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, August 16, 2007
10:00 a.m.
Department of Transportation
4050 Taylor Street
San Diego, CA 92110
619-220-7363

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.

CLOSED SESSION

Call to Order

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

- Interviews and Possible Selection of Executive Officer

Deliberation on Disciplinary Matters and Action on Disciplinary Decisions
Pursuant to California Government Code Section 11126 (c)(3)

PUBLIC SESSION

Call to Order

Approval of Minutes

- Board Meeting June 21, 2007

Executive Officer's Report

- Administration
  - Budget Update
  - Personnel Update
  - Bureau of State Audits Update
  - Department of Consumer Affairs Services
- Enforcement
  - Statistics

Board Member training on the Bagley-Keene Open Meetings Act and other relevant laws

Mission Statement

- Discussion and Possible Action on Mission Statement

Program Reports

- Licensing
  - License Statistics
  - California Law and Professional Practices Exam (CLPPE) Statistics

Discussion re Licensing of Chiropractic Assistants

Committee Reports

Discussion and Possible Action:

- Administrative Committee
  - Ex Parte Policy re Board Member Communications
  - Board Member Procedure Manual
- Continuing Education Committee
  - Continuing Education Courses Approval Process
- Enforcement Committee
  - The Board may take action on any item listed on the attached Enforcement Committee Agenda
- Legislative
  - AB 1137
  - SB 801
  - Any other Bills of Interest
- Manipulation Under Anesthesia (MUA)
  - Report on recent July 17, 2007 Committee Meeting

Discussion of Board Meeting Schedule and Petitioner Hearing Dates

Public Comment

Future Agenda Items

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.

Attachment

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
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NOTICE OF ENFORCEMENT COMMITTEE MEETING

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

Thursday, August 16, 2007
9:00 a.m.
Department of Transportation
4050 Taylor Street
San Diego, CA 92110
619-220-7363

AGENDA

Call to Order

- Proposal to add Fine Authority to Citation Program
- Proposal to add to Regulations re Letter of Admonishment
- Update on Enforcement Efforts Relating to Unlicensed Activity

Public Comment

Future Agenda Items

Adjournment

Enforcement Committee
Hugh Lubkin, D.C., Chair
Francesco Columbu, D.C.

A quorum of the Board may be present at the Committee meeting. However, Board members who are not on the committee may observe, but may not participate or vote. Public comments will be taken on agenda items at the time the specific item is raised. The Committee may take action on any item listed on the agenda, unless listed as informational only. All times are approximate and subject to change. Agenda items may be taken out of order to accommodate speakers and to maintain a quorum. The meeting may be cancelled without notice. For verification of the meeting, call (916) 263-5355 or access the Board's Web Site at **www.chiro.ca.gov.**

The meeting 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.

STATE OF CALIFORNIA ARNOLD SCHWARZENEGGER, Governor

Board of Chiropractic Examiners
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DRAFT

BOARD OF CHIROPRACTIC EXAMINERS

PUBLIC SESSION MINUTES

Thursday, June 21, 2007

9:30 a.m.

Life Chiropractic College West
25001 Industrial Blvd.
Hayward, California 94545
510.780.4500

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

PETITION HEARINGS:
Melissa G. Crowell, Administrative Law Judge
Joshua A. Room, Deputy Attorney General

Call to Order

Dr. Tyler called the meeting to order at 9:31 a.m.

Roll Call

Dr. Columbu called the roll. All members were present with the exception of Judge Duvaras.

Dr. Tyler complemented the Board of Chiropractic Examiners and briefly described each Board member's background.

Approval of Palmer Chiropractic College-Florida application

Mr. Stiger reported that at the April 19, 2007 meeting, the Board voted to reconsider the March 1, 2007, approval of the Palmer Chiropractic College-Florida application. Since that time we have worked closely with the college and are satisfied that this facility meets all the necessary laws and rules that are set-forth in the regulations. It is staff's recommendation that the Board approve the application, dating back to December 2005.

Dr. Tyler asked for a motion to approve the Palmer Chiropractic College-Florida application.

DR. LUBKIN MOVED TO APPROVE THE PALMER CHIROPRACTIC COLLEGE-FLORIDA APPLICATION, AS DISCUSSED BY MR. STIGER. DR. LERNER SECONDED THE MOTION. VOTE: 5-0. MOTION CARRIED.

Mr. Conran stated that he would like the record to reflect that Mr. Stiger was not the Executive Officer at that March 1, 2007 Board meeting.

Judge Duvaras joined the meeting at 9:45a.m.

Chiropractic Colleges Renewal Requirements

Mr. Stiger reported that it was found that the Board does not have the authority to require colleges to apply for renewal. Mr. Stiger asked the Board members to approve the draft letter so that it may be immediately sent out to colleges.

Dr. Lerner questioned the effective date of the letter. Mr. Conran asked how the Board will evaluate and monitor the colleges. Dr. Lubkin requested that the letter be assigned to a committee for refinement. Mr. Stiger stated that the wording in the letter is referring to sections of the law.

Dr. Tyler asked for a motion to approve the letter to be sent to colleges regarding the application for continuous approval.

MR. CONRAN MOVED TO ISSUE THE LETTER WITH THE ADDENDUM THAT THIS IS A ONE-TIME LETTER AND COMMITTEE WILL LOOK INTO IT WITH A RECOMMENDATION IN SIX MONTHS. DR. LUBKIN SECONDED THE MOTION. DR. LERNER MADE AMENDMENT TO THE MOTION THAT THIS LETTER GO TO THE LICENSING COMMITTEE. MR. CONRAN ACCEPTED THE AMENDMENT TO THE MOTION.

Gerard Clum, President of Life Chiropractic College West, expressed his concerns regarding the reapproval of institutions.

FOLLOWING PUBLIC COMMENT AND BRIEF DISCUSSION, THE BOARD TOOK A VOTE ON THE MOTION MADE BY MR. CONRAN. VOTE: 6-0. MOTION CARRIED.

Petition Hearing for Reinstatement of Revoked License

Administrative Law Judge Melissa G. Crowell presided over and Deputy Attorney General Joshua A. Room appeared on behalf of the people of the State of California on the following petition hearings:

- Parviz Kavoossi
- Douglas A. Gainor
- Harold E. Turk

Petition for Early Termination of Probation

Administrative Law Judge Melissa G. Crowell presided over and Deputy Attorney General Joshua A. Room appeared on behalf of the people of the State of California on the following petition hearing:

- Kenneth P. Myers, D.C.

Following oral testimonies, the Board went into closed session to consider Mr. Kavoossi, Mr. Gainor and Mr. Turk's Petition for Reinstatement of Revoked License and Dr. Myers' Petition for Early Termination of Probation.

Dr. Tyler, D.C. called the Board into open session at 2:12 p.m. All Board 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.

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

Mr. Stiger stated that Dr. Columbu submitted changes to reflect the names of the Administrative Law Judge and the Deputy Attorney General who were present at the meeting. Ms. Powell stated that the minutes would have to reflect that the Deputy Attorney General represents the people of the State of California. It was agreed that staff would make the changes to the March 1, 2007 minutes.

FOLLOWING A BRIEF DISCUSSION, THE BOARD TOOK A VOTE ON THE MOTION MADE BY DR. LERNER TO APPROVE MINUTES WITH THE CHANGES. VOTE: 5-0. MR. CONRAN ABSTAINED BECAUSE HE WAS NOT AT THE MEETING. MOTION CARRIED.

- April 19, 2007, Open Session

Mr. Stiger stated that Dr. Columbu submitted changes to reflect the names of the Administrative Law Judge and the Deputy Attorney General who were present at the meeting.

Dr. Tyler asked for a motion to approve the April 19, 2007 open session minutes with the noted changes.

MR. CONRAN MOVED TO ADOPT THE APRIL 19, 2007 OPEN SESSION MINUTES. DR. LERNER SECONDED THE MOTION. VOTE: 6-0. MOTION CARRIED.

Committee Reports

Administration

After discussion regarding concerns of the Board Member Procedure Manual, it was agreed that all suggestions and comments will be taken back to the Administration Committee for further discussion and possible action to update the manual.

Enforcement

Dr. Lubkin reported on two recent Enforcement Committee meetings. The May 24, 2007 meeting was held in Sacramento, CA. The topics of discussion were the purpose of the committee and overview of the enforcement process which includes complaint intakes, investigative and disciplinary process. The importance of educating and informing licensees on various requirements of the laws and regulations. There was also discussion on improving the mail ballot process.

During the Enforcement Committee meeting held earlier today, the discussion was on two major issues. One issue is Section 306.1 of the California Code of Regulations which involves the formation of Chiropractic Quality Review Panels. The public was invited to send suggestions to the Executive Officer. The other issue discussed the cost recovery procedures. This topic will continue in future Enforcement meetings.

Legislative

Mr. Conran reported that on June 15, 2007, the Legislative Committee met to review legislative bills AB 1137 and SB 801. During the meeting it was moved that the Board of Chiropractic Examiners should not take a position on either bill. It is the recommendation of the committee that the Board watch the bills. Dr. Tyler asked for a motion to accept the report.

DR. LUBKIN MOVED TO ACCEPT THE LEGISLATIVE COMMITTEE'S REPORT AND THAT THE BOARD OF CHIROPRACTIC EXAMINERS NOT TAKE A POSITION ON EITHER BILL, AT THIS TIME. MR. CONRAN SECONDED THE MOTION. VOTE: 6-0. MOTION CARRIED.

Manipulation Under Anesthesia (MUA)

Dr. Lerner stated that this committee has not yet met. The committee is hoping to meet in July. Dr. Lerner would also like to meet with Office of Administrative Law prior to the committee meeting.

The Board reconvened into closed session for the Executive Officer interviews.

Dr. Tyler called the Board into open session at 4:24 p.m. All Board members were present.

Mr. Conran stated that the Board would like to thank everyone who have applied for the Executive Officer position. A number of candidates were selected by the committee and interviews were held. On the basis of today's interviews, it has been decided that the Board will extend the selection process and continue to accept applications until August 1, 2007. The candidates who were interviewed today will still be in consideration for the position.

Announcements

Dr. Tyler announced the next Board meeting will be August 16, 2007 in San Diego.

Public Comment

Mr. David Prescott, an attorney, expressed his concerns regarding the Initiative Act and that the entire act has not been published or considered.

Future Agenda Items

Both Enforcement and MUA committees will meet in July.

Dr. Tyler adjourned the public meeting at 4:40 p.m.

Board of Chiropractic Examiners

CURRENT
July 2, 2007

FY 2007-08
16.5 PY

Board Members (7)

Executive Director
VACANT
620-110-8862-001
Brian J. Stiger, Acting

ENFORCEMENT MANAGER
Staff Services Manager I
Catherine Hayes
620-110-4800-001

Chiro Consultant (.5)
M. Craw D.C. (.5)
620-110-9964-001

SSA (G)
M. Valencia
620-110-5157-xxx

LICENSING/ADMIN MANAGER
Staff Services Manager I
(Out-of-Class Assignment)
Lavella Matthews*

Enforcement Unit

SSA (G)
M. Hamilton
620-110-5157-002

SSA (G)
R. Rust
620-110-5157-003

SSA (G)
S. Patterson
620-110-5157-004

OT (T)
J. Vernon
620-110-1139-006

OT (T)
J. Johnson
620-110-1139-008

Licensing Unit

AGPA
(L. Matthews*)
620-110-5393-001

SSA (G)
E. Berumen
620-110-5157-007

OT (T)
Angelica Franco
620-110-1139-xxx

OT (T) (PI)
Y. Vandyck (RA)
620-110-1139-901

MST (PI)
H. Lowry (RA)
620-110-5278-901

Administrative Unit

AGPA
D. McLemore
620-110-5393-002

AGPA
D. Hinchee
620-110-5393-003

OA (T)
A. Franco
620-110-1441-005

Sr. Pers. Spec. (PI)
M. Massoni (RA)
620-110-1317-901

Continuing Education Unit

SSA (G)
G. Mitsuhara
620-110-5157-005

Brian J. Stiger, Acting Executive Director

DCA Office of Human Resources

JLAC Hearing
June 27, 2007

Analysis Fact Sheet

Requesters: **Assemblymember Eng and Senator Ridley-Thomas**

Subject: **California Board of Chiropractic Examiners**

Job No.: 2007-117
Request Date: June 11, 2007
Requested Completion Date: No completion date requested.

