Board of Chiropractic Examiners
2525 Natomas Park Drive, Suite 260
Sacramento, California 95833-2931
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NOTICE OF PUBLIC MEETING
Scope of Practice Committee
November 18, 2008
9:30 a.m.
2525 Natomas Park Drive, Suite 120
Sacramento, CA 95833

AGENDA

CALL TO ORDER

Approval of Minutes
- September 4, 2008

Public Comment

Discussion and Possible Action
- Chiropractic Specialties Proposed Regulations

Discussion and Possible Action
- Standard of Care Regulations for Manipulation Under Anesthesia

Discussion and Possible Action
- Issues Raised in "Petition to Define Practice Rights and to Amend, Repeal and/or Adopt Scope of Practice Regulations as Needed," Submitted by David Prescott, Attorney

Discussion and Possible Action
- "Consent to Treat"

Public Comment

Future Agenda Items

ADJOURNMENT

SCOPE OF PRACTICE COMMITTEE
Hugh Lubkin, D.C., Chair
Frederick Lerner, D.C.

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

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

The meeting is accessible to persons withphysical disabilities. If a person needs disabilityrelated 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 andtelephone number.

STATE OF CALIFORNIA ARNOLD SCHWARZENEGGER, Governor

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BOARD OF CHIROPRACTIC EXAMINERS
MEETING MINUTES
Scope of Practice Committee
September 4, 2008
2525 Natomas Park Drive, Suite 100
Sacramento, CA 95833

DRAFT

Committee Members
Hugh Lubkin, D.C., Chair
Frederick Lerner, D.C.

Staff Present
Brian Stiger, Executive Officer
LaVonne Powell, Senior Staff Counsel
John Melendez, Staff Services Manager
April Alameda, Associate Analyst
Genie Mitsuhara, Staff Services Analyst
Marlene Valencia, Staff Services Analyst
Valerie James, Office Technician

Call to Order

Dr. Lubkin called the meeting to order at 1:02 p.m.

Roll Call

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

Approval of Minutes

July 17, 2008

DR. LERNER MOVED TO APPROVE THE JULY 17, 2008 MINUTES
DR. LUBKIN SECONDED THE MOTION
VOTE 2-0
MOTION CARRIED

Update on Chiropractic Use of X-Ray on Non-Chiropractic Patients

Dr. Lubkin stated that this topic has been under consideration for some time. This committee has done lengthy research and, at this time, recommends that the committee not take any action on the current request for an opinion from the Board.

Dr. Lerner stated he would like to make a motion to deny the request, at this time, regarding use of x-ray on non-chiropractic patients.

Ms. Powell clarifies that the motion, at this point, is the Board doesn't care to offer an opinion as to whether or not it's in the scope of practice to take x-rays on non-chiropractic patients.

Public Comment

Dr. Charles Davis expressed his disappointed because he is licensed to take x-rays to diagnose and it should not matter if it's his patient or another primary care provider's patient. He believes the Board needs to take action and make a stand on this issue.

Dr. Lubkin stated that that the Board has actually put numerous hours into this subject and after incredible research, the choice for non-action is the best choice.

Dr. Charles Davis asked if the Board was stating that if a medical doctor, who worked in the same office as a chiropractor, requests the chiropractor take an x-ray of his patient and the chiropractor did, that it would be considered illegal.

Dr. Lubkin responded no, the Board has never taken a position on this. It's not a Chiropractic Board issue. The request was for the Board to write a letter to the Department of Radiology Health expressing an opinion that this committee doesn't feel it can support.

Dr. Charles Davis asked if the Department of Radiology Health sets the scope of practice for chiropractics.

Dr. Lubkin responded that it's not a scope of practice issue. If someone is cited by the Department of Radiology Health, that person would need to go through their process for appeals.

Dr. Charles Davis stated that the Department of Radiology Health would say to the Board that it's scope of practice.

Ms. Powell stated that the Board would say it does not have a position on this issue. It would then be the responsibility of the Department of Radiology Health to have their attorneys come up with a legal opinion on this issue.

Dr. Lerner states he believes that there are two separate issues being discussed. One is the scope of practice, of where you can take an x-ray of body parts. The second is taking x-rays on non-chiropractic patients. The radiology committee has requested the Board to determine the scope, which the Board has. This issue is about the use of x-ray on non-chiropractic patients, which is separate from the scope.

Dr. Lubkin gave scenarios to clarify the differences between taking x-rays for evaluation and diagnoses of chiropractic treatment verses taking x-rays of non-chiropractic patients.

DRAFT

Dr. Charles Davis asked if once the chiropractor took x-rays of a patient, doesn't it then become a chiropractic patient. Legally, once you are involved with that case, it is a patient of the chiropractor.

Dr. Lubkin responded if it was a chiropractic patient, the doctor should have a history and the appropriate documents as outlined in the CCRs. If this was the case, there would probably be a completely different scenario than what the Board was asked to address. If you have a patient, and you complete the proper paperwork, take a history, do a basic competent exam, and then take an x-ray of them, the Department of Radiology Health would not have an issue and the Board certainly wouldn't. But if you just accept a patient from any doctor just to take an x-ray, then the Board's position is that it's not prepared to write a letter advising that the Board has an opinion that that's.

Dr. Schnell stated he has a hard time understanding why the Board is not willing to take a stand when the Department of Radiology Health issued a statement saying they would accept a chiropractor taking x-rays if the Board would determine appropriate.

Ms. Powell stated that there is communication that the Department of Radiology Health is passing this issue to the Board. However, the Board has declined to accept it and that's the bottom line.

Dr. Schnell asked why the Board would not accept it and make a stand either way.

Dr. Lubkin explained that this issue gets into the creation of the Chiropractic Practice Act and making a determination of why chiropractors were initially allowed to use x-rays. Based on research and consultation, the Board feels this is the best action.

Dr. Schnell asked if it ultimately goes to the Department of Radiology Health to determine if chiropractors can take x-rays.

Dr. Lubkin responded that the Department of Radiology Health is who issues the licenses and would enforce this issue so it should stay with them. The Board would like to be able to give more information on this issue other than after all of the research and consultations, including legal opinions, but this is the best course of action for the Board.

Dr. Schnell asked if the Board was waiting on a legal opinion.

Ms. Powell stated the Board has received a legal opinion and the Committee has decided that it would not be public.

Dr. Schnell stated he was disappointed, however, he respected the Board's opinion but feels there needs to be some determining reply.

Dr. Lubkin responded that in his particular situation, he could appreciate that. However, in the responsibilities for public protection, it's best the legal opinion be left where it is.

Dr. Edward Cremata, in an effort to clarify, gave scenarios to the Board to see if those scenarios were acceptable.

Ms. Powell stated that the Board didn't want to get into specific facts on what's acceptable. The Board was asked to provide a general response regarding the use of the supervisor x-ray certificate for non-chiropractic patients. The Board declined to do so, and does not want the Committee to answer specific questions. There is not much more to say, other than, we tried and we are declining to write a response.

DR. LERNER MOVED TO DENY THE REQUEST REAGARDING USE OF X-RAY ON NON-CHIROPRACTIC PATIENTS
DR. LUBKIN SECONDED THE MOTION
VOTE 2-0
MOTION CARRIED

Update on Standard of Care Regulations for Manipulation Under Anesthesia

Dr. Lubkin informed everyone that a few weeks ago there was a second meeting with the Office of Administrative law, to further clarify and get additional guidance and direction on moving forward. Some minor changes have been made to the initial regulation that was presented regarding the facilities that will be approved for use. This topic is moving forward and tentatively looking for public comment before the end of this year.

Mr. Stiger stated that there is a timeline. The projected public hearing is December 8, 2008.

Dr. Lerner thanked OAL for being very helpful in guiding the Board and being a great assistance with the regulations.

Dr. Lubkin added his thanks to Ms. Powell on her phenomenal job guiding the Board through controversial topics at the last meeting. This topic appears to be moving forward very well and has been refined to the point the Board is just about ready to open it up to public comment.

Public Comment

Dr. Edward Cremata, President, National Academy of Manipulation Under Anesthesia Physicians, brought up two issues that have come up both nationally and in-state. He provided documentation that was provided to the academy regarding coding, the appropriate use of coding, what the rules and regulations are, and why it's being done differently. Secondly, the academy is concerned and has been investigating over-billing and over-treatment in MUA that's going on particularly in Florida and New Jersey. It's not a huge problem percentage wise, but it's a problem that they are having trouble containing because it's not the chiropractors doing it, it's the surgery centers and their MDs and DOs. They are making sure the chiropractic members of the academy are aware of this and they are looking into trying to regulate it so it doesn't happen. They are talking to surgery centers and any groups that could influence how this is being managed.

