

NOTICE OF PUBLIC MEETING

**January 19, 2012
9:00 a.m.
State Capitol
First Floor, Senate Committee Room 113
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. **Election of Officers for 2012**
 - A. Chair
 - B. Vice-Chair
 - C. Secretary
4. **Approval of Minutes**
 - November 17, 2011 Board Meeting
 - January 5, 2012 Board Meeting
5. **Public Comment**
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. **Chiropractic Business/Franchise Models**
13. **Discussion and Possible Action on Informed Consent**
14. **Legislative Update**
 - A. SB 352 (Huff) - Chiropractors
15. **Proposed Regulations**
 - A. Use of Laser
 - B. Patient Records
 - C. Omnibus Consumer Protection
16. **Public Comment**
17. **Future Agenda Items**
18. **Hearings Re: Petition for Reinstatement of Revoked License**
 - A. Robert Nathanson
19. **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
20. **OPEN SESSION: Announcements Regarding Closed Session**
21. **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
November 17, 2011
Hilton Glendale
100 W. Glen Oaks Blvd.
Glendale, CA 91202**

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
Michael Santiago, 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
Ray Delaney, Management Services Technician
Valerie James, Office Technician

Call to Order

Dr. Lerner called the meeting to order at 9:02 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

September 15, 2011 Board Meeting

MOTION: DR. STEINHARDT MOVED TO APPROVE THE MINUTES

SECOND: DR. TYLER SECONDED THE MOTION

VOTE: 5-0

MOTION CARRIED

Public Comment

None

Executive Officer's Report

Mr. Puleo gave the Executive Officer's Report. The topics were Administration, Budget, Licensing, and Enforcement. Mr. Puleo also reported the Department of Technology Services released the 2010 website template and Board staff will be assigned to work on this project.

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).

Attorney General Billing

Mr. Puleo indicated that the Attorney General's office is providing a better breakdown of costs by categories and offices. Mr. Puleo also reported the average expenditures for the current fiscal year is consistently lower than the previous fiscal year. Average monthly expenditures have gone from \$85,000 down to \$65,000. Mr. Puleo reported that staff will continue to monitor the expenditures closely.

Authority Over Unlicensed/Non-Licensed Individuals Performing Chiropractic

Dr. Lerner stated he's been working on scheduling a meeting with the Physical Therapy Board Chair and will keep the Board updated on the progress.

Status of Division of Workers' Compensation's Qualified Medical Evaluator Regulations

Dr. Lerner reported the Department of Workers' Compensation (DWC) regulation process has not been completed as of yet. Dr. Lerner stated he will keep the communication open with this department.

Bill Howe from California Chiropractic Association (CCA) came forward and indicated that CCA would like to work with the Board with keeping the communication open with DWC.

Discussion and Possible Action on the Board's Mission Statement

Dr. Lubkin reported that he and Dr. Steinhardt are working on revising the mission statement and should have a proposed mission statement prepared by the next Board Meeting.

SB 541 – Policies and Procedures for the Selection and Use of Expert Consultants

Dr. Lerner expressed a concern for the wide variation of how expert consultants interpret the standard of care verses the Chiropractic regulations. Dr. Lerner would like the Legislation/Regulation Committee to looking into at their next meeting.

Regulatory Hearing on the Proposed Language for Patient Records – California Code of Regulations, Title 16, Division 4, Article 1, Section 318(a)

A regulatory hearing took place on the proposed language for Patient Records.

Proposed Regulations

Use of Laser

Mr. Puleo reported the changes made to the proposed regulatory language.

**MOTION: DR. STEINHARDT MOVED TO APPROVE THE PROPOSED LANGUAGE AS IS.
SECOND: DR. LUBKIN SECONDED THE MOTION**

The Board had a lengthy discussion on the language.

Dr. Davis from International Chiropractic Association of California came forward and stated that the Board already has regulations in place as to supervision of others. He believes the Board should eliminate section (5)(b) and (5)(c). Additionally, section (3) should be reflected in the existing regulations under 319.1.

Bill Howe agrees with adding section (3) to the existing regulations under 319.1.

Roger Calton, Attorney at Law, spoke in regards to section (1) and the use of the language relating to 510(k) and "approved by."

MOTION: DR. STEINHARDT MOVED TO AMEND HIS MOTION BY ADDING IN SECTION (a) "AS DEFINED IN SECTION 312" AFTER THE WORD "SUPERVISION"; SUBSECTION (1), ADDING "OR CLEARED" AFTER THE WORD "APPROVED" AND DELETING "AND HAS A VALID 510(k) FILED WITH"; SUBSECTION (2), THE REMOVAL OF "NEURO-MUSCULOSKELETAL", ADDING "SECTION 302" AFTER THE WORD "WITH" AND REPLACING "501(k) FILING" WITH "APPROVED OR CLEARANCE"; AND, DELETED SUBSECTION (3). MOVE FORWARD WITH THE LANGUAGE CHANGES AND FILE WITH THE OFFICE OF ADMINISTRATIVE LAW.

**SECOND: DR. LUBKIN SECONDED THE MOTION.
VOTE: 5-0
MOTION CARRIED**

Petitions for Reinstatement (Fee)

Mr. Puleo indicated that this regulatory package is on hold until the outcome of the Omnibus Consumer Protection regulatory package.

Filing of Addresses – Section 303

Mr. Puleo indicated that this regulatory package is on hold until the outcome of the Omnibus Consumer Protection regulatory package.

Omnibus Consumer Protection

**MOTION: DR. LERNER MOVED TO APPROVE THE PROPOSED LANGUAGE AS IS AND SUBMIT TO OFFICE OF ADMINISTRATIVE LAW.
SECOND: DR. TYLER SECONDED THE MOTION**

The Board had a lengthy discussion over the proposed language. Dr. Lerner withdrew his motion and instead tabled for further rewriting of the language.

Proposed Board Meeting Schedule for 2012

**MOTION: DR. LUBKIN MOVED TO APPROVE THE PROPOSED BOARD MEETING SCHEDULE
SECOND: DR. TYLER SECONDED THE MOTION.
VOTE: 5-0
MOTION CARRIED**

Public Comment

Debra Snow testified support of the Omnibus Consumer Protection proposed language.

Future Agenda Items

Dr. Tyler requested Informed Consent to be placed on the agenda for the next Board Meeting.