Total Budget of the California Board of Chiropractic Examiners: $3.1 Million

Scope of Request: [ ] Local [ ] Regional [X] Statewide

Other Work Within the General Area:

2006-116 *Medical Board of California's Physician Diversion Program: While Making Recent Improvements, Inconsistent Monitoring of Participants and Inadequate Oversight of Its Service Providers Continue to Hamper Its Ability to Protect the Public*, June 2007

2006-106 *Department of Health Services: Its Licensing and Certification Division Is Struggling to Meet State and Federal Oversight Requirements for Skilled Nursing Facilities,* April 2007

2005-123 *Department of Corporations: It Needs Stronger Oversight of Its Operations and More Efficient Processing of License Applications and Complaints,* January 2007

2005-129 *Department of Social Services: In Rebuilding Its Child Care Program Oversight, the Department Needs to Improve Its Monitoring Efforts and Enforcement Actions,* May 2006

Estimated Cost: $245,650
Estimated Hours: 2,890

Elaine M. Howle
State Auditor

Doug Cordiner
Chief Deputy

CALIFORNIA STATE AUDITOR

Bureau of State Audits

555 Capitol Mall, Suite 300 Sacramento, CA 95814 916.445.0255 916.327.0019 fax www.bsa.ca.gov

ANALYSIS OF AUDIT REQUEST
2007-117
June 27, 2007

I. AUDIT REQUEST

Assemblymember Eng and Senator Ridley-Thomas are requesting an audit of the California Board of Chiropractic Examiners (board). The members would like a review of the board's enforcement, licensing, and continuing education programs.

II. BACKGROUND

The board is responsible for ensuring that providers of chiropractic services are adequately trained and meet recognized standards of performance for treatment and practice. The board uses licensing, continuing education, and disciplinary procedures to maintain standards. It also sets educational standards for recognized chiropractic colleges, reviews complaints, and investigates possible violations of the Chiropractic Act and regulations.

Of the board's seven members, five are licensed chiropractors and two are public members, all of which are appointed by the governor. Each member is appointed to a four-year term and may be appointed to a second term. The board hires an executive director, who along with staff work in carrying out the board's policies and functions, including licensing, enforcement, and fiscal and support services.

The media has reported problems with the board's administration. Further, a March joint legislative oversight hearing left unanswered questions regarding potential issues with the board's administration of meetings and with its enforcement, licensing, and continuing education programs. Assembymember Eng and Senator Ridley-Thomas are concerned about the issues raised at the hearing and with other documentation they have received with regard to the board's administration of its programs.

III. AUDIT SCOPE AND OBJECTIVES

The audit by the Bureau of State Audits will provide independently developed and verified information related to the board and would include, but not be limited to, the following:

1. Review and evaluate the laws, rules, and regulations significant to the audit objectives.

2. Review and evaluate the board's enforcement policies and procedures with respect to opening, investigating, and closing complaints, including complaints against board members, and determine whether the board ensures compliance with them. Determine, to the extent possible, if complaint policies and procedures are comparable to other regulatory boards.

3. Determine the role of the seven-member board according to the law, regulations, and its policies and procedures, and assess whether the board consistently acts within its authority.

4. Ascertain how the board prioritizes complaints received and how it assigns complaints to investigators and/or experts. Examine and assess policies and procedures with regard to the qualifications and selection process for investigators and in assigning investigative staff and selecting experts for case reviews. Determine whether the board has policies and procedures in place to prevent conflicts of interest.

5. Assess whether the board's practices for handling complaints comply with its policies and procedures and whether such practices were consistently applied. For a sample of complaints received and closed, examine how the complaints were handled during all phases of the process and, at a minimum, determine the following:

    a. How cases were opened and assessed and what standards were followed.

    b. Whether complainants and licensees received the appropriate level of communication and correspondence with regards to the complaint process.

c. The average length of time it took from the date the board received a complaint to when the investigation was initiated or the complaint was closed.

d. The average length of time it took from the initiation of an investigation to when it was complete.

e. If the board appropriately prioritized the complaint and assigned the investigation to qualified staff or experts.

f. The role of the board's chiropractic consultant position as it relates to the complaints review in the enforcement program and the nature of the advice given to management and support staff.

6. Identify the number of complaints and investigations processed by each staff processing complaints or performing investigations each year. Verify that staff performing these tasks are properly qualified and follow procedures in accordance with all established policies and regulations.

7. Review and assess the courses of action available to the board when it substantiates complaints and whether it can and does impose fines, citations, or abatements. If fines are imposed, what is the board's authority? To the extent possible, determine whether such practices are consistently applied and if they are similar to other occupational licensing agencies.

8. Determine how the board notifies the public as to the results of substantiated complaints. Determine how much information it provides the public regarding the complaints including any civil judgments, arbitration awards, and settlements.

9. Determine the role, function, and the board's use of the Chiropractic Quality Review Panel.

10. Determine the extent to which the board complies with Section 17 of the Chiropractic Initiative Act and assists attorneys and law enforcement agencies in enforcing this act.

11. Review and evaluate the board's policies and procedures regarding licensing chiropractic applicants and chiropractic corporations and determine if they comply with applicable laws and regulations. Review a

sample of closed applications (including applications from chiropractic corporations and those that have resulted in denial of licensure) to determine whether the board:

a. Consistently applied its policies and procedures.
b. Adhered to applicable laws.
c. Appropriately handled referral services.

12. Review and evaluate the board's policies and procedures for their continuing education program to determine whether they are effective in helping to ensure that quality education is provided to licensees and include procedures for reviewing continuing education and corroborating all necessary information from the providers. Assess the board's practices for ensuring compliance with these policies and procedures.

IV. OTHER WORK IN THE GENERAL AREA

2006-116 *Medical Board of California's Physician Diversion Program: While Making Recent Improvements, Inconsistent Monitoring of Participants and Inadequate Oversight of Its Service Providers Continue to Hamper Its Ability to Protect the Public*, June 2007

2006-106 *Department of Health Services: Its Licensing and Certification Division Is Struggling to Meet State and Federal Oversight Requirements for Skilled Nursing Facilities,* April 2007

2005-123 *Department of Corporations: It Needs Stronger Oversight of Its Operations and More Efficient Processing of License Applications and Complaints,* January 2007

2005-129 *Department of Social Services: In Rebuilding Its Child Care Program Oversight, the Department Needs to Improve Its Monitoring Efforts and Enforcement Actions,* May 2006

V. RESOURCE REQUIREMENTS

We estimate that this audit would require approximately 2,890 hours of audit work at a cost of $245,650 plus travel expenses and the possible costs related to an outside consultant, if necessary. We will conduct this audit using our existing budget authority to the extent funding is available for audits approved by the Joint Legislative Audit Committee.

VI. REQUIRED DATE OF COMPLETION

Assemblymember Eng and Senator Ridley-Thomas did not request a completion date for this audit.

Elaine M. Howle

ELAINE M. HOWLE
State Auditor

STATE CAPITOL
P.O. BOX 942849
SACRAMENTO, CA 94249-0049
(916) 319-2049
FAX (916) 319-2149

Assembly
California Legislature

MIKE ENG
ASSEMBLYMEMBER, FORTY-NINTH DISTRICT

JUN 11 2007

2007-117

June 11, 2007

Honorable Nell Soto
Chair, Joint Legislative Audit Committee
1020 N Street, Room 107
Sacramento, CA 95814

Dear Assemblymember Soto:

We respectfully request that the Joint Legislative Audit Committee approve an audit of the California Board of Chiropractic Examiners.

Background. On March 28, 2007, we co-chaired a joint legislative oversight hearing by the Senate Business, Professions and Economic Development Committee and the Assembly Business and Professions Committee dealing with the Board of Chiropractic Examiners (BCE) in order to review dramatic media accounts of "chaos" at BCE and "lawless" actions by BCE members. Testimony at the joint hearing, as well as documents from the Attorney General's Office and approved minutes of BCE's meetings over the previous year, indicated that several current BCE members repeatedly engaged in improper and probably illegal activities.[1]

Of particular concern are allegations and supporting documentation that BCE members repeatedly urged chiropractors, who are the subject of complaints, investigations, and accusations, to bypass BCE staff and speak directly to BCE members about enforcement matters. In addition, there is persuasive evidence that BCE members engaged in repeated ex parte communications with accused chiropractors and their counsels.

---

[1] Testimony and documents indicate that BCE members: (1) repeatedly violated the Bagley-Keene Open Meeting Act; (2) improperly attempted to interfere with the continued employment of civil service employees; (3) unlawfully attempted to dismiss the Attorney General as its legal counsel in favor of a private attorney; (4) illegally fired BCE's Executive Director without affording her statutorily-guaranteed procedural due process rights (to the extent that BCE had to convene a second meeting at which it re-fired her); (5) violated the Administrative Procedure Act by inviting chiropractors who were the subject of complaints, investigations, or accusations to bypass staff and discuss their enforcement matters directly with BCE members; (6) violated the Administrative Procedure Act by engaging in underground rulemaking to endorse the participation of chiropractors in a controversial procedure which some healthcare and legal experts argue is the practice of medicine; and, (7) improperly attempted to interfere with an ongoing criminal prosecution of a chiropractor accused of the unauthorized practice of medicine.

Printed on Recycled Paper

Focus of the audit. In our opinion, the information developed to date about BCE cries out for a full-fledged audit. We suggest the following guidelines for consideration:

The paramount priority for all state licensing and regulatory boards is the same – public protection. The best test to evaluate the degree to which a board is performing its most fundamental function can be summarized in one word – enforcement. A board's enforcement program – the identification and discipline of licensees who endanger (physically or financially) patients and consumers – is the key determinant in assessing the worth of any board.

Consequently, we suggest that an audit of BCE focus primarily (although not necessarily exclusively) on its enforcement program, including, but not limited to, the following:

1) Actions of BCE members that may have inhibited BCE's enforcement program, thereby weakening BCE's ability to fulfill its paramount priority – public protection.

2) The quality and consistency of complaint processing, including complaints against BCE members. This may include: (a) The review of closed cases; (b) The review of standards used for opening and assessing cases; (c) The review of correspondence sent to complainants and licensees; and, (d) The assessment of the role of BCE's Chiropractic Consultant position as it relates to the enforcement program in complaint review and advice given to management and support staff.

3) The quality and consistency of investigations (who performs these functions; what are their qualifications; how many complaints and investigations do they process every year; what are the procedures that are followed; how long does it take on average).

4) The existence of any complaint backlog.

5) The timeframes for completing complaint processing and investigations. (Note the December 2005 Joint Legislative Sunset Review Committee background paper on BCE that states: "The number of days it takes to process complaints has more than doubled over the past four years, and the average number of days spent in the 'pre-accusation' phase almost doubled as well in the most recent fiscal year").

6) The priorities applied by BCE in processing and investigating complaints (e.g., does a physical injury complaint have priority over a false advertising complaint, or are complaints processed/investigated on a first-come-first-served basis).

7) The identity, qualifications, and method of selecting the people who conduct BCE's investigations.

8) A description of the method by which BCE staff selects experts to review cases and a determination of whether or not the experts are selected on an impartial basis.

9) Methods by which BCE ensures consistency in the application of sanctions or discipline imposed on licensees.

10) The extent to which BCE uses the Chiropractic Quality Review Panel created in Section 306.1 of BCE's regulations.

11) The extent to which BCE complies with Section 17 of the Chiropractic Initiative Act: "It shall be the duty of the board to aid attorneys and law enforcement agencies in the enforcement of this act."

12) The extent to which BCE imposes fines as well as citations and orders of abatement, similar to other occupational licensing agencies. If BCE imposes fines, under what authority? If BCE does not impose fines, should it? (Note that the Joint Legislative Sunset Review Committee instructed BCE to analyze this issue in 2006.)

13) The extent to which BCE discloses (on its website and otherwise) civil judgments, arbitration awards, and settlements, similar to other occupational licensing agencies.

In addition to the above, at least two other BCE programs deserve consideration for an audit:

License Program. (a) Review applicant cases that have resulted in denial of licensure; (b) Assess how chiropractic corporations are processed and if they are consistent with the Corporations Code; and, (c) Determine if referral services are being handled appropriately.

