proposed)

The Board's highest priority is to protect California consumers from the fraudulent or incompetent practice of chiropractic.

Members of the Board
Richard H. Tyler, D.C., Licensee Member, Chair
Frederick Lerner, D.C., Licensee Member, Vice Chair
Francesco Columbu, D.C., Licensee Member, Secretary

Hugh Lubkin, D.C., Licensee Member
Judge James Duvaras, Ret., Public Member
Jim Conran, Public Member

Acting Executive Director
Brian J. Stiger

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

Amendments to this Administrative Procedure Manual regarding Board Policy can be amended by a majority vote of the Board.

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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 Board is a policy-making body comprised of seven members, five professional and two public, appointed by the Governor. The Board's purpose is to protect California consumers through the enforcement of the Act and the Board's regulations. The Board has policy autonomy and sets its own policies, procedures, and initiates its own regulations.

State of California Acronyms

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ALJ	Administrative Law Judge
AG	Office of the Attorney General
APA	Administrative Procedure Act
B&P	Business and Professions Code
CATS	Computer Assisted Testing Service
CCCP	California Code of Civil Procedure
CCR	California Code of Regulations
CLEAR	Council on Licensure Enforcement and Regulations
DAG	Deputy Attorney General
DOF	Department of Finance
DOI	Department of Insurance
DPA	Department of Personnel Administration
SAM	State Administrative Manual
SCIF	State Compensation Insurance Fund
SPB	State Personnel Board
VCGCB	Victim Compensation and Government Claims Board

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General Rules of Conduct

- Board members shall comply with all provisions of the Bagley-Keene Open Meeting Act.

- Board members shall not speak or act for the Board without proper authorization.

- Board members shall not discuss personnel or enforcement matters with members of the public or the profession.

- Board members shall never accept gifts from applicants, licensees, or members of the profession while serving on the Board.

- Board members shall maintain the confidentiality of confidential documents and information.

- Board members shall commit the time and prepare for Board responsibilities.

- Board members shall recognize the equal role and responsibilities of all Board members.

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- Board members shall act fairly, be nonpartisan, impartial, and unbiased in their role of protecting the public.

- Board members shall treat all applicants and licensees in a fair and impartial manner.

- Board members' actions shall serve to uphold the principle that the Board's primary mission is to protect the public.

- Board members shall not use their positions on the Board for personal, familial, or financial gain.

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CHAPTER 2: Board Members & Meeting Procedures

Membership

(§ 1 Initiative Act)

The Board consists of seven members appointed by the Governor. Each member must be a citizen of the United States and have been a resident of California for five years. Two members must be public members. Each licensee member must have at least five years of licensure in this state prior to appointment.

Each licensee member must have pursued a resident course in an approved chiropractic school or college, and must be a graduate thereof and hold a diploma therefrom.

No more than two persons can serve simultaneously as members of the Board whose first diplomas were issued by the same school or college of chiropractic. Nor can more than two members be residents of any one county of the state. No person is eligible for appointment to the Board who is currently or within one year of holding a position as an administrator, policy Board member, or a paid employee of any chiropractic school or college.

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Board Meetings and Offices

(§6 Initiative Act)

The full Board must meet at least twice each calendar year.

The Board's office is located in Sacramento. The Board may establish additional offices in Los Angeles and San Francisco.

Board Meetings

(Government Code Section 11120 et seq. - Bagley-Keene Open Meeting Act)

Due notice of each meeting and the time and place thereof must be given to each member in the manner provided by the Bagley-Keene Open Meeting Act.

The Board may call a special meeting at any time in the manner provided by the Bagley-Keene Open Meeting Act, Government Code Section 11125.4.

Quorum

(§ 3 Initiative Act)

A majority of the Board (four members) will constitute a quorum. An affirmative vote of four members of the Board is required to carry any motion or resolution, to adopt any rule, or to authorize the issuance of any license provided for in the Act.

Board Member Attendance at Board Meetings

(Proposed Board Policy)

Board members should attend each Board meeting. If a member is unable to attend, he or she must contact the Board Chair or the Executive Officer and ask to be excused from the meeting for a specific reason.

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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

(Proposed Board Policy)

Board members may submit agenda items for a future Board meeting during the "New Business" section of a Board meeting or directly to the Board Secretary 15 days prior to a Board meeting. To the extent possible, the Board Secretary will calendar each Board member's request on a future Board meeting.

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In the event of a conflict, the Board Secretary will discuss the proposed agenda item with the Board Chair, and the Board Chair shall make the final decision. 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. The notice shall include a staff person's name, work address, and work telephone number who can provide further information prior to the meeting.