Dr. Lubkin stated the Board has heard some controversy about the proper charges and the amounts of those charges.

Dr. Cremata briefly explained critical parts of the American Medical Association CPT Book. First, essentially the instruction for the MUA practitioner is to select the name of the procedure or service that accurately identifies the service performed. If you don't find something exactly, then you go with an unlisted procedure. The second statement was it's important to recognize the listing of the service or procedure and its code number to a specific section of the book does not restrict its use to a specific specialty group. Any procedure or service in any section of the book may be used to designate the services rendered by any qualified physician or other qualified health care professional. You'll find in the official medical fee schedule that applies to California Workers Compensation cases that it's the same. Whoever is doing the procedure has to choose a code from wherever it is in the book and it's explicitly authorized in the books.

DRAFT

Dr. Lubkin asked when an MUA is performed and a chiropractic doctor is doing the procedure, but it's billed under first or second surgeon why would that not be considered misrepresenting the actual activity since a chiropractor is not a surgeon.

Dr. Cremata responded that was a tough question and that he, personally, wouldn't sign a document without modifying, however, during his training at Texas Medical School, he was informed not to worry about that. The academy recommends that the members modify the forms. He has reviewed files regarding misrepresentation and doesn't feel there is intent to misrepresent, but does feel it would help clarify if chiropractors took a duty to make the forms more accurate if they are going to be incorporated in a medical world that uses those specific forms.

Dr. Lubkin asked if the academy had an official recommendation to the members that they not sign documents without modification to avoid misrepresentation issues.

Dr. Cremata stated to his knowledge, it doesn't, but would address this issue with the academy to prevent future problems.

Dr. Lerner stated he has seen in coding of MRIs and lab testing, that radiology facilities have put MD to prevent billing issues with insurance companies. There have been denials in the past based on chiropractors ordering surgery codes, it did not last long, but it occurred. It doesn't make him a surgeon if he uses surgery codes, and that is clearly stated in the book. It's something that we should all be aware of as a general issue. It would be nicer if it was modified to be clear and accurate.

Dr. Cremata stated he would do this with his academy and also contact the teaching organizations to make that part of the instruction that before forms are signed, that they make sure the forms are accurate to include the type of provider.

Dr. Lubkin stated under CCR 317 sections, signing your name to a false or misleading document is a violation of our regulations and also of the BP 650, 651 sections. Anytime there's a signature block that says you're a medical provider or surgeon, and you sign it, you are endorsing that comment. The Board is here to protect the public and prevent people from being mislead. We should make sure that when a chiropractor does a procedure it is very clear it was done by a chiropractor so that no one could allege that they were mislead.

Dr. Lerner stated sometimes after a procedure is complete, a facility will bill a fee that the chiropractor does not see the form.

Dr. Lubkin stated that no signature would be on that form.

Dr. Cremata stated the things they don't see, can partially be controlled by the procedure report. The billing goes out from the procedure report, if it is correct the billing should be correct.

Ms. Powell inquired about an updated version of the academy's MUA standard of care guidelines. It would be needed within two weeks to provide to OAL as underlying data when filing the regs.

Mr. Cremata agreed to provide the updated version to Board staff.

Khristine Shultz, California Chiropractic Association wanted on record her being in support of the Board's efforts.

Public Comment

None

New Business

None

Adjournment

Dr. Lubkin adjourned the meeting at 1:34 p.m.

DRAFT

Proposed Regulations Re Advertising of Specialty Board Certification

(a) As used in this section,

(1)"Board" spelled with a capital "B" means the California Board of Chiropractic Examiners.

(2)"Specialty board" means a board or association that certifies chiropractic doctors in a specialty or subspecialty area of chiropractic.

(3) "Specialty or subspecialty area of chiropractic" means a distinct and well-defined field within the practice of chiropractic health care. This may include areas presenting special concerns, or involving diagnostic procedures, use of therapeutic modalities and other aspects of patients' health issues or problems related to specialized health problems associated with age, sex, organ system, body regions, or the interaction between patients and challenges faced within their unique environment due to these issues or concerns. A chiropractic specialty promotes the standards of practice within its specialty board.

(b) It shall constitute unprofessional conduct for a chiropractor to advertise that he or she is certified by a specialty board in a specialty or subspecialty area of chiropractic unless that specialty board is either a member board of the American Chiropractic Association ("ACA"), or that specialty board is approved by the Board. The Board may approve a specialty board if it complies with all of the following requirements:

(1) The Primary purpose of the specialty board shall be the certification of chiropractic doctors within a chiropractic specialty or subspecialty. The specialty board shall encompass the broad areas of the specialty or subspecialty.

(2) The Specialty board shall not restrict itself to a single modality or treatment that may be part of a broader specialty or subspecialty.

(3) If the specialty board certifies professionals other than chiropractic doctors, the specialty board shall not represent either that (i) the criteria set forth in these regulations or (ii) the Board's approval of the specialty board's certification program is applicable to non-chiropractic doctors.

(4) The specialty board shall be a nonprofit corporation, chiropractic college or chiropractic association, and it shall have at least 50 members who reside in California, possess a current unrestricted license to practice chiropractic issued by the Board of Chiropractic Examiners, in accordance with law and as provided within the California Chiropractic Practice Act.

(5) The specialty board shall have articles of incorporation, a constitution, or a charter and bylaws that describe the rules and operations of the board. These bylaws shall:

(A) Provide for an independent and stable governing body with staggered, limited terms of not more than two consecutive terms of four (4) years, including provisions that the officers or officials of the specialty board or association are internally appointed or selected by the existing members of that specialty board.

(B) Set forth the requirements and policies for certification by the specialty board.

(C) Require that the specialty board promote the public interest by contributing to improvement of chiropractic health care by establishing requirements and evaluating applicants who apply for certification.

(D) Require that the specialty board determine whether applicants have received adequate preparation in accord with standards established by the specialty board including standardized training, testing and certification.

(E) Require evidence through standardized training and passing of standardized testing, that applicants have acquired the knowledge and the practical and clinical skills and capabilities in the specific specialty or subspecialty area of chiropractic and demonstrate special knowledge within that field.

(F) Require that the specialty board create standardized testing including comprehensive written, practical or both types of evaluations that tests the applicant's knowledge and clinical or diagnostic skills.

(6) The specialty board shall develop standardized certification that demonstrates that chiropractors being awarded a "certificate of completion" possess the knowledge and skills essential to provide competent chiropractic health care in the designated specialty or subspecialty area.

(7)(A) Except as provided in subparagraph (B) or (C) of this paragraph, the specialty board shall require all applicants who are seeking certification to have satisfactorily completed a postgraduate training program accredited by a Chiropractic College or University accredited by the Council on Chiropractic Education ("CCE") that includes identifiable training in the specialty or subspecialty area of chiropractic in which the chiropractic doctor is seeking certification. This identifiable training shall be deemed acceptable unless determined by the Board to be either (1) inadequate in scope, content and duration in that specialty or subspecialty area of chiropractic so that the program does not adequately promote or enhance protection of the public health and safety or (2) that the program is not equivalent in scope and content to the training required for board certification by any related ACA board for the specific conditions or patient populations within the scope of the applicant certifying board's course material, examination and certification.

(B) If the training required of applicants seeking certification by the specialty board is other than a Chiropractic College or University accredited by the Council of Chiropractic Education ("CCE") or an ACA accredited postgraduate training program, then the specialty board shall have training standards include identifiable standardized training, testing and certification within the specialty or subspecialty area of chiropractic health care equivalent in scope, content,

duration to those of CCE accredited Chiropractic College or University programs in a related specialty or subspecialty area of chiropractic. This training shall be evaluated by the Board to ensure that the scope, content, duration, testing and certification are equivalent to those CCE accredited Chiropractic College or University programs.

(C) In lieu of the postgraduate training required under subparagraph (A) or (B) of this paragraph (7), the specialty board shall require applicants seeking certification to have completed a minimum of 300 hours of continuing chiropractic education in the specialty or subspecialty area of chiropractic in which the chiropractor is seeking certification which is approved under Sections _____ and _____ of these regulations. Any teaching experience acceptable under this subparagraph shall have been in a postgraduate training program approved by the ACA and taught at a Chiropractic College or University accredited by the CCE or that meets the standards set forth in subparagraph (B) that includes identifiable training in the specialty or subspecialty area of chiropractic to be certified. This training shall be evaluated by the Board and determined to be equivalent in scope, content, and duration to those of a CCE accredited Chiropractic College or University program in a related specialty or subspecialty area of chiropractic and to those of a CCE accredited program in a specialty or subspecialty area of chiropractic in order to protect and promote the public health and safety. Teaching or practice experience accepted under this subparagraph shall be evaluated by and acceptable to the credentials committee of the specialty board pursuant to standards that are (1) specified in the bylaws of the specialty board and (2) approved by the Board in accordance with criteria set forth in these regulations.