Hearings Re: Petition for Reinstatement of Revoked License

Administrative Law Judge Chris Ruiz presided over and Supervising Deputy Attorney General Thomas Rinaldi appeared on behalf of the people of the State of California on the following hearing:

- A. Waylon Moore
- B. Bruce Figoten

Closed Session

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

Adjournment

Dr. Lerner adjourned the meeting at 2:28p.m.

(ATTACHMENT A)
Approval By Ratification of Formerly Approved License Applications
September 1, 2011 – October 31, 2011

Name (First, Middle, Last)			Date Issued	DC#
Jacalyn	Renae	Amrine	9/1/2011	32089
Erik	William	Hanson	9/1/2011	32090
Annabeth		Macy	9/1/2011	32091
Mohsen		Moazami	9/1/2011	32092
Scott	Ray	Jurica	9/8/2011	32093
Andrea	Dione	Owens	9/12/2011	32094
Daniel	Ainsworth	Smith	9/12/2011	32095
Laara		Van Bryce	9/12/2011	32096
Michael	Jason	Goldman	9/13/2011	32097
Akiko		Kobayashi	9/13/2011	32098
Eric	Benjamin	Ruble	9/23/2011	32099
Jason	McCoy	Slade	9/23/2011	32100
Donald	Spangler	Pritt, Jr.	9/23/2011	32101
Eric	Tal	Bartlett	9/28/2011	32102
Samuel	Bernard	Rose	9/30/2011	32103
Aleksey		Zelenkovsky	9/30/2011	32104
Alexander	Lawrence	Brown	10/5/2011	32105
Stephen	James	Cain	10/5/2011	32106
Richard	Tyler	Dennis	10/5/2011	32107
Michael		Kaliko	10/5/2011	32108
Angela	Marie	Pogioli	10/7/2011	32109
Pejman		Pourarbab	10/7/2011	32110
The	Duc	Nguyen	10/11/2011	32111
Jason	James	Ackley	10/12/2011	32112
Denise	Marie	Britt	10/12/2011	32113
Jennifer	Elizabeth	Little	10/12/2011	32114
Mark	Anthony	Barraza	10/18/2011	32115
Roseann	Leah	Berg	10/18/2011	32116
James	Peter	Kunsman	10/18/2011	32117
Michael	Thomas	Lagueux III	10/18/2011	32118
Adam	Arthur	Meisenhelder	10/18/2011	32119
Brittany	Ann	Robinson	10/20/2011	32120
Horace	M	Samuels	10/20/2011	32121

Justin	Russell	Willcoxson	10/20/2011	32122
Rachelle	Marie	Willcoxson	10/20/2011	32123
Laura	Brittany	Wilson	10/20/2011	32124
Sandy	Marie	Baird	10/21/2011	32125
Brandon	Lee	Boothe	10/21/2011	32126
Nam	Hoai	Nguyen	10/25/2011	32127
Vu	Viet	Ninh	10/25/2011	32128
Brian	Richard	Baar	10/28/2011	32129
Michael	William	Bohrnsen	10/28/2011	32130
Mamerto	Agcaoili	Estepa Jr.	10/28/2011	32131

(ATTACHMENT B)

<u>CONTINUING EDUCATION PROVIDERS</u>	<u>DATE APPROVED</u>
1. <u>CMCS Management Inc.</u>	11/1/11
2. <u>Barton University</u>	11/1/11
3. <u>James W. Brantingham D.C.</u>	11/1/11
4. <u>Douglas M. Gillard, D.C.</u>	11/1/11
5. <u>Karl A. Giljum, D.C.</u>	11/1/11
6. <u>American Liberty University</u>	11/1/11
7. <u>Total Thermal Imaging Inc.</u>	11/1/11
8. <u>Zhen Sheng Fu</u>	11/1/11

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

Name (Last, First MI)	License No.	Cancellation Date
Armatis, Michael	30574	July 31, 2011
Caron, Daniel	19402	July 31, 2011
McGarry, Liesche	30227	March 31, 2010



Board Meeting Minutes January 5, 2012

T (916) 263-5355
F (916) 263-5369
TT/TDD (800) 735-2929
Consumer Complaint Hotline
(866) 543-1311

Board of Chiropractic Examiners
2525 Natomas Park Drive, Suite 260
Sacramento, California 95833-2931
www.chiro.ca.gov



**BOARD OF CHIROPRACTIC EXAMINERS
TELECONFERENCE MEETING
PUBLIC SESSION MINUTES
January 5, 2012
2525 Natomas Park Drive, Suite 260
Sacramento, CA 95833**

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, Staff Counsel
Linda Shaw, Staff Services Manager
Ray Delaney, Management Services Technician
Valerie James, Office Technician

Call to Order

Dr. Lerner called the meeting to order at 8:33 a.m.

Roll Call

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

Legislation – SB 352 (Huff) – Chiropractic Scope of Practice

Dr. Lerner briefly discussed the Board's efforts in working on regulatory language for the use of lasers and how SB 352 will impact the current efforts of the Board and the Chiropractic profession. Dr. Lerner recommended the Board take an oppose position on the bill. Dr. Lerner stated he and Mr. Puleo will be attending the Business and Professions committee hearing on Monday, January 9, 2012 and would like to send a letter of opposition to Senator Huff and the committee prior to the hearing.

**MOTION: DR. LERNER MOVED TO TAKE AN OPPOSE POSITION ON SB 352.
SECOND: DR. TYLER SECONDED THE MOTION**

Dr. Steinhardt and Dr. Lubkin expressed their support for submitting an opposition letter.

Public Comment

Annie Lam from the California Chiropractic Association (CCA) testified their support in the Board's decision to submit a letter of opposition to SB 352 (Huff). Annie Lam stated CCA has submitted a letter of opposition as well.