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.

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Mail Ballots

(Government Code Section 11500)

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

Holding Disciplinary Cases for Board Meetings

(Proposed Board Policy)

When voting on 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 ballot. This allows staff the opportunity to prepare information being requested.

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If two votes are 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.

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Record of Meetings

(Proposed Board Policy)

The minutes are 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.

Tape Recording

(Government Code Section 11124.1(b))

The meeting may be audio tape recorded. Audio tape recordings may be disposed of 30 days after Board approval of the minutes.

Members of the public may tape record, videotape or otherwise record a meeting unless the Chair determines the recording is too disruptive.

Meeting Rules

(Proposed 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), as a guide when conducting the meetings. Questions of order are clarified by the Board's attorneys.

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Public Comment

(Proposed Board Policy)

Due to the need for the Board to maintain fairness and neutrality when performing its adjudicative function, the Board shall not receive any substantive 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 substantive 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:

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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 may designate one of its members to review the allegation and to report back to the Board.

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.

4. The Board may limit public comment to a specific time duration to ensure all members of the public are heard.

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CHAPTER 3. Travel & Salary Policies & Procedures

Travel Approval

(Proposed Board Policy)

Board members shall receive Board Chair approval for all travel and salary or per diem reimbursement, except for regularly scheduled Board, committee, and conference meetings to which a Board member is assigned.

Travel Arrangements

(Proposed Board Policy)

Board members should attempt to make their own travel arrangements and are encouraged to coordinate with the Board liaison on lodging accommodations.

Out-of-State Travel

(SAM Section 700 et seq.)

For 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. Out-of-state travel for all persons representing the state of California is controlled and must be approved by the Governor's Office.

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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.

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

Salary Per Diem

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

Each member of the Board shall receive a per diem in the amount provided in Section 103 of the Business and Professions (B&P) Code. Board members fill non-salaried positions, but are paid $100 per day for each meeting day and are reimbursed travel expenses.

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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 and not from the state's taxes.

In relevant part, B&P Code Section 103 provides for the payment of salary per diem for Board members "for each day actually spent in the discharge of official duties," and provides that the Board member "shall be reimbursed for traveling and other expenses necessarily incurred in the performance of official duties."

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Salary Per Diem

(Proposed Board Policy)

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

1. No salary per diem or reimbursement for travel-related expenses shall be paid to Board members except for attendance at official Board or committee meetings, unless a substantial official service is performed by the Board member.

Attendance at gatherings, events, hearings, conferences or meetings other than official Board or committee meetings in which a substantial official service is performed the Executive Officer shall be notified and approval shall be obtained from the Board Chair prior to Board member's attendance.

2. 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.

   If a member is absent for a portion of a meeting, hours are then reimbursed for time actually spent. Travel time is not included in this component.

3. 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 Federation of Chiropractic Licensing Boards (FCLB). Work also includes preparation time for Board or committee meetings and reading mail ballots for disciplinary actions.

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4. Reimbursable work does not include miscellaneous reading and information gathering, committee work not related to a meeting, preparation time for a presentation and participation at meetings not related to official participation of the Board.

5. 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 by the Board Chair or the full Board. However, Board members should recognize that even when representing themselves as "individuals," their positions might be misconstrued as that of the Board.

6. Quarterly there shall be a report of all reimbursement and travel expenses claimed by each member of the Board for the fiscal year at a full Board meeting.

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CHAPTER 4. Selection of Officers & Committees

Officers of the Board

(§ 3 Initiative Act)

The Board shall elect a Chair, Vice Chair and Secretary from the members of the Board.

Election of Officers

(§ 3 Initiative Act)

Elections of the officers shall occur annually at the January meeting of the Board.

Officer Vacancies

(Proposed Board Policy)

If an office becomes vacant during the year, *the Chair may appoint a member to fill the vacancy for the remainder of the term until the next annual election.*

If the office of the Chair becomes vacant, the Vice Chair shall assume the office of the Chair. Elected officers shall then serve the remainder of the term.

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Board Member Addresses

(Proposed 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.

Board Member Written Correspondence and Mailings

(Proposed 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 provided to the Executive Officer for reproduction and distribution. The Executive Officer will maintain the required chron copy and mail and distribute the written material.

Request to Access Licensee or Applicant Records

(Proposed Board Policy)

No Board member may access a licensee's, or applicant's file without the Executive Officer's knowledge and approval of the conditions of access. Records or copies of records shall not be removed from the Board's office.

