STATE OF CALIFORNIA ARNOLD SCHWARZENEGGER, Governor

Board of Chiropractic Examiners
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NOTICE OF PUBLIC MEETING – CORRECTED COPY

March 18, 2010
Upon Adjournment of the Scope of Practice Committee
Hilton Glendale
100 W. Glenoaks Blvd.
Glendale, CA 91202
(818) 956-5466

AGENDA

1. **OPEN SESSION** – Call to Order & Establishment of a Quorum
   Frederick Lerner, D.C. Chair
   Hugh Lubkin, D.C., Vice Chair
   Francesco Columbu, D.C., Secretary
   Jeffrey Steinhardt, D.C.
   Richard Tyler, D.C.

2. **Chair's Report**

3. **Swearing in Re-Appointed Board Members**
   A. Hugh Lubkin, D.C.
   B. Francesco Columbu, D.C.

4. **Approval of Minutes**
   October 22, 2009 (October minutes were tabled and corrected; need Board approval)
   November 19, 2009 (November minutes were discussed and tabled to make edits as recommended by Legal Counsel; need Board approval)
   January 21, 2010
   February 18, 2010

5. **Public Comment**

6. **Board Member Training on the Bagley-Keene Open Meetings Act and Other Relevant Laws**

7. **Interim Executive Officer's Report**
   A. Administration
   B. Budget
   C. Licensing
   D. Enforcement

8. **Ratification of Approved License Applications**

9. **Ratification of Approved Continuing Education Providers**

10. **Ratification of Denied License Applications in Which the Applicants Did Not Request a Hearing**

11. **Recommendation to Waive Two Year Requirement to Restore a Cancelled License**

12. **Enforcement Committee Meeting Update** – Board may take action on any item on the attached Enforcement Committee meeting agenda.

13. **Public Relations Committee Meeting Update** - Board may take action on any item on the attached Public Relations Committee meeting agenda.

14. **Scope of Practice Committee Meeting Update** - Board may take action on any item on the attached Scope of Practice Committee meeting agenda.

15. **Search for Executive Officer**

16. **Proposed Regulations Update**
    A. Manipulation Under Anesthesia
    B. Continuing Education
    C. Recognition of Chiropractic Specialties
    D. Fingerprint Submissions
    E. California Code of Regulations Section 314 (Law Violators)

17. **Public Comment**

18. **Future Agenda Items**

19. **Hearings Re: Petition for Reinstatement of Revoked License**
    A. Jon Postajian
    B. Jeffrey D. Bryant
    C. Richard A. Cipolone
    D. Amir Gharrirassi

20. **Closed Session**
    A. Pursuant to California Government Code Section 11126(e)
       1) Catherine Hayes v. Board of Chiropractic Examiners
          Sacramento County Superior Court, Case No. 34-2008-0000647
       2) David Hinchee v. Board of Chiropractic Examiners
          Sacramento County Superior Court, Case No. 07AS03721
       3) Board of Chiropractic Examiners v. Carole M. Arbuckle
          Sacramento County Superior Court, Case No 03AS00948
    B. Deliberation on Disciplinary Matters and Possible Action on Disciplinary Decisions Pursuant to California Government Code Section 11126(c)(3)

21. **OPEN SESSION: Announcements Regarding Closed Session**

22. **Adjournment**

Meetings of the Board of Chiropractic Examiners are open to the public except when specifically noticed otherwise in accordance with the Open Meeting Act. Public comments will be taken on agenda items at the time the specific item is raised. The Board may take action on any item listed on the agenda, unless listed as informational only. All times are approximate and subject to change. Agenda items may be taken out of order to accommodate speakers and to maintain a quorum. The meeting may be cancelled without notice. For verification of the meeting, call (916) 263-5355 or access the Board's Web Site at www.chiro.ca.gov.

The meeting facilities are accessible to individuals with physical disabilities. A person who needs a disability-related accommodation or modification in order to participate in the meeting may make a request by contacting Marlene Valencia at (916) 263-5355 ext. 5363 or e-mail marlene.valencia@chiro.ca.gov or send a written request to the Board of Chiropractic Examiners, 2525 Natomas Park Drive, Suite 260, Sacramento, CA 95833. Providing your request at least five (5) business days before the meeting will help to ensure availability of the requested accommodation.

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Approval of Board Minutes

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BOARD OF CHIROPRACTIC EXAMINERS
PUBLIC SESSION MINUTES
October 22, 2009
State Capitol
Fourth Floor, Assembly Room 447
Sacramento, CA 95814

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Board Members Present
Frederick Lerner, D.C., Chair
Hugh Lubkin, D.C., Vice Chair
Richard Tyler, D.C.
Jeffrey Steinhardt, D.C.

Staff Present
Robert Puleo, Interim Executive Officer
LaVonne Powell, Senior Staff Counsel
Linda Shaw, Staff Services Manager
Valerie James, Office Technician

Call to Order
Dr. Lerner called the meeting to order at 9:06 a.m.

Roll Call
Dr. Tyler called the roll. All members were present except Dr. Columbu.

Chair's Report
Dr. Lerner gave the Chair's Report and announced that Martin Mariscal, Public Member, has resigned from this Board and all others that he sat on.

Approval of Minutes
September 24, 2009 Board Meeting

MOTION: DR. TYLER MOVED TO APPROVE THE SEPTEMBER 24, 2009 MINUTES
SECOND: DR. STEINHARDT SECONDED THE MOTION
VOTE: 3-0-1
MOTION CARRIED

Discussion
Dr. Steinhardt asked if he abstained since he was not present at the September 24, 2009 meeting, would it affect the quorum.

Ms. Powell clarified that it would not.

Manipulation under Anesthesia (MUA) Proposed Regulations
Dr. Lerner stated there were a few minor changes to go over.

Ms. Powell stated we are asking if the Board agrees with staff's recommendations regarding the responses to comments and she also has something that needs to be clarified.

Dr. Lerner stated the recommendations are excellent.

MOTION: DR. LERNER MOVED TO APPROVE STAFF'S RECOMMENDATIONS AS A WHOLE
SECOND: DR. LUBKIN SECONDED THE MOTION
VOTE: 4-0
MOTION CARRIED
***See attached Memo which is incorporated herein by reference that contains all of the staff recommendations.**

Discussion
Dr. Steinhardt asked for clarification regarding the last comment on page 5 from the COA.

Ms. Powell and Dr. Lerner provided clarification.

Public Comment
None

Ms. Powell suggested a change to subdivision (a) to clarify and further breakdown the section. She recommended changing the language to read it can be done in a hospital that's licensed by the California Department of Public Health or an ambulatory center that's licensed by the California Department of Public Health and is either operating pursuant to section 1248.1 or is accredited by an agency approved by the Medical Board of California. She will provide this language to Mr. Puleo by next Monday to get the 15 day change out.

Dr. Lerner, Ms. Powell, and Dr. Lubkin discussed the change.

MOTION: DR. LUBKIN MOVED TO ACCEPT THE CLARIFICATION CHANGES PROPOSED BY MS. POWELL
SECOND: DR. TYLER SECONDED THE MOTION
VOTE: 4-0
MOTION CARRIED

Discussion
Dr. Lubkin stated these are good changes that will make the language read more smoothly.

Public Comment
None

Continuing Education Proposed Regulations
Dr. Lerner and Ms. Powell provided an update on the 45 and 15 day public comment periods. The

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45-day has 45 comments, and the 15-day has 13 comments, all of them will be addressed.

45-Day Comment Period

Comment 1: Richard E. Thornton, D.C. raised concerns that the proposed regulations are ambiguous, cumbersome, and confusing, and requests that the Board clarify the mandatory section of the proposed regulations. In addition, Dr. Thorton requests that the Board include eight (8) hours of chiropractic technique in the mandatory section and four (4) additional hours as optional because it is the essence of chiropractic practice.

Response: The Board feels as professionals, chiropractors should be able to choose what areas they need continuing education in as individuals.

Comment 2: Randy Jones, D.C. raised concerns that the additional twelve (12) hours of CE will result in an economic hardship and the limitation of eight (8) hours of instruction time will result in additional challenges. Dr. Jones requests that the Board reconsider the proposal.

Response: Additional continuing education hours are justified based on the high percentage rate of licensees who are being disciplined due to violating the laws.

Comment 3: Mha Atma S. Khalsa, D.C. urges the Board to reject the proposal to increase the required CE hours and to limit the class instruction time to no more than eight (8)* hours in a twenty-four hour period because it is financially burdensome on licensees. In addition, Dr. Khalsa comments that other professions require additional CE hours because their scope of practice requires prescribing drugs, performing surgeries, and other invasive procedures that require additional CE hours, and disagrees with the Board's point of increasing CE hours because it will increase public safety.

Response: As a Board, decisions should not be based on economic hardship to licensees, but rather on protecting the public and raising education awareness. Ultimately it goes to a higher standard of care, as well as keeping with other boards and professions. However, there are low cost and even free seminars available.

Comment 4: Teresa M. Wisner, D.C raised concerns that the proposed regulations will result in an economic hardship for licensees, is unnecessary, and the limitation of CE courses and criteria for instructors will reduce the options licensees have for CE.

Response: The proposed regulations will provide many more options to licensees then they ever had. In addition, we are proposing 1 hour less per year than any other California health care profession.

Comment 5: Kai Tiltmann, D.C. opposes the proposed regulations to increase CE hours because additional hours does not increase public safety, chiropractors compared to other professions have a lower risk to public health and safety, and it will result in unnecessary additional expenses.

Response: The Board disagrees based on our enforcement statistics. This is a tool to help with our high level of enforcement problems. There is a considerable level of risk to the public as medicine advances, and it's important that chiropractors are educated on when it's appropriate to refer

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patients.

Comment 6: Eric Banta, Executive Director of the International Chiropractics Association of California requests that the Board clarify what a seminar is in the regulations.

Response: Courses are defined. There is no difference between a course and a seminar.

Comment 7: Deken Smith, D.C. raised concerns that the additional twelve (12) hours of CE and the limitation of eight (8) hours of instruction time will result in an economic hardship.

Response: This has already been corrected.

Comment 8: Richard C. Nohrden, D.C. raised concerns that the additional twelve (12) hours of CE and the limitation of eight (8) hours of instruction time will result in an economic hardship.

Response: This has already been corrected.

Comment 9: E. Swida-Skillen, D.C. opposes the proposed regulations to increase CE hours because it will result in an economic hardship.

Response: Economic hardship has been addressed.

Comment 10: Barry J. Lieberman, D.C. opposes the proposed regulations and stated that there are too many problems and liability issues with the changes.

Response: The Board cannot provide a response because Mr. Lieberman did not provide any specific problems in the regulations that he's objected to. The names of the authors of the proposed changes were provided during the open board meetings. Full disclosure of any industry and political affiliations is not a requirement of the APA for regulations.

Comment 11: Andrew C. Cohen, D.C. supports the proposed regulations as it improves public protection.

Response: Thank you for your support.

Comment 12: Charles Wray, D.C. opposes the proposed regulations because is will result in an economic hardship.

Response: Economic hardship has been addressed.

Comment 13: Hari Bhajan S. Khalsa, D.C. opposes the proposed regulations because is will result in an economic hardship.

Response: Economic hardship has been addressed.

Comment 14: Tami S. Auerbach, D.C. requests that the Board consider the following issues:
1. Clarify when a licensee would have to comply with this regulation;
2. Clarify the number of hours that can be completed through distant learning versus in person;

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3. Have two (2) categories for CE courses and require twelve (12) hours in each category, which is similar to other professions;
4. Clarify if chiropractic technique is a mandatory course or optional;
5. Include course topics such as rehabilitation, functional restoration, etc;
6. Clarify why there are exclusions for instructors to teach;
7. Instructors should have the option to decide when a break is appropriate;
8. CE providers should not be required to provide the Board with a formal assessment of their courses;
9. Instructors who teach CE should be given more credit hours towards their CE requirements;
10. Increase of CE hours will result in an economic hardship.

Response: 1-5) Comments have already been clarified.
6) Teachers are given CE exemptions because they are engaging in activity that's equivalent to what you gain when you do CE.
7-10) Comments have already been addressed.

Comment 15: Rory S. Brinkerhoff, D.C. opposes the proposed regulations because it will result in an economic hardship.

Response: Economic hardship has been addressed.

Comment 16: George Casey, D.C. raised concerns that the proposal provides for a full exemption of CE requirements for Board Members and is not a reasonable exemption. Dr. Casey believes it to be more appropriate that Board Members receive a partial exemption and be required to complete CE for the purpose of consumer protection. Dr. Casey request that the full exemption from CE requirements be granted to full-time teaching faculty at chiropractic colleges. Dr. Casey believes that the requirement of CE in the areas of mandatory, category I, and category II is confusing and will require substantial administrative oversight and will be costly. Lastly, Dr. Casey expressed his concern that the proposal to increase the CE hours will result in an economic hardship.

Response: There is a one year exemption for board members, not a full exemption. It has already been in placed and cannot be revised by vote at this time, except to be eliminated. The other items have already been addressed.

Comment 17: Randall Cafferty, D.C. raised the concern of increasing the CE hours because it requires chiropractors to be away from their office and less available to their patients.

Response: There are choices such as weekend seminars or online courses so a chiropractor would not need to be away from their office during regular business hours.

Comment 18: Travis Sanchez, D.C. opposes the proposed regulations because it will result in an economic hardship. Dr. Sanchez also stated that other professions require more CE hours because they prescribe drugs, perform surgeries, and invasive procedures that require the additional education. Dr. Sanchez suggests that the Board increase the CE hours to sixteen.

Response: Economic hardship has been addressed. Changes to the regulations are being made to protect the public, not due to prescribing drugs, performing surgery or invasive procedures.

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Comment 19: Gail Rosenberg, D.C. opposes the proposed regulations because it will result in an economic hardship.

Response: Economic hardship has been addressed.

Comment 20: Robert K. Gray, D.C. requests that the Board consider exempting full time instructors from the CE requirements.

Response: Exempting teachers has already been addressed.

Comment 21: Ben Griffes, M.A.D.C. supports the increase of CE hours, but raised concern on limiting the CE courses to eight (8) hours within a twenty-four hour period. In addition, Dr. Griffes recommends that the Board impose additional accountability methods to those offering on-line courses, such as a written examination and approval of the hours by an instructor.

Response: Limiting CE courses to 8 hours has been addressed. There are requirements for online courses, Section 357.1 more than meets the concerns, "(G) show formal outcome assessment of course", will be deleted.

Comment 22: William Meeker, D.C., MPH, President, West Campus, Palmer College of Chiropractic states that they are in favor of the increase of CE hours from twelve (12) to twenty-four (24), the acceptable categories of topics and the distance learning methods, but have concerns with current verbiage and the rationale for the changes. Comments and recommendations are as follows:
1. Section 356 (a) (b) (c) – the three (3) categories provide overlap that will cause confusion and a hardship to CE providers to decide on categorization for the learners. CE providers must have one topical area to input into databases for accurate and consistent transcription. There was also confusion with x-ray that could fall in all three categories and is confusing to track for learners as well as the board;
2. Section 356.5 (a) – it appears that the board is requiring both provider status and individual course approval, which is a hardship and unwarranted;
3. Section 356.5 (b) (2) – This section is an unreasonable requirement with no rational. To require instructors to have five (5) consecutive years of teaching eliminates a pool of potentially qualified instructors and creates undue hardship for providers. Providers should ensure that instructors teaching courses have appropriate expertise in the subject matter being taught;
4. Section 356.5 (b) (3) – withdrawal or denial of previous course approval of provider status is harsh for what could be a clerical error;
5. Section 356.5 (b) (5) – this section is not a rational enforcement request. Surveys are a tool for providers to gain truthful information and optional for attendees. It would be unethical to revoke an attendee's credit for CE for not participating in the survey. In addition, the proposal would require unnecessary administrative tasks. The survey should remain optional;
6. Section 356.5 (b) (6) – this is an unethical enforcement request. Learners earn hours for the time they are in the room;
7. Section 356.5 (10) (f) – The provider shall provide a certificate identifying the course topic and the number of hours the licensee earned in each topic. Proper categorization should be the responsibility of the licensee. Palmer College would support a model like Florida where providers would pay a yearly fee to the Board for unlimited courses;

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8. Section 357 – requests that the Board continue with the $50 per course. In addition, a course has not been clarified by the board and needs to be, as it appears to change. The proposal to limit the hours of instruction time is not feasible and is unfair. Additionally, the proposal for breaks is overcomplicated and should be at the discretion of the instructor. Furthermore, distant learning should be simplified and clarified;
9. Section 358 (2) – this requirement is unreasonable. All individuals formally employed by a college are involved in chiropractic appropriate education and should be acceptable by the Board.
10. Section 358 (8) - would create a hardship and liability for all involved and recommends that this section be deleted;
11. Section 360 – the withdrawal or denial of a previous course or provider status approval for ten (10) years seems harsh.

Response: 1) Comment has been addressed.
2) The Board does not want to delegate this to providers in order to have appropriate oversight to ensure CE regulations are being followed.
3-9) Comments have already been addressed.
10) Comment is unclear, section quoted is incorrect numbering.
11) Comment has already been addressed.

Comment 23: John L. Mayfield, D.C. raised concerns with the proposed regulations and suggests that the Board review the proposal and clearly demonstrate the need for the revisions. Specific comments to the following sections are as follows:
1. Section 356, CE Requirement, subsection (a) Mandatory - too restrictive and should include chiropractic technique, which has been part of chiropractic for many years. D. Mayfield recommends that technique be included in the mandatory section and is needed to protect the public by ensuring that chiropractors have the clinical competency to deliver the safest possible care;
2. Section 356 – Category I and II – proposal excludes traditional CE courses and does not provide for "Other" topics; it is also unclear if current CE providers will automatically retain their status and should only pertain to new applicants; the proposal, which includes an appeal process, appears to be unfair and could result in a lawsuit, and suggests that this be removed from the proposed language;
3. Section 356.5 (b) - the proposal replaces a current system that has worked for many years with a process that is unclear and unnecessary. It's suggested that the Board maintain the current system;
4. Section 356.5 (b)(6) – the proposal is unnecessary and shows a disregard to chiropractors who are handicapped or pregnant, and no other current state or profession has such a requirement;
5. Section 356.5 (b) (8) – providers that are authors of books and educational materials should be made available to attendees as long as it is not sold during actual seminar hours. In addition, this proposal contradicts with subsection 356.5 (b) 7;
6. Section 357 (a) – this proposal provides for an individual to arbitrarily deny an applicant and should be deleted from the proposal;
7. Section 357 (b) (1) – this proposal is unnecessary and creates a financial burden on the licensees, and requests that the Board delete this proposal;
8. Section 357 (b) (2) – this proposal is without merit and the way it is currently written would extend a seminar by a couple hours, and should be deleted;
9. Section 357 (b) 4 – this proposal is unclear and needs discussion if it is necessary;

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10. Section 357 (b) 6 – this proposal gives the Board power to arbitrary invalidate a seminar without cause and should be deleted.

Response: 1 & 2) Comments have already been addressed. 3) The Board disagrees, based on federal law, this is very necessary.
4) Disabilities have been addressed, pregnancy is not considered a disability.
5) Section 356.5 (b)(8) will be changed from "where" to "while".
6-10) Comments have already been addressed.

Comment 24: Rayce Meyers, D.C. opposes some of the proposed regulation changes and provides the following comments and recommendations:
1. Section 356.5 – this proposal is inconsistent with other healthcare professions, unnecessary and will create additional costs and time for the Board. In addition, it is an inconvenience to the CE providers who have complied with the CE regulations. It's suggested the Board grandfather all current providers and institute the biannual application renewal for new providers;
2. Section 357 (b) 1 – the proposal to limit the instruction time to eight (8) hours within a twenty-four (24) hour period would create an unnecessary financial burden on licensees and is not currently done by other healthcare professions;
3. Section 356 (a) – opposes the change to remove the traditional required four (4) hours of chiropractic technique, which has been an essential part of chiropractic CE for many years. This proposal would allow a licensee to never have to take a technique course and would endanger the public. It's suggested that chiropractic technique be placed in the mandatory list option;
4. Section 356.5 - this proposal would restrict current instructors and providers who have been following Board guidelines for many years. It is further unclear if providers have the option to change their program. It's suggested that this be removed and the Board maintain the current requirements;
5. Section 356.5 (8) – this restrictive guideline is unnecessary;
6. Section 357 (2) – it's unclear of the purpose of the requirements and should be at the discretion of the instruction when a break should be given;
7. Section 357 (3) – questions the validity of distant learning and opposes this proposal unless the Board can ensure that it is ethical, safe, and secure;
8. Section 357 (4) – requests that practice management be included in CE;
9. Section 357 (b) (6) – this proposal would provide the Board with the power to arbitrarily invalidate seminars without due process and requests that this be eliminated;
10. Section 358 – it is unclear why the Board wants to eliminate the full exemption to instructors;
11. Section 358 (7) – Board member should receive the same treatment as other licensees and there is no basis for this exemption;
12. Section 360 – this proposal is arbitrary and would put providers in jeopardy. It is also inconsistent with other healthcare professions. It's suggested that this be removed;
13. Section 356 (c) – This proposal is unclear and is unfair to instructors and providers.