VOTE: 5-0

MOTION CARRIED

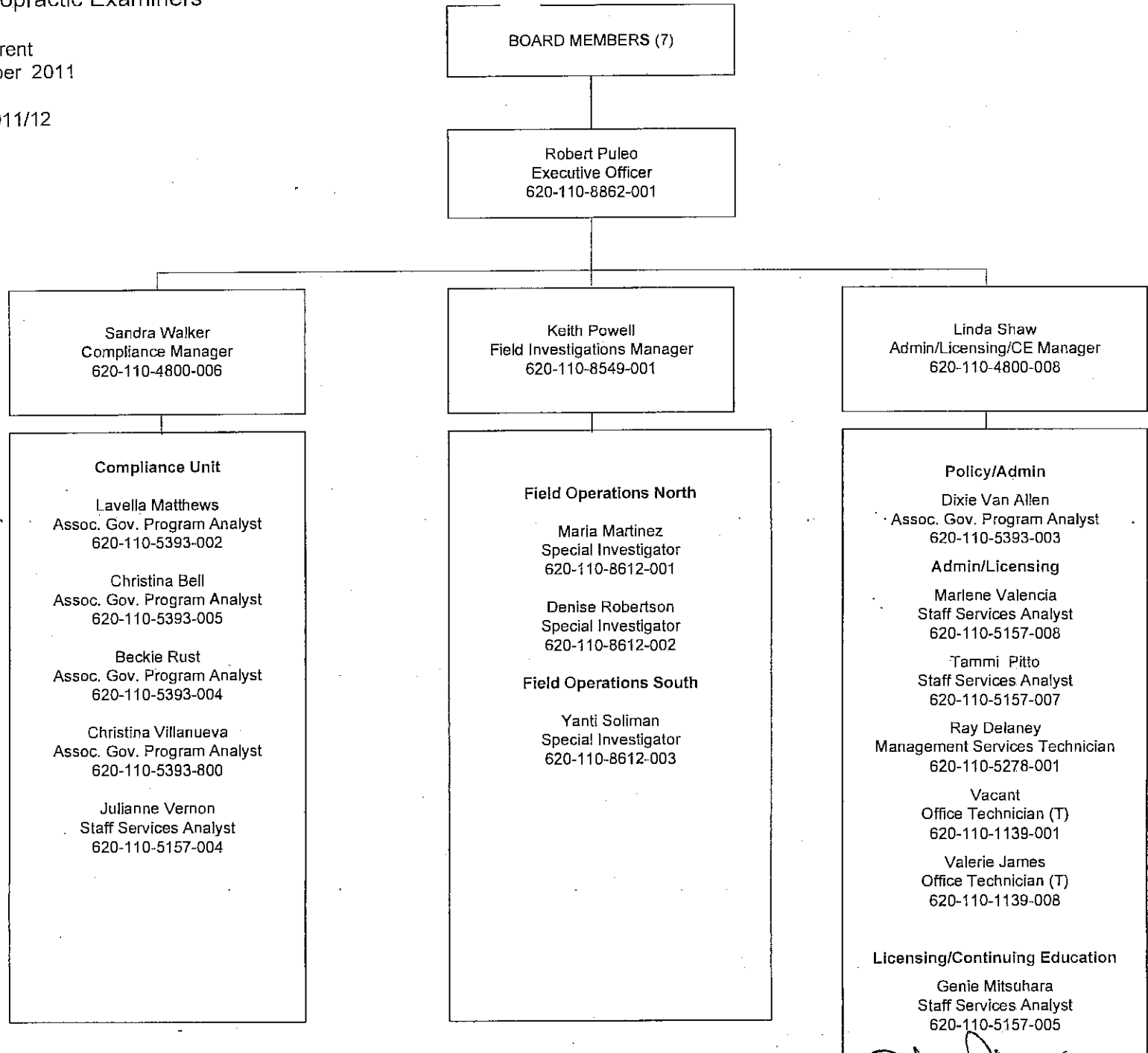
Adjournment

Dr. Lerner adjourned the meeting at 8:45 a.m.

State Board of Chiropractic Examiners

Current
September 2011

FY 2011/12



Executive Officer

0152 - Board of Chiropractic Examiners
Analysis of Fund Condition

Prepared 1/11/12

(Dollars in Thousands)

2012-13 Governor's Budget

	CY 2011-12	Governor's Budget BY 2012-13	BY+1 2013-14
BEGINNING BALANCE	\$ 2,568	\$ 1,417	\$ 1,285
Prior Year Adjustment	\$ -	\$ -	\$ -
Adjusted Beginning Balance	\$ 2,568	\$ 1,417	\$ 1,285
 REVENUES AND TRANSFERS			
Revenues:			
125600 Other regulatory fees	\$ 128	\$ 128	\$ 128
125700 Other regulatory licenses and permits	\$ -	\$ -	\$ -
125800 Renewal fees	\$ 2,852	\$ 3,398	\$ 3,398
125900 Delinquent fees	\$ 50	\$ 48	\$ 48
141200 Sales of documents	\$ -	\$ -	\$ -
142500 Miscellaneous services to the public	\$ -	\$ -	\$ -
150300 Income from surplus money investments	\$ 20	\$ 13	\$ 10
150500 Interest Income From Interfund Loans	\$ -	\$ -	\$ -
160400 Sale of fixed assets	\$ -	\$ -	\$ -
161000 Escheat of unclaimed checks and warrants	\$ -	\$ -	\$ -
161400 Miscellaneous revenues	\$ 6	\$ 6	\$ 6
161900 Other Revenue - Cost Recoveries*	\$ 50	\$ 50	\$ 50
164600 Fines and Forfeitures	\$ 21	\$ 21	\$ 21
Totals, Revenues	\$ 3,127	\$ 3,664	\$ 3,661
Transfers to Other Funds	\$ -	\$ -	\$ -
Totals, Revenues and Transfers	\$ 3,127	\$ 3,664	\$ 3,661
Totals, Resources	\$ 5,695	\$ 5,081	\$ 4,946
 EXPENDITURES			
Disbursements:			
0840 State Controller (State Operations)	\$ 3	\$ -	\$ -
8880 Financial Information System for CA (State Operations)	\$ 15	\$ -	\$ -
8500 Program Expenditures (State Operations)	\$ 4,217	\$ 3,688	\$ 3,762
BreEZe SPR Funding	\$ 43	\$ 79	\$ 117
Credit Card BCP (BreEZe)		\$ 29	\$ 58
Total Disbursements	\$ 4,278	\$ 3,796	\$ 3,937
 FUND BALANCE			
Reserve for economic uncertainties	\$ 1,417	\$ 1,285	\$ 1,009
 Months in Reserve	4.5	3.9	3.0