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Communications: Other Organizations/Individuals/Media

(Proposed Board Policy)

All communications relating to any Board action or policy to any individual or organization, or a representative of the media shall be made only by the Board Chair, his or her designee, or the Executive Officer. Any Board member who is contacted by any of the above should inform the Board Chair or Executive Officer of the contact.

Committee Appointments

(Proposed 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 in consultation with the Vice Chair, Secretary, and the Executive Officer.

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Standing Committees

(Proposed Board Policy)

The Board has five standing committees:

1. **Administrative Committee**

   The Administrative Committee continually reviews policies, procedures, budget, personnel, accounting, and departmental issues. The Administrative 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.

2. **Continuing Education Committee**

   The Continuing Education Committee recommends regulations for mandatory continuing education, administering the program, evaluating continuing education providers, reviewing waiver requests, and conducting regular at-random and continuing education audits.

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3. **Enforcement Committee**

   The purpose of the Enforcement Committee is to continually seek ways to improve the Board's enforcement activities. The committee shall consist of two Board members. Meetings will be held as necessary.

4. **Regulation Committee**

   Advocates legislation and works with Board staff and legal counsel to enhance the Board's role as a regulatory agency.

5. **Legislative Committee**

   In the event time constraints preclude Board action, the Board delegates the Legislative Committee the authority to take position on legislation that would change the Act. The Board shall be notified of such action as soon as possible.

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Legislative Committee Bill Positions

The Legislative Committee shall consist of two voting members. The classification system to be used by the Legislative Committee in recommending Board positions are:

1. **Support:** The Board supports the current version of the bill.
2. **Support if Amended:** The Board generally supports the concept or intent of the bill.

3. **Oppose:** The Board is opposed to the current version of the bill.
4. **Oppose Unless Amended:** The Board is opposed to the bill but is willing to work with the author and sponsor of the bill to resolve the Board's concerns.
5. **Watch:** The Board has some interest in the bill because it potentially may affect the work of the Board.

Committee Meetings

(Proposed Board Policy)

Each of these committees is comprised of at least two Board members and staff who provide technical and administrative input and support. The committees are an important venue for ensuring that staff and Board members share information and perspectives in crafting and implementing strategic objectives.

The Board's committees allow Board members, stakeholders and staff to discuss and conduct problem solving on issues related to the Board's strategic goals. They also allow the Board to consider options for implementing components for the strategic plan.

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

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

The chairperson 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.

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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 obtain permission from the Board Chair to attend and must notify the committee chair and staff.

Board members who are not members of the committee that is meeting cannot vote during the committee meeting.

If there is a quorum of the Board at a committee meeting, Board members who are not members of the committee must sit in the audience and cannot participate in committee deliberations.

It is also important to note that any time more than two Board members attend a Board committee meeting, that committee must have been publicly noticed.

The Board's legal counsel works with the Executive Officer to assure any meeting that fits the requirements for a public meeting is appropriately noticed.

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CHAPTER 5. Board Administration & Staff

Executive Officer

(§ 3 Initiative Act)

The Board employs an Executive Officer and establishes the salary with the approval of the Director of Finance.

The Executive Officer is responsible for the financial operations and integrity of the Board, and is the official custodian of records.

Board Administration

(Proposed 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.

Executive Officer Evaluation

(Proposed Board Policy)

At the first Board meeting of each fiscal year, the Executive Officer is evaluated by the Board Chair during a closed session. Board members provide information to the Chair on the Executive Officer's performance in advance of this meeting.

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 a myriad of civil service laws and regulations and often by collective bargaining labor agreements.

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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 Budget

(Proposed Board Policy)

The Executive Officer or the Executive Officer's designee will attend and testify at legislative budget hearings and shall communicate all budget issues to the Administration and Legislature.

Strategic Planning

(Proposed Board Policy)

The Administrative 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.

Communications with Other Organizations & Individuals

(Proposed 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.

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

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

Business Cards

(Proposed Board Policy)

Business cards will be provided to each Board member with the Board's name, address, telephone and fax number, and website address.

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CHAPTER 6. Other Policies & Procedures

Board Member Disciplinary Actions

(Proposed Board Policy)

A member may be censured by the Board if, after a hearing before the Board, the Board determines that the member has acted in an inappropriate manner.

The Chair of the Board shall sit as chair of the hearing unless the censure involves the Chair's own actions, in which case the Vice Chair of the Board shall sit as hearing Chair.

In accordance with the Public Meetings Act, the censure hearing shall be conducted in open session.