Response: All comments have already been addressed.

Comment 25: Mark S. Kimes, D.C. opposes the proposal to increase the CE hours from twelve (12) to twenty-four (24), and to limit instruction time to eight (8) hours within a twenty-four (24) hour period, and believes that this proposal will create a financial hardship on licensees. Dr. Kimes states that chiropractor's scope of practice is limited compared to other healing art professions and should not require the same hours of CE. Furthermore, Dr. Kimes disagrees with the proposal to

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require a biannual renewal for CE providers and states that this would result in unnecessary work and economic impact to the Board and CE providers.

Response: All comments have already been addressed.

Comment 26: Kenneth Oikawa, D.C. raised concern that due to the economic issues in California, it is not the time to submit this proposal.

Response: Economic hardship has been addressed.

Comment 27: Steve Whitelaw, D.C. opposes the proposal to increase CE hours and feels that additional hours are unnecessary.

Response: The Board respectfully disagrees with this comment.

Comment 28: Scott M. Sawyer, D.C. opposes the proposal and feels that it is unnecessary and unreasonable.

Response: The Board respectfully disagrees with this comment.

Comment 29: Laura Sheehan, D.C. opposes the proposal to increase the CE hours because it will create a financial burden. In addition, public safety is not a huge concern in chiropractic care.

Response: The Board strongly disagrees with these comments.

Comment 30: Aine Sweeney, D.C. opposes the proposal to increase the CE hours because it will create a financial burden.

Response: Economic hardship has been addressed.

Comment 31: Daniel Bunch, B.S., D.C. supports the proposal to offer online courses and provided information regarding the security measures he takes to ensure that participants are involved and how he verifies their participation.

Response: Thank you for your support.

Comment 32: Matt Rosenstein, D.C. supports the Board's proposal.

Response: Thank you for your support.

Comment 33: Charles G. Davis, D.C., International Chiropractors Association of California supports the proposed regulations and provided the following comments and suggestions:
1. Section 357 (a) - requests that an application should be for one course per year;
2. Section 356.5 – recommends that eligibility requirement to be an instructor should be has taught, has research experience, or has practical experience;
3. Section 357 - recommends a provision that allows long term CE providers in good standing to self-certify CE courses. This would save staff time and reduce the need for revenue sources;

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4. Section 357 (b) (1) – recommends that the instruction time should be amended to limit the hours of instruction during a calendar day.

Response: Thank you for your support. 1 & 2) Comments have already been addressed.
3) This has been rejected several times for fairness and because it doesn't give oversight.
4) Comment has already been addressed.

Comment 34: Erica Schafer, D.C. opposes the proposed regulations because it will result in an economic hardship.

Response: Economic hardship has been addressed.

Comment 35: Steven Perry, D.C. states that the proposal is unnecessary and will result in an economic hardship.

Response: Economic hardship has been addressed.

Comment 36: Paul Powers, D.C. raised concerns that the accountability in learning cannot be achieved with other formats identified in this section other than internet based programs. In addition, the application fee for CE providers is high and inconsistent with other states. Dr. Powers recommend that the fee be set at $25 and provided suggested language for the Board to consider.

Response: 1) Comment has already been addressed.
2) The fees are not based on other states fees, a cost analysis was conducted.

Comment 37: Maia James, D.C., President, California Chiropractic Association supports the proposal to increase of CE hours from twelve (12) to twenty-four (24). The following comments and recommendations are as follows:
1. Section 355 - recommends that the term "forfeiture" license status be defined,
2. Section 355 (c) - recommends language be added providing a mechanism for a licensee to request inactive status for clarity purposes;
3. Section 355 (d) - the proposal would require a licensee whose license has been cancelled for failure to renew to wait two (2) years from the cancellation date to apply for restoration of his or her license. The proposal references section 10 of the Initiative Act; however, the section addresses license suspension or revocation, not cancellation. CCA does not understand the purpose of this policy and is not aware of any problems or abuse related to cancellation. CCA recommends this provision be eliminated;
4. Section 355 (b), (c), and (d) - the requirement that a licensee complete the Board's CE requirements that were in effect for each year the license was "expired" should state "or portion thereof" in each instance; subsection 1 and 2 references "expired", but there is no mention of "expired". For clarity purposes, CCA requests that each subsection should refer to the particular license status referenced (e.g., forfeiture status, inactive status, and cancelled);
5. Section 356 - The first paragraph relating to the minimum CE required for renewal and through distance learning is confusing. CCA recommends that the transition date be extended at least one year after the regulations are enacted to allow licensees time to comply with the changes. In addition, CCA included suggested language for the Board to consider;
6. Section 356 (a) – the Board's paramount responsibility is to protect the public's health and safety; therefore, the mandatory CE coursework should meet this standard. In addition, CCA believes that

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all coursework under this section be mandatory for all licensees as opposed to the proposal to allow a licensees to choose from a menu. CCA recommends that the Board maintain the current requirement of four (4) hours of adjustive technique by lecture, demonstration or both, a minimum of four hours in comprehensive, full-body physical examination, including but not limited to, patient history, diagnosis, differential diagnosis and adverse event avoidance, and a minimum of two (2) hours in ethics and law, including but not limited to, professional boundaries, ethics, mandatory reporting requirements and law related to the practice of chiropractic. CCA also recommends that category I and II be combined and the hours be adjusted to fourteen (14). CCA also states that there appears to be no policy reason for the separation and it would be burdensome to licensees to comply;
7. Section 356 (b) (3) – recommends deleting the reference to procedures and techniques and provided suggested language for the Board to consider;
8. Section 356 (b) (4) – recommends the Board add theory to this subsection to be clear that the Board has no intention to increase the scope of practice. Recommends adding "but not limited to" encourage broader coursework to the theory of treating pain;
9. Section 356 (b) (5) – for clarity, CCA provided suggested language to this section for the Board to consider;
10. Section 356 (b) (7) – CCA provided suggested language to this section for the Board to consider;
11. Section 356 (c)(2) – it is unclear if classes under this provision would need to be approved by the Board, and if so, the Board is not equipped to evaluate the content of CE from other licensing boards or bureaus. CCA supports these courses, but suggests that the Board limit the CE courses to only allow for a maximum of six (6) hours;
12. Section 356 (c) (3) – CCA provided suggested language for the Board to consider;
13. Section 356 (c) (4) – recommends amending this section to accurately describe a chiropractic's legal obligations in the area of advertising and requests that a licensee be limited to the number of hours a licensee may earn in this area;
14. Section 356 (c) (5) (6) – move this section to the mandatory category;
15. Section 356 (c)(7) – recommends this section be in two subsections as pharmacology does not involve blood and urinalysis testing and provided suggested language for the Board to consider;
16. Section 356 (c) (10) – this section lacks clarity and conflicts with section 358 (10). It is unclear if the Board would require meeting the obligations of all other CE providers, including stamping or CE forms, tracking licensee's attendance, etc, and recommends that additional topics of coursework be included in this section;
17. Section 356.5 – the Board should retain the current requirement that CE providers have offered no less than one course in each year of the five (5) previous years; a provision that references subsection 1-10 of this section as required to be met by CE providers, and language specific to failure to comply would result for application denial. This would ensure that the Board denies only those applications that fail to meet specified criteria;
18. Section 356.5 (b) (2) – strongly recommends that the requirement of five years teaching experience in mandatory and category I be eliminated because it would reduce the pool of qualified instructors. In addition, there does not appear to be a policy reason for this change. Lastly, it would also create an increase of costs to chiropractors due to the availability of instructors.
19. Section 356.5 (b) (3) – the penalty for non-compliance with this subsection should be limited to one year;
20. Section 356.5 (b) (5) – CCA opposes the mandatory survey requirement and, if required there will be many instances that a licensee will not be truthful and will be of no value to the Board or the provider;

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21. Section 356.5 (b) (7) – CCA provided suggested language for the Board to consider;
22. Section 356.5 (b) (9) – recommends that any changes to a speaker be included to the list of changes that providers must notify the Board about;
23. Section 356.5 (b) (10) – the proposal to require an additional pre-printed certificate of completion to be given to each licensee would be unnecessary paperwork and will result in an increase of costs. CCA recommends that the requirement include written proof of the CE credits earned;
24. Section 357 (a) – CCA strongly opposes the requirement that providers submit one application for each CE course. In addition, course is not defined; therefore, it is unclear what constitutes a course. If a course is defined as a two to six hour class, this proposal would substantially increase the cost to providers and licensees, and would financially penalize providers wishing to offer a more diverse menu of courses. CCA would consider supporting a requirement that providers submit one application and pay an application fee for up to 24 hours of CE for one program. CCA further states that this section should include that failure to pay the required fee or submission of an incomplete application would be criteria for denial;
25. Section 357 (b) (1) – recommends that the hours of instruction be during a calendar day rather than twenty-four (24) hours;
26. Section 357 (b) (2) – for clarity purpose, CCA provided suggested language for the Board to consider;
27. Section 357 (b) (3) – for clarity purposes, it's recommended that distance learning have its own separate section and that the rules be broadened to establish meaningful standards. CCA provided suggested language for the Board to consider;
28. Section 357 (b) (5) – to be consistent with other provisions of the proposal, CCA provided suggested language for the Board to consider;
29. Section 358 (a) (3) – this section is too restrictive, unnecessary from a public protection standpoint, has no rationale, and should be eliminated. CCA recommends that the existing exemption for full-time instructors remain and that part-time instructors receive a partial exemption;
30. Section 358 (a)(4) – recommends that the existing exemption that allows instructors to receive two (2) hours of credit for each hour taught remain;
31. Section 358 (a) (6) – recommends that licensees that proctor the national Board examination be given a full exemption;
32. Section 358 (a) (8) – CCA supports the exemption to licensees who are in peer-reviewed, nationally recognized publications, and provided suggested language for the Board to consider;
33. Section 360 – CCA provided suggested language for the Board to consider.

Response: 1-30) Comment have already been addressed.
31) Section 358 (a)(6) language will be modified to remove "both days" and "two days", to read "Licensees who participate as an examiner for the entire part four portion of the NBCE examinations shall receive a maximum of (6) hours of continuing education credit for each examination period conducted by the NBCE…". Also, in last sentence, language will be modified to remove "involvement in the exam", to read "meeting the requirements of this section".
32) Section 358 (a)(8) will be removed completely.
33) NOT RESPONDED TO

Comment 38: Michelle Hallam, D.C. opposes the proposal. The proposal to limit instruction time to eight (8) hours has no basis and would result in a financial hardship to licensees. Dr. Hallam opposes the removal of adjustive technique and requests that this requirement remain as is. CE course should include practice management and is needed to learn how to effectively manage a

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practice. The proposal also allows the Board to invalidate a seminar without good cause or due process.

Response: All comments have already been addressed.

Comment 39: Mark Cymerint, D.C. recommends that a more thorough discussion and evaluation be done before a proposal is drafted and provided specific comments and recommendations to the following sections:
1. Section 356.5 - the proposal appears to be a re-application process to get rid of providers who have followed the guidelines and suggests that a grandfather clause be considered;
2. Section 357 (b)(1) - the proposal to limit instruction time to eight (8) hours during a twenty four (24) hour period is too restrictive, has no basis, and would result in a financial hardship to licensees;
3. Section 356 - opposes the removal of adjustive technique and requests that this requirement remain as is;
4. Section 356.5 – the requirement to have five (5) years teaching experience in mandatory and category I would eliminate qualified instructors and should be eliminated. In addition, there does not appear to be a policy reason for this change and disagrees with the restriction that providers may not advertise, market, or display materials in the classroom;
5. Section 357 – this proposal to provide for guidelines for breaks during courses has no merit and is unnecessary; CE course should include practice management, and is needed to learn how to effectively manage a practice. The proposal also allows the Board to invalidate a seminar without good cause or due process;
6. Section 358 – the proposal has no basis and recommends that the existing exemption for full-time instructors remain;
7. Section 360 – this section is arbitrary and inconsistent with other boards, and recommends that the provider be placed on probation for one (1) year.

Response: 1-6) Comments have already been addressed.
7) The discipline will be related to the activity.

Comment 40: Ray Welch, D.C. submitted a petition signed by several chiropractors that requested the Board to reconsider the proposal. In addition, it was requested that adjustive technique be included in the mandatory category of the required CE hours, and that the class instruction time remain at the current twelve (12) hours.

Response: All comments have already been addressed.

Comment 41: Gerard W. Clum, D.C., Life Chiropractic College West believes that the proposal fails to meet necessity, clarity, and consistency standards used by OAL to approve rulemaking packages. In addition, Dr. Clum suggests that this proposal be given to the experts and staff, with directives as to the general areas of concern, to develop language and a rulemaking file that can meet the requirements of California's rulemaking law. The following comments and recommendations are as follows:
1. Section 355 (a)-(d) – the Initial Statement of Reasons states that the proposal defines license status of active, inactive, forfeiture, and cancellation; however, this information is absent in the language. This section also lacks clarity such as: it fails to inform the licensee or the public when a license expires; in subsection b it addresses restoration of a forfeited license, but defines a cancelled license; subsection (d) allows the Board to cancel a license if not renewed within five (5)

years after its expiration and references section 10 (c) of the Act, but there is no license cancellation date in the Act;
2. Section 355 – the names on the forms differs from the name given in the proposed language;
3. Section 355(c) – the language is inconsistent as it states that an inactive license is exempt from the CE requirements; however, this is inconsistent with subsection (c) (1) and Section 358 (1), which exempts inactive licentiates. Additionally, the language is inconsistent with Business and Professions Code Section 704, which allows a licensee to restore an inactive license to active by completing CE equivalent to that required for a single license renewal period;
4. Section 355 (d) – it appears that licensees have two types of cancelled licenses: Act Section 10 act 10 (c) revocation after a formal disciplinary proceedings, and Section 355, if not renewed within 3 (now 5 yrs) years after it expires. Intent of Act was to prevent the Board form revoking/cancelling a license in a disciplinary action and then immediately restoring the license. The voters did not intend to put a two (2) year hold on chiropractors coming out of retirement or returning to practice. The conflicting definition should be rectified so innocent licensees may return to practice within a two (2) year delay;
5. Section 355 (c) (1) – sets the amount of several fees and should be a separate regulation under Article 1 establishing fees charged by the Board;
6. Section 356 – the Board has failed to cite facts, studies or expert opinions to demonstrate the need to increase the CE requirements. The language delineating what hours must be earned is unclear and should be simplified. It is further unclear of the purpose to require licensees to actively participate in the CE course and might be interpreted to mean that a non-active participant might be identified by an authority (Board monitor) and reprimanded in some way that is not defined by the regulation;
7. Section 356 (a) –(c) – the three-category system is complicated and confusing, and will be difficult for providers to categorize the courses. The proposal fails to meet clarity as it conflicts with the agency's description of the effect of the regulation (CCR 16(a) (2). It further presents information in a format that is not understandable by persons directly affected. It is unclear whether providers approved by Department of Industrial Relations, Divisions of Workers Compensation or approved by healing arts board within Division 2 of the Business and Professions Code are exempt from the Board requirements for monitoring attendance, retaining records, providing rosters, course survey etc.;
8. Section 356.5 – there are no facts offered to demonstrate the proposal to require instructors to have five (5) years experience in the course being taught. There is also no need to require surveys when the board only audits a handful of seminars a year and the information can be obtain from a course roster. Further, the Board has not established criteria for a basis for denial;
9. Section 357 - the Board has failed to demonstrate the need to require guidelines for breaks. The proposed language references an hour, but also refers to CE credit. In addition, the regulations does not address whether a live seminar may be repeated for credit, and the Board uses a term without defining its meaning (Section 357 (b) (3);
10. Section 358 – the Board does not provide any rationale or evidence for the restrictions on CE credit for instructors. For clarity this section should be subdivided into exemptions, accommodations and reductions. Board members who treat patients should be as well educated as any other licensee and should be required to take CE;
11. Section 360 – provides a harsh penalty if a provider presents false or inaccurate verification of licensee participation and does not provide for a hearing or an appeal to the Board. A harsh penalty should be reserved for fraudulent activities and not a simple clerical error.

Response: The Board is meeting today to work on clarity and consistency. 1) Comment has already

been addressed.
2) The forms will need to be updated along with the regulations.
3-5) Comments have already been addressed.
6) Comment is addressed in our underlying data such as our statement of reasons.
7-11) Comments have already been addressed.

Kendra Holloway provided public comment on the Life West written comment regarding an effective date for the CE requirements after filing with the Secretary of State.

Ms. Powell and Dr. Lerner clarified the proposal gives licensees one renewal cycle to obtain the new CE hours. If the new language has not been modified, it will be clarified to address the intent.

Comment 42: Robert E. Dubor, D.C. supports the Board's proposal to increase the CE requirements.

Response: Thank you for your support.

Comment 43: Kristine Schultz, California Chiropractic Association overall supports the concepts of the proposed regulations and submitted detailed information regarding the proposed regulations. CCA support a self-certifying program for CE providers and request that this be considered. CCA also comments that the proposed language previously presented by the working group was positive and would request that the Board consider that language. Further, the three-category system is burdensome and recommends that the Board consider a two-category system.

Response: All comments have already been addressed.

Comment 44: Carlyle R. Brakensiek, Executive Vice President, California Society of Industrial Medicine and Surgery supports the written comments submitted by CCA. In addition, CSIMS supports a self-certifying program for CE providers and states that this is done by most organizations and proves to be beneficial.

Response: All comments have already been addressed.

Comment 45: Sherry McAllister, Palmer College of Chiropractic supports CCA comments and also submitted formal written comments.

Response: All comments have already been addressed.

<u>15-Day Comment Period</u>

Comment 1: Brian J. Porteous, D.C. contends that §356, subparagraph 11, which allows chiropractors to take courses offered by other healing arts boards, could be interpreted by a licensee to expand their scope of practice and raise the issue of public safety and should be eliminated. Additionally, Dr. Porteous recommends that the proposal allow a chiropractor to receive hour for hour credit for the length of a CPR course because the courses offered exceed two (2) hours. He questions why §356, subparagraph 16 only allows two hours of course credit for CPR training and argues that this provision does not meet the standard of clarity and consistency.

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Response: 1) Restraining a chiropractor to taking courses specific to chiropractic does a disservice to the public and raises public safety issues. The idea of making this section more broad is to broaden our education, improve communication and encourage referrals with other physicians and further ensure public safety. It would be to the public's great interest that many chiropractors become more familiar with how to do that. In addition, just because a chiropractor learns something, does not increase their scope of practice beyond what the legal definition is.
2) Regarding hour for hour credit for CPR, although there are courses that exceed two hours, basic recertification courses are generally universally two hours.

Comment 2: Rory S. Brinkerhoff, D.C. opposes the proposed regulations because it will result in an economic hardship.

Response: Economic hardship has been addressed

Comment 3: Gail Rosenberg, D.C. opposes the proposed regulations because it will result in an economic hardship and states that some areas of the CE requirements may or may not address the needs of her practice. In addition, Dr. Rosenberg asked if there could be special accommodations to those that have been licensed for many years.

Response: 1) Economic hardship has been addressed.
2) Regulations cannot be based on an individual's practice. There is plenty of latitude and choice available.
3) Being licensed for many years does not justify any special accommodations. The Board respectfully disagrees with these comments.

Comment 4: Mark S. Kimes, D.C. states that section 356.5 (b) (4), should state "during credited instruction time" because individuals or organizations that underwrite or subsidize CE courses should be allowed to display or market their products or services in the same room (e.g., before the CE program commences or during a non-credited lunch break).

Response: This comment has already been addressed.

Comment 5: Daniel Saint-Germain, D.C., President, Federation of Chiropractic Licensing Boards (FCLB) recommends that the Board add "Providers of Approved Continuing Education for Chiropractic" (PACE) as a secondary route to approve CE provider status because: 1) it is unnecessary for Board staff to review CE providers that have been thoroughly assessed by the FCLB's PACE program 2) the PACE program requirements match or exceed the proposed California standards 3) similar centralized approval programs are relied upon by other regulated professions 4) PACE's national experts in continuing education are able to perform an in-depth review of candidates providers 5) PACE approval represents a cost savings to CE providers who must duplicate approval processes. FCLB provided suggested language to section 356.5 for the Board to consider.

