

NOTICE OF PUBLIC MEETING

**September 15, 2011
9:00 a.m.
State Capitol
First Floor, Senate Committee Room 112
Sacramento, CA 95814**

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. **Approval of Minutes**
July 21, 2011 Board Meeting
4. **Public Comment**
5. **Board Member Training on the Bagley-Keene Open Meeting Act and Other Relevant Laws**
6. **Executive Officer's Report**
 - A. Administration
 - B. Budget
 - C. Licensing
 - D. Enforcement
7. **Ratification of Approved License Applications**
8. **Ratification of Approved Continuing Education Providers**
9. **Ratification of Denied License Applications in Which the Applicants Did Not Request a Hearing**
10. **Recommendation to Waive Two Year Requirement to Restore a Cancelled License**
11. **Attorney General Billing**

12. **Discussion and Possible Action on the Board's Mission Statement**
13. **Discussion and Possible Action on the Board's Disciplinary Guidelines**
14. **Purpose of the Continuing Education Committee**
15. **Legislative Update**
 - A. AB 25 (Hayashi) – Athletics: Concussions and Head Injuries
 - B. AB 584 (Fong) – Workers' Compensation Utilization Review
 - C. SB 541 (Price) – Expert Consultants
16. **Regulatory Hearing on the Proposed Language for Omnibus Consumer Protection – California Code of Regulations, Title 16, Division 4, Article 1, Sections 303 – 390.9**
17. **Proposed Regulations**
 - A. Informed Consent
 - B. Use of Laser
 - C. Petitions for Reinstatement (Fee)
 - D. Filing of Addresses – Section 303
 - E. Omnibus Consumer Protection
18. **Public Comment**
19. **Future Agenda Items**
20. **Hearings Re: Petition for Reinstatement of Revoked License**
 - A. Dennis Nguyen
21. **Closed Session**
 - A. Deliberation on Petitioner Hearings and Disciplinary Decisions Pursuant to California Government Code Section 11126(c)(3)
 - B. 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) Board of Chiropractic Examiners v. Carole M. Arbuckle
Sacramento County Superior Court, Case No. 03AS00948
22. **OPEN SESSION: Announcements Regarding Closed Session**
23. **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.

**BOARD OF CHIROPRACTIC EXAMINERS
PUBLIC SESSION MINUTES**

July 21, 2011
Holiday Inn LAX
9901 La Cienega Blvd.
Los Angeles, CA 90045

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, Executive Officer
Spencer Walker, Senior Staff Counsel
Linda Shaw, Staff Services Manager
Sandra Walker, Staff Services Manager
Dixie Van Allen, Associate Governmental Program Analyst
Christina Villanueva, Associate Governmental Program Analyst
Ray Delaney, Management Services Technician
Valerie James, Office Technician

Call to Order

Dr. Lerner called the meeting to order at 10:01 a.m.

Roll Call

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

Chair's Report

Dr. Lerner reported on recent activities relating to Board matters.

Approval of Minutes

May 19, 2011 Board Meeting

MOTION: DR. LERNER MOVED TO APPROVE THE MINUTES

SECOND: DR. LUBKIN SECONDED THE MOTION

VOTE: 5-0

MOTION CARRIED

Public Comment

None

Board Member Training on the Bagley-Keene Open Meeting Act and Other Relevant Laws

Mr. Walker indicated that there were no items to report.

Executive Officer's Report

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

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).

Ratification of Approved Continuing Education Providers

MOTION: DR. STEINHARDT MOVED TO RATIFY THE APPROVED CONTINUING EDUCATION PROVIDERS

SECOND: DR. TYLER SECONDED THE MOTION

VOTE: 5-0

MOTION CARRIED

The Board ratified the attached list of approved continuing education providers incorporated herein (Attachment B).

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

None

Ratification to Waive Two Year Requirement to Restore a Cancelled License

MOTION: DR. STEINHARDT MOVED TO RATIFY THE RECOMMENDATION TO WAIVE THE TWO YEAR REQUIREMENT TO RESTORE A CANCELLED LICENSE

SECOND: DR. LUBKIN SECONDED THE MOTION

VOTE: 5-0

MOTION CARRIED

The Board ratified the attached list of approved cancellation restoration applicants incorporated herein (Attachment C).

Dr. Lerner announced moving forward to Agenda Item 12 – Attorney General Billing. The Board will hear Agenda Item 11 – Regulations of Massage Therapy, once the presenter arrives.

Attorney General Billing

Mr. Puleo updated the Board on efforts to reduce attorney general expenditures and presented the board members with average monthly attorney general costs from fiscal year 2005/2006 to the present. Mr. Puleo stated he was encouraged that the average monthly invoice had gone down over the past

few months; however, it was too soon to tell whether the Board will experience a significant on going reduction in the average monthly bill. The Board would have a better idea by the September Board Meeting.

Legislative Update

- A. AB 25 – Athletics: Concussions and Head Injuries
Mr. Puleo reported that a support letter was sent, and the bill was set for hearing August 15, 2011.
- B. AB 72 – Acupuncture
Mr. Puleo reported that no letter was sent due to the bill failing passage.
- C. AB 584 – Workers' Compensation Utilization Review
Mr. Puleo reported that a support letter was sent, and the bill was pending in Senate appropriations.
- D. AB 783 – Professional Corporations: Licensed Physical Therapists
Mr. Puleo reported that a support letter was sent; however, the bill failed passage.
- E. SB 206 – Appropriations
Mr. Puleo reported that a support letter was sent and the bill passed both houses of the legislature and is now at the Governor's office for signature.
- F. SB 541 – Expert Consultants
Mr. Puleo reported that a support letter was sent, the bill is pending in Assembly appropriations. The hearing is set for August 17, 2011.
- G. SB 628 – Acupuncture
Mr. Puleo reported that an opposition letter sent, the bill failed passage in Assembly business and professions.
- H. SB 924 – Physical Therapists: Direct Access to Services
Mr. Puleo reported that no letter was sent due to the bill failing passage.

