BOARD of CHIROPRACTIC EXAMINERS
STATE OF CALIFORNIA

State of California
Edmund G. Brown Jr., Governor

NOTICE OF PUBLIC MEETING

January 16, 2014
9:00 a.m.
State Capitol
First Floor, Senate Committee Room 113
Sacramento, CA 95814

AGENDA

1. **OPEN SESSION –** Call to Order & Establishment of a Quorum
   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
2. **Pledge of Allegiance**
3. **Chair's Report**
4. **Election of Officers for 2014**
   A. Chair
   B. Vice-Chair
   C. Secretary
5. **Approval of Minutes**
   October 29, 2013 Board Meeting
6. **Executive Officer's Report**
   A. Administration
   B. Budget
   C. Licensing
   D. Enforcement
7. **Ratification of Approved License Applications**
8. **Ratification of Approved Continuing Education Providers**
9. **Ratification of Denied License Applications in Which the Applicants Did Not Request a Hearing**
10. **Recommendation to Waive Two Year Requirement to Restore a Cancelled License**

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 agenda.

12. Government Affairs Committee Update

A. Year-End Review of Committee Activities
B. Report on November 2013 Meet and Greets with Administration and Legislative Staff
C. Review and Approval of the Board's Action Planning Portion of the 2014 – 2017 Strategic Plan
D. Implementation of New Laws: AB 258 (Chavez) – Use of "Veteran" on Application

13. Discussion and Possible Action on the Physical Therapy Board Staff's Opinion on the Physical Therapist's Scope of Practice

14. Review and Possible Action to Initiate a Rulemaking to Adopt the Board's Uniform Standards Related to Substance Abuse & Changes to Disciplinary Guidelines (Title 16 CCR, Division 4, Section 384)

15. Discussion and Possible Action regarding possible changes to the Informed Consent Regulation at Title 16 CCR, Division 4, Section 319.1.

16. Proposed Regulations

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

17. Public Comment for Items Not on the Agenda

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. Hearings Re: Petition for Early Termination of Probation (Approximately 12:00 P.M.)

A. Robin Hult, D.C. – DC 28678
B. John Richardson, D.C. – DC 16030
C. Edward Roberts, D.C. – DC 29091

20. Closed Session

A. Deliberation on Disciplinary Decisions and Petitions Pursuant to California Government Code Section 11126(c)(3)
B. To Receive Advice from Legal Counsel 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

21. OPEN SESSION: Announcements Regarding Closed Session

22. Adjournment

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

The meeting facilities are accessible to individuals with physical disabilities. A person who needs a disability-related accommodation or modification in order to participate in the meeting may make a request by contacting Marlene Valencia at (916) 263-5355 ext. 5363 or e-mail marlene.valencia@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

October 29, 2013
Radisson Hotel at Los Angeles Airport
6225 W. Century Blvd.
Los Angeles, CA 90045

DRAFT

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 9:01 a.m.

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

Chair's Report
Dr. Columbu provided a brief overview of the Board of Chiropractic Examiners mission.

Approval of Minutes
July 25, 2013 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: DR. LUBKIN MOVED TO RATIFY THE APPROVED LICENSE APPLICATIONS
SECOND: DR. DEHN 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: MR. RUFFINO 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).

Dr. Lubkin requested staff to identify distance learning CE providers with an asterisk.

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: DR. DEHN SECONDED THE MOTION
VOTE: 6-0
MOTION CARRIED
The Board ratified the attached list of approved continuing education providers incorporated herein (Attachment C).

Government Affairs Committee Meetings Update
Dr. Elginer reported on the Government Affairs Committee Meeting held on October 15, 2013. She also highlighted the accomplishments of the Government Affairs Committee during 2013, including the Legislative Bill Tracking Manual, the Strategic Plan and clarified the intent of SB 305 (Price).

Dr. Lubkin expressed his concern regarding the mandate to participate in the Sunset Review process prescribed by SB 305.

Dr. Elginer recommended adding Dr. Lubkin's concerns to the Govt. Affairs Committee agenda for further discussion.

Dr. Azzolino recommended that a special Board Meeting be held to discuss the issues surrounding SB 305 (Price).

MOTION: DR. ELGINER MOVED TO APPROVE THE 2014-2017 STRATEGIC PLAN.
SECOND: DR. AZZOLINO SECONDED THE MOTION

DRAFT

VOTE: 6-0
MOTION CARRIED

Dr. Davis urged the Board to seek outside legal counsel to provide an opinion on the legality of SB 305 and the transition under DCA with the Chiropractic Initiative Act.

Enforcement Committee Meeting Update

Dr. Azzolino reported on the Enforcement Committee meeting held on October 24, 2013.

MOTION: DR. AZZOLINO MOVED TO ACCEPT THE PROPOSED CHANGES TO CCR SECTION 317(W) REGARDING FAILURE TO REFER.
SECOND: DR. LUBKIN SECONDED THE MOTION
VOTE: 6-0
MOTION CARRIED

MOTION: DR. AZZOLINO MOVED TO COMMENCE THE RULEMAKING PROCESS TO AMEND CCR SECTION 317(W) AND DELEGATE AUTHORITY TO THE EXECUTIVE OFFICER TO MAKE NON-SUBSTANTIVE CHANGES TO THE PROPOSED LANGUAGE.
SECOND: DR. DEHN SECONDED THE MOTION
VOTE: 6-0
MOTION CARRIED

Dr. Lubkin recommended that future agendas allow for the Committee Chair's report as well as further discussion by the Board on issues surrounding Committee agenda items.

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 11 – Licensing, Continuing Education and Public Relations Committee Meeting Update.

Licensing, Continuing Education and Public Relations Committee Meeting Update
Dr. Dehn reported on the Licensing, Continuing Education and Public Relations Committee meetings held on August 22, 2013 and October 3, 2013.

Department of Consumer Affairs' Presentation of Services Provided to BCE

Christine Lally, Deputy Director for Board and Bureau Relations at DCA provided an overview of her responsibilities and services that the Department can provide to the BCE.

Dr. Elginer requested information on the availability of a web-based platform for conducting public meetings.

Mr. Ruffino requested a means to share updates of all healthcare boards with each other.

Dr. Elginer recommended DCA to consider holding a "best practices" meeting amongst boards to share ideas.

DRAFT

Proposed 2014 Board Meeting Schedule

The Board selected the following tentative dates for future board meetings:
January 16th or 21st, 2014 – Sacramento
April 8th or 10th, 2014 – Southern California
July 17, 2014 – Northern California
October 28, 2014 – Southern California

Proposed Regulations

A. Omnibus Consumer Protection

MOTION: DR. COLUMBU MOVED TO ADOPT THE PROPOSED RESPONSES TO THE 2ND 15-DAY COMMENT PERIOD.
SECOND: DR. AZZOLINO SECONDED THE MOTION

Dr. Dehn has concerns regarding proposed section 390.7 and recommended referring the rulemaking package back to the Enforcement Committee for further discussion.

Dr. Columbu withdrew his motion to adopt the proposed responses to the 2nd 15-day comment period.

B. Sponsored Free Health Care Events

The Board held a lengthy discussion on the delegation process to DCA for registration of sponsoring entities of free health care events.

Dixie Van Allen provided the Board with an Estimated Cost Workload Summary to support the proposed application fee of $59 for out-of-state practitioners who wish to volunteer at sponsored free healthcare events.

MOTION: DR. COLUMBU MOVED TO RESCIND THE BOARD'S MOTION TO APPROVE THE PRIOR DRAFT OF THE SPONSORED FREE HEALTH CARE EVENTS RULEMAKING PACKAGE.
SECOND: DR. LUBKIN SECONDED THE MOTION

Dr. Davis provided comments in favor of this rulemaking package.

VOTE: 6-0
MOTION CARRIED

MOTION: DR. COLUMBU MOVED TO DELEGATE AUTHORITY TO RECEIVE AND PROCESS THE REGISTRATION FORM FROM SPONSORING ENTITIES TO DCA.
SECOND: DR. AZZOLINO SECONDED THE MOTION
VOTE: 6-0
MOTION CARRIED

MOTION: DR. LUBKIN MOVED TO ACCEPT THE PROPOSED $59 APPLICATION FEE FOR OUT-OF-STATE INDIVIDUALS WHO WISH TO VOLUNTEER SERVICES AT A SPONSORED FREE HEALTHCARE EVENT.
SECOND: DR. DEHN SECONDED THE MOTION
VOTE: 6-0
MOTION CARRIED

MOTION: DR. AZZOLINO MOVED TO COMMENCE THE RULEMAKING PROCESS FOR SPONSORED FREE HEALTH CARE EVENT REGULATIONS AND DELEGATE AUTHORITY TO THE

DRAFT

EXECUTIVE OFFICER TO MAKE NON-SUBSTANTIVE CHANGES TO THE LANGUAGE IF NECESSARY.
SECOND: DR LUBKIN SECONDED THE MOTION
VOTE: 6-0
MOTION: CARRIED

C. Extracorporeal Shock Wave (ECSW) Therapy
The Board held a lengthy discussion on the best way to proceed with this rulemaking package.