Response: Although PACE offers a high quality program; the Board wants to retain control over what is authorized to ensure we have adequate oversight.

Ms. Powell added a correction to Section 355 (a), in defining an inactive license after Business and Professions Code 700, add an "e" to read "licensee who is not actively engaged".

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Comment 6: Maia James, D.C., President, California Chiropractic Association provides the following comments and recommendations:

1.) Section 354.5 (b) – supports this change and provided minor changes for clarity purposes;
2.) Section 355 (a) (1) – suggests minor changes to the language for clarity purposes:
3.) Section 355 (a) (2) – suggests minor changes to the language;
4.) Section 355 (a)(3) - states that this section does not make sense because licensees with forfeited status do not have renewal dates and suggests changes to the language;
5.) Section 355 (a)(5) – noted a few technical, non substantive changes;
6.) Section 356 -- requests that the 24-hour CE requirement take effect no earlier than 01/01/2012;
7.) 356 – suggests renumbering subparagraphs for purposes of clarity;
8.) 356 – requests that the Board allow up to six hours of distance learning immediately upon the effective date of this regulation
9.) 356 -- recommends adding a statement to ensure that licensees are not obtaining credit for the same course more than once in the renewal period.
10.) 356 subparagraph 3 – Recommends that description of physical exam be more general
11.) 356 subparagraph 4 – Recommends a more general statement that would automatically include future tests that do not yet exist.
12.) 356 subparagraph 7 – Recommends a more general statement that would automatically include future physiotherapy topics that do not yet exist.
13.) 356 subparagraph 9 – Suggests revising this section to allow for all identifiable special population care educational programs
14.) 356 subparagraph 11 – Recommends limiting the number of hours a DC can earn from courses approved by other regulatory agencies to six hours. Also recommends limiting courses to those approved by a doctor-level health care provider licensing board.
15.) 356 subparagraph 12 – recommends removing the words "or patient fees per case"
16.) 356 subparagraph 16 – recommends technical/clarifying amendments.
17.) 356 subparagraph 17 – recommends rewording this provision for clarity and removal of redundancy
18.) 356 – CCA strongly recommends adding the following as permitted topics eligible for CE credit: Principles of Practice; Wellness; Nutrition; Rehabilitation; and Public Health
19.) 356.5 – Suggests the Board retain the current requirement that new CE providers must have offered no less than one course in each year of the five previous years immediately preceding application to become a CE provider to ensure the quality and commitment to the education DCs.
20.) 356.5 (a) – Recommends technical/clarifying changes.
21.) 356.5 (b) – Suggests amendments to: 1) ensure the CE provider has a full 30 days to file its appeal; and 2) make various technical clarifying changes.
22.) 356.5 - Recommends an amendment to give the Board explicit authority to withdraw approval of a CE provider's status for failure to follow the rules.
23.) Section 357 (a) – suggests technical changes to distinguish the CE course application fee referenced in this section and to be consistent with other portions of the proposed regulations in referencing CE course fees;
24.) Section 357(b) – suggests changes to the language to ensure that CE providers have full 30-days to file an appeal;

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25.) Section 357(c)(1) – supports the proposal, but is concerned that the language would unintentionally restrict the number of CE hours a provider could offer in a calendar day as opposed to the number of hours a licensee could earn in the same period;
26.) Section 357 (c)(2) – supports the first three (3) sentences of the paragraph, but opposes the remaining section as it is overly prescriptive and would require CE providers to do duplicative, unnecessary work;
27.) Section 357.1 – Recommends the elimination of research projects from this section.
28.) Section 357.1 (d) – is concerned that this provision is overly restrictive. States that there is no policy reason for the Board to mandate that distance learning courses contain security measures to protect course-related content from others.
29.) 357.1(f) – CCA states that the various course delivery systems listed in this section will have differing timeframes in which the licensee can interact with the instructor. Recommends amending this section to reflect these realities.
30.) Section 357.1 (i) – Recommends eliminating the requirement that the licensee sign an affidavit of compliance.
31.) Section 358 (a)(5) and (9) – suggests changes to the language for clarity purposes.
32.) Section 358 (a)(6) – is concerned that limiting the amount of CE allowed to six (6) hours could reduce the number of doctors willing to devote their time and expertise in this function. Additionally, under this new regulation few California chiropractors will be eligible for the full one six (6) hour credit as an examiner because many times examinations sites are limited to one day;
33.) Section 359 – The last sentence is unclear.

In addition, CCA suggests changes to several applications that conform to their recommendations.

Response: Thank you for your support. 1) Section 354.5 (b) the words "applicant" and "renewal" will be added prior to the fees, and remove the word "renewal" prior to provider.
2) 355 (a)(1)will be modified to say "day" instead of "date", and add the words "been" and "consecutive".
3) Section 355 (a)(2) will be modified to read "To renew a license or an active license, or restore a license that is forfeited or cancelled".
4) Section 355 (a)(3) remove "Regarding forfeited and", replace with "To renew a license or", also remove "s" to read "inactive license".
5) Section 355 (a)(5) change "or" to "nor", replace "per" with "as provided by".
6) Section 356 will be modified to read, "one year from (insert effect date)", OAL will insert the effective date.
7) Section 356 will be modified to put all the mandatory stuff in the beginning for clarity.
8) The Board discussed this comment stating breaking up items would be too difficult to manage, and the regulation should become effective as a whole. Everything except the 24 hours will be effective in one year, the 24 hours will be effective in two years.
9) The Board rejects this comment, licensees taking the same course twice in one renewal period does not pose a problem.
10) The Board rejects this comment, the intent is to provide general guidelines for providers and staff on what an acceptable course is. This section also states "including but not limited to" so chiropractors are not limited.

Dr. Steinhardt recommended modifying the third line in 356 (3) to remove the words "but may also include" and replace with "and includes".

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11) Section 356 (4) will be modified to read "Diagnostic testing procedure, interpretation and technologies that aid in differential diagnosis of all conditions that affect the human body".
12) Section 356 (7) will be modified to read "Physiotherapy".
13) Section 356 (9) will be modified to read "Instruction in the aspects of special population care, including, but not limited to, geriatric, pediatric, and athletic, as related to the practice of chiropractic".
14) Section 356 (11) will be clarified by removing "Courses" and replacing with "Related to subjects identified in Section 356", or separated and insert a statement similar to "The courses specified in Section 356 can be met by taking CE provided by providers approved by other boards or bureaus". The Board rejects limiting courses to doctor-level health care provider licensing boards because it would cause an unnecessary burden on licensees to ensure the level of the course, and many beneficial courses are not doctor-level.
15) The Board rejects this comment, this language will help address enforcement issues.
16) Section 356 (16) will be modified to read "A licensee may earn up to a maximum of two (2) hours continuing education credit in" and remove that language from the end.
17) Section 356 (17) will be modified to replace the word "shall" with "may", add an "s" to read "probationary licenses", remove the second sentence stating "A licensee may earn a maximum of four…" modifying it to read "The attendance of a licensee at a board meeting under this subparagraph shall be…".
18) A new section will be added to 356 to include "As related to chiropractic; Principles of Practice, Wellness, Rehabilitation and Public Health".
19) The Board rejects this comment, although it is current regulation, this makes an additional requirement other than pay the fees, submit an application and follow the regulations.
20) Section 356.5 (a) will be modified to replace "a new" with "an", "per" with "as provided in", and "or" with "nor".
21) Section 356.5 (b) will be modified to replace "letter" with "notification", "This" with "The", "denial date" with "date of the denial notification", remove "Upon request for informal hearing", capitalize "The", replace "that" with "the appeal", remove "with the Executive Officer", insert "within 30 days of the date of the Executive Officer's denial notification", remove "on the denial" and "if their request for such a hearing before the board is received within 30 days of the denial date", insert "to appeal the denial", remove "Upon request for such a hearing before the board", capitalize "The", insert "requested", replace "from" with "following", "that" with "the", and "following" with "of".
The word "business" will not be added before days because in the government code; days is presumed calendar days if not specified.
22) A new section will be added to 356.5 to include "The Executive Officer, after notification, may withdraw approval of ant continuing education course for good cause, including violations of any provisions of this regulations, falsification or information or other substantial reason, and shall provide written notification of such action to the provider. The provider may appeal the decision to the Executive Officer within 30 days of such notice by following the steps outlined in detail in section 356.5 (b)".

Ms. Powell recommends repeating the language and not referring back to the section.

23) Section 357 (a) will be modified by inserting "as provided by Section 354.5(b)(3)" (due to changes, the section will need to be verified), replace "renewal" with "continuing education course".
24) Section 357 (b) will be modified to replace "letter" with "notification", "This" with "The", "denial date" with "date of the denial notification", remove "Upon request for informal hearing", capitalize "The", replace "that" with "the appeal", remove "with the Executive Officer", insert "within 30 days of

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the date of the Executive Officer's denial notification", remove "on the denial" and "if their request for such a hearing before the board is received within 30 days of the denial date", insert "to appeal the denial", remove "Upon request for such a hearing before the board", capitalize "The", insert "requested", replace "from" with "following", "that" with "the", and "following" with "of".
The word "business" will not be added before days because in the government code; days is presumed calendar days if not specified.
25) Section 357 (c)(1) will be modified to replace "instruction" with "continuing education credit" and "given during a" with "awarded to an individual licensee for coursework completed in a day".
26) The Board rejects this comment, this language is intended to simplify the process and put the burden on the licensee rather than the provider.
27) Section 357.1 will be modified to remove "research projects".

Mr. Puleo added a correction to Section 357.1, remove the initial "Continuing Education" to read "Providers of continuing education…"

28) Section 357.1 (d) will be modified to add "from unauthorized access".
29) The Board rejects this comment, this language is already broad enough.
30) Section 357.1 (h) will be modified to read "Instructional materials shall be reviewed annually in order to ensure they provide current and relevant information".
Section 357.1 (i) will be deleted.
Section 357.1 (j) will be modified to insert "distributors and or other sellers".
31) Ms. Powell stated we will come up with language to modify Section 358 (a)(5).
Section 358 (a)(9) will be modified to replace "of" with "with" and "may earn" with "shall be permitted to take all", insert "required, remove "requirements", and replace "within" with "by Section".
32) This has already been addressed.
33) NOT RESPONDED TO

Dr. Lerner stated that the forms will all be addressed.

Comment 7: William Meeker, D.C., MPH, President, West Campus, Palmer College of Chiropractic provides the following comments and recommendations:
1.) Section 356 (5) – Dr. Meeker questions if this section still limits to core technique categories or has it been opened up to include more techniques. This should be clarified since it has been limited to techniques taught in a CCE accredited institution;
2.) Section 356 (11) – do the providers of other healing arts boards go through the same application process and pay the required fees? If not, this section needs to be clarified how the Board will track approvals;
3.) Section 356.5 – this proposal requires both provider status and individual course approval, which is a hardship and it seems unwarranted. Additionally, random audits surveying attendees is not a problem; however, a single attendee opinion is subjective;
4.) Section 357 – the language appears to limit an event to no more than 12 hours total. As for class breaks, most events are planned by the provider not the instructor;
5.) Section 357.1 – clarification to this section is needed because some courses have to show equipment needed for the technique and use for demonstration purposes;
6.) Section 358 (3) – licensed chiropractors serving CCE accredited institutions as full or part time faculty, faculty clinicians, or via administrative posts are ingrained in the chiropractic profession, academics, and research. It is recommend that the language clarify that it is not just faculty in the classroom at a college, but clinical faculty and chiropractors working in administration as well;

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7.) Section 358 (8) - this section will be troublesome for Board staff to manage. For example, how will staff handle multiple authors and how will it define nationally recognized and scientifically based. If the Board moves forward with this section it will have to clarify how the remaining twelve (12) hours can be earned and if ethics, laws, and examination will still be required. It is recommended that this section be deleted;
8.) Section 360 – this section seems harsh for what could be a clerical error and should include protective language for fairness to the provider.

Response: 1) The language does not say core, we do not have the authority to regulate this.
2) This is outside of the scope of our regulations.
3) This comment has already been addressed.
4) The Board rejects this comment, we do not limit the time, only the CE credit.
5) The Board rejects this comment, our regulations do not limit use of equipment.
6) The Board rejects this comment, clinical competency is intended for public safety.
7) This comment has already been addressed.
8) Section 360 will be modified to replace "shall" with "may" lose their provider status.

Comment 8: Kendra L. Holloway, D.C., Director, Postgraduate and Continuing Education, Life Chiropractic College West comments that there has been progress on the proposal; however, there still is confusion, conflicting language, and nothing additional added to the rulemaking record to demonstrate necessity. Life West urges the Board to return the project to the experts and Board staff to assemble language and a rulemaking file that meet the requirements of the Administrative Procedures Act. Comments and recommendation are as follows:
1.) Section 354.5 (a) (3) – this subsection is not necessary because there are only two fees;
2.) Section 354.5 (b) (2) – this section refers to a $50 biannual CE renewal provider fee; however, the application references a $75 fee for a new provider. In addition, this section currently makes it a subset of Article 5, Examinations and should fall in Article 6, CE;
3.) Section 355 (a) – this section includes several definitions of licensure status and would gain clarity if it were divided into subsections for each license definition. This subsection applies to non-disciplinary renewal and restoration; however, it was mentioned at a public board meeting that holders of a disciplinary license must also complete CE requirements and pay annual renewal fees. Business and Professions Code 700 was to create a licensure status that allowed a non-practicing professional to maintain a license in good standing and should be clear that a suspended, revoked or otherwise punitively restricted license may not be placed on inactive status. The proposal asserts that disciplinary license renewal conditions are defined in Article 10 of the Initiative Act; however, the Act is silent on this topic. The subsection references a "Renewal or Restoration Application; however, there is no such form. The regulation and the forms should be edited for consistency;
4.) Section 355 (b) – this subsection does not make clear the criteria for applicants seeking license restoration;
5.) Section 356 – the subject matters could be simplified in this section. This section includes courses approved by the Department of Industrial Relations or any Healing Arts Boards or Bureaus, but the proposal fails to include if providers of these courses must comply with the remaining sections of Article 6. The Board also has not fully examined the credentialing criteria or the coursework for these Boards and Bureaus. Furthermore, there are no provisions for the Board to approve/disapprove coursework;
6.) Section 356.5(a) – this is unclear whether all providers must file a new application or if there will be grandfathering provisions;

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7.) Section 356.5(b) – there are two denial dates referenced in the language which makes it confusing, additionally the denial and appeal process is the same for the provider application and the course application; therefore, its suggested that this process be set out in a separate regulation;
8.) Section 356.5(c) – this should be moved to subsection (a) for clarity purposes;
9.) Section 356.5 (d) (2) and (3) – the final sentence in subsection (d)(2) gives the board authority to contact course attendees as part of the auditing process and should be moved to section 360. Subsection (d) (3) requires providers to maintain instructors curriculum vitae, if applicable, who makes the decision when this provision is applicable?
10.) Section 357 (a) - this subsection creates confusions and additional work for providers and the board staff to track when course approvals expire. In addition, there is no provision in the regulation for renewing approval of a course;
11.) Section 357 (g) – this subsection is related to course audits and should be moved to section 360;
12.) Section 357.1 (a) – the term course curriculum is unclear;
13.) Section 357.1 (f) – it is unclear what is timely and who would make that decision;
14.) Section 357.1 (h) – this subsection should require instructional materials to be reviewed to assure they provide current and relevant information;
15.) Section 358 (3) – the 2-year tenure requirement for college instructors should be dropped;
16.) Section 359 – the language should be moved to section 355;
17.) Section 360 – this section is silent on the documentation for course hours obtained at courses approved by other healing boards/bureaus as allowed under section 356(11).

Response: 1 & 2) These comments have already been addressed.
3) Section 355 (a) will be divided into subsections for each license definition. Disciplinary renewal language will modified for clarity.
4) Section 355 (b) will be modified for clarity.
5 & 6) These comments have already been addressed.
7) Section 356 will be reviewed and modified for clarity.
8) Section 356.5 (c) will be moved to subsection (a) for clarity.
9) Section 356.5 (d)(2) will be moved to Section 360. Section 356.5 (d)(3) will be modified to read "maintain for four years"
10) The Board respectfully disagrees, this will simplify the process for staff.
11) Section 357 (g) will be moved to Section 360.
12) This comment has already been addressed.
13) Section 357.1 (f) will be removed.
14) This comment has already been addressed.
15) Section 358 (3) will be modified to one year.
16) Section 359 will be moved to Section 355.
17) Documentation is required for all courses.

Comment 9: Paul Townsend, D.C. opposes the proposal and states that part IV examiners who participate in Friday and Saturday session will have 11 ½ contact hours. Examiners who participate in Friday, Saturday, and Sunday session will have 20 ½ contact hours. Certification is provided from the National Board of Chiropractic Examiners to the examiner. Recommends that Part IV examiner should be given exemption from continuing education requirements in the years they participate at least twelve (12) hours annually.

Response: This comment has already been addressed.

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Comment 10: J.Ray Weltch, D.C. opposes the proposal to increase CE hours from twelve (12) to twenty-four (24) stating it fails to meet the standards used by OAL, and the board has not done enough research to warrant the changes. Comments and recommendations are as follows:
1.) Section 356.5 – bi-annual renewal for CE providers is not needed;
2.) Section 356 – increasing the CE required hours is not protecting the public, the maximum number of CE hours should be 36 hours for reinstatement, the current range of topics is more than adequate, providers should not teach out of scope topics, adjustive technique should not be taught to non chiropractic doctors, the current appeals process is successful, the current rules regarding management, practice building collection, and discipline of a CE provider are adequate, the need for administrative designees has not been shown, disabled chiropractors should be exempt from CE requirements.

Response: These comments have already been addressed.

Comment 11: Deborah Snow supports the proposal to increase CE hours from twelve (12) to twenty-four (24). Ms. Snow recommends that a minimum of two (2) mandated hours focus specifically on issues that provide greater protection of the public such as sexual boundaries, and laws and ethics.

Response: Thank you for your support.

Comment 12: Mark Cymerint, D.C. opposes the proposed regulatory changes stating they fail to show clarity, necessity or consistency, and no regulatory changes are necessary or warranted. Comments and recommendations are as follows:
1.) Section 356.5 – bi-annual renewal for CE providers is not needed, current regulation is less expensive and more efficient;
2.) Section 356 – increasing the CE required hours is not necessarily better, the mandatory categories are confusing and no change is needed; the category "other" should be retained; all current guidelines and regulations for CE course approval should remain the same; the proposed CE provider denial and appeal process would give to much power to the Executive Officer and future Boards; obtaining email addresses could be an invasion of privacy, people may not have an email address, email is not a way to transfer processional communications, educational materials, adjusting instrument, and other aids improve the quality of education, practice management should be a part of CE seminars, chiropractors need to be taught how to manage a practice including ethical business practices;
3.) Section 360 – change to this regulation is not needed, this would give too much power to the Executive Officer, changing the provider application to include administrative designees, record keeper names and attestation of appointed representative is not needed, those individuals are under the responsibility of the CE provider, not the Board, changing the sample certificate to include every hour that an attendee has received in subjects is extremely burdensome on the providers and board staff;
4.) Section 357 – identifying the test taker is an issue, chiropractic is a hands-on health care and attendees must physically attend to hands-on training, only chiropractors with disabilities who cannot physically attend a live seminar should have the option of distance learning.

Response: These comments have already been addressed.

DRAFT

Comment 13: Tim O'Shea, D.C. submitted a letter of response signed by several chiropractors that opposes the proposed regulatory changes stating they fail to show clarity, necessity or consistency, and no regulatory changes are necessary or warranted. In addition, it was stated that there has been no recognition of any responsibility to OAL's 1996 decision. Comments and recommendations are as follows:
1.) Section 356 – there is no evidence of necessity, which is the prime rulemaking prerequisite for change;
2.) Section 356.5 – the current apprenticeship is an excellent system that generates no unnecessary paperwork or expense to the board;
3.) Section 356.5 (d) (4) – many providers are recognized experts and authors, books and educational materials are valuable resources that should be made available to attendees, as long as materials are not being sold during actual seminar hours, they should be allowed to be displayed provided they relate to course material;
4.) Section 357 (c) – there are several reasons to maintain the 12 hour seminar such as an unnecessary burden of a second day relating to time, effort, financial hardship, and hardship to the handicap and pregnant, the 50 minute academic hour has been the standard in not chiropractic, but every university and center of higher learning both in the US and abroad;
5.) Section 357.1 (a) – details of verifiability, identification, course content, accreditation, academic status, and credentials have long been elaborated, tested and proven valid by virtually every accrediting agency evaluating our colleges and universities;
4.) Section 360 – not necessary because it does not differ much from the current policy.