Proposed Regulations

- A. Informed Consent
Mr. Puleo reported no changes would be made to the proposed language based on the comments received.

**MOTION: DR. COLUMBU MOVED TO HAVE THE LANGUAGE BROUGHT BACK TO COMMITTEE OR TABLED THE LANGUAGE
SECONDED: DR. STEINHARDT SECONDED THE MOTION**

Discussion

Mr. Walker asked if the Board wanted to pull the regulation. Mr. Puleo asked to clarify if the Board wanted to pull the language from being submitted to OAL. Dr. Columbu stated that he did not feel that the language was written well and listed concerns. Dr. Columbu felt that the language should define the percentage of risk.

The Board had a lengthy discussion regarding the language.

Dr. Davis from International Chiropractic Association of California came forward and stated that he is in favor of Informed Consent; however, there are a few concerns that he has with the language as well. Dr. Davis stated that the word "material" is not clear. Dr. Davis also suggested that the Board uses the same principles as the Federal and State Supreme Court when preparing the language.

VOTE: 2-2-1
MOTION FAILED

MOTION: DR. LERNER MOVED TO ADOPT THE LANGUAGE AND SUBMIT TO OAL
SECOND: DR. STEINHARDT SECONDED THE MOTION

Discussion

Dr. Lubkin and Dr. Lerner made statements in support of the proposed regulation.

VOTE: 4-1
MOTION: CARRIED

Dr. Lerner announced moving back to Agenda Item 11 – Regulations of Massage Therapy.

Regulation of Massage Therapy

Ahmos Netanel, CEO of California Massage Therapy Council (CMTTC) spoke before the Board and explained the purpose and authority of the CMTTC.

Dr. Lerner resumed to the scheduled agenda.

Proposed Regulations

B. Omnibus Consumer Protection

Mr. Puleo gave an update that the 45-day comment period did not end until July 25, 2011. Nothing could be done yet. A public hearing will be held at the next Board Meeting.

C. Use of Laser

Mr. Puleo addressed a few potential concerns with the language. The Board had a lengthy discussion regarding the concerns with the language.

MOTION: DR. LERNER MOVED TO HAVE THE LANGUAGE BROUGHT BACK TO COMMITTEE FOR REVIEW.

SECOND: DR. TYLER SECONDED THE MOTION

VOTE: 5-0

MOTION: CARRIED

D. Petitions for Reinstatement (Fee)

Mr. Puleo reported that the Board is currently waiting to see if the Omnibus Consumer Protection package is approved. Once it is approved, this regulation could move forward.

E. Filing of Addresses – Section 303

Dr. Columbu addressed a few concerns regarding the current language of Section 303. The current regulation does not specify the physical address must be provided.

MOTION: DR. COLUMBU MOVED TO AMEND THE REGULATION
SECOND: DR. LUBKIN SECONDED THE MOTION
VOTE: 5-0
MOTION: CARRIED

Discussion

The Board discussed potential changes to the regulation language. The Board directed staff to draft proposed amendments to Section 303 and place this item on the agenda for the next Board Meeting.

Authority Over Unlicensed/Non-Licensed Individuals Performing Chiropractic

Dr. Lerner gave an update on his recent communications with the Physical Therapy Board.

Public Comment

Dr. Steinhardt thanked Mr. Puleo for bringing in the CEO of the CMTC and opening a line of communication with them.

Future Agenda Items

Mr. Puleo stated that the Board has received comments expressing concerns with the Board's current Mission Statement. He stated that the Board members might want to discuss the Mission Statement at the next Board Meeting and consider revising it.

Dr. Davis requested that the Board's enforcement disciplinary guideline is placed on agenda for review and update at the next Board Meeting.

Dr. Tyler would like for there to be written language regarding the purpose of the Continuing Education Committee.

Hearings Re: Petition for Reinstatement of Revoked License

Administrative Law Judge Howard W. Cohen presided over and Deputy Attorney General Thomas Rinaldi appeared on behalf of the people of the State of California on the following hearing:

A. Anthony Wassif

Hearings Re: Early Termination of Probation

Administrative Law Judge Howard W. Cohen presided over and Deputy Attorney General Thomas Rinaldi appeared on behalf of the people of the State of California on the following hearing:

A. Abraham Grosswasser

B. Shane Donald Anthony

Closed Session

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

Adjournment

Dr. Lerner adjourned the public meeting at 3:15p.m.

(ATTACHMENT A)

Approval By Ratification of Formerly Approved License Applications
 May 1, 2011 – June 30, 2011

Name (First, Middle, Last)			Date Issued	DC#
Bjorn	Isaac	Bostrom	5/4/2011	31983
Kenneth	Clayton	Oliver	5/5/2011	31984
Matthew	Aaron	Nightingale	5/9/2011	31985
Joseph Charles	Gonzales	Ordone	5/9/2011	31986
Leanne	Marla	Sim	5/9/2011	31987
Benjamin	Allen	Spencer	5/9/2011	31988
Lindsay	Allison	Stephens	5/9/2011	31989
Laura	Michelle	Dabby	5/10/2011	31990
Joanna	Renee	Fassl	5/10/2011	31991
Jonathan	Rory	Hoops	5/10/2011	31992
Bryan	Habif	Abrams	5/12/2011	31993
Benjamin	Roy	Cowell	5/12/2011	31994
Joshua	Daniel	Higley	5/12/2011	31995
Angel		Lee	5/12/2011	31996
Kenji		Nampo	5/23/2011	31997
Aaron	Michael	Newman	5/23/2011	31998
Spencer	Hung Wo Yim	Shimabukuro	5/23/2011	31999
Jesse	Dalton	Smith	5/23/2011	32000
Megan	Elizabeth	Sweithelm	5/23/2011	32001
Samuel	C	Zoranovich	5/23/2011	32002
Kenneth	Quoc	Hoang	5/23/2011	32003
Laura	Lee	Ross	5/31/2011	32004
Senkosal	Heap	Uy	5/31/2011	32005
Nora	Jane	Zoma	5/31/2011	32006
Setareh		Derakhshan	5/31/2011	32007
Melissa	Ann	Diller	5/31/2011	32008
Farand		Kusnadi	5/31/2011	32009
Daniel	Duwayne	Hamilton	5/31/2011	32010
Shawna	Stuart	Handschug	5/31/2011	32011
Prakash	Ramesh	Mulchandani	5/31/2011	32012
Austin	Patrick	Jones	6/3/2011	32013
Ryan	Matthew	Kiser	6/3/2011	32014