Chiropractors who are certified by specialty boards under this subparagraph that are incorporated, or organized as a specialty board on the effective date of these regulations, may advertise their board certification for three (3) years from the effective date of these regulations. During that time, the specialty board shall demonstrate to the satisfaction of the Board that there is in existence one or more postgraduate training programs that include identifiable training in the specialty or subspecialty area of chiropractic to be certified that meet the requirements of subparagraph (A) or (B) of this paragraph (7); then the specialty board's approval shall be permanent unless withdrawn under subsection (C). This training shall be evaluated by the Board and determined to be equivalent in program scope, course content, consistent standardized testing of graduates prior to certification, and the duration to those ACA accredited board programs in a related specialty or subspecialty area of chiropractic shall demonstrate clearly adequate and consistent standardized training and standardized testing in that area of specialty or subspecialty of chiropractic in order to promote and protect the public health and safety. If a specialty board cannot demonstrate its equivalency to ACA boards in the three (3) years following the effective date of these regulations, its members may not thereafter advertise any specialization or represent that they have certification by that board. This period may be extended for one (1) year if the Board determines that the specialty board is making a good faith effort towards achieving equivalency to ACA boards.

Chiropractors who are certified by specialty boards under this subparagraph that are incorporated, or organized as an association after the effective date of these

regulations, may not advertise their certification until the specialty board is determined by the Board to be equivalent to ACA boards.

The specialty board shall demonstrate to the satisfaction of the Board that there is in existence one or more postgraduate training programs that include identifiable training in the specialty or subspecialty area of chiropractic to be certified that meets the requirements of subparagraph (A) or (B) of this paragraph (7). This training shall be evaluated by the Board and determined to be equivalent in scope, content, and duration with standardized testing and certification of similar criteria, so that those ACA accredited board program or associations, in any related specialty or subspecialty area of chiropractic clearly demonstrate adequate training and standardized course content, standardized testing and standardized certification, in that specialty or subspecialty area of chiropractic in order to promote and protect the public health and safety.

(8) Except as provided in subparagraph (7)(C) above, at the time of application for approval to the Board, a specialty board shall demonstrate that one or more postgraduate training programs are in existence and that these programs provide identifiable training in the specialty or subspecialty area of chiropractic in which chiropractors are seeking certification. This standardized course content and training shall be evaluated by the Board and determined to be equivalent in scope, content and duration, standardized testing and standardized accreditation so that those ACA accredited board program in any related specialty or subspecialty area of chiropractic demonstrate adequate training in that specialty or subspecialty area of chiropractic, in order to promote and protect the public health and safety.

The specialty board shall submit a plan that (A) estimates the number of chiropractic doctors to be certified through subsection (b)(7)(C), above; (B) specifies the number and location of post graduate training programs developed and to be developed in the future by that board; the number of trainees completing this specific training annually; (C) demonstrates the equivalency of those programs to other Board approved specialties or subspecialties, as provided for in subsection (b)(7)(B), above; (D) provides for monitoring to evaluate the quality of existing programs; and (E) allows for upgrading of the parameters of the specialty or subspecialty area of chiropractic to accommodate new developments.

Every year the specialty board shall report to the Board its progress in implementing the plan for postgraduate training programs in the specialty or subspecialty area of chiropractic in which chiropractors are seeking certification. Failure to so report by the date requested by the Board, shall be grounds for withdrawal of approval by the Board. Failure of a specialty board to establish to the satisfaction of the Board that its program is in compliance with its plan, as stated in its original submission to the Board, shall be grounds for withdrawal of the Board's approval of that specialty board. Failure of a specialty board to provide evidence that its postgraduate training programs are equivalent in scope, content, duration and standardized course content, testing and certification to those ACA accredited board programs shall be grounds for withdrawal of its approval. If approval is withdrawn by the Board, the Board shall serve a copy of the decision to the specialty board by United States Postal Post, certified, return

receipt. The approval shall become effective ten (10) days from the date of service of the Board's decision.

(9) The specialty board shall require all chiropractors that are seeking certification to successfully pass a standardized written or oral examination, or both types of examinations that specifically tests the applicants' knowledge and skills in the specialty or subspecialty area of chiropractic. All or part of the examinations may be delegated to a testing organization.

(10) The specialty board shall issue certificates to those chiropractors that are found qualified under the stated requirements of the specialty board.

(11) The specialty board shall assist in maintaining and elevating the standards of graduate chiropractic education facilities for specialty training in chiropractic in collaboration with other concerned organizations and agencies, and have a mechanism for assisting accrediting agencies in the evaluation of training programs and the creation of future programs.

(c)(1) An applicant who wishes to become an approved specialty board shall submit a completed "(insert name of application and revision date)" to the Board. If the applicant meets the criteria set forth in these regulations, the Board may approve the application. The Board may withdraw approval of a specialty board if the Board finds that the specialty board fails or failed to meet the criteria set forth in these regulations. If approval is withdrawn by the Board, the Board shall serve a copy of the decision to the specialty board by United States Postal Post, certified, return receipt. The approval shall become effective ten (10) days from the date of service of the Board's decision.

(d) Specialty boards approved by the Board shall certify every three (3) years from the date of approval that they continue to meet the requirements of these regulations.

(e) The Board may conduct evaluations, including, but not limited to, by the use of subject matter experts, to ensure that applicant boards applying to the Board for approval and those who have been previously approved meet the criteria of these regulations.

DRAFT

Proposed Regulatory Language for MUA

Section 318.1 is hereby added to Title 16, Division 4, Article 2 of the California Code of Regulations:

318.1 **Standard of Care re Manipulation Under Anesthesia ("MUA")**

(a) MUA may only be performed in a hospital or ambulatory surgery center that is licensed by the California Department of Public Health, Bureau of Hospital Licensing and Certification or a hospital or ambulatory surgery center that is accredited by the Joint Commission, the American Association for Accreditation of Ambulatory Surgery, the Accreditation Association for Ambulatory Health Care, Medicare, or the Institute for Medical Quality. If any of the above named organizations changes its name the Board shall continue to recognize the organization.

(b) Anesthesia may only be administered by a California licensed physician and surgeon, or other health care provider authorized under California law to administer anesthesia. The chiropractor may not direct, instruct, interfere, or make any orders to the physician and surgeon, or other health care provider who is administering and maintaining the anesthesia.

(c) MUA shall be performed by two chiropractors trained and competent to safely perform MUA. The "primary chiropractor" shall formulate the chiropractic portion of the MUA treatment plan and shall be responsible for performing the chiropractic manipulation for that procedure. The "second chiropractor" shall insure that all movements are accomplished with patient care and safety as his or her primary focus and shall assist the "primary chiropractor" when necessary. The chiropractic portion of MUA is limited to techniques within the scope of practice of a chiropractor.

(d) For the purpose of this section, the primary chiropractor and the second chiropractor may not be involved in nor interfere with the physician and surgeon or other health care provider in the discharge of the patient following the MUA procedure.

(e) Failure to follow the standard of care contained in this section when performing MUA shall constitute unprofessional conduct.

(f) "MUA" means the manipulation of a patient who is sedated by the administration of anesthesia by a physician and surgeon or other health care provider who is legally authorized to administer anesthesia.

Amendments to Constitution

and

Proposed Statutes

with

Arguments Respecting the Same

To be Submitted to the Electors of the State of California
at the General Election on

Tuesday, November 7, 1922

Index, ballot titles with numbers, and certificate appear in last pages
Proposed changes in provisions are printed in black-faced type
Provisions proposed to be repealed are printed in italics

Compiled by
LEGISLATIVE COUNSEL BUREAU
and distributed by
SECRETARY OF STATE

CALIFORNIA STATE PRINTING OFFICE
SACRAMENTO, 1922.