Response: These comments have already been addressed.

MOTION: DR. LERNER MOVED TO ACCEPT THE CHANGES AS REVIEWED
SECOND: DR. LUBKIN SECONDED THE MOTION
VOTE: 4-0
MOTION CARRIED

Public Comment on Items Not on the Agenda
None

Future Agenda Items
Dr. Lubkin would like to bring someone from the Department of Managed Care to the November Board Meeting to discuss proper rules and regulations to be in compliance with their statutes.

Dr. Lerner would like to try and have Judge Duvaras at the November meeting.

Closed Session

Adjournment
Dr. Lerner adjourned the public meeting at 4:15 p.m.

DRAFT

ATTACHMENT

STATE OF CALIFORNIA ARNOLD SCHWARZENEGGER, Governor

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Date: October 12, 2009

To: Board Members
Board of Chiropractic Examiners

From: April Alameda
Policy Analyst

Subject: Manipulation Under Anesthesia (MUA)
Comments Received During Third 15 Day Comment Period

The Board received four separate comments regarding the proposed MUA regulations as of Monday, September 14, 2009, the close of the public comment period. Staff is recommending that another 15 day comment period take place in order to address certain concerns raised by staff and those who commented. Please see attached "Draft 4th 15-Day Comment Language."

Written Comments:

California Society of Anesthesiologists - Linda B. Hertzberg, MD., President commented that:

Comment: The proposed regulation is unlawful because it would permit the use of drugs or medicines by chiropractors, violating Section 7 of the Chiropractic Initiative Act.

Staff Recommendation: Reject the comment because the chiropractor is not using a drug or medicine when he or she performs manipulation on a patient who has been sedated by a physician and surgeon or other heath care provider authorized to administer anesthesia. Subdivision (b) of the regulation clearly states that anesthesia may on be administered by a California licensed physician or surgeon or other health care provider authorized under California law to administer anesthesia and who is trained and competent to administer anesthesia safely. Additionally, subdivision (c) was added to prohibit a chiropractor from performing MUA unless a physician and surgeon or other health care provider authorized under California law to administer anesthesia safely has provided an appropriate prior examination of the patient. Lastly, subdivision (d) prohibits a chiropractor from directing, instructing, interfering, o making any orders to the physician and surgeon or other health care provider who is administering and maintaining the anesthesia. All of these provisions were added to provide clear direction to the chiropractor that his or her role in MUA is to only perform manipulation on the patient.

Comment: The proposed regulation would allow chiropractors to use methods or modalities which were not included in chiropractic practice in 1922 which is contrary to the holding in the *Tain* case.

Staff Recommendation: Reject the comment because the manipulation was part of chiropractic practice in 1922 and was taught in chiropractic schools. Furthermore, while MUA was not specifically taught in schools in 1922 the Legal Opinion dated December 13, 2007 issued by the Department of Consumer Affairs, Legal Division addressed this issued:

> "An argument has been raised that MUA was not taught in chiropractic schools in 1922 and therefore it is not within the scope of practice. **However, the courts have made it clear that the chiropractic profession is not frozen in time.** The trial court in *Crees* discussed this very point. "It is true that chiropractic is not a static system of healing and that it may advance and change in technique, teaching, learning, and mode of treatment within the limits of chiropractic as set forth in paragraph H above. It may not advance into the fields of medicine, surgery, osteopathy, dentistry, or optometry." (p. 202) This dynamic interpretation of the practice of chiropractic is not without limitation. The *Hartman* case made the point that the Chiropractic Act must be read as whole and "cannot be taken as authorizing a license to do anything and everything that might be taught in a school. A short course on surgery or one in law might be given, incidentally, and it would not follow that the section would authorize a licensed chiropractor to engage in such other professions."[1] However, since manipulation was taught in the schools in 1922, the second prong of the three-part test has been met. (Emphasis added.)

Comment: The December 13, 2007 legal opinion provided by the Division of Legal Affairs, Department of Consumer Affairs fails to comprehend what MUA involves, perhaps because BCE never explained MUA to counsel. The commenter then cites a paragraph in the opinion that reads:

> "Some have put forth the argument that the term "use" should be given its broadest application. For example, if the only way a chiropractor would be able to manipulate a patient is if the patient is sedated, the chiropractor is "using" drugs to accomplish the procedure. This interpretation is not supported by case law and would not be practical in its application. A chiropractor is not authorized to direct a patient to either take a drug or discontinue using a drug. If a patient came in who was using pain medication, the chiropractor would have to decide either to not provide any treatment or to provide treatment and later be accused of using drugs because a determination was later made that the chiropractor could not have performed the procedure unless the patient was drugged. This interpretation would also lead to an impractical situation for the Board's enforcement program. It would have to be proven at an administrative hearing that a patient at the time a patient received treatment would not have been able to receive that treatment without benefit of drugs. How much pain must a patient tolerate before it is determined that a treatment cannot be performed without using drugs? This would put both the patient and the chiropractor in an untenable situation.

[1] *Hartman*, at p. 218.

Oftentimes, patients of other healing arts practitioners are medicated in order to ease discomfort related to treatments. For example, many patients are medicated before receiving physical therapy. The medication is necessary not only to ease the pain associated with the treatment but also to allow greater benefit to the patient. MUA is no different. "

Staff Recommendation: Reject the comment. The commenter provided two examples where she argues that "DCA opinion apparently would not find an obstetrician 'using' anesthetics when the medication is administered by someone else, or a dentist using drugs if someone besides the dentist administers anesthetic before a tooth is extracted." She then goes on to argue that neither of the above assertions would withstand scrutiny.

The commenter is correct that we would argue that an obstetrician is not using anesthetics if he or she did not administer it. The commenter is also correct that we would argue that a dentist is not using anesthetics if another practitioner administered the anesthesia before a tooth is extracted. In fact, under the Dental Practice Act only a dentist who has a sedation permit may administer anesthesia to a patient. So, it would be a violation of the Dental Practice Act for a dentist who does not hold a sedation permit to administer anesthesia. However, it is not a violation for a dentist to perform any procedure within the scope of practice of a dentist once another dentist who holds a sedation permit or another health care provider who is legally authorized to administer anesthesia has administered anesthesia to the patient. MUA is no different. A practitioner who is legally authorized to administer anesthesia provides that to the patient and the chiropractor performs manipulation on the patient while they are sedated.

CAS appears to be asserting that the chiropractor is using drugs when performing MUA because the manipulation could not take place unless the patient were administered anesthesia because the anesthesia is an integral part of the MUA. MUA is performed when administration of anesthesia increases the benefits of manipulation for the patient. In other words, a patient may only retain a very limited amount of mobility in a joint if the joint if manipulated absent anesthesia and much greater mobility of MUA is performed. As with many types of health care treatments and procedures, different practitioners play a different part but all are essential if a patient is to derive the maximum benefit from the over all treatment or procedure. The best analogy is a licensed podiatrist. A podiatrist may not administer general anesthesia. It is outside their scope of practice. However, a podiatrist can perform surgery on a patient who has been sedated by a physician and surgeon. If CAS's reasoning were followed this would not be allowed under California law because the anesthesia is an integral part of the surgery and the surgery would not in all likelihood take place unless the patient were anesthetized.

Comment: The absence of any explanation or definition of MUA makes it impossible to find that requirements for conformity, clarity, and necessity are met, and conceals the contemplated violation of the Chiropractic Initiative Act. The commenter attached articles written about MUA that included definitions. CAS states that if the Board provided an adequate and clear definition of MUA it would disclose that anesthesia is used to change the physiologic state of the tissues. CAS goes on to argue that if the Board adopted CAS's suggested definition it would violate the Initiative Act because it would mean that the chiropractor was using drugs to accomplish the procedure.

Staff Recommendation: Reject this comment because the regulation does include a definition of "manipulation under anesthesia." Subdivision (h) reads: "'Manipulation Under Anesthesia' or 'MUA' means the manipulation by a licensed chiropractor 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." Staff does not recommend amending the current definition of MUA because it may lead to patient harm. The definition should not be narrowed because a chiropractor may interpret the regulation as not applying to a procedure he or she is performing because it did not meet the specific definition. By using a more broad definition the Board can protect the public better by ensuring that any time a chiropractor performs manipulation on a patient who has been administered anesthesia the standard of care contained in the regulation will be followed.

Chiropractors who are performing MUA are working in a collaborative environment with physician and surgeons as well as other health care providers. An integrated approach to patient care not only provides better care to the patient but assists in utilizing each health care provider's unique skills and knowledge base.

The California Medical Association (CMA) commented that:

Comment: The first part of CMA's comment stated previous comments that have previously been responded to by the Board. CMA then went on to address its comments pertaining to the third 15-day comment period. CMA commented that the newly added language that such unspecified "health care provider" must also be "trained and competent to administer anesthesia safely" lacks clarity and statutory authority. Only physicians, surgeons, and registered nurse anesthetists are authorized under California law to administer anesthesia safely, and the Board of Chiropractic Examiners has not authority to expand the scope of practice of any health professional or otherwise determine whether non-chiropractors are "trained and competent" to administer anesthesia.

Staff recommend accepted some of these comments and rejecting others. Staff agrees that the language in subdivision (b) that reads "who is trained and competent to administer anesthesia safely" should be deleted from the regulation because the commenter is correct that the Board has no statutory authority to determine whether another health care provider is appropriately trained and competent to perform any procedure within the scope of practice of any practitioner other than chiropractors.

Staff does not agree that only physicians, surgeons, and registered nurse anesthetists are authorized under California law to administer anesthesia safely. First, physicians and surgeon are not two separate license categories. The title of the license is "physician and surgeon." Second, there is not such licensing category as "registered nurse anesthetists" so we will assume that CMA is referring to a "nurse anesthetist." (Business and Professions Code 2826 and 2829.) There are other health care providers who are authorized to provide anesthesia such as dentists who have the appropriate permit from the Dental Board of California.

Lastly, the regulation contains the language "or other health care provider who is legally authorized to administer anesthesia." How this language could be interpreted as expanding any practitioner's scope of practice is beyond our comprehensive. The Board specifically included the words "legally authorized." If a nurse anesthetist or other heath care provider administers anesthesia beyond his or her scope of practice he or she is in violation of their

respective practice act. The Board did not want to list exactly which licensing categories for the very same reason CMA argued in its comment related to the language "who is trained and competent to administer anesthesia safely," the Board does not have any statutory authority over any other licensing category other than chiropractors.

Comment from Barnaby and Barnaby Attorneys and Lobbyists - William E. Barnaby, CSA Legal Counsel and William E. Barnaby III, CSA Legislative Advocate who represents the California Society of Anesthesiologists (CSA)

Comments: CSA comments that its fundamental objection to the regulation is that it is outside the scope of practice of a chiropractor as set forth in the Chiropractic Initiative Act of 1922 which explicitly prohibits the use of any drug in chiropractic practice.

Staff Recommendation: Staff recommends rejecting the comment because as previously discussed in response to the comments by CMA, MUA is within the scope of practice of a chiropractor.

Comments from the California Orthopaedic Association (COA) - Diane Przepiorski, Executive Director

Comments: The COA stated that its previous comments related to patient safety are still of concern. COA then pointed out a drafting error in section 318.1(c) that states: "Anesthesia may only be administered following an appropriate prior examination of the patient by a California licensed physician and surgeon or other health care provider authorized under California law to administer anesthesia safely." COA then provided amended language to address the error.

Staff Recommendation: Staff agrees with the COA that a drafting error occurred. However, staff recommends correcting the error by amending the language as follows:

"MUA ~~Anesthesia~~ may only be administered following an appropriate prior examination of the patient by a California licensed physician and surgeon ~~or other health care provider authorized under California law to administer anesthesia safely~~."

Staff recommends striking out "Anesthesia" at the beginning of the sentence and replacing with "MUA" because other wise it may be interpreted as the Board directing the practice of the health care provider who is administering the anesthesia as opposed to the Board directing the Chiropractor who is performing MUA after the patient has been sedated.

STAFF'S RECOMMENDATIONS
OCTOBER 22, 2009 BOARD MEETING

Board of Chiropractic Examiners
Modified Proposed Regulatory Language for MUA
(Fourth 15 day comment period)

Modified text during the 1st 15-day comment period: Additions to the originally proposed language are shown in italics for new text and deletions to the originally proposed language are shown by a strikeout.

Modified text during the 2nd 15-day comment period: Changes to the text are shown by bold/double underline for new text and double strikeout for deleted text.

Modified text during the 3rd 15-day comment period: Changes to the text are shown bold/italics for new text and double strikeout/italics for deleted text.

Modified text during the 4th 15-day comment period: Due to the numerous 15-day comment periods, in order to make it easier for the board members and the public to discern the changes from the 3rd 15-day comment period to this 4th 15-day comment period text, shown below is the text from the 3rd –15 day comment period absent the deleted language. Changes in this text are shown as strikeout for deletions and underline for new text.

Modified text

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

318.1 Standard of Care Regarding Manipulation Under Anesthesia (MUA)

(a) Manipulation Under Anesthesia (MUA) may only be performed in a hospital or ambulatory surgery center that is licensed by the California Department of Public Health Licensing and Certification Program or in an ambulatory surgery center operating pursuant to section 1248.1 of the Health and Safety Code or that is accredited by an agency approved by the Medical Board of California pursuant to Chapter 1.3 of Division 2 of the Health and Safety Code (commencing with section 1248). However, MUA shall not be performed in a mobile van as defined in subdivision (h) of section 1248.1 of the Health and Safety Code.

(b) MUA may only be performed if the patient is ~~Anesthesia may only be~~ administered anesthesia by a California licensed physician and surgeon or other health care provider authorized under California law to administer anesthesia.

(c) MUA ~~Anesthesia~~ may only be performed ~~administered~~ following an appropriate prior examination of the patient by a California licensed physician and surgeon ~~or other health care provider authorized under California law to administer anesthesia safely~~.

(d) 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.

(e) MUA shall be performed by two licensed and competent chiropractors. 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.

(f) 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.

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

(h) "Manipulation Under Anesthesia" or "MUA" means the manipulation by a licensed chiropractor 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.

NOTE: Authority cited: Sections 1000-4(b) and 1000-10, Business and Professions Code; and Chiropractic Initiative Act of California, Stats. 1923, p. 1xxxviii. Reference: Sections 1000-4(b), 1000-7, and 1000-10, Business and Professions Code; and Chiropractic Initiative Act of California, Stats. 1923, p. 1xxxviii.

STATE OF CALIFORNIA ARNOLD SCHWARZENEGGER, Governor

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BOARD OF CHIROPRACTIC EXAMINERS
PUBLIC SESSION MINUTES
November 19, 2009
Holiday Inn San Diego Bayside
4875 N. Harbor Drive
San Diego, CA 92106

DRAFT

Board Members Present
Frederick Lerner, D.C., Chair
Hugh Lubkin, D.C., Vice Chair
Francesco Columbu, D.C., Secretary
Jeffrey Steinhardt, D.C.
Richard Tyler, D.C.

Staff Present
Robert Puleo, Interim Executive Officer
LaVonne Powell, Senior Staff Counsel
Linda Shaw, Staff Services Manager
Dixie Van Allen, Associate Governmental Program Analyst
Lavella Matthews, Associate Governmental Program Analyst
Tammi Pitto, Staff Services Analyst
Valerie James, Office Technician

Call to Order
Dr. Lerner called the meeting to order at 10:00 a.m.

Roll Call
Dr. Tyler called the roll. All members were present except Dr. Steinhardt, who came at 10:14 a.m.

Chair's Report
Dr. Lerner gave the Chair's Report.

Approval of Minutes
October 22, 2009 Board Meeting

Discussion
Dr. Lerner, Mr. Puleo, and Ms. Powell discussed that there were items from the last meeting regarding public comments on the regulations that were discussed, but not responded to. The comments were minor technical changes; however will still need to be addressed. The minutes were tabled to be discussed later in the meeting with the regulations.

Public Comment
None

Board Member training on the Bagley-Keene Open Meetings Act and other relevant laws
Ms. Powell stated there is nothing she needed to discuss.

Dr. Lubkin asked for clarification if there has been a change on the majority conversation rule of two members versus three members.

Ms. Powell provided clarification and stated the recommendation is to keep it to two board members.

Interim Executive Officer's Report
Mr. Puleo gave the Interim Executive Officer's Report. The topics were Administration, Budget, Licensing, and Enforcement.

Dr. Lerner, Mr. Puleo, and Ms. Shaw discussed satellite certificates in relation to QME. They have been checked against the QME database and are showing to be consistent. Statistics are showing that no problem exists with the number of satellites being issued.

Dr. Lubkin, Mr. Puleo, and Dr. Lerner discussed possible trends in regards to the categories for complaints and the possibility of breaking down violation code CCR 317 within its subsections.

Ratification of Approved License Applications

MOTION: DR. LUBKIN MOVED TO RATIFY THE APPROVED LICENSE APPLICATIONS
SECOND: DR. COLUMBU SECONDED THE MOTION
VOTE: 5-0
MOTION CARRIED
The Board ratified the attached list of approved license applications incorporated herein (Attachment A).

Discussion
None

Ratification of Approved Continuing Education Providers

MOTION: DR. STEINHARDT MOVED TO RATIFY THE APPROVED CONTINUING EDUCATION PROVIDER
SECOND: DR. COLUMBU SECONDED THE MOTION
VOTE: 5-0
MOTION CARRIED
The Board ratified the attached list of approved continuing education providers incorporated herein (Attachment B).

Discussion
Dr. Lubkin asked for a brief description on the course being offered.

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Dr. Lerner clarified this is solely the provider being approved.

Ratification of Denied License Applications in Which the Applicants Did Not Request a Hearing
None

Recommendation to Waive Two Year Requirement to Restore a Cancelled License

MOTION: DR. LUBKIN MOVED TO RATIFY THE RECOMMENDATION TO WAIVE TWO YEAR REQUIREMENT TO RESTORE A CANCELLED LICENSE
SECOND: DR. STEINHARDT SECONDED THE MOTION
VOTE: 5-0
MOTION CARRIED
The Board ratified the attached list of applications in which the applicants request to waive the two year requirement to restore a cancelled license incorporated herein (Attachment C).

Discussion
Dr. Lubkin asked for clarification on why the license was cancelled.

Ms. Powell clarified that these will not be due to any type of discipline, only due to lack of renewal.

Government Relations Committee Meeting Update
Dr. Lubkin provided an update from the meeting held this morning at 9:00 a.m.

Proposed Regulations
A. Manipulation under Anesthesia
Dr. Lerner provided an update stating the modified text went out for another 15 day comment period and there were three responses.

Ms. Powell stated that staff did not provide a response to the comment stating MUA was not taught in chiropractic schools in 1922. Staff is waiting for direction from the Board in regard to this comment. Ms. Powell also clarified that the issues raised during this comment period were already responded to. The final statement of reasons will reflect that this is not a new comment and use previous comments to respond to this.

MOTION: DR. LERNER MOVED TO ACCEPT STAFF'S RECOMMENDATIONS* TO THE THREE COMMENTS AND INCLUDE ANY RESPONSES PREVIOUSLY PROVIDED.
Please see Attachment D, which contains staff's recommended responses to the comments received during the 15-day comment period and is incorporated herein by reference.
SECOND: DR. LUBKIN SECONDED THE MOTION
VOTE: 5-0
MOTION CARRIED

Discussion
None

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Public Comment
None

MOTION: DR. LERNER MOVED TO APPROVE THE FINAL LANGUAGE WITHOUT CHANGES AND SEND IT OFF TO OAL
SECOND: DR. LUBKIN SECONDED THE MOTION
VOTE: 5-0
MOTION CARRIED

Discussion
None

Public Comment
None

B. Continuing Education
Dr. Lerner provided an update stating over 6 hours was spent reviewing the comments and several changes were made to the language.

Dr. Lerner, Ms. Powell and Mr. Puleo discussed some comments from the minutes that needed to be addressed. Those comments pertained to section 359 and were withdrawn by CCA, however the sentence in question will read "and".

MOTION: DR. LERNER MOVED TO SEND THE AMENDED LANGUAGE, WITH THE CHANGE BACK TO "AND" IN SECTION 359, OFF FOR ANOTHER 15 DAY COMMENT PERIOD**
SECOND: DR. LUBKIN SECONDED THE MOTION
VOTE: 5-0
MOTION CARRIED
Please see Attachment E, which contains the amended language and is incorporated herein by reference.

Discussion
Dr. Tyler, Dr. Lerner, and Ms. Powell discussed approval of the continuing education providers and the continuing education committee forming policies that are not included in the regulation.

Public Comment
Debra Snow provided public comment in support of the amended language.