Continuing Education (CE) Program. (a) Evaluate BCE's procedures for reviewing CE; (b) Determine if BCE's procedures for reviewing CE are effective in helping to ensure that quality education is provided to licensees; and, (c) Assess BCE's procedures for reviewing CE to determine the extent of accountability that is required of CE providers.

Thank you for your consideration of our request and the above information.

Sincerely,

Mike Eng

MIKE ENG
Assemblymember, 49th District

Mark Ridley-Thomas

MARK RIDLEY-THOMAS
Senator, 26th District

Complaint Cases Pending with Investigators

Board Meeting - August 16, 2007

Case Number	Date Referred	Violation Code	Code Description
CH 2004-4968	9/15/05	CCR 303	Fail to file current address
CH 2004-5281	10/30/06	CCR 317(a), CCR 318(a), ACT-15	Unprofessional conduct-gross negligence, fail to maintain patient records, use of inappropriate title
CH 2004-5282	10/30/06	CCR 317(a), CCR 318(a), ACT-15	Unprofessional conduct-gross negligence, fail to maintain patient records, use of inappropriate title
CH 2004-5284	12/21/04	CCR 317(a)	Unprofessional conduct-gross negligence
CH 2004-5474	6/7/07	CCR 317(d)	Excessive treatment
CH 2005-6127	11/2/05	CCR 303, CCR 308, CCR 316(a), CCR 318(b), BP 810	Fail to file current address, fail to display license, conduct on premises-DC, fail to ensure accurate billings, insurance fraud
CH 2005-6185	5/25/05	CCR 317(a)	Unprofessional conduct-gross negligence
CH 2005-6246	3/6/06	CCR 312.1, CCR 318(b), BP 2054	Ownership of a chiropractic practice, fail to ensure accurate billings, misrepresentation as a physician
CH 2005-6252	3/6/06	CCR 302(a), CCR 317(e)	Exceed scope of practice, conduct endangering public-DC
CH 2005-6253	3/6/06	CCR 302(a), CCR 317(e)	Exceed scope of practice, conduct endangering public-DC
CH 2006-6336	7/27/05	CCR 302(a), BP 1051	Exceed scope of practice, app reg chiropractic corporation
CH 2006-6337	7/27/05	CCR 302(a), BP 1051	Exceed scope of practice, app reg chiropractic corporation
CH 2006-6410	3/6/06	CCR 311, ACT-15	Advertisements, use of inappropriate title
CH 2006-6455	9/12/06	CCR 317(d), CCR 318(b)	Excessive treatment, fail to ensure accurate billings
CH 2006-6533	11/20/06	CCR 317(d)	Excessive treatment
CH 2006-6534	1/4/06	CCR 303, CCR 311	Fail to file current address, advertisements
CH 2006-6634	3/8/06	CCR 302(a), BP 651	Exceed scope of practice, false/misleading advertising
CH 2006-6635	4/5/06	CCR 318(b), HS 123110	Fail to ensure accurate billings, release patient records
CH 2006-6640	12/20/05	CCR 302(a), BP 1054	Exceed scope of practice, name of chiropractic corporation
CH 2006-6641	12/20/05	CCR 302(a), BP 1054	Exceed scope of practice, name of chiropractic corporation
CH 2006-6642	12/20/05	CCR 302(a), BP 1054	Exceed scope of practice, name of chiropractic corporation
CH 2006-6676	12/15/05	CCR 312, CCR 316(a), BP 125	Unlicensed individual-illegal practice, conduct on premises-DC, aiding/abetting unlicensed activity
CH 2006-6677	12/15/05	CCR 312, CCR 316(a), BP 125	Unlicensed individual-illegal practice, conduct on premises-DC, aiding/abetting unlicensed activity
CH 2006-6678	12/15/05	CCR 312, CCR 316(a), BP 125	Unlicensed individual-illegal practice, conduct on premises-DC, aiding/abetting unlicensed activity
CH 2006-6712	8/21/06	CCR 312, CCR 318(a), CCR 318(b), ACT-15	Unlicensed individual-illegal practice, fail to maintain patient records, fail to ensure accurate billings, use of inappropriate title
CH 2006-6840	3/27/06	CCR 318(a), CCR 318(b)	Fail to maintain patient records, fail to ensure accurate billings

Updated 8/3/2007

Complaint Cases Pending with Investigators

Board Meeting - August 16, 2007

Case Number	Date Referred	Violation Code	Code Description
CH 2006-6844	3/29/07	CCR 318(a), CCR 318(b)	Fail to maintain patient records, fail to ensure accurate billings
CH 2006-6849	2/17/06	CCR 302(a), CCR 317(d)	Exceed scope of practice, excessive treatment
CH 2006-6850	2/17/06	CCR 302(a), CCR 317(d)	Exceed scope of practice, excessive treatment
CH 2006-6852	2/23/06	CCR 317(d)	Excessive treatment
CH 2006-6853	2/23/06	CCR 311	Advertisements
CH 2006-6902	8/28/06	CCR 302(a), CCR 316(a), CCR 367.5	Exceed scope of practice, conduct on premises-DC, application for chiropractic corporation
CH 20066919	5/1/07	CCR 312.1, CCR 367.7, B&P 1054, B&P 1055, B&P 17500	Ownership of a chiropractic practice, name of chiropractic corporation, name of chiropractic corporation, officer of chiro corp not licensed, illegal advertising
CH 2006-6923	11/20/06	CCR 317(q)	Participation in fraud/misrepresentation
CH 2006-6963	4/10/06	CCR 312.1	Ownership of a chiropractic practice
CH 2006-6968	4/12/06	BP 125	Aiding/abetting unlicensed activity
CH 2006-6969	8/28/06	CCR 302(a), CCR 316(a), CCR 367.5	Exceed scope of practice, conduct on premises-DC, application for chiropractic corporation
CH 2006-6985	6/7/07	BP 810	Insurance fraud
CH 2006-7003	9/12/06	CCR 318(b), ACT-15	Fail to ensure accurate billings, use of inappropriate title
CH 2006-7027	5/1/06	CCR 302(a), CCR 318(b), BP 810	Exceed scope of practice, fail to ensure accurate billings, insurance fraud
CH 2006-7066	6/7/07	CCR 317(d), CCR 318(b)	Excessive treatment, fail to ensure accurate billings
CH 2006-7077	6/12/07	CCR 317(d), CCR 318(b)	Excessive treatment, fail to ensure accurate billings
CH 2006-7084	3/20/07	CCR 316©	Responsible for conduct on premises-DC
CH 2006-7091	6/18/07	CCR 303, CCR 308	Fail to file current address, fail to display license
CH 2007-7228	6/12/07	B&P 125, CCR 316(a)	Aiding/Aabet unlicensed activity, conduct on premises-DC
CH 2007-7234	6/18/07	CCR 318(a), CCR 317(d)	Fail to maintain patient records, excessive treatment
CH 2007-7257	6/12/07	CCR 317(w), CCR 318(a), CCR 318(b)	Fail to refer patient, fail to maintain patient records, fail to ensure accurate billings
CH 2007-7293	4/12/07	CCR 318(a), CCR 318(b)	Fail to maintain patient records, fail to ensure accurate billings
CH 2007-7305	1/11/07	CCR 316(a), ACT-15	Conduct on premises-DC, use of inappropriate title
CH 2007-7323	1/22/07	CCR 316(b), CCR 319	Sexual misconduct, free or discount services
CH 2007-7325	6/12/07	CCR 318(a),CCR 318(b)	Fail to maintain patient records, fail to ensure accurate billings
CH 2007-7337	1/11/07	CCR 316(a)	Conduct on premises-DC
CH 2007-7352	6/12/07	BP 810	Insurance fraud

Updated 8/3/2007

Complaint Cases Pending with Investigators

Board Meeting - August 16, 2007

Case Number	Date Referred	Violation Code	Code Description
CH 2007-7371	11/13/06	CCR 318(b),BP 810, HS 123110	Fail to ensure accurate billings, insurance fraud, release patient records
CH 2007-7372	11/13/06	CCR 318(b),BP 810	Fail to ensure accurate billings, insurance fraud
CH 2007-7373	11/13/06	CCR 318(b), BP 810	Fail to ensure accurate billings, insurance fraud
CH 2007-7374	11/13/06	CCR 318(b), BP 810	Fail to ensure accurate billings, insurance fraud
CH 2007-7375	11/13/06	CCR 318(b), BP 810	Fail to ensure accurate billings, insurance fraud
CH 2007-7376	11/13/06	CCR 318(b), BP 810	Fail to ensure accurate billings, insurance fraud
CH 2007-7377	11/13/06	CCR 318(b), BP 810	Fail to ensure accurate billings, insurance fraud
CH 2007-7382	1/10/07	CCR 316©	Responsible for conduct on premises-DC
CH 2007-7402	1/2/07	CCR 317(a), BP 810	Unprofessional conduct, insurance fraud
CH 2007-7446	1/2/07	BP 810	Insurance fraud
CH 2007-7448	1/2/07	BP 810	Insurance fraud
CH 2007-7449	1/11/07	CCR 303	Fail to file current address
CH 2007-7455	1/2/07	BP 810	Insurance fraud
CH 2007-7462	2/8/07	CCR 318(a), CCR 318(b), BP 810, HS 123110	Fail to maintain patient records, fail to ensure accurate billings, insurance fraud, release patient records
CH 2007-7464	1/10/07	CCR 317(a), CCR 317(e), CCR 317(f), CCR 318(a), CCR 318(b)	Unprofessional conduct, conduct endangering public-DC, administer to oneself drugs/alcohol, fail to maintain patient records, fail to ensure accurate billings
CH 2007-7475	1/2/07	BP 810	Insurance fraud
CH 2007-7525	1/2/07	BP 810	Insurance fraud
CH 2007-7526	1/2/07	BP 810	Insurance fraud
CH 2007-7543	3/29/07	CCR 317(d), CCR 318(a), CCR 318(b)	Excessive treatment, fail to maintain patient records, fail to ensure accurate billings
CH 2007-7558	1/10/07	CCR 318(b), BP 810	Fail to ensure accurate billings, insurance fraud
CH 2007-7560	2/8/07	CCR 317(f)	Administer to oneself drugs/alcohol
CH 2007-7572	4/2/07	CCR 312, CCR 367.5, BP 125, BP 1051, ACT-15	Unlicensed individual-illegal practice, appl for chiro corporation, aiding/abet unlicensed activity, app reg chiro corporation, use of inappropriate title
CH 2007-7627	2/8/07	CCR 316(b), CCR 317(a)	Sexual misconduct, unprofessional conduct-gross negligence
CH 2007-7639	2/22/07	CCR 303, CCR 308	Fail to file current address, fail to display license
CH 2007-7668	5/3/07	CCR 318(a), CCR 318(b), BP 810	Fail to maintain patient records, fail to ensure accurate billings, insurance fraud

Updated 8/3/2007

Complaint Cases Pending with Investigators

Board Meeting - August 16, 2007

Case Number	Date Referred	Violation Code	Code Description
CH 2007-7675	3/1/07	CCR 302(a), CCR 317(a), CCR 318(a), CCR 318(b), BP 125, BP 810	Exceed scope of practice, unprofessional conduct-gross negligence, fail to maintain patient records, fail to ensure accurate billings, aiding/abet unlicensed activity, insurance fraud
CH 2007-7691	5/17/07	CCR 317(a)	Unprofessional conduct-gross negligence
CH 2007-7695	3/29/07	CCR 303, CCR 316(a), BP 810	Fail to file current address, conduct on premises-DC, insurance fraud
CH 2007-7696	3/29/07	CCR 302(a), CCR 303, BP 810, ACT-15	Exceed scope of practice, fail to file current address, insurance fraud, inappropriate use of title
CH 2007-7697	3/29/07	CCR 302(a), CCR 303	Exceed scope of practice, fail to file current address
CH 2007-7812	5/29/07	CCR 316(b)	Sexual misconduct
CH 2007-7813	5/29/07	CCR 316(b)	Sexual misconduct
CH 2007-7820	5/21/07	CCR 312	Unlicensed individual-illegal practice
CH 2007-7846	6/25/07	CCR 312	Unlicensed individual-illegal practice
CH 2007-7854	6/6/07	CCR 316(a)	Conduct on premises-DC
CH 2007-7873	6/11/07	CCR 317(e)	Conduct endangering public-DC
CH 2007-7884	6/13/07	BP 125	Aiding/abet unlicensed activity
CH 2007-7911	6/27/07	CCR 316(b), CCR 316©, CCR 318(b)	Sexual misconduct, responsible for conduct on premises-DC, fail to ensure accurate billings
CH 2008-7964	7/18/07	CCR 312	Unlicensed individual-illegal practice
CH 2008-7976	7/24/07	CCR 314, CCR 316©	Lewd or obscene conduct, responsible for conduct on premises-DC

Updated 8/3/2007

Proposed Mission Statements

1. The Board's mission is to protect California consumers from the fraudulent, negligent, or incompetent practice of chiropractic care.