Lucas	Jeromy	Phifer	6/7/2011	32015
Joseph	Anthony	Viggianelli	6/7/2011	32016
Nicholas	Donald	Reiff	6/13/2011	32017
Sarah	Beth	Witt	6/13/2011	32018
Zachary	Nolan	Zugschwerdt	6/13/2011	32019
Ian	Phillipe	Ahearn	6/13/2011	32020
Tan	Nhat	Bui	6/13/2011	32021
Mario		Cervino	6/13/2011	32022
Joshua	David	Chrystal	6/13/2011	32023
Sana		Eang	6/13/2011	32024
Jasmine	Therese	Esguerra	6/13/2011	32025
Norquitta	Yvette	Johnson	6/13/2011	32026
Scott	Matthew	Karges	6/13/2011	32027
Mahsa		Khodabakhsh	6/13/2011	32028
Hyunhee		Lee	6/13/2011	32029
Houri	Annette	Manoukian	6/13/2011	32030
Nancy	Joan	Ritschel	6/16/2011	32031
John		Park	6/22/2011	32032
Peter	Soo-Chul	Park	6/22/2011	32033
Nahdir	Nosratolah	Pourteymoor	6/22/2011	32034
Candice	Tin-Oi	So	6/22/2011	32035
Eric	Fridthjov	Nilsen	6/29/2011	32036
Sarah	Lynn Szymkowiak	Stiff	6/29/2011	32037
Pavan	Jay	Dwamal	6/29/2011	32038
Nathan	Arnold	Moore	6/29/2011	32039
Sean	Patrick	Gregg	6/30/2011	32040
Peter	Phuc Hung	Le	6/30/2011	32041
Ping-Long		Wang	6/30/2011	32042

(ATTACHMENT B)
Approval By Ratification Of Continuing Education Providers

<u>CONTINUING EDUCATION PROVIDERS</u>	<u>DATE APPROVED</u>
<u>1. ChiroCredit.com</u>	<u>06/13/11</u>
<u>2. CEvaptive University</u>	<u>06/13/11</u>
<u>3. Steven C. Eggleston</u>	<u>06/20/11</u>
<u>4. BodyZone LLC</u>	<u>06/22/11</u>
<u>5. Daniel S. Buch</u>	<u>06/30/11</u>

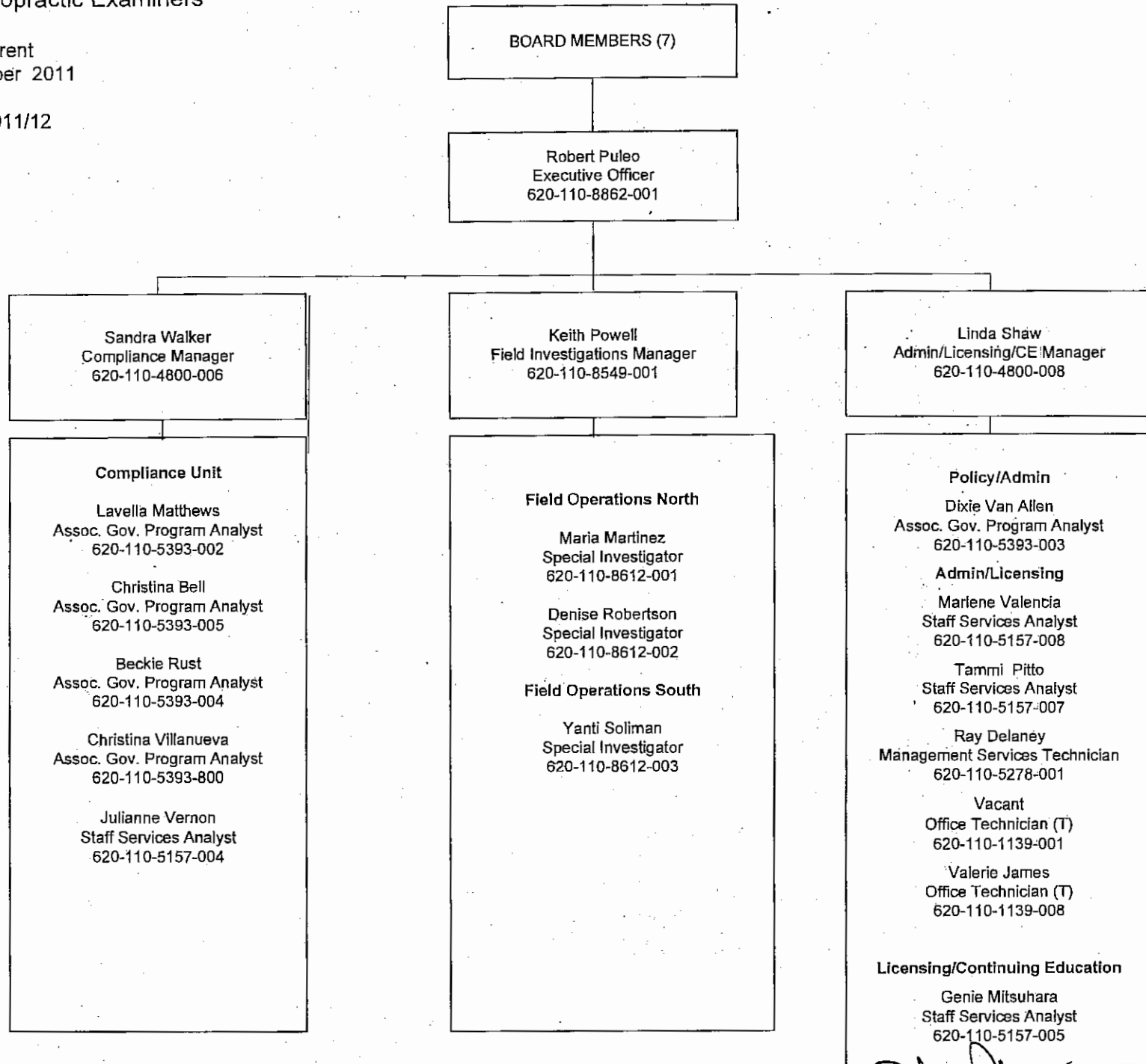
(ATTACHMENT C)
Recommendation to Waive Two Year Requirement
on Restoration of a Cancelled License