NOTES:

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

**BOARD OF CHIROPRACTIC EXAMINERS
LICENSE STATISTICAL DATA**

FY 2010/11 – FY 2011/12 COMPARISON

LICENSE TYPE	TOTAL LICENSES 1/1/2011	TOTAL LICENSES 1/1/2012	NET VARIANCE
CHIROPRACTOR	13,850	13,597	-253
SATELLITES	3,673	3,879	+206
CORPORATIONS	1,315	1,310	-5
REFERRALS	31	31	0
TOTALS	18,869	18,817	-52

**APPLICATIONS RECEIVED AND PROCESSED
NOVEMBER 1, 2011 – DECEMBER 31, 2011**

APPLICATION TYPE	RECEIVED	APPROVED	DENIED	WITHDRAWN	PENDING
INITIAL	56	38	0	0	142
RECIPROCAL	2	0	0	0	14
RESTORATION	30	29	1	0	8
CORPORATION	7	4	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	209
Pending	824	410	203	137	161
Closed with Insufficient Evidence	107	206	136	96	37
Closed with No Violation	78	223	129	135	40
Closed with Merit	321	275	158	140	59
Letter of Admonishment	n/a	n/a	5	4	1
Citations and Fines Issued (Total Fine Amount)	28	41(\$19,200)	78(\$25,700)	47(\$12,700)	12(\$16,600)
<u>Accusations</u>					
Filed	13	64	73	68	17
Pending	73	105	117	130	107
Revoked	8	10	18	17	5
Revocation Stayed: Probation	10	4	20	26	8
Revocation Stayed: Suspension and Probation	10	7	8	9	8
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	5
Dismissed/Withdrawn	3	5	18	10	17
<u>Statement of Issues</u>					
Filed	7	3	3	4	1
Denied	0	1	0	0	1
Probationary License	7	4	7	3	3
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	1
Granted	0	0	0	0	0
Denied	0	1	2	0	0
<u>Petition for Reinstatement of License</u>					
Filed	15	13	9	7	3
Granted	12	4	4	2	1
Denied	6	11	11	10	2
<u>Petition for Early Termination of Probation</u>					
Filed	6	6	6	4	9
Granted	1	6	1	2	11
Denied	1	2	2	4	9
<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	7
<u>Probation Cases</u>					
Active	159	140	134	138	142

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

Revised: January 11, 2012

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):

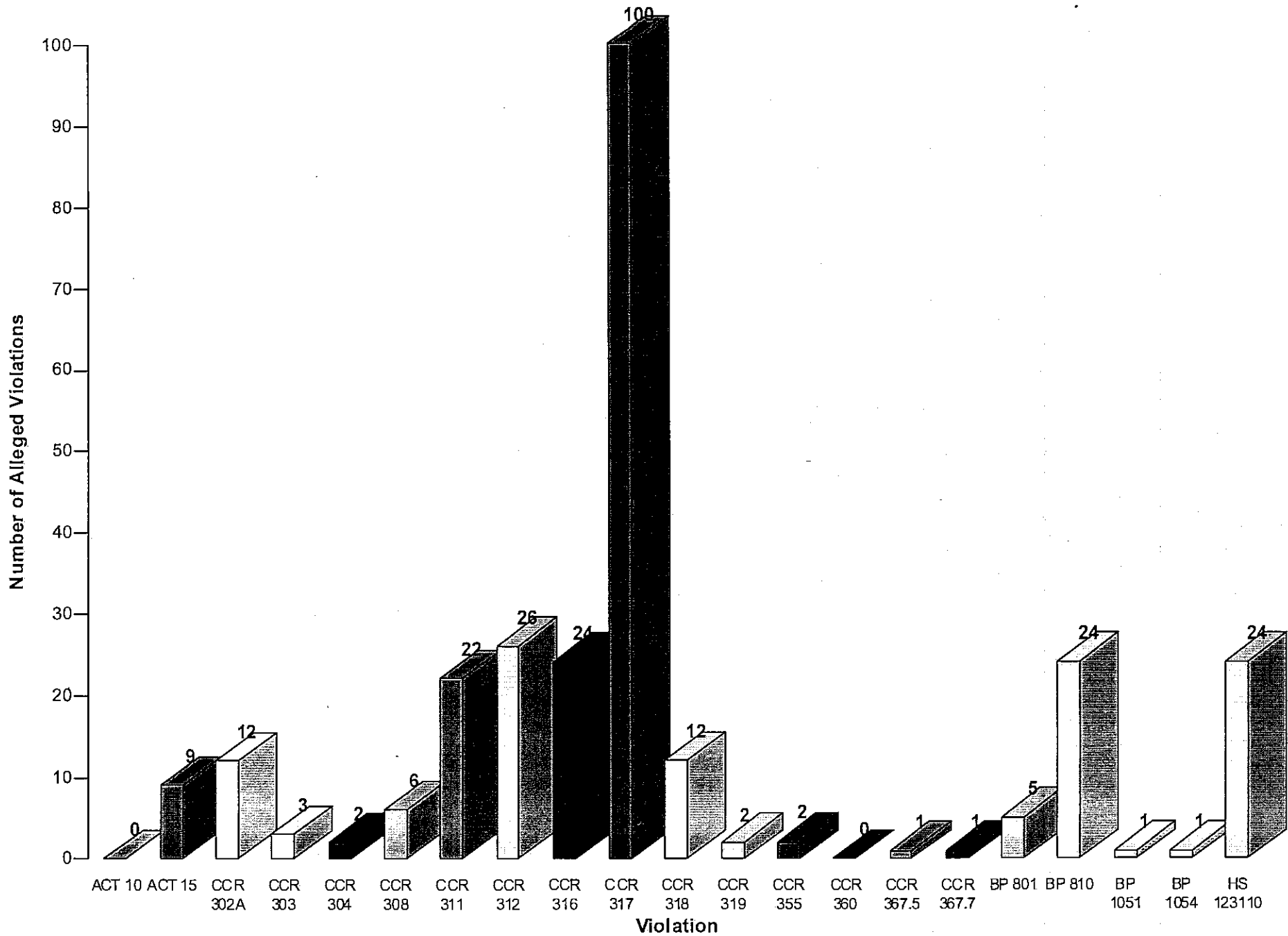
- 123110 – Patient Access to Health Records