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

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

BOARD OF CHIROPRACTIC EXAMINERS
LICENSE STATISTICAL DATA
Fiscal Year 2006/2007

LICENSE TYPE	CANCELLED	DELINQUENT	REVOKED	SUSPENDED	DENIED	INACTIVE	VALID/ACTIVE	VOLUNTARY SURRENDER	150-DAY TEMP. LICENSE
DC	305	34	23	2	7	64	37	5	5
SAT	547	240	11		1		167	3	2
COR	21	53	1	1			109		
REF	4	1					17		
TOTALS	**877**	**328**	**35**	**3**	**8**	**64**	**330**	**8**	**7**

Total Active Licensees 15,012

Fiscal Year 2005/2006

LICENSE TYPE	CANCELLED	DELINQUENT	REVOKED	SUSPENDED	DENIED	INACTIVE	VALID/ACTIVE	VOLUNTARY SURRENDER	150-DAY TEMP. LICENSE
DC	335	28	16	6	12	85	117	6	3
SAT	688	69	46		2		6	3	5
COR	19	48	3				81		
REF	4	14					17		
TOTALS	**1046**	**159**	**65**	**6**	**14**	**85**	**221**	**9**	**8**

Total Active Licensees 14,984

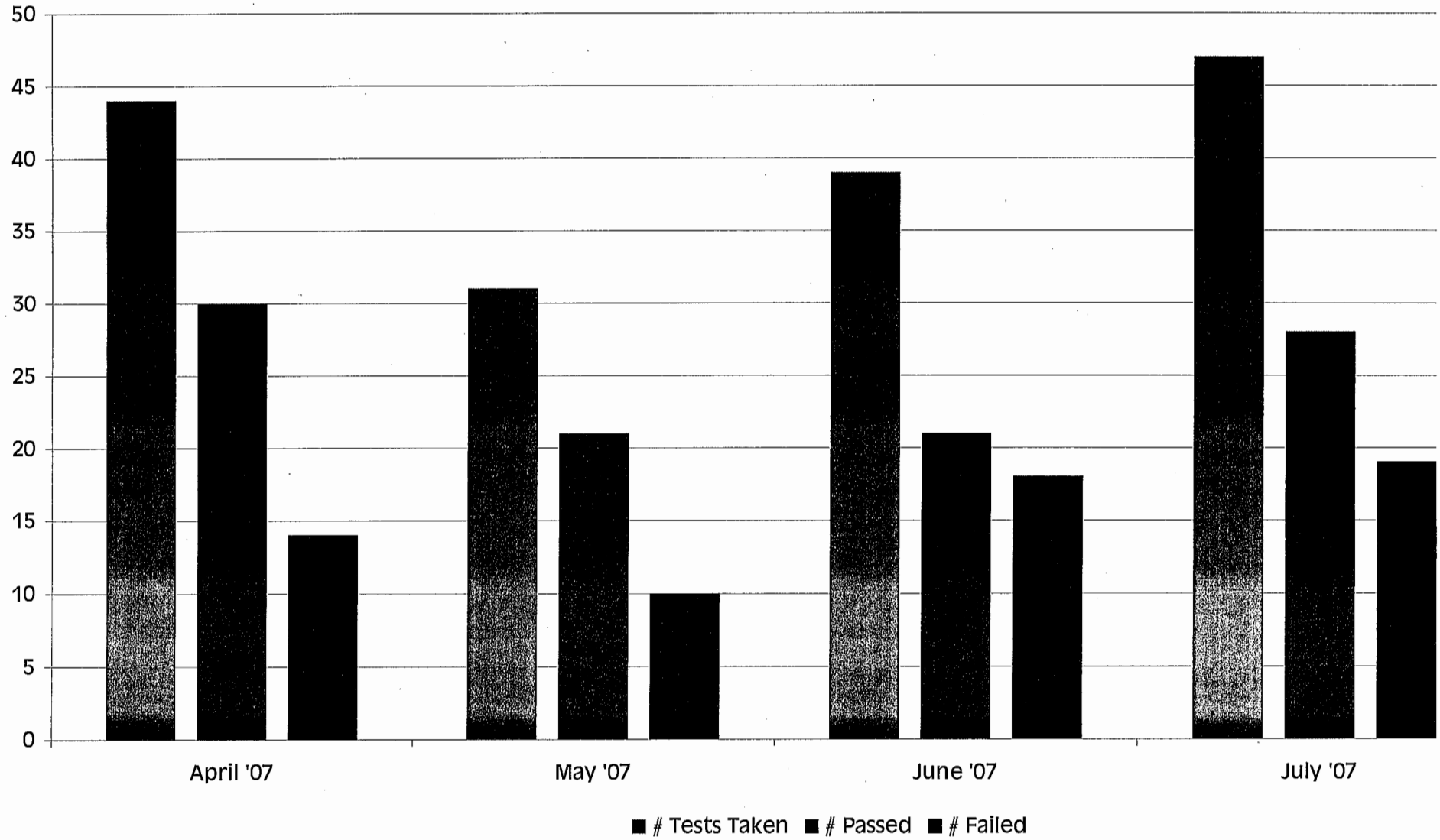
License Types Defined

DC = Doctor of Chiropractic
SAT = Satellites
COR = Corporations
REF = Referral Services

2007 Chiropractic Law & Professional Practice Exam (CLPPE)

	# Tests Taken	# Passed	# Failed
April '07	44	30	14
May '07	31	21	10
June '07	39	21	18
July '07	47	28	19

*78% Needed to Pass the CLPPE



CALIFORNIA SMALL BUSINESS ROUNDTABLE

Executive Committee

Chair
Betty Jo Toccoli
Total One Development
Culver City

Jim Conran
Consumers First
Orinda

Gwen Moore
GeM Communication
Los Angeles

Dr. Esraban Soriano
Applied Development Services
Riverside

Maryanne McCormick
Regulatory Council
San Francisco

August 3, 2007

Mr. Brian Stiger
Acting Executive Officer
Board of Chiropractic Examiners
2525 Natomas Park Drive, Suite 260
Sacramento, CA 95833-2931
Facsimile Transmission: 916.416.9008

FAX- 916-263-5369

Dear Mr. Stiger:

I am writing on behalf of the California Small Business Roundtable yto support the proposed "ex parte" policy that the Board of Chiropractic Examiners will vote on at your August meeting. An ex parte policy will serve the interest of the public because it will ensure open record of communications to the board. This policy will give the public confidence that the board is conducting themselves in the interest of consumers.

Sincerely,

Betty Jo Toccoli
Chair/CEO

Association Management • P.O. Box 661235 • Los Angeles, CA 90066 • 800•350•CSBA • *fax* 310•642•0849

CALIFORNIA SMALL BUSINESS ASSOCIATION

Board of Directors

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Harold Hart-Nibbrig
Los Angeles

Past Chair
Jim Conran
Orinda

VP Government Affairs
Gary McKinsey
Modesto

Secretary
Cathy Walters-Gillick
San Diego

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Sacramento

Tom Martin
Riverside

Andy Melendrez
Riverside

Bren Norris
San Francisco

Mark Robertson
Los Angeles

Vivian Shimoyama
Manhattan Beach

C.K. Tseng
Northridge

Lobbyist – Sacramento
Lehman, Kelly, English
& O'Keefe

President
Betty Jo Toccoli
Los Angeles

August 1, 2007

Mr. Brian Stiger
Acting Executive Officer
Board of Chiropractic Examiners
2525 Natomas Park Drive, Suite 260
Sacramento, CA 95833-2931
Facsimile Transmission: 916.416.9008

FAX 916-263-5369

Dear Mr. Stiger:

The California Small Business Association strongly supports the proposed "ex parte" policy that the Board of Chiropractic Examiners will vote on at your August meeting.

An ex parte policy will serve the interest of the public because it will ensure open record of communications to the board. This policy will give the public confidence that the board is conducting themselves in the interest of consumers.

CSBA Means Business for Small Business.

Sincerely,

Betty Jo Toccoli
President

Association Management • P.O. Box 661235 • Los Angeles, CA 90066 • 800-350-CSBA • Fax 310-642-0849

Consumers for Competitive Choice
PO Box 329, Greenwood, IN 46143 ▲ Tel: 866-213-0536 ▲ www.consumers4choice.org

August 3, 2007

Mr. Brian Stiger
Acting Executive Officer
Board of Chiropractic Examiners
2525 Natomas Park Drive, Suite 260
Sacramento, CA 95833-2931

By Fax: 916-263-5369

Dear Mr. Stiger:

I am writing on behalf of Consumers for Competitive Choice to support the proposed "ex parte" policy that the Board of Chiropractic Examiners will vote on your August meeting.

An ex parte policy will serve the interest of the public because it will ensure open record of communications to the board. This policy will give the public confidence that the board is conducting itself in the interest of consumers.

Sincerely,

Robert K. Johnson
President

The California Alliance For Consumer Protection
37 Derow Court, Sacramento, Ca. 95833
(916) 923-2215 * fax (916) 923-2216
www.consumeradvocacy.com * ssorleahcim@comcast.net

8/2/2007

Mr. Brian Stiger
Acting Executive Officer
Board of Chiropractic Examiners
2525 Natomas Park Drive, Suite 260
Sacramento, CA 95833-2931
Facsimile Transmission: 916.416.9008

Dear Mr. Stiger:

I am writing on behalf of The California Alliance For Consumer Protection (CACP) in an effort to support the proposed "ex parte" policy that the Board of Chiropractic Examiners will soon vote on (it is my understanding that the policy is slated for a vote during your August meeting).

Although we have not seen the specific language, we clearly support the concept of ex parte communications for this and all board in the State of California. In fact, as a long time operating consumer advocacy group in California's legislature, we have supported concepts like this on behalf of consumers for over 20 years.

In this instance, we support the ex parte policy because we believe that it will serve the public's interest because it ensures an open record of communications to the board, giving the public confidence that the board is conducting themselves in the interest of consumers.

Sincerely,

Michael Ross, JD

NCL 100+ YEARS CONSUMER ADVOCACY National Consumers LEAGUE

NATIONAL CONSUMERS LEAGUE

1701 K Street, NW, Suite 1200, Washington, DC 20006

PHONE (202) 835-3323 FAX (202) 835-0747 www.nclnet.org

August 2, 2007

VIA FACSIMILE

Mr. Brian Stiger, Acting Executive Officer
Board of Chiropractic Examiners
2525 Natomas Park Drive, Suite 260
Sacramento, CA 95833-2931

Dear Mr. Stiger:

The National Consumers League supports the proposed "*ex parte*" policy on which the Board of Chiropractic Examiners will vote at your August meeting. The National Consumers League has several members, including four board members, from the State of California.

An *ex parte* policy will serve the interest of the public by ensuring a transparent, open record of communications to the board. This policy will give the public confidence that the board is conducting itself in the best interest of consumers.

Thank you for your consideration of our views.

Sincerely,

LINDA F. GOLODNER
President

2007-08-02 14:02 (516)627-4922 Long Island

Consumers Coalition of California

(a non-profit corporation)

August2, 2007

Mr. Brian Stiger
Acting Executive Officer
Board of Chiropractic Examiners
2525 Natomas Park Drive, Suite 260
Sacramento, Ca. 95833-2931
Fax: 916 263 5369

Dear Mr. Stiger:

Consumers Coalition of California (CCC) wants to express their support of the proposed "ex parte" policy that Board of Chiropractic Examiners will vote on, in your August meeting.

CCC believes that such a policy will serve the public interest, allowing for communication relevant to the industry, and ensuring an open record.

It is imperative that the patients believe that the Board is acting in the consumer's interest.