C. Recognition of Chiropractic Specialties
Dr. Lerner provided an update to the second 15 day comment period.

Dr. Steinhardt asked for clarification on why the IACN was removed.

Ms. Powell responded and provided clarification.

Dr. Lerner went over staff's responses to the comments.

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MOTION: DR. LERNER MOVED TO APPROVE STAFF'S RECOMMENDATIONS* AS THEY ARE AND INCLUDE RECOGNITION FOR THE SOLE PURPOSE OF THE WORKERS COMPENSATION LAW**
******Please see Attachment F, which contains staff's recommended responses to the comments received during the 15-day comment period and is incorporated herein by reference.***
SECOND: DR. TYLER SECONDED THE MOTION
VOTE: 5-0
MOTION CARRIED

Discussion
None

Public Comment
Dr. Becker provided public comment on the suggested response.

MOTION: DR. LERNER MOVED TO ADOPT THIS LANGUAGE FOR FINAL RULE MAKING AND SEND IT OFF TO OAL
SECOND: DR. LUBKIN SECONDED THE MOTION
VOTE: 5-0
MOTION CARRIED

Legal Representation for Board
Dr. Lerner, Mr. Puleo, Ms. Powell, Dr. Lubkin, Dr. Columbu, and Ms. Shaw discussed the research that has already been completed regarding legal representation other than the Office of the Attorney General. We will check with the working group at DCA on this subject and see if their model will help our research.

Search for Executive Officer
Dr. Lerner provided an update and discussed the process of recruiting an Executive Officer.

Dr. Lerner, Mr. Puleo, Ms. Powell, Dr. Lubkin, and Dr. Columbu had a discussion on options outside of DCA to get a wider pool of candidates.

MOTION: DR. LERNER MOVED TO DELEGATE TO THE EXECUTIVE SEARCH COMMITTEE THE TASK TO COME UP WITH THE SCOPE OF WORK, THE ACTUAL CONTRACT THAT IS BEING BID ON, AND A COMPARISON TO DCA
SECOND: DR. COLUMBU SECONDED THE MOTION
VOTE: 5-0
MOTION CARRIED

Memorandum of Understanding for Personnel Services
Dr. Lerner state this subject is being discussed with the previous item, Search for Executive Officer; they are intertwined and hard to separate.

Legality of Prepaid Health Programs
Mr. Mark Sumner from the Office of Legal Services within Department of Managed Healthcare provided information and clarification on the legalities of prepaid health programs.

DRAFT

Mr. Sumner responded to questions from Dr. Lerner and Dr. Lubkin.

Mr. Sumner stated that Mr. Stiger was interested in putting some educational information on the board's website from the Department of Managed Healthcare, and would be willing to work with Mr. Puleo to make that happen.

Mr. Sumner and Ms. Powell responded to public questions from Christine Shultz, CCA.

Exemption/Reciprocity for Chiropractors Traveling with Sports Teams
Dr. Lerner stated the Medical Board uses AB138 for this purpose; however, we would have to amend our Initiative Act, this couldn't be done through regulation, so we are stuck with the way it is. If someone comes here from out of state to treat a sports team, they will need to have a California license to do so. This varies from state to state.

Acceptable Advertising
Dr. Lubkin stated this item has been deferred to the next Enforcement Committee meeting.

Proposed Board Meeting Schedule for 2010
Dr. Lerner announced the proposed board meeting schedule for 2010. The May meeting date was changed from the 20th to the 13th, and the July meeting location was changed from San Diego, to Orange County.

MOTION: DR. LERNER MOVED TO ACEPT THE PROPOSED 2010 BOARD MEETING SCHEDULE
SECOND: DR. COLUMBU SECONDED THE MOTION
VOTE: 5-0
MOTION CARRIED

Public Comment
Dr. Charles Davis provided public comment regarding acceptable advertising.

Future Agenda Items
None

Hearings re: Petition for Reinstatement of Revoked License
Administrative Law Judge Donald P. Cole presided over and Deputy Attorney General Tom Rinaldi appeared on behalf of the people of the State of California on the following hearings.

- Deborah Noble
- David Young
- Eric Tolman

Closed Session
Following oral testimonies, the Board went into closed session for deliberation and determinations of Petitioners.

DRAFT

Adjournment
Dr. Lerner adjourned the public meeting at 3:48 p.m.

DRAFT

Attachment A

Approval By Ratification of Formerly Approved License Applications
September 1, 2009 – October 31, 2009

Name (First, Middle, Last)			Date Issued	DC#
Jon	Lawrence	Bjarnason	9/10/2009	**31389**
Chang	Hung	Chi	9/10/2009	**31390**
Yong	Jae	Chung	9/10/2009	**31391**
Jaime		Cortez	9/10/2009	**31392**
Casey	Dongjoo	Kim	9/10/2009	**31393**
Jennifer	Eloise	Burns	9/10/2009	**31394**
Wendy	Renee	Doyle	9/15/2009	**31395**
Megan	Alice	Hondru	9/15/2009	**31396**
Joseph	Francis	Leonardi	9/15/2009	**31397**
Joanna	Chunyen	Lin	9/15/2009	**31398**
Sara	Terese	Lord	9/15/2009	**31399**
Thanh-Huyen	Thi	Nguyen	9/17/2009	**31400**
Anastasia		Orengo	9/17/2009	**31401**
Laura	Marie	Landgraf	9/17/2009	**31402**
Karla	Albina	Pineda	9/17/2009	**31403**
Khadijah	A	Poole-Khatib	10/8/2009	**31404**
Ayako		Tanaka	9/17/2009	**31405**
Chuck	Andrew	Turkowski	9/17/2009	**31406**
Robert	Shih-Chan	Tseng	9/17/2009	**31407**
Kristen	Lynne	Wills	9/17/2009	**31408**
SungWoong		Yoon	9/17/2009	**31409**
Michael	David	Silver	10/8/2009	**31410**
Michael	Hugh	Wells	10/8/2009	**31411**
Khalid	Hanif	Chaney	10/5/2009	**31412**
Charissa	Ytis	Galvan	10/5/2009	**31413**
Mireya		Hernandez	10/5/2009	**31414**
Bret	David	Jenkins	10/5/2009	**31415**
Colman		Leung	10/5/2009	**31416**
Cesar	Augusto	Mavila	10/5/2009	**31417**
Hiromichi		Nakano	10/12/2009	**31418**
Jagjit	Singh	Sihota	10/12/2009	**31419**
Brett	Earl	Underwood	10/12/2009	**31420**
Bill	Chuwen	Wang	10/12/2009	**31421**
Andrew	Nathan	Hassen	10/15/2009	**31422**

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Brandey	Patricia	Dollens	10/15/2009	**31423**
Loren	Cecil	Marshall	10/15/2009	**31424**
Kenneth	Stuart	Johns	10/15/2009	**31425**
Bethony	Grace	Genovea	10/15/2009	**31426**
David	Shawn	Kleinberg	10/15/2009	**31427**
Anthony	Ariel	Silva	10/19/2009	**31428**
Ann	Marie	Eissler	10/22/2009	**31429**
Clark	Michael	Johnson	10/22/2009	**31430**
John	Anthony	Catapano	10/22/2009	**31431**
Ryan	Montana	Maynard	10/22/2009	**31432**
Diane	Kristy	Dossinger Hall	10/22/2009	**31433**
James	Eric	Thompson	10/22/2009	**31434**
Young	Ki	Son	10/27/2009	**31435**
Thong	Huu	Nguyen	10/27/2009	**31436**
Daniel	Phillip	Sterling	10/27/2009	**31437**
Christopher	Robert	Vargas	10/27/2009	**31438**
Ronald		Phillip	10/29/2009	**31439**
Eric	Joseph	Liss	10/30/2009	**31440**
Nima	Madadi	Arabani	10/30/2009	**31441**
Yu-Fu		Kuo	10/30/2009	**31442**
Vincent	Giacomo	Commendatore	10/30/2009	**31443**
Bryce	Edward	Christianson	10/30/2009	**31444**
Sarah	Lynn	Clark	10/30/2009	**31445**
Matthew	John	Breske	10/30/2009	**31446**
Andrew	Turley	Lowe	10/30/2009	**31447**
David	Lee	De Mey	10/30/2009	**31448**
Teresa	Jeanne	Lonsbury	10/30/2009	**31449**
Sandeep	Kaur	Sidhu	10/30/2009	**31450**
Jared	Daniel	Stubblefield	10/30/2009	**31451**
Samuel	Patrick	Woolfenden	10/30/2009	**31452**

DRAFT

Attachment B

Ratification of Formerly Approved Continuing Education Providers

Continuing Education Providers	Date Approved
▪ **M. Kirk Meier**	**10/30/2009**

DRAFT

Attachment C

Recommendation to Waive Two Year Requirement on Restoration of a Cancelled License

Name (Last, First MI)	License No.	Cancellation Date
Alcantara, Junjoe	29114	08/31/2009
Hedayat, Nick	26200	02/28/2009
Mauldin, Randy	28127	12/31/2008
Rosentiel, Jacques	12810	04/30/2009

DRAFT

ATTACHMENT D

STATE OF CALIFORNIA ARNOLD SCHWARZENEGGER, Governor

Board of Chiropractic Examiners
2525 Natomas Park Drive, Suite 260
Sacramento, California 95833-2931
Telephone (916) 263-5355 FAX (916) 263-5369
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DRAFT

Comment 1: Linda Hertzberg, M.D., California Society of Anesthesiologists opposes the Modified Proposed Regulatory Language for MUA stating the DCA opinion lacks validity and CSA continues to have serious patient safety concerns regarding MUA. Comments and recommendations are as follows:

1.) There is no evidence that MUA was practiced, taught, or even thought about in chiropractic schools in 1922.
2.) The integral, essential function of anesthesia, drugs in MUA is contrary to the clear statement in Section 7 of the Chiropractic Initiative Act, that does not authorize "the use of any drug or medicine now or hereafter included in the material medica."
3.) For the DCA opinion to ignore the function of anesthesia, and only examine the role of manipulation in MUA was either disingenuous or intentional in order to reach a desired conclusion.
4.) MUA is outside the chiropractic scope of practice.

Staff Suggested Response:
Staff disagrees with the comments. This language does not permit doctors of chiropractic to administer anesthesia. Anesthesia may only be administered, following an appropriate examination, by a California licensed physician and surgeon, or other care provider authorized under California law to administer anesthesia, who is trained and competent to administer anesthesia safely. Staff has no suggested response on the issue relating to whether MUA was practiced or taught in chiropractic school in 1922. Medical professions have evolved since their regulatory programs were enacted. The issue related to the chiropractic scope of practice has been addressed in a legal opinion dated December 13, 2007, by the DCA Legal Affairs Division (attached).

Comment 2: Maia James, D.C., President, California Chiropractic Association supports the Modified Proposed Regulatory Language for MUA stating it is necessary, does not increase the scope of practice of chiropractic, and ensures patient safety.

Staff Suggested Response:
Staff accepts your comment and thanks the California Chiropractic Association for their support.

Comment 3: Veronica Ramirez, California Medical Association opposes the Modified Proposed Regulatory Language for MUA stating these regulations lack clarity, violate the standard of Government Code 11349.1, are not in the best interest of patients, and violate Section 7 of the Chiropractic Act. Comments and recommendations are as follows:

1.) MUA is not a chiropractic method.
2.) MUA was not taught in chiropractic schools in 1922.

3.) MUA invades the field of medicine and surgery
4.) MUA violates the provision of Section 7 prohibiting chiropractors from the "use of any drug or medicine."

Staff Suggested Response:
Staff disagrees with the comments. This language does not permit doctors of chiropractic to administer anesthesia. Anesthesia may only be administered, following an appropriate examination, by a California licensed physician and surgeon, or other care provider authorized under California law to administer anesthesia, who is trained and competent to administer anesthesia safely. Staff has no suggested response
on the issue relating to whether MUA was practiced or taught in chiropractic school in 1922. Medical professions have evolved since their regulatory programs were enacted.

DRAFT

Board of Chiropractic Examiners
Modified Proposed Regulatory Language for Continuing Education
Second 15- day comment period

Modified Text: Additions to the originally proposed language are shown in italics for new text and deletions to the originally proposed language are shown by double strikeout.

§ 354. 5 License Renewal and Continuing Education Fees

The following represents fees for license renewals and continuing education:

a. License Fees

1. Annual license renewal: $150.

2. License restoration: double the annual license renewal fee.

3. Inactive license renewal: same as the annual license renewal fee.

b. Continuing Education Fees.

1. Continuing Education Provider Applicant Fee: $75

2. Biannual Continuing Education ~~Renewal~~ Provider Renewal Fee: $50

3. Continuing Education Course: $50 per course. A course is defined in Section 357 (a).

§355. Annual License Renewals and Restoration

(a) This section shall apply to non-disciplinary license renewal and restoration. Disciplinary license renewal conditions are defined in Article 10 of the Initiative Act.

A license shall expire annually on the last ~~date~~ day of the licensee's birth month.

(1) A "forfeited" license is defined in Article 12 of the Initiative Act as a license that has not been renewed within 60 days of its expiration date.

(2) An "inactive" license is defined in Business and Professions Code 700 as a ~~license~~ licensee who is not actively engaged in the practice of chiropractic.

(3) A "cancelled" license is a license that has been expired for a period of three (3) consecutive years.

To renew a license or inactive license, or restore a license~~,~~ that is forfeited~~, inactive~~ or canceled, a licensee shall complete and submit a "Renewal or Restoration Application," (Revision date 08/09) form which is incorporated by reference, and pay the appropriate fee per Section 354.5 (a). ~~Regarding forfeited and inactive licenses~~ To renew a license or inactive license, the renewal and restoration application and fee shall be submitted to the board prior to the expiration date of the license. The board will not process incomplete applications ~~or~~ nor complete applications that do not include the

biochemistry and toxicology.

3. Instruction in various basic to comprehensive history taking and physical examination procedures, including but not limited to orthopedic, neurological and general diagnosis related to evaluation of the neuro-musculoskeletal systems, ~~but may also include~~ and includes general diagnosis and differential diagnosis of various conditions that affect the human body.

4. ~~The study of various and advanced diagnostic imaging procedures and technologies; clinical chemistry~~ Diagnostic testing procedures, interpretation and technologies~~; specialized functional capacity testing (computerized and non-computerized); to assist the licensee in general diagnosis and~~ that aid in differential diagnosis of ~~disorders or diseases, and to assist with proper referral, treatment and case management or resolution~~ all conditions that affect the human body.

5. Chiropractic adjustive technique or chiropractic manipulation techniques.

6. Pain management theory, including, but not limited to, current trends in treatment and instruction in the physiology and anatomy of acute, sub-acute and chronic pain.

7. Physiotherapy ~~techniques, including the theory and application of physiotherapies, including but not limited to: ultrasound including extracorporeal shock wave therapy; therapeutic laser and other light agents; electric stimulation modalities; thermal agents; rehabilitation exercise, functional restoration, instruction in home exercise programs, active care, and passive care~~.

8. Instruction in Manipulation Under Anesthesia including the safe handling of patients under anesthesia.

9. Instruction in ~~various~~ the aspects of special population care, including, but not limited to, geriatric, ~~and~~ pediatric, and athletic care as related to the practice of chiropractic.

10. ~~Courses that are approved by the California Department of Industrial Relations, Division of Workers Compensation.~~

~~11. Courses that are approved by any Healing Arts or Bureau within Division 2 of the Business and Professions Code or approved by any organization authorized to approve continuing education by any Healing Arts or Bureau in Division 2 of the Business and Professions Code. The licensee will be required to submit proof of attendance, including date of course, location, and number of hours attended upon request.~~

~~12)~~ Instruction in proper and ethical billing and coding, including accurate and effective record keeping and documentation of evaluation, treatment and progress of a patient. This is not to include practice building or patient recruitment/retention or business techniques or principles that teach concepts to increase patient visits or patient fees per case.

~~13.~~

11. Ethics and law: including but not limited to: truth in advertising; professional boundaries; mandatory reporting requirements for child abuse/neglect, elder abuse/neglect; spousal or cohabitant

or Bureau in Division 2 of the Business and Professions Code. The licensee will be required to submit proof of attendance, including date of course, location, and number of hours attended upon request.

§356.5. Continuing Education Provider Approval, Duties, and Responsibilities.

(a) CONTINUING EDUCATION PROVIDER DENIAL AND APPEAL PROCESS: If an application is denied under this section, the applicant shall be notified in writing of the reason(s) for the denial. The applicant may request an informal hearing with the Executive Officer regarding the reasons stated in the denial notification. The appeal must be filed within 30 days of the date of the denial notification.

The Executive Officer shall schedule the informal hearing within 30 days of receipt of the appeal request. Within 10 days following the informal hearing, the Executive Officer shall provide written notification of his or her decision to the denied applicant. If the Executive Officer upholds a denial under this section, the applicant may, within 30 days of the date of the Executive Officer's denial notification, request a hearing before the board to appeal the denial. The Executive Officer shall schedule the requested hearing at a future board meeting but not later than 180 days following receipt of the request. Within 10 days of the hearing before the board, the Executive Officer shall provide written notification of the board's decision to the applicant. The board's decision shall be the final order in the matter.

(b) As used in this section, a provider is an individual, partnership, corporation, professional association, college or any other entity approved by the board to offer board approved continuing education courses to licensees to meet the annual continuing education requirements set forth in section 356 of these regulations.

~~(a)~~

(c) To apply to become ~~a new~~ an approved provider, an applicant shall complete and submit a "Continuing Education Provider Application" form (Revision date 08/09) which is hereby incorporated by reference, and pay the required fee ~~per~~ as provided in section 354.5 (b) (1). An existing approved Provider shall re-apply every two years from the initial approval date, using the "Continuing Education Provider Application" form (Revision date 08/09) which is hereby incorporated by reference, and pay the required fee per section 354.5 (b).

The board will not process incomplete applications ~~or~~ nor applications that do not include the correct application fee.

~~(b) CONTINUING EDUCATION PROVIDER DENIAL AND APPEAL PROCESS: If an application is denied under this section, the applicant shall be notified in writing of the reason(s) for the denial. The applicant may request an informal hearing regarding the reasons stated in their denial letter, with the Executive Officer. This appeal must be filed within 30 days of the denial date.~~

~~Upon request for informal hearing, the Executive Officer shall schedule the informal hearing within 30 days of receipt of that request. Within 10 days following the informal hearing with the Executive Officer, the Executive Officer shall provide written notification of his or her decision to the denied applicant. If the Executive Officer upholds a denial under this section, the applicant may request a~~

~~(d)~~

(D) Licensee name

~~(e)~~

(E) Licensee number

~~(f)~~

(F) Identify the number of hours the licensees earned in continuing education.

(f) The Executive Officer, after notification, may withdraw approval of any continuing education course for good cause, including violations of any provision of the regulation, falsification of information, or other substantial reason, and shall provide written notification of such action to the provider. The provider may request an informal hearing with the Executive Officer regarding the reasons for withdrawal of approval stated in the Executive Officer's notification. The appeal must be filed within 30 days of the date of the notification. The Executive Officer shall schedule the informal hearing within 30 days of receipt of the appeal request. Within 10 days following the informal hearing, the Executive Officer shall provide written notification of his or her decision to the provider. If the Executive Officer upholds his or her decision under this subsection, the provider may, within 30 days of the date of the Executive Officer's notification, request a hearing before the board to appeal the Executive Officer's decision. The Executive Officer shall schedule the requested hearing at a future board meeting but not later than 180 days following receipt of the request. Within 10 days of the hearing before the board, the Executive Officer shall provide written notification of the board's decision to the provider. The board's decision shall be the final order in the matter.

§357. Approval of Continuing Education Courses.

~~(a)~~ (a) Providers must complete and submit a "Continuing Education Course Application" form (Revision date 08/09) which is hereby incorporated by reference, and pay the application fee as provided by section 354(b)(3). Providers shall submit and complete one application for each continuing education course being offered.

A "course" is defined as an approved program of coordinated instruction, up to 12 hours in length, in any of the categories as defined in Section 356 and given by an approved Provider. Once approved, a course may be given any number of times for one year following approval, with the single ~~renewal~~ continuing education course fee paid one time annually by the Provider.

(b) DENIAL AND APPEAL PROCESS: If a course application is denied under this section, the applicant shall be notified in writing of the reason(s) for the denial. The applicant may request an informal hearing regarding the reasons stated in their denial ~~letter~~ notification, with the Executive Officer. ~~This~~ The appeal must be filed within 30 days of the ~~denial~~ date of the denial notification.