Name (Last, First MI)	License No.	Cancellation Date
Lionberger, William	14129	02/28/2011

State Board of Chiropractic Examiners

Current
September 2011

FY 2011/12



Executive Officer

0152 - Board of Chiropractic Examiners
 Analysis of Fund Condition

Prepared 9/9/11

(Dollars in Thousands)

Proposed FY 2011-12 Governor's Budget

	Actual 2010-11	CY 2011-12	Governor's Budget BY 2012-13	BY+1 2013-14
BEGINNING BALANCE	\$ 3,125	\$ 2,568	\$ 2,568	\$ 2,530
Prior Year Adjustment	\$ 11	\$ -	\$ -	\$ -
Adjusted Beginning Balance	\$ 3,136	\$ 2,568	\$ 2,568	\$ 2,530
REVENUES AND TRANSFERS				
Revenues:				
125600 Other regulatory fees	\$ 120	\$ 120	\$ 120	\$ 120
125700 Other regulatory licenses and permits	\$ -	\$ -	\$ -	\$ -
125800 Renewal fees	\$ 2,635	\$ 3,409	\$ 3,409	\$ 3,409
125900 Delinquent fees	\$ 43	\$ 63	\$ 63	\$ 63
141200 Sales of documents	\$ -	\$ -	\$ -	\$ -
142500 Miscellaneous services to the public	\$ -	\$ -	\$ -	\$ -
150300 Income from surplus money investments	\$ 14	\$ 8	\$ 25	\$ 24
150500 Interest Income From Interfund Loans	\$ -	\$ -	\$ -	\$ -
160400 Sale of fixed assets	\$ -	\$ -	\$ -	\$ -
161000 Escheat of unclaimed checks and warrants	\$ -	\$ -	\$ -	\$ -
161400 Miscellaneous revenues	\$ 6	\$ 6	\$ 6	\$ 6
161900 Other Revenue - Cost Recoveries*	\$ 50	\$ 50	\$ 50	\$ 50
164600 Fines and Forfeitures	\$ 21	\$ 21	\$ 21	\$ 21
Totals, Revenues	\$ 2,889	\$ 3,677	\$ 3,694	\$ 3,693
Transfers to Other Funds	\$ -	\$ -	\$ -	\$ -
Totals, Revenues and Transfers	\$ 2,889	\$ 3,677	\$ 3,694	\$ 3,693
Totals, Resources	\$ 6,025	\$ 6,245	\$ 6,262	\$ 6,222
EXPENDITURES				
Disbursements:				
0840 State Controller (State Operations)	\$ 2	\$ 3	\$ -	\$ -
8880 Financial Information System for CA (State Operations)	\$ 2	\$ 15	\$ -	\$ -
8500 Program Expenditures (State Operations)	\$ 3,453	\$ 3,659	\$ 3,732	\$ 3,807
Total Disbursements	\$ 3,457	\$ 3,677	\$ 3,732	\$ 3,807
FUND BALANCE				
Reserve for economic uncertainties	\$ 2,568	\$ 2,568	\$ 2,530	\$ 2,416
Months in Reserve	8.4	8.3	8.0	7.5

NOTES:

- A. ASSUMES WORKLOAD AND REVENUE PROJECTIONS ARE REALIZED FOR 2009-10 AND ON-GOING.
- B. ASSUMES APPROPRIATION GROWTH OF 2% PER YEAR.
- C. ASSUMES INTEREST RATE AT 1%

**BOARD OF CHIROPRACTIC EXAMINERS
LICENSE STATISTICAL DATA**

FY 2010/11 – FY 2011/12 COMPARISON

LICENSE TYPE	TOTAL LICENSES 9/1/2010	TOTAL LICENSES 9/1/2011	NET VARIANCE
CHIROPRACTOR	13,901	13,745	-156
SATELLITES	3,627	3,872	+245
CORPORATIONS	1,319	1,323	-4
REFERRALS	31	31	-2
TOTALS	18,878	18,971	+93

**APPLICATIONS RECEIVED AND PROCESSED
JULY 1, 2011 – AUGUST 31, 2011**

APPLICATION TYPE	RECEIVED	APPROVED	DENIED	WITHDRAWN	PENDING
INITIAL	53	44	1	0	134
RECIPROCAL	2	2	0	0	14
RESTORATION	41	33	0	0	12
CORPORATION	10	13	0	0	18