Sincerely,

Virginia Jarrow

Virginia Jarrow, President

P.O. Box 5276 ♣ Torrance, CA 90510 ♣ Tel:310/214-3494 or 512/918-1025

CITIZEN ADVOCACY CENTER

FAX

To:	Brian Stiger Board of Chiropractic Examiners [redacted] 916-263-5369	Date: August 8, 2007 Time: 1:55 pm	Number of pages: 1 (including cover page)
CC:	Jim Conran [redacted]	Subject: Proposed "ex parte" policy	

Dear Mr. Stiger-

The Citizen Advocacy Center (CAC) strongly supports the proposed "ex parte" policy that the Board of Chiropractic Examiners will vote on at its next meeting. All California citizens will be the beneficiaries of a favorable vote.

CAC is a national not-for-profit 501(c)(3) organization whose mission is to assist public members, and the health professional oversight bodies on which they serve, in their efforts to protect and promote public health and safety.

As you will see if you visit our website at www.cacenter.org, one of our core values is "Transparency – Maximum possible openness of the policy-making process and its results", and among our missions is "developing and advancing positions on relevant administrative and policy issues". The proposed "ex parte" rule now before your board is a perfect example of the types of rules all licensing boards should adopt and implement, and your board now has an opportunity to be a leader in board transparency and accountability. Ideally, all states should enact "ex parte" statutes that incorporate the provisions of your proposed rule. Until that happens, progress will only be achieved on a board by board basis.

Assuming that your board acts favorably on this new rule, we plan to broadcast this important development in the next issue of our quarterly newsletter "CAC News & Views".

Sincerely,

David A. Swankin, Esq.
CAC President and CEO

1400 SIXTEENTH STREET NW • SUITE #101 • WASHINGTON, DC 20036
TELEPHONE (202) 462-1174 • FAX (202) 354-5372
WWW.CACENTER.ORG • CAC@CACENTER.ORG

CONGRESS OF CALIFORNIA SENIORS

Henry L. "Hank" Lacayo, State President
3403 Bear Creek Drive, Newbury Park, CA 91320
805-498-7679 e-mail: HankTone@aol.com

Board of Directors

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Rufus Wesley

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Barbara Lundeen

Executive Assistant to the State President
Gary Passmore

August 2, 2007

Mr. Brian Stiger
Acting Executive Officer
Board of Chiropractic Examiners
2525 Natomas Park Drive, Suite 260
Sacramento, CA 95833-2931

FAX Transmission: (916) 416-9008

Dear Mr. Stiger:

It has come to our attention that a proposed "ex parte" policy will be presented to the Board of Chiropractic Examiners for a vote at the August 2007, meeting. On behalf of the Congress of California Seniors we write to let the Board know that we urge that this policy be adopted.

By adopting the proposed "ex parte" policy we feel that this action will be of benefit to the public interest by insuring an open record of communications to the Board. Approval will go a long way in insuring public confidence that the Board is in effect operating in a manner that serves the interest of consumers.

Respectfully,

Hank Lacayo

Henry L. "Hank" Lacayo
State President

STATE BOARD OF CHIROPRACTIC EXAMINERS

BOARD MEMBER ADMINISTRATIVE MANUAL

August 16, 2007

DRAFT

Mission Statement

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

Board of Chiropractic Examiners
2525 Natomas Park Drive, Suite 260
Sacramento, CA 95833
(916) 263-5355
www.chiro.ca.gov

Members of the Board
Richard H. Tyler, D.C., Chair
Frederick Lerner, D.C., Vice Chair
Francesco Columbu, D.C., Secretary
Hugh Lubkin, D.C.
Judge James Duvaras, Ret., Public Member
Jim Conran, Public Member

Acting Executive Officer
Brian J. Stiger

This procedure manual is a general reference of laws, regulations, and Board policies to guide the actions of the Board members and ensure Board effectiveness and efficiency.

Amendments to this Administrative Procedure Manual require a majority vote of the Board.

DRAFT

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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 Initiative 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 paramount purpose is to protect California consumers through the enforcement of the Act and the Board's regulations.

DRAFT

State of California Acronyms

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

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.
- 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.

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 provided 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.

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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
(Board Policy)

Board members are expected to 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.

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

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

Agenda Items
(Board Policy)

Board members may submit agenda items for a future Board meeting during the "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.

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.

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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.

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
(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.

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

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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.

Record of Meetings
(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))

Board meeting open sessions 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
(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
(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 information from a member of the public regarding matters that are currently under or subject to investigation, or involve a pending or criminal administrative action.

1. If, during a Board meeting, a person attempts to provide the Board with any information regarding matters that are currently under or subject to investigation or involve a pending administrative or criminal action, the person shall be advised that the Board cannot properly consider or hear such substantive information and the person must be instructed to refrain from making such comments.

2. If, during a Board meeting, a person wishes to address the Board concerning alleged errors of procedure or protocol or staff misconduct involving matters that are currently under or subject to investigation or involve a pending administrative or criminal action, the Board will address the matter as follows:
   a. Where the allegation involves errors of procedure or protocol, the Board may designate either its Executive Officer or a Board employee to review whether the proper procedure or protocol was followed and to report back to the Board.
   b. Where the allegation involves significant staff misconduct, the Board 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
(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
(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.

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.

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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.

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."

Salary Per Diem
(Board Policy)

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

1. 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.

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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 and deliberating mail ballots for disciplinary actions.

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
(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.

Board Member Addresses
(Board Policy)

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

Board Member Written Correspondence and Mailings
(Board Policy)

All correspondence, press releases, articles, memoranda or any other communication written by any Board member in his or her official capacity must be 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.

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Request to Access Licensee or Applicant Records
(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.

Communications: Other Organizations/Individuals/Media
(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
(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.

Standing Committees
(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.

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2. **Continuing Education Committee**
   The Continuing Education Committee recommends regulations for mandatory continuing education and overseeing the Continuing Education Program, which includes program administration, continuing education providers evaluation, waiver requests review, and conducting regular at-random and continuing education audits.

3. **Enforcement Committee**
   The Enforcement Committee continually seeks 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**
   Proposes regulations that enhance the Board's role as a regulatory agency that protects the public.

5. **Legislative Committee**
   In the event time constraints preclude Board action, the Board delegates the Legislative Committee the authority to comment on legislation consistent with previous Board positions. The Board shall be notified of such action as soon as possible.

Legislative Committee Bill Positions

The Legislative Committee shall consist of two voting members. The Legislative Committee will review and recommend positions on bills that affect the Board. 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.

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5. **Watch:** The Board has some interest in the bill because it potentially may affect the work of the Board.

Committee Meetings
(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.

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.

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.

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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
(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
(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.

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.

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Board Budget
(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
(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
(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.

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
(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
(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 Open 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.

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.

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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.

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

Contact with Licensees and Applicants
(Board Policy)

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

Contact with Respondents
(Board Policy)

Board members should not directly participate in complaint handling and resolution or investigations.

To do so would subject the Board member to disqualification in any future disciplinary action against the licensee. If a Board member is contacted by a respondent or his/her attorney, the Board member should refer the individual to the Executive Officer.

Service of Legal Documents
(Board Policy)

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

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Serving as an Expert Witness
(Board Policy – Executive Order 66.2)

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.

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.

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.

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.

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Gifts from Licensees and Applicants
(Board Policy)

A gift of any kind to Board members from licensees, applicants for licensure, continuing education providers or approved schools is not permitted. Gifts must be returned immediately.

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

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

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

Board members are prohibited from an ex parte communication with Board enforcement staff while a proceeding is pending.

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

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

If the person insists on discussing the case, he or she should be told that the Board member will be required to recuse him or

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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)
(FPPC Regulations, Title 2, Division 6)

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

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

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

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

Board Member Orientation

(B&P Code Section 453)

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

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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.

Addendums: Fair Political Practices Commission (FPPC) Regulations
Executive Order 66.2

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BILL NUMBER: SB 801 AMENDED
BILL TEXT

AMENDED IN SENATE JUNE 4, 2007
AMENDED IN SENATE APRIL 25, 2007
AMENDED IN SENATE APRIL 16, 2007

INTRODUCED BY Senator Ridley-Thomas
(Principal coauthor: Assembly Member Eng)

FEBRUARY 23, 2007

An act ~~and~~ to amend Section 101 of, to amend, renumber, and add Sections 1000, 1001, 1002, 1003, 1004, and 1005 of, and to add Sections 1006, 1006.5, 1007, 1008, 1009, 1010, 1012, 1012.5, 1013, 1014, 1015, 1016, 1017, 1018, 1018.5, and 1019 to, the Business and Professions Code, and to amend an initiative act entitled "An act prescribing the terms upon which licenses may be issued to practitioners of chiropractic, creating the State Board of Chiropractic Examiners and declaring its powers and duties, prescribing penalties for violation thereof, and repealing all acts and parts of acts inconsistent therewith" approved by electors November 7, 1922, by amending Sections 1, 2, 3, 4, 6, and 14 thereof and adding ~~Section~~ *Sections* 1.5, 6.5, and 18.5 thereto, ~~relating to chiropractors, and declaring the urgency thereof, to take effect immediately.~~ *relating to chiropractors.*

LEGISLATIVE COUNSEL'S DIGEST

SB 801, as amended, Ridley-Thomas. Chiropractors.

Existing law, the Chiropractic Act enacted by initiative, provides for the licensing and regulation of chiropractors by the State Board of Chiropractic Examiners, which is composed of 7 members appointed by the Governor. Under the act, the board is required to employ an executive officer. Existing law establishes the Department of Consumer Affairs in the State and Consumer Services Agency, and the department is composed of various boards that regulate members of professions, including the healing arts, and vocations.

This bill would include the board in the Department of Consumer Affairs, would add 2 public members to the board, to be appointed by the Senate Committee on Rules and the Speaker of the Assembly, and would require the members appointed by the Governor to be confirmed by the Senate. The bill would exempt the executive officer from civil service, and would specify that other employees of the board are subject to those provisions. The bill would also specify that protection of the public is the highest priority of the board. The bill would provide that the Attorney General be legal counsel for the board, and that the board be subject to specified meeting and disclosure requirements. The bill would also require that all appropriations from the State Board of Chiropractic Examiners' Fund be made by the Legislature in the annual Budget Act. The bill would allow the Legislature to amend, repeal, or add the act by a majority vote.

Because the bill would amend an initiative act, the bill would require certain of its provisions be submitted to the voters for approval *on the June 3, 2008, primary election ballot* . *The bill would state the Legislature's intent to appropriate licensure revenues from the State Board of Chiropractic Examiners' Fund for specified costs incurred by the Secretary of State in placing these provisions on the ballot.* The bill would

also codify the provisions of the Chiropractic Act, as amended by this act, which codification would be operative only if the amendments to the initiative act are approved by the voters.

~~This bill would declare that it is to take effect immediately as an urgency statute.~~

Vote: ~~2/3~~ *majority* . Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 101 of the Business and Professions Code is amended to read:

101. The department is comprised of:

(a) The Dental Board of California.
(b) The Medical Board of California.
(c) The State Board of Optometry.
(d) The California State Board of Pharmacy.
(e) The Veterinary Medical Board.
(f) The California Board of Accountancy.
(g) The California Architects Board.
(h) The Bureau of Barbering and Cosmetology.
(i) The Board for Professional Engineers and Land Surveyors.
(j) The Contractors' State License Board.
(k) The Bureau for Private Postsecondary and Vocational Education.

() The Structural Pest Control Board.
(m) The Bureau of Home Furnishings and Thermal Insulation.
(n) The Board of Registered Nursing.
(o) The Board of Behavioral Sciences.
(p) The State Athletic Commission.
(q) The Cemetery and Funeral Bureau.
(r) The State Board of Guide Dogs for the Blind.
(s) The Bureau of Security and Investigative Services.
(t) The Court Reporters Board of California.
(u) The Board of Vocational Nursing and Psychiatric Technicians.
(v) The Landscape Architects Technical Committee.
(w) The Bureau of Electronic and Appliance Repair.
(x) The Division of Investigation.
(y) The Bureau of Automotive Repair.
(z) The State Board of Registration for Geologists and Geophysicists.
(aa) The Respiratory Care Board of California.
(ab) The Acupuncture Board.
(ac) The Board of Psychology.
(ad) The California Board of Podiatric Medicine.
(ae) The Physical Therapy Board of California.
(af) The Arbitration Review Program.
(ag) The Committee on Dental Auxiliaries.
(ah) The Hearing Aid Dispensers Bureau.
(ai) The Physician Assistant Committee.
(aj) The Speech-Language Pathology and Audiology Board.
(ak) The California Board of Occupational Therapy.
(a) The Osteopathic Medical Board of California.
(am) The Bureau of Naturopathic Medicine.
(an) The State Board of Chiropractic Examiners.
(ao) Any other boards, offices, or officers subject to its jurisdiction by law.