~~Upon request for informal hearing, the~~ The Executive Officer shall schedule the informal hearing within 30 days of receipt of ~~that~~ the appeal request. Within 10 days following the informal hearing ~~with the Executive Officer~~, the Executive Officer shall provide written notification of his or her decision to the denied applicant. If the Executive Officer upholds a denial under this section, the applicant may, within 30 days of the date of the Executive Officers denial notification, request a hearing ~~on the denial~~ before the board ~~if their request for such a hearing before the board is received within 30 days of the denial~~

357.1 Distance Learning Courses

~~Continuing education providers~~ Providers of continuing education courses offered through distance learning formats, including, but not limited to, computer, Internet, manuals, compact disks, digital video, versatile discs, and audio and video tapes, ~~and research projects~~ shall meet all of the following:

(a) Disclose course instructors' curriculum vitae or resumes.

(b) Explain the appropriate level of technology required for a student licensee to successfully participate in the course.

(c) Make available technical assistance as appropriate to the format.

(d) Contain security measures to protect the learner's identity, course and related content from unauthorized access.

(e) Establish deadline for completion.

~~(f) Allow for licensee and instructor interaction in a timely manner.~~

~~(g) Show formal outcome assessment of course.~~

~~(h) Instructional~~

(f) Review instructional materials ~~are reviewed~~ annually to ensure they meet current professional standards.

~~(i) Require licensee to sign under penalty of perjury an affidavit of compliance and verify completion of enrolled hours of distance education.~~

~~(j)~~

(g) Distance learning courses are required to be marketed without promotional material or advertisements embedded in the continuing education course delivery system. The continuing education provider shall notify the licensee when he or she is leaving a continuing education site and directed to a promotional or sponsored site. Manufacturers, distributors, or other sellers of chiropractic products or services may not be endorsed or embedded ~~in to~~ into the course material.

§358. Exemptions and Reduction of Requirement

The following licensees are exempt, entirely or in part, from the continuing education requirements of Section 356 of these regulations.

(1) Inactive licentiates;

(2) New licentiates in the year of initial licensure;

(3) Instructors who have taught for ~~two consecutive years~~ one (1) year and currently teach core curriculum courses for more than eight (8) credit hours per week at any Council on Chiropractic

misleading information to the Board regarding their Continuing Education hours shall be subject to disciplinary action. Providers who present false or inaccurate verification of a licensee's participation ~~shall~~ may lose their provider status for up to ten (10) years, at the discretion of the Executive ~~officer~~ Officer. The provider may appeal the decision following the procedure outlined in section 357 (b). The full board's ruling, as described in section 357 (b), shall be the final order on the matter.

The board or its designee shall not be restricted from inspecting, observing, or auditing any approved chiropractic course in progress, at no charge.

The board, at its discretion, may contact attendees after a continuing education course as part of the board's auditing process to obtain information regarding the quality and content of the course.

DRAFT

ATTACHMENT F

STATE OF CALIFORNIA ARNOLD SCHWARZENEGGER, Governor

Board of Chiropractic Examiners
2525 Natomas Park Drive, Suite 260
Sacramento, California 95833-2931
Telephone (916) 263-5355 FAX (916) 263-5369
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www.chiro.ca.gov

DRAFT

Comment 1: Eddie J. Braddock, D.C., Diplomate of the American Board of Chiropractic Orthopedists opposes the Modified Proposed Regulatory Language for Chiropractic Specialties stating you can't write a regulation saying you recognize organizations to certify diplomate status in chiropractic specialties without including regulatory language that states the Chiropractic Specialty Education Requirements for the State of CA, the same as is stated in the Chiropractic Initiative Act. Dr. Braddock provided proposed regulatory language and made the following recommendations:

1.) A minimum of five years of uninterrupted active clinical practice should be required to matriculate into a post graduate Chiropractic Specialty course.
2.) The post graduate curriculum should be standardized by the specialty councils and followed in the post graduate specialties course.
3.) A minimum of 300 hours of post-graduate level education should be required and candidates should pass module and final examinations.
4.) Classroom, laboratory and/or online distance learning hours should be recorded by attendance records the same as required for the DC degree.
5.) Candidates who graduated from a fully accredited post graduate chiropractic school become eligible to take the ACA or ICA Council Diplomate board examinations.
6.) Chiropractic Diplomate candidates should pass comprehensive written, oral and practical examinations.

Suggested Response:
The Board of Chiropractic Examiners does not approve Chiropractic Specialty Boards (BCE) and does not wish to do so. As such, the BCE did not include specific requirements in this proposed regulatory language. The ACA and ICA represent national and international chiropractic populations and both organizations have criteria for approving chiropractic specialty boards. The BCE has reviewed their criteria and determined their standards are sufficient to ensure consumer protection. Therefore, the BCE has chosen to delegate specialty board approval to the ACA and ICA.

Comment 2: Maia James, D.C., President, California Chiropractic Association supports the Modified Proposed Regulatory Language for Chiropractic Specialties, however; requests the BCE reconsider an amendment that would allow the International Academy of Chiropractic Neurology (IACN) to also be recognized. Dr. James provided proposed regulatory language and made the following comments and recommendations:

1.) The IACN adheres to the same educational standards as ACA and ICA.
2.) Any regulation that does not recognize IACN is not fair to injured workers who should be able to choose all doctors that have obtained a minimum level of specialist training.

3.) Eliminating IACN would result in doctors who completed years of rigorous training and spent thousands of dollars to be excluded from BCE recognition. Exclusion would result in significant reduction of income for these doctors.
4.) Establish a grandfather clause that recognizes doctors of chiropractic who have obtained diplomate status from IACN or rewrite the regulation to establish the minimum standards for specialty boards that are BCE recognized.
5.) Minimum requirements should be; sponsorship by a CCE accredited college, minimum of 300 hours of classroom instruction and short-term residency session, mandatory oral and written examinations, and mandatory continuing education requirements.

Suggested Response:
Comments 1, 2, 3, & 5: The Board of Chiropractic Examiners does not approve Chiropractic Specialty Boards (BCE) and does not wish to do so. As such, the BCE did not include specific requirements in this proposed regulatory language. The ACA and ICA represent national and international chiropractic populations and both organizations have criteria for approving chiropractic specialty boards. The BCE has reviewed their criteria and determined their standards are sufficient to ensure consumer protection. Therefore, the BCE has chosen to delegate specialty board approval to the ACA and ICA.

Comment 4: Staff does not have a suggested response to this comment.

Comment 3: Wayne M. Whalen, D.C., opposes the Modified Proposed Regulatory Language for Chiropractic Specialties stating the BCE reconsider eliminating recognition of the International Academy of Chiropractic Neurology (IACN). Dr. Whalen provided proposed regulatory language. Comments and recommendations are as follows:

1.) Failure to recognize the IACN would have specific professional and financial ramifications.
2.) Prior DWC regulations recognized chiropractic neurologists as a distinct group and included those with IACN certification.
3.) Eliminating IACN would discriminate solely based on political affiliation, not academic qualification.
4.) Whether or not a specialty board is recognized by ACA or ICA should not be the central issue in this policy. The IACN adheres to the same educational standards as ACA and ICA.
5.) Eliminating IACN would result in eliminating doctors who completed essentially the same academic requirements as the ACA or ICA simply because they support a different organization of chiropractic neurologists.
6.) Selectively approving only ACA or ICA recognized boards is discriminatory against doctors who have obtained certification with identical or superior requirements.
7.) Should the Board choose to not amend the proposed language, it could at least establish a grandfather clause.

Suggested Response:
Comments 1throug 6: The Board of Chiropractic Examiners does not approve Chiropractic Specialty Boards (BCE) and does not wish to do so. As such, the BCE did not include specific requirements in this proposed regulatory language. The ACA and ICA represent national and international chiropractic populations and both organizations have criteria for approving chiropractic specialty boards. The BCE has reviewed their criteria and determined their standards are sufficient to ensure

consumer protection. Therefore, the BCE has chosen to delegate specialty board approval to the ACA and ICA.

Comment 7: Staff does not have a suggested response to this comment.

DRAFT

STATE OF CALIFORNIA ARNOLD SCHWARZENEGGER, Governor

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BOARD OF CHIROPRACTIC EXAMINERS
PUBLIC SESSION MINUTES
January 21, 2010
State Capitol
Assembly Room 126
Sacramento, CA 95814

DRAFT

Board Members Present
Frederick Lerner, D.C., Chair
Hugh Lubkin, D.C., Vice Chair
Francesco Columbu, D.C., Secretary
Jeffrey Steinhardt, D.C.
Richard Tyler, D.C.

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

Call to Order
Dr. Lerner called the meeting to order at 9:00 a.m.

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

Chair's Report
Dr. Lerner gave the Chair's Report.

Election of Officers for 2010
A. Chair
MOTION: DR. LUBKIN MOVED TO NOMINATE DR. LERNER TO CONTINUE AS CHAIR
SECOND: DR. TYLER SECONDED THE MOTION
VOTE: 5-0
MOTION CARRIED

Discussion
None

B. Vice Chair

MOTION: DR. TYLER MOVED TO NOMINATE DR. LUBKIN TO CONTINUE AS VICE CHAIR
SECOND: DR. COLUMBU SECONDED THE MOTION
VOTE: 5-0
MOTION CARRIED

Discussion
None

C. Secretary

MOTION: DR. TYLER MOVED TO NOMINATE DR. COLUMBU TO CONTINUE AS SECRETARY
SECOND: DR. STEINHARDT SECONDED THE MOTION
VOTE: 5-0
MOTION CARRIED

Discussion
None

Approval of Minutes
November 19, 2009 Board Meeting

Ms. Powell stated there are some areas of the minutes where we will need to add more detail regarding the regulations. Mr. Puleo and Ms. Powell will attach the accepted staff's recommendations.

Dr. Lerner tabled them to the March 18th meeting.

Public Comment
None

Board Member training on the Bagley-Keene Open Meetings Act and other relevant laws
Dr. Lubkin stated that no board members had questions at this time.

Ms. Powell asked if DCA has provided the updated handbook.

Dr. Lerner responded they had not.

Ms. Powell will ensure that Mr. Puleo receives the updated handbook and distributes it to all board members. Ms. Powell doesn't feel there have been any changes that need to be brought up.

Dr. Lerner asked about a bill from last year in regards to a minority.

Ms. Powell responded this board exceeds the requirements of the Open Meetings Act, and is fine.

2010 Board Meeting Schedule
Ms. Powell will not be able to attend the September 16th and November 18th meeting. Dr. Steinhardt will not be able to attend the July 15th meeting.

MOTION: DR. LERNER MOVED TO ALTER THE MEETINGS TO JULY 29TH, SEPTEMBER 23RD, AND DECEMBER 2ND.
SECOND: DR. LUBKIN SECONDED THE MOTION
VOTE: 5-0
MOTION CARRIED

Discussion
Ms. Powell stated there is no need for a vote on the board meeting schedule. The schedule is always tentative and should be rescheduled as needed.

Interim Executive Officer's Report
Mr. Puleo gave the Interim Executive Officer's Report. The topics were Administration, Budget, Licensing, and Enforcement.

Dr. Lerner asked if we were continuing to monitor satellite certificates with QME.

Mr. Puleo responded that yes, we were continuing and it's remaining consistent.

Dr. Lubkin asked if the cite and fine was effective as a tool.

Mr. Puleo responded that it was effective in progressive discipline for less egregious violations that may not be necessary to seek full discipline through an accusation.

Dr. Lubkin asked if these cases are being resolved in 90-120 days.

Mr. Puleo responded these cases are more timely and cost effective since they are handled in house, without the involvement or cost of the Attorney General's office.

Dr. Lerner asked if we could see typical things that constitute gross negligence.

Mr. Puleo stated extreme departure from standard care constitutes gross negligence.

Mark Brown commented on the budget.

Christine Shultz commented on a breakdown of section 317.

Sherry McAllister, D.C. made suggestions on educational enforcement updates.

Dr. Steinhardt, Mr. Puleo and Ms. Powell discussed public information regarding disciplinary actions.

Ratification of Approved License Applications

MOTION: DR. TYLER MOVED TO RATIFY THE APPROVED LICENSE APPLICATIONS
SECOND: DR. STEINHARDT SECONDED THE MOTION
VOTE: 5-0
MOTION CARRIED

The Board ratified the attached list of approved license applications incorporated herein (Attachment A).

Discussion
None

Ratification of Approved Continuing Education Providers
None

Ratification of Denied License Applications in Which the Applicants Did Not Request a Hearing
None

Recommendation to Waive Two Year Requirement to Restore a Cancelled License

MOTION: DR. LUBKIN MOVED TO RATIFY THE RECOMMENDATION TO WAIVE TWO YEAR REQUIREMENT TO RESTORE A CANCELLED LICENSE
SECOND: DR. STEINHARDT SECONDED THE MOTION
VOTE: 5-0
MOTION CARRIED
The Board ratified the attached list of applications in which the applicants request to waive the two year requirement to restore a cancelled license incorporated herein (Attachment B).

Discussion
None

Enforcement Committee Meeting Update
Dr. Lubkin provided an update from the January 14th meeting.

Search for Executive Officer
Dr. Lerner provided an update on the search for an Executive Officer

Dr. Lerner, Mr. Puleo, Ms. Powell, and Dr. Columbu had discussion on the process and timeframe to find an Executive Officer.

Rulemaking Calendar
Mr. Puleo stated that we don't have anything to report because none of our regulations are in response to recent legislations.

Proposed Regulations
A. Manipulation under Anesthesia
Dr. Lerner provided an update stating the final regulation packet was submitted to OAL on December 31, 2010, and they have 30 business days to respond.

B. Continuing Education
Dr. Lerner provided an update stating this went out for a second 15 day comment period.

Ms. Powell, Mr. Puleo and the board members had discussion, and addressed the responses. Staff

recommendations were also considered and addressed. Any comments that were previously addressed were not addressed again.

Public Comment was provided by Charles Davis, DC, Christine Shultz, Kendra Holloway, and Sherry McAllister.

Ms. Powell clarified that comments should only be directed towards new changes during a specific comment period. Only comments that address those new changes need to be responded to.

Actual changes to be made are:

355 (3) A: remove "a "Renewal or Restoration Application, " (Revision date 08/09)"; add "an "Application for Restoration of License" (Revision date 02/10) or "Inactive to Active Status Application" (Revision date 02/10)"

356 (a): remove "January 1, 2011"; add "[the effective date of this regulation]", remove "13"; add "11", remove "12"; add "10"

356 (a) 3: remove "various"; add "all"

356 (b): remove "With the exception of the mandatory" and "The continuing education requirements specified"; add "the remaining continuing education requirements"

356 (b): add "4) The continuing education providers and courses referenced in this subdivision do not need to be approved by the Board for credit to be granted."

357 (1): remove "in a day"; add "on a specific date"

357 (g): remove "Distance learning courses are required to be marketed without promotional material or advertisements embedded in the continuing education course delivery system.", and "or embedded"; add "Nothing in this section shall be interpreted to prohibit a provider from mentioning a specific product or service solely for educational purposes."

MOTION: DR. TYLER MOVED TO ADOPT STAFF RECOMMENDATIONS WITH THE EXCEPTIONS OF THE ONES DISAGREED WITH DURING DISCUSSION, ALSO TO ADOPT CHANGES FROM THE PUBLIC THAT WERE AGREED TO
SECOND: DR. STEINHARDT SECONDED THE MOTION
VOTE: 5-0
MOTION CARRIED

Discussion
None

Public Comment
None

MOTION: DR. STEINHARDT MOVED TO DELEGATE TO MR. PULEO TO REJECT ANY COMMENTS THAT ARE NOT A DIRECT RESPONSE TO THE 15 DAY COMMENT PERIOD

CHANGES, TO ACCEPT ALL POSITIVE COMMENTS, AND FILE WITH OAL, ALL NEGATIVE COMMENTS WILL BE BROUGHT BACK TO THE BOARD
SECOND: DR. TYLER SECONDED THE MOTION
VOTE: 5-0
MOTION CARRIED

Discussion
None

Public Comment
None

C. Recognition of Chiropractic Specialties
Mr. Puleo provided an update stating the packet is being finalized and should be ready for submittal to OAL within the next few weeks.

D. Fingerprint Submissions
Mr. Puleo provided an update stating the packet needs to be submitted to OAL to be noticed. He expects that packet to be submitted to OAL next week.

MOTION: DR. COLUMBU MOVED THAT A HEARING WILL NOT BE HELD UNLESS IT'S REQUESTED, AND DELEGATE TO MR. PULEO TO RESPOND TO ALL POSITIVE COMMENTS, AND ALL NEGATIVE COMMENTS WILL BE BROUGHT BACK TO THE BOARD
SECOND: DR. TYLER SECONDED THE MOTION
VOTE: 5-0
MOTION CARRIED

Discussion
None

Public Comment
Public comment was provided asking if the Medical Board was also doing retroactive fingerprinting.

Ms. Powell responded that the plan is for all healing arts boards to do retroactive fingerprinting, however, all boards are in a different situation based on when they started fingerprinting and where they are at in the process.

Public Comment
Charles Davis, DC congratulated board members and board staff on a positive effect in the last 3 years.

The Board recognized and presented Judge Duvaras an award for serving on the Board.

Future Agenda Items
Dr. Tyler would like to discuss future duties for the Continuing Education Committee.

Dr. Lubkin suggested for the Enforcement and Scope of Practice Committees continuing to enhance the board's public protection role.

The meeting was adjourned until 1:00 for petitioner hearings.

Hearings re: Petition for Reinstatement of Revoked License
Administrative Law Judge Jonathan Lew presided over and Deputy Attorney General Tom Rinaldi appeared on behalf of the people of the State of California on the following hearings.

- Mario Alvarado
- Dennis Nguyen
- Salim A. Chowdhry

Closed Session
Following oral testimonies, the Board went into closed session for deliberation and determinations of Petitioners.

Closed Session Announcements and Adjournment
Dr. Lerner announced that the board members had deliberated on the above petitions during closed session. He then adjourned the public meeting at 4:30 p.m.

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Attachment A

Approval By Ratification of Formerly Approved License Applications
November 1, 2009 – December 31, 2009

Name (First, Middle, Last)			Date Issued	DC#
Oscar	Alejandro	Castro	11/5/2009	**31453**
Jane	Holybee	Baxley	11/5/2009	**31454**
Michelle	Lee	Anderson	11/5/2009	**31455**
Brian	Christopher	Cripe	11/5/2009	**31456**
Michael	Cody	D'Auria	11/5/2009	**31457**
Mark	Gabriel	Tenenbaum	11/5/2009	**31458**
Nikki	Latoya	Thornton	11/5/2009	**31459**
Minh		Vo	11/5/2009	**31460**
Phillip	Brian	Yoo	11/16/2009	**31461**
Hoc		Tiet	11/19/2009	**31462**
Duy	Hoang	Le	11/30/2009	**31463**
Gail	Duane	Kelley	11/30/2009	**31464**
Jennifer	Anne	Murphy	11/30/2009	**31465**
Massoud		Abedinzadeh	11/30/2009	**31466**
Jennifer	Jean	Pedley	11/30/2009	**31467**
Beau	Jonathan	Pierce	11/30/2009	**31468**
Igor		Sklovskiy	11/30/2009	**31469**
Jennifer	Eileen	Olthafer	11/30/2009	**31470**
Jeremy	Sean	Dorris	12/3/2009	**31471**
Andrea	Baiotto	Dorris	12/3/2009	**31472**
Ashley	Ann	Miller-DeBoer	12/3/2009	**31473**
David	Thompson	Main	12/3/2009	**31474**
James	Oliver	McElroy	12/3/2009	**31475**
Connie	Loraine	Evans	12/3/2009	**31476**
Julie	Elizabeth	Lynch-Sasson	12/3/2009	**31477**
Christopher	Ray	Adams	12/3/2009	**31478**
Danny	Basil	Bachoua	12/10/2009	**31479**
Matthew	Carl	Kamerzell	12/10/2009	**31480**
Tracey	Suzanne	Reeb	12/10/2009	**31481**
John		Vang	12/10/2009	**31482**
Erik	Knute	Anderson	12/17/2009	**31483**

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Neal	Michael	Damian	12/17/2009	**31484**
Richard	Walter	Dinubilo	12/17/2009	**31485**
Andrew	Robert	Mukai	12/17/2009	**31486**
Kristen	Michelle	Adriano	12/17/2009	**31487**
Daniel	Ross	Cockrell	12/17/2009	**31488**
Lucas	C.	McCully	12/17/2009	**31489**
Joel		Wilstead	12/21/2009	**31490**
Julie		Quan	12/21/2009	**31491**
Laura	Catherine	Scheiner	12/31/2009	**31492**

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Attachment B

Recommendation to Waive Two Year Requirement
on Restoration of a Cancelled License

Name (Last, First MI)	License No.	Cancellation Date
Dolan, R. Michael	13766	05/31/2009
Himes, Robert	25702	10/31/2009
Howse, Cheerie	16417	12/31/2008
Myung, Ray	29079	09/20/2009
Stevens, Don	18206	12/31/2008

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STATE OF CALIFORNIA ARNOLD SCHWARZENEGGER, Governor

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

BOARD OF CHIROPRACTIC EXAMINERS
PUBLIC SESSION MINUTES
February 18, 2010
2525 Natomas Park Drive, Suite 120
Sacramento, CA 95833

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Board Members Present
Frederick Lerner, D.C., Chair
Hugh Lubkin, D.C., Vice Chair
Francesco Columbu, D.C., Secretary
Jeffrey Steinhardt, D.C.
Richard Tyler, D.C.