Compliance Unit Statistics

Fiscal Year	07/08	08/09	09/10	10/11	11/12*
<u>Complaints</u>					
Received	644	655	519	497	65
Pending	824	410	203	137	145
Closed with Insufficient Evidence	107	206	136	96	12
Closed with No Violation	78	223	129	135	10
Closed with Merit	321	275	158	140	18
Letter of Admonishment	n/a	n/a	5	4	0
Citations and Fines Issued (Total Fine Amount)	28	41(\$19,200)	78(\$25,700)	47(\$12,700)	2 (\$2,100)
<u>Accusations</u>					
Filed	13	64	73	68	2
Pending	73	105	117	130	122
Revoked	8	10	18	17	4
Revocation Stayed: Probation	10	4	20	26	1
Revocation Stayed: Suspension and Probation	10	7	8	9	2
Suspension	0	0	0	0	0
Suspension Stayed: Probation	0	0	1	0	0
Suspension and Probation	0	2	0	0	0
Voluntary Surrender of License	2	2	7	9	2
Dismissed/Withdrawn	3	5	18	10	2
<u>Statement of Issues</u>					
Filed	7	3	3	4	1
Denied	0	1	0	0	0
Probationary License	7	4	7	3	2
Withdrawn at Applicant's Request	1	0	0	0	0
Granted	0	0	0	1	0
<u>Petition for Reconsideration</u>					
Filed	0	1	3	0	0
Granted	0	0	0	0	0
Denied	0	1	2	0	0
<u>Petition for Reinstatement of License</u>					
Filed	15	13	9	7	1
Granted	12	4	4	2	0
Denied	6	11	11	10	2
<u>Petition for Early Termination of Probation</u>					
Filed	6	6	6	4	0
Granted	1	6	1	2	3
Denied	1	2	2	4	0
<u>Petition for Modification of Probation</u>					
Filed	0	0	0	0	0
Granted	0	0	0	0	0
Denied	0	0	0	0	0
<u>Petition by Board to Revoke Probation</u>					
Filed	0	11	32	13	4
Revoked	0	3	7	2	2
<u>Probation Cases</u>					
Active	159	140	134	138	142

* FY 11/12: July 1, 2011 – August 31, 2011

Revised: September 1, 2011

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

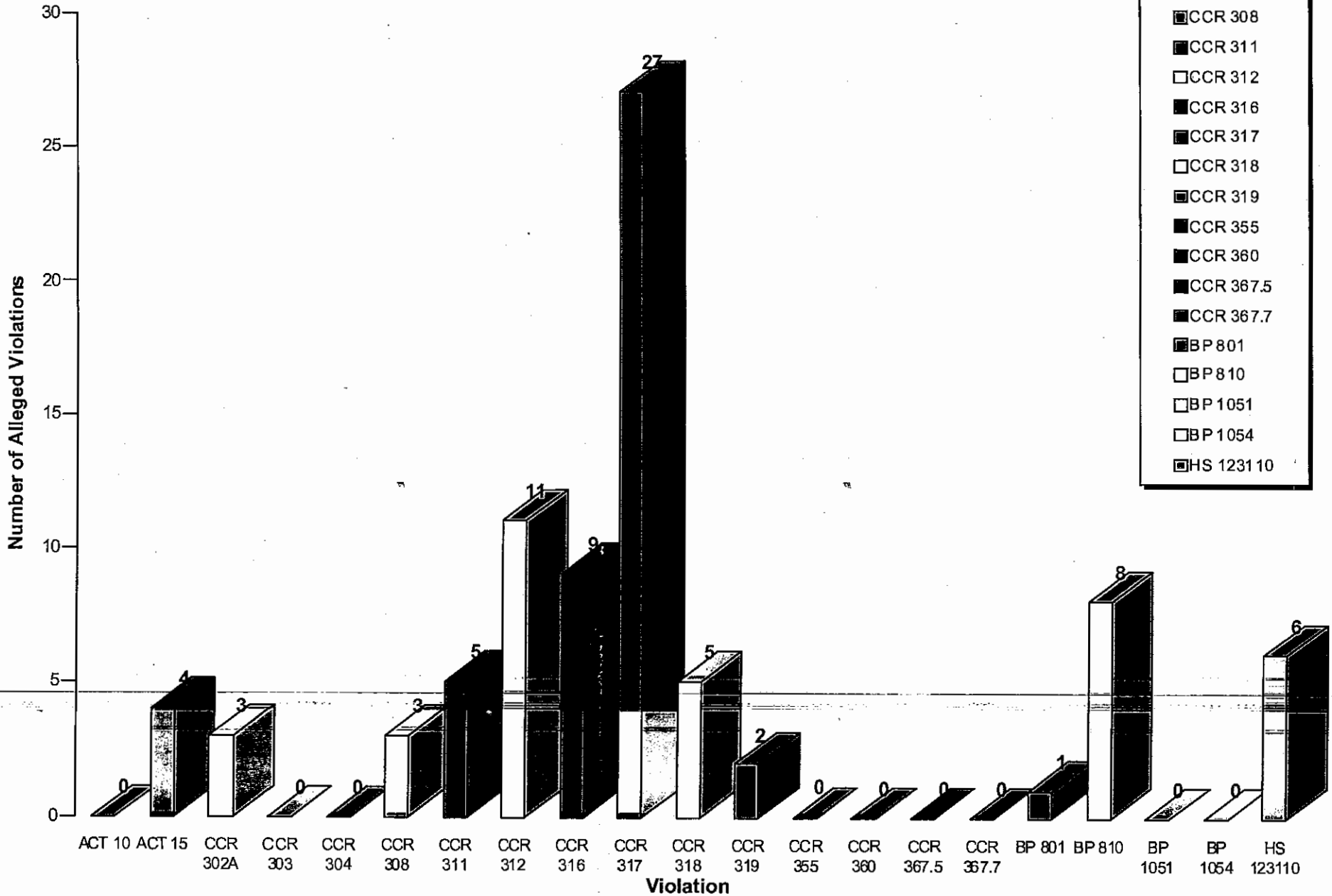
Health and Safety Code (HS):

- 123110 – Patient Access to Health Records

FISCAL YEAR 2012

July 1, 2011 - August 31, 2011
 Total Number of Complaints Opened - 65
 Total Number of Violations - 84
 (A complaint may contain multiple violations)