16	**CHIROPRACTIC.** Initiative Act. Creates Board of Chiropractic Examiners, appointed by Governor and paid from receipts under act; prescribes powers and duties thereof; prohibits practice of chiropractic without license therefrom, authorizing issuance thereof to certain chiropractic graduates and establishing prerequisites of study and other conditions to such issuance; provides for revocation of such licenses; declares chiropractic licentiates shall observe and be subject to all state and municipal regulations relating to all matters pertaining to public health, shall sign death certificates and make reports as required by law; prescribes penalties and repeals conflicting legislation.	YES	
		NO	

Sufficient qualified electors of the State of California present to the secretary of state this petition and request that a proposed measure, as hereinafter set forth, be submitted to the people of the State of California for their approval or rejection, at the next ensuing general election. The proposed measure is as follows:

PROPOSED LAW.

(Proposed changes from provisions of present laws are printed in black-faced type.)

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 people of the State of California do enact as follows:

Section 1. A board is hereby created to be known as the "state board of chiropractic examiners," hereinafter referred to as the board, which shall consist of five members, citizens of the State of California, appointed by the governor. Each member must have pursued a resident course in a regularly incorporated chiropractic school or college, and must be a graduate thereof and hold a diploma therefrom. Each member of the board first appointed hereunder shall have practiced chiropractic in the State of California for a period of three years next preceding the date upon which this act takes effect, thereafter appointees shall be licentiates hereunder. No two persons shall serve simultaneously as members of said 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 connected with any chiropractic school or college shall be eligible to appointment as a member of the board. Each member of the board, except the secretary, shall receive a per diem of ten dollars for each day during which he is actually engaged in the discharge of his duties, together with his actual and necessary traveling expenses incurred in connection with the performance of the duties of his office, such per diem traveling expenses and other incidental expenses of the board or of its members to be paid out of the funds of the board hereinafter defined and not from the state's taxes.

Sec. 2. Within sixty days of the date upon which this act takes effect, the governor shall appoint the members of the board. Of the members first appointed, one shall be appointed for a term of one year, two for two years, and two for three years. Thereafter, each appointment shall be for the term of three 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. The governor may remove a member from the board after receiving sufficient proof of the inability or misconduct of said member.

Sec. 3. The board shall convene within thirty days after the appointment of its members, and shall organize by the election of a president, vice-president and secretary, all to be chosen from the members of the board. Thereafter elections of 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 three members of said 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 secretary shall receive a salary to be fixed by the board in an amount not exceeding one thousand dollars per annum, but not per diem, together with his actual and necessary traveling expenses incurred in connection with the performance of the duties of his office, and shall give bond to the state in such sum with such sureties as the board may deem proper. He shall keep a record of the proceedings of the board, which shall at all times during business hours be open to the public for inspection. He 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 shall file with the governor a report of all receipts and disbursements and of the proceedings of the board for the preceding fiscal year.

Sec. 4. 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 such rules and regulations as the board may deem proper and necessary for the performance of its work, copies of such rules and regulations to be filed with the secretary of state for public inspection.

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

(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 herein granted or imposed.

Sec. 5. It shall be unlawful for any person to practice chiropractic in this state without a license so to do. Any person wishing to practice chiropractic in this state shall make application to the board fifteen days prior to any meeting thereof, upon such form and in such manner as may be provided by the board. Each application must be accompanied by a license fee of twenty-five dollars and a certificate showing good moral character of the applicant. Except in the cases herein otherwise prescribed, each applicant shall be a graduate of an incorporated chiropractic school or college which teaches a course of not less than two thousand four hundred hours, extended over a period of three school terms of at least six months each, and must give satisfactory proof of having attended not less than ninety per cent of said two thousand four hundred hours, and shall present to the board at the time of making such application, a diploma from a high school, or proof, satisfactory to the board of education equivalent in training power to a high school course.

The schedule of minimum educational requirements to enable any person to practice chiro-

practic in this state is as follows, to wit, except as herein otherwise provided:

Anatomy	600 hours
Histology	100 hours
Elementary chemistry and toxicology	100 hours
Physiology	200 hours
Bacteriology	100 hours
Hygiene and sanitation	100 hours
Pathology	200 hours
Diagnosis or analysis	400 hours
Chiropractic theory and practice	500 hours
Obstetrics and gynecology	100 hours
Total	2400 hours

Sec. 6. (a) The board shall meet as a board of examiners on the first Tuesday following the second Monday of January and July of each year, and at such other times and places as may be found necessary for the performance of their duties. The office of the board shall be in the city of Sacramento. Sub-offices may be established in Los Angeles and San Francisco, and such records as may be necessary may be transferred temporarily to such sub-offices. Legal proceedings against the board may be instituted in any one of said three cities.

(b) Each applicant shall be designated by a number instead of the name, so that the identity will not be disclosed to the examiners until the papers are graded.

(c) All examinations shall be in writing, except in cases herein otherwise prescribed, and shall be practical in character, as taught in chiropractic schools or colleges, and designed to ascertain the fitness of the applicant to practice chiropractic. Said examinations shall be in each of the subjects as set forth in section five hereof. A license shall be granted to any applicant who shall make a general average of seventy-five per cent, and not fall below sixty per cent in more than two subjects or branches of said examination. 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 failed. For each year of actual practice since graduation the applicant shall be given a credit of one per cent on the general average.

Sec. 7. One form of certificate shall be issued by the board of chiropractic examiners, which said certificate shall be designated "License to practice chiropractic," which license 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. 8. Any person who shall have practiced chiropractic for two years after graduation from a chiropractic school or college, one year of which shall have been in this state preceding the date upon which this act takes effect, or any person who graduated from a chiropractic school or college prior to January 1, 1922, and who shall present to the board satisfactory proof of good moral character and having pursued a resident course of not less than two thousand hours in a legally incorporated chiropractic school or college, shall be given a practical and clinical examination in chiropractic philosophy and practice, and if he, or she, make a grade of seventy-five per cent in such examination, the board shall grant a license to said applicant to practice chiropractic in this state under the provisions of this act; provided, however, that application for said license is made within six months of the date upon which this act takes effect and that each applicant shall pay to the secretary of the board the sum of twenty-five dollars.

Sec. 9. Notwithstanding any provision contained in any other section of this act the board, upon receipt of the fee of twenty-five dollars, shall issue a license to any of the following named persons:

(a) To each member of the board.

(b) To any person licensed to practice chiropractic under the laws of another state, having the same general requirements as prescribed in this act; and provided, further, that such other state in like manner grants reciprocal registration to chiropractic practitioners of this state.

Sec. 10. (a) The board shall refuse to grant, or may revoke, a license to practice chiropractic in this state; or may cause a licensee's name to be removed from all records of licensed practitioners of chiropractic in this state, upon any of the following grounds, to wit:

The employment of fraud or deception in applying for a license or in passing an examination as provided in this act; the practice of chiropractic under a false or assumed name; or the personation of another practitioner of like or different name; the conviction of a crime involving moral turpitude; habitual intemperance in the use of ardent spirits, narcotics or stimulants to such an extent as to incapacitate him for the performance of his 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 service 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. Any person who is licentiate, or who is an applicant for a license to practice chiropractic, against whom any of the foregoing grounds for revoking or refusing a license is presented to the board with a view of having the board revoke or refuse to grant a license, shall be furnished with a copy of the complaint, and shall have a hearing before the board in person or by an attorney, and witnesses may be examined by the board respecting the guilt or innocence of the accused. The secretary on all cases of revocation shall enter on his register the fact of such revocation, and shall certify the fact of such 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 said clerk must thereupon write upon the margin or across the face of his register of the certificate of such person the following: "This certificate was revoked on the _____ day of _____," giving the day, month and year of such revocation in accordance with said certification to him by said secretary. The record of such revocation so made by said county clerk shall be prima facie evidence of the fact thereof, and of the regularity of all proceedings of said board in the matter of said revocation.

(b) 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 said license to the person affected, restoring him to, or conferring on him all the rights and privileges granted by his original license or certificate. Any person to whom such rights have been restored shall pay to the secretary the sum of twenty-five dollars upon the issuance of a new license.

Sec. 11. (a) Every person who shall receive a license from the board shall have it recorded in the office of the county clerk of the county in which he resides, and shall have it likewise recorded in the counties into which he shall subsequently move for the purpose of practicing chiropractic.

(b) The failure or the refusal on the part of the holder of a license to have it recorded before he shall begin to practice chiropractic in this state, after having been notified by the board to do so, shall be sufficient ground to revoke or cancel a license and to render it null and void.

(c) The county clerk of each county in this state shall keep for public inspection, in a book provided for that purpose, a complete list and

description of the licenses recorded by him. When any such license shall be presented to him for record he shall stamp upon the face thereof his signed memorandum of the date when such license was presented for record.