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

Call to Order
Dr. Lerner called the meeting to order at 10:04 a.m.

Roll Call
Dr. Tyler called the roll. All members were present except Dr. Columbu, who came in at 10:25.

Chair's Report
Dr. Lerner gave the Chair's Report announcing that OAL has filed the Manipulation Under Anesthesia regulations with the Secretary of State and the regulations will go into effect in about 4 weeks. Also, an author was found for our fee increase bill, AB 1996.

Department of Consumer Affairs' Consumer Health Care Enforcement Reform Act
Mr. Luis Portillo, Assistant Deputy Director, Department of Consumer Affairs discussed SB 1111 with all the board members, Mr. Puleo, and Ms. Powell, giving background history, and answered questions on each section.

Public comment and questions were provided by Kristine Shultz.

Board of Chiropractic Examiners' Enhanced Enforcement Proposals
Dr. Lubkin asked for an analysis of our current regulations compared to SB 1111 for the next Enforcement Committee meeting.

Public Comment
None

Future Agenda Items
None

Adjournment
Dr. Lerner adjourned the public meeting at 12:35 p.m.

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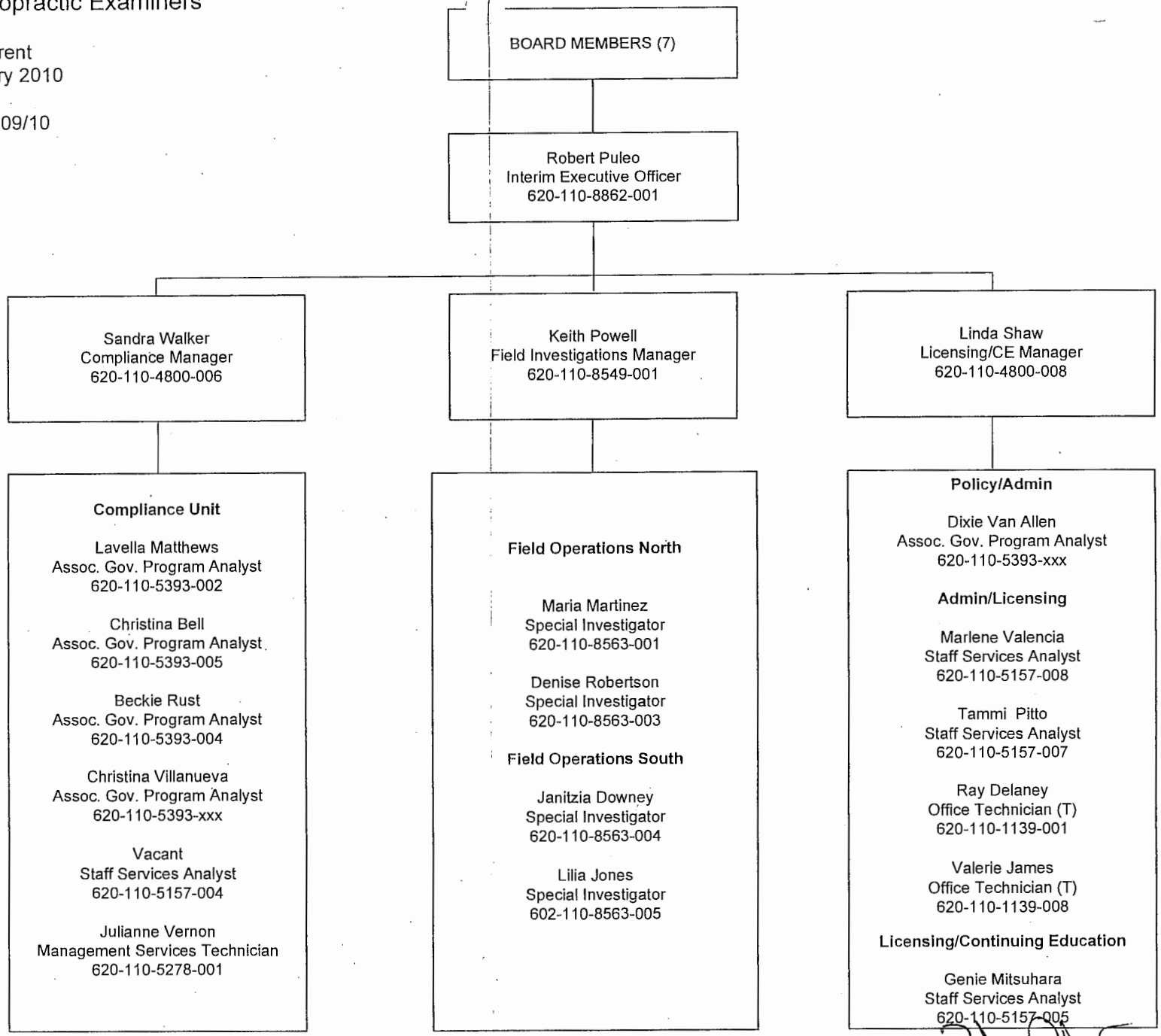
State Board of Chiropractic Examiners

Current
February 2010

FY 2009/10



Interim Executive Officer

Rev. 11/5/09

Recruitment and Selection of Vacant Positions
March 9, 2010

Classification	Date Advertised	Application Review	Interviews Conducted	Background Checks	Formal Offer	Start Date
Special Investigator (Northern California)	10/15/09	Completed	Completed	Yes	1/15/10	2/1/10
Associate Governmental Program Analyst (Compliance Unit)	12/09/09	Completed	Completed	Yes	1/13/10	1/13/10
Staff Services Analyst (Compliance Unit)	1/28/10	Completed	Completed			

FUND NO. 0152

Expense Index

BOARD OF CHIROPRACTIC EXAMINERS
BUDGET REPORT
EXPENDITURE PROJECTION

December 31, 2009

MONTH 6 — Mos. Remaining: 6

OBJECT DESCRIPTION	FY 2007-08 ACTUAL EXPENDITURES (MONTH 13)	FY 2008-09 ACTUAL EXPENDITURES (MONTH 13)	FY 2008-09 PY EXPENDITURES AS OF 12/31/08	FY 2009-10 BUDGET ALLOTMENT	FY 2009-10 CY EXPENDITURES AS OF 12/31/09	FY 2009-10 PERCENT OF BUDGET SPENT	FY 2009-10 PROJECTIONS TO YEAR END	FY 2009-10 UNENCUMBERED BALANCE
PERSONAL SERVICES:								
Salaries and Wages								
Civil Service-Perm	411,012	844,062	407,848	897,503	430,588	48.0%	880,588	16,915
Temp Help (907)	4,861	52,473	20,334	4,615	4,736	102.6%	13,000	(8,385)
Board/Commission (910,920)	4,300	7,500	3,600	16,000	1,900	11.9%	5,000	11,000
S & W Statutory - Exempt				93,948				
Overtime (909)	3,512	0	0	0	158	0.0%	1,000	(1,000)
Staff Benefits	208,524	328,968	142,196	393,518	185,804	47.2%	371,608	21,910
Salary Savings	0	0	0	(16,219)	0	0.0%	0	(16,219)
TOTAL, PERSONAL SVC	969,628	1,233,003	573,978	1,389,365	623,186	61.6%	1,271,196	24,221
OPERATING EXPENSE AND EQUIPMENT:								
General Expense	12,638	37,667	8,284	25,124	8,055	32.1%	20,000	5,124
Printing	4,495	18,314	789	3,715	174	4.7%	10,000	(6,285)
Communication	18,697	41,041	10,176	26,152	7,432	28.4%	34,000	(7,848)
Postage	21,284	14,935	3,378	6,273	1,021	16.3%	8,000	(1,727)
Travel In State	12,792	65,054	18,485	22,354	15,311	68.5%	22,354	0
Travel, Out-of-State	2,708	964	415	27,489	0	0.0%	2,000	25,489
Training	863	22,198	5,606	4,029	290	7.2%	5,000	(971)
Facilities Operations	109,487	113,807	55,581	128,126	49,204	38.4%	114,492	13,634
C & P Services - Interdept.	179,027	48,496	15,601	50,390	11,248	22.3%	20,000	30,390
C & P Services - External	417,461	217,118	153,080	40,678	234,991	577.7%	234,991	(194,313)
DP Billing (OIS) Prorata	0	0	0	0	0	0.0%	0	0
Consolidated Data Center	26,800	42,733	11,595	27,346	1,800	6.6%	43,000	(15,654)
Interagcy Agreement IT	70,000	107,673	0	54,432	109,237	200.7%	109,237	(54,805)
NOC Serv IT (Security)	49,500	16,685	9,958	67,227	6,338	9.4%	17,000	50,227
IT Consultant	0	0	0	56,972	0	0.0%	0	56,972
DP Supplies	1,217	2,152	202	0		0.0%	2,000	(2,000)
Central Admin Pro Rata	0	126,458	63,229	480,000	240,000	50.0%	480,000	0
Administrative External Svcs	178	2,319	844	0	393	0.0%	2,000	(2,000)
Equipment Repl/Addtl	97,530	0	1,528	0		0.0%	0	0
Minor Equipment	0	10,998	0	34,729	0	0.0%	34,729	0
Other Items of Expense	0	252		0		0.0%		0
Vehicle Operations	0	1,207	295	6,000	1,808	30.1%	4,000	2,000
ENFORCEMENT:								
Attorney General	342,327	991,137	136,718	997,347	295,548	29.6%	944,518	52,829
Attorney General Fingerprinting	5,128	6,340	1,745	5,000	1,479	29.6%	5,500	(500)
Office Admin. Hearing	48,411	71,078	29,637	235,080	24,251	10.3%	100,000	135,080
Evidence / Witness Fees	17,168	650	0	75,000	0	0.0%	5,000	70,000
Consultant Investigations	120,000	0	0	41,841	0	0.0%	5,000	36,841
Div. of Investigations	0	0	0	0	0	0.0%	0	0
Special Adjustments	0	0	0	0	0	0.0%	0	0
Forced OE&E Savings	0	0	0	0	0	0.0%	38,545	(38,545)
TOTALS, OE&E:	1,751,597	1,959,276	527,146	2,415,304	1,008,580	41.8%	2,261,366	153,938
TOTAL EXPENSE:	2,721,225	3,192,279	1,101,125	3,804,669	1,631,766	42.9%	3,532,562	178,159
Sched. Reimb. - Other	(4,312)	(5,570)	(2,016)	(34,000)	(1,545)	0.0%	(1,545)	0
Sched. Reimb. - Fingerprints	0	0	0	(10,000)	0	0.0%	0	0
Unsched. Reimb.	0	0	0	0	0	0.0%	0	0
TOTAL REIMBURSEMENTS:	0	(5,570)	(2,016)	(44,000)	(1,545)	0.0%	(1,545)	0
NET APPROPRIATION:	**2,721,225**	**3,186,709**	**1,099,109**	**3,760,669**	**1,630,221**	**43.3%**	**3,529,472**	**178,159**
							SURPLUS/(DEFICIT):	**4.74%**

0152 - Board of Chiropractic Examiners
Analysis of Fund Condition
(Dollars in Thousands)

2010-11 Governor's Budget

		ACTUAL 2008-09	CY 2009-10	BY 2010-11
BEGINNING BALANCE		$ 4,935	$ 4,150	$ 2,706
Prior Year Adjustment		$ 1	$ -	$ -
Adjusted Beginning Balance		$ 4,936	$ 4,150	$ 2,706
REVENUES AND TRANSFERS				
Revenues:				
125600	Other regulatory fees	$ 164	$ 120	$ 120
125700	Other regulatory licenses and permits	$ -	$ -	$ -
125800	Renewal fees	$ 1,985	$ 2,045	$ 2,045
125900	Delinquent fees	$ 39	$ 30	$ 30
141200	Sales of documents	$ -	$ -	$ -
142500	Miscellaneous services to the public	$ -	$ -	$ -
150300	Income from surplus money investments	$ 120	$ 27	$ 14
150500	Interest Income From Interfund Loans	$ -	$ -	$ -
160400	Sale of fixed assets	$ -	$ -	$ -
161000	Escheat of unclaimed checks and warrants	$ -	$ -	$ -
161400	Miscellaneous revenues	$ 5	$ 6	$ 6
161900	Other Revenue - Cost Recoveries	$ 82	$ 82	$ 82
164600	Fines and Forfeitures	$ 7	$ 7	$ 7
Totals, Revenues		$ 2,402	$ 2,317	$ 2,304
Transfers to Other Funds		$ -	$ -	$ -
Totals, Revenues and Transfers		$ 2,402	$ 2,317	$ 2,304
Totals, Resources		$ 7,338	$ 6,467	$ 5,009
EXPENDITURES				
Disbursements:				
0840 State Controller (State Operations)		$ 1	$ 1	$ 2
8500 Program Expenditures (State Operations)		$ 3,187	$ 3,760	$ 3,627
9900 Statewide Gen. Admin. Expenditures (Pro Rata) (State Operations)				
8880 Financial Information System for California (State Operations)				$ 2
Total Disbursements		$ 3,188	$ 3,761	$ 3,631
FUND BALANCE				
Reserve for economic uncertainties		$ 4,150	$ 2,706	$ 1,378
Months in Reserve		13.2	8.9	4.5

NOTES:

A. ASSUMES WORKLOAD AND REVENUE PROJECTIONS ARE REALIZED
B. EXPENDITURE GROWTH PROJECTED AT 2% BEGINNING FY 2010-11

BOARD OF CHIROPRACTIC EXAMINERS
LICENSE STATISTICAL DATA

FY 2008/09 – FY 2009/10 COMPARISON

LICENSE TYPE	TOTAL LICENSES 3/1/2009	TOTAL LICENSES 3/1/2010	NET VARIANCE
CHIROPRACTOR	13,801	13,863	+62
SATELLITES	2,597	3,386	+789
CORPORATIONS	1,307	1,307	0
REFERRALS	18	15	-3
TOTALS	17,723	18,571	+848

APPLICATIONS RECEIVED AND PROCESSED
JANUARY 1, 2010 – FEBRUARY 28, 2010

APPLICATION TYPE	RECEIVED	APPROVED	DENIED	WITHDRAWN	PENDING
INITIAL	105	75	1	0	172
RECIPROCAL	3	2	0	0	15
RESTORATION	28	32	0	0	15
CORPORATION	14	9	5	0	16

Compliance Unit Statistics

Fiscal Year	05/06	06/07	07/08	08/09	09/10*
Complaints					
Received	764	702	644	655	343
Pending	760	863	824	410	228
Closed with Insufficient Evidence	118	132	107	206	106
Closed with No Violation	98	61	78	223	92
Closed with Merit	319	202	321	275	118
Letter of Admonishment	n/a	n/a	n/a	n/a	4
Citations and Fines Issued (Total Fine Amount)	36	34	28	41($19,200)	54($18,750)
Accusations					
Filed	45	41	13	64	55
Pending	142	92	73	105	108
Revoked	16	27	8	10	11
Revocation Stayed: Probation	16	23	10	4	13
Revocation Stayed: Suspension and Probation	15	15	10	7	4
Suspension	0	1	0	0	0
Suspension Stayed: Probation	0	0	0	0	1
Suspension and Probation	0	0	0	2	0
Voluntary Surrender of License	8	4	2	2	6
Dismissed/Withdrawn	0	3	3	5	10
Statement of Issues					
Filed	5	11	7	3	2
Denied	1	1	0	1	0
Probationary License	6	9	7	4	1
Withdrawn at Applicant's Request	0	2	1	0	0
Granted	8	3	0	0	0
Petition for Reconsideration					
Filed	1	1	0	1	1
Granted	1	0	0	0	0
Denied	0	1	0	1	0
Petition for Reinstatement of License					
Filed	9	10	15	13	6
Granted	1	5	12	4	1
Denied	9	4	6	11	9
Petition for Early Termination of Probation					
Filed	2	5	6	6	4
Granted	1	4	1	6	1
Denied	1	0	1	2	1
Petition for Modification of Probation					
Filed	1	0	0	0	0
Granted	1	0	0	0	0
Denied	0	0	0	0	0
Petition by Board to Revoke Probation					
Filed	2	2	0	11	10
Revoked	0	0	0	3	2
Probation Cases					
Active	188	174	159	140	131

* FY 09/10: July 1, 2009 – February 28, 2010

Revised: March 1, 2010

Violation Codes/Descriptions

The Chiropractic Initiative Act of California (ACT):

10 – Rules of Professional Conduct
15 – Noncompliance With and Violations of Act

California Code of Regulations (CCR):

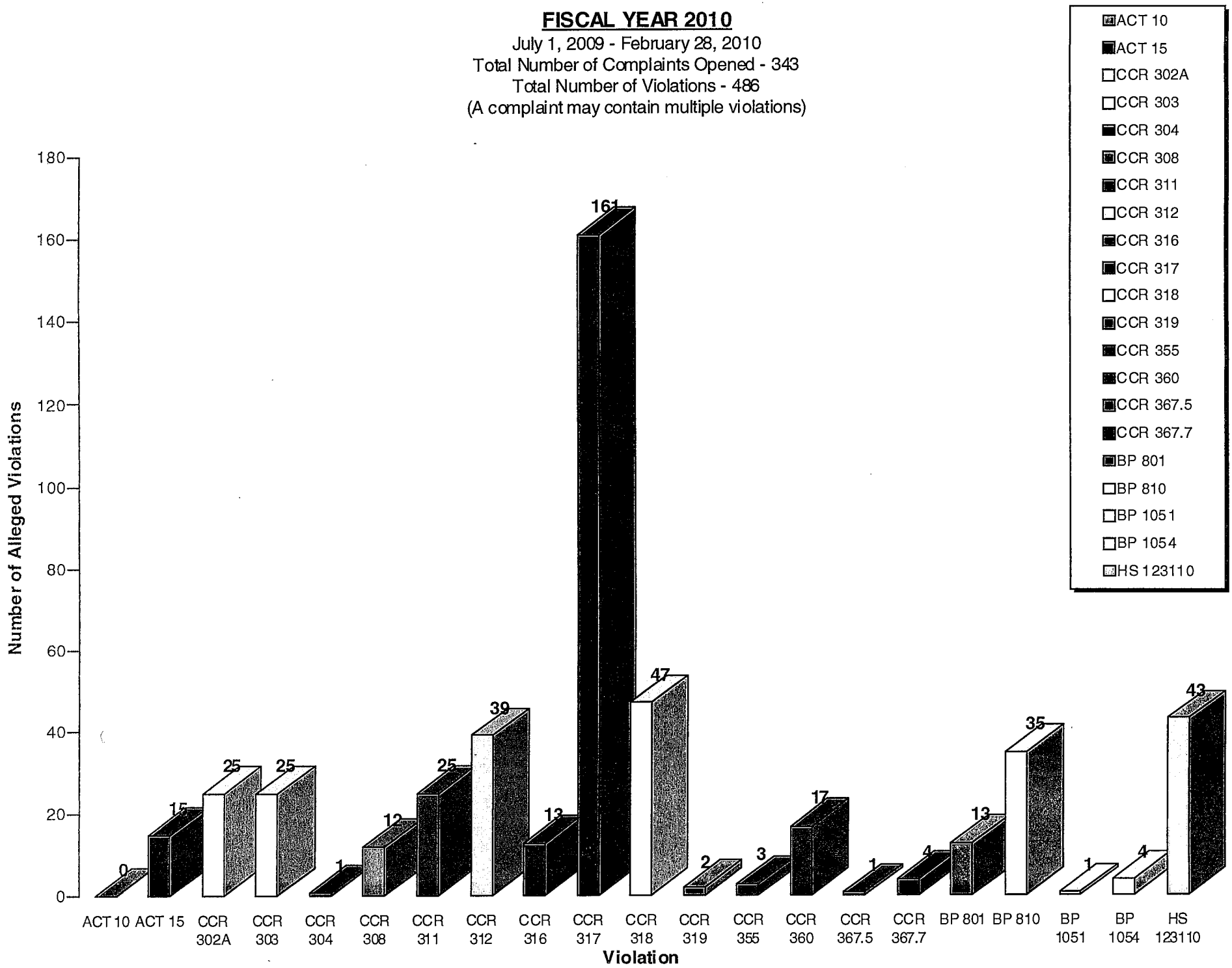
302(a) – Scope of Practice
303 – Filing of Addresses
304 – Discipline by Another State
308 – Display of License
311 – Advertisements
312 – Illegal Practice
316 – Responsibility for Conduct on Premises
317 – Unprofessional Conduct
318 – Chiropractic Patient Records/Accountable Billing
319 – Free or Discount Services
355 – Renewal and Restoration
360 – Continuing Education Audits
367.5 – Application, Review of Refusal to Approve (corporations)
367.7 – Name of Corporation

