BOARD of CHIROPRACTIC EXAMINERS
STATE OF CALIFORNIA

State of California
Edmund G. Brown Jr., Governor

NOTICE OF PUBLIC MEETING

October 29, 2013
9:00 a.m.
Radisson Hotel at Los Angeles Airport
6225 W. Century Blvd.
Los Angeles, CA 90045
(310) 670-9000

AGENDA

1. **OPEN SESSION** – Call to Order & Establishment of a Quorum
   Francesco Columbu, D.C. Chair
   Sergio Azzolino, D.C., Vice Chair
   Julie Elginer, Dr.PH, Secretary
   Hugh Lubkin, D.C.
   Heather Dehn, D.C.
   Frank Ruffino

2. **Chair's Report**

3. **Approval of Minutes**
   July 25, 2013 Board Meeting

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

5. **Ratification of Approved License Applications**

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

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

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

9. **Government Affairs Committee Meeting Update** – Board may take action on any item on the attached Government Affairs Committee meeting agenda.

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

T (916) 263-5355
F (916) 327-0039
TT/TDD (800) 735-2929
Consumer Complaint Hotline
(866) 543-1311

Board of Chiropractic Examiners
901 P Street, Suite 142A
Sacramento, California 95814
www.chiro.ca.gov

11. Licensing, Continuing Education and Public Relations Committee Meetings Update – Board may take action on any item on the attached Licensing, Continuing Education and Public Relations Committee meeting agendas.

12. Department of Consumer Affairs' Presentation of Services Provided to BCE

13. Proposed 2014 Board Meeting Schedule

14. Proposed Regulations

A. Omnibus Consumer Protection
B. Sponsored Free Health Care Events
C. Extracorporeal Shock Wave (ECSW) Therapy – Orthopedic Lithotripsy

15. Hearings Re: Petition for Reinstatement of Revoked License

A. Jeffrey Nabatmama
B. Carlos Seals

16. Hearings Re: Petition for Reduction of Penalty

A. Robert Zuckerman, D.C.

17. Public Comment

Note: The Board may not discuss or take action on any matter raised during this public comment section that is not included on this agenda, except to decide whether to place the matter on the agenda of a future meeting. [Government Code Sections 11125, 11125.7(a).]

18. Future Agenda Items

19. Closed Session

A. Deliberation on Disciplinary Decisions
   Pursuant to California Government Code Section 11126(c)(3)
B. Pursuant to California Government Code Section 11126(e)
   1) Board of Chiropractic Examiners v. Carole M. Arbuckle
      Sacramento County Superior Court, Case No. 03AS00948
   2) Hugh Lubkin, D.C. v. Board of Chiropractic Examiners
      Workers' Compensation Case No. ADJ7361379
C. Evaluation of Executive Officer
   Pursuant to California Government Code Section 11126(a)

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@dca.ca.gov or send a written request to the Board of Chiropractic Examiners, 901 P Street, Suite 142A, Sacramento, CA 95814. 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 25, 2013
Department of Consumer Affairs
1747 North Market Blvd., First Floor
Emerald Training Room
Sacramento, CA 95834

Board Members Present
Francesco Columbu, D.C., Chair
Sergio Azzolino, D.C., Vice Chair
Julie Elginer, Dr. PH, Secretary
Heather Dehn, D.C.
Hugh Lubkin, D.C.
Frank Ruffino

Staff Present
Robert Puleo, Executive Officer
Spencer Walker, Attorney III
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. Columbu called the meeting to order at 8:07 a.m.

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

Chair's Report
Dr. Columbu reported on recent activities relating to Board matters. Dr. Columbu requested Dr. Dehn to report on the recent meeting with the Department of Consumer Affairs' (DCA) Chief Deputy Director, Awet Kidane relating to the Governor's Reorganizational Plan issues raised by the Board.

Approval of Minutes
May 9, 2013 Board Meeting
June 25, 2013 Teleconference Board Meeting

MOTION: DR. AZZOLINO MOVED TO APPROVE THE MINUTES
SECOND: MR. RUFFINO SECONDED THE MOTION
VOTE: 6-0
MOTION CARRIED

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: MR. RUFFINO MOVED TO RATIFY THE APPROVED LICENSE APPLICATIONS
SECOND: DR. AZZOLINO SECONDED THE MOTION
VOTE: 6-0
MOTION CARRIED
The Board ratified the attached list of approved license applications incorporated herein (Attachment A).

Ratification of Approved Continuing Education Providers

MOTION: DR. DEHN MOVED TO RATIFY THE APPROVED CONTINUING EDUCATION PROVIDERS
SECOND: DR. AZZOLINO SECONDED THE MOTION
VOTE: 6-0
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 Canceled License

MOTION: DR. AZZOLINO MOVED TO RATIFY THE RECOMMENDATION TO WAIVE THE TWO YEAR REQUIREMENT TO RESTORE A CANCELED LICENSE
SECOND: MR. RUFFINO SECONDED THE MOTION
VOTE: 6-0
MOTION CARRIED
The Board ratified the attached list of approved continuing education providers incorporated herein (Attachment D).

Government Affairs Committee Meetings Update
Dr. Elginer reported on the Government Affairs Committee Meeting held on June 11, 2013. She updated the Board on the status of legislation that the Committee is following.

Licensing, Continuing Education and Public Relations Committee Meeting Update
Dr. Dehn reported on the Licensing, Continuing Education and Public Relations Committee meetings held on June 25, 2013 and July 18, 2013. She brought forward for review and approval the Continuing Education Audit forms.

MOTION: DR. DEHN MOVED TO APPROVE THE CONTINUING EDUCATION AUDIT FORM DRAFT.
SECOND: DR. LUBKIN SECONDED THE MOTION
VOTE: 6-0
MOTION CARRIED

Mr. Ruffino indicated that the word "learning" was spelled incorrectly on pages 2 and 3 of the Distance Learning Audit form.

Enforcement Committee Meeting Update
Dr. Azzolino reported on the Enforcement Committee meeting held on July 2, 2013.

The Board discussed the legality of offering gifts and incentives for patient referrals and the need to notify licensees that the offering of gifts may constitute a violation of Business and Professions Code Section 650. Staff will research how other Boards address this issue.

Update on BCE's Sunset Review
Mr. Puleo reported that he made contact with the Business and Profession Committee on the outcome of our Sunset review. The Committee indicated that there are no issues with the Board.

Governor's Reorganization Plan – Board of Chiropractic Examiners' Transition to DCA
Mr. Puleo referred to Dr. Dehn's report earlier on their meeting with DCA and his Executive Officers report. Mr. Puleo indicated that DCA will be bringing key staff to report at our next Board meeting on the services they will be providing us.

Dr. Lubkin spoke on the legality of the Board under DCA. A lengthy discussion ensued.

Dr. Kassie Donoghue representing the California Chiropractic Association (CCA) came forward and requested to see a legal opinion concerning the legality of the reorganization.

Dr. Elginer recommended that CCA file a request for a legal opinion in writing as she had also recommended to Dr. Charles Davis of the International Chiropractic Association of California (ICAC).

Update of Group-On and other Internet Marketing Sites
Mr. Puleo spoke on this issue. He indicated that DCA's legal opinion is posted on the Board's website. He provided the Board with copies of the letters he sent to Groupon and Living Social notifying these entities of DCA's opinion. He reported that he has not received a response from either entity. TO the best of his knowledge, no other Health Care Boards are proactively addressing this issue.

The Board moved to Agenda Item 18 – Closed Session

Closed Session
The Board went into closed session for deliberation on disciplinary decisions and other matters pursuant to California Government Code Section 11126(e).

The Board went back into Open Session and moved to Agenda Item 15 – Proposed Regulations

Proposed Regulations
A. Omnibus Consumer Protection

MOTION: DR. LUBKIN MOVED TO APPROVE THE AMENDMENTS TO THE OMNIBUS LANGUAGE AND SUBMIT TO THE OFFICE OF ADMINISTRATIVE LAW.
SECOND: DR. AZZOLINO SECONDED THE MOTION
VOTE: 6-0
MOTION CARRIED

Dr. Dehn reported the finding of a grammatical error on page 4, (4) – need to strike out "of". Dixie Van Allen will check if we can correct the error without another 15 day notice.

B. Name of Chiropractic Corporation
Mr. Puleo reported this package is at the Office of Administrative Law and we are awaiting approval. Once approved, the law will take effect on October 1, 2013.

C. Extracorporeal Shock Wave (ECSW) Therapy
Mr. Ruffino requested this subject to be tabled to a Committee for more research.

Dr. Davis came forward and spoke on the subject.

Dr. Lubkin stated that ECSW is being taught at the Chiropractic Colleges and that Dr. Cremata teaches ECSW at LifeWest and Palmer. He further explained the technology of ECSW and asserted that it is not invasive.

Kelly Web, Legal Counsel for the Medical Board of California came forward and spoke on their opposition of ECSW and stated that it is not within the Chiropractic Scope of Practice.

Dr. Columbu directed this to be tabled to the Enforcement Committee for further research and to discuss the comments provided to the Board.

D. Sponsored Free Health Care Events

MOTION: MR. RUFFINO MOVED TO COMMENCE THE REGULATORY PROCESS AND AUTHORIZED THE EXECUTIVE OFFICER TO MAKE NON-SUBSTASIVE CHANGES
SECOND: DR. AZZOLINO SECONDED THE MOTION
VOTE: 5-0-1
MOTION CARRIED

Public Comment
Dr. Charles Davis representing the International Chiropractic Association of California (ICAC) came forward and spoke on the governor's reorganizational plan and recommended that the Board seek an outside legal opinion.

Future Agenda Items
None

Adjournment
Dr. Columbu adjourned the meeting at 12:45 p.m.

(ATTACHMENT A)

Approval By Ratification of Formerly Approved License Applications
April 1, 2013 – June 30, 2013

Name (First, Middle, Last)			Date Issued	DC#
Melanie	Kathleen Marie	Barker	4/4/2013	**32589**
Natasha	Michelle	Barnes	4/4/2013	**32590**
Kaylie	Anne	Higgins	4/4/2013	**32591**
Jerrod	Devery	Hill	4/4/2013	**32592**
Hong	Thi Thu	Le	4/4/2013	**32593**
Andy	Joo	Lee	4/4/2013	**32594**
Joohyung		Lee	4/4/2013	**32595**
Lance	Joseph	Lorio	4/4/2013	**32596**
Jeng-Li	Lily	Lyui	4/4/2013	**32597**
Magnolia	Li	Ng	4/9/2013	**32598**
Jennifer	Diane	Pettit	4/9/2013	**32599**
Travis	Scott	Rose	4/9/2013	**32600**
Anthony	James	Farshler	4/11/2013	**32601**
Marcia	Ashley	Galloway	4/11/2013	**32602**
Steven	Andrew	Hyjek	4/11/2013	**32603**
Joshua		Kinney	4/11/2013	**32604**
Nicholas	Brady	Lehnert	4/11/2013	**32605**
Cindy	Darlene	Brock	4/16/2013	**32606**
James		Darmo	4/16/2013	**32607**
Kazuyuki		Fujimura	4/16/2013	**32608**
Nathaniel	Cole	Peery	4/16/2013	**32609**
Hedyeh		Ranjijifroody	4/16/2013	**32610**
Lisa	Marie	Viapiano	4/16/2013	**32611**
Johnny	Van	Duong	4/18/2013	**32612**
Khadra		Kahin	4/18/2013	**32613**
Kristin	Jean	Cole	4/23/2013	**32614**
Jacob	Richard	Petway	4/24/2013	**32615**
Sepideh		Tarameshloopoor	4/24/2013	**32616**
Mahlleace		Tomsin	4/24/2013	**32617**
Keena	Cagle	Berndt-Morrow	4/26/2013	**32618**
Marc	Robert	Grow	4/26/2013	**32619**
Alexander	Robert	Mankowski	4/26/2013	**32620**
Justin	Mark	Manns	4/26/2013	**32621**

Stephanie	Manning	Perry	4/29/2013	**32622**
Molica	Teeda	Anderson	5/3/2013	**32623**
Steven	Alan	Hanson	5/3/2013	**32624**
Kayleigh	Nicole	Knudson	5/3/2013	**32625**
Tae ho		Ma	5/3/2013	**32626**
Tera	Lisa	Rescorla	5/3/2013	**32627**
Jenna	Renee	Watson	5/8/2013	**32628**
Stephanie	CN	Williams	5/8/2013	**32629**
Luan		Yang	5/8/2013	**32630**
Patrick	Anthony	Connolly	5/9/2013	**32631**
Erin	Michelle	Daugherty	5/9/2013	**32632**
Haley	Durrette	Logan	5/9/2013	**32633**
Stephen	Rocco	Milano	5/9/2013	**32634**
Nathan	Michael	Sermeno	5/20/2013	**32635**
Derrick	Mitchell	Strick	5/22/2013	**32636**
Ryan	Roger	Anderson	5/23/2013	**32637**
Lilit	Lily	Avetyan	5/23/2013	**32638**
Jongil		Bae	5/23/2013	**32639**
Cheryl	Catherine	Graham	5/23/2013	**32640**
Barry	David	Heffron	5/23/2013	**32641**
Andrijana		Jevtic	5/23/2013	**32642**
Amandeep		Kalsi	5/23/2013	**32643**
Julie	Marie	LaBarge	5/23/2013	**32644**
Joshua	Brook	Leeder	5/23/2013	**32645**
Coreen	Lynn	Levy	5/23/2013	**32646**
Andrea	Yolanda	Vidaurre	5/24/2013	**32647**
Arash		Noor	6/10/2013	**32648**
Ashley	Elaine	Pettit	6/10/2013	**32649**
Benjamin	James	Pun	6/10/2013	**32650**
Cory	James	Singer	6/10/2013	**32651**
Nateja		Tomsin	6/10/2013	**32652**
Thomas	Francis	Vest	6/10/2013	**32653**
Jeff		Yeung	6/10/2013	**32654**
Annie	Rachel	Babikian	6/13/2013	**32655**
Brooke	Ashley	Bargamian	6/13/2013	**32656**
Jessica	Nicole	Barron	6/13/2013	**32657**
Raul		Castillo	6/13/2013	**32658**
Kenisha	De'Ann	Faniel	6/13/2013	**32659**
Shotaro		Fukuda	6/13/2013	**32660**
Stephen	John	Gorshack	6/13/2013	**32661**
Patrick	Wayne	Hardin	6/13/2013	**32662**
Kaila	Leslie	Hersh	6/13/2013	**32663**

Baljit	K	Jammu	6/13/2013	**32664**
Rashad	Ghassan	Mansour	6/13/2013	**32665**
Melissa	Ruth	Matheson	6/13/2013	**32666**
Anna	Felicia	Curto	6/18/2013	**32667**
Erika	Beth	Eckman	6/18/2013	**32668**
Benjamin	V	Glass	6/18/2013	**32669**
Meri		Melikjanyan	6/18/2013	**32670**
Khoa	Dang	Ta	6/19/2013	**32671**
Jonathan		Rojjanasrirat	6/27/2013	**32672**
Brielle	Marie	Shipman	6/27/2013	**32673**
Yuhao		Su	6/27/2013	**32674**

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(ATTACHMENT B)

Approval by Ratification of New Continuing Education Providers

CONTINUING EDUCATION PROVIDERS	DATE APPROVED
1. ALAN COOK	7/25/13
2. ALBERT ABKARIAN	7/25/13
3. ANTHONY BARATTA, DC	7/25/13
4. ASSOCIATION FOR ADVANCEMENT OF RESTORATIVE MEDICINE	7/25/13
5. CLIFFORD A BLACKMAN, JD	7/25/13
6. CYNTHIA ASTUTO	7/25/13
7. DAVID CRUZ, DC	7/25/13
8. ERIC WENNERHOLM, DC	7/25/13
9. FRANK C BREDICE	7/25/13
10. HOLLYWOOD COMMUNITY HOSPITAL	7/25/13
11. IRMA GRECO, DC	7/25/13
12. JOHN SMITH	7/25/13
13. MEDICAL MINDS IN MOTION	7/25/13
14. RANDAL C JOHNSON	7/25/13
15. RICHARD PARIS BOROUGH	7/25/13
16. RINDAL SEMINARS, INC	7/25/13
17. STEPHEN KAUFMAN, DC	7/25/13
18. THOMAS HENDRICKSON	7/25/13
19. VICTORIA C ARCADI	7/25/13

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

Name (Last, First MI)	License No.	Cancellation Date
Fishbein, Shane	27756	01/31/2013

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Department of Consumer Affairs
State Board of Chiropractic Examiners
October 30, 2013

PROPOSED
FY 2013-14
Authorized Positions: 19
Temporary Positions: 0.4

BOARD MEMBERS (7)

Alfonso Ramirez (RA)
Assoc. Gov. Program Analyst
620-110-5393-907

Robert Puleo
Executive Officer
620-110-8862-001

Valerie James
Management Services Technician
620-110-5278-001

SSM I
Sandra Walker
Compliance Manager
620-110-4800-006

Supervising Special Investigator
Vacant
Field Investigations Manager
620-110-8549-XXX