SEC. 2. Section 1000 of the Business and Professions Code is amended and renumbered to read:

1030. The law governing practitioners of chiropractic is found in this chapter and in an initiative act entitled "An act prescribing

the terms upon which licenses may be issued to practitioners of chiropractic, creating the State Board of Chiropractic Examiners and declaring its powers and duties, prescribing penalties for violation hereof, and repealing all acts and parts of acts inconsistent herewith," adopted by the electors November 7, 1922.

SEC. 3. Section 1000 is added to the Business and Professions Code, to read:

1000. A board is hereby created to be known as the "State Board of Chiropractic Examiners," hereinafter referred to as the board. The board shall consist of nine members. Seven members shall be appointed by the Governor, subject to confirmation by the Senate, two of whom shall be public members. The Senate Committee on Rules and the Speaker of the Assembly shall each appoint one public member. Each member shall be a citizen of the United States and shall have been a resident of California for five years. Each licensee member shall have had 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.

Not more than two persons shall serve simultaneously as members of the board, whose first diplomas were issued by the same school or college of chiropractic, nor shall more than two members be residents of any one county of the state. And no person who is , or within one year of the proposed appointment has been , an administrator, policy board member, or paid employee of any chiropractic school or college shall be eligible for appointment to the board. Each member of the board shall receive a per diem in the amount provided in Section 103 for each day during which he or she is actually engaged in the discharge of his or her duties, together with his or her actual and necessary travel expenses incurred in connection with the performance of the duties of his or her office, and the per diem, travel expenses and other incidental expenses of the board or of its members shall be paid out of the funds of the board hereinafter defined and not from the state's taxes.

The Legislature may, upon review, repeal this section and reconstitute the board.

SEC. 4. Section 1001 of the Business and Professions Code is amended and renumbered to read:

1031. In each year, the State Board of Chiropractic Examiners shall compile and may thereafter publish and sell a complete directory of all persons within the state who hold unforfeited and unrevoked certificates to practice chiropractic, and whose certificate in any manner authorizes the treatment of human beings for diseases, injuries, deformities, or any other physical or mental conditions.

The directory shall contain:

(a) The following information concerning each such person:

~~1.~~

(1) The name and address of the person.

~~2.~~

(2) The names and symbols indicating his or her title.

~~3.~~

(3) The school, attendance at which qualified him or her for examination or admission to practice.

~~4.~~

(4) The date of the issuance of his or her certificate.

(b) The annual report of the board for the prior year.

(c) Information relating to other laws of this state and the United States that the board determines to be of interest to persons licensed to practice chiropractic.

(d) Copies of opinions of the Attorney General relating to the practice of chiropractic.

(e) A copy of the provisions of this chapter.

The board may require the persons designated in this section to furnish information as it may deem necessary to enable it to compile the directory. Every person so designated shall report immediately each and every change of residence, giving both his or her old and new address.

The directory shall be evidence of the right of the persons named in it to practice unless his or her certificate to practice chiropractic has been canceled, suspended or revoked. The board may collect from each person who voluntarily subscribes to or purchases a copy of the directory the cost of publication and distribution thereof; except that one copy of the directory shall be distributed without charge to each certificate holder of the board.

SEC. 5. Section 1001 is added to the Business and Professions Code, to read:

1001. Protection of the public shall be the highest priority for the board in exercising its licensing, regulatory, and disciplinary functions. Whenever the protection of the public is inconsistent with the other interests sought to be promoted, the protection of the public shall be paramount.

SEC. 6. Section 1002 of the Business and Professions Code is amended and renumbered to read:

1032. Whenever any person has engaged in or is about to engage in any acts or practices that constitute or will constitute an offense against this chapter or rules or regulations adopted pursuant to this chapter, the superior court of any county, on application of the State Board of Chiropractic Examiners, or on application of 10 or more licensees of the State Board of Chiropractic Examiners may issue an injunction or other appropriate order restraining that conduct. Proceedings under this section shall be governed by Chapter 3 (commencing with Section 525) of Title 7 of Part 2 of the Code of Civil Procedure.

SEC. 7. Section 1002 is added to the Business and Professions Code, to read:

1002. Each appointment to the board 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 or her successor has been appointed and qualified or until one year has elapsed since the expiration of his or her 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 the 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 the member.

SEC. 8. Section 1003 of the Business and Professions Code is amended and renumbered to read:

1033. (a) Except as otherwise allowed by law, the employment of runners, cappers, steerers, or other persons to procure patients constitutes unprofessional conduct.

(b) A licensee of the State Board of Chiropractic Examiners shall have his or her license to practice revoked for a period of 10 years upon a second conviction for violating any of the following provisions or upon being convicted of more than one count of violating any of the following provisions in a single case: Section 650 of this code, Section 750 or 1871.4 of the Insurance Code, or Section 549 or 550 of the Penal Code. After the expiration of this 10-year period, an application for license reinstatement may be made pursuant to subdivision (c) of Section 1010.

SEC. 9. Section 1003 is added to the Business and Professions Code, to read:

1003. The board shall elect a chairman and a vice chairman and a secretary to be chosen from the members of the board. The board shall appoint a person exempt from civil service, by and with the approval of the Director of Consumer Affairs, to be designated as an executive officer. Elections of the officers shall occur annually at the January meeting of the board. A majority of the board shall constitute a quorum.

It shall require the affirmative vote of five members of the board to carry any motion or resolution, to adopt any rule, or to authorize the issuance of any license provided for in this chapter. The executive officer shall receive a salary to be fixed by the board, with the approval of the Director of Finance, together with his or her actual and necessary traveling expenses incurred in connection with the performance of the duties of his or her office, and shall give bond to the state in a sum and with such sureties as the board may deem proper. He or she shall keep a record of the proceedings of the board, which shall at times during business hours be open to the public for inspection. He or she shall keep a true and accurate account of all funds received and of all expenditures incurred or authorized by the board, and on the first day of December of each year he or she shall file with the Governor , or his or her designee, a report of all receipts and disbursements and of the proceedings of the board for the preceding fiscal year.

SEC. 10. Section 1004 of the Business and Professions Code is amended and renumbered to read:

1034. The State Board of Chiropractic Examiners shall investigate any licensee against whom an information or indictment has been filed that alleges a violation of Section 550 of the Penal Code or Section 1871.4 of the Insurance Code, if the district attorney does not otherwise object to initiating an investigation.

SEC. 11. Section 1004 is added to the Business and Professions Code, to read:

1004. Powers of board. The board shall have power:

(a) To adopt a seal, which shall be affixed to all licenses issued by the board.

(b) To adopt from time to time rules and regulations as the board may deem proper and necessary for the performance of its work, the effective enforcement and administration of this chapter, the establishment of educational requirements for license renewal, and the protection of the public. These rules and regulations shall be adopted, amended, repealed and established in accordance with the provisions of Chapter 4.5 (commencing with Section 11400) of Part 1 of Division 3 of Title 2 of the Government Code as it now reads or as it may be hereafter amended by the Legislature.

(c) To examine applicants and to issue and revoke licenses to practice chiropractic, as provided in this chapter.

(d) To summon witnesses and to take testimony as to matters pertaining to its duties; and each member shall have power to administer oaths and take affidavits.

(e) To do any and all things necessary or incidental to the exercise of the powers and duties granted or imposed by this chapter.

(f) To determine minimum requirements for teachers in chiropractic schools and colleges.

(g) To approve chiropractic schools and colleges whose graduates may apply for licenses in this state. The following shall be eligible for approval:

(1) Any chiropractic school or college having status with the accrediting agency and meeting the requirements of Section 1005 and the rules and regulations adopted by the board.

(2) Any chiropractic school or college initially commencing instruction prior to November 2, 1976, provided that the school or college meets the requirements of Section 1005 and the rules and

regulations adopted by the board and provided that the school or college attained status with the accrediting agency within a time period commencing on November 7, 1978, and ending March 1, 1980.

(3) Any chiropractic school or college initially commencing instruction subsequent to November 2, 1976, provided that the school or college meets the requirements of Section 1005 and the rules and regulations adopted by the board and provided that the school or college attains status with the accrediting agency within a time period not exceeding three years following the commencement of instruction.

Upon submission of evidence satisfactory to the board that the accrediting agency has unreasonably denied status to a chiropractic school or college approved under paragraph (2) or (3) of this subdivision by not considering the application for status submitted by that school or college in a timely manner, by denying the application for status submitted by that school or college without good cause, or by imposing arbitrary and capricious additional requirements upon that school or college as conditions for the attainment of status, the board shall grant an extension of the time period for the attainment of status specified in the paragraph under which that school or college is approved, as it applies to that school or college, of at least six months but no more than one year. Prior to the expiration of the extension or of any additional extension the board grants, the board shall determine whether that school or college has been unreasonably denied status by the accrediting agency for any of the reasons specified in the immediately preceding sentence during the extension. Should the board determine that unreasonable denial of status during the extension has occurred, the board shall grant an additional extension of the time period for the attainment of status, as it applies to that school or college, of at least six months but no more than one year.

~~As~~

(h) *As* used in this section, "accrediting agency" means (1) the Accrediting Commission of the Council on Chiropractic Education, other chiropractic school and college accrediting agencies as may be recognized by the United States Commissioner of Education, or chiropractic school and college accrediting agencies employing equivalent standards for accreditation as determined by the board, (2) if the commission ceases to exist or ceases to be recognized by the commissioner, a chiropractic school and college accrediting agency as may be designated by the board or chiropractic school and college accrediting agencies employing equivalent standards for accreditation as determined by the board, or (3) if the commission ceases to exist or ceases to be recognized by the commissioner, no other accrediting agency is recognized by the commissioner, and no accrediting agency is acceptable to the board, the board.

As used in this section, "status" means correspondent status, status as a recognized candidate for accreditation, accredited status, or other similar status as may be adopted and used by the accrediting agency.

As used in this section, "in a timely manner" means within the time deadlines as may be established by the accrediting agency for submission of applications, consideration of applications submitted, acceptance or rejection of applications submitted, and other similar functions, as those time deadlines are interpreted by the board.

As used in this section, "without good cause" means not in accordance with rules and regulations that may be established by the accrediting agency as conditions for the attainment of status, as those rules and regulations are interpreted by the board.

As used in this section, "arbitrary and capricious additional requirements" means requirements that may be imposed by the

accrediting agency as conditions for the attainment of status during the time period specified for the attainment of status by a chiropractic school or college that, in the board's judgment, cannot be satisfied within the time period or do not serve to improve the educational standards or quality of the school or college.

~~(h)~~

(i) The board may employ any investigators, clerical assistants, commissioners on examination, and other employees as it may deem necessary to carry into effect the provisions of this chapter, and shall prescribe the duties of those employees. Persons employed pursuant to this subdivision shall be subject to the State Civil Service Act (Part 2 (commencing with Section 18500) of Division 5 of Title 5 of the Government Code).

SEC. 12. Section 1005 of the Business and Professions Code is amended and renumbered to read:

1035. The provisions of Sections 12.5, 23.9, 29.5, 30, 31, 35, 104, 114, 115, 119, 121, 121.5, 125, 125.6, 136, 137, 140, 141, 143, 163.5, 461, 462, 475, 480, 484, 485, 487, 489, 490, 490.5, 491, 494, 495, 496, 498, 499, 510, 511, 512, 701, 702, 703, 704, 710, 716, 730.5, 731, and 851 are applicable to persons licensed by the State Board of Chiropractic Examiners.