Business and Professions Code (BP):

801 – Professional Reporting Requirements (malpractice settlements)
810 – Insurance Fraud
1051 – Apply for a Corporation with the Board
1054 – Name of Chiropractic Corporation

Health and Safety Code (HS):

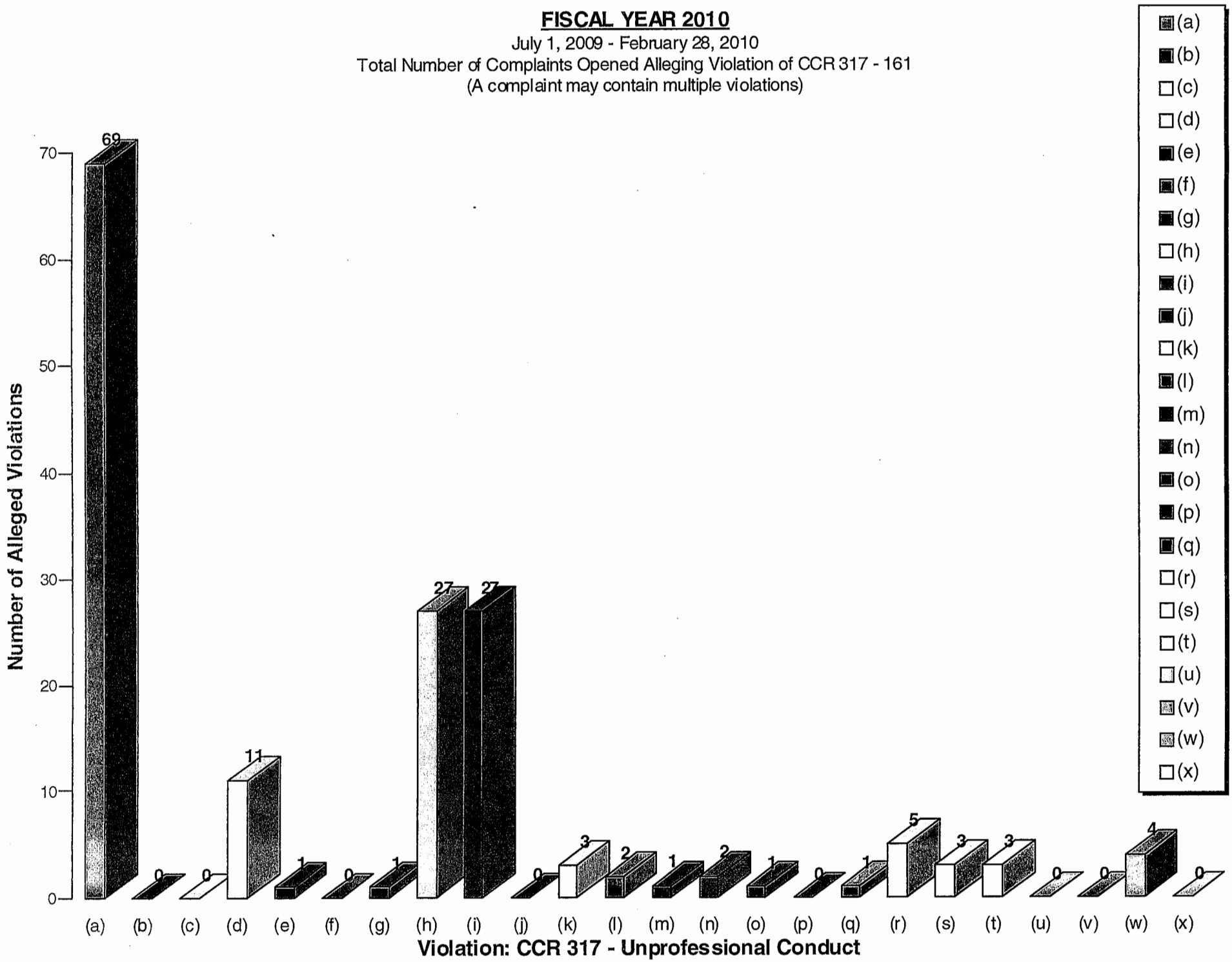
123110 – Patient Access to Health Records


FISCAL YEAR 2010
July 1, 2009 - February 28, 2010
Total Number of Complaints Opened - 343
Total Number of Violations - 486
(A complaint may contain multiple violations)
Number of Alleged Violations
0
20
40
60
80
100
120
140
160
180
ACT 10
ACT 15
CCR 302A
CCR 303
CCR 304
CCR 308
CCR 311
CCR 312
CCR 316
CCR 317
CCR 318
CCR 319
CCR 355
CCR 360
CCR 367.5
CCR 367.7
BP 801
BP 810
BP 1051
BP 1054
HS 123110
Violation
0
15
25
25
1
12
25
39
13
161
47
2
3
17
1
4
13
35
1
4
43

Violation Codes/Descriptions

California Code of Regulations (CCR) Section 317 – Unprofessional Conduct:

(a) Gross Negligence
(b) Repeated Negligent Acts
(c) Incompetence
(d) Excessive Treatment
(e) Conduct Endangering Public
(f) Administering to Oneself Drugs/Alcohol
(g) Conviction of a Crime Related to Chiropractic Duties
(h) Conviction of a Crime Involving Moral Turpitude/Physical Violence/etc.
(i) Conviction of a Crime Involving Drugs or Alcohol
(j) Dispensing Narcotics/Dangerous Drugs/etc.
(k) Moral Turpitude/Corruption/etc
(l) False Representation
(m) Violation of the ACT/Regulations
(n) False Statement Given in Connection with an Application for Licensure
(o) Impersonating an Applicant
(p) Illegal Advertising related to Violations of Section 17500 BP
(q) Fraud/Misrepresentation
(r) Unauthorized Disclosure of Patient Records
(s) Employment/Use of Cappers or Steerers
(t) Offer/Receive Compensation for Referral
(u) Participate in an Illegal Referral Service
(v) Waiving Deductible or Co-Pay
(w) Fail to Refer Patient to Physician/Surgeon/etc.
(x) Offer or Substitution of Spinal Manipulation for Vaccination


FISCAL YEAR 2010
July 1, 2009 - February 28, 2010
Total Number of Complaints Opened Alleging Violation of CCR 317 - 161
(A complaint may contain multiple violations)
Number of Alleged Violations
0
10
20
30
40
50
60
70
69
0
0
11
1
0
1
27
27
0
3
2
1
2
1
0
1
5
3
3
0
0
4
0
(a) (b) (c) (d) (e) (f) (g) (h) (i) (j) (k) (l) (m) (n) (o) (p) (q) (r) (s) (t) (u) (v) (w) (x)
Violation: CCR 317 - Unprofessional Conduct
(a)
(b)
(c)
(d)
(e)
(f)
(g)
(h)
(i)
(j)
(k)
(l)
(m)
(n)
(o)
(p)
(q)
(r)
(s)
(t)
(u)
(v)
(w)
(x)

STATE OF CALIFORNIA

BOARD OF CHIROPRACTIC EXAMINERS | ARNOLD SCHWARZENEGGER, GOVERNOR

MEMORANDUM

Date: March 9, 2010

To: **Board Members**

From: Robert Puleo
Interim Executive Officer

Subject: **Ratification of Formerly Approved Doctors of Chiropractic for Licensure**

This is to request that the Board ratify the attached list of individuals as Doctors of Chiropractic at the March 18, 2010, public meeting.

Between January 1, 2010 and February 28, 2010, staff reviewed and confirmed that the applicants met all statutory and regulatory requirements.

If you have any questions or concerns, please contact me at your earliest opportunity.

Approval By Ratification of Formerly Approved License Applications
January 1, 2010 – February 28, 2010

Name (First, Middle, Last)			Date Issued	DC#
Robin	Kaur	Randhawa	1/7/2010	**31493**
Hung	Huy	Le	1/14/2010	**31494**
Paul	Edward	Fuhrman	1/14/2010	**31495**
Brian	Ray	Hesser	1/14/2010	**31496**
Dustin	Patrick	DeRyke	1/14/2010	**31497**
Marresa	December	Jones	1/14/2010	**31498**
Matthew	Thomas	Leonard	1/14/2010	**31499**
Joseph	Michael	Kwait	1/14/2010	**31500**
Yasmeen	Amina	Khan	1/14/2010	**31501**
Peter		Chiang	1/14/2010	**31502**
Giuseppe		Moro	1/14/2010	**31503**
Christopher	John	Bernier	1/21/2010	**31504**
Wayne	Anthony	Cissell	1/21/2010	**31505**
Charles	Jay	Davidson	1/21/2010	**31506**
Leyla		Mehdizadegan	1/21/2010	**31507**
John	Spencer	Beall	1/21/2010	**31508**
Aaron	Justin	Vanderhoof	1/29/2010	**31509**
Melissa	Louise	Ponce	1/29/2010	**31510**
Travis	Wilson	Ryan	1/29/2010	**31511**
Bingzeng		Zou	1/29/2010	**31512**
Negar		Navid	2/10/2010	**31513**
Vi	Hoang	Nguyen	2/10/2010	**31514**
Ameneh		Raeisghasem	2/10/2010	**31515**
Jeffrey	Allan	Rockwell	2/10/2010	**31516**
Tawfik	Yahia Algafery	Saleh	2/10/2010	**31517**
Amando	Capati	Santos, Jr	2/10/2010	**31518**
Kristin	Nicole	Shay	2/10/2010	**31519**
Anthony	Scott	Smith	2/10/2010	**31520**
Yalda		Soha	2/10/2010	**31521**
Brian	H	Truong	2/10/2010	**31522**
Suzanne	Mae	Vlcek	2/10/2010	**31523**
Daniel	Jay	Wasserman	2/10/2010	**31524**
Jeffrey	Earl	Williams	2/10/2010	**31525**
Stephen	Robert	Besser	2/16/2010	**31526**
Dustin	John	Bouwhuis	2/16/2010	**31527**

David	Randolph	Catron	2/16/2010	**31528**
Angela	Renee	Duval	2/16/2010	**31529**
Jenny	Lynn	Enstrom	2/16/2010	**31530**
Mallory	Matteson	Feinberg	2/16/2010	**31531**
Eden	Joseph	Goldman	2/16/2010	**31532**
Craig	Romulo	Gonzales	2/16/2010	**31533**
Travis	Jon	Johnson	2/16/2010	**31534**
James	Edward	Lander	2/16/2010	**31535**
Raquelle	Marie Cardoso	Martins	2/16/2010	**31536**
Sara		Mehdizadegan	2/16/2010	**31537**
Tara	Marie	Nikolic	2/16/2010	**31538**
Sun Ho		Roh	2/16/2010	**31539**
Andrea	Calhoun	Shakarian	2/16/2010	**31540**
Daniel	Warren	Turner	2/16/2010	**31541**
William	Matthew	Ursprung	2/16/2010	**31542**
April	Joy	Walker	2/18/2010	**31543**
Pao	Vang	Vu	2/18/2010	**31544**
Frank	Joseph	Zermeno	2/18/2010	**31545**
Jamie	Lynn	Bjerkhoel	2/26/2010	**31546**
Alison	Lynn	Bremner	2/26/2010	**31547**
John	Samuel	Caponio	2/26/2010	**31548**
Aimee	Miyoko	Duncan	2/26/2010	**31549**
Matthew	Nicholas	Egan	2/26/2010	**31550**
Kathryn	Jo	Fox	2/26/2010	**31551**
Justin	James	Grasmeyer	2/26/2010	**31552**
Jessica	Emily	Green	2/26/2010	**31553**
Katie	Diane	Henery	2/26/2010	**31554**
Lauren	Elizabeth	Hunter	2/26/2010	**31555**
Rondi	Bernice	Johnson	2/26/2010	**31556**
Sally	Elisabeth	Kleinbart	2/26/2010	**31557**
Shahen		Kurestian	2/26/2010	**31558**
Kimberly	Ann	Liotta	2/26/2010	**31559**
Shereen	Rose	Manesh	2/26/2010	**31560**
Roger	Christopher	McGath	2/26/2010	**31561**
Jeffrey	Scott	Millan	2/26/2010	**31562**
Sumiko	Sekiguchi	Missimer	2/26/2010	**31563**
Linda	M	Nam	2/26/2010	**31564**
Jesse	Alan	Shakarian	2/26/2010	**31565**
Kevin	Yong	Shin	2/26/2010	**31566**
Kelley	Jo	Watford	2/26/2010	**31567**
James	Jean	Yi	2/26/2010	**31568**
Jeremy	Scott	Summers	2/26/2010	**31569**

STATE OF CALIFORNIA

BOARD OF CHIROPRACTIC EXAMINERS | ARNOLD SCHWARZENEGGER, GOVERNOR

MEMORANDUM

Date: February 23, 2010

To: BOARD MEMBERS

From: Robert Puleo
Interim Executive Officer

Subject: **Ratification of Formerly Approved Continuing Education Providers**

This is to request that the Board ratify the continuing education providers at the public meeting on March 18, 2010.

Staff reviewed and confirmed that the applicant met all statutory and regulatory requirements.

CONTINUING EDUCATION PROVIDERS	DATE APPROVED
1. Alvarado Hospital	02/23/10

If you have any questions or concerns, please contact me at your earliest opportunity.

STATE OF CALIFORNIA

BOARD OF CHIROPRACTIC EXAMINERS | ARNOLD SCHWARZENEGGER, GOVERNOR

MEMORANDUM

Date: March 11, 2010

To: **Board Members**

From: Robert Puleo
Interim Executive Officer

Subject: **Ratification of Denied License Applications of Doctors of Chiropractic**

The Board of Chiropractic Examiners (Board) denies licensure to applicants who do not meet all statutory and regulatory requirements for a chiropractic license in California. An applicant has 60-days after the denial is issued to appeal the decision. If the applicant does not submit an appeal to the Board, the denial is upheld.

Between January 1, 2010 and February 28, 2010, staff reviewed and confirmed that one (1) applicant did not meet all statutory and regulatory requirements for licensure. The applicant has appealed the decision and staff is working with the Attorney General's office on this appeal.

At this time, there is no ratification necessary.

If you have any questions or concerns, please contact me at your earliest opportunity.

STATE OF CALIFORNIA

BOARD OF CHIROPRACTIC EXAMINERS | ARNOLD SCHWARZENEGGER, GOVERNOR

MEMORANDUM

Date: March 11, 2010

To: **Board Members**

From: Robert Puleo
Interim Executive Officer

Subject: Recommendation to Waive Two Year Requirement on Restoration of a Cancelled License – Chiropractic Initiative Act, Section 10(c)

This is to recommend that the Board waive the two year restoration requirement of a cancelled license for the individual named on the attached list at the March 18, 2010, public meeting.

Staff reviewed and confirmed that the applicant met all other regulatory requirements for restoration including sufficient continuing education hours.

If you have any questions or concerns, please contact me at your earliest opportunity.

Recommendation to Waive Two Year Requirement
on Restoration of a Cancelled License

Name (Last, First MI)	License No.	Cancellation Date
Ausmus, Donna	18503	11/30/2009
Kim, Sherri	23863	02/28/2009

STATE OF CALIFORNIA ARNOLD SCHWARZENEGGER, Governor

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

NOTICE OF PUBLIC MEETING
ENFORCEMENT COMMITTEE

March 11, 2010
11:00 a.m.
Coast Anabelle Hotel
2011 W. Olive Avenue
Burbank, CA 91506
800-782-4373

AGENDA

1. **CALL TO ORDER**

2. **Approval of Minutes**
   January 14, 2010

3. **Department of Consumer Affairs Consumer Health Care Enforcement Reform Act (SB 1111)**

4. **Comparison of the Board of Chiropractic Examiners' (BCE) Existing Act, Statutes and Regulations with the Provisions of SB 1111**

5. **Recommendations for Proposed Changes/Enhancements to BCE's Existing Enforcement Program**

6. **PUBLIC COMMENT**

7. **FUTURE AGENDA ITEMS**

8. **ADJOURNMENT**

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

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

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

The meeting facilities are accessible to individuals with physical disabilities. A person who needs a disability-related accommodation or modification in order to participate in the meeting may make a request by contacting Marlene Valencia at (916) 263-5355 ext. 5363 or e-mail marlene.valencia@chiro.ca.gov or send a written request to the Board of Chiropractic Examiners, 2525 Natomas Park Drive, Suite 260, Sacramento, CA 95833. Providing your request at least five (5) business days before the meeting will help to ensure availability of the requested accommodation.

STATE OF CALIFORNIA ARNOLD SCHWARZENEGGER, Governor

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NOTICE OF PUBLIC MEETING
PUBLIC RELATIONS COMMITTEE

March 18, 2010
9:00 a.m.
Hilton Glendale
100 W. Glenoaks Blvd.
Glendale, CA 91202
(818) 956-5466

AGENDA

1. **CALL TO ORDER**
2. **Approval of Minutes**
   September 10, 2009
3. **Board Newsletter**
4. **Status of Web Casting of Public Board Meetings**
5. **Proposed Adoption of Board Seal**
6. **Posting of Board Member and Executive Officer Profiles on the Board Web Site**
7. **Development of Consumer Education Material**
8. **Public Outreach Activities**
9. **PUBLIC COMMENT**
10. **FUTURE AGENDA ITEMS**
11. **ADJOURNMENT**

PUBLIC RELATIONS COMMITTEE
Frederick Lerner, D.C., Chair
Hugh Lubkin, D.C.

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STATE OF CALIFORNIA ARNOLD SCHWARZENEGGER, Governor

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NOTICE OF PUBLIC MEETING
SCOPE OF PRACTICE COMMITTEE

March 18, 2010
Upon Adjournment of the Public Relations Committee
Hilton Glendale
100 W. Glenoaks Blvd.
Glendale, CA 91202
(818) 956-5466

AGENDA

1. **CALL TO ORDER**
2. **Approval of Minutes**
   April 30, 2009
3. **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**
4. **Public Comment**
5. **Future Agenda Items**
6. **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 with physical disabilities. If a person needs disability-related accommodations or modifications in order to participate in the meeting, please make a request no later than five working days before the meeting to the Board by contacting Marlene Valencia at (916) 263-5355 ext. 5363 or sending a written request to that person at the Board of Chiropractic Examiners, 2525 Natomas Park Drive, Suite 260, Sacramento, CA 95833. Requests for further information should be directed to Ms. Valencia at the same address and telephone number.

State of California
Office of Administrative Law

In re: Board of Chiropractic Examiners	NOTICE OF APPROVAL OF REGULATORY ACTION
Regulatory Action:	Government Code Section 11349.3
Title 16, California Code of Regulations	OAL File No. 2009-1231-02 SR
Adopt sections: 318.1 Amend sections: Repeal sections:	

In this regulatory action, the Board of Chiropractic Examiners adopts a new regulation establishing the standard of care for chiropractors performing Manipulation under Anesthesia (MUA), including the definition of MUA and the conditions under which MUA may be performed. MUA is the manipulation by a licensed chiropractor 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.

OAL approves this regulatory action pursuant to section 11349.3 of the Government Code. This regulatory action becomes effective on 3/18/2010.

Date: 2/16/2010

Bradley J. Norris
Senior Staff Counsel

For: SUSAN LAPSLEY
Director

Original: Robert Puleo
Copy: Dixie Van Allen

STATE OF CALIFORNIA ARNOLD SCHWARZENEGGER, Governor

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16. B

Proposed Regulation Update Continuing Education

To be handed out at meeing.

Board of Chiropractic Examiners
Proposed Regulations
Title 16, Division 4, California Code of Regulations

§314. Law Violators

It shall be the duty of every licensee to notify the ~~secretary or any member of the board,~~ Executive Officer or his or her designee of any violation of the act, or of these rules and regulations, in order that the board may take appropriate disciplinary action

NOTE: Authority cited: Sections 1000-4(b), Business and Professions Code (Chiropractic Initiative Act). Reference: Section 1000-4(b), Business and Professions Code.

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Hearings Re: Petition for Reinstatement of Revoked License

A. Jon Postajian
B. Jeffrey D. Bryant
C. Richard A. Cipolone
D. Amir Gharrirassi