- 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 Codes/Descriptions

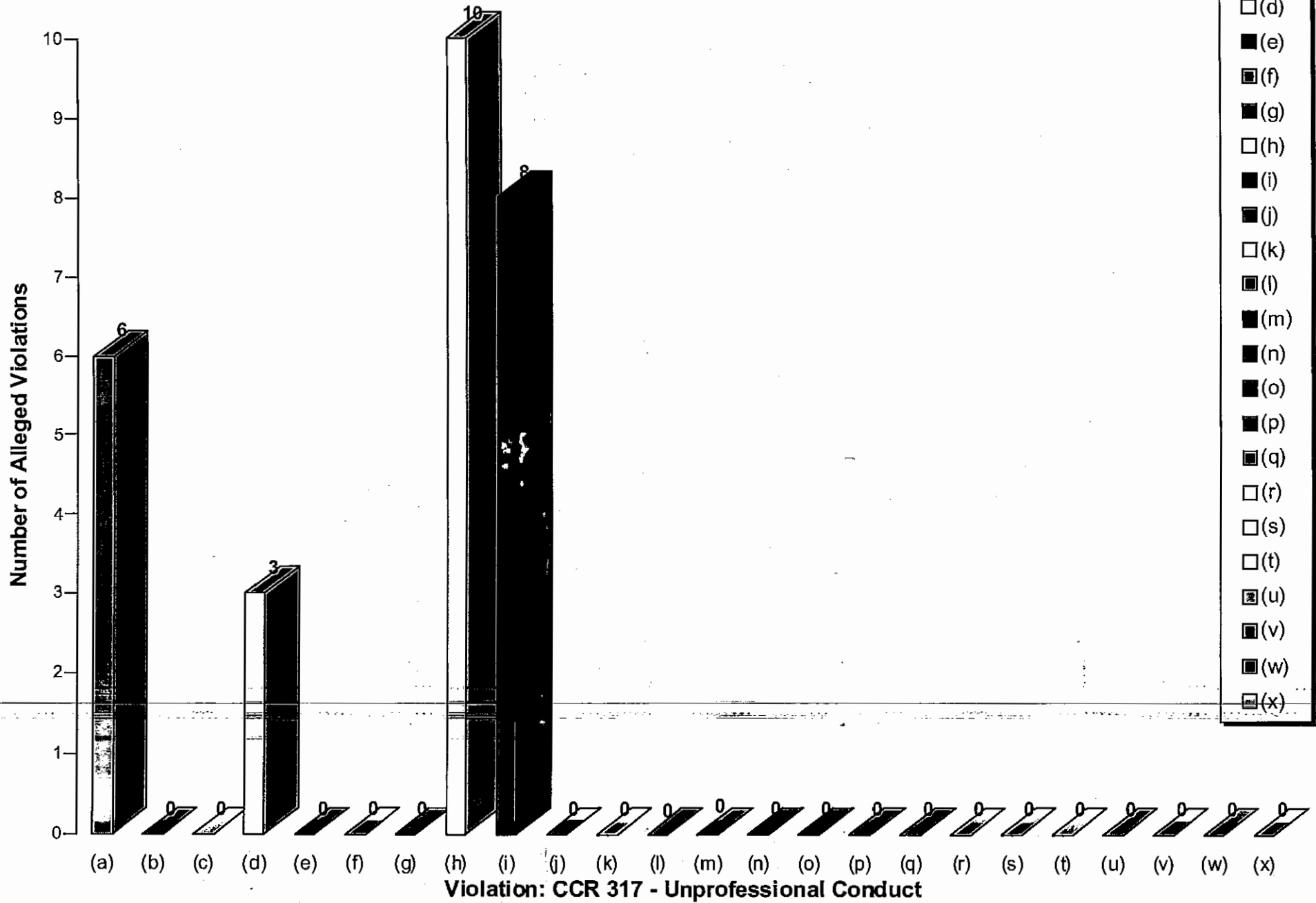
California Code of Regulations (CCR) Section 317 – Unprofessional Conduct:

- (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 2012

July 1, 2011 - August 31, 2011

Total Number of Complaints Opened Alleging Violation of CCR 317 - 27
(A complaint may contain multiple violations)



MEMORANDUM

Date: August 25, 2011

To: BOARD MEMBERS

From: Robert Puleo
Executive Officer 

Subject: Ratification of Formerly Approved Continuing Education Providers

This is to request that the Board ratify the continuing education provider at the public meeting on September 15, 2011.

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

<u>CONTINUING EDUCATION PROVIDERS</u>	<u>DATE APPROVED</u>
1. Safety Works Medical Inc	06/25/2011
2. Launa R. Rapa, D.C.	06/25/2011
3. Ultimate Practice	06/25/2011
4. Panaxea International Inc.	06/25/2011

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

MEMORANDUM



Date: September 8, 2011

To: **Board Members**

From: Robert Puleo
Executive Officer

A handwritten signature in black ink, appearing to be "R. Puleo", written over the printed name and title.

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 July 1, 2011 and August 31, 2011, staff reviewed and confirmed that one (1) applicant did not meet all statutory and regulatory requirements for licensure. The applicant has not yet appealed the decision but is still within the 60-days time period.

At this time, ratification is not necessary.

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

MEMORANDUM



Date: September 7, 2011

To: Board Members

From: Robert Puleo
Executive Officer

A handwritten signature in black ink, consisting of stylized initials "RP".

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 September 15, 2011, public meeting.

Between July 1, 2011 and August 31, 2011, 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
July 1, 2011 – August 31, 2011

Name (First, Middle, Last)			Date Issued	DC#
Anna	Katrina	Phillips	7/8/2011	32043
Hsiao-Hsien	Joseph	Chen	7/13/2011	32044
David	Bryce	Hanson	7/13/2011	32045
David	Y.	Ko	7/13/2011	32046
Brady	Christopher	Moore	7/13/2011	32047
Terrance	Addison	Ashton-Boyd	7/15/2011	32048
Kent	Walter	Hardenbrook	7/15/2011	32049
Joseph	David	Johnson	7/15/2011	32050
Aaron	Andrew	Kenna	7/15/2011	32051
Joo	Yong	Kim	7/15/2011	32052
Deborah	Charmaine	Buzby-Cope	7/21/2011	32053
Nathaniel		Ju	7/21/2011	32054
Barry	Alan	Roland	7/22/2011	32055
Sanaz	Khandani	Rouhani	7/22/2011	32056
Calen		Daniel	7/28/2011	32057
Juan	Carlos	Gutierrez	7/28/2011	32058
Timothy	Lee	Nicholl	8/1/2011	32059
Sara	DiNome	Teel	8/1/2011	32060
Devin		Young	8/1/2011	32061
Joel	Echern	Yeo	8/2/2011	32062
Israel	Jon	Perry	8/3/2011	32063
Shane	Robert	Seibert	8/3/2011	32064
William	Jeffrey	Boro	8/3/2011	32065
Nicholas	Charles	Braaten	8/3/2011	32066
Melody	Sheryl	Itliong	8/3/2011	32067
Byung Sung		Kim	8/3/2011	32068
Stephen	Anthony	Krupey	8/3/2011	32069
Eugene	Jaemin	Lee	8/3/2011	32070
Michael	Stanley	Lewen	8/3/2011	32071
Meghan	Marie	Magner	8/3/2011	32072
Trisha	Lenore	Smith	8/9/2011	32073
Neel		Bulchandani	8/12/2011	32074
Renee	Elizabeth	Cauvin	8/12/2011	32075
Kevin	Robert	Culver	8/12/2011	32076
Jessica	Ding Wayne	Lee	8/12/2011	32077