SSM I
Linda Shaw
Admin/Licensing/CE Manager
620-110-4800-008

Compliance Unit

Lavella Matthews
Assoc. Gov. Program Analyst
620-110-5393-002

Christina Bell
Assoc. Gov. Program Analyst
620-110-5393-005

Beckie Rust
Assoc. Gov. Program Analyst
620-110-5393-004

Vacant
Assoc. Gov. Program Analyst
620-110-5393-800

Vacant
Staff Services Analyst
620-110-5157-004

Field Operations North

Maria Martinez
Special Investigator
620-110-8612-005

Denise Robertson
Special Investigator
620-110-8612-002

Field Operations South

Yanti Soliman
Special Investigator
620-110-8612-003

Policy/Admin

Dixie Van Allen
Assoc. Gov. Program Analyst
620-110-5393-003

Admin/Licensing

Marlene Valencia
Staff Services Analyst
620-110-5157-008

Tammi Pitto
Staff Services Analyst
620-110-5157-007

Nikkia Capizzano
Office Technician (T)
620-110-1139-009

Vacant
Office Technician (T)
620-110-1139-008

Licensing/Continuing Education

Genie Mitsuhara
Staff Services Analyst
620-110-5157-005

Executive Officer _____

Personnel Office _____

Rev. 10/30/13

0152 - Board of Chiropractic Examiners
Analysis of Fund Condition

10/23/2013

(Dollars in Thousands)

Note: FY 13-14 Budget Act with estimated 2.7M settlement payout in FY 14-15

	Actual 2012-13	CY 2013-14	BY 2014-15	BY+1 2015-16
BEGINNING BALANCE	$ 2,127	$ 2,294	$ 1,918	$ -1,237
Prior Year Adjustment	$ -256	$ -	$ -	$ -
Adjusted Beginning Balance	$ 1,871	$ 2,294	$ 1,918	$ -1,237
REVENUES AND TRANSFERS				
Revenues:				
125600 Other regulatory fees	$ 163	$ 158	$ 158	$ 158
125700 Other regulatory licenses and permits	$ -	$ -	$ -	$ -
125800 Renewal fees	$ 3,390	$ 3,201	$ 3,200	$ 3,200
125900 Delinquent fees	$ 55	$ 51	$ 51	$ 51
150300 Income from surplus money investments	$ 4	$ 5	$ 5	$ 5
161400 Miscellaneous revenues	$ 10	$ 8	$ 8	$ 8
161900 Other Revenue - Cost Recoveries	$ 1	$ 9	$ 9	$ 9
164600 Fines and Forfeitures	$ 33	$ 25	$ 25	$ 25
Totals, Revenues	$ 3,656	$ 3,457	$ 3,456	$ 3,456
Transfers to Other Funds	$ -	$ -	$ -	$ -
Totals, Revenues and Transfers	$ 3,656	$ 3,457	$ 3,456	$ 3,456
Totals, Resources	$ 5,527	$ 5,751	$ 5,374	$ 2,219
EXPENDITURES				
Disbursements:				
0840 State Controller (State Operations)	$ -	$ -	$ -	$ -
1100 Program Expenditures (State Operations)	$ -	$ 3,816	$ 3,892	$ 3,970
Carol Arbuckle Settlement	$ -	$ -	$ 2,719	$ -
8500 Program Expenditures (State Operations)	$ 3,215	$ -	$ -	$ -
8880 Financial Information System for CA (State Operations)	$ 18	$ 17	$ -	$ -
Total Disbursements	$ 3,233	$ 3,833	$ 6,611	$ 3,970
FUND BALANCE				
Reserve for economic uncertainties	$ 2,294	$ 1,918	$ -1,237	$ -1,751
Months in Reserve	7.2	3.5	-3.7	-5.2

BOARD OF CHIROPRACTIC EXAMINERS
LICENSE STATISTICAL DATA

FY 2012/13 – FY 2013/14 COMPARISON

LICENSE TYPE	TOTAL LICENSES 10/1/2012	TOTAL LICENSES 10/1/2013	NET VARIANCE
CHIROPRACTOR	13,485	13,394	-91
SATELLITES	4,145	3,544	-601
CORPORATIONS	1,325	1,334	+9
REFERRALS	30	32	+2
TOTALS	18,985	18,304	-681

APPLICATIONS RECEIVED AND PROCESSED
JULY 1, 2013 – SEPTEMBER 30, 2013

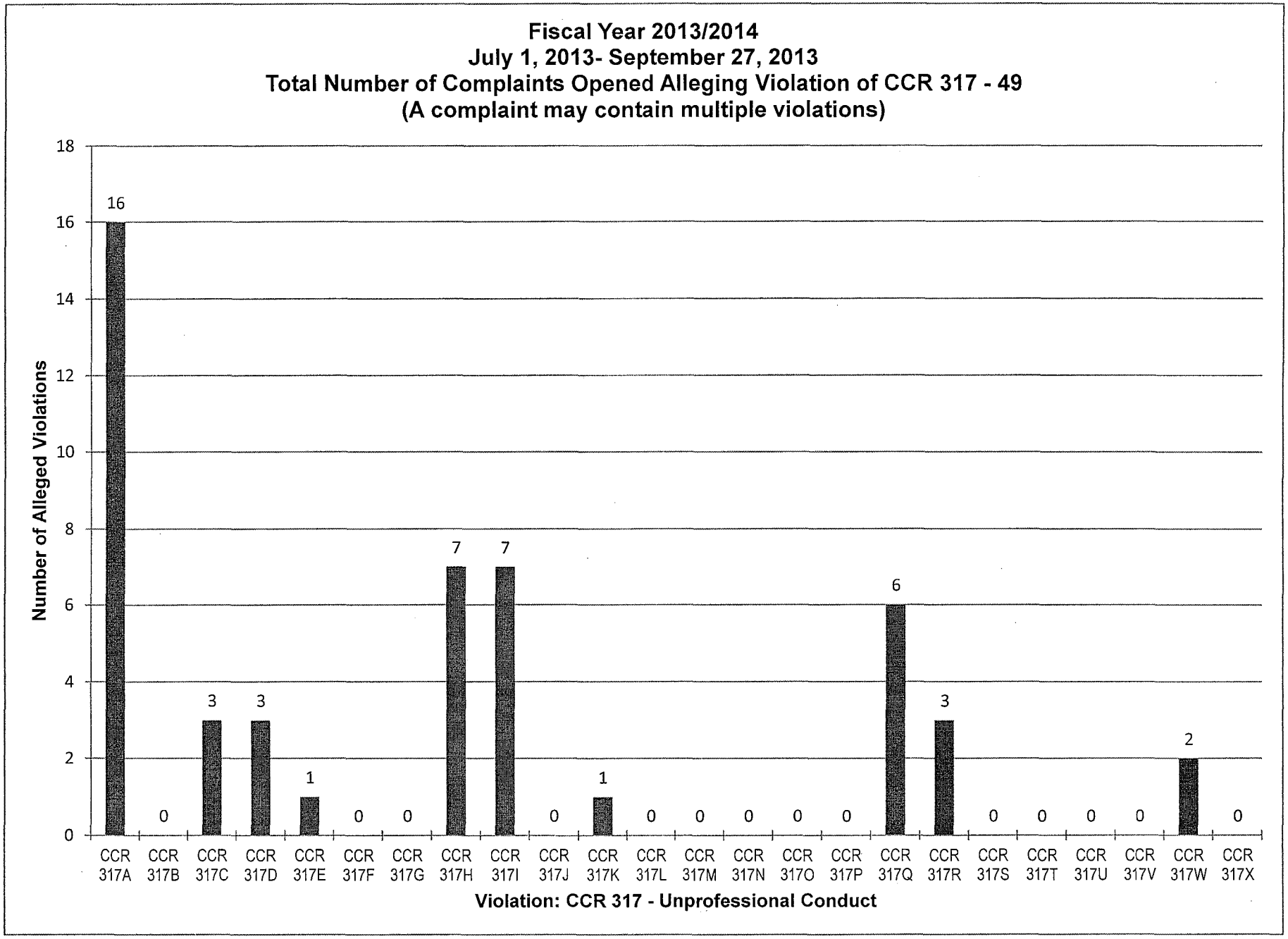
APPLICATION TYPE	RECEIVED	APPROVED	DENIED	WITHDRAWN	PENDING
INITIAL	80	66	1	0	127
RECIPROCAL	2	2	0	0	6
RESTORATION	57	46	0	0	14
CORPORATION	33	20	0	0	35

Compliance Unit Statistics

Fiscal Year	09/10	10/11	11/12	12/13	13/14*
Complaints					
Received	519	497	391	386	172
Pending	203	137	125	159	164
Closed with Insufficient Evidence	136	96	89	57	25
Closed with No Violation	129	135	93	84	14
Closed with Merit	158	140	120	95	48
Letter of Admonishment	5	4	1	2	4
Citations and Fines Issued (Total Fine Amount)	78($25,700)	47($12,700)	26($37,400)	33($19,400)	4 ($4,700)
Accusations					
Filed	73	68	41	34	5
Pending	117	130	99	73	65
Revoked	18	17	14	11	5
Revocation Stayed: Probation	20	26	20	31	4
Revocation Stayed: Suspension and Probation	8	9	12	5	2
Suspension	0	0	0	0	0
Suspension Stayed: Probation	1	0	0	0	0
Suspension and Probation	0	0	0	0	0
Voluntary Surrender of License	7	9	7	11	1
Dismissed/Withdrawn	18	10	21	9	2
Statement of Issues					
Filed	3	4	5	1	1
Denied	0	0	0	0	1
Probationary License	7	3	4	3	0
Withdrawn	0	0	0	1	1
Granted	0	1	0	0	0
Petition for Reconsideration					
Filed	3	0	2	4	1
Granted	0	0	0	0	0
Denied	2	0	0	2	1
Petition for Reinstatement of License					
Filed	9	7	7	6	0
Granted	4	2	2	2	0
Denied	11	10	6	5	2
Petition for Early Termination of Probation					
Filed	6	4	1	6	2
Granted	1	2	1	1	0
Denied	2	4	1	1	0
Petition for Modification of Probation					
Filed	0	0	0	0	0
Granted	0	0	0	0	0
Denied	0	0	0	0	0
Petition by Board to Revoke Probation					
Filed	32	13	6	2	6
Revoked	7	2	8	3	2
Probation Cases					
Active	134	138	142	139	138

* FY 13/14: July 1, 2013 – September 27, 2013

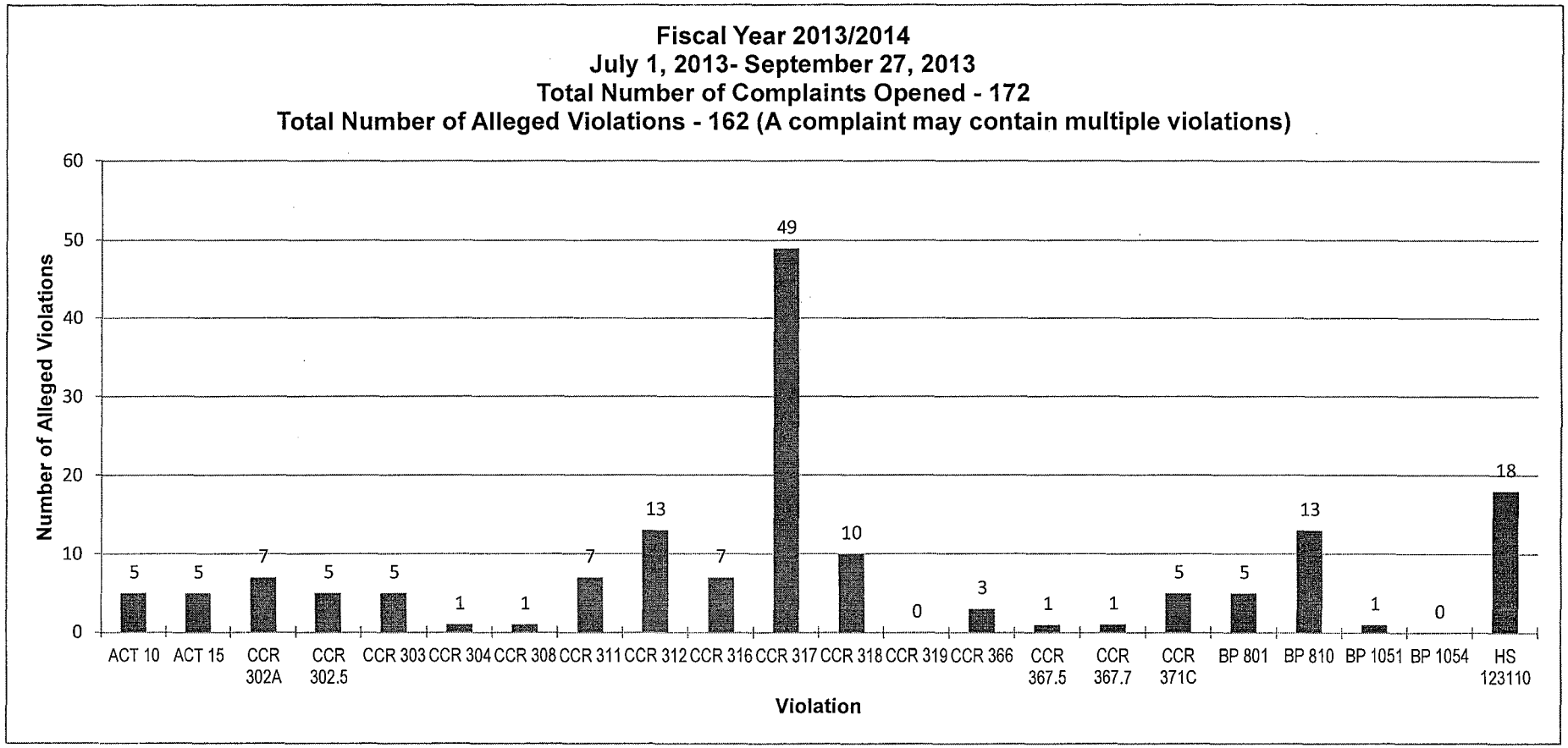
Revised: September 30, 2013

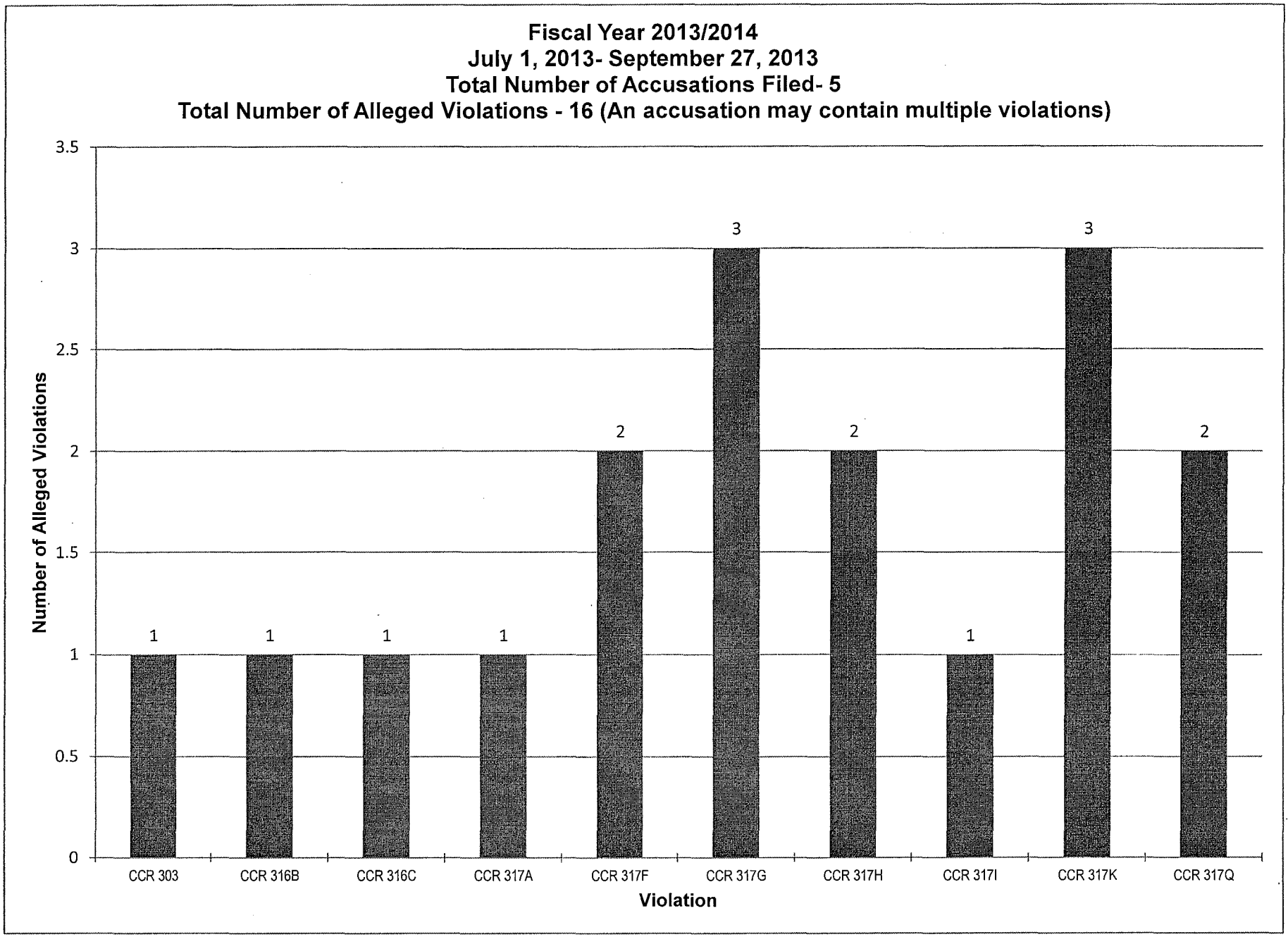

Fiscal Year 2013/2014
July 1, 2013- September 27, 2013
Total Number of Complaints Opened Alleging Violation of CCR 317 - 49
(A complaint may contain multiple violations)
Number of Alleged Violations
0
2
4
6
8
10
12
14
16
18
16
0
3
3
1
0
0
7
7
0
1
0
0
0
0
0
6
3
0
0
0
0
2
0
CCR 317A
CCR 317B
CCR 317C
CCR 317D
CCR 317E
CCR 317F
CCR 317G
CCR 317H
CCR 317I
CCR 317J
CCR 317K
CCR 317L
CCR 317M
CCR 317N
CCR 317O
CCR 317P
CCR 317Q
CCR 317R
CCR 317S
CCR 317T
CCR 317U
CCR 317V
CCR 317W
CCR 317X
Violation: CCR 317 - Unprofessional Conduct

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 2013/2014
July 1, 2013- September 27, 2013
Total Number of Complaints Opened - 172
Total Number of Alleged Violations - 162 (A complaint may contain multiple violations)
Number of Alleged Violations
60
50
40
30
20
10
0
5
5
7
5
5
1
1
7
13
7
49
10
0
3
1
1
5
5
13
1
0
18
ACT 10
ACT 15
CCR 302A
CCR 302.5
CCR 303
CCR 304
CCR 308
CCR 311
CCR 312
CCR 316
CCR 317
CCR 318
CCR 319
CCR 366
CCR 367.5
CCR 367.7
CCR 371C
BP 801
BP 810
BP 1051
BP 1054
HS 123110
Violation


Fiscal Year 2013/2014
July 1, 2013- September 27, 2013
Total Number of Accusations Filed- 5
Total Number of Alleged Violations - 16 (An accusation may contain multiple violations)
Number of Alleged Violations
3.5
3
2.5
2
1.5
1
0.5
0
1
1
1
1
2
3
2
1
3
2
CCR 303
CCR 316B
CCR 316C
CCR 317A
CCR 317F
CCR 317G
CCR 317H
CCR 317I
CCR 317K
CCR 317Q
Violation

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
302.5 – Use of Laser
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
319.1 – Informed Consent
366 – Continuing Education Audits
367.5 – Application, Review of Refusal to Approve (corporations)
367.7 – Name of Corporation
371(c) – Renewal and Restoration

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

STATE OF CALIFORNIA

BOARD OF CHIROPRACTIC EXAMINERS | EDMUND G. BROWN JR., GOVERNOR

MEMORANDUM

Date: October 23, 2013

To: **Board Members**

From: Robert Puleo
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 October 29, 2013, public meeting.