FISCAL YEAR 2012

July 1, 2011 - December 31, 2011

Total Number of Complaints Opened - 209

Total Number of Violations - 274 (A complaint may contain multiple violations)



Violation Codes/Descriptions

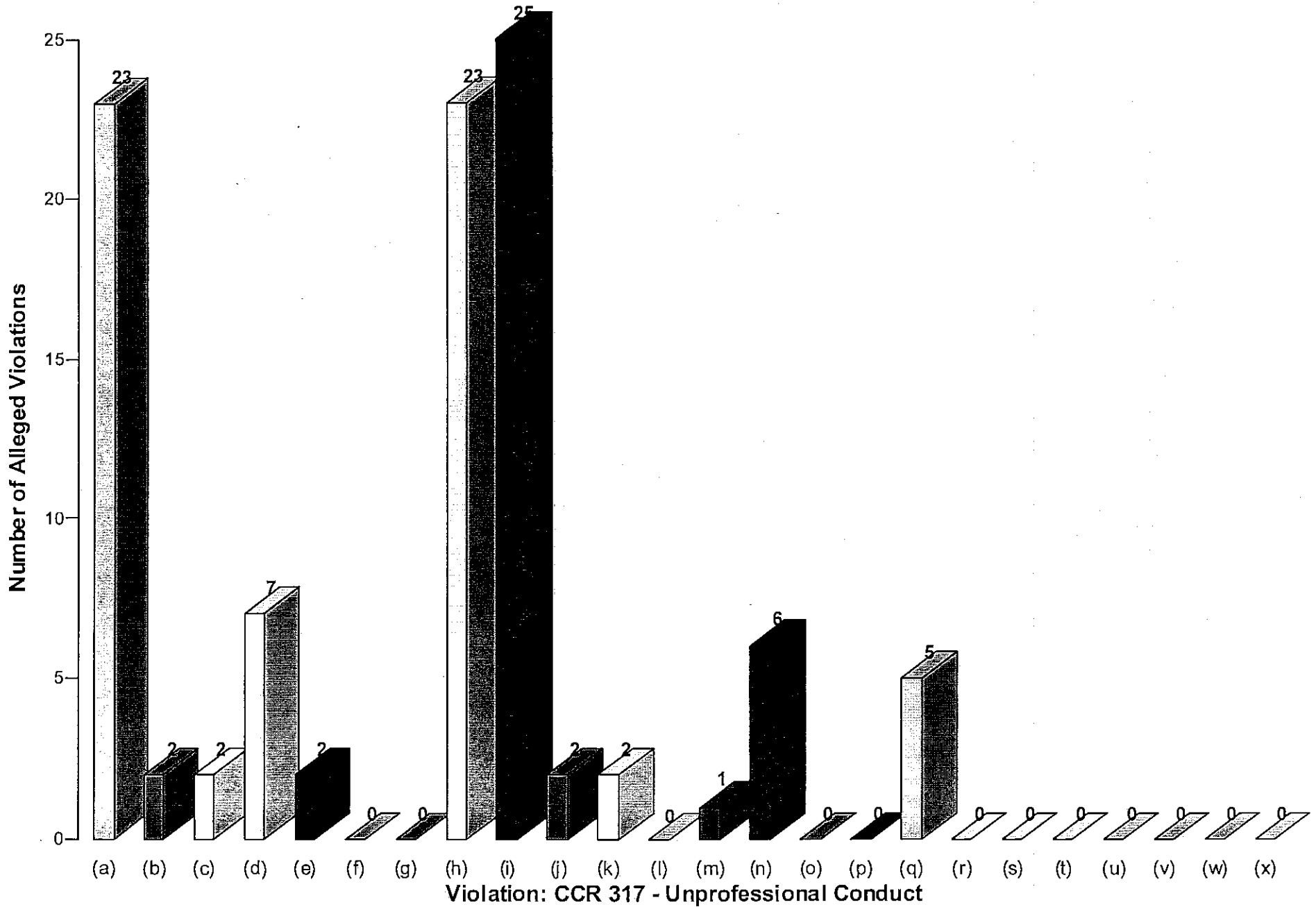
California Code of Regulations (CCR) Section 317 – Unprofessional Conduct:

- (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 - December 31, 2011

Total Number of Complaints Opened Alleging Violation of CCR 317 - 100
(A complaint may contain multiple violations)