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.

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Resignation of Board Members

(Government Code Section 1750 (b))

In the event that it becomes necessary for a Board member 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.

Conflict of Interest

(Government Code Section 87100)

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.

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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

(Proposed Board Policy)

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

Contact with Respondents

(Proposed 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. If a Board member is contacted by a respondent or his/her attorney, the Board member should refer the individual to the Executive Officer.

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Service of Legal Documents

(Proposed Board Policy)

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

Serving as an Expert Witness

(Proposed Board Policy)

During their tenure on the Board, members should refrain from acting as expert witnesses in civil or criminal court cases. The reasons for this prohibition are twofold.

Acting as an expert witness for compensation may constitute a violation of the Standards of Ethical Conduct for gubernatorial appointees.

The first ethical standard precludes such an appointee from engaging in activity, which has the appearance of using the prestige of the state for the appointee's private gain or advantage.

A professional member of the Board would be in high demand as an expert witness in litigation relating to chiropractic, simply because of his or her status as a Board member.

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Consequently, the member would likely receive more engagements as an expert witness than if he or she were not a member of the Board. As such, serving as an expert witness would have the appearance of using the prestige of Board-membership for private gain.

Parenthetically, although the Governor's ethical standards are addressed to the conduct of gubernatorial appointees, all members of the Board should be in compliance.

More importantly, acting as an expert witness would jeopardize a Board member's ability to participate in the deliberation and resolution of disciplinary actions before the Board. As an expert witness in a civil or criminal action against a chiropractor, a Board member would be required to learn all the facts of the case at issue. If the chiropractor who is a party to the civil or criminal comes before the Board in a disciplinary action, the Board member who served as expert witness would be required to recuse himself or herself because of considerable ex parte knowledge of the case.

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Request for Grants

All requests for funding/contributions to Board projects shall be approved by the Board Chair.

Requests for such grants 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.

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

Gifts from Licensees and Applicants

(Proposed Board Policy)

A gift of any kind to Board members or staff from licensees and applicants for licensure is not permitted.

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:

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"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 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 or licensee against whom an action is pending, he or she should immediately tell the person they cannot speak to them about the matter.

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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.

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)

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.

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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.

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Board Member Orientation

(B&P Code Section 453)

The Department of Consumer Affairs provides an orientation session for new Board members.

The California Business and Professions Code requires that a Board member orientation session be given to new Board members within one year of assuming office.

Ethics Training

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 Training

(Government Code Section 12950.1)

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

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Bill Number: AB 1137 **Author: Eng**
As amended: June 4, 2007 **Vote: Majority**

Bill Summary:

This bill would place a measure on the June 3, 2008, statewide election ballot to amend and codify the Chiropractic Initiative Act into the Business and Professions code.

Purpose Of The Bill:

The State Board of Chiropractic Examiners (board) was created by a voter approved initiative in 1922, which precludes the Legislature from amending the Act or reconstitute the board. The bill is intended to provide the Legislature the authority to oversee the board's functions and establish accountability.

Existing Law:

The Chiropractic Initiative Act (Act), approved by the electorate in 1922, created the board to regulate the chiropractic profession through regulatory, licensing, and enforcement functions. The board consists of seven members appointed by the Governor. The board comprises five professional and two public members who serve 4 year terms. The board employs an Executive Officer who manages board staff and implements polices adopted by the board. The Act can only be amended by a voter approved initiative.

Specifically, this bill would:

- Authorize the Legislature to amend the Act through legislation signed by the Governor and to reconstitute the Board.

  This provides the Legislature the authority to amend the Act and provides public accountability to the Legislature.

- Incorporate the board into the Department of Consumer Affairs (department).

  The board would be subject to the department's polices and procedures, which includes a review and approval process for most administrative and all regulatory matters. Certain transactions would receive an additional level of review by the State and Consumers Service Agency, which oversees the department.

This provides the board access to departmental resources including: human resources, fiscal, business services, legal, legislative, public affairs, information technology, and various other management support services. Given the board's current staffing levels and licensee population, the department's distributed costs for the above services is estimated at $350,000 annually.

- Increase the number of public members from two to four. The Governor would appoint five members subject to Senate confirmation including two public members. The Senate Committee on Rules and the Speaker of the Assembly will each appoint a public member.

  This establishes a public member board majority and the five Governor's appointees must be confirmed by the Senate.

- Mandate the board to place its highest priority on protecting the public.

  The board's stated mission is to protect California consumers.