David	Mark	Radin	8/15/2011	32078
Michael	Joseph	Ruscio	8/15/2011	32079
Khoa	Dang	Tran	8/15/2011	32080
Kazuaki		Ogura	8/19/2011	32081
Enrique		Santana	8/19/2011	32082
Harmik		Torosian	8/19/2011	32083
Eric	Werner	Drazich	8/19/2011	32084
Erin	Marie	Flowers	8/19/2011	32085
Tira	Joy	Heartsong	8/19/2011	32086
Jacqueline	Raquel	Mendoza	8/19/2011	32087
Janae	Andrea	Smith	8/30/2011	32088

MEMORANDUM



Date: September 8, 2011

To: Board Members

From: Robert Puleo
Executive Officer

A handwritten signature in black ink, appearing to be "RP", written over the printed name "Robert Puleo".

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 individuals named on the attached list at the September 15, 2011, public meeting.

Staff reviewed and confirmed that the applicants 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.

lit

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

Name (Last, First MI)	License No.	Cancellation Date
Wallace, Nicole	26388	October 31, 2010

Request to Access Licensee or Applicant Records

(Board Policy)

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

Communications: Other Organizations/Individuals/Media

(Board Policy)

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

Committee Appointments

(Board Policy)

The Chair shall establish committees, whether standing or special, as he or she deems necessary.

The composition of the committees and the appointment of the members shall be determined by the Board Chair in consultation with the Vice Chair, Secretary, and the Executive Officer.

Standing Committees

(Board Policy)

The Board has eight standing committees:

1. Continuing Education Committee

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

1. Enforcement Committee

The Committee proposes regulations, policies, and standards to ensure compliance with chiropractic law and regulations. The Committee continuously seeks ways to improve the Board's enforcement activities.

TITLE 16. BOARD OF CHIROPRACTIC EXAMINERS
Proposed Omnibus Consumer Protection Regulations

§303. Filing of Addresses.

(a) Each person holding a license to practice chiropractic in the State of California under any and all laws administered by the board shall file his proper and current place of practice address of his principal office and, where appropriate, each and every sub-office, with the board at its office in Sacramento and shall immediately notify the board at its said office of any and all changes of place of practice address, giving both his old and his new address within 30 days of change.

(b) Each licensee shall file a current and accurate e-mail address with the board at its office in Sacramento and shall notify the board at its said office of any and all changes of the e-mail address, giving both the old and new e-mail address within 30 days of change.

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

Reference: Section 1000-10(a), Business and Professions Code (Chiropractic Initiative Act of California Stats. 1923 p. 1xxxviii) and Section 136 of the Business and Professions Code.

§304. Discipline by Another State Jurisdiction.

~~The revocation, suspension, or other discipline by another state of a license or certificate to practice chiropractic, or any other health care profession for which a license or certificate is required, shall constitute grounds for disciplinary action against a chiropractic licensee or grounds for the denial of chiropractic licensure of an applicant in this state.~~

(a) Any disciplinary action taken against a licensee by another licensing entity or authority of this state or of another state or an agency of the federal government or the United States Military or a foreign government constitutes unprofessional conduct.

(b) Disciplinary action is defined as any revocation, suspension, probation, or reprimand of a professional license.

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

Reference: Sections 1000-4(b) and 1000-10(a) of the (Chiropractic Initiative Act of California (Stats. 1923, p. 1xxxviii)) and Sections 141 and 480 of the Business and Professions Code.

§308. Display of License.

(a) Each person holding a license shall display a current active license in a conspicuous place in the licensee's principal office or primary place of practice.

(b) Any licensed Doctor of Chiropractic with more than one place of practice shall obtain from the Board a Satellite Office Certificate for each additional place of practice. Said certificate must be renewed annually.

(c) A licensed Doctor of Chiropractic must display in a conspicuous place a current active Satellite Office Certificate at the office for which it was issued.

(d) Notwithstanding subdivisions (b) and (c), any licensed doctor of chiropractic who is practicing in a mobile setting, such as at a health fair, a sporting event, or a patient's home, shall not be required to obtain and display a satellite certificate. However, any licensee practicing in such a mobile setting must at all times carry a current and active pocket license and shall make their pocket license available for inspection to a representative of the Board or any member of the public upon request.

(e) No licensed Doctor of Chiropractic shall display any chiropractic license, certificate or registration, which is not currently active and valid.

NOTE: Authority cited: Section 1000-4(b), Business and Professions Code (Chiropractic Initiative Act of California Stats. 1923, p. 1xxxviii) and Section 104 of the Business and Professions Code.

Reference: Sections 1000-5, 1000-7 and 1000-12, Business and Professions Code (Chiropractic Initiative Act of California Stats. 1923, p. 1xxxviii) and Section 104 of the Business and Professions Code.

§317.2. Gag Clauses in Civil Agreements Prohibited.

(a) A licensee shall not include or permit to be included any of the following provisions in an agreement to settle a civil dispute arising from his or her practice, whether the agreement is made before or after the filing of an action:

(1) A provision that prohibits another party to the dispute from contacting or cooperating with the board.

(2) A provision that prohibits another party to the dispute from filing a complaint with the board.