SEC. 13. Section 1005 is added to the Business and Professions Code, to read:

1005. It shall be unlawful for any person to practice chiropractic in this state without a license to do so. Any person wishing to practice chiropractic in this state shall make application to the board 45 days prior to any meeting thereof, in a form and manner provided by the board. Proof of graduation from an approved chiropractic school or college, as defined in Section 1004, shall be received by the board 15 days prior to any meeting of the board. Each application shall be accompanied by a license fee of not more than one hundred dollars ($100), as determined by the board. Except as otherwise provided in this chapter, each applicant shall present to the board at the time of making an application a diploma from a high school and a transcript of 60 prechiropractic college credits satisfactory to the board, or proof, satisfactory to the board, of education equivalent in training power to such high school and college courses.

The schedule of minimum educational requirements to enable any person to practice chiropractic in this state shall be as provided in Section 5 of the Chiropractic Act, except as otherwise provided in this chapter:

Any applicant who had matriculated at a chiropractic college prior to the effective date of the amendments to Section 5 of the Chiropractic Act submitted to the electors by the ~~1977-1978~~ *1977-78* Regular Session of the Legislature shall meet all requirements that existed immediately prior to the effective date of those amendments but need not meet the change in requirements made by those amendments.

SEC. 14. Section 1006 is added to the Business and Professions Code, to read:

1006. (a) The office of the board shall be in the City of Sacramento. Suboffices may be established in Los Angeles and San Francisco, and any records as may be necessary may be transferred temporarily to the suboffices. Legal proceedings against the board may be instituted in any one of the three cities.

(b) All meetings of the board shall be conducted in accordance with the provisions of the Bagley-Keene Open Meeting Act (Article 9 (commencing with Section 11120) of Chapter 1 of Part 1 of Division 3 of Title 2 of the Government Code).

(c) The board shall meet as a board of examiners at least twice each calendar year, at times and places as may be found necessary for the performance of its duties.

(d) The board shall comply with the requirements of Chapter 22.5 (commencing with Section 7528) of Division 7 of Title 1 of the Government Code and with the provisions of Article 10 (commencing with Section 11364) of Chapter 3.5 of Part 1 of Division 3 of Title 2 of the Government Code.

(e) Examinations shall be written, oral, and practical, covering chiropractic as taught in chiropractic schools or colleges, designed to ascertain the fitness of the applicant to practice chiropractic. The examination shall include at least each of the subjects as set forth in Section 5 of the Chiropractic Act. Identity of the applicants shall not be disclosed to the examiners until after examinations have been given final grades. A license shall be granted to any applicant who makes a general average of 75 percent, and does not fall below 60 percent in more than two subjects or branches of the examination and receives a 75 percent score in all parts of the practical examination as designated by the board. Any applicant failing to make the required grade shall be given credit for the branches passed, and may, without further cost, take the examination at the next regular examination on the subjects in which he or she failed. For each year of actual practice since graduation , the applicant shall be given a credit of 1 percent on the general average.

(f) An applicant having fulfilled the requirements of Section 1005 and paid the fee thereunder, and having obtained a diplomate certificate from the National Board of Chiropractic Examiners, may offer the certificate together with a transcript of grades secured in the national board examination, and the California Board of Chiropractic Examiners may accept those in lieu of all or a portion of the California board examination, as determined by the board.

SEC. 15. Section 1006.5 is added to the Business and Professions Code, to read:

1006.5. The Attorney General shall act as legal counsel for the board and shall represent the board in any judicial and administrative proceeding. His or her services shall be a charge against the board.

SEC. 16. Section 1007 is added to the Business and Professions Code, to read:

1007. One form of certificate shall be issued by the State Board of Chiropractic Examiners, which shall be designated "License to practice chiropractic," and shall authorize the holder thereof to practice chiropractic in the State of California as taught in chiropractic schools or colleges; and, also, to use all necessary mechanical, and hygienic and sanitary measures incident to the care of the body, but shall not authorize the practice of medicine, surgery, osteopathy, dentistry or optometry, nor the use of any drug or medicine now or hereafter included in materia medica.

SEC. 17. Section 1008 is added to the Business and Professions Code, to read:

1008. No blind person shall be denied admission into any college or school of chiropractic or denied the right to take any examination given by such school or college or denied a diploma or certificate of graduation or a degree or denied admission into any examination for a state license or denied a regular license to practice chiropractic on the ground that he or she is blind.

SEC. 18. Section 1009 is added to the Business and Professions Code, to read:

1009. Notwithstanding any provision of this chapter, the board, upon receipt of the fee specified in Section 1005, shall issue a license to any person licensed to practice chiropractic under the laws of another state, provided that the state then had the same general requirements as required in this state at the time the license was issued and provided that the other state in like manner grants reciprocal registration to chiropractic practitioners of this

state.

The applicant shall also provide a certificate from the other state stating that he or she was licensed by that state, that he or she has not been convicted of unprofessional conduct, and that there is no charge of unprofessional conduct pending against him or her.

SEC. 19. Section 1010 is added to the Business and Professions Code, to read:

1010. (a) The board may by rule or regulation adopt, amend, or repeal rules of professional conduct appropriate to the establishment and maintenance of a high standard of professional service and the protection of the public. These rules or regulations shall be adopted, amended, or repealed in accordance with the provisions of Chapter 4.5 (commencing with Section 11400) of Part 1 of Division 3 of Title 2 of the Government Code as it now reads or as it may be hereafter amended.

(b) The board may refuse to grant, or may suspend or revoke, a license to practice chiropractic in this state, or may place the licensee upon probation or issue a reprimand to him or her, for violation of the rules and regulations adopted by the board in accordance with this chapter, or for any cause specified in this chapter, including, but not limited to: The employment of fraud or deception in applying for a license or in passing an examination as provided in this chapter; the practice of chiropractic under a false or assumed name; or the personation of another practitioner of like or different name; a plea or verdict of guilty or a conviction following a plea of nolo contendere made to a charge of a felony or of any offense substantially related to the practice of chiropractic; habitual intemperance in the use of ardent spirits, narcotics or stimulants to such an extent as to incapacitate him or her for the performance of his or her professional duties; the advertising of any means whereby the monthly periods of women can be regulated or the menses reestablished if suppressed; or the advertising, directly, indirectly or in substance, upon any card, sign, newspaper advertisement, or other written or printed sign or advertisement, that the holder of such license or any other person, company or association by which he or she is employed, or in whose services he or she is, will treat, cure, or attempt to treat or cure, any venereal disease, or will treat or cure, or attempt to treat or cure, any person afflicted with any sexual disease, for lost manhood, sexual weakness or sexual disorder or any disease of the sexual organs; or being employed by, or being in the service of any person, company or association so advertising. The proceedings for the refusal to grant, suspension or revocation of a license upon any of the foregoing grounds shall be conducted in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code as it now reads or as it may be hereafter amended, and the board shall have all the powers granted therein. The secretary of the board on all cases of revocation shall enter on his or her register the fact of the revocation, and shall certify the fact of the revocation under the seal of the board to the county clerk of the counties in which the certificates of the person whose certificate has been revoked is recorded; and the clerk shall write upon the margin or across the face of his or her register of the certificate of the person the following: "This certificate was revoked on the _____ day of _____," giving the day, month, and year of the revocation in accordance with the certification to him or her by the secretary. The record of revocation made by the county clerk shall be prima facie evidence of the fact thereof, and of the regularity of all proceedings of the board in the matter of the revocation.

(c) At any time after two years following the revocation or cancellation of a license or registration under this section, the board may, by a majority vote, reissue a license to the person

affected, restoring him or her to, or conferring on him or her all the rights and privileges granted by his or her original license or certificate. Any person to whom such rights have been restored shall pay to the secretary the fee specified in Section 1005 upon the issuance of a new license.

SEC. 20. Section 1012 is added to the Business and Professions Code, to read:

1012. Licenses issued under the provisions of this section expire at midnight on the last day of the month of birth of licentiates of the board.

The board shall establish regulations for the administration of a birth month renewal program. Each person practicing chiropractic within this state shall, on or before the last day of their month of birth of each year, after a license is issued to them as herein provided, pay to the State Board of Chiropractic Examiners a renewal fee of not more than one hundred fifty dollars ($150) as determined by the board. The secretary shall mail to all licensed chiropractors in this state, on or before 60 days prior to the last day of the month of their birth each year, a notice that the renewal fee will be due on or before the last day of the month of their birth next following. Nothing in this chapter shall be construed to require the receipts to be recorded in like manner as original licenses. The failure, neglect, or refusal of any person holding a license or certificate to practice under this chapter in the State of California to pay the annual fee during the time his or her license remains in force shall, after a period of 60 days from the last day of the month of his or her birth automatically work a forfeiture of his or her license or certificate, and it shall not be restored except upon the written application and the payment to the board of a fee of twice the annual amount of the renewal fee in effect at the time the restoration application is filed, except that a licensee who fails, refuses , or neglects to pay the annual ~~tax~~ *fee* within a period of 60 days after the last day of the month of his or her birth of each year shall not be required to submit to an examination for the reissuance of the certificate.

SEC. 21. Section 1012.5 is added to the Business and Professions Code, to read:

1012.5. The Legislature may by law fix the amounts of the fees payable by applicants and licensees and the amount of the per diem compensation payable to members of the board.

SEC. 22. Section 1013 is added to the Business and Professions Code, to read:

1013. Chiropractic licensees shall observe and be subject to all state and municipal regulations relating to all matters pertaining to the public health, and shall sign death certificates and make reports as required by law to the proper authorities, and those reports shall be accepted by the officers of the departments to which they are made.

SEC. 23. Section 1014 is added to the Business and Professions Code, to read:

1014. The executive officer shall at the end of each month report to the Controller the total amount of money received by the board from all sources, and shall deposit with the Treasurer the entire amount of those receipts, and the Treasurer shall place the money so received in a special fund, to be known as the "State Board of Chiropractic Examiners' Fund". Moneys in the fund shall be expended in accordance with law for all necessary and proper expenses in carrying out the provisions of this chapter, upon proper claims approved by the board or a finance committee thereof. All appropriations from the fund shall be made by the Legislature in the annual Budget Act.

SEC. 24. Section 1015 is added to the Business and Professions

Code, to read:

1015. Any person who practices or attempts to practice chiropractic, or any person who buys, sells, or fraudulently obtains a license to practice chiropractic, whether recorded or not, or who uses the title "chiropractor" or "D.C." or any word or title to induce, or tending to induce belief that he or she is engaged in the practice of chiropractic, without first complying with the provisions of this chapter; or any licensee under this chapter who uses the word "doctor" or the prefix "Dr." without the word "chiropractor," or "D.C." immediately following his or her name, or the use of the letters "M.D." or the words "doctor of medicine," or the term "surgeon," or the term "physician," or the word "osteopath," or the letters "D.O." or any other letters, prefixes or suffixes, the use of which would indicate that he or she was practicing a profession for which he or she held no license from the State of California, or any person who violates any of the provisions of this chapter, shall be guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine of not less than one hundred dollars ($100) and not more than seven hundred fifty dollars ($750), or by imprisonment in the county jail for not more than six months, or by both that fine and imprisonment.

SEC. 25. Section 1016 is added to the Business and Professions Code, to read:

1016. Nothing in this chapter shall be construed to prohibit service in case of emergency, or the domestic administration of chiropractic, nor shall this chapter apply to any chiropractor from any other state or territory who is actually consulting with a licensed chiropractor in this state; provided, that the consulting chiropractor shall not open an office or appoint a place to receive patients within the limits of the state; nor shall this chapter be construed so as to discriminate against any particular school of chiropractic, or any other treatment; nor to regulate, prohibit or apply to any kind of treatment by prayer; nor to interfere in any way with the practice of religion. Nor shall this chapter apply to persons who are licensed under other acts.

SEC. 26. Section 1017 is added to the Business and Professions Code, to read:

1017. It shall be the duty of the board to aid attorneys and law enforcement agencies in the enforcement of this chapter.

SEC. 27. Section 1018 is added to the Business and Professions Code, to read:

1018. Nothing herein shall be construed as repealing the "Medical Practice Act" of June 2, 1913, or any subsequent amendments thereof, except ~~in so far~~ *insofar* as that act or amendments to that act conflict with the provisions of this chapter as applied to persons licensed under this chapter, to which extent any and all acts or parts of acts in conflict herewith are hereby repealed.

SEC. 28. Section 1018.5 is added to the Business and Professions Code, to read:

1018.5. This chapter, as amended, may be further amended or modified by the Legislature. In addition to the power to amend or modify, the Legislature shall have the power to repeal this chapter, as amended, in its entirety.