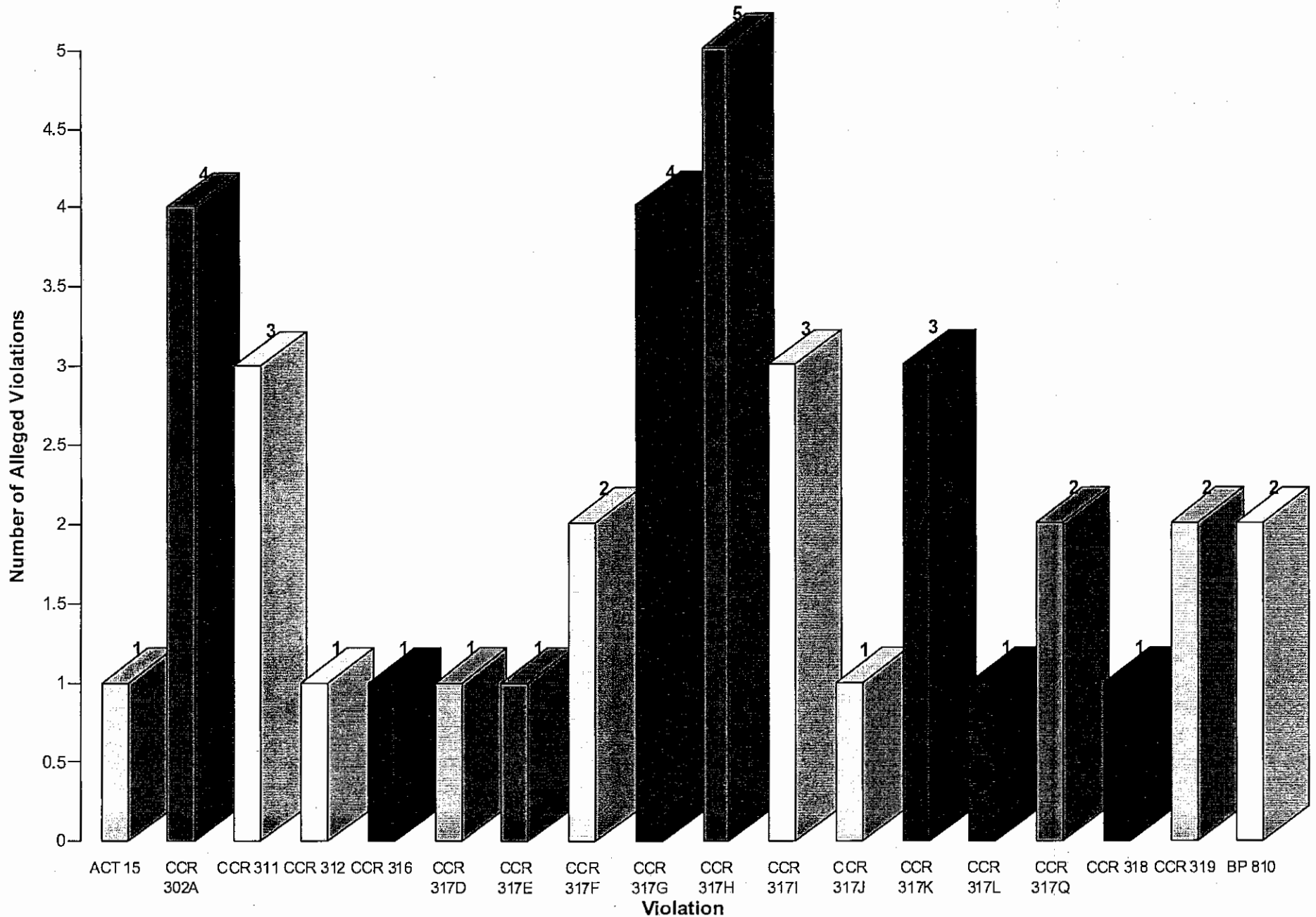


FISCAL YEAR 2012

July 1, 2011 - December 31, 2011

Total Number of Accusations Filed - 17

Total Number of Violations - 38 (An accusation may contain multiple violations)



MEMORANDUM



Date: January 10, 2012

To: Board Members

From: Robert Puleo
Executive Officer

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

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 January 19, 2012, public meeting.

Between November 1, 2011 and December 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
November 1, 2011 – December 31, 2011

Name (First, Middle, Last)			Date Issued	DC#
Sadie	Jayne	Sanders	11/4/2011	32132
Kimberly	Nicole	Rumack	11/9/2011	32133
Murray	Allan	Russell	11/9/2011	32134
Matthew	Kurt	Alexander	11/10/2011	32135
Kangning	Karis	Chua	11/10/2011	32136
Steven	Michael	Hewitt	11/10/2011	32137
Kristine	Aimee	Lukens	11/10/2011	32138
Jonathan	Patrick	McHale	11/10/2011	32139
Jason	William Robert	Moore	11/10/2011	32140
Jason	Stephen	Crowley	11/17/2011	32141
Danielle	Nicole	Harris-Sartin	11/17/2011	32142
Tashia	Simone	Hilliard	11/17/2011	32143
Anjannette	Marie	Price	11/18/2011	32144
Job	Jehad	Asad	11/30/2011	32145
Nicole	Anne	Bailey	11/30/2011	32146
Ariana	Alexandra	Brosco	11/30/2011	32147
Alfred	Salomon	Garcia	11/30/2011	32148
Miro		Bandalo	12/9/2011	32149
Dawn	Kristen	Bortoluzzi	12/9/2011	32150
Christina	Kay	Coxon	12/9/2011	32151
Miki		Hayashi	12/9/2011	32152
Yangdong		Kim	12/9/2011	32153
Heather	Dalila	Maxwell	12/9/2011	32154
Adam	Jay	Ponchick	12/9/2011	32155
Sheena	Marie	Yurczak	12/9/2011	32156
Christopher	Arthur	Angelopoulos	12/20/2011	32157
R'Kione	W'Selas	Britton II	12/20/2011	32158
Eric	Douglas	Dixon	12/20/2011	32159
Jenny	Ji-Yun	Kim	12/20/2011	32160
Ryan	Neil	Lawlor	12/20/2011	32161
Anthony	Angel	Mendoza	12/20/2011	32162
Apolinar		Miranda	12/20/2011	32163
Joon	Hye	Kong	12/22/2011	32164
Gerald	Pasadilla	Palmes	12/22/2011	32165
Joseph	Nicholas	Snyder	12/22/2011	32166

Jonathan	Joseph	Sweeney	12/22/2011	32167
Daniel	D	Yen	12/22/2011	32168
Ashlee	Ariane	Yerrick	12/29/2011	32169

MEMORANDUM

Date: January 4, 2012

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 January 19, 2012.

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

<u>CONTINUING EDUCATION PROVIDERS</u>	<u>DATE APPROVED</u>
<u>1. James T. Platto, D.C. & Dennis M. Sosine, D.C.</u>	<u>1/4/2012</u>
<u>2. Douglas L. Weed, D.C.</u>	<u>1/4/2012</u>
<u>3. Chiropractic Orthopedists of North America</u>	<u>1/4/2012</u>
<u>4. CE4You</u>	<u>1/4/2012</u>
<u>5. Charles Ward Sherrod, D.C.</u>	<u>1/4/2012</u>
<u>6. Boris Gorbis, Esq.</u>	<u>1/4/2012</u>

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

MEMORANDUM



Date: January 10, 2012

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: 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 November 1, 2011 and December 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: January 10, 2012

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)

At this time, there is no ratification necessary for the two year requirement on a Restoration of a Cancelled License

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

§ 319.1. Informed Consent.

(a) A licensed doctor of chiropractic shall verbally and in writing inform each patient of the material risks of proposed care. "Material" shall be defined as a procedure inherently involving known risk of serious bodily harm. The chiropractor shall obtain the patient's written informed consent prior to initiating clinical care. The signed written consent shall become part of the patient's record.

(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, Business and Professions Code (Chiropractic Initiative Act of California Stats. 1923 p. lxxxviii).