(3) A provision that requires another party to the dispute to attempt to withdraw a complaint he or she has filed with the board.

(b) A violation of this section constitutes unprofessional conduct and may subject the licensee to disciplinary action.

NOTE: Authority cited: Sections 1000-4(b), and 1000-10 (Chiropractic Initiative Act of California Stats. 1923, p. 1xxxviii) and Section 475 of the Business and Professions Code.

Reference: Section 1000-10, Business and Professions Code (Chiropractic Initiative Act of California Stats. 1923, p. 1xxxviii) and Section 475 of the Business and Professions Code.

§317.3. Licensee Reporting Requirements.

(a) (1) A licensee shall report any of the following to the board:

(A) The bringing of an indictment or information charging a felony against the licensee.

(B) The conviction of the licensee, including any verdict of guilty, or plea of guilty or no contest, of any felony or misdemeanor.

(C) Any disciplinary action, as defined in section 304, taken by another licensing entity or authority of this state or of another state or an agency of the federal government.

(2) The report required by this subdivision shall be made in writing within 30 days of the date of the bringing of the indictment or the charging of a felony, the arrest, the conviction, or the disciplinary action.

(b) Failure to make a report required by this section shall constitute unprofessional conduct.

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

Reference: Section 1000-10, Business and Professions Code (Chiropractic Initiative Act of California Stats. 1923, p. 1xxxviii).

§321.1. Physical or Mental Examination of Applicants.

(a) In addition to any other requirements for licensure, whenever it appears that an applicant for a license may be unable to perform as a chiropractor safely because the applicant's ability to perform may be impaired due to mental illness or physical illness affecting competency, the board may order the applicant to be examined by one or more physicians and surgeons, chiropractors, or psychologists designated by the board. The board shall pay the full cost of such examination.

(b) An applicant's failure to comply with an order issued under subdivision (a) shall render his or her application incomplete.

(c) The report of the evaluation shall be made available to the applicant.

(d) If after receiving the evaluation report the Board determines that the applicant is unable to safely practice, the Board may deny the application.

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

§390.7. Sexual Contact With Patient.

Except as otherwise provided, any proposed decision or decision issued in accordance with the procedures set forth in Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, that contains any finding of fact that the licensee engaged in any act of sexual contact, as defined in subdivision (c) of Section 729 of the Business and Professions Code, shall contain an order of revocation. A proposed decision shall not contain a stay of the revocation.

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

§390.8. Required Actions Against Registered Sex Offenders.

(a) Except as otherwise provided, with regard to an individual who is required to register as a sex offender pursuant to Section 290 of the Penal Code, or the equivalent in another state or territory, under military law, under federal law, or by a foreign government, the board shall be subject to the following requirements:

(1) The board shall deny an application by the individual for licensure in accordance with the procedures set forth in Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code.

(2) If the individual is licensed under Chiropractic Initiative Act, the board shall promptly revoke the license of the individual in accordance with the procedures set forth in Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code. The board shall not stay the revocation nor place the license on probation.

(3) The board shall not reinstate or reissue the individual's license. The board shall not issue a stay of license denial nor place the license on probation.

(b) This section shall not apply to any of the following:

(1) An individual who has been relieved under Section 290.5 of the Penal Code of his or her duty to register as a sex offender, or whose duty to register has otherwise been formally terminated under California law or the law of the jurisdiction that requires his or her registration as a sex offender, provided, however, that nothing in this paragraph shall prohibit the Board from exercising its discretion to deny or discipline a license under any other provision of state law.

(2) An individual who is required to register as a sex offender pursuant to Section 290 of the Penal Code solely because of a misdemeanor conviction under Section 314 of the Penal Code. However, nothing in this paragraph shall prohibit the healing arts board from exercising its discretion to deny or discipline a license under any other provision of state law based upon the licensee's conviction under Section 314 of the Penal Code.

(3) Any administrative adjudication proceeding under Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code that is fully adjudicated prior to [insert effective date]. A petition for reinstatement of a revoked or surrendered license shall be considered a new proceeding for purposes of this paragraph, and the prohibition against reinstating a license to an individual who is required to register as a sex offender shall be applicable.

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

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

**Board of Chiropractic Examiners
Proposed Regulatory Language for the Use of Lasers
California Code of Regulations, Title 16, Division 4, Article 1**

§ 302.5. Use of Laser

(a) A duly licensed chiropractor and any person under their direct supervision shall:

(1) Not use any laser in the practice of chiropractic which has not been properly approved by and has a valid 510(k) filed with the United States Food and Drug Administration (FDA).

(2) Not market or advertise the use of a laser or use a laser for purposes other than neuromusculoskeletal treatment consistent with the product's FDA 510(k) filing.

(3) Inform the prospective patient of the contraindications to laser exposure both verbally and in writing prior to the use of any laser or course of treatments with any laser on a patient.

(4) Follow the manufacturer's specified guidelines for the safe use of laser.

(5) Comply with all state and federal laws governing the use of lasers in clinical settings.

(b) Nothing in this section shall be construed to authorize the use of a laser by a chiropractor outside of the chiropractic scope of practice. This includes, but is not limited to, laser ablation or surgical procedures, and laser treatment of allergies in cases where there is a known risk of anaphylactic reaction to the individual being treated.

(c) Any violation of this section may constitute unprofessional conduct and the licensee shall be subject to discipline by the Board.

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

Board of Chiropractic Examiners
Proposed Language for Filing of Addresses

303. Filing of Addresses.

(a) Each person holding a license shall file with the board his or her proper and current physical practice address. If a licensee does not have a practice address, the licensee may file with the board his or her proper and current residence address. The address provided pursuant to this paragraph shall be public information unless the licensee also submits an alternate address pursuant to paragraph (b).

(b) In addition to the address filed pursuant to paragraph (a), a licensee may designate an address of record that shall be public information, which may consist of a post office box number or other viable mailing address.

(c) Each licensee shall report to the board each and every change of address within 30 (thirty) days after each change giving both the old and new addresses. The change of address shall be submitted in writing and mailed or faxed to the board at its office in Sacramento.