Sec. 12. Each person practicing chiropractic within this state shall, on or before the first day of January of each year, after a license is issued to him as herein provided, pay to said board of chiropractic examiners a renewal fee of two dollars. The secretary shall, on or before November first of each year, mail to all licensed chiropractors in this state a notice that the renewal fee will be due on or before the first day of January next following. Nothing in this act 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 act in the State of California to pay said annual fee of two dollars during the time his or her license remains in force shall, after a period of sixty days from the first day of January of each year, ipso facto, work a forfeiture of his or her license or certificate, and it shall not be restored except upon the written application therefor and the payment to the said board of a fee of ten dollars, except that such licentiate who fails, refuses or neglects to pay such annual tax within a period of sixty days after the first day of January of each year shall not be required to submit to an examination for the reissuance of such certificate.

Sec. 13. Chiropractic licentiates 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 such reports shall be accepted by the officers of the departments to which the same are made.

Sec. 14. All moneys received by the board under this act shall be paid to the secretary of said board, who shall give a receipt for the same and shall at the end of each month report to the state controller the total amount of money received by him on behalf of said board from all sources, and shall at the same time deposit with the state treasurer the entire amount of such receipts; and the state treasurer shall place the money so received in a special fund, to be known as the "state board of chiropractic examiners' fund," which fund is hereby created. Such 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 board or a finance committee thereof.

Sec. 15. Any person who shall practice or attempt to practice chiropractic, or any person who shall buy, sell or fraudulently obtain a license to practice chiropractic, whether recorded or not, or who shall use the title "chiropractor" or "D. C." or any word or title to induce, or tending to induce belief that he is engaged in the practice of chiropractic, without first complying with the provisions of this act; or any licensee under this act who uses the word "doctor" or the prefix "Dr." without the word "chiropractor," or "D. C." immediately following his 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 held no license from the State of California, or any person who shall violate any of the provisions of this act, shall be guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of not less than fifty dollars and not more than two hundred dollars, or by imprisonment in the county jail for not less than thirty days nor more than ninety days, or both.

Sec. 16. Nothing in this act shall be construed to prohibit service in case of emergency, or the domestic administration of chiropractic, nor shall this act apply to any chiropractor from any other state or territory who is actually consulting with a licensed chiropractor in this state; provided, that such consulting chiropractor shall not open an office or appoint a place to receive patients within the limits of the state; nor shall this act 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 act apply to persons who are licensed under other acts.

Sec. 17. It shall be the duty of the several district attorneys of this state to prosecute all persons charged with the violation of any of the provisions of this act. It shall be the duty of the secretary of the board, under the direction of the board, to aid attorneys in the enforcement of this act.

Sec. 18. Nothing herein shall be construed as repealing the "medical practice act" of June 2, 1913, or any subsequent amendments thereof, except in so far as that act or said amendments may conflict with the provisions of this act as applied to persons licensed under this act, to which extent any and all acts or parts of acts in conflict herewith are hereby repealed.

Sec. 19. If any section, subsection, sentence, clause or phrase of this act is for any reason held to be unconstitutional, such decision shall not affect the validity of the remaining portion of this act. The electors hereby declare that they would have passed this act, and each section, subsection, sentence, clause and phrase thereof, irrespective of the fact that any one or more other sections, subsections, sentences, clauses or phrases be declared unconstitutional.

EXISTING PROVISIONS.

Sections seven, nine, ten, eleven, thirteen, fourteen, fifteen, sixteen, seventeen, eighteen, nineteen, twenty-two and twenty-four of the state medical practice act, approved June 2, 1913, as amended, which is proposed to be modified in so far as the act relates to issuance of certificates to chiropractics and regulation of the practice of chiropractic, read as follows:

(Provisions differing from proposed chiropractic act are printed in italics.)

Sec. 7. Every applicant for a certificate shall pay to the secretary of the board a fee of *twenty-five* dollars (*$25*), which shall be paid to the treasurer of the board by said secretary. *In case the applicant's credentials are insufficient or in case he does not desire to take the examination; the sum of ten dollars ($10) shall be retained, the remainder of the fee being returnable on application.*

Sec. 9. Every applicant must file with the board, *at least two weeks* prior to the regular meeting thereof, satisfactory testimonials of good moral character, and a diploma or diplomas issued by some legally chartered school or schools *approved by the board, the requirements of which school or schools shall have been at the time of granting such diploma or diplomas in no degree less than those required under this act, or satisfactory evidence of having possessed such diploma or diplomas, and must file an affidavit stating that he is the person named in said diploma or diplomas, and that he is the lawful holder thereof, and that the same was procured in the regular course of instruction and examination without fraud or misrepresentation; * * * provided, further, that an applicant for a "drugless practitioner certificate" must show that he has attended two courses of study, each such course to have been of not less than thirty-two weeks duration, but not necessarily pursued continuously or consecutively, * * *.*

The said application shall be made upon a blank furnished by said board and it shall contain such information concerning the medical instruction and the preliminary education of the applicant as the board may by rule prescribe. *In addition to the requirements hereinabove provided for, applicants for any form of certificate hereunder shall present to said board at the time of making such application a diploma from a California high school or other school in the State of California requiring and giving a full four years' course of same grade, or other schools elsewhere, requiring and giving a full four years' standard high school course, or its equivalent, approved by the board, together*

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POINT A

POINT C

with satisfactory proof that he is the lawful holder of such diploma, and that the same was procured in the regular course of instruction. The passing of an examination before the entrance examining board for the entrance to the academic department of the University of California, or Stanford University or the University of Southern California, or the possession of documentary evidence of admission to the academic department of such institutions as a regular student or in full standing shall be sufficient basic or preliminary educational qualifications. In lieu of such diploma, the applicant may present: (1) a certificate from the college entrance examination board, or the college examining board of any state or territory showing that such applicant has successfully passed the examination of said board; or (2) if such applicant be thirty years or more of age he may show to the satisfaction of the board of medical examiners proof of preliminary education equivalent in training power to the foregoing requirements. * *

Sec. 10. Applicants for any form of certificate shall file satisfactory evidence of having pursued in any legally chartered school or schools, *approved by the board*, a course of instruction covering and including the following minimum requirements:

* * * * * * *

For a "Drugless Practitioner Certificate."

Group 1. 600 hours.	
Anatomy	485 hours
Histology	115 hours
Group 2. 270 Hours.	
Elementary chemistry and toxicology	70 hours
Physiology	200 hours
Group 3. 235 hours.	
Elementary bacteriology	40 hours
Hygiene	45 hours
Pathology	150 hours
Group 4. 370 hours.	
Diagnosis	370 hours
Group 5. 260 hours.	
Manipulative and mechanical therapy	260 hours
Group 6. 265 hours.	
Gynecology	100 hours
Obstetrics	165 hours
Total	2,000 hours

* * * * * * *

In the course of study herein outlined the hours required shall be actual work in the classroom, laboratory, clinic or hospital, and at least eighty (80) per cent of actual attendance shall be required; provided, that the hours herein required in any subject need not exceed seventy-five (75) per cent of the number specified, but that the total number of hours in all the subjects of each group shall not be less than the total number specified for such group.

Sec. 11. In addition to above requirements, * * *

All applicants for *"drugless practitioner* certificates" must pass an examination in the following subjects:

1. Anatomy and histology.
2. Physiology.
3. General diagnosis.
4. Pathology and elementary bacteriology.
5. Obstetrics and gynecology.
6. Toxicology and elementary chemistry.
7. Hygiene and sanitation.

* * * * * * *

All examinations shall be practical in character and designed to ascertain the applicant's fitness to practice his profession, *and shall be conducted in the English language, and at least a portion* of the examination in each of the subjects shall be in writing. *The board in its discretion upon the submission of satisfactory proof from the applicant that he is unable to meet the requirements of the examination in the English language, may allow the use of an interpreter either to be present in the examination room or to thereafter interpret and transcribe the answers of the applicant. The selection of such interpreter is to be left entirely to the board and the expenses thereof to be borne by the applicant, the payment therefor to be made before such examination is held. There shall be at least ten questions on each subject, the answers to which shall be marked on a scale of zero to one hundred.* Each applicant must obtain no less than a general average of seventy-five per cent, and not less than sixty per cent in any two subjects; provided, that any applicant shall be granted a credit of one per cent upon the general average for each year of actual practice since graduation; provided, further, that any applicant for * * * *"drugless practitioner* certificate" *obtaining seventy-five per cent each in five subjects* * * * shall be subsequently re-examined in those subjects only in which he failed, and without additional fee. Any person who *at any time prior to January 1, 1916*, shall pay to the secretary of said board the fee of twenty-five dollars and submits satisfactory proof of good moral character and of a resident one-year course of not less than one thousand hours in a legally chartered school *approved by the board and satisfactory proof of three years of actual practice of a drugless system of the healing art, such three years of actual practice to have been in the State of California*, shall be admitted to the *drugless practitioner* examination; * * * *Any one who shall pay the fee of fifty dollars to the secretary of the board prior to January 1, 1916, and submits to the board satisfactory proof of good moral character and proof of six years' actual practice of a drugless system of the healing art, three years of which must have been in the State of California, and satisfactory proof of a resident one-year course of not less than one thousand hours in a legally chartered school approved by the board and upon proof of competency in a drugless system may be granted a certificate to practice a drugless system in this state;* * * *.