Between July 1, 2013 and September 30, 2013, 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, 2013 – September 30, 2013

Name (First, Middle, Last)			Date Issued	DC#
Travis	James	Ahrens	7/3/2013	**32675**
Steven	Francis	Areta	7/3/2013	**32676**
Dean	Allen	Clark	7/3/2013	**32677**
Danny		Du	7/3/2013	**32678**
Allen	Dayton	Harrison	7/3/2013	**32679**
Asdghik	Star	Kupelian	7/3/2013	**32680**
Kara	Lee	Mark	7/3/2013	**32681**
Richard	John	Trujillo	7/9/2013	**32682**
Rebecca	Susan	Bomgaars	7/19/2013	**32683**
Debbie	Kay	Bright	7/19/2013	**32684**
Sheila	Roselo	Donnelly	7/19/2013	**32685**
Cody	Scott	Fowler	7/19/2013	**32686**
Channy		Gardeazabal	7/19/2013	**32687**
Jessica	Michelle	Greene	7/19/2013	**32688**
Jenna	Marie	Boren	7/25/2013	**32689**
Jim		Fu	7/25/2013	**32690**
Mark	Anthony	Gutierrez	7/25/2013	**32691**
Spencer	Roland	Hau	7/25/2013	**32692**
Terry	C	Thoroughman	7/30/2013	**32693**
Jennifer	Hong	Tran	8/6/2013	**32694**
Peter	Jason	Smith	8/9/2013	**32695**
Jamie	Lynn	Steinard	8/9/2013	**32696**
Raffi	Khachik	Gureghian	8/9/2013	**32697**
Nicole	Marie	Hickok	8/9/2013	**32698**
Jamie	Porsche	Motley	8/9/2013	**32699**
Jennifer	Nicole	Shapiro	8/13/2013	**32700**
Addison	Charles Suero	Bulosan	8/16/2013	**32701**
Ruben	Gregory	Chldryan	8/16/2013	**32702**
Jandy	Marie	Collins	8/16/2013	**32703**
Christopher	Warren	Coulsby	8/16/2013	**32704**
Rabeah	Shakhs	Emampour	8/16/2013	**32705**
Ethan	Edward Arno	Gentry	8/16/2013	**32706**
Jon	Edward	Horvath	8/16/2013	**32707**
Christian	Jean-Louis	Labau	8/16/2013	**32708**
Gabriel	Matthew	Latino	8/16/2013	**32709**

Andrew	Lee	Patterson	8/16/2013	**32710**
Jayme	Michelle	Post	8/16/2013	**32711**
Victor	Alexander	Cueva	8/20/2013	**32712**
Varsha		Kumar	8/20/2013	**32713**
David	Martin	Landry II	8/20/2013	**32714**
Roy	Calvin	Page II	9/4/2013	**32715**
Stephanie	Ann	Siegert	9/4/2013	**32716**
Jessica	Lynn	Underwood	9/4/2013	**32717**
Timothy	Joshua	Ursich	9/4/2013	**32718**
Jennifer	Lynn	Wenskunas	9/4/2013	**32719**
Albert	Deloy	Blanchard Jr	9/6/2013	**32720**
Justin	Scott	Brame	9/6/2013	**32721**
Brianna	Renee	Cheney	9/6/2013	**32722**
Casey	Dennis	Frieder	9/6/2013	**32723**
James	William	Gatza	9/6/2013	**32724**
Hirofumi		Horikawa	9/6/2013	**32725**
Elizabeth		Hui	9/6/2013	**32726**
Jocelyne		Miranda	9/6/2013	**32727**
Matthew	Michael	Johnson	9/13/2013	**32728**
Michelle	Sara	Lim	9/13/2013	**32729**
Sara		Moghadam	9/13/2013	**32730**
Dana	Ruthanne	Bednar	9/19/2013	**32731**
Judd	Worthington	Birch	9/19/2013	**32732**
Ted	S	Neroda	9/30/2013	**32733**
Ariel	Felicia	Provasoli	9/30/2013	**32734**
Joshua	Holt	Stockwell	9/30/2013	**32735**
Juliet	Marie	Tablak	9/30/2013	**32736**
Vanessa	Maria Bolton	Wulff	9/30/2013	**32737**
Eric	Anthony	Benevento	9/30/2013	**32738**
Maymie	Leon	Chan	9/30/2013	**32739**
Jensen	Gustavo	Escoto	9/30/2013	**32740**
Athena	Thanh	Huynh	9/30/2013	**32741**
Marshall	Thomas	Lee	9/30/2013	**32742**
Lawrence	Coleman	Williams II	9/30/2013	**32743**

STATE OF CALIFORNIA

BOARD OF CHIROPRACTIC EXAMINERS | EDMUNC G. BROWN JR., GOVERNOR

MEMORANDUM

Date: October 29, 2013

To: BOARD MEMBERS

From: Robert Puleo, Executive Officer

Subject: **Ratification for New Continuing Education Providers**

This is to request that the Board ratify the continuing education providers at the public meeting on October 29, 2013.

CONTINUING EDUCATION PROVIDERS	DATE APPROVED
1. Wayne M. Whalen, DC	10/29/13
2. Wendi Turner, DC	10/29/13
3. Brigette Bonnet, DC	10/29/13
4. Maharishi Ayurveda Association of America	10/29/13
5. Edward C. Le Cara	10/29/13
6. Norman Klein, DC	10/29/13
7. Pamela Maloney, PhD	10/29/13
8. Spinal Reflex Institute, International	10/29/13
9. Healing Hands School of Holistic Health	10/29/13
10. Jedidiah T Smith	10/29/13
11. Robyn B Mitchell, DC	10/29/13
12. Mueller College	10/29/13
13. National Educational Seminars, Inc.	10/29/13
14. Kimberly Bensen, DC	10/29/13
15. Patrick Mummy	10/29/13
16. American Council on Exercise	10/29/13
17. Robert Edelburg, DC	10/29/13\
18. University of Western States	10/29/13

STATE OF CALIFORNIA

BOARD OF CHIROPRACTIC EXAMINERS | EDMUND G. BROWN JR., GOVERNOR

MEMORANDUM

Date: October 24, 2013

To: **Board Members**

From:
Robert Puleo
Executive Officer

Subject: **Ratification of Formerly Denied License Applications**

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.

During July 1, 2013 and September 30, 2013, staff reviewed and confirmed that one (1) applicant did not meet statutory and regulatory requirements for licensure. This applicant has appealed the decision and staff is working with the Attorney General's office on the appeal.

At this time, no ratification is necessary.

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

STATE OF CALIFORNIA

BOARD OF CHIROPRACTIC EXAMINERS | EDMUND G. BROWN JR., GOVERNOR

MEMORANDUM

Date: October 23, 2013

To: **Board Members**

From: Robert Puleo
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 individuals named on the attached list at the October 29, 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.

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

Name (Last, First MI)	License No.	Cancellation Date
Blan, Todd	27206	05/31/2013
DeCora, Sheila	20157	06/30/2012
Revivo, David	26801	04/30/2012

BOARD of CHIROPRACTIC EXAMINERS
STATE OF CALIFORNIA

State of California
Edmund G. Brown Jr., Governor

NOTICE OF TELECONFERENCE
GOVERNMENT AFFAIRS COMMITTEE MEETING

October 15, 2013
1:00 p.m.
Board of Chiropractic Examiners
901 P Street, Suite 142A
Sacramento, CA 95814
(916) 263-5355

Teleconference Locations with Public Access

Julie Elginer, Dr. PH
Agoura Hills Library
29901 Ladyface Court
Agoura Hills, CA 91301-2582
(818) 889-2278

Heather Dehn, D.C.
Dehn Chiropractic
4616 El Camino Avenue, Suite B
Sacramento, CA 95821
(916) 488-0202

Frank Ruffino
Office of Community Resources
480 Alta Road
San Diego, CA 92179
(619) 661-8654

AGENDA

1. **CALL TO ORDER**

2. **Approval of Minutes**
   June 11, 2013

3. **Discussion on Reviewing Updates to the BCE's Strategic Plan**

4. **Legislative Update**
   - **AB 186 (Maienschein) – Professions and Vocations: military spouses: temporary licenses**
   - **AB 213 (Logue) – Healing Arts: licensure and certification requirements: military experience**
   - **AB 393 (Cooley) – Office of Business and Economic Development: Internet Web Site**
   - **AB 512 (Rendon) – Healing arts: licensure exemption**
   - **AB 722 (Lowenthal) – Vehicles: driver's licenses: medical examinations**
   - **AB 1000 (Wieckowski) – Physical Therapists: direct access to services: professional corporations**
   - **AB 1057 (Chavez) – State Agencies: veterans**
   - **SB 46 (Corbett) – Personal Information: privacy**
   - **SB176 (Galgiani) – Administrative procedures**
   - **SB 305 (Price) – Healing arts: boards/SB 306 (Torres) – Pharmacy: dangerous drugs and dangerous devices**

5. PUBLIC COMMENT

Note: The Committee may not discuss or take action on any matter raised during this public comment section that is not included on this agenda, except to decide whether to place the matter on the agenda of a future meeting. [Government Code Sections 11125, 11125.7(a).]

6. FUTURE AGENDA ITEMS

7. ADJOURNMENT

GOVERNMENT AFFAIRS COMMITTEE
Julie Elginer, Dr. PH, Chair
Heather Dehn, D.C.
Frank Ruffino

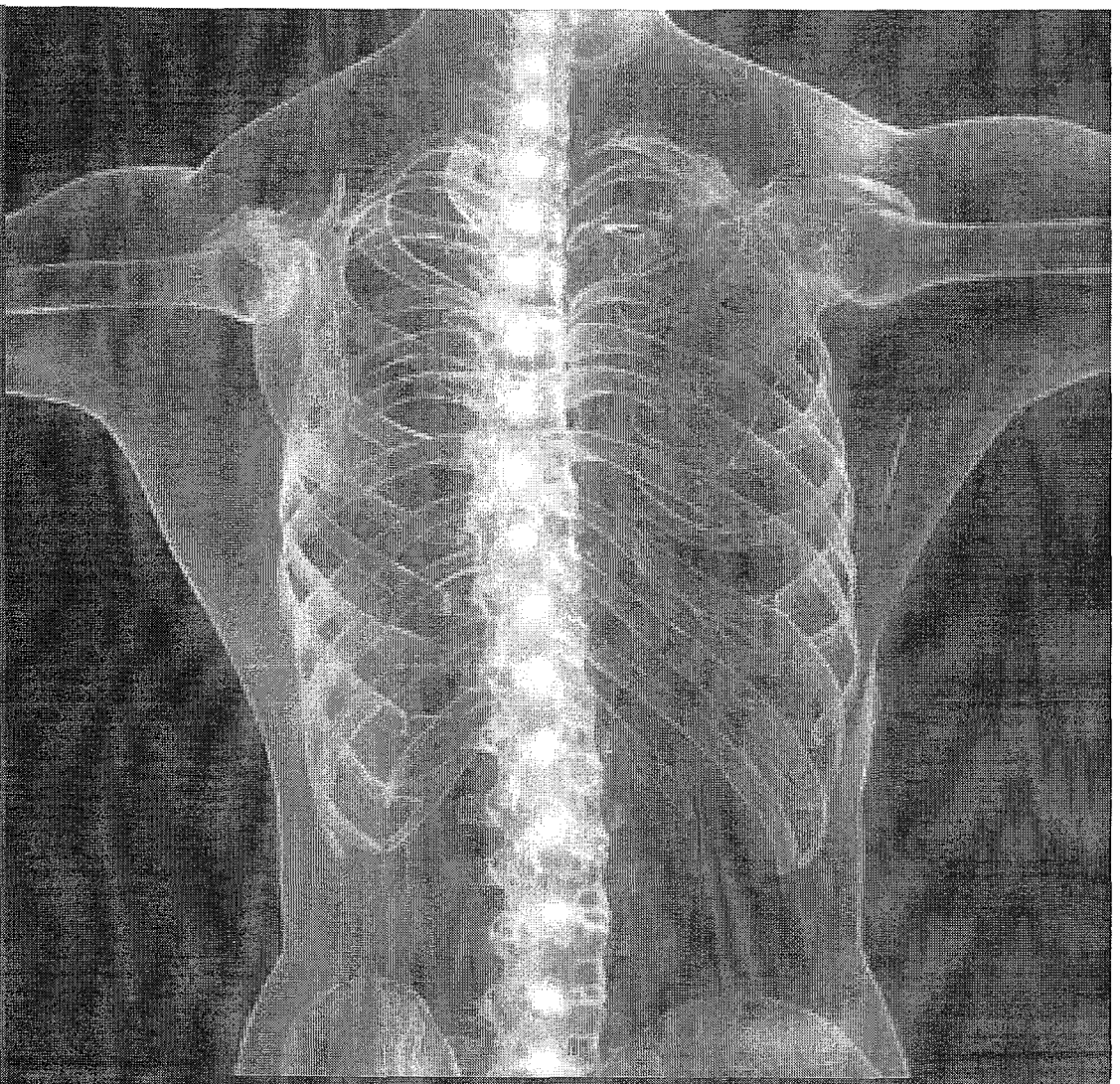
The Board of Chiropractic Examiners' paramount responsibility is to protect California consumers from the fraudulent, negligent, or incompetent practice of chiropractic care.

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@dca.ca.gov or send a written request to the Board of Chiropractic Examiners, 901 P Street, Ste. 142A Sacramento, CA 95814. 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

State of California



2014-2017 strategic plan

BOARD of CHIROPRACTIC EXAMINERS
STATE OF CALIFORNIA

MEMBERS OF THE BOARD OF CHIROPRACTIC EXAMINERS

Francesco Columbu, D.C., Chair

Sergio Azzolino, D.C., Vice-Chair

Julie Elginer, Dr., PH, Secretary, Public Member

Hugh Lubkin, D.C., Member

Heather Dehn, D.C., Member

Frank Ruffino, Public Member

Robert Puleo, Executive Officer

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ABOUT THE BOARD OF CHIROPRACTIC EXAMINERS

The Board of Chiropractic Examiners (the Board) is the largest chiropractic regulatory board in the nation and is considered a leader by other chiropractic boards throughout the country. Recognized in 2010 by the Federation of Chiropractic Licensing Boards for excellence in chiropractic regulation, the Board has worked diligently to improve the standards of care in the chiropractic profession in California.

The Board's primary mandate is to enforce the Chiropractic Initiative Act (the ACT). The Act became effective on December 21, 1922, through an initiative measure approved by the electors of California on November 7, 1922. The Act created the Board to establish standards for chiropractic education and services. The Board protects and serves the consumers of California through enforcement of the chiropractic profession and oversight of approximately 14,000 California licensed chiropractors and 19 chiropractic schools and colleges.

The Board consists of seven members appointed by the Governor, comprised of five licensed doctors of chiropractic and two members who represent the public. There are three standing Board committees and each committee is comprised of at least two Board members and a staff resource that provides technical and administrative support. Each committee has a chairperson who coordinates the committee's work, ensures progress toward the Board's priorities, and provides a report at each Board meeting.