- Require the board to appoint an Executive Officer exempt from civil service. The appointment must be approved by the Director of the DCA.

  Historically, the Executive Officer (Director) position has been exempt from civil service and continues to hold that designation today. After the Board appoints its Executive Officer, the Director would have final approval.

- Require the board to employ state employees.

  Currently, the board contracts with private investigators (non-state employees) to conduct field investigations. This change would require the board to either establish investigative positions through the Budget Change Proposal process or utilize the services of the department's Division of Investigation (DOI). It is anticipated that using DOI services would cost approximately $310,000 annually.

- Require the board to conduct all board meetings pursuant to the Bagley-Keene Open Meeting Act.

  The current board conducts all board meetings in accordance with the Bagley-Keene Open Meeting Act.

- Require the board to post customer service links on its website including frequently asked questions and how to file complaints against licensees.

  Board staff plans to complete these changes on the website within the next 60 days.

- Require the Attorney General to act as legal counsel for the board.

  The department provides in-house counsel to the board for procedural and board governance matters and the Attorney General's Office provides legal counsel to the board in all matters pertaining to enforcement issues, which is consistent with other boards under the department.

- Requires all appropriations made to the Board's fund be made by the Legislature in the annual Budget Act.

  This is consistent with the current budget process.

Bill Number: SB 801 **Author: Ridley-Thomas**
As amended: June 4, 2007 **Vote: Majority**

Bill Summary:

This bill would place a measure on the June 3, 2008, statewide election ballot to amend and codify the Chiropractic Initiative Act into the Business and Professions code.

Purpose Of The Bill:

The State Board of Chiropractic Examiners (board) was created by a voter approved initiative in 1922, which precludes the Legislature from amending the Act or reconstitute the board. The bill is intended to provide the Legislature the authority to oversee the board's functions and establish accountability.

Existing Law:

The Chiropractic Initiative Act (Act), approved by the electorate in 1922, created the board to regulate the chiropractic profession through regulatory, licensing, and enforcement functions. The board consists of seven members appointed by the Governor. The board comprises five professional and two public members who serve **4** year terms. The board employs an Executive Officer who manages board staff and implements polices adopted by the board. The Act can only be amended by a voter approved initiative.

Specifically, this bill would:

- Authorize the Legislature to amend the Act through legislation signed by the Governor and to reconstitute the Board.

  This provides the Legislature the authority to amend the Act and provides public accountability to the Legislature.

- Incorporate the board into the Department of Consumer Affairs (department).

  The board would be subject to the department's polices and procedures, which includes a review and approval process for most administrative and all regulatory matters. Certain transactions would receive an additional level of review by the State and Consumers Service Agency, which oversees the department.

This provides the board access to departmental resources including: human resources, fiscal, business services, legal, legislative, public affairs, information technology, and various other management support services. Given the board's current staffing levels and licensee population, the department's distributed costs for the above services is estimated at $350,000 annually.

- Increase the board members from seven to nine. The Governor would appoint seven members subject to Senate confirmation including two public members. The Senate Committee on Rules and the Speaker of the Assembly will each appoint a public member.

  This reduces the current ratio of professional members to public members on the board and requires the Governor's appointees be confirmed by the Senate.

- Mandate the board to place its highest priority on protecting the public.

  The board's stated mission is to protect California consumers.

- Require the board to appoint an Executive Officer exempt from civil service. The appointment must be approved by the Director of the DCA.

  Historically, the Executive Officer (Director) position has been exempt from civil service and continues to hold that designation today. After the Board appoints its Executive Officer, the Director would have final approval.

- Require the board to employ state employees.

  Currently, the board contracts with private investigators (non-state employees) to conduct field investigations. This change would require the board to either establish investigative positions through the Budget Change Proposal process or utilize the services of the department's Division of Investigation. It is anticipated that using DOI services would cost approximately $310,000 annually.

- Require the board to conduct all board meetings pursuant to the Bagley-Keene Open Meeting Act.

  The current board conducts all board meetings in accordance with the Bagley-Keene Open Meeting Act.

- Require the board to post customer service links on its website including frequently asked questions and how to file complaints against licensees.

  Board staff plans to complete these changes on the website within the next 60 days.

- Require the Attorney General to act as legal counsel for the board.

  The department provides in-house counsel to the board for procedural and board governance matters and the Attorney General's Office provides legal counsel to the board in all matters pertaining to enforcement issues, which is consistent with other boards under the department.

- Requires all appropriations made to the Board's fund be made by the Legislature in the annual Budget Act.

  This is consistent with the current budget process.