MOTION: DR. LUBKIN MOVED TO TABLE THIS ITEM AND REFER IT BACK TO THE ENFORCEMENT COMMITTEE.
SECOND: DR. AZZOLINO SECONDED THE MOTION

Dr. Columbu expressed numerous concerns regarding this rulemaking package.

Dr. Lubkin provided the Board members with supplemental handouts providing information on ECSW.

Dr. Davis shared comments regarding the differences in technology used for orthotripsy and lithotripsy and suggested amendments to the language for clarity.

VOTE: 5-0
MOTION CARRIED

Dr. Elginer suggested changing the composition of the Enforcement Committee to aid in bringing this issue to a resolution.

Mr. Ruffino agreed with Dr. Elginer's suggestion and recommended a public member be added to the committee.

Dr. Columbu removed Dr. Lubkin from the Enforcement Committee and added Mr. Ruffino and Dr. Elginer to the Enforcement Committee.

Spencer Walker recommended that Dr. Lubkin send information on ECSW to the Executive Officer for review by the Enforcement Committee.

Hearings Re: Petition for Reinstatement of Revoked License
Administrative Law Judge, David B. Rosenman, presided over and Deputy Attorney General Thomas Rinaldi appeared on behalf of the people of the State of California on the following hearing:

A. Jeffrey Nabatmama

Public Comment

Kelly Fox presented the Board with information regarding case law involving the issuance of professional licenses to illegal immigrants.

Hearings Re: Petition for Reinstatement of Revoked License
Administrative Law Judge, David B. Rosenman, presided over and Deputy Attorney General Thomas Rinaldi appeared on behalf of the people of the State of California on the following hearings:

B. Carlos Seals

DRAFT

Hearings Re: Petition for Reduction of Penalty
Administrative Law Judge, David B. Rosenman, presided over and Deputy Attorney General Thomas Rinaldi appeared on behalf of the people of the State of California on the following hearing:

A. Robert Zuckerman, D.C.

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

Future Agenda Items
None

Adjournment
Dr. Columbu adjourned the meeting at 5:27 p.m.

DRAFT

(ATTACHMENT A)

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**

DRAFT

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**

DRAFT

(ATTACHMENT B)

Ratification for New Continuing Education Providers

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

(ATTACHMENT C)
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

DRAFT

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)

Robert Puleo
Executive Officer
620-110-8862-001

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

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

1/8/2014

(Dollars in Thousands)

	Actual 2012-13	CY 2013-14	BY 2014-15
BEGINNING BALANCE	$ 2,133	$ 2,294	$ 1,957
Prior Year Adjustment	$ -260	$ -	$ -
Adjusted Beginning Balance	$ 1,873	$ 2,294	$ 1,957
REVENUES AND TRANSFERS			
Revenues:			
125600 Other regulatory fees	$ 163	$ 158	$ 158
125700 Other regulatory licenses and permits	$ -	$ -	$ -
125800 Renewal fees	$ 3,390	$ 3,201	$ 3,200
125900 Delinquent fees	$ 55	$ 51	$ 51
150300 Income from surplus money investments	$ 4	$ 5	$ 3
161400 Miscellaneous revenues	$ 10	$ 10	$ 10
161900 Other Revenue - Cost Recoveries	$ 1	$ 9	$ 9
164600 Fines and Forfeitures	$ 33	$ 25	$ 25
Totals, Revenues	$ 3,656	$ 3,459	$ 3,456
Transfers from Other Funds			
FO0421 From Vehicle Inspection and Repair Fund per Item 1111-011-0421, Budget Act of 2014	$ -	$ -	$ 3,000
Transfers to Other Funds	$ -	$ -	$ -
Totals, Revenues and Transfers	$ 3,656	$ 3,459	$ 6,456
Totals, Resources	$ 5,529	$ 5,753	$ 8,413
EXPENDITURES			
Disbursements:			
0840 State Controller (State Operations)	$ 2	$ -	$ -
1110 Program Expenditures (State Operations)	$ -	$ 3,779	$ 3,769
8500 Program Expenditures (State Operations)	$ 3,215	$ -	$ -
8880 Financial Information System for CA (State Operations)	$ 18	$ 17	$ 3
9670 Equity Claims of California Victim Compensation and Government Claims Board and (State Operations)	$ -	$ -	$ 3,000
Total Disbursements	$ 3,235	$ 3,796	$ 6,772
FUND BALANCE			
Reserve for economic uncertainties	$ 2,294	$ 1,957	$ 1,641
Months in Reserve	7.3	3.5	5.1

NOTES:

A. ASSUMES WORKLOAD AND REVENUE PROJECTIONS ARE REALIZED
B. ASSUMES INTEREST RATE AT .3%.
C. ASSUMES APPROPRIATION GROWTH OF 2% PER YEAR.

BOARD OF CHIROPRACTIC EXAMINERS
LICENSE STATISTICAL DATA

FY 2012/13 – FY 2013/14 COMPARISON

LICENSE TYPE	TOTAL LICENSES 1/1/2013	TOTAL LICENSES 1/1/2014	NET VARIANCE
CHIROPRACTOR	13,422	13,375	-47
SATELLITES	3,911	3,440	-471
CORPORATIONS	1,306	1,373	+67
REFERRALS	30	32	+2
TOTALS	18,669	18,220	-49

APPLICATIONS RECEIVED AND PROCESSED
OCTOBER 1, 2013 – NOVEMBER 30, 2013

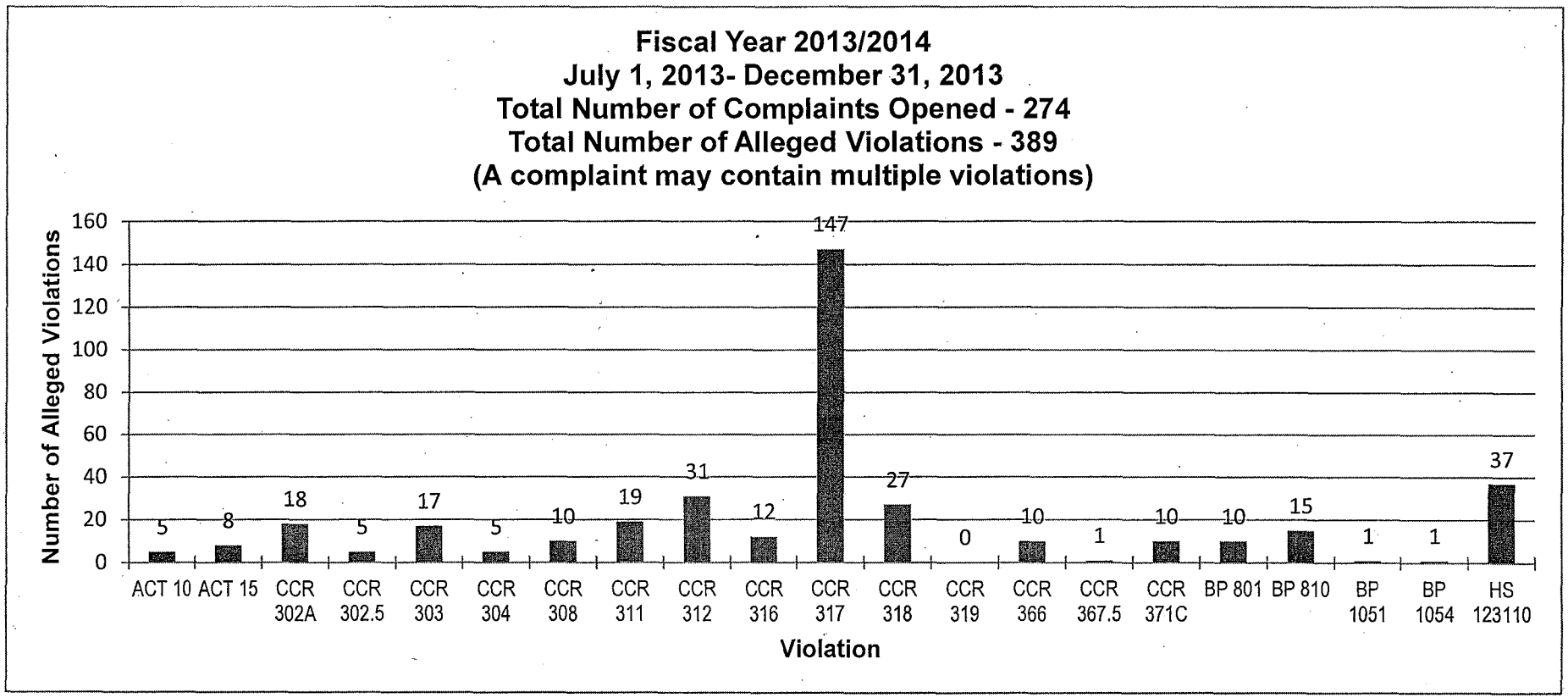
APPLICATION TYPE	RECEIVED	APPROVED	DENIED	WITHDRAWN	PENDING
INITIAL	42	42	2	0	125
RECIPROCAL	1	0	0	0	7
RESTORATION	39	37	1	0	9
CORPORATION	22	33	0	0	19

Compliance Unit Statistics

Fiscal Year	09/10	10/11	11/12	12/13	13/14*
Complaints					
Received	519	497	391	386	274
Pending	203	137	125	159	187
Closed with Insufficient Evidence	136	96	89	57	47
Closed with No Violation	129	135	93	84	39
Closed with Merit	158	140	120	95	82
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)	12 ($7,300)
Accusations					
Filed	73	68	41	34	15
Pending	117	130	99	73	71
Revoked	18	17	14	11	8
Revocation Stayed: Probation	20	26	20	31	6
Revocation Stayed: Suspension and Probation	8	9	12	5	4
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	4
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	3
Granted	4	2	2	2	0
Denied	11	10	6	5	2
Petition for Early Termination of Probation					
Filed	6	4	1	6	7
Granted	1	2	1	1	0
Denied	2	4	1	1	0
Petition for Modification of Probation					
Filed	0	0	0	0	2
Granted	0	0	0	0	0
Denied	0	0	0	0	0
Petition by Board to Revoke Probation					
Filed	32	13	6	2	7
Revoked	7	2	8	3	4
Probation Cases					
Active	134	138	142	139	128

* FY 13/14: July 1, 2013 – December 31, 2013

Revised: January 6, 2014


Fiscal Year 2013/2014
July 1, 2013- December 31, 2013
Total Number of Complaints Opened - 274
Total Number of Alleged Violations - 389
(A complaint may contain multiple violations)
Number of Alleged Violations
160
140
120
100
80
60
40
20
0
5
8
18
5
17
5
10
19
31
12
147
27
0
10
1
10
10
15
1
1
37
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 371C
BP 801
BP 810
BP 1051
BP 1054
HS 123110
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):

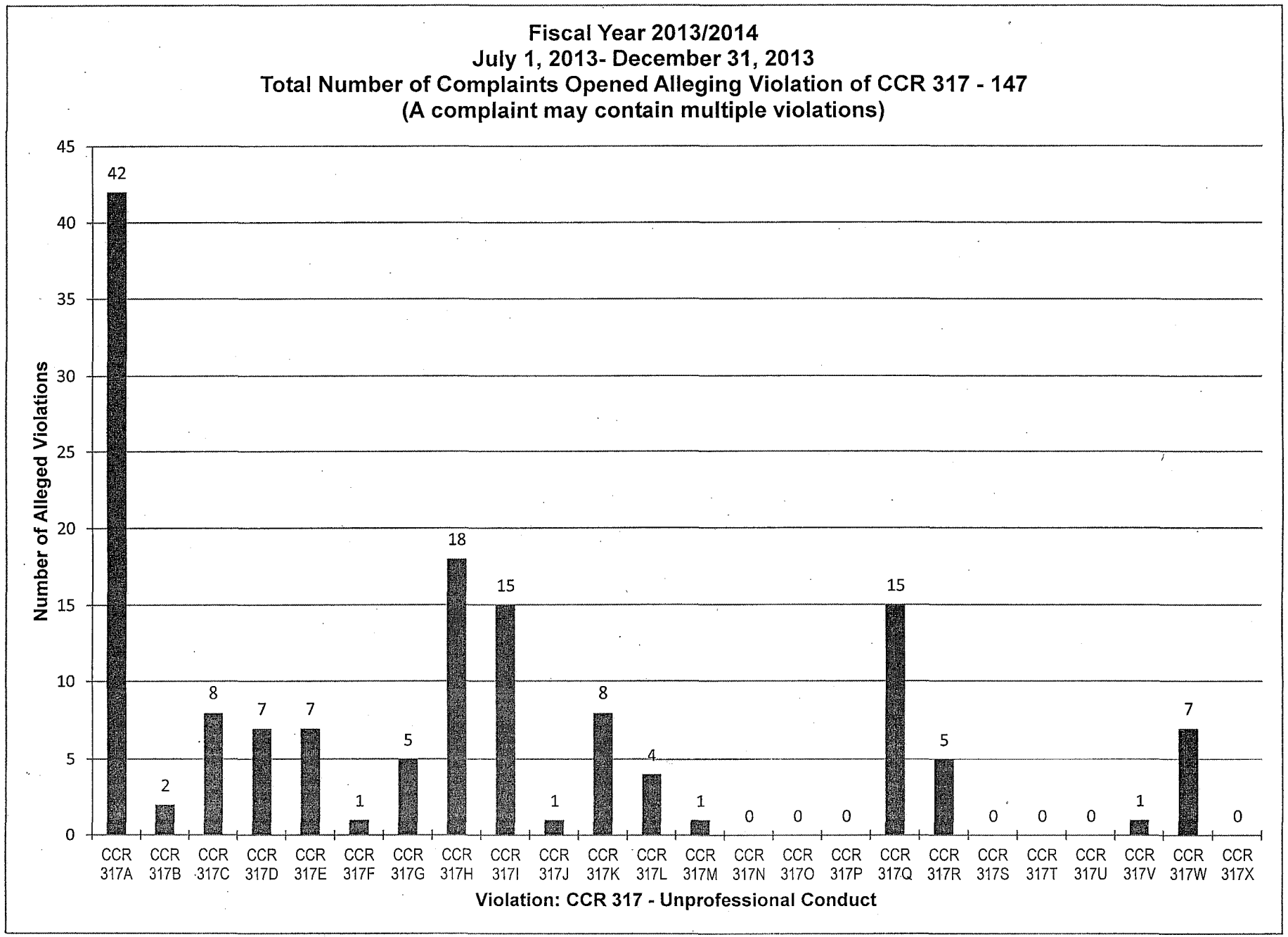
302(a) – Scope of Practice
302.5 – Use of Laser
303 – Filing of Addresses
304 – Discipline by Another State
308 – Display of License
311 – Advertisements
312 – Illegal Practice
316 – Responsibility for Conduct on Premises
317 – Unprofessional Conduct
318 – Chiropractic Patient Records/Accountable Billing
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):

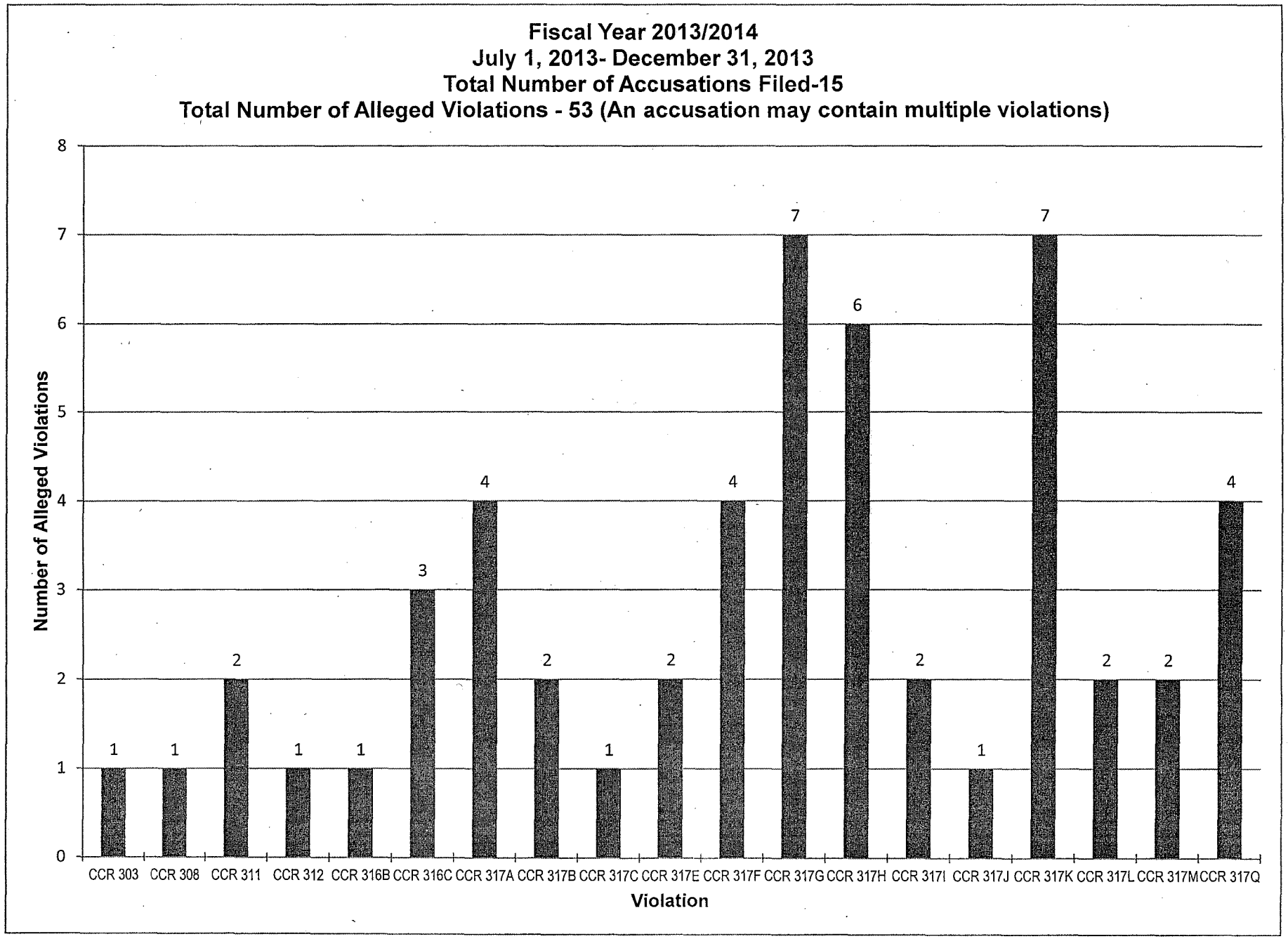
123110 – Patient Access to Health Records


Fiscal Year 2013/2014
July 1, 2013- December 31, 2013
Total Number of Complaints Opened Alleging Violation of CCR 317 - 147
(A complaint may contain multiple violations)
Number of Alleged Violations
45
40
35
30
25
20
15
10
5
0
42
2
8
7
7
1
5
18
15
1
8
4
1
0
0
0
15
5
0
0
0
1
7
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- December 31, 2013
Total Number of Accusations Filed-15
Total Number of Alleged Violations - 53 (An accusation may contain multiple violations)
Number of Alleged Violations
0
1
2
3
4
5
6
7
8
1
1
2
1
1
3
4
2
1
2
4
7
6
2
1
7
2
2
4
CCR 303
CCR 308
CCR 311
CCR 312
CCR 316B
CCR 316C
CCR 317A
CCR 317B
CCR 317C
CCR 317E
CCR 317F
CCR 317G
CCR 317H
CCR 317I
CCR 317J
CCR 317K
CCR 317L
CCR 317M
CCR 317Q
Violation

STATE OF CALIFORNIA

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

MEMORANDUM

Date: January 6, 2014

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 January 16, 2014, public meeting.

Between October 1, 2013 and December 31, 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
October 1, 2013 – December 31, 2013

Name (First, Middle, Last)			Date Issued	DC#
Gonzzo		Watson	10/3/2013	**32744**
Craig	Steven	Hartstein	10/3/2013	**32745**
Ernest	Dae En	Kim	10/3/2013	**32746**
Adam	Paul	Bordes	10/10/2013	**32747**
Dustin	Dean	Kalynchuk	10/10/2013	**32748**
Courtney	Jill	Meltvedt	10/10/2013	**32749**
Kody	Garret	Semrow	10/23/2013	**32750**
Brian	Michael	Pazera	10/24/2013	**32751**
John	David	Chapman	10/31/2013	**32752**
Joseph	Christopher	Coppolino	10/31/2013	**32753**
Yuliya		Gruppina	10/31/2013	**32754**
Daniel	James	Henrie	10/31/2013	**32755**
Cecelie		Moses Hymes	10/31/2013	**32756**
Natalie	Ann	Packer	10/31/2013	**32757**
Jacob	Ryan	Van Wickle	10/31/2013	**32758**
Eric	Andrew	Bender	11/6/2013	**32759**
Louis	Walterio	Camarillo	11/6/2013	**32760**
Adam	Paul	Harcourt	11/6/2013	**32761**
Gregory	William	King	11/6/2013	**32762**
Randi	Lynn	Ruela	11/12/2013	**32763**
Allene	Deanna	Rummage	11/12/2013	**32764**
Paul	Anthony	Tripp	11/12/2013	**32765**
Samuel	Booth	Wagg	11/12/2013	**32766**
Melissa	Anne	Crago	11/13/2013	**32767**
Kelly	Ann	Cullen	11/13/2013	**32768**
Robert	D	Curtis	11/13/2013	**32769**
Ainsley	Laurel	Duncan	11/13/2013	**32770**
Kimberly	Carol	Johnson	11/13/2013	**32771**
Brett	Allen	Jones	11/13/2013	**32772**
Kyler	Cutler	Mahoney	11/13/2013	**32773**
Lauren	Rachael	Ragazzo	11/21/2013	**32774**
Maia	Suzanne	Veague	11/21/2013	**32775**
Joshua	Aaron	Bray	11/22/2013	**32776**
Larry	Michael	Bubela	11/22/2013	**32777**
Johanna	Fay	Gan	11/22/2013	**32778**
Stephen	Bradley	Hill	11/22/2013	**32779**
Aaron	Michael	Lowe	11/22/2013	**32780**

Aaron	William	Lyon	11/22/2013	**32781**
Jeffrey	Allen	Payne	11/27/2013	**32782**
Michael		Shahbazian	11/27/2013	**32783**
David	Robert	Yates	11/24/2013	**32784**
Jesus		Cazares Perez	12/6/2013	**32785**
Brendan	John	Gray	12/6/2013	**32786**
Si	Dung	Le	12/6/2013	**32787**
Raheel	Ashraf	Mann	12/6/2013	**32788**
Ida		Molayem	12/6/2013	**32789**
Sarah	Michelle	Mongold	12/6/2013	**32790**
Ali		Pajouhesh	12/12/2013	**32791**
Vanessa	Teresa	Rodriguez	12/12/2013	**32792**
Brian	Hau-Sheng	Chen	12/13/2013	**32793**
Gabriella	Ovson	Cole	12/13/2013	**32794**
Travis	Michael	Dunlap	12/13/2013	**32795**
Troy	Gus	Garabedian	12/13/2013	**32796**
William	Richard	Holdsworth	12/13/2013	**32797**
Janice	Bretan	Jones	12/13/2013	**32798**
Katherine	Moroz Smith	Krivan	12/13/2013	**32799**
Alesandra	Nadia	Ilchena	12/18/2013	**32800**
Allan	M	Radman	12/20/2013	**32801**
Barry	Dean	Efflandt	12/24/2013	**32802**
Glen	Eric	Johanson	12/24/2013	**32803**

STATE OF CALIFORNIA

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

MEMORANDUM

Date: January 16, 2014

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 January 16, 2014.

CONTINUING EDUCATION PROVIDERS	DATE APPROVED
1. Ronald Brenner, DC	01/16/14
2. Leonard J Faye	01/16/14
3. Tom Grant Jr. DC	01/16/14
4. John Pecora, DC	01/16/14
5. Center for Advanced Energy Medicine	01/16/14
6. INFORMED	01/16/14
7. Robert J Fenell, DC	01/16/14
8. Gregg Friedman, DC	01/16/14
9. Glenn Maginness	01/16/14
10. Daljinder Singh, DC & Natalie Bausch	01/16/14

STATE OF CALIFORNIA

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

MEMORANDUM

Date: January 9, 2014

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 October 1, 2013 and December 31, 2013, staff reviewed and confirmed that two (2) applicants did not meet statutory and regulatory requirements for licensure. Both applicants have appealed the decision and staff is working with the Attorney General's office on their 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: January 9, 2014

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 January 16, 2014, 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
Pak, Sungmin	19938	08/30/2012
Young, Arlan	13720	10/31/2013

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

January 9, 2014
2:00 p.m.
901 P Street, Suite 142A
Sacramento, CA 95814
(916) 263-5355

Teleconference Locations with Public Access

Frank Ruffino
Office of General Services Administrator
700 E. Maples Ct.
Chula Vista, CA 91911
(619) 205-1415

Heather Dehn, DC
Hugh Lubkin, DC
901 P St, #142A
Sacramento, CA 95814
(916) 263-5355

AGENDA

1. **Call to Order**

2. **Approval of Minutes**
   November 21, 2013

3. **Progress on Surveying International Schools on Reviewing their Requirements for Compatibility to USA Standards for Possible Recognition of International Applicants**

4. **Identifying and Assigning Audits of New Continuing Education Providers' Continuing Education Courses**

5. **Review Progress of Auditing Continuing Education Courses**

6. **Creation of New Outreach Publications for the Board**

7. **Progress on Development of California Law and Professional Practice Examination**

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.

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.

Assembly Bill No. 258

CHAPTER 227

An act to add Section 11019.11 to the Government Code, relating to state agencies.

[Approved by Governor September 6, 2013. Filed with Secretary of State September 6, 2013.]

LEGISLATIVE COUNSEL'S DIGEST

AB 258, Chávez. State agencies: veterans.

Existing law provides for the governance and regulation of state agencies, as defined. Existing law provides certain benefits and protections for members of the Armed Forces of the United States.

This bill would require, on or after July 1, 2014, every state agency that requests on any written form or written publication, or through its Internet Web site, whether a person is a veteran, to request that information in a specified manner.

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

SECTION 1. Section 11019.11 is added to the Government Code, to read:

11019.11. (a) Every state agency that requests on any written form or written publication, or through its Internet Web site, whether a person is a veteran, shall request that information only in the following format: "Have you ever served in the United States military?"

(b) This section shall apply only to a written form or written publication that is newly printed on or after July 1, 2014.

O

Subject: PT Scope of Practice Inquiry: Manipulation/Mobilization

From: Conley, Sarah@DCA (Sarah.Conley@dca.ca.gov)

To: pedchiropractic@att.net;

Date: Wednesday, November 20, 2013 11:30 AM

Mr. Pedroncelli,

I apologize the press of business has not allowed for a more expedient response to your inquiry regarding whether mobilization/manipulation is with a physical therapist's scope of practice.

The use of mobilization, Grades 1-5, or manipulation is the use of passive exercise, and is within the scope of practice of a physical therapist. The use of passive exercise is authorized by Section 2620 of the Business and Professions Code:

> (a) Physical therapy means the art and science of physical or corrective rehabilitation or of physical or corrective treatment of any bodily or mental condition of any person by the use of the physical, chemical, and other properties of heat, light, water, electricity, sound, massage, and active, passive, and resistive exercise, and shall include physical therapy evaluation, treatment planning, instruction and consultative services. The practice of physical therapy includes the promotion and maintenance of physical fitness to enhance the bodily movement related health and wellness of individuals through the use of physical therapy interventions. The use of roentgen rays and radioactive materials, for diagnostic and therapeutic purposes, and the use of electricity for surgical purposes, including cauterization, are not authorized under the term "physical therapy" as used in this chapter, and a license issued pursuant to this chapter does not authorize the diagnosis of disease.
>
> (b) Nothing in this section shall be construed to restrict or prohibit other healing arts practitioners licensed or registered under this division from practice within the scope of their license or registration.

A physical therapist may use mobilization, Grades 1-5, or manipulation as each applies within the scope of physical therapy practice; the intent of providing the treatments is an important distinction between the practice of physical therapy and the practice of chiropractic.

Sarah Conley

Executive Associate Analyst, Administrative Services

Physical Therapy Board of California

Phone: 916.561.8210

Fax: 916.263.2560

CONFIDENTIALITY NOTICE: This communication with its contents may contain confidential and/or legally privileged information. It is solely for the use of the intended recipient(s). Unauthorized interception, review, use or disclosure is prohibited and may violate applicable laws including the Electronic Communications Privacy Act. If you are not the intended recipient, please contact the sender and destroy all copies of the communication.

TITLE 16. BOARD OF CHIROPRACTIC EXAMINERS
Disciplinary Guidelines

§ 384. Disciplinary Guidelines.

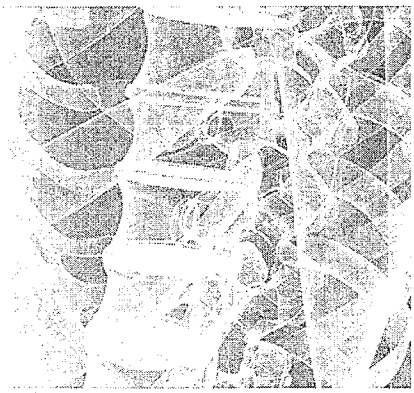
In reaching a decision on a disciplinary action under the Administrative Procedure Act (Government Code Section 11400, et seq.), the board shall consider the disciplinary guidelines entitled "Uniform Standards Related to Substance Abuse & Disciplinary Guidelines ~~and Model Disciplinary Orders~~" [revised ~~October 21, 2004~~ January 2014] which are hereby incorporated by reference. Deviation from these guidelines and orders, including the standard terms of probation, is appropriate where the board in its sole discretion determines that the facts of the particular case warrant such a deviation - for example: the presence of mitigating factors; the age of the case; evidentiary problems.

Note: Authority cited: Sections 1000-4(b) and 1000-10, Business and Professions Code. (Chiropractic Initiative Act of California, Stats. 1923, p. 1~~l~~xxxviii) and Sections 315 – 315.4 of the Business and Professions Code.
Reference: Sections 1000-4(b) and 1000-10, Business and Professions Code. (Chiropractic Initiative Act of California, Stats. 1923, p. 1~~l~~xxxviii) and Sections 315-315.4 of the Business and Professions Code.

DRAFT

BOARD of CHIROPRACTIC EXAMINERS

STATE OF CALIFORNIA



~~Board of Chiropractic Examiners~~

~~Disciplinary Guidelines and Model Disciplinary Orders~~

~~Adopted by the Board January 28, 1999~~

~~Revised September 23, 1999~~

~~Revised October 21, 2004~~

Uniform Standards Related to Substance Abuse & Disciplinary Guidelines

Revised Month, 2014

STATE OF CALIFORNIA

DEPARTMENT OF CONSUMER AFFAIRS

Table of Contents

Page No.

Introduction. . . . . #
Probation Monitor Purpose. . . . . #
Stipulated Settlements. . . . . #

Disciplinary Guidelines
- Factors to Be Considered in Determining Penalties. . . . . #
- Terms of Probation. . . . . #
- Standard Conditions. . . . . #
- Optional Conditions. . . . . #

Categories of Violations and Recommended Penalties
- Category I. . . . . #
- Category II. . . . . #
- Category III. . . . . #
- Category IV. . . . . #

Disciplinary Guidelines for use by Administrative Law Judges. . . . . #
Model Disciplinary Orders Language. . . . . #
Uniform Standards for Substance-Abusing Licensees. . . . . #

Disciplinary Orders Probation Terms and Conditions
- Standard Conditions. . . . . #
- Optional Conditions. . . . . #

Introduction

The Board of Chiropractic Examiners (hereinafter "the Board") is a consumer protection agency with the primary mission of protecting consumers of chiropractic services from potentially harmful licensee s. In keeping with its mandate to protect the affected population of consumers, the Board has adopted the following recommended guide lines for disciplinary orders and conditions of probation for violations of the Chiropractic Act and/or California Code of Regulations.

The Board carefully considers the totality of the facts and circumstances in each individual case, with the safety of the public being paramount. Consequently, the Board requests that the Administrative Law Judge clearly delineate the factual basis for his/her decision. Except as provided in the Uniform Standards Related to Substance Abuse, the Board recognizes that an individual case may necessitate a departure from these guidelines for disciplinary orders. However, in such a case, the mitigating or aggravating circumstances must be detailed in the "Finding of Fact" which is in every Proposed Decision, so that the circumstances can be better understood and evaluated by the Board before final action is taken.

The Board recognizes that these conditions are merely guidelines and the mitigating or aggravating circumstances in a particular case may necessitate variations. In such cases, the mitigating circumstances shall be detailed in any proposed decision or any transmittal memorandum accompanying a stipulation.

The Board has found that accusations are rarely filed except in serious cases. In general, the position of the Board is that revocation should always be an option whenever grounds for discipline are found to exist. Board policy is that revocation is always an appropriate order where a respondent is in default, such as when he or she fails to file a notice of defense or fails to appear at a disciplinary hearing.

The Board seeks recovery of all investigative and prosecution costs up to the hearing in all disciplinary cases, including all charges of the Office of the Attorney General including, but not limited to legal services and opinions of expert consultants, because the burden for paying for disciplinary cases should fall on those whose conduct requires investigation and enforcement, not upon the profession as a whole.

~~BOARD INFORMATION~~

~~Board of Chiropractic Examiners 2525 Natomas Park Drive, Suite 260 Sacramento, CA 95833-2931 Phone: (916) 263-5355 Fax: (916) 263-5369~~

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

Probation Monitoring Purpose

The purpose of the probation monitoring program is to maintain public protection by proactively monitoring probationers to ensure terms and conditions are met. The Board will work to:

1) Allow for the probationer's rehabilitation if that is his/her choice;
2) Allow the probationer an opportunity to practice in a professional manner with restrictions and guidance from a community support system and designated probation monitor to prevent future occurrences; and
3) Allow for education of the individual as to the responsibilities, requirements and professionalism mandated of a chiropractor.

It is the policy of the Board that if a probationer is found to be in violation of any term of probation at any time during the probation period, the Board shall immediately be notified of the violation so that disciplinary action may be considered.

Stipulated Settlements

The Board will consider stipulated settlements to promote cost effectiveness and to expedite disciplinary decisions if such agreements are consistent with the Board's mandate.

Disciplinary Guidelines

Factors to Be Considered in Determining Penalties

Section 10(b) of the Chiropractic Initiative Act provides that the Board may discipline the holder of, or suspend or revoke, any license issued by the Board.

In determining whether the minimum, ~~or an~~ intermediate or maximum penalty is to be imposed in a given case, factors such as the following should be considered:

~~1.~~ 1. Actual or potential threat or harm to the public, consumer or patient.
~~2. Actual or potential harm to any consumer.~~
~~3.~~ 2. Prior disciplinary record, including level of compliance with disciplinary orders~~.~~ or probation terms.
~~4.~~ 3. Prior warnings of record, including final citations issued within the last 5 years.
~~5.~~ 4. Number and/or variety of current violations.
~~6.~~ 5. Nature and severity of the act(s), offense(s) or crime(s) under consideration.
~~7.~~ 6. Mitigating evidence.
~~8.~~ 7. Rehabilitation evidence.
~~9.~~ 8. Compliance with terms of any criminal sentence.
~~10.~~ 9. Overall criminal record.
~~11.~~ 10. Time passed since the act(s) or offense(s) occurred.
~~12.~~ 11. Whether the conduct was intentional or negligent, demonstrated incompetence, or, if respondent is being held to account for conduct committed by another, the respondent had knowledge of or knowingly participated in such conduct.
~~13.~~ 12. The financial benefit to the respondent from the misconduct.
~~14.~~ 13. Intent of actions.
~~15.~~ 14. Act(s) of remorse.
~~16.~~ 15. Death of patient or consumer due to gross negligence, criminal violations or serious bodily injury.

No one of the above factors is required to justify the minimum and maximum penalty as opposed to an intermediate one.

Terms of Probation

Probation conditions are divided into two categories: 1) standard conditions that shall appear in all probation cases, and 2) optional conditions, that depend on the nature and circumstances of a particular case. The Board prefers that the optional conditions be placed before the standard conditions in sequence in the proposed disciplinary order. The Board may also impose other conditions appropriate to the case as long as the condition is not contrary to public policy.

Disciplinary Guidelines Cont.

Standard Conditions - To be included in all probation decisions/orders.

1. Obey All Laws
2. Quarterly Reports
3. Probation Monitoring
4. Interview With Board
5. Continuing Education
6. Reimbursement of Board Costs
7. Tolling of Probation
8. No Preceptorships or Supervision of Interns
9. Violation of Probation
10. Notification of Employment
11. Notice to Employers
12. Notice to Employees
13. License Surrender
14. Completion of Probation

Optional Conditions

1. Actual Suspension
2. Drugs - Abstain From Use
3. Drug and Alcohol Abuse Treatment/Counseling ~~abuse counseling/detoxification~~
4. Alcohol - Abstain From Use
5. ~~Alcohol abuse counseling/detoxification~~ Drug and Alcohol Testing
6. ~~Blood and/or urine testing~~ California Law and Professional Practice Examination (CLPPE)
7. ~~Law Examination~~ Special Purposes Examination for Chiropractic (SPEC)
8. ~~SPEC Examination~~ Practice Monitoring by Another Licensed Doctor of Chiropractic
9. ~~Monitoring~~ Restitution for Consumers
10. ~~Auditing of billing practices~~ Psychiatric or Psychological Evaluation
11. ~~Restitution for consumers~~ Psychotherapy
12. ~~Psychiatric or Psychological evaluation~~ Medical Evaluation
13. ~~Psychotherapy~~ Ethics and Boundaries Examination
14. ~~Medical evaluation~~ Education Course
15. ~~Ethics Course~~ Community Service
16. ~~Education Course~~ Restricted Practice
17. ~~Community service~~ Third Party-Patient Chaperone
18. ~~Restricted practice~~ Notification to Patients
19. ~~Third party presence - sexual transgressors~~ Criminal Probation/Parole Reports
20. ~~Notification to patients~~ Billing Monitor
21. ~~Criminal Probation/Parole Reports~~

Categories of Violations and Recommended Penalties

The Chiropractic Initiative Act and the California Code of Regulations specify the offenses for which the Board may take disciplinary action. The following are categories of violations used by the Board in determining appropriate disciplinary penalties.

The Board also has the authority, pursuant to California Code of Regulations section 304, to impose discipline based on disciplinary action taken by another jurisdiction. The discipline imposed by the Board will typically correspond with the discipline imposed by the other jurisdiction for similar offenses.

CATEGORY I

Minimum: Revocation stayed; 1-2 year probation
Maximum: Revocation
All standard terms and conditions
Optional terms and conditions, as applicable

1. Actual Suspension
2. Drugs - Abstain From Use
3. ~~Drug abuse counseling/detoxification~~ Drug and Alcohol Abuse Treatment/Counseling
4. Alcohol - Abstain From Use
5. ~~Alcohol abuse counseling/detoxification~~ Drug and Alcohol Testing
6. ~~Blood and/or urine testing~~ California Law and Professional Practice Examination (CLPPE)
7. ~~Law Examination~~ Special Purposes Examination for Chiropractic (SPEC)
8. ~~SPEC Examination~~ Practice Monitoring by Another Licensed Doctor of Chiropractic
9. ~~Monitoring~~ Restitution for Consumers
10. ~~Auditing of billing practices~~ Psychiatric or Psychological Evaluation
11. ~~Restitution for consumers~~ Psychotherapy
12. ~~Psychiatric or Psychological evaluation~~ Medical Evaluation
13. ~~Psychotherapy~~ Ethics and Boundaries Examination
14. ~~Medical evaluation~~ Education Course
15. ~~Ethics Course~~ Community Service
16. ~~Education Course~~ Restricted Practice
17. ~~Community service~~ Third Party-Patient Chaperone
18. ~~Restricted practice~~ Criminal Probation/Parole Reports
19. ~~Third party presence – sexual transgressors~~ Billing Monitor
20. ~~Notification to patients~~
21. ~~Criminal Probation/Parole Reports~~

CATEGORY I CONTINUED

Recommended but not limited to ~~for~~ the following violations which are relatively minor, but are potentially harmful, or for repeated violations of a relatively minor nature:

Chiropractic Initiative Act
5 Practicing without a valid license
10(b) Improper use of fictitious names

California Code of Regulations
302.5 Use of Laser
303 ~~Practicing without notifying Board of business address~~ Filing of Address
304 Discipline by Another Jurisdiction
308 ~~Practicing without properly posting license; failure to obtain and post satellite office certificate~~ Display of License
310 Change of name
310.2 Use of the title "Chiropractor" by unlicensed persons
311 Advertising
312 Unlicensed practice *(for use in **less** egregious cases or for applicants)*
314 Law Violators
317(v) Waiving co-payments or deductibles
317(x) Substitution of a spinal manipulation for vaccination
317.2 Gag Clauses in Civil Agreements Prohibited
317.3 Licensee Reporting Requirements
318(a)(b) Chiropractic Patient Records/Accountable Billings
319.1 Informed Consent
366 Continuing Education Audits
367.5 Application for chiropractic corporation
367.7 Name of corporation
367.9 Shares: ownership and transfer

Business and Professions Code
1051 Application for registration as a chiropractic corporation

Health and Safety Code
123110 Failure to provide treatment records

CATEGORY II

Minimum: Revocation stayed, 3 year probation
Maximum: Revocation
All standard terms and conditions of probation
Optional terms and conditions, as applicable

1. Actual Suspension
2. Drugs - Abstain From Use
3. ~~Drug abuse counseling/detoxification~~ Drug and Alcohol Abuse Treatment/Counseling
4. Alcohol - Abstain From Use
5. ~~Alcohol abuse counseling/detoxification~~ Drug and Alcohol Testing
6. ~~Blood and/or urine testing~~ California Law and Professional Practice Examination (CLPPE)
7. ~~Law Examination~~ Special Purposes Examination for Chiropractic (SPEC)
8. ~~SPEC Examination~~ Practice Monitoring by Another Licensed Doctor of Chiropractic
9. ~~Monitoring~~ Restitution for consumers
10. ~~Auditing of billing practices~~
11. ~~Restitution for consumers~~ Psychiatric or Psychological evaluation
12. ~~Psychiatric or Psychological evaluation~~ Psychotherapy
13. ~~Psychotherapy~~ Medical evaluation
14. ~~Medical evaluation~~ Ethics and Boundaries Examination
15. ~~Ethics Course~~ Education Course
16. ~~Education Course~~ Community service
17. ~~Community service~~ Restricted practice
18. ~~Restricted practice~~ Third party-Patient Chaperone
19. ~~Third party presence - sexual transgressors~~ Notification to patients
20. ~~Notification to patients~~ Criminal Probation/Parole Reports
21. ~~Criminal Probation/Parole Reports~~ Billing Monitor

CATEGORY II CONTINUED

Recommended for violations with a more serious potential for harm, for violations which involve greater disregard for chiropractic law and public safety, or for violations which reflect on ethics, care exercised or competence.

Chiropractic Initiative Act
10(b) Advertising treatment of sexual disorders
15 Misleading use of title

California Code of Regulations
306.1(c) Failure to appear for hearing
311 Advertising
312 Unlicensed practice *(for use in more egregious cases)*
314 Law Violators
317(l) Making or signing false documents
317(n) Making false statement on the license application
317(p) False, misleading, or deceptive advertising
317(r) Unauthorized disclosure of patient information; failure to maintain confidentiality
317.1 Failure to register referral service
318(a) Chiropractic patient records
318(b) Accountable billings
319 Inappropriate billing for services advertised as free or discounted
319.1 Informed Consent
~~355 Renewal and Restoration~~
366 Continuing Education Audits

Business and Professions Code
650.3 Group advertising and referral services
651 False, misleading, or deceptive advertising

CATEGORY III

Minimum: Revocation stayed, minimum 30 days suspension, 5 year probation
Maximum: Revocation
All standard terms and conditions of probation
Optional terms and conditions, as applicable

1. Actual suspension
2. Drugs - Abstain from use
3. ~~Drug abuse counseling/detoxification~~ Drug and Alcohol Abuse Treatment/Counseling
4. Alcohol - Abstain from use
5. ~~Alcohol abuse counseling/detoxification~~ Drug and Alcohol Testing
6. ~~Blood and/or urine testing~~ California Law and Professional Practice Examination (CLPPE)
7. ~~Law Examination~~ Special Purposes Examination for Chiropractic (SPEC)
8. ~~SPEC Examination~~ Practice Monitoring by Another Licensed Doctor of Chiropractic
9. ~~Monitoring~~ Restitution for consumers
10. ~~Auditing of billing practices~~ Psychiatric or Psychological evaluation
11. ~~Restitution for consumers~~ Psychotherapy
12. ~~Psychiatric or Psychological evaluation~~ Medical evaluation
13. ~~Psychotherapy~~ Ethics and Boundaries Examination
14. ~~Medical evaluation~~ Education Course
15. ~~Ethics Course~~ Community service
16. ~~Education Course~~ Restricted practice
17. ~~Community service~~ Third party-Patient Chaperone
18. ~~Restricted practice~~ Notification to patients
19. ~~Third party presence - sexual transgressors~~ Criminal Probation/Parole Reports
20. ~~Notification to patients~~ Billing Monitor
21. ~~Criminal Probation/Parole Reports~~

CATEGORY III CONTINUED

Recommended for less egregious criminal convictions involving moral turpitude, sexual misconduct or fraudulent acts committed in connection with the licensee's practice. Also to be used in cases involving gross negligence/incompetence, capping, steering, accepting fees for patient referrals, excessive treatment or for failure to refer a patient to another licensed care provider.

Chiropractic Initiative Act
7 Unauthorized practice of medicine

California Code of Regulations
302(a) Practice exceeding the scope of practice
302(a)(5) Use of drug or medicine in materia medica
302.5 Use of Laser
312(c) Failure to properly supervise
313 Inducing student to practice chiropractic
314 Law Violators
316(a) Responsibility for conduct on premises *(for use in less egregious cases)*
316(b) License used in connection with sexual acts *(for use in less egregious cases)*
316(c) Sexual relations with a patient *(for use in less egregious cases)*
317(a) Gross negligence *(for use in less egregious cases)*
317(b) Repeated negligent acts *(for use in less egregious cases)*
317(d) Excessive treatment *(for use in less egregious cases)*
317(e) Intentionally or recklessly causing harm to the public
317(f) Administering or use of drugs or alcohol
317(g) Conviction of a crime *(for use in less egregious cases, including fraud)*
317(h) Conviction involving moral turpitude, dishonesty, or corruption *(for use in less egregious cases, excluding fraud)*
317(i) Conviction involving dangerous drugs or alcohol
317(j) Dispensing or administration of drugs
317(k) Commission of dishonest or fraudulent act related to duties or functions of license
317(l) Making or signing false documents
317(m) Aiding and abetting unlicensed activity
317(q) Obtaining fee by fraud or deceit
317(s) Use of cappers or steerers 317(t) Fee for referrals
317(w) Failure to refer a patient to other licensed health care provider
318.1 Standard of Care Regarding Manipulation Under Anesthesia (MUA)

Business and Professions Code
~~1054 Name of a chiropractic corporation~~
~~1055 Officers of chiropractic corporation not licensed as required in Professional Corporation Act~~
725 Excessive prescribing or treatment *(for use in less egregious cases)*
726 Sexual relations with patients *(for use in less egregious cases)*
810 False or fraudulent claims *(for use in less egregious cases)*

CATEGORY IV

Penalty: Revocation

Recommended for **more egregious** cases including, but not limited to, fraudulent activity, physical violence, sexual misconduct, excessive treatment, or improper use of license in connection with sexual acts. Revocation is also recommended when: 1) respondent fails to file a notice of defense or to appear at a disciplinary hearing where the Board has requested revocation in the accusation; 2) respondent violates the terms and conditions of probation from a previous disciplinary order; and 3) where prior discipline has been imposed, as progressive discipline unless respondent can demonstrate satisfactory evidence of rehabilitation.

California Code of Regulations
302.5 Use of Laser
316(a) Responsibility for conduct on premises
316(b) License used in connection with sexual acts
316(c) Sexual relations with a patient
317(a) Gross negligence
317(b) Repeated negligent acts
317(d) Excessive treatment
317(g) Conviction of a crime
317(h) Conviction involving moral turpitude, dishonesty, or corruption
317(l) Making or signing false documents
318.1 Standard of Care Regarding Manipulation Under Anesthesia (MUA)
390.7 Sexual Contact with Patient
390.8 Required Actions Against Registered Sex Offenders

Business and Professions Code
725 Excessive prescribing or treatment
726 Sexual relations with patients
810 False or fraudulent claims

DISCIPLINARY GUIDELINES

FOR USE BY ADMINISTRATIVE LAW JUDGES

To establish consistency in discipline for similar offenses on a statewide basis, the Board of Chiropractic Examiners has adopted these uniform disciplinary guidelines for particular violations. This document, designed for use by administrative law judges, attorneys, chiropractors and ultimately the Board, shall be revised from time to time following public hearing by the Board and will disseminated to interested parties upon request. Additional copies of this document may be obtained via the Board's web site at www.chiro.ca.gov or by contacting the Board of Chiropractic Examiners at its office in Sacramento, California. There may be a charge assessed sufficient to cover the cost of production and dissemination of copies. In determining the appropriate discipline, consideration should be given to any mitigating or aggravating circumstances. All decisions shall include cost recovery in accordance with Business and Professions Code section 125.3.

The Board recognizes that these penalties and conditions of probation are merely guidelines and that mitigating or aggravating circumstances may necessitate deviations. If there are deviations or omissions from the guidelines, the Board would request that the Administrative Law Judge hearing the matter include some statement of this in the proposed decision so that the circumstances can be better understood and evaluated by the Board upon review of the proposed decision and before its ultimate action is taken.

MODEL DISCIPLINARY ORDERS LANGUAGE

Model Number

1. **Revocation - Single Cause**

License No. (Ex: DC-12345) issued to respondent (Ex: John Smith, D.C.) is revoked. Respondent shall relinquish his/her wall license and pocket renewal license to the Board or its designee within 10 days of the effective date of this decision. Respondent may not petition the Board for reinstatement of his/her revoked license for 2 years from the effective date of this decision. Respondent shall pay to the Board its costs of investigation and enforcement in the amount of $_____ within 15 days of the effective date of this decision.

(Optional) License No. (Ex: DC-12345) issued to respondent (Ex: John Smith, D.C.) is revoked. Respondent shall relinquish his/her wall license and pocket renewal license to the Board or its designee within 10 days of the effective date of this decision. Respondent may not petition the Board for reinstatement of his/her revoked license for 2 years from the effective date of this decision. If respondent petitions the Board ~~is~~ he/she shall pay to the Board its costs associated with the investigation and enforcement in the amount of $_____. Payment of the costs is no guarantee the petition will be granted. If respondent fails to pay the amount specified, the petition shall be denied and the license shall remain revoked.

2. **Revocation - Multiple Causes**

License No. (Ex.: DC-12345) issued to respondent (Ex.: Jane Doe, D .C.) is revoked pursuant to ~~Determination of Issues (Ex: I, II, and III)~~ Causes for Discipline, separately and together. Respondent shall relinquish his/her wall license and pocket renewal license to the Board or its designee within 10 days of the effective date of this decision. Respondent may not petition the Board for reinstatement of his/her revoked license for 2 years from the effective date of this decision. Respondent shall pay to the Board its costs of investigation and prosecution in the amount of $_____ within 15 days of the effective date of this decision.

(Optional) License No. (Ex.: DC-12345) issued to respondent is revoked pursuant to ~~Determination of Issues (Ex: I, II, and III)~~ Causes for Discipline, separately and together. Respondent shall relinquish his/her wall license and pocket renewal license to the Board or its designee within10 days of the effective date of this decision. Respondent may not petition the Board for reinstatement of his/her revoked license for 2 years from the effective date of this decision. If respondent petitions the Board he/she shall pay to the Board its costs associated

with the investigation and enforcement in the amount of $_____. Payment of the costs is no guarantee the petition will be granted. If respondent fails to pay the amount specified, the petition shall be denied and the license shall remain revoked.

3. **Revocation - Business and Professions Code Section 1003**

License No. (Ex.: DC-12345) issued to respondent (Ex: Jane Doe, D.C.) is revoked pursuant to ~~Determination of Issues (Ex: I, II, and III)~~ Causes for Discipline, separately and together. Respondent shall relinquish his/her wall license and pocket renewal license to the Board or its designee within 10 days of the effective date of this decision. Respondent may not petition the Board for reinstatement of his/her revoked license for 10 years from the effective date of this decision. Respondent shall pay to the Board its costs of investigation and prosecution in the amount of $_____ within 15 days of the effective date of this decision.

4. **~~Exam applicants~~ Applicants who are placed on probation**

The application of respondent __(Name)_____ for licensure is hereby granted. Upon successful completion of the licensure examination and all other licensing requirements, a license shall be issued to respondent. Said license shall immediately be revoked, the order of revocation stayed and respondent placed on probation for a period of ____ years on the following terms and conditions.

~~5. **Endorsement applicants who are placed on probation**~~

~~The application of respondent __(Name)____ for licensure is hereby granted and a license shall be issued to respondent upon successful completion of all licensing requirements. Said license shall immediately be revoked, the order of revocation stayed and respondent placed on probation for a period of _____ years on the following terms and conditions.~~

6. **Reinstatement of license with conditions of probation**

The application of respondent (Ex.: John Doe, D.C.) for license reinstatement is hereby granted. A license shall be issued to respondent. Said license shall immediately be revoked, the order of revocation stayed and respondent placed on probation for a period of (Ex.: five) years on the following terms and conditions.

(Optional) Upon successful completion of the California law examination, a license shall be issued to respondent.

(Optional) The respondent shall enroll in and successfully complete (Ex.: 12, 24) hours of continuing education prior to issuance of the license. ~~The respondent is suspended from practice until the required continuing education is successfully completed.~~

NOTE: If cost recovery was ordered in the revocation or surrender of a license and the cost recovery has not been paid in full by petitioner, a probation term requiring payment of original cost recovery must be included in the reinstatement decision.

7. **Standard Stay Order**

However, (revocation) is stayed and respondent is placed on probation for (Ex: five) years upon the following terms and conditions:

8. **Surrender of License**

~~Respondent surrenders license number (Ex: DC-12345) as of the effective date of this decision. Respondent shall relinquish his/her wall license and pocket renewal license to the Board or its designee within 10 days of the effective date of this decision. Respondent may not petition the Board for reinstatement of his/her license for 2 years from the effective date of this decision. Respondent stipulates that should he/she the Board after the 2 year period has elapsed, all allegations contained in accusation number _____ will be deemed to be true. Respondent shall meet all requirements for licensure as of the date the petition is submitted to the Board, including, but not limited to taking and passing the California chiropractic law exam prior to reissuance or reinstatement of the license.~~

~~Respondent further stipulates that he/she shall reimburse the Board for investigation and enforcement costs in the amount of $_____ within _____ days of the effective date of this decision.~~

~~**(Optional)** Respondent stipulates that should respondent apply for reinstatement of his/her license he/she shall pay to the Board costs associated with its investigation and enforcement in the amount of $_____ at the time of application.~~

It is hereby ordered that chiropractic license No. (Ex: DC 12345), issued to respondent (John Doe, D.C.), is surrendered, as of the effective date of this decision and accepted by the Board of Chiropractic Examiners.

The surrender of respondent's chiropractic license and the acceptance of the surrendered license by the Board shall constitute the imposition of discipline against respondent and shall become a part of respondent's license history with the Board.

Respondent shall lose all rights and privileges as a chiropractor in California as of the effective date of the Board's Decision and Order. Respondent shall relinquish his/her wall license and pocket renewal license to the Board or its designee within ten (10) days from the date of acceptance.

If Respondent ever applies for licensure or petitions for reinstatement in the State of California, the Board, shall treat it as a petition for reinstatement. Respondent must comply with all the laws, regulations and procedures for licensure in effect at the time the petition is filed, and all of the charges and allegations contained in Accusation No. _____ shall be deemed to be true, correct and admitted by Respondent when the Board determines whether to grant or deny the

petition. Respondent may not petition the Board for reinstatement of his/her license for two (2) years from the effective date of this decision.

(Optional) Respondent stipulates that should he/she petition for reinstatement of his/her license, he/she shall pay to the Board costs associated with its investigation and enforcement in the amount of $ _____ at the time the petition is filed.

9. Extension of Probation in Lieu of Revocation of Probation

License No. (Ex: DC-12345), issued to respondent (Ex: Jane Doe, D.C.) remains revoked, stayed, and placed on probation for an additional (Ex: 3 years) from the original effective date of Decision and Order AC _____. The additional (Ex: 3 years) will total the number of years of probation to (Ex: 8 years). The original terms and conditions of probation shall remain in full force and effect, and are fully incorporated herein by reference. In addition to the terms and conditions set forth in Decision and Order No. AC _____ that became effective on (date), respondent shall comply with the following terms and conditions of probation.

Uniform Standards for Substance-Abusing Licensees

Pursuant to Business and Professions Code §315, the following standards shall be adhered to in all cases in which a chiropractor's license is placed on probation because the chiropractor is a substance-abusing licensee. These standards are not guidelines and shall be followed in all instances, except that the Board may impose more restrictive conditions if necessary to protect the public.

1. CLINICAL DIAGNOSTIC EVALUATION

If a clinical diagnostic evaluation is ordered, the following applies:

The clinical diagnostic evaluation shall be conducted by a licensed practitioner who:

- Holds a valid, unrestricted license, which includes scope of practice to conduct a clinical diagnostic evaluation;
- Has three (3) years' experience in providing evaluations of health professionals with substance abuse disorders; and
- Is approved by the Board.

The clinical diagnostic evaluation shall be conducted in accordance with acceptable professional standards for conducting substance abuse clinical diagnostic evaluations. The clinical diagnostic evaluation report shall:

- Set forth, in the evaluator's opinion, whether the licensee has a substance abuse problem;
- Set forth, in the evaluator's opinion, whether the licensee is a threat to himself/herself or others; and,
- Set forth, in the evaluator's opinion, recommendations for substance abuse treatment