The three Board committees include:

Committee	Responsibilities
Licensing, Continuing Education, & Public Relations	Proposes policies and standards regarding chiropractic colleges, doctors of chiropractic, satellite offices, corporation registration, and continuing education providers and courses. The Committee also develops strategies to communicate with the public through various forms of media.
Enforcement & Scope of Practice	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.
Government Affairs & Strategic Planning	Proposes and reviews policies, procedures to address audit and sunset review deficiencies. Works directly with the Executive Officer and staff to monitor budget expenditures, trends, and the Contingent Fund levels. Reviews and recommends positions on legislative bills that affect the Board. Oversees all administrative issues regarding Board operations. Develops draft strategic plans and monitors the Board's progress in achieving goals and objectives, reporting on progress of plan completion annually.

The Board appoints an Executive Officer to oversee a staff of 19 permanent positions that support three functional units:

- The Administrative/Licensing Unit is responsible for the Board of Chiropractic Examiners licensee application and renewals, continuing education, administrative, and policy functions.
- The Compliance Unit (CU) and the Field Investigations Unit (FIU), which are responsible for enforcement functions, handling complaint intake, investigations, disciplinary action, and probation monitoring.

All of these functions support the protection of Californians from licensed and unlicensed individuals who engage in fraudulent, negligent, or incompetent chiropractic practice.

The Board must ensure that only those applicants with the necessary education, examination, and experience receive a California license to practice chiropractic. Requirements for licensing include passing the California Law and Professional Practice Exam (CLPPE), completing 60 pre-chiropractic units of approved education courses, and graduation from a Council on Chiropractic Education (CCE) approved college or school. Licensees are required to complete 24 hours of continuing education credit each year for license renewal.

The Board continually strives to fulfill its state mandate and mission in the most efficient manner, by exploring new policies and revising existing policies, programs, and processes. The Board is continually committed to increasing the quality and availability of services it offers to stakeholders.

OVERVIEW OF STRATEGIC PLANNING

SOLID begins strategic planning by conducting a preliminary meeting with the Executive Officer and Board staff management to learn about the background of the Board of Chiropractic Examiners, identify key areas of focus, define roles and responsibilities, and establish a customized strategic planning schedule.

To understand the environment in which the Board operates and identify factors that could impact the Board's success, SOLID conducted a scan and analysis of the internal and external environments by collecting information through the following methods:

- An online survey sent to twenty-four Board stakeholders, comprised of chiropractic professional associations, Board approved schools or colleges, and others who expressed interest in the strategic direction of the Board. Sixteen stakeholders responded to the survey.

- Telephone interviews with six Board members conducted during the month of May 2013.

- Focus group discussion on June 13, 2013, with Board staff, managers, and the Executive Officer.

The most significant themes and trends identified from the environmental scan were discussed by the Board during a strategic planning session facilitated by SOLID. This information guided the Board in development of its Vision, Mission, and Values, and directed the strategic goals and objectives outlined in this strategic plan for the Board to accomplish over the next four years 2014–2017.

SIGNIFICANT ACCOMPLISHMENTS

As a part of strategic planning, the Board evaluated its previous strategic plan goals and identified which objectives were accomplished. The following are the significant Board accomplishments since the 2008 strategic plan was adopted:

- Established a Board culture that fosters and promotes consumer protection, effective Board governance, and accountability.

- Developed and maintain a Board Member Administrative Manual, which is used as a model for other Boards, and assists Board members in carrying out their responsibilities of developing policy, adjudicating disciplinary matters and protecting the public's interest.

- Analyzed core business processes and implemented improvements that resulting in decreased processing times and the elimination of backlogs for Licensing, Enforcement, and Continuing Education.

- Developed and implemented an internal control system for monitoring timeliness of case reviews, complaint processing, and created compliance and investigation procedure manuals.

- Established and filled field investigator positions to investigate consumer complaints, monitor probationers, and onsite inspections of chiropractic offices.

- Maintained proactive consumer protection and enforcement by staying current and recognizing when changes to laws are needed. Promulgated and adopted regulations for consumer protection to raise requirements, and institute a citation and fine program, which improved enforcement operations.

- Adopted regulations to increase the required annual continuing education from 12 hours to 24 hours, and allowed for online courses and courses approved by other health care Boards.

- Restructured the Board's eight committees into three committees.
- Began live webcasting Board meetings in May 2009 and posting these recorded meetings on the Board's website.
- Reduced enforcement case closure rates to within nine months.
- Began teleconferencing committee meetings to save costs and allow for increased public access.
- Completed a successful Sunset Review.

OUR VISION

To promote excellence in chiropractic care.

OUR MISSION

To protect the health, welfare, and safety of the public through licensure, education, and enforcement in chiropractic care.

OUR VALUES

Consumer Protection – We make effective and informed decisions in the best interest and for the safety of the consumer.

Service – We are professional and responsive to the needs of our stakeholders.

Innovation – We value new ideas and concepts, which are fundamental to our successful delivery of services to consumers and the efficient regulation of the Chiropractic marketplace.

Quality – We will deliver service, information, and products that reflect excellence.

Transparency – We hold ourselves accountable to the people of California.

Efficiency – We diligently identify the best ways to deliver high-quality services with the most efficient use of our resources.

Integrity – We are honest, fair, respectful, and ethical.

GOAL 1: LICENSING

Promote licensing standards to protect consumers and allow reasonable access to the profession.

The objectives to meet this goal are listed below in order of priority:

1.1 Evaluate internal procedures to identify areas for improvement to maintain prompt and efficient processing of applications and renewals.

1.2 Collaborate with the Department of Consumer Affairs (DCA) to implement a new licensing and enforcement system (BreEZe) for online processing of initial and license renewals, including acceptance of credit card payments.

1.3 Determine the feasibility of recognizing equivalent educational standards with other countries.

GOAL 2: REGULATION AND ENFORCEMENT

Enforce laws and regulations to ensure consumer protection.

The objectives to meet this goal are listed below in order of priority:

2.1 Establish standardized training and evaluation of Expert Consultants to improve effectiveness and consistency.

2.2 Protect the Board's authority to interpret and clarify the Chiropractic Initiative Act to ensure public protection.

2.3 Review and revise the Board's disciplinary guidelines.

2.4 Utilize BreEZe and online resources to coordinate receipt of disciplinary documents more efficiently.

GOAL 3: PROFESSIONAL QUALIFICATIONS AND CONTINUING EDUCATION

Ensure the initial and continuous competency of all Doctors of Chiropractic.

The objectives to meet this goal are listed below in order of priority:

3.1 Establish provider review standards for continuing education providers.

3.2 Develop a continuing education course auditing system to ensure providers are delivering quality instruction to licensees and take action against those providers who fail to meet these standards.

3.3 Evaluate effectiveness of compliance with continuing education regulations to ensure competency.

3.4 Establish and document protocols for ongoing communication with chiropractic oversight organizations to ensure consistent standards.

GOAL 4: ORGANIZATIONAL EFFECTIVENESS

Efficiently utilize resources to meet goals and objectives.

The objectives to meet this goal are listed below in order of priority:

4.1 Improve onboarding of new Board members by creating a Board specific orientation program.

4.2 Increase Board awareness of staff functions, responsibilities, and timeframes for completing tasks.

4.3 Explore alternative ways to engage public participation in Board and committee meetings that leverage new technologies.

GOAL 5: PUBLIC RELATIONS AND OUTREACH

Communicate with consumers, licensees and stakeholders about the current and evolving practice of chiropractic and regulation of the profession.

The objectives to meet this goal are listed below in order of priority:

5.1 Partner with DCA to establish internal and external communication protocols.

5.2 Through the DCA Office of Publications, Design, and Editing, develop consumer education materials in different languages to assist consumers in making informed decisions.

5.3 Collaborate with DCA to optimize the Board's website.

GOAL 6: PROFESSIONAL ADVANCEMENT

The Board of Chiropractic Examiners embraces innovation and supports the advancement of the practice of chiropractic.

The objectives to meet this goal are listed below in order of priority:

6.1 Embrace the non-surgical, non-pharmaceutical role of the Chiropractor to increase consumer access to healthcare.

6.2 Evaluate trends in chiropractic care in other states to determine potential impact to regulations in California.

6.3 Embrace the role of the chiropractic specialties.

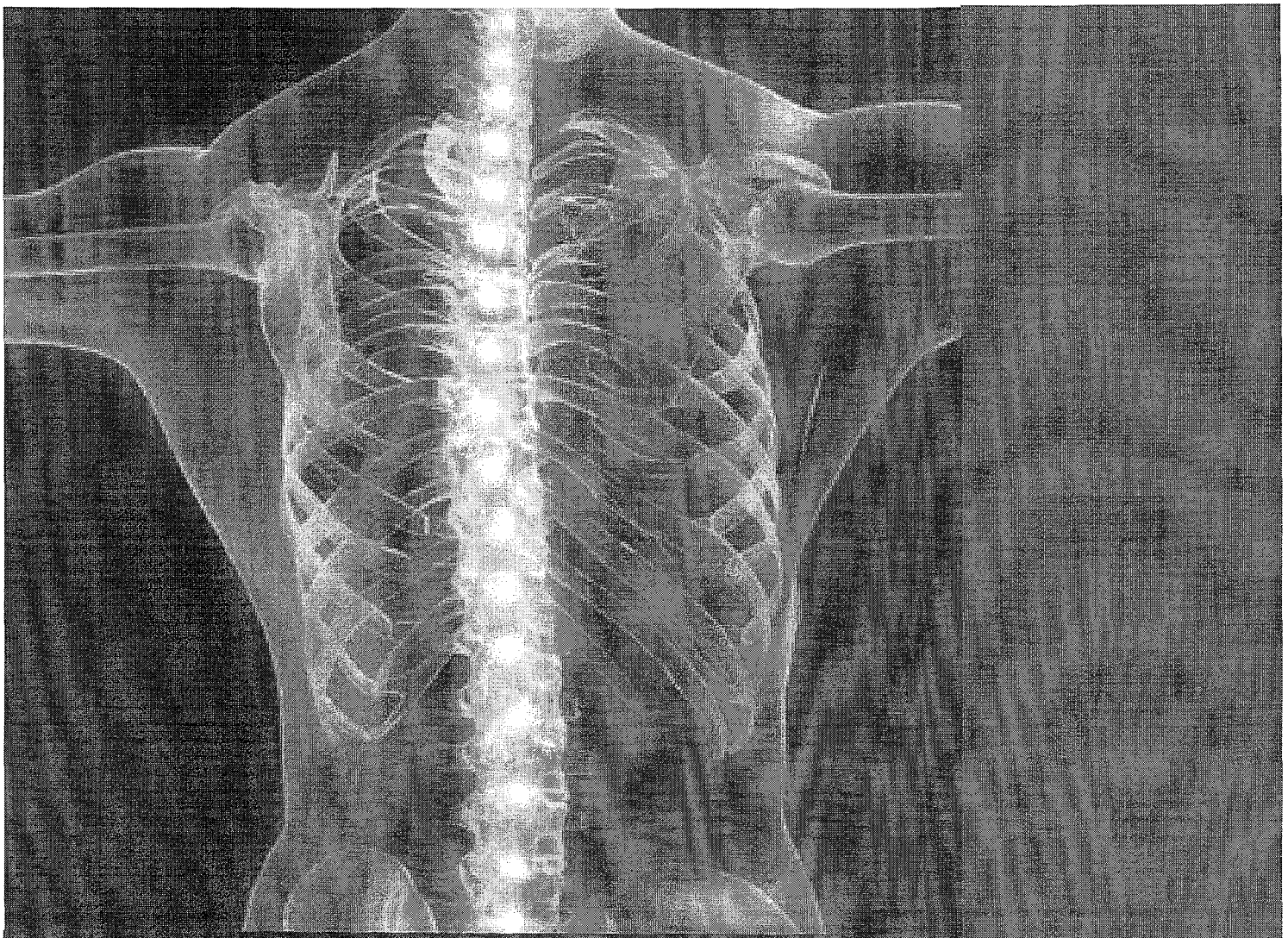
GOAL 7: GOVERNMENT AFFAIRS

Establish and maintain collaborative partnerships in government to ensure the Board of Chiropractic Examiners is well informed regarding priorities and initiatives.

The objectives to meet this goal are listed below in order of priority:

7.1 Establish open lines of communication with government stakeholders to ensure the Board is well informed about information relevant to the chiropractic profession.

7.2 Partner with state and local government to participate in consumer related events to increase awareness of the Board's mission and consumer protection services.



Board of Chiropractic Examiners
901 P Street, Suite 142A
Sacramento, CA 95814
Phone: (916) 263-5355 fax: (916) 327-0039
chiro.info@dca.ca.gov www.chiro.ca.gov

BOARD of CHIROPRACTIC EXAMINERS
STATE OF CALIFORNIA

STATE OF CALIFORNIA
dca
DEPARTMENT OF CONSUMER AFFAIRS

BOARD of CHIROPRACTIC EXAMINERS
STATE OF CALIFORNIA

State of California
Edmund G. Brown Jr., Governor

NOTICE OF TELECONFERENCE
ENFORCEMENT COMMITTEE MEETING
October 24, 2013
1:00 p.m.
901 P Street, Suite 142A
Sacramento, CA 95814
(916) 263-5355

Teleconference Locations with Public Access

Dr. Francesco Columbu, D.C.
2265 Westwood Blvd, Ste A
Los Angeles, CA 90064
(310) 234-1160

Dr. Sergio Azzolino, D.C.
1545 Broadway St, Ste 1A
San Francisco, CA 94109
(415) 563-3800

AGENDA

1. **Call to Order**

2. **Approval of Minutes**
   July 2, 2013

3. **Section 317 (w) Failure to Refer - Continuation of Discussion**

4. **Discussion Regarding Pursuing Regulations to Require Continuing Education Providers to Notify Licensees of Frequent Violations and Significant Laws**

5. **Coupon or Voucher Based Advertising; CCR Section 650**

6. **Continuation of the Disciplinary Guidelines Review**

7. **Guidelines of Utilization Review**

8. **Public Comment**

9. **Future Agenda Items**

10. **Adjournment**

ENFORCEMENT COMMITTEE
Sergio Azzolino, D.C., Chair
Francesco Columbu, D.C.
Hugh Lubkin, D.C.

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, 901 P Street, Suite 142A, Sacramento, CA 95814. 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
STATE OF CALIFORNIA

State of California
Edmund G. Brown Jr., Governor

NOTICE OF TELECONFERENCE
LICENSING, CONTINUING EDUCATION & PUBLIC RELATIONS COMMITTEE MEETING

August 22, 2013
2:00 p.m.
901 P Street, Suite 142A
Sacramento, CA 95814
(916) 263-5355

Teleconference Locations with Public Access

Frank Ruffino
480 Alta Road
San Diego, CA 92179
(619) 661-8654

AGENDA

1. **Call to Order**
2. **Approval of Minutes**
   July 18, 2013
3. **Recognition of International Applicants**
   Presentations by Representatives from Council on Chiropractic Education (CCE) and Federation of Chiropractic Licensing Boards (FCLB)
4. **Procedure for Identifying and Auditing New Continuing Education Courses**
5. **Public Comment**
6. **Future Agenda Items**
7. **Adjournment**

LICENSING, CONTINUING EDUCATION & PUBLIC RELATIONS COMMITTEE
Heather Dehn, D.C., Chair
Hugh Lubkin, D.C.
Frank Ruffino

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BOARD of CHIROPRACTIC EXAMINERS
STATE OF CALIFORNIA

State of California
Edmund G. Brown Jr., Governor

NOTICE OF TELECONFERENCE
LICENSING, CONTINUING EDUCATION & PUBLIC RELATIONS COMMITTEE MEETING

October 3, 2013
2:00 p.m.
901 P Street, Suite 142A
Sacramento, CA 95814
(916) 263-5355

Teleconference Locations with Public Access

Frank Ruffino
480 Alta Road
San Diego, CA 92179
(619) 661-8654

AGENDA

1. **Call to Order**
2. **Approval of Minutes**
   August 22, 2013
3. **Discussion and Presentations Regarding International Applicants, Chiropractic Schools and Pathway to Licensure**
   Presentations by Representatives from Council on Chiropractic Education – International (CCE-I) and National Board of Chiropractic Examiners (NBCE)
4. **Discussion on Reviewing Regulations for Possible Recognition of International Applicants**
5. **Identifying and Assigning Audits of New Continuing Education Providers' Continuing Education Courses**
6. **Review Progress of Auditing Continuing Education Courses**
7. **Creation of Electronic Newsletter**
8. **Public Comment**
   Note: The Committee may not discuss or take action on any matter raised during this public comment section that is not included on this agenda, except to decide whether to place the matter on the agenda of a future meeting. [Government Code Sections 11125, 11125.7(a).]
9. **Future Agenda Items**
10. **Adjournment**

LICENSING, CONTINUING EDUCATION & PUBLIC RELATIONS COMMITTEE

Heather Dehn, D.C., Chair
Hugh Lubkin, D.C.
Frank Ruffino

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**.