The examination papers shall form a part of the records of the board, and shall be kept on file by the secretary for a period of one year after each examination. In said examination the applicant shall be known and designated by number only, and the name attached to the number shall be kept secret until after the board has finally voted upon the application. *The secretary of the board shall in no instance participate as an examiner in any examination held by the board. All questions on any subject in which examination is required under this act shall be provided by the board of medical examiners upon the morning of the day upon which examination is given in such subject, and when it shall be shown that the secretary or any member of the board has in any manner given information in advance of or during examination to any applicant it shall be the duty of the governor to remove such person from the board of medical examiners, or from the office of secretary.*

All certificates issued *hereunder must state the extent and character of practice which is permitted thereunder and* shall be in such form as shall be prescribed by the board.

Sec. 13. Said board must also issue a certificate to practice a system or mode of treating the sick or afflicted recognized by this act or any preceding practice act in the State of California, to any applicant, without any examination, authorizing the holder thereof to practice a system or mode of treating the sick or afflicted in the State of California, upon payment of a registration fee of one hundred dollars, upon the following terms and conditions and upon satisfactory proof thereof, viz: The applicant shall produce a certificate entitling him to practice a system or mode of treating the sick or afflicted, as provided in this act or any preceding practice act of the State of California, issued either by the medical examining board, or by any other board or officer authorized by the law to issue a certificate entitling such applicant to practice a system or mode for treating the sick or afflicted either in the District of Columbia or in any state or territory of the United States, or if such certificate shall have been lost, then a copy thereof, with proof satisfactory to the board of medical examiners of the State of California that the copy is a correct copy. Said certificate must not have been issued to such applicant

*prior to the first day of August, 1901, and the requirements from the college from which such applicant may have graduated, and the requirements of the board which was legally authorized to issue such certificate permitting such applicant to practice a system or mode of treating the sick or afflicted shall not have been at the time such certificate was issued, in any degree or particular less than those which were required for the issuance of a similar certificate to practice a system or mode of treating the sick or afflicted in the State of California at the date of the issuance of such certificate, or which may hereafter be required by law and which may be in force at the date of the issuance of any such certificate; and provided, further, that said applicant shall furnish from the board which issued said certificate, evidence satisfactory to the board of medical examiners of the State of California showing what the requirements were of the college and of the board, issuing such certificate at the date of such issuance. If, after an examination of such certificate, and the production on the part of the applicant of such further reasonable evidence of the said requirements as may be deemed necessary by the board of medical examiners of the State of California and any other or further examination or investigation which said board may see fit to make on its own part, it shall be found that the requirements of the board issuing such certificate were, when said certificate was issued, in any degree or particular less than the requirements provided by the law of the State of California at the date of the issuance of such certificate or that the applicant has not been a resident of the state from which the application is based for a period of one year subsequent to the issuance of such certificate he will not be entitled to practice within the State of California without an examination. An oral examination shall not be deemed to be of equal merit with a written examination and no certificate shall be issued in the case where a written examination was given in California and an applicant was given an oral examination in another state at the same time. The board is hereby authorized to enter into a contract or contracts of reciprocity with other states wherein the standard of such states is not in any degree or particular less than were the requirements in the State of California in the same year, for the issuance of a certificate to practice a system or mode of treating the sick or afflicted, such certificate to be similar in scope of practice as the certificate issued in the other state; provided, however, that an application based upon a certificate to practice any system or mode of treating the sick or afflicted issued in the District of Columbia or in any state or territory prior to March 4, 1907, if refused or denied by reason of the insufficiency of the standard of such state or territory then such applicant may have the privilege of either a written or oral examination before the board at the option of the applicant. * * **

Sec. 14. Said board must refuse a certificate to any applicant guilty of unprofessional conduct. On the filing with the secretary of a sworn complaint, charging the applicant with having been guilty of unprofessional conduct, the secretary must forthwith issue a citation, under the seal of the board, and make the same returnable at the next regular session of said board, occurring at least thirty days next after filing the complaint. Such citation shall notify the applicant when and where the charges of said unprofessional conduct will be heard and that the applicant shall file his written answer, under oath, within twenty days next after the service on him of said citation or that default will be taken against him and his application for a certificate refused. The attendance of witnesses at such hearing may be compelled by subpœnas issued by the secretary of the board under its seal. Said citation and said subpœnas shall be served in accordance with the statutes of this state then in force as to the service of citation and subpœnas generally, and all the provisions of the statutes of this state then in force relating to subpœnas and to citations are hereby made applicable to the subpœnas and citations provided for herein. Upon the secretary's certifying to the fact of refusal of any person to obey a subpœna or citation to the superior court of the county in which the service was had, said court shall thereupon proceed to hear said matter in accordance with the statutes of this state then in force as to contempts for disobedience of process of the court, and should said court find that the subpœna or citation has been legally served, and that the party so served has wilfully disobeyed the same, it shall proceed to impose such penalty as provided in cases of contempt of court. In all cases of alleged unprofessional conduct, arising under this act, depositions of witnesses may be taken, the same as in civil cases and all the provisions of the statutes of this state then in force as to the taking of depositions are hereby made applicable to the taking of depositions under this act. If the applicant shall fail to file with the secretary of said board his answer, under oath, within twenty days after service on him of said citation, or within such further time as the board may allow, and the charges on their face shall be deemed sufficient by the board, default shall be entered against him, and his application refused. If the charges on their face be deemed sufficient by the board, and issue be joined thereon by answer, the board shall proceed to determine the matter, and to that end shall hear such proper evidence as may be adduced before it; and if it appear to the satisfaction of the board that the applicant is guilty as charged, no certificate shall be issued to him. Whenever any holder of a certificate herein provided for is guilty of unprofessional conduct, as the same is defined in this act, and the said unprofessional conduct has been brought to the attention of the board granting said certificate, in the manner hereinafter provided or whenever a certificate has been procured by fraud or misrepresentation or issued by mistake or that the certificate upon which a reciprocity certificate has been issued was procured by fraud or misrepresentation or issued by mistake or the person holding such certificate is found to be practicing contrary to the provisions thereof and of this act, it shall be the duty of the board and the board shall have power to suspend the right of the holder of said certificate to practice for a period not exceeding one year or to place the holder of said certificate upon probation or suspend judgment in such cases or revoke his certificate, or take such other action in relation to the punishment of the holder of said certificate as in its discretion it may deem proper. In the event of such suspension, the holder of such certificate shall not be entitled to practice thereunder during the term of suspension; but, upon the expiration of the term of said suspension, he shall be reinstated by the board and shall be entitled to resume his practice, unless it shall be established to the satisfaction of the board that said person so suspended from practice, has, during the term of such suspension, practiced in the State of California, in which event the board shall revoke the certificate of such person. No such suspension or revocation shall be made unless such holder is cited to appear and the same proceedings are had as is hereinbefore provided in this section in case of refusal to issue certificates. Said secretary in all cases of suspension or revocation shall enter on his register the fact of such suspension or revocation, as the case may be, and shall certify the fact of such suspension or 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 said clerk must thereupon write upon the margin or across the face of his register of the certificate of such person, the following: *"The holder of this certificate was on the _____ day of _____ suspended for _____,"* or, "This certificate was revoked on the _____ day of _____," *as the case may be*, giving the day, month and year of such revocation or length of suspension, *as the case may be*, in accordance with said certification to him by said secretary. The record of such suspension or revocation so made by said county clerk shall be prima facie evidence

of the fact thereof, and of the regularity of all the proceedings of said board in the matter of *said suspension* or revocation; *provided, further, that the holder of any certificate which has been revoked or suspended by the board of medical examiners, may within twenty days after receiving notice of said revocation or suspension of his said license, appeal to the superior court of the State of California in the county or city and county in which such suspension or revocation was made by the board of medical examiners. Upon such appeal being taken by such person whose license has been revoked or suspended by the board of medical examiners in accordance with the provisions of this act, the said superior court shall have full power to review all of the proceedings and testimony taken in said hearing before the board of medical examiners, and to inquire into the sufficiency of the evidence upon which such suspension or revocation was made. If the court finds the evidence sufficient to sustain the judgment of the board, said judgment shall be upheld and affirmed, and if the court deems such evidence insufficient to justify the judgment of the board of medical examiners in revoking or suspending the license of the petitioner, said superior court shall have full power to annul or reverse said judgment. The words "unprofessional conduct" as used in this act, are hereby declared to mean:*

First—The procuring or aiding or abetting or attempting or agreeing or offering to procure a criminal abortion.