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



State of California
Edmund G. Brown Jr., Governor

IMPORTANT NOTICE REGARDING NEW INFORMED CONSENT REQUIREMENTS

Dear Licensees:

Please be advised that the Board of Chiropractic Examiners (BCE) recently adopted informed consent requirements, which becomes effective October 7, 2011. California Code of Regulations, Title 16, Div. 4, Article 2, Section 319.1 provides that:

Informed Consent:

(a) A licensed doctor of chiropractic shall verbally and in writing inform each patient of the material risks of proposed care. "Material" shall be defined as a procedure inherently involving known risk of serious bodily harm. The chiropractor shall obtain the patient's written informed consent prior to initiating clinical care. The signed written consent shall become part of the patient's record.

(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, 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).

In summary, section 319.1:

- Requires all licensees to inform each patient, verbally and in writing, of the material risks of proposed care.
- Defines "material" as a procedure inherently involving known risk of serious bodily harm.
- Requires the licensee to obtain the patient's written informed consent prior to initiating clinical care.
- Provides that the signed written consent shall become part of the patient's record.
- Specifies that a violation of the above requirements constitutes unprofessional conduct and may subject the licensee to disciplinary action

Although the regulation does not specify the manner in which written notice shall be provided to patients, you may wish to use a standardized "consent to treat" form in your practice. If you do not already use a consent to treat form and need assistance with obtaining or drafting one, you may wish to consult an attorney or contact your chiropractic malpractice insurance carrier. Chiropractic colleges and associations may also be able to provide you with samples and information for developing a consent to treat form.

Sincerely,

Fred Lerner, D.C., Chair

Robert Puleo, Executive Officer

T (916) 263-5355
F (916) 263-5369
TT/TDD (800) 735-2929
Consumer Complaint Hotline
(866) 543-1311

Board of Chiropractic Examiners
2525 Natomas Park Drive, Suite 260
Sacramento, California 95833-2931
www.chiro.ca.gov



State of California
Edmund G. Brown Jr., Governor

January 5, 2012

The Honorable Bob Huff
California State Senate
State Capitol, Room 5097
Sacramento, CA 95814

Re: SB 352 – OPPOSE

Dear Senator Huff:

The Board of Chiropractic Examiners (Board) at its January 5, 2012 Board Meeting unanimously voted to take a position of oppose on your bill, SB 352, which would amend the Chiropractic Initiative Act to place restrictions on the chiropractic scope of practice related to the diagnosis and treatment of allergies and the use of lasers.

The Board fears that this bill would jeopardize consumers by limiting a chiropractor's ability to diagnose and treat their patients who present with allergic conditions that can be effectively managed under the supervision of a chiropractor through dietary and lifestyle modifications. Furthermore, placing restrictions on a chiropractor's ability to diagnose, would potentially prevent the chiropractor from diagnosing a serious condition that might warrant referral to another health care provider.

We also question this bill's necessity given the lack of any evidence of consumer harm stemming from allergy treatments by a chiropractor. To date, the Board has not received any formal complaints related to allergy treatments provided by a licensee.

The Board believes that the regulation process is the more appropriate and cost-effective means of clarifying existing statute and has already promulgated regulations that, when enacted, will clarify the chiropractic scope of practice pertaining to allergy treatments and the use of lasers.

Please contact the Board's Executive Officer, Robert Puleo, at (916) 263-5359 if you have any questions.

Very truly yours,

Fred Lerner, D.C., Chair

Robert Puleo, Executive Officer

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Board of Chiropractic Examiners
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www.chiro.ca.gov

Introduced by Senator Huff

February 15, 2011

An act to amend Section 650.3 of *add Sections 1006 and 1007* to the Business and Professions Code, relating to chiropractors.

LEGISLATIVE COUNSEL'S DIGEST

SB 352, as amended, Huff. Chiropractors.

Existing law, *the Chiropractic Act, enacted by initiative act*, provides for the licensure and regulation of chiropractors by the State Board of Chiropractic Examiners. Existing law authorizes a person to participate in or operate a group advertising and referral service for chiropractors under specified circumstances. *Under the act, a license authorizes its holder to practice chiropractic as taught in chiropractic schools or colleges but does not authorize its holder to practice medicine, surgery, osteopathy, dentistry, or optometry.*

~~This bill would make nonsubstantive, technical changes to those provisions.~~

Existing law prohibits a chiropractor, among other healing arts practitioners, from disseminating any form of public communications containing a false, fraudulent, misleading, or deceptive statement for the purpose of inducing the rendering of professional services, as specified.

This bill would specify that the practice of chiropractic does not include the treatment or diagnosis of hypersensitivity to foods, medications, environmental allergens, or venoms, and would prohibit a chiropractor from advertising that he or she provides or is able to provide those services, as specified. The bill would specify that a

violation of these provisions constitutes a cause for discipline by the State Board of Chiropractic Examiners.

Vote: majority. Appropriation: no. Fiscal committee: no-yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. *The Legislature hereby finds and declares the*
2 *following:*

3 (a) *The law governing practitioners of chiropractic is an*
4 *initiative statute known as the Chiropractic Act that was originally*
5 *approved by the electorate on November 7, 1922.*

6 (b) *The scope of practice authorized by the Chiropractic Act*
7 *does not extend beyond the scope of the term "chiropractic" as it*
8 *was understood and defined in 1922. In addition, the Chiropractic*
9 *Act prohibits a chiropractor from engaging in the practice of*
10 *medicine.*

11 (c) *As it was understood in 1922, the term "chiropractic" did*
12 *not include the treatment or diagnosis of hypersensitivity to foods,*
13 *medications, environmental allergens, or venoms. Furthermore,*
14 *those services constitute the practice of medicine. Therefore, the*
15 *Chiropractic Act does not authorize licensees to provide those*
16 *services.*

17 SEC. 2. *Section 1006 is added to the Business and Professions*
18 *Code, to read:*

19 1006. (a) *The practice of chiropractic does not include the*
20 *treatment or diagnosis of hypersensitivity to foods, medications,*
21 *environmental allergens, or venoms, including, but not limited to,*
22 *the use of laser therapy for those purposes.*

23 (b) *A violation of this section shall constitute a cause for*
24 *discipline by the State Board of Chiropractic Examiners. For*
25 *purposes of this subdivision, the board shall have the same powers*
26 *of suspension, revocation, and discipline as authorized by the*
27 *initiative measure referred to in Section 1000.*

28 SEC. 3. *Section 1007 is added to the Business and Professions*
29 *Code, to read:*

30 1007. (a) *A person licensed by the State Board of Chiropractic*
31 *Examiners under the Chiropractic Act shall not advertise that he*
32 *or she provides or is able to provide the services described in*

1 Section 1006, unless that person holds another license under this
2 division that authorizes the person to provide those services.