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BOARD of CHIROPRACTIC EXAMINERS
STATE OF CALIFORNIA

State of California
Edmund G. Brown Jr., Governor

PROPOSED
Board of Chiropractic Examiners
Board Meeting Schedule
January – December 2014

January 2014 – Sacramento

April 2014 – Southern California

July 2014 – Northern California

October 2014 – Southern California

* Dates and locations are subject to change

T (916) 263-5355
F (916) 327-0039
TT/TDD (800) 735-2929
Consumer Complaint Hotline
(866) 543-1311

Board of Chiropractic Examiners
901 P Street, Suite 142A
Sacramento, California 95814
www.chiro.ca.gov

Board of Chiropractic Examiners
Proposed Meeting Schedule
January - December 2014

January

S	M	T	W	T	F	S
			1	2	3	4
5	6	7	8	9	10	11
12	13	14	15	16	17	18
19	20	21	22	23	24	25
26	27	28	29	30	31	

February

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March

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April

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May

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June

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July

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September

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November

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December

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28	29	30	31			

Comments & Responses
Omnibus Consumer Protection Regulations

Second 15-DAY COMMENTS:

Section 303

Comment 2.1 – Thomas Fraysse, Knox Ricksen LLP, asserts that the proposed changes to section 303 which would allow the BCE to receive information on a chiropractor's practice address while preventing the public from having access to that same information, is not in the best interest of consumer protection. This change will allow fraudulent practitioners to hide their whereabouts, so as to avoid the service of process.

Suggested Response 2.1 - Staff recommends that the board reject this comment as it does not pertain to the changes made to the proposed language for the second 15-day comment period.

Section 312

Comment 2.2 – Thomas Fraysse believes that the proposed title change to section 312 reduces the ability of those engaged in fighting health care fraud to definitively identify specific conduct as illegal.

Suggested Response 2.2 – Staff recommends that the board reject this comment as it does not pertain to the changes made to the proposed language for the second 15-day comment period.

Comment 2.3 – Thomas Fraysse asserts that the revisions to subsection (a)(2) regarding standard neurological, orthopedic, physical and chiropractic examinations, appear to expand the scope of permitted lay health care treatment by pushing down even diagnostic or analytic examinations to unlicensed, untrained , and unregulated laypersons.

Suggested Response 2.3 - Staff recommends that the board reject this comment as it does not pertain to the changes made to the proposed language for the second 15-day comment period.

Comment 2.4 – Thomas Fraysse states, "Although the current and proposed regulations both permit lay administration of physical therapy as an adjunct to chiropractic adjustment, further reducing chiropractor oversight by eliminating examinations, written treatment programs, and reevaluations may increase the chance for abuse by permitting lay treatment with even less licensed oversight and supervision."

Suggested Response 2.4 - Staff recommends that the board reject this comment as it does not pertain to the changes made to the proposed language for the second 15-day comment period.

Comment 2.5 – Thomas Fraysse asserts that this proposal increases the use of unlicensed and untrained individuals which increases the health risk to patients.

Suggested Response 2.5 - Staff recommends that the board reject this comment as it does not pertain to the changes made to the proposed language for the second 15-day comment period.

Comment 3.1 – Jennifer Johnson believes that allowing people off the street to do exams and perform therapy fails to support the goal of protecting the public.

Suggested Response 3.1 - Staff recommends that the board reject this comment as it does not pertain to the changes made to the proposed language for the second 15-day comment period.

Comment 3.2 – Jennifer Johnson asserts that the proposed regulation eliminates the prohibition of unlicensed individuals from listening to a patient's hear or lungs and poses a threat to consumers due to lack of training.

Suggested Response 3.2 - Staff recommends that the board reject this comment as it does not pertain to the changes made to the proposed language during the second 15-day comment period.

Comment 3.3 and 4.2 – Jennifer Johnson and Mark Sektnan, ACIC, believes that the deletion of the sentence that allowing unlicensed personnel to perform standard neurological, orthopedic, physical and chiropractic examinations is too imprecise and open to wide interpretation. Both commenters recommend that the proposed language be amended to reflect the specific tests unlicensed individuals can perform in order to reduce the potential for disputes.

Suggested Response 3.3 - Staff recommends that the board reject this comment as it does not pertain to the changes made to the proposed language during the second 15-day comment period.

Comment 3.4 – Jennifer Johnson is concerned that the elimination of the chiropractor's knowledge of the patient's response to treatment will allow the unlicensed person to be the only person treating the patient for years.

Suggested Response 3.4 - Staff recommends that the board reject this comment as it does not pertain to the changes made to the proposed language during the second 15-day comment period.

Comment 4.1 – Mark Sektnan, President, ACIC, is concerned that only the initial examinations are to be performed by licensed doctors of chiropractic, thereby allowing unlicensed individuals to conduct neurological, orthopedic, physical and chiropractic exams, including those that require diagnostic or analytic interpretations and exposes patients to greater risk.

Suggested Response 4.1 - Staff recommends that the board reject this comment as it does not pertain to the changes made to the proposed language during the second 15-day comment period.

Comment 4.3 – ACIC believes that the limitations on the unlicensed individual's scope are unclear.

Suggested Response 4.3 - Staff recommends that the board reject this comment as it does not pertain to the changes made to the proposed language during the second 15-day comment period.

Comment 4.4 – ACIC recommends that the BCE included a provision to add that requires any report or bill for the chiropractic visit to specify who performed each service, if the BCE decides

to adopt this regulation. This recommendation will allow the BCE to monitor the impact of the regulation changes and claims administrators to know who is delivering such services.

Suggested Response 4.4 - Staff recommends that the board reject this comment as it does not pertain to the changes made to the proposed language during the second 15-day comment period.
Comment 4.5 – ACIC believes it is unclear why the requirement of being under the direct supervision of a licensed doctor of chiropractic was stricken from this regulation.

Suggested Response 4.5 - Staff recommends that the board reject this comment as it does not pertain to the changes made to the proposed language during the second 15-day comment period.

Comment 4.6 – ACIC asserts it is difficult to understand the boundary of who may establish a preceptorship program when it is extended to institutions "seeking such status" with the Council on Chiropractic Education.

Suggested Response 4.6 - Staff recommends that the board reject this comment as it does not pertain to the changes made to the proposed language during the second 15-day comment period.

Section 390.7

Comment 1.1 - Roger Calton, Attorney at Law, Calton Law Group, P.C., asserts that under the proposed regulation, a single finding of "sexual contact" with just one patient would result in automatic revocation of the doctor's license. This proposal forces the Board to give up its discretion to decide cases based upon the facts of the case; therefore, this section should be removed from the regulatory proposal.

Suggested Response 1.1 – Staff recommends that the board reject this comment as it does not pertain to the changes made to the proposed language for the second 15-day comment period. Further, this comment was made during the 45-day comment period and was previously addressed by the board.

Comment 1.2 - Roger Calton believes that the wording "sexual contact" as used in proposed section 390.7 and "any act of sexual abuse, sexual misconduct, or sexual relations" as used in BPC section 726 is vague and problematic. Calton asserts that terms used in BPC section 726 could involve a violation of sexual abuse that that may not involve sexual contact and the range of types of sexual misconduct may not warrant revocation of a license.

Suggested Response 1.2 - Staff recommends that the board reject this comment as it does not pertain to the changes made to the proposed language for the second 15-day comment period.

Comment 1.3 – Roger Calton asserts that the definition of "sexual contact" is found in BPC section 729, rather than in section 726. He further asserts that the prohibitions contained in BPC section 729 only apply to physicians and surgeons, psychotherapists, and alcohol and drug counselors; not chiropractors.

Suggested Response 1.3 - Staff recommends that the board reject this comment as it does not pertain to the changes made to the proposed language for the second 15-day comment period.

Comment 1.4 - Roger Calton questions whether the Board has legal authority, acting through a regulation, to proscribe what punishment an Administrative Law Judge may propose in a Proposed Decision.

Suggested Response 1.4 - Staff recommends that the board reject this comment as it does not pertain to the changes made to the proposed language for the second 15-day comment period. Further, this comment was made during the 45-day comment period and was previously addressed by the board.

Comment 1.5 - Roger Calton asserts that the Board's Disciplinary Guidelines should be amended to reflect higher levels of discipline for specific offenses rather than mandated in a regulation.

Suggested Response 1.5 - Staff recommends that the board reject this comment as it does not pertain to the changes made to the proposed language for the second 15-day comment period. Further, this comment was made during the 45-day comment period and was previously addressed by the board.

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

Modified text during the 45-day comment period: Additions are shown in underline. Deletions are shown in ~~single strikeout~~.

Modified text during the 1st 15-day comment period: Proposed additions are shown in **bold, double underline**. Proposed deletions are shown in ~~double strikeout~~.

Modified text now being made during the 2nd 15-day comment period: Changes to the text are shown in ***bold, italics and single underline*** for new text and ~~*double strikeout/italics*~~ for deleted text.

§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 with the board his or her proper and current ~~place of~~ physical practice address ~~of his principal office~~ and, where appropriate, each and every ~~sub-office~~ satellite 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~~. 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 a post office box number or other alternate address as the address of record that shall be public information.

(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.

NOTE: Authority cited: Sections 1000-4(b) and 1000-4(e), Business and Professions Code (Chiropractic Initiative Act of California (Stats. 1923 p. 1xxxviii)) and Business and Professions Code Section 27.
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 province thereof, or the United States Military or a foreign government or any other jurisdiction shall constitute 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. ~~I~~1xxxviii)). Reference: Sections 1000-4(b) and 1000-10(a) ~~of the~~ (Chiropractic Initiative Act of California (Stats. 1923, p. ~~I~~1xxxviii)) and Sections 141 and 480, Business and Professions Code.

§306.3. Investigators; Authority to Inspect Premises.

The board or its designee may inspect the physical premises of any chiropractic office during regular business hours. Failure by a licensee to allow such an inspection shall be considered as unprofessional conduct.

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

§308. Display of License.

(a) Each person holding a license shall prominently display ~~a~~ their current active license in the entry area or waiting area of their principal place of business ~~a conspicuous place in the licensee's principal office or primary place of practice~~.

(b) Any licensed ~~D~~doctor of ~~C~~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 ~~D~~doctor of ~~C~~chiropractic must prominently display ~~in a conspicuous place~~ a current active Satellite Office Certificate in the entry area or waiting area of ~~at~~ the office for which it was issued at all times while treating, examining or evaluating patients at that location.

(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 immediately upon request.

(e) No licensed ~~D~~doctor of ~~C~~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, Business and Professions Code.

§ 312. ~~Illegal Practice~~ Supervision of Unlicensed Individuals.

~~Unlicensed individuals are not permitted to diagnose, analyze, or perform a chiropractic adjustment.~~ An "unlicensed individual" is defined as any person, including a student or graduate of a chiropractic institution, who does not hold a valid California chiropractic license. An exemption is hereby created for students ~~doctors~~ participating in board approved preceptorship programs **sponsored by chiropractic institutions holding status with the Council on Chiropractic Education or seeking such status**.

The licensed doctor of chiropractic shall initially examine and prepare a written treatment plan for a patient prior to the provision of physiotherapy treatment. The unlicensed individual shall follow and provide only the treatment defined in the written plan.

(a) The permitted activities of unlicensed individuals are as follows:

(~~a~~1) Unlicensed individuals may take the history of a patient. ~~However, this activity is separate from the consultation which at all times must be conducted by the licensed doctor.~~ The licensed doctor of chiropractic must confirm the history with the patient and determine all appropriate evaluations, imaging, examinations and referrals.

(~~b~~2) Unlicensed individuals may conduct standard neurological, orthopedic, physical and chiropractic examinations at the direction of the licensed doctor of chiropractic.~~, except they may not perform such examinations which require diagnostic or analytic interpretations nor may they~~ Unlicensed individuals may not render a conclusion either verbally or in writing to a patient regarding the patient's ~~physical~~ condition. ~~As an example, unlicensed individuals may not perform evaluations of heart or lung soundings.~~ Such individuals shall be at all times under the ~~immediate and~~ direct supervision of a licensed ~~D~~doctor of ~~C~~chiropractic.

"~~Immediate and~~ ~~d~~Direct supervision" means the licensed ~~D~~doctor of ~~C~~chiropractic shall be at all times ~~on the premises~~ present in the same chiropractic facility where the examinations are being conducted. The licensed ~~D~~doctor of ~~C~~chiropractic shall be

responsible for the verification of the recorded findings and will be solely responsible for rendering a conclusion based on the findings.

(~~c~~3) Unlicensed individuals may administer ~~physical~~ physiotherapy treatments as an adjunct to chiropractic adjustment, provided the ~~physical~~ physiotherapy treatment is conducted under the ~~adequate~~ indirect supervision of a licensed ~~D~~doctor of ~~C~~chiropractic.

~~Adequate~~ "Indirect supervision" means ~~shall include all of the following:~~
~~(1) T~~the licensed doctor of chiropractic shall be present in the same chiropractic facility with the unlicensed individual at least fifty percent of any work week or portion thereof the said individual is on duty unless this requirement has been waived by the board. The licensed doctor of chiropractic shall be readily available to the said individual at all other times for advice, assistance and instruction.

~~(2) The doctor shall initially examine and prepare a written treatment program for a patient prior to the providing of physical therapy treatment by the unlicensed individual.~~

~~(3) The doctor shall provide periodic reevaluation of the treatment program and of the individual's performance in relation to the patient. "Periodic reevaluation" shall mean at least once every thirty days the patient is under active care.~~

~~(4) The doctor shall perform and record an evaluation of the patient and his or her response to treatment at the termination thereof.~~

(~~d~~4) The licensed doctor of chiropractic is responsible for evaluating a radiographic image before any markings are added that obstruct portions of a body part. The licensed doctor of chiropractic may refer the evaluation of radiographic images to a radiologist. Following the licensed doctor of chiropractic's review of the radiograph, the ~~U~~unlicensed individuals may mark X-ray films ~~administered~~ generated by a licensed ~~D~~doctor of ~~C~~chiropractic. "Marking X-rays" is defined as drawing and measuring between reference points and making angular and linear measurements. Unlicensed individuals are not permitted to make any diagnostic conclusions or chiropractic analytical listings.~~,~~ ~~and t~~The licensed ~~doctor~~ ***doctor*** of chiropractic is responsible for any pathological entities covered or obstructed by the markings.

(~~e~~b) Unlicensed individuals may not: ~~administer~~

(1) ~~Generate~~ **Administer** X-rays unless they hold a valid X-ray technician certificate ~~from the~~ issued by the Department of Public Health ~~Services~~, Radiologic Health Branch, or participate under the direct supervision of a licensed ~~D~~doctor of ~~C~~chiropractic ~~in a~~ as part of a training program approved by that department and set forth in Section 25668.1 of the California Health and Safety Code. This prohibition, set forth in Section 30403 of Title 17 of the California Administrative Code includes the following activities:

(~~1~~A) Positioning of patient;

(~~2~~B) Setting up of X-ray machines;

(~~3~~C) Pushing a button to generate a radiographic beam;

(4D) Developing of films. However, ~~T~~the Department of Public Health ~~Services~~, Radiologic Health Branch has determined that unlicensed individuals may develop X-ray film if that is their sole radiologic responsibility.

(2) Unlicensed individuals are not permitted to diagnose, analyze, or perform a chiropractic adjustment. ~~All preceptors must be under the direct supervision of a licensed doctor of chiropractic.~~

(c) Unlicensed individuals who exceed the permitted scope of practice set forth in this regulation shall be in violation of Section 15 of the Chiropractic Initiative Act and shall be prohibited from applying for a California chiropractic license for such time as may be determined by the board. Students ~~doctors~~ participating in board approved preceptorship programs **sponsored by chiropractic institutions holding status with the Council on Chiropractic Education or seeking such status** are not to be considered "unlicensed individuals" when working in said program.

(d) A violation of this section shall constitute unprofessional conduct and may subject the licensee to disciplinary action.

NOTE: Authority cited: Section 1000-4(b), ~~of the~~ Business and Professions Code (Chiropractic Initiative Act of California (Stats. 1923, p. ~~l~~1xxxviii)). Reference: Section 1000-15, ~~of the~~ Business and Professions Code (Chiropractic Initiative Act of California (Stats. 1923, p. ~~l~~1xxxviii)) and Section 25668.1, California Health and Safety Code; Section 30403 of Title 17, California Administrative Code.

§314. Law Violators.

It shall be the duty of every licensee to notify the Executive Officer or his or her designee of any violation of the act and statutes governing the practice of chiropractic, or these rules and regulations, in order that the board may take disciplinary action.

Note: Authority cited: Sections 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 (Chiropractic Initiative Act of California, Stats. 1923 p. 1xxxviii).

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

§317.3. Licensee Reporting Requirements.

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

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

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

(3) Any disciplinary action, as defined in section 304.

(b) 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.

(c) 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)).

384.1 Petitions for Reinstatement, Reduction of Penalty, or Early Termination of Probation

(a) In petitioning for Reinstatement under Section 1000-10(c) Business and Professions Code (Chiropractic Initiative Act of California, Stats. 1923, p. 1xxxviii) or Reduction of Penalty which would include Early Termination of Probation under Government Code section 11522, the petitioner has the burden of demonstrating any rehabilitative or corrective measures he or she has taken since the revocation or disciplinary action and, that he or she has the necessary and current qualifications and skills to safely engage in the practice of chiropractic within the scope of current law, and accepted standards of practice.

(b) In reaching its determination the Board may consider various factors including the following:
(1) The original violation(s) for which action was taken against the petitioner's license including:
(A) The type, severity, number, and length of violations.
(B) Whether the violation involved intentional, negligent or other unprofessional conduct.
(C). Actual or potential harm to the public, patients, or others.
(D) The length of time since the violation(s) was committed.

(2) Prior disciplinary and criminal actions also taken against the petitioner by the Board, any State, local or Federal agency or court including:
(A) The petitioner's compliance with all terms of probation, parole, previous discipline or other lawfully imposed sanctions including any order of restitution.
(B) Whether the petitioner is currently on or has been terminated from probation or other lawfully imposed sanction.

(C) The petitioner's legal and regulatory history to and since the violation(s).

(3) The petitioner's attitude toward his or her commission of the original violation(s) and his or her attitude in regard to compliance with legal sanctions and rehabilitative efforts.