Second—The wilfull betraying of a professional secret.

Third—All advertising of medical business which is intended or has a tendency to deceive the public or impose upon credulous or ignorant persons, and so be harmful or injurious to public morals or safety.

Fourth—All advertising of any medicine or of any means whereby the monthly periods of women can be regulated or the menses réestablished if suppressed.

Fifth—Conviction of any offense involving moral turpitude *in which case the record of such conviction shall be conclusive evidence.*

Sixth—Habitual intemperance or excessive use of cocaine, opium, morphine, codeine, heroin, alpha eucaine, beta eucaine, novocaine or chloral hydrate or any of the salts, derivatives or compounds of the foregoing substances *or the prescribing, selling, furnishing, giving away or offering to prescribe, sell, furnish, or give away such substances to a habitue who is not under the direct personal and continuous treatment and care of the physician for the cure of the above mentioned drugs.*

Seventh—The personation of another licensed practitioner *or permitting or allowing another person to use his certificate in the practice of any system or mode of treating the sick or afflicted.*

Seventh (a)—Employing directly or indirectly any suspended or unlicensed practitioner in the practice of any system or mode of treating the sick or afflicted or the aiding or abetting any unlicensed person to practice any system or mode of treating the sick or afflicted.

Eighth—The use, by the holder of any certificate, in any sign or advertisement in connection with his said practice or in any advertisement or announcement of his practice, of any fictitious name, or any name other than his own.

Ninth—The use, by the holder of a "drugless practitioner certificate" of drugs or what are known as medicinal preparations, in or upon any human being, or the severing or penetrating by the holder of said "drugless practitioner certificate" of the tissues of any human being in the treatment of any disease, injury, deformity, or other physical or mental condition of such human being, excepting the severing of the umbilical cord.

Tenth—Advertising, announcing or stating, directly, indirectly, or in substance, by any sign, card, newspaper, advertisement or other written or printed sign or advertisement, that the holder of such certificate or any other person, company, or association by which he is employed or in whose service he is, will cure or attempt to cure, or will treat, any venereal disease, or will cure or attempt to cure or treat any person or persons for any sexual disease, for loss of 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, firm, association, or corporation so advertising, announcing or stating.

Eleventh—The use by the holder of any certificate of any letter, letters, word, words, or term or terms used either as prefix or affix or suffix indicating that such certificate holder is entitled to practice a system or mode of treating the sick or afflicted for which he was not licensed in the State of California.

Twelfth—The employment of "cappers" or "steerers" or other persons in procuring practice for a practitioner for a system or mode of treating the sick or afflicted provided for in this act.

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Sec. 15. Every person holding a certificate under the laws of this state authorizing him to practice *any system or mode of treating the sick or afflicted* in this state must have it recorded in the office of the county clerk of the county or counties in which the holder of said certificate is practicing his profession, *and the fact of such recordation shall be endorsed on the certificate by the county clerk recording the same.* Any person holding a certificate as aforesaid, who shall practice or attempt to practice *any system or mode of treating the sick or afflicted* in this state, without having first filed his certificate with the county clerk, as herein provided, shall be *deemed guilty of a misdemeanor and shall be* punished *as hereinafter designated in this act.*

Sec. 16. The county clerk shall keep in a book provided for the purpose a complete list of the certificates recorded by him, with the date of the record; and said book shall be open to public inspection during his office hours.

Sec. 17. Any person who shall practice or attempt to practice, or who advertises or holds himself out as practicing, any system or mode of treating the sick or afflicted in this state, or who shall diagnose, treat, operate for, or prescribe for, any disease, injury, deformity, or other mental or physical condition of any person, without having at the time of so doing a valid unrevoked certificate as provided in this act, or who shall in any sign or in any advertisement use the word "doctor," the letters or prefix "Dr.," the letters "M. D.," or any other term or letters indicating or implying that he is a doctor, physician, surgeon or practitioner, under the terms of this or any other act, or that he is entitled to practice hereunder, or under any other law without having at the time of so doing a valid unrevoked certificate as provided in this act shall be guilty of a misdemeanor and upon conviction thereof shall be punished as designated in this act.

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Sec. 18. Any person, or any member of any firm, or official of any company, association, organization or corporation shall be guilty of a misdemeanor and upon conviction thereof shall be punishable as designated in this act, who, individually or in his official capacity, shall himself sell or barter, or offer to sell or barter, any certificate authorized to be granted hereunder, or any diploma, affidavit, transcript, certificate or any other evidence required in this act for use in connection with the granting of certificates or diplomas, or who shall purchase or procure the same either directly or indirectly with intent that the same shall be fraudulently used, or who shall with fraudulent intent alter any diploma, certificate, transcript, affidavit, or any other evidence to be used in obtaining a diploma or certificate required hereunder or who shall use or attempt to use fraudulently any certificate, transcript, affidavit, or diploma, whether the same be genuine or false, or who shall practice or attempt to practice any system or treatment of the sick or afflicted, under a false or assumed name, or any name other than that prescribed by the board of medical examiners of the State of California on its certificate issued to such person authorizing him to administer such treatment, or who shall assume any degree or title not conferred upon him in the manner and by the authority recognized in this act, with intent to represent falsely that he has received such degree or title, or who shall wilfully make any false statement on any application for examination, license or regis-

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tration under this act, or who shall engage in the treatment of the sick or afflicted without causing to be displayed in a conspicuous manner and in a conspicuous place in his office the name of each and every person who is associated with or employed by him in the practice of medicine and surgery or other treatment of the sick or afflicted, or who shall, within ten days after demand made by the secretary of the board, fail to furnish to said board the name and address of all such persons associated with or employed by him or by any company or association with which he is or has been connected at any time within sixty days prior to said notice, together with a sworn statement showing under and by what license or authority said person or persons, or said employee or employees, is or are, or has or have been practicing medicine or surgery, or any other system of treatment of the sick or afflicted. It shall be the duty of any person or persons upon whom the board of medical examiners may make a demand for the name or names and address or addresses of a person or persons associated or employed by him or them to make affidavit that there are no such person or persons associated or employed by him or them, if such be the fact; provided, that such affidavit shall not be used as evidence against said person or employee in any proceedings under this action.

Sec. 19. Every person filing for record, or attempting to file for record, the certificate issued to another, falsely claiming himself to be the person named in or entitled to, such certificate, shall be guilty of a felony, and, upon conviction thereof, shall be subject to such penalties as are provided by the laws of this state for the crime of forgery.

Sec. 22. Nothing in this act shall be construed to prohibit service in the case of emergency, or the domestic administration of family remedies; nor shall this act apply to any commissioned medical officer in the United States army, navy or marine hospital, or public health service, in the discharge of his official duties; nor to any licensed dentist when engaged exclusively in the practice of dentistry. Nor shall this act apply to any *practitioner* from another state or territory, when in actual consultation with a licensed *practitioner* of this state, if such practitioner is, at the time of such consultation, a licensed *practitioner* in the state or territory in which he resides; provided, that such *practitioner* shall not open an office or appoint a place to meet patients or receive calls within the limits of this state. Nor shall this act be construed so as to discriminate against any particular school of *medicine* or *surgery*, or any other treatment, nor to regulate, prohibit or to apply to, any kind of treatment by prayer, nor to interfere in any way with the practice of religion. *Nothing in this act shall be construed to prevent a student regularly matriculated in any legally chartered school or schools approved by the board from treating without compensation to such student the sick or afflicted as a part of his course of study.*

Sec. 24. This act when referred to, cited or amended may be designated as the state medical practice act, and for a violation of any provision of this act, the said violator shall be guilty of a misdemeanor, unless otherwise specifically provided in this act, and shall be punished by a fine of not less than one hundred dollars nor more than six hundred dollars or by imprisonment for a term of not less than sixty days nor more than one hundred eighty days or by both such fine and imprisonment. The fines or forfeitures of bail in any case wherein any person is charged with a violation of the provisions of this act shall be paid upon the collection by the proper officer of the court seventy-five per cent thereof to the state treasurer to be deposited to the credit of the contingent fund of the board of medical examiners and such payment to said treasurer shall be made without placing such fine or forfeiture of bail in any special or contingent or general fund of any county, city and county, city, or township. The balance or twenty-five per cent of such fines or forfeitures of bail shall be paid to the county wherein the case is pending.