3 (b) For purposes of this section, "advertise" includes, but is
4 not limited to, the issuance of any card, sign, or device to any
5 person, or the causing, permitting, or allowing of any sign or
6 marking on, or in, any building or structure, or in any newspaper
7 or magazine or in any directory, or any printed matter whatsoever,
8 with or without any limiting qualification. It also includes business
9 solicitations communicated by radio or television broadcasting.

10 (c) A violation of this section shall constitute a cause for
11 discipline by the State Board of Chiropractic Examiners. For
12 purposes of this subdivision, the board shall have the same powers
13 of suspension, revocation, and discipline as authorized by the
14 initiative measure referred to in Section 1000.

15 SEC. 4. The provisions of this act are severable. If any
16 provision of this act or its application is held invalid, that invalidity
17 shall not affect other provisions or applications that can be given
18 effect without the invalid provision or application.

19 SECTION 1. Section 650.3 of the Business and Professions
20 Code is amended to read:

21 650.3. (a) Notwithstanding Section 650 or any other provision
22 of law, it shall not be unlawful for a person licensed pursuant to
23 the Chiropractic Act, or any other person, to participate in or
24 operate a group advertising and referral service for chiropractors
25 if all of the following conditions are met:

26 (1) Patient referrals by the service are the result of patient
27 initiated responses to service advertising.

28 (2) The service advertises, if at all, in conformity with Section
29 651.

30 (3) The service does not employ a solicitor.

31 (4) The service does not impose a fee on the member
32 chiropractors that is dependent upon the number of referrals or
33 amount of professional fees paid by the patient to the chiropractor.

34 (5) Participating chiropractors charge no more than their usual
35 and customary fees to any patient referred.

36 (6) The service registers with the State Board of Chiropractic
37 Examiners, providing its name and address.

38 (7) The service files with the State Board of Chiropractic
39 Examiners a copy of the standard form contract that regulates its

1 relationship with member chiropractors, which contract shall be
2 confidential and not open to public inspection.

3 (8) If more than 50 percent of its referrals are made to one
4 individual, association, partnership, corporation, or group of three
5 or more chiropractors, the service discloses that fact in all public
6 communications, including, but not limited to, communication by
7 means of television, radio, motion picture, newspaper, book, or
8 list or directory of healing arts practitioners.

9 (b) The State Board of Chiropractic Examiners may adopt
10 regulations necessary to enforce and administer this section.

11 (c) The State Board of Chiropractic Examiners or 10 individual
12 licensed chiropractors may petition the superior court of any county
13 for the issuance of an injunction restraining any conduct that
14 constitutes a violation of this section.

15 (d) It is unlawful and shall constitute a misdemeanor for a person
16 to operate a group advertising and referral service for chiropractors
17 without providing its name and address to the State Board of
18 Chiropractic Examiners.

19 (e) It is the intent of the Legislature in enacting this section not
20 to otherwise affect the prohibitions provided in Section 650. The
21 Legislature intends to allow the pooling of resources by
22 chiropractors for the purpose of advertising.

23 (f) This section shall not be construed in any manner that would
24 authorize a service to engage in the practice of chiropractic.

Board of Chiropractic Examiners
Proposed Regulatory Language for Patient Records
California Code of Regulations, Title 16, Division 4, Article 2

§318. Chiropractic Patient Records/Accountable Billings.

(a) Chiropractic Patient Records. Each licensed chiropractor is required to maintain all active and inactive chiropractic patient records for five years from the date of the doctor's last treatment of the patient unless state or federal laws require a longer period of retention. Active chiropractic records are all chiropractic records of patients treated within the last 12 months. Chiropractic patient records shall be classified as inactive when there has elapsed a period of more than 12 months since the date of the last patient treatment.

All chiropractic patient records shall be available to any representative of the Board upon presentation of patient's written consent or a valid legal order. Active chiropractic patient records shall be immediately available to any representative of the Board at the chiropractic office where the patient has been or is being treated. Inactive chiropractic patient records shall be available upon ten days notice to any representative of the Board. The location of said inactive records shall be reported immediately upon request.

Active and inactive chiropractic patient records must include all of the following:

- (1) Patient's full name, date of birth, and social security number (if available);
- (2) Patient gender, height and weight. An estimated height and weight is acceptable where the physical condition of the patient prevents actual measurement;
- (3) Patient history, complaint, diagnosis/analysis, and treatment must be signed by the primary treating doctor. Thereafter, any treatment rendered by any other doctor must be signed or initialed by said doctor;
- (4) Signature of patient;
- (5) Date of each and every patient visit;
- (6) All chiropractic X-rays, or evidence of the transfer of said X-rays.
- (7) Signed written informed consent as specified in Section 319.1.

(b) Accountable Billings. Each licensed chiropractor is required to ensure accurate billing of his or her chiropractic services whether or not such chiropractor is an employee of any business entity, whether corporate or individual, and whether or not billing for such services is accomplished by an individual or business entity other than the licensee. In the event an error occurs which results in an overbilling, the licensee must promptly make reimbursement of the overbilling whether or not the licensee is in

any way compensated for such reimbursement by his employer, agent or any other individual or business entity responsible for such error. Failure by the licensee, within 30 days after discovery or notification of an error which resulted in an overbilling, to make full reimbursement constitutes unprofessional conduct.

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

Board of Chiropractic Examiners

Patient Records Proposed Regulations, Section 318

Public Hearing Comments:

Comment 1: Roger Calton asserts that the social security requirement listed under subsection 1 presents a privacy problem for chiropractic patients, such as the possibility of identity theft when the number is not redacted from patient records provided by the chiropractor, and recommends removing the social security requirement from this provision.

Response 1: The board rejects this comment as it is not substantially related to the proposed amendments to Section 318 as described in the Initial Statement of Reasons.



Hearings Re : Petition for Reinstatement of Revoked License

A. Robert Nathanson

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