(4) The petitioner's documented rehabilitative efforts including:
(A) Efforts to maintain and/or upgrade professional skills and knowledge through continuing education or other methods.
(B) Efforts to establish safeguards to prevent repetition of the original violation(s) including changes or modifications in policies, structure, systems, or methods of behavior applicable to the petitioner's chiropractic practice.
(C) Service to community or charitable groups.
(D) Voluntary restitution to those affected by the original violation(s).
(E) Use of appropriate professional medical or psychotherapeutic treatment.
(F) Participation in appropriate self-help and/or rehabilitation groups.
(G) Use of appropriate peer review mechanisms.
(H) Participation in professional chiropractic organizations or associations.

(5) Assessment of the petitioner's rehabilitative and corrective efforts including:
(A) Whether the efforts relate to the original violation(s).
(B) The date rehabilitative efforts were initiated.
(C) The length, time, and expense associated with rehabilitative efforts or corrective actions.
(D) The assessment and recommendations of qualified professionals directly involved in the petitioner's rehabilitative efforts or acting at the request of the Board, including their description of the petitioner's progress and their prognosis of the petitioner's current ability to practice chiropractic.
(E) The petitioner's reputation for truth, professional ability and good character since the commission of the original violation(s).
(F) The nature and status of ongoing and continuing rehabilitation efforts.
(c) In addition, the Board may consider other appropriate and relevant matters not listed in the above guidelines.

(d) All statements to be introduced at hearing must be made in person or pursuant to Government Code Section 11514 (evidence by affidavit). All other statements not made in person or pursuant to Government Code Section 11514 must be under oath and will be considered only as administrative hearsay.

(e) A petition for reinstatement shall be submitted on an application form (Form # 09PRRL – Revised ~~12/2012~~ ***08/2013***) prescribed and provided by the board, and titled "Petition for Reinstatement of Revoked License," accompanied by such evidence, statements, or documents as are therein required, and filed with the board at its office in Sacramento.

(f) A petition for early termination of probation shall be submitted on an application form (Form # 09PTP – Revised ~~12/2012~~ ***08/2013***) prescribed and provided by the board, and

titled "Petition for Early Termination of Probation," accompanied by such evidence, statements, or documents as are therein required, and filed with the board at its office in Sacramento.

(g) A petition for reduction of penalty shall be submitted on an application form (Form # 09PRP – Revised ~~*12/2012*~~ ***08/2013***) prescribed and provided by the board, and titled "Petition for Reduction of Penalty," accompanied by such evidence, statements, or documents as are therein required, and filed with the board at its office in Sacramento.

(h) A petitioner pursuant to Section 1000-10(c) Business and Professions Code (Chiropractic Initiative Act of California (Stats. 1923, p. 1xxxviii)) whose license has been revoked or cancelled may not petition the board for reinstatement until two (2) years has elapsed since the effective date of the decision revoking the license or the date the license was cancelled.

NOTE: Authority cited: Sections 1000-4(b) 1000-10(c) Business and Professions Code (Chiropractic Initiative Act of California (Stats. 1923, p. 1xxxviii)); Section 1003 Business and Professions Code; and Sections 11514 and 11522 Government Code. Reference: Sections 1000-4(b) and 1000-10(c) 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)(3) 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, or any other jurisdiction or province thereof, 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
STATE OF CALIFORNIA

State of California
Edmund G. Brown Jr., Governor

Petition for Reinstatement of Revoked License

Pursuant to Section 1000-10(c) of the Business and Professions Code (BPC) (Chiropractic Initiative Act of California, Stats. 1923 p. 1xxxviii), a petitioner whose license has been revoked or cancelled may not petition the board for reinstatement until two years has elapsed since the effective date of the Board's disciplinary action decision. A petitioner who is subject to Section 1003 of the Business and Professions Code may not petition the board for reinstatement until ten years has elapsed since the effective date of the decision.

All items of information in the application are mandatory. In addition, petitioners for reinstatement of a license must submit either the second copy of their completed Live Scan form (California residents) or fingerprint cards and a $51.00 fee (out-of-state residents) with this application. Failure to provide any of the requested information will deem this application incomplete.

FOR OFFICE USE ONLY	
Date Cashiered:	Amount:

Name: (Last, First, Middle)		Board Meeting Date Requested:	
Address of Record:	City:	State:	Zip:
Home Telephone No.:	Work Telephone No.:	License Number:	Date Issued:

1) List all states where you have ever been licensed as a DC, including license number and status of each license:

2a) Have you ever had a DC license or other professional license or certificate disciplined by another state, another California board/bureau or any governmental agency? *(Includes surrender of license)* ☐Yes ☐No

b) Have you had an application for any professional license or certification denied? ☐ Yes ☐ No

If you answered yes to either question above, please provide an explanation:

3a) Have you been convicted of or pled guilty or no contest to a violation of any law of a foreign country, the United States, any state, or local ordinance since your Board disciplinary action? You must include all infractions, misdemeanor and felony convictions, including those which have been set aside under Penal Code sections 1000 and 1203.4. (Traffic violations that resulted in fines of less than $500 <u>and</u> did not involve alcohol, dangerous drugs, or controlled substances need not be reported.)

☐ Yes ☐ No

b) Are you currently on court imposed probation or parole? ☐ Yes ☐ No

c) Are you currently subject to an order of registration as a sex offender pursuant to Section 290 of the Penal Code?

☐ Yes ☐ No

If you answered yes to any questions above, please provide an explanation and documentation of your criminal court documents (i.e. complaint, minute order, indictment, plea agreement, etc.):

4) Summarize the nature of the act(s) causing the disciplinary action against your California DC license:

5) Explain fully why you feel your probation should be terminated early:

6) Relative to the acts resulting in the discipline of your California DC license, what have you done to ensure that you are now safe to practice chiropractic? (Attach or submit documents to support your statements.)

7) List any education courses you have completed since the date of disciplinary action, including dates, location, type of course and number of hours/units: (Attach or submit documentation to support your statements.)

8) List all chiropractic materials you have studied during the last year.

9) List all continuing education courses you have completed since your license was disciplined. Attach copies of certificates.

9) Provide a chronological list of your employment history since the date of disciplinary action against your DC license. Include beginning and ending dates, name and address of employer, job title, description of duties, and reason(s) for leaving.

I declare, under penalty of perjury, under the laws of the State of California, that the foregoing is true and correct.

Signature: _____ **Date:** _____

BOARD of CHIROPRACTIC EXAMINERS
STATE OF CALIFORNIA

State of California
Edmund G. Brown Jr., Governor

Petition for Early Termination of Probation

Petitions for early termination of probation will not be accepted until one year after the effective date of the Board's decision or from the date of the denial of a similar petition. The decision on the petition will be made by the full Board in accordance with Section 11522 of the Government Code.

All items of information in the application are mandatory. Failure to provide any of the requested information, or the application fee, will deem this application incomplete.

FOR OFFICE USE ONLY	
Date Cashiered:	Amount:

Name: (Last, First, Middle)		Board Meeting Date Requested:	
Business Address:	City:	State:	Zip:
Home Telephone No.:	Work Telephone No.:	License Number:	Date Issued:

1) Have you ever petitioned for early termination of probation? ☐ Yes ☐No
If yes, please provide the date(s):

2) List all states where you have ever been licensed as a DC, including license number and status of each license:

3a) Have you ever had a DC license or other professional license or certificate disciplined by another state, another California board/bureau or any governmental agency? *(Includes surrender of license)* ☐Yes ☐No

b) Have you had an application for any professional license or certification denied? ☐ Yes ☐ No

If you answered yes to either question above, please provide an explanation:

4a) Have you been convicted of or pled guilty or no contest to a violation of any law of a foreign country, the United States, any state, or local ordinance since your Board disciplinary action? You must include all infractions, misdemeanor and felony convictions, including those which have been set aside under Penal Code sections 1000 and 1203.4. (Traffic violations that resulted in fines of less than $500 <u>and</u> did not involve alcohol, dangerous drugs, or controlled substances need not be reported.)

☐ Yes ☐ No

b) Are you currently on court-imposed probation or parole? ☐ Yes ☐ No

c) Are you currently subject to an order of registration as a sex offender pursuant to Section 290 of the Penal Code?

☐ Yes ☐ No

If you answered yes to any questions above, please provide an explanation and documentation of your criminal court documents (i.e. complaint, minute order, indictment, plea agreement, etc.):

5) Summarize the nature of the act(s) causing the disciplinary action against your California DC license:

6) Explain fully why you feel your probation should be terminated early:

7) In addition to the terms of your probation, what other rehabilitative or corrective measures have you taken since your license was disciplined to support your petition for early termination of probation? List dates, nature or programs, and current status. You may include any community service or volunteer work. (Attach or submit documents to support your statements.)

8) List any education courses you have completed since the date of disciplinary action, including dates, location, type of course and number of hours/units: (Attach or submit documentation to support your statements.)

9) Provide a chronological list of your employment history since the date of disciplinary action against your DC license. Include beginning and ending dates, name and address of employer, job title, description of duties, and reason(s) for leaving.

I declare, under penalty of perjury, under the laws of the State of California, that the foregoing is true and correct.

Signature: _____ **Date:** _____

BOARD of CHIROPRACTIC EXAMINERS
STATE OF CALIFORNIA

State of California
Edmund G. Brown Jr., Governor

Petition for Reduction of Penalty

Petitions for reduction of the probation penalty will not be accepted until one year after the effective date of the Board's decision or from the date of the denial of a similar petition. The decision on the petition will be made by the full Board in accordance with Section 11522 of the Government Code.

All items of information in the application are mandatory. Failure to provide any of the requested information will deem this application incomplete.

FOR OFFICE USE ONLY	
Date Cashiered:	Amount:

Name: (Last, First, Middle)		Board Meeting Date Requested:	
Business Address:	City:	State:	Zip:
Home Telephone No.:	Work Telephone No.:	License Number:	Date Issued:

1) Have you ever petitioned for reduction of penalty? ☐ Yes ☐No
If yes, please provide the date(s):

2) List all states where you have ever been licensed as a DC. Include the license number and status of each license:

3a) Have you ever had a DC license or other professional license or certificate disciplined by another state, another California board/bureau or any governmental agency? *(Includes surrender of license)* ☐Yes ☐No

b) Have you had an application for any professional license or certification denied? ☐ Yes ☐ No

If you answered yes to either question above, please provide an explanation:

4a) Have you been convicted of or pled guilty or no contest to a violation of any law of a foreign country, the United States, any state, or local ordinance since your Board disciplinary action? You must include all infractions, misdemeanor and felony convictions, including those which have been set aside under Penal Code sections 1000 and 1203.4. (Traffic violations that resulted in fines of less than $500 <u>and</u> did not involve alcohol, dangerous drugs, or controlled substances need not be reported.)

☐ Yes ☐ No

b) Are you currently on court-imposed probation or parole? ☐ Yes ☐ No

c) Are you currently subject to an order of registration as a sex offender pursuant to Section 290 of the Penal Code?

☐ Yes ☐ No

If you answered yes to any questions above, please provide an explanation and documentation of your criminal court documents (i.e. complaint, minute order, indictment, plea agreement, etc.):

5) Summarize the nature of the act(s) causing the disciplinary action against your California DC license:

6) Explain fully why you feel your probation penalty should be reduced:

7) In addition to the terms of your probation, what other rehabilitative or corrective measures have you taken since your license was disciplined to support your petition for reduction of probation penalty? List dates, nature or programs, and current status. You may include any community service or volunteer work. (Attach or submit documents to support your statements.)

8) List any education courses you have completed since the date of disciplinary action, including dates, location, type of course and number of hours/units: (Attach or submit documentation to support your statements.)

9) Provide a chronological list of your employment history since the date of disciplinary action against your DC license. Include beginning and ending dates, name and address of employer, job title, description of duties, and reason(s) for leaving.

I declare, under penalty of perjury, under the laws of the State of California, that the foregoing is true and correct.

Signature: _____ **Date:** _____

TITLE 16. BOARD OF CHIROPRACTIC EXAMINERS
Sponsored Free Health Care Events

Article 1.5. Sponsored Free Health Care Events – Requirements for Exemption.

§309. Definitions.

For the purposes of section 901 of the Business and Professions Code:

(a) "Community-based organization" means a public or private nonprofit organization that is representative of a community or a significant segment of a community, and is engaged in meeting human, educational, environmental, or public safety community needs.

(b) "Out-of-state practitioner" means a person who is not licensed in California to engage in the practice of chiropractic but who holds a current, active and valid license in good standing in another state, district, or territory of the United States to practice chiropractic.

(c) The term "in good standing" means that a person:

(1) Is not currently the subject of any investigation by any governmental entity or has not been charged with an offense for any act substantially related to the practice of chiropractic by any public agency;

(2) Has not entered into any consent agreement or been subject to an administrative decision that contains conditions placed by an agency upon the person's professional conduct or practice of dentistry, including any voluntary surrender of license; or,

(3) Has not been the subject of an adverse judgment resulting from the practice of chiropractic that the board determines constitutes evidence of a pattern of incompetence or negligence.

NOTE: Authority cited: Sections 901, Business and Professions Code, Section 1000-4(b) Business and Professions Code (Chiropractic Initiative Act of California, Stats. 1923 p. 1xxxviii).
Reference: Section 901, Business and Professions Code.

§309.1. Sponsoring Entity Registration and Recordkeeping Requirements.

(a) Registration. A sponsoring entity that wishes to provide, or arrange for the provision of, health care services at a sponsored event under section 901 of the Business and Professions Code shall register with the board not later than 90 calendar days prior to the date on which the sponsored event is scheduled to begin. A sponsoring entity shall register with the board, or its delegatee, by submitting to the board a completed "Registration of Sponsoring Entity under

Business & Professions Code Section 901," Form 901-A (DCA/2011), which is hereby incorporated by reference.

(b) Determination of Completeness of Form. The board may, by resolution, delegate to the Department of Consumer Affairs the authority to receive and process "Registration of Sponsoring Entity under Business and Professions Code Section 901, " Form 901-A (DCA/2011) on behalf of the board. The board, or its delegatee, shall inform the sponsoring entity within 15 calendar days of receipt of Form 901-A (DCA/2011) in writing that the form is either complete and the sponsoring entity is registered or that the form is deficient and what specific information or documentation is required to complete the form and be registered. The board, or its delegatee, shall reject the registration if all of the identified deficiencies have not been corrected at least 30 days prior to the commencement of the sponsored event.

(c) Recordkeeping Requirements. Regardless of where it is located, a sponsoring entity shall maintain at a physical location in California a copy of all records required by Business and Professions Code section 901 as well as a copy of the authorization for participation issued by the board to an out-of-state practitioner. The sponsoring entity shall maintain these records for a period of at least 5 years after the date on which a sponsored event ended. The records may be maintained in either paper or electronic form. The sponsoring entity shall notify the board at the time of registration as to the form in which it will maintain the records. In addition, the sponsoring entity shall keep a copy of all records required by section 901(g) of the Business and Professions Code at the physical location of the sponsored event until that event has ended. These records shall be available for inspection and copying during the operating hours of the sponsored event upon request of any representative of the board. In addition, the sponsoring entity shall provide copies of any record required to be maintained by section 901 of the Code to any representative of the board within 15 calendar days of the request.

(d) Requirement for Prior Board Approval of Out-of-State Practitioner. A sponsoring entity shall not permit an out-of-state practitioner to participate in a sponsored event unless and until the sponsoring entity has received written approval of such practitioner from the board.

(e) Report. Within 15 calendar days after a sponsored event has concluded, the sponsoring entity shall file a report with the board summarizing the details of the sponsored event. This report may be in a form of the sponsoring entity's choosing, but shall include, at a minimum, the following information:

(1) The date(s) of the sponsored event;

(2) The location(s) of the sponsored event;

(3) The type(s) and general description of all health care services provided at the sponsored event; and

(4) A list of each out-of-state practitioner granted authorization pursuant to this article who participated in the sponsored event, along with the license number of that practitioner.

NOTE: Authority Cited: Sections 901, Business and Professions Code, Section 1000-4(b) Business and Professions Code (Chiropractic Initiative Act of California, Stats. 1923 p. 1xxxviii).
Reference: Section 901, Business and Professions Code.

§309.2. Out-of-State Practitioner Authorization to Participate in Sponsored Event.

(a) Request for Authorization to Participate. An out-of-state practitioner ("applicant") may request authorization from the board to participate in a sponsored event and provide such health care services at the sponsored event as would be permitted if the applicant were licensed by the board to provide those services. Authorization shall be obtained for each sponsored event in which the applicant seeks to participate.

(1) An applicant shall request authorization by submitting to the board a completed "Request for Authorization to Practice Without a License at a Registered Sponsored Free Health Care Event", Form 901-B (BCE/2013), which is hereby incorporated by reference, accompanied by a non-refundable processing fee of $.

(2) The applicant shall also furnish either a full set of fingerprints or submit a Live Scan inquiry to establish the identity of the applicant and to permit the board to conduct a criminal history record check. The applicant shall pay any costs for furnishing the fingerprints and conducting the criminal history record check. This requirement shall apply only to the first application for authorization that is submitted to the board by the applicant.

(b) Response to Request for Authorization to Participate. Within 20 calendar days of receiving a completed request for authorization, the board shall notify the sponsoring entity and the applicant whether that request is approved or denied.

(c) Denial of Request for Authorization to Participate.

(1) The board shall deny a request for authorization to participate if:

(A) The submitted Form 901-B (BCE/2013) is incomplete and the applicant has not responded within 7 calendar days to the board's request for additional information;

(B) The applicant does not possess a current, active and valid license in good standing;

(C) The applicant has failed to comply with a requirement of this article or has committed any act that would constitute grounds for denial under section 480 of the Code of an application for licensure by the board;

(D) The applicant has a current physical or mental impairment related to drugs or alcohol;

(E) The applicant has not graduated from a chiropractic college approved or recognized by the board;

(F) The board has been unable to obtain a timely report of the results of the criminal history check.

(2) The board may deny a request for authorization to participate if:

(A) The request is received less than 20 calendar days before the date on which the sponsored event will begin;

(B) The applicant has been previously denied a request for authorization by the board to participate in a sponsored event;

(C) The applicant has previously had an authorization to participate in a sponsored event terminated by the board; or

(D) The applicant has participated in 3 sponsored events during the 12 month period immediately preceding the current application.

(d) Appeal of Denial. An applicant requesting authorization to participate in a sponsored event may appeal the denial of such request by following the procedures set forth in Business and Professions Code section 309.3(d).

NOTE: Authority cited: Sections 1000-4(b) and 1000-10, Business and Professions Code (Chiropractic Initiative Act of California, Stats. 1923 p. 1xxxviii) and Section 901, Business and Professions Code.
Reference: Sections 1000-4(b) and 1000-10, Business and Professions Code (Chiropractic Initiative Act of California, Stats. 1923 p. 1xxxviii), Sections 480 and 901, Business and Professions Code.

§309.3. Termination of Authorization and Appeal.

(a) Grounds for Termination. The board may terminate an out-of-state practitioner's authorization to participate in a sponsored event for any of the following reasons:

(1) The out-of-state practitioner has failed to comply with any applicable provision of this article, or any applicable practice requirement or regulation of the board.

(2) The out-of-state practitioner has committed an act that would constitute grounds for discipline if done by a licensee of the board.

(3) The board has received a credible complaint indicating that the out-of-state practitioner is unfit to practice at the sponsored event or has otherwise endangered consumers of the practitioner's services.

(b) Notice of Termination. The board shall provide both the sponsoring entity and the out-of-state practitioner with a written notice of the termination, including the basis for the termination. If the written notice is provided during a sponsored event, the board may provide the notice to any representative of the sponsored event on the premises of the event.

(c) Consequences of Termination. An out-of-state practitioner shall immediately cease his or her participation in a sponsored event upon receipt of the written notice of termination.

Termination of authority to participate in a sponsored event shall be deemed a disciplinary measure reportable to the national practitioner data banks. In addition, the board shall provide a copy of the written notice of termination to the licensing authority of each jurisdiction in which the out-of-state practitioner is licensed.

(d) Appeal of Termination. An out-of-state practitioner may appeal the board's decision to terminate an authorization in the manner provided by section 901(j)(2) of the Business and Professions Code. The request for an appeal shall be considered a request for an informal hearing under the Administrative Procedure Act (commencing with section 11445.10 of the Government Code).

(e) Informal Conference Option. In addition to requesting a hearing, the out-of-state practitioner may request an informal conference with the Executive Officer regarding the reasons for the termination of authorization to participate. The Executive Officer shall, within 30 days from receipt of the request, hold an informal conference with the out-of-state practitioner. At the conclusion of the informal conference, the Executive Officer may affirm or dismiss the termination of authorization to participate. The Executive Officer shall state in writing the reasons for his or her action and mail a copy of his or her findings and decision to the out-of-state practitioner within 10 (ten) days from the date of the informal conference. The out-of-state practitioner does not waive his or her request for a hearing to contest a termination of authorization by requesting an informal

conference. If the termination is dismissed after the informal conference, the request for a hearing shall be deemed to be withdrawn.

NOTE: Authority cited: Sections 1000-4(b) Business and Professions Code (Chiropractic Initiative Act of California, Stats. 1923 p. 1xxxviii) and Section 901 of the Business and Professions Code.
Reference: Section 901 of the Business and Professions Code.

§309.4 Additional Practice Requirements for Out-of-State Practitioners Authorized to Participate in Sponsored Free Health Care Events.

(a) Each out-of-state practitioner authorized to participate in a sponsored event and provide chiropractic services at the sponsored event pursuant to Section 309.2 shall post a notice visible to patients or prospective patients at every station that patients will be seen. This notice shall be in at least 48 point Arial font and include the following information:

NOTICE

I hold a current valid license to practice chiropractic in a state other than California. I have been authorized by the California Board of Chiropractic Examiners to provide chiropractic services in California only at this specific health fair.

California Board of Chiropractic Examiners
(800) 735-2929
www.chiro.ca.gov

NOTE: Authority cited: Sections 1000-4(b) Business and Professions Code (Chiropractic Initiative Act of California, Stats. 1923 p. 1xxxviii) and Section 901 of the Business and Professions Code.
Reference: Section 901 of the Business and Professions Code.

DRAFT

SPONSORED FREE HEALTH CARE EVENTS

REGISTRATION OF SPONSORING ENTITY UNDER BUSINESS & PROFESSIONS CODE SECTION 901

In accordance with California Business and Professions Code section 901(d), a non-government organization administering an event to provide health-care services to uninsured and underinsured individuals at no cost, may include participation by certain health-care practitioners licensed outside of California if the organization registers with the California licensing authorities having jurisdiction over those professions. This form shall be completed and submitted by the sponsoring organization **at least 90 calendar days prior to the sponsored event**. *Note that the information required by Business and Professions Code section 901(d) must also be provided to the county health department having jurisdiction in each county in which the sponsored event will take place.*

PART 1 – ORGANIZATIONAL INFORMATION

1. Organization Name:_____

2. Organization Contact Information (*use principal office address*):

Address Line 1	Phone Number of Principal Office
Address Line 2	Alternate Phone
City, State, Zip	Website
County	

Organization Contact Information in California (*if different*):

Address Line 1	Phone Number
Address Line 2	Alternate Phone
City, State, Zip	
County	

3. Type of Organization:

Is the organization operating pursuant to section 501(c)(3) of the Internal Revenue Code? ____ Yes ____ No

If not, is the organization a community-based organization*?
____ Yes ____ No

Organization's Tax Identification Number _____

If a community-based organization, please describe the mission, goals, and activities of the organization (*attach separate sheet(s) if necessary*): _____

_____
_____
_____
_____
_____
_____

* A "community-based organization" means a public or private nonprofit organization that is representative of a community or a significant segment of a community, and is engaged in meeting human, educational, environmental, or public safety community needs.

PART 2 – RESPONSIBLE ORGANIZATION OFFICIALS

Please list the following information for each of the principal individual(s) who is the officer(s) or official(s) of the organization responsible for operation of the sponsoring entity.

Individual 1:

Name	Title
Address Line 1	Phone
Address Line 2	Alternate Phone
City, State, Zip	E-mail address
County	

Individual 2:

Name	Title
Address Line 1	Phone
Address Line 2	Alternate Phone
City, State, Zip	E-mail address
County	

Individual 3:

Name	Title
Address Line 1	Phone
Address Line 2	Alternate Phone
City, State, Zip	E-mail address
County	

(Attach additional sheet(s) if needed to list additional principal organizational individuals)

PART 3 – EVENT DETAILS

1. Name of event, if any: _____

2. Date(s) of event (not to exceed ten calendar days):_____

3. Location(s) of the event (be as specific as possible, including address):

_____
_____
_____
_____

4. Describe the intended event, including a list of all types of healthcare services intended to be provided (*attach additional sheet(s) if necessary*): _____

_____
_____
_____
_____
_____
_____

5. Attach a list of all out-of-state health-care practitioners who you currently believe intend to apply for authorization to participate in the event. The list should include the name, profession, and state of licensure of each identified individual.

___ *Check here to indicate that list is attached.*

Note:

- Each individual out-of-state practitioner must request authorization to participate in the event by submitting an application to the applicable licensing Board or Committee.
- The organization will be notified in writing whether authorization for an individual out-of-state practitioner has been granted.

This form, any attachments, and all related questions shall be submitted to:

Department of Consumer Affairs
Attn: Sponsored Free Health-Care Events
Legislative and Policy Review Division
1625 North Market Blvd., Ste. S-204
Sacramento, CA 95834

Tel: (916) 574-7800
Fax: (916) 574-8655
E-mail: lprdivision@dca.ca.gov

- I understand that I must maintain records in either electronic or paper form both at the sponsored event and for five (5) years in California, per the recordkeeping requirements imposed by California Business and Professions Code section 901 and the applicable sections of Title 16, California Code of Regulations, for the regulatory bodies with jurisdiction over the practice to be engaged in by out-of-state practitioners
- I understand that our organization must file a report with each applicable Board or Committee within fifteen (15) calendar days of the completion of the event.

I certify under penalty of perjury under the laws of the State of California that the information provided on this form and any attachments is true and current, and that I am authorized to sign this form on behalf of the organization:

Name Printed	Title
Signature	Date

PERSONAL INFORMATION COLLECTION, ACCESS AND DISCLOSURE

Disclosure of your personal information is mandatory. The information on this form is required pursuant to Business and Professions Code section 901. Failure to provide any of the required information will result in the form being rejected as incomplete. The information provided will be used to determine compliance with the requirements promulgated pursuant to Business and Professions Code section 901. The information collected may be transferred to other governmental and enforcement agencies. Individuals have a right of access to records containing personal information pertaining to that individual that are maintained by the applicable Board or Committee, unless the records are exempted from disclosure by section 1798.40 of the Civil Code. An individual may obtain information regarding the location of his or her records by contacting the Deputy Director of the Legislative and Policy Review Division at the address and telephone number listed above.

BOARD of CHIROPRACTIC EXAMINERS
STATE OF CALIFORNIA

State of California
Edmund G. Brown Jr., Governor

REQUEST FOR AUTHORIZATION TO PRACTICE WITHOUT A LICENSE AT A REGISTERED FREE HEALTH CARE EVENT

In accordance with California Business and Professions Code Section 901, any doctor of chiropractic licensed and in good standing in another state, district, or territory in the United States may request authorization from the California Board of Chiropractic Examiners (Board) to participate in a free health care event offered by a sponsoring entity, registered with the Board pursuant to Section 901, for a period not to exceed ten (10) days. The Board may deny requests for authorization received less than twenty (20) calendar days before the date on which the sponsored event will begin.

Note: If you are submitting fingerprint cards to the Board ("Ink on Cards") along with your application, the Board recommends that you submit your completed application package to the Board at least sixty (60) days prior to the scheduled event to assist in the timely processing of your fingerprint submissions through the California Department of Justice and Federal Bureau of Investigation.

PART 1 - APPLICATION INSTRUCTIONS

An application must be complete and must be accompanied by all of the following:

- A processing fee of $, made payable to the Board of Chiropractic Examiners. If submitting fingerprint cards instead of using Live Scan, please submit an additional $49 fee, payable to the Board of Chiropractic Examiners, to process your fingerprint cards for a total fee of $.
- A copy of each current and valid license authorizing the applicant to engage in the practice of chiropractic issued by any state, district, or territory of the United States.
- Any documents or statements requested on this application.
- Fingerprints. Fingerpri9nts can be done with electronic Live Scan or ink on cards.

Live Scan is available only in California, for either residents or visitors, and is far speedier. The California Department of Justice (DOJ) has the form you need to complete and take to the Live Scan service location in California, and a list of the locations where it is obtainable (see ag.ca.gov/fingerprints). The procedure is

T (916) 263-5355
F (916) 327-0039
TT/TOD (800) 735-2929
Consumer Complaint Hotline
(866) 543-1311

Board of Chiropractic Examiners
901 P Street, Suite 142A
Sacramento, California 95814
www.chiro.ca.gov

that you take the completed form to the service location, pay a fee and your fingerprints are taken on a glass without ink. The fingerprints are then transmitted electronically to the DOJ, and the DOJ sends the report to the Board of Chiropractic Examiners. Usually the report is received within two days. There is a low rate of rejections with this method.

Ink on Cards. If you are unable to come to California, you may contact the Board to obtain a copy of California "Ink on Cards" to have fingerprints made – 2 cards. Other States' resident Ink Cards will not be accepted. **Be sure to type or print legibly in black ink all the areas on both cards asking for personal information, that the cards are dated and signed by the official taking the fingerprints, and have your signature on them.** Include the 2 cards in your application with a $49 non-refundable processing fee. Reports on some cards are unreadable and must be redone, or due to other factors beyond the control of the Board.

The Board will not grant authorization until this form has been completed in its entirety, all required enclosures have been received by the Board, and any additional information requested by the Board has been provided by the applicant and reviewed by the Board, and a determination has been made to grant authorization.

The Board shall process this request and notify the sponsoring entity listed in this form if the request is approved or denied within twenty (20) calendar days of receipt. If the Board requires additional or clarifying information, the Board will contact you directly. Written approval or denial of requests will be provided directly to the sponsoring entity and to the applicant.

PART 2 – GENERAL INFORMATION*

1. Applicant Name:

_____
First Middle Last

2. U.S. Social Security Number: _____ - _____ - _____ Date of Birth: _____

3. Applicant's Contact Information*:

Address Line 1	Phone
Address Line 2	Alternate Phone
City, State, Zip	E-mail address

(*If an authorization is issued, this address information will be considered your "address of record" with the Board and will be made available to the public upon request.)

4. Applicant's Employer: _____

Employer's Contact Information:

Address Line 1	Phone
Address Line 2	Facsimile
City, State, Zip	E-mail address (if available)

5. Name and Location of Chiropractic College from which Applicant Graduated:

_____

PART 3 – LICENSURE INFORMATION

1. Do you hold a current, active, and valid issued by a state, district, or territory of the United States authorizing the unrestricted practice of chiropractic in your jurisdiction(s)?

No ☐ If no, you are not eligible to participate as an out-of-state practitioner in the sponsored event.

Yes ☐ If yes, list every license authorizing you to engage in the practice of chiropractic in the following table. If there are not enough boxes to include all the relevant information, please attach an addendum to this form. Please also attach a copy of each of your current licenses.

State/ Jurisdiction	Issuing Agency/Authority	License Number	Expiration Date

2. Are you currently the subject of any investigation by any governmental entity?
___ Yes ___ No
If yes, provide a detailed explanation of the circumstances surrounding the investigation.

3. Have you ever had charges filed against a doctor of chiropractic license that you currently hold or held in the past, including charges that are still pending?

___ Yes ___ No

If yes, provide a detailed explanation and a copy of the documents relating to the filing of charges.

4. Have you ever had any disciplinary action taken against a doctor of chiropractic license or other healing arts license?

___ Yes ___ No

Disciplinary action includes, but is not limited to, suspension, revocation, probation, confidential discipline, consent order, letter of reprimand or warning, or any other restriction or action taken against a doctor of chiropractic license. If yes, provide a detailed explanation and a copy of all documents relating to the disciplinary action.

5. Have you ever surrendered a doctor of chiropractic license, either voluntary or otherwise?

___ Yes ___ No

If yes, provide a detailed explanation and a copy of all documents relating to the surrender.

6. Have you ever been the subject of a malpractice settlement or judgment?

___ Yes ___ No

If yes, provide a detailed explanation of the circumstances and outcome relating to the malpractice settlement or judgment. You may be required to provide additional information after review of your explanation.

IMPORTANT REQUIREMENT: If a disciplinary action is filed against any license you currently hold pending the Board's decision on this application for authorization, you must notify the Board in writing within 48 hours.

7. With the exception of conviction of an infraction resulting in a fine of less than $1,000, have you ever been convicted of any crime, including an infraction, misdemeanor or felony?

___ Yes ___ No

"Conviction includes a plea of no contest and any conviction that has been set aside pursuant to Section 1203.4 of the Penal Code. Therefore, you must disclose any convictions that were subsequently set aside pursuant to Section 1203.4 of the Penal Code.

8. Did you have a current physical or mental impairment related to drugs or alcohol?

___ Yes ___ No

9. Provide the name(s), location(s), and date(s) of chiropractic colleges you attended.

Dates Attended From	To	Issuing Agency/Authority	License Number	Expiration Date

PART 4 – SPONSORED EVENT

1. Name and address non-profit or community-based organization hosting the free healthcare event (the "sponsoring entity"):_____

_____

2. Name of event: _____

3. Date(s) & location(s) of the event: _____

_____

4. Date(s) & location(s) applicant will be performing healthcare services (if different):

_____

_____

5. Please specify the healthcare services you intend to provide: _____

_____

_____

_____

6. Name and phone number of contact person with sponsoring entity:

_____

_____

PART 5 – ACKNOWLEDGMENT/CERTIFICATION

I, the undersigned, declare under penalty of perjury under the laws of the State of California and acknowledge that:

- I will comply with all applicable practice requirements required of licensed doctors of chiropractic and all regulations of the Board.

- In accordance with Business and Professions Code Section 901(i), I will only practice within the scope of my licensure and within the scope of practice for California-licensed doctors of chiropractic.

- I will provide the services authorized by this request and Business and Professions Code Section 901 to uninsured and underinsured persons only and shall receive no compensation for such services.

- I will provide the services authorized by this request and Business and Professions Code Section 901 only in association with the sponsoring entity listed herein and only on the dates and at the locations listed herein for a period not to exceed 10 calendar days.

- I have not committed any act or been convicted of a crime constituting grounds for denial of licensure by the board.

- I am in good standing with the licensing authority or authorities of all jurisdictions in which I hold licensure and/or certification to practice medicine.

- I am responsible for knowing and will comply with all applicable practice requirements required of licensed doctors of chiropractic and all regulations of the Board.

- I will post the notice required pursuant to Cal. Code of Regs., Title 16, Section 309.4.

- I am responsible for knowing and complying with California law and practice standards while participating in a sponsored event located in California.

- Practice of a regulated profession in California without proper licensure and/or authorization may subject me to potential administrative, civil and/or criminal penalties.

- The Board may notify the licensing authority of my home jurisdiction and/or other appropriate law enforcement authorities of any potential grounds for discipline associated with my participation in the sponsored event.

- I have read the questions in the foregoing application and all information provided by me in this application is true and complete to the best of my knowledge. By submitting this application and signing below, I am granting permission to the Board to verify the information provided and to perform any investigation pertaining to the information I have provided as the board deems necessary.

Comments & Responses
Extracorporeal Shock Wave Therapy (ECSW)

45-DAY COMMENTS:

Comment 1.1 – Dr. Cynthia Butler, D.C. asserts that extracorporeal shockwave therapy under anesthesia (orthopedic lithotripsy) is outside the chiropractic scope of practice, contradicts with the Cree's and Tain decisions, and conflicts with Section 7 of the Chiropractic Initiative Act which limits the practice of chiropractic to that which was taught in chiropractic schools in 1922.

Suggested Response 1.1 – Staff defers to the Board Members to determine whether ECSW under anesthesia is within the chiropractic scope of practice.

Comment 2.1 – Steven Ross, M.D., Chair, Allied Health Committee, California Orthopaedic Association, believes it is unclear whether ECSW Therapy is within the scope of practice for chiropractors licensed in California. Business and Professions Code (BPC) Section 302(a)(4)(F) prohibits chiropractors from using a lithotripter. The application used by chiropractors is different; however, the technology used for this procedure is the same. Dr. Ross urges the BCE to determine whether the technology is within the scope of practice prior to moving forward with this regulatory proposal.

Suggested Response 2.1 – Staff defers to the Board Members to determine whether ECSW under anesthesia is within the chiropractic scope of practice.

Comment 3.1 – Dr. Fred Lerner, D.C., Ph.D., F.A.C.O, believes that the technology used in this proposal sounds similar to that used for lithotripsy (to break up kidney stones), which is prohibited by BPC Section 302(a)(4)(F).

Suggested Response 3.1 – Staff defers to the Board Members to determine whether ECSW is within the chiropractic scope of practice.

Comment 3.2 – Dr. Fred Lerner, D.C., believes the language is unclear as to how chiropractors can use this technology and suggests that the language be amended to limit ECSW therapy by chiropractors to musculoskeletal use only.

Suggested Response 3.2 – If the Board Members find that it is appropriate to utilize the technology used for ECSW under anesthesia, then staff agrees and recommends that the Board accept this comment and amend the language to limit ECSW therapy by chiropractors to musculoskeletal use only.

Comment 4.1 – Yvonne Choong, Associate Director, California Medical Association (CMA) asserts that this proposal is inconsistent with laws governing California hospitals that do not allow chiropractors to be members of the organized medical staff and/or perform procedures independently in the hospital. Cal. Code of Regulations Section 70703 specifies that practitioners granted privileges at a hospital must be members of the medical staff and further limits medical staff membership to physicians (and under specified conditions, dentists, podiatrists and clinical psychologists).

Suggested Response 4.1 – Staff defers this comment to the Board's legal counsel for review.

Comment 4.2 – CMA asserts that a lithotripter is the same technology used in ECSW Therapy; which is outside the chiropractic scope of practice.

Suggested Response 4.2 – Staff defers to the Board Members to determine whether the technology used in ECSW Therapy under anesthesia is within the chiropractic scope of practice.

Comment 4.3 – CMA argues that the absence of reliable study on the indications for and results of ECSW call into serious doubt the necessity of this proposed regulation.

Suggested Response 4.3 – Staff disagrees and recommends the Board reject this comment. This comment is the opinion of the CMA and evidence wasn't provided to support their assertion.

Comment 5.1 - Kimberly Kirchmeyer, Interim Executive Director, Medical Board of California (MBC), believes that this proposal violates section 7 of the Chiropractic Initiative Act as ECSW therapy under anesthesia or anesthetic is not a chiropractic method and invades the field of medicine and surgery.

Suggested Response 5.1 – Staff disagrees and recommends that the Board reject this comment. Doctors of Chiropractic do not administer anesthesia or anesthetic during ECSW under anesthesia, nor is this treatment a surgical procedure. Subdivision (c) would require anesthesia to be administered by a California licensed physician and surgeon or other health care provider authorized under California law to administer anesthesia.

Comment 5.2 - The MBC asserts that ECSW is in conflict with the decision of Tain v. State Board of Chiropractic Examiners (2005) 130 Ca. App. 4th 609, which opined that California chiropractors cannot use methods or modalities that were not included in chiropractic practice in 1922.

Suggested Response 5.2 – Staff defers to the Board Members to determine whether ECSW is within the chiropractic scope of practice.

Comment 5.3 – The MBC argues that subsection (2) is written as if ambulatory surgery centers that are accredited by an agency approved by the Board are also licensed by the California Department of Public Health, which is not the case.

Suggested Response 5.3 – Staff agrees and recommends that the Board accept this comment and amend the language.

PUBLIC HEARING COMMENTS:

Comment 1.1 – Kerrie Webb, Staff Counsel to the MBC, opposes this regulation and claims it is not consistent with statutes or case law, and violates Section 7 of the Chiropractic Initiative Act. ECSW is not a chiropractic method, was not taught in chiropractic schools in 1922, invades the field of medicine and surgery and is inconsistent with the Tain and Cree's decision.

Suggested Response 1.1: Staff defers to the Board Members to determine whether ECSW is within the chiropractic scope of practice.

Comment 1.2: The MBC asserts that subsection (2) is written as if ambulatory surgery centers that are accredited by an agency approved by the Board are also licensed by the California Department of Public Health, which is not the case.

Suggested Response 1.2: Staff agrees and recommends that the Board accept this comment and amend the language.

Comment 1.3 – The MBC argues that this proposal does not comply with the requirements of the Administrative Procedures Act, section 11349.1(a), and therefore lacks the authority to adopt this regulation as this proposal is inconsistent with statutes and case law.

Suggested Response 1.3 – Staff defers to the Board Members to determine whether ECSW is within the chiropractic scope of practice.

Comment 1.4 – The MBC believes that subsection (d) lacks context. This subsection does not state whether the purpose of the examination by a physician and surgeon is to recommend ECSW therapy treatment or whether the physician and surgeon should be informed by the chiropractor of the purpose of the ECSW procedure for the patient.

Suggested Response 1.4: Staff disagrees and recommends that the board reject this comment. This subsection was included for consistency with the Medical Practice Act. Business and Professions Code Section 2242 requires a prior examination of patients when prescribing, dispensing, or furnishing dangerous drugs and failure to comply with this section is considered unprofessional conduct. The purpose of this section is not to receive approval or evaluation of the chiropractor's recommendation for ECSW treatment, but rather to determine the fitness of the patient for the administration of anesthesia by a California licensed physician and surgeon or other health care provider authorized under California law to administer anesthesia.

Comment 1.5: The MBC asserts that subsection (c) is not in the interest of consumer protection and recommends that this subsection be amended as follows:

"ECSW therapy involving the use of anesthesia or anesthetic may only be performed if the patient is administered anesthesia by a California licensed physician and surgeon~~ or other health care provider authorized under California law to administer anesthesia~~."

Suggested Response 1.5: Staff disagrees and recommends that the board reject this comment. California licensed physicians and surgeons are not the only qualified licensed health care professionals authorized by California law to administer anesthesia to patients. Other health care providers authorized by California law and licensed to administer anesthesia have obtained the proper education, training, and have successfully passed an examination and background check proving their proficiency and qualifications to safely administer anesthesia.

Comment 1.6: The MBC argues that this proposal may not have been properly noticed to the public as the public hearing notice and the proposed regulation documents are not posted on the BCE's website.

Suggested Response 1.6: Staff disagrees and recommends that the board reject this comment. The regulation documents were posted on the BCE's website on May 17, 2013 to coincide with the mailing and e-mailing of the 45-day Notice to all interested parties. The public

hearing notice was posted on the BCE's website on June 21, 2013, mailed and e-mailed to all interested parties, prior to the 10 days required by Government Code section 11346.8; however, these documents were inadvertently dropped from the BCE's website on June 26, 2013 when the BCE's website transitioned from OTech to DCA as required by the Governor's reorganization plan. Furthermore, Government Code section 11346.4(a)(6) requires an agency to post the notice on the website if the agency has a website. Furthermore, subdivision (f) provides that the failure to mail a notice to any person as provided in this section shall not invalidate any action taken by a state agency pursuant to this article. The notices and rulemaking documents were mailed and posted to the website as required; however, the website posting was inadvertently deleted. The BCE believes that all efforts to comply with the notice and posting requirements of the Administrative Procedures Act were made and is actively working with DCA to restore lost documents to their website.

Comment 2.1 - Cynthia Butler, D.C., claims that Ching-Jen Wang, author of the article, "Extracorporeal Shockwave Therapy in Musculoskeletal Disorders" in the Journal of Orthopaedic Surgery and Research, is biased and his results differ from other authors whose results were less positive about the consistency and standardization of results and treatment protocols. Dr. Butler provided Dr. Ching-Jen Wang's Curriculum Vitae and the following articles to support her comments:

- Study Shows SANUWAVE's Dermapace Is Significantly More Effective Than Hyperbaric Oxygen Therapy In Healing Chronic Diabetic Food Ulcers – Medical News Today News Article (March 18, 2011)
- SANUWAVE Technology Shown To Prevent Osteoarthritis Onset Over Time – Business Wire (June 13, 2012)
- Health Tronics Sells Orthopaedic Shockwave Assets by Carla Mozee – Market Pulse (August 2, 2005)
- Shock Wave Therapy (Orthotripsy) in Musculoskeletal Disorders by John A Ogden, M.D., Richard G. Alvarez, M.D., Richard Levitt, M.D, and Marie Marlow, R.N. – Clinical Orthopaedics and Related Research (2001; Number 387, p. 22)
- Orthopaedic Lithotripsy – Urology Equipment – Search by Specialty – Euromed

Suggested Response: 2.1 – Staff disagrees and recommends that the Board reject this comment. The BCE cannot comment on whether Ching-Jen Wang's results are biased as this is the opinion of the commenter. It is common to have differing results in research studies. Scientific results are dependent on a multitude of factors (i.e. type of subjects, age, medical history, medications, etc.); therefore, an inconsistency in a study's results does not necessarily prove a bias toward that treatment or technology. Furthermore, this is only one article and the Board did not rely solely on the results in this article.

Comment 2.2 – Cynthia Butler, D.C. claims that high intensity orthopedic lithotripsy is outside the chiropractic scope as CCR Section 302 prohibits the use of a lithotripter by chiropractors. She further questions why references were made identifying ultrasound as the modality for this procedure when it is actually orthopedic lithotripsy.

Suggested Response 2.1: Staff defers to the Board Members to determine whether ECSW is within the chiropractic scope of practice.

Comment 2.3 – Cynthia Butler, D.C. asserts that MUA and ECSW are very different procedures. Anesthesia is administered for MUA to reduce soft tissue splinting so that the

patient is more relaxed and the chiropractor can be more effective with the manipulation. No other clinician receives more training in manipulation than the chiropractic profession. On the other hand, ECSW therapy requires anesthesia due to the level of pain cause by disruption and irritation of tissues. This therapy did not exist until the last decade and is not taught in any American chiropractic college that she can find.

Suggested Response 2.1: Staff defers to the Board Members to determine whether ECSW is within the chiropractic scope of practice.

REVISION: Hospital Definition of *Physician*

The Joint Commission has revised the definition of physician and, as a result of this change, several elements of performance (EPs). These changes apply to the **hospital** program and are **effective July 1, 2009**. Previously, the *Comprehensive Accreditation Manual for Hospitals* contained two entries for the term *physician*: (1) a doctor of medicine or osteopathy and (2) as defined by Centers for Medicare & Medicaid Services (CMS) in section 482.12(c)(1) of the Hospital Conditions of Participation. The revised definition eliminates the first entry and replaces the second entry to reflect the CMS definition of physician as found in Section 1861(r) of the Social Security Act. This definition more accurately reflects expectations of CMS for deemed status purposes. The revised entry for the term *physician* in the "Glossary" chapter of the *Comprehensive Accreditation Manual for Hospitals* is noted in the box below. Generally, the term includes the following individuals, as authorized by state law and regulation:

- Doctor of medicine or osteopathy
- Doctor of dental surgery or dental medicine
- Doctor of podiatric medicine
- Doctor of optometry
- Chiropractor

In tandem with this change, certain EPs have been modified to indicate specifically when the task or responsibility described in an EP requires a doctor of medicine or osteopathy and when it requires a physician as defined by CMS in Section 1861(r) of the Social Security Act. These revisions should not be construed to limit the authority of a doctor of medicine or osteopathy to delegate tasks to other qualified health care personnel to the extent recognized under state law or a state's regulatory mechanism. Surveyors will continue to survey The Joint Commission's current credentialing and privileging process.

The list of affected EPs is shown in the box page 7. These changes can be found on The Joint Commission's Web site by selecting the "Accreditation Programs" tab and then the "Hospitals" option. The direct link to these changes is http://www.jointcommission.org/AccreditationPrograms/Hospitals. These revisions will appear in Update 1 to the *2009 Comprehensive Accreditation Manual for Hospitals.*

Continued on page 7

Joint Commission

Requirement

Official Publication of Revised Definition

Revised Glossary Definition of *Physician*

APPLICABLE TO HOSPITALS **Effective July 1, 2009**

Physician As defined by the Centers for Medicare and Medicaid Services in Sec. 1861 [42 U.S.C.1395x] of the Social Security Act:

(r) The term "physician," when used in connection with the performance of any function or action, means

(1) a doctor of medicine or osteopathy legally authorized to practice medicine and surgery by the State in which he performs such function or action (including a physician within the meaning of section 1101(a)(7)),

(2) a doctor of dental surgery or of dental medicine who is legally authorized to practice dentistry by the State in which he performs such function and who is acting within the scope of his license when he performs such functions,

(3) a doctor of podiatric medicine for the purposes of subsections (k), (m), (p)(1), and (s) of this section and sections 1814(a), 1832(a)(2)(F)(ii), and 1835 but only with respect to functions which he is legally authorized to perform as such by the State in which he performs them,

(4) a doctor of optometry, but only for purposes of subsection (p)(1) with respect to the provision of items or services described in subsection (s) which he is legally authorized to perform as a doctor of optometry by the State in which he performs them, or

(5) a chiropractor who is licensed as such by the State (or in a State which does not license chiropractors as such, is legally authorized to perform the services of a chiropractor in the jurisdiction in which he performs such services), and who meets uniform minimum standards promulgated by the Secretary, but only for the purpose of sections 1861(s)(1) and 1861(s)(2)(A) and only with respect to treatment by means of manual manipulation of the spine (to correct a subluxation) which he is legally authorized to perform by the State or jurisdiction in which such treatment is provided.

For the purposes of section 1862(a)(4) and subject to the limitations and conditions provided in the previous sentence, such term includes a doctor of one of the arts, specified in such previous sentence, legally authorized to practice such art in the country in which the inpatient hospital services (referred to in such section 1862(a)(4)) are furnished.

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Revision: Hospital Definition of Physician (continued)

Continued from page 6

List of Revised EPs

APPLICABLE TO HOSPITALS

Effective July 1, 2009

The EPs affected by the revised definition of *physician* are as follows:

- MM.04.01.01, EP 14
- MM.07.01.03, EP 6
- MS.01.01.01, EP 20
- MS.03.01.01, EP 9
- MS.03.01.03, EPs 1 & 4
- MS.05.01.01, EP 17
- MS.06.01.05, EP 6
- PC.03.05.05, EPs 1, 3, & 5
- PC.03.05.07, EP 1
- PC.03.05.09, EPs 1 & 2
- PC.03.05.11, EPs 1 & 2
- PC.03.05.15, EP 1
- PC.04.01.03, EP 3
- RI.01.04.01, EPs 1 & 2

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ECSW COURSES AT BCE-APPROVED CHIROPRACTIC COLLEGES

The results of a recent poll of the 19 BCE-approved colleges are as follows:

- 14 responses received (74%)
- 13 colleges replied that they do not teach ECSW courses.[1]
- One college, Canadian Memorial Chiropractic College, replied that several of their clinicians use shock wave therapy and they have recently instituted a pilot project to determine its use by 4th year interns in the clinic.
- The remaining five colleges – New York Chiropractic College, Seneca Falls, NY; Sherman College of Straight Chiropractic, Spartanburg, SC; Texas Chiropractic College, Pasadena, TX; University of Bridgeport College of Chiropractic; Bridgeport, CT; and Western States Chiropractic College, Portland, OR – did not respond.

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[1] Colleges that do not teach ECSW

- Cleveland Chiropractic College, Kansas City, MO
- D'Youville College of Chiropractic, Buffalo, NY
- Life Chiropractic College West, Hayward, CA
- Life Chiropractic College East, Marietta, GA
- Logan College of Chiropractic, Chesterfield, MO
- National University of Health Sciences, Lombard, IL
- National University of Health Sciences, St. Petersburg, FL
- Northwestern Health Sciences University, Bloomington, MN
- Palmer College of Chiropractic, Port Orange, FL
- Palmer College of Chiropractic, Port Orange, FL
- Palmer College of Chiropractic West, San Jose, CA
- Parker College of Chiropractic, Dallas, TX
- Southern California University of Health Sciences, Whittier, CA