ARGUMENT IN FAVOR OF PROPOSED CHIROPRACTIC ACT.

Your vote "Yes" on the Chiropractic Initiative Bill is urged for many reasons, some of which are set forth herein, and all of which are consistent with American ideals, just to all and do injury to none.

Under this bill there will be a board of five competent chiropractors, appointed by the Governor, to examine and license chiropractors. No chiropractor will be licensed without examination. The board will be self-sustaining, incurring no additional expense to the taxpayers. It provides for high and proper standards of chiropractic education, a high school diploma or its equivalent, requires four hundred hours more than drugless section of present Medical Act, conforms to all general health laws administered by the board of health and prohibits the use of drugs, surgery or the practice of obstetrics by chiropractors, thus guaranteeing to the people competency of chiropractors and protection from the ignorant or unscrupulous, which the medical law, administered by medical men, does not and can not do. #4

The teachings and practice of chiropractic are admittedly different from those of medicine, therefore, the members of the Medical Board, who are without training in the science of chiropractic, have never studied it, do not practice it, brand it as unscientific and absurd, are its competitors, and desire only to destroy it, can not intelligently and without prejudice examine the chiropractor in his system of practice. #2

To illustrate: It would be as reasonable to permit the Mikado to direct our shipbuilding and examine U. S. Naval officers as to permit the Medical Board, dominated by M.D.'s, to examine and control their chief competitors.

The progress of chiropractic, little short of marvelous, has been made under extremely unfavorable conditions. Denied ordinary freedom from oppression by political medicine, having no hospital facilities, no endowments of their schools or other institutions, no support of society except the commercial side resulting from the good they have done, they have reached the point where within the last seven years twenty-two states have enacted laws similar to the one now proposed in California.

The Medical Board, empowered, as it now is, to exercise unlimited authority over the practice of chiropractic, is using the medical law to throttle chiropractic and prohibit its practice in California.

The medical law, as administered by the Medical Board, has no reasonable tendency to promote the public safety and welfare.

The people of California demand that anyone who proposes to serve them in matters of health shall possess proper qualifications; therefore the demand for a board of chiropractic examiners to examine chiropractors and intelligently consider their qualifications. In this way only may the will and best interests of the people of California be served.

The following facts should be remembered:

The only opposition to this bill is by political doctors.

No chiropractic examinations were ever held in California.

No chiropractic licenses were ever issued in California.

No chiropractic licenses CAN be issued under present law.

In view of the foregoing, and in the interests of right and justice, vote "Yes."

G. A. LYNCH.

ARGUMENT AGAINST PROPOSED NEW CHIROPRACTIC BOARD.

To create two new boards, not only to duplicate but to triplicate the work now being done effectively and economically by one responsible board of examiners, is the extravagant purpose of Number 16, the Chiropractic Initiative, and Number 20, the Osteopathic Initiative. Both measures should be defeated as unnecessary and unsafe legislation.

California already has a competent Board of Examiners created by law, charged with the duty of determining, by impartial examination, the qualifications of all applicants, including chiropractors, who desire to treat diseases, injuries, deformities, physical or mental afflictions of human beings. Examinations are necessary to safeguard the lives and health of the people from incompetents, impostors and quacks. Citizens have the right to expect that anyone the state licenses shall possess a certain amount of knowledge of the causes and courses of diseases and the complex functions of the intricate human machine.

Examinations are open to all qualified applicants. Many chiropractors have taken and passed the examination and are are now legally licensed and practicing in California. Any applicant who can meet the reasonable requirements of the present state law and pass a 75% examination can receive a license.

To create a new board for the special benefit of those who are unable or unwilling to take the state examination is to approve ignorance and license lawlessness.

Chiropractors and osteopaths constitute only two of the twenty-seven drugless cults of California. If a new board is created for chiropractors and another new board for osteopaths, it is obvious that the other twenty-five drugless cults are equally entitled to special boards. This would result in a chaotic condition constantly menacing the public health.

The California legislature at five different sessions carefully investigated and considered chiropractic demands for a new board based upon charges that the present board of medical examiners is incompetent and unfair. Each time the chiropractic charges were found untrue and the chiropractic bill was consequently rejected five times as without merit.

Some of the many dangerous features of the chiropractic act are: It lowers educational standards; it removes vital public health safeguards; under its provisions thousands of graduates of "fly by night" schools may be licensed with practically no examination at all; it neglects to define "chiropractic." To create a new board and grant powers to it, to license those of inferior education to practice an undefined and uncertain thing is unsafe.

The law governing the Board of Medical Examiners has been upheld by our courts as valid, reasonable and enforceable without one dissenting opinion. Governor Johnson and Governor Stephens selected an able board. If the present board becomes incompetent or unfair the governor has authority to select a new board. The courts can review and reverse the Board's decisions. Such a well-selected, responsible board assures all applicants of impartial and competent consideration and assures the people of California adequate protection.

To maintain educational standards and public health safeguards, vote "No" on Number 16.

HOMER R. SPENCE,
Assemblyman Thirty-fifth Assembly District.

17	**USE OF STREAMS.** Assembly Constitutional Amendment 41 adding Section 19a to Article XI of Constitution. Authorizes the state, or any political subdivision empowered to establish public works for such purpose, to provide itself or its inhabitants, in the manner therein provided, with water, electricity, or protection against flood by utilizing or controlling the waters of any stream outside this state or partly within this state, and to incur bonded indebtedness therefor as provided by law; these powers not limited by Section 31 of Article IV or Section 13 of Article XI of Constitution.	YES	
		NO	

Assembly Constitutional Amendment No. 41—A resolution to propose to the people of the State of California an amendment to the constitution by adding a new section to article eleven thereof to be designated section nineteen a, authorizing the state, or municipal corporations or political subdivisions thereof, to provide water, electric energy, or protection from flood, by utilizing, or controlling, the waters of any stream situate outside this state, or partly within and partly without this state.

Resolved by the assembly, the senate concurring, That the legislature of the State of California, at its forty-fourth regular session, beginning on the third day of January, one thousand nine hundred twenty-one, two-thirds of all the members elected to each of the houses voting in favor thereof, proposes to the people of the state that a new section be added to article eleven of the constitution, to be numbered section nineteen a, and to read as follows:

[Note. The resolution as filed with the secretary of state shows the new section to be numbered 19a in the preamble and 20 at the beginning of the amendment as shown here.]

PROPOSED AMENDMENT.

Sec. 20. The State of California, or any district, municipal corporation or political subdivision of said state, authorized by law to establish public works for the purpose of supplying itself, or its inhabitants, with water, electric energy or means of protection from flood, may, for any such purpose, provide for utilizing or controlling the waters of any stream situated outside of this state, or partly within and partly without this state, and, to that end, may do and perform each, any or all of the following acts and things, to wit:

(a) Acquire, establish, construct, own, maintain and operate, either alone or in common with any other political organization or organizations, any works, plants or structures, whether within this state or outside thereof, or partly within and partly without this state, necessary or convenient for any such purpose;

(b) Make and enter into contracts with any political organization, or organizations, with reference to the acquisition, establishment, construction, ownership, maintenance or operation of such works, plants or structures, including contracts for participating in the cost and benefits of the acquisition, establishment, construction, maintenance or operation of such works, plants or structures, provided, or to be provided, by any other political organization, or organizations, and contracts for the participation by any other political organization, or organizations, in the cost and benefits of such works, plants, or structures, provided, or to be provided, by the State of California, or any district, municipal corporation, or corporations, or political subdivision, or subdivisions, of said state, and contracts with any person, or persons, firm, or firms, corporation, or corporations, for participation by them, or any of them, in the cost, and, subject to the limitations hereinafter expressed, in the benefits, of any such works, plants, or structures, or for the furnishing to them, or any of them, of water or electric energy, but no person, firm or corporation, other than a political organization, shall ever own or operate, or hold any interest in, any such works, plants or structures;

(c) Become a member, associate or shareholder in any organization, association or corporation now or hereafter provided for under the laws of the United States, or of any state or states, and which shall be formed solely for the