SEC. 29. Section 1019 is added to the Business and Professions Code, to read:

1019. If any provision or application of this chapter is for any reason held to be unconstitutional, the decision shall not affect the validity of the remaining provisions of this chapter, or applications thereof.

SEC. 30. Section 1 of the act cited in the title is amended to read:

Section 1. A board is hereby created to be known as the "State

Board of Chiropractic Examiners," hereinafter referred to as the board. The board shall consist of nine members. Seven members shall be appointed by the Governor, subject to confirmation by the Senate, two of whom shall be public members. The Senate Committee on Rules and the Speaker of the Assembly shall each appoint one public member. Each member shall be a citizen of the United States and shall have been a resident of California for five years. Each licensee member shall have had at least five years of licensure in this state prior to appointment. Each licensee member shall have pursued a resident course in an approved chiropractic school or college, and shall be a graduate thereof and hold a diploma therefrom.

Not more than two persons shall serve simultaneously as members of the board, whose first diplomas were issued by the same school or college of chiropractic, nor shall more than two members be residents of any one county of the state. And no person who is or within one year of the proposed appointment has been an administrator, policy board member, or paid employee of any chiropractic school or college shall be eligible for appointment to the board. Each member of the board shall receive a per diem in the amount provided in Section 103 of the Business and Professions Code for each day during which he or she is actually engaged in the discharge of his or her duties, together with his or her actual and necessary travel expenses incurred in connection with the performance of the duties of his or her office, and the per diem, travel expenses and other incidental expenses of the board or of its members shall be paid out of the funds of the board hereinafter defined and not from the state's taxes.

The Legislature may, upon review, repeal this section and reconstitute the board.

SEC. 31. Section 1.5 is added to the act cited in the title, to read:

Sec. 1.5. Protection of the public shall be the highest priority for the board in exercising its licensing, regulatory, and disciplinary functions. Whenever the protection of the public is inconsistent with the other interests sought to be promoted, the protection of the public shall be paramount.

SEC. 32. Section 2 of the act cited in the title is amended to read:

~~SEC. 2.~~ *Sec. 2.* Each appointment to the board 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 or her successor has been appointed and qualified or until one year has elapsed since the expiration of his or her 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 the member.

SEC. 33. Section 3 of the act cited in the title is amended to read:

Sec. 3. The board shall elect a chairman and a vice chairman and a secretary to be chosen from the members of the board. The board shall appoint a person exempt from civil service, by and with the approval of the Director of Consumer Affairs, to be designated as an executive officer. Elections of the officers shall occur annually at the January meeting of the board. A majority of the board shall constitute a quorum.

It shall require the affirmative vote of five members of the board to carry any motion or resolution, to adopt any rule, or to authorize the issuance of any license provided for in this act. The executive officer shall receive a salary to be fixed by the board, with the approval of the Director of Finance, together with his or

her actual and necessary traveling expenses incurred in connection with the performance of the duties of his or her office, and shall give bond to the state in a sum and with such sureties as the board may deem proper. He or she shall keep a record of the proceedings of the board, which shall at times during business hours be open to the public for inspection. He or she shall keep a true and accurate account of all funds received and of all expenditures incurred or authorized by the board, and on the first day of December of each year he or she shall file with the Governor , or his or her designee, a report of all receipts and disbursements and of the proceedings of the board for the preceding fiscal year.

SEC. 34. Section 4 of the act cited in the title is amended to read:

Sec. 4. Powers of the board. The board shall have power:

(a) To adopt a seal, which shall be affixed to all licenses issued by the board.

(b) To adopt from time to time rules and regulations as the board may deem proper and necessary for the performance of its work, the effective enforcement and administration of this act, the establishment of educational requirements for license renewal, and the protection of the public. These rules and regulations shall be adopted, amended, repealed and established in accordance with the provisions of Chapter 4.5 (commencing with Section 11400) of Part 1 of Division 3 of Title 2 of the Government Code as it now reads or as it may be hereafter amended by the Legislature.

(c) To examine applicants and to issue and revoke licenses to practice chiropractic, as provided in this act.

(d) To summon witnesses and to take testimony as to matters pertaining to its duties; and each member shall have power to administer oaths and take affidavits.

(e) To do any and all things necessary or incidental to the exercise of the powers and duties granted or imposed by this act.

(f) To determine minimum requirements for teachers in chiropractic schools and colleges.

(g) To approve chiropractic schools and colleges whose graduates may apply for licenses in this state. The following shall be eligible for approval:

(1) Any chiropractic school or college having status with the accrediting agency and meeting the requirements of Section 5 of this act and the rules and regulations adopted by the board.

(2) Any chiropractic school or college initially commencing instruction prior to the effective date of the amendments to this section approved by the electors at the November 1976 general election, provided that the school or college meets the requirements of Section 5 of this act and the rules and regulations adopted by the board and provided that the school or college attains status with the accrediting agency within a time period commencing on the effective date of this provision and ending March 1, 1980.

(3) Any chiropractic school or college initially commencing instruction subsequent to the effective date of the amendments to this section approved by the electors at the November 1976 general election, provided that the school or college meets the requirements of Section 5 of this act and the rules and regulations adopted by the board and provided that the school or college attains status with the accrediting agency within a time period not exceeding three years following the commencement of instruction.

Upon submission of evidence satisfactory to the board that the accrediting agency has unreasonably denied status to a chiropractic school or college approved under paragraph (2) or (3) of this subdivision by not considering the application for status submitted by that school or college in a timely manner, by denying the application for status submitted by that school or college without good cause, or by imposing arbitrary and capricious additional

requirements upon that school or college as conditions for the attainment of status, the board shall grant an extension of the time period for the attainment of status specified in the paragraph under which that school or college is approved, as it applies to that school or college, of at least six months but no more than one year. Prior to the expiration of the extension or of any additional extension the board grants, the board shall determine whether that school or college has been unreasonably denied status by the accrediting agency for any of the reasons specified in the immediately preceding sentence during the extension. Should the board determine that unreasonable denial of status during the extension has occurred, the board shall grant an additional extension of the time period for the attainment of status, as it applies to that school or college, of at least six months but no more than one year.

As used in this section, "accrediting agency" means (1) the Accrediting Commission of the Council on Chiropractic Education, other chiropractic school and college accrediting agencies as may be recognized by the United States Commissioner of Education, or chiropractic school and college accrediting agencies employing equivalent standards for accreditation as determined by the board, (2) in the event that the commission ceases to exist or ceases to be recognized by the commissioner, a chiropractic school and college accrediting agency as may be designated by the board or chiropractic school and college accrediting agencies employing equivalent standards for accreditation as determined by the board, or (3) in the event that the commission ceases to exist or ceases to be recognized by the commissioner, no other accrediting agency is recognized by the commissioner, and no accrediting agency is acceptable to the board, the board.

As used in this section, "status" means correspondent status, status as a recognized candidate for accreditation, accredited status, or other similar status as may be adopted and used by the accrediting agency.

As used in this section, "in a timely manner" means within the time deadlines as may be established by the accrediting agency for submission of applications, consideration of applications submitted, acceptance or rejection of applications submitted, and other similar functions, as those time deadlines are interpreted by the board.

As used in this section, "without good cause" means not in accordance with rules and regulations that may be established by the accrediting agency as conditions for the attainment of status, as those rules and regulations are interpreted by the board.

As used in this section, "arbitrary and capricious additional requirements" means requirements that may be imposed by the accrediting agency as conditions for the attainment of status during the time period specified for the attainment of status by a chiropractic school or college that, in the board's judgement, cannot be satisfied within the time period or do not serve to improve the educational standards or quality of the school or college.

(h) The board may employ any investigators, clerical assistants, commissioners on examination, and other employees as it may deem necessary to carry into effect the provisions of this act, and shall prescribe the duties of those employees. Persons employed pursuant to this subdivision shall be subject to the State Civil Service Act (Part 2 (commencing with Section 18500) of Division 5 of Title 5 of the Government Code).

SEC. 35. Section 6 of the act cited in the title is amended to read:

Sec. 6. (a) The office of the board shall be in the City of Sacramento. Suboffices may be established in Los Angeles and San Francisco, and any records as may be necessary may be transferred temporarily to the suboffices. Legal proceedings against the board may be instituted in any one of the three cities.

(b) All meetings of the board shall be conducted in accordance with the provisions of the Bagley-Keene Open Meeting Act (Article 9 (commencing with Section 11120) of Chapter 1 of Part 1 of Division 3 of Title 2 of the Government Code).

(c) The board shall meet as a board of examiners at least twice each calendar year, at times and places as may be found necessary for the performance of its duties.

(d) The board shall comply with the requirements of Chapter 22.5 (commencing with Section 7528) of Division 7 of Title 1 of the Government Code and with the provisions of Article 10 (commencing with Section 11364) of Chapter 3.5 of Part 1 of Division 3 of Title 2 of the Government Code.

(e) Examinations shall be written, oral, and practical, covering chiropractic as taught in chiropractic schools or colleges, designed to ascertain the fitness of the applicant to practice chiropractic. The examination shall include at least each of the subjects as set forth in Section 5 of this act. Identity of the applicants shall not be disclosed to the examiners until after examinations have been given final grades. A license shall be granted to any applicant who makes a general average of 75 percent, and does not fall below 60 percent in more than two subjects or branches of the examination and receives a 75 percent score in all parts of the practical examination as designated by the board. Any applicant failing to make the required grade shall be given credit for the branches passed, and may, without further cost, take the examination at the next regular examination on the subjects in which he or she failed. For each year of actual practice since graduation , the applicant shall be given a credit of 1 percent on the general average.

(f) An applicant having fulfilled the requirements of Section 5 and paid the fee thereunder, and having obtained a diplomate certificate from the National Board of Chiropractic Examiners, may offer the certificate together with a transcript of grades secured in the national board examination, and the California Board of Chiropractic Examiners may accept those in lieu of all or a portion of the California board examination, as determined by the board.

SEC. 36. Section 6.5 is added to the act cited in the title, to read:

Sec. 6.5. The Attorney General shall act as legal counsel for the board and shall represent the board in any judicial and administrative proceeding. His or her services shall be a charge against the board.

SEC. 37. Section 14 of the act cited in the title is amended to read:

Sec. 14. The executive officer shall at the end of each month report to the Controller the total amount of money received by the board from all sources, and shall deposit with the Treasurer the entire amount of those receipts, and the Treasurer shall place the money so received in a special fund, to be known as the "State Board of Chiropractic Examiners' Fund". Moneys in the fund shall be expended in accordance with law for all necessary and proper expenses in carrying out the provisions of this act, upon proper claims approved by ~~said~~ *the* board or a finance committee thereof. All appropriations from the fund shall be made by the Legislature in the annual Budget Act.

SEC. 38. Section 18.5 is added to the act cited in the title, to read:

Sec. 18.5. This act, as amended, may be further amended or modified by the Legislature. In addition to the power to amend or modify, the Legislature shall have the power to repeal this act, as amended, in its entirety.

SEC. 39. Sections 30 to 38, inclusive, of this act shall become effective only when submitted to and if approved by the electors pursuant to subdivision (c) of Section 10 of Article II of the

California Constitution. The Secretary of State is hereby directed to place those provisions on the ballot of the ~~next statewide~~ *June 3, 2008, primary* election for approval by the electors in accordance with the applicable provisions of law.

SEC. 40. Sections 1 to 29, inclusive, of this act shall become operative on the date upon which Sections 30 to 38, inclusive, of this act are approved by the electors.

~~SEC. 41. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:~~

~~In order to reform the regulations imposed on the practice of chiropractic and to reform the Board of Chiropractic Examiners, which have proven ineffective to fully protect the public interest, at the earliest possible time and, to that end, to ensure that the necessary provisions of this act are placed on the ballot for the next statewide election, it is necessary that this act take effect immediately.~~

SEC. 41. It is the intent of the Legislature to appropriate from the revenues in the State Board of Chiropractic Examiners' Fund consisting of fees paid for the issuance and renewal of licenses issued by the State Board of Chiropractic Examiners an amount that it is sufficient to pay for the printing costs incurred by the Secretary of State in placing Sections 30 to 38, inclusive, of this act on the ballot at the June 3, 2008, primary election, as described in Section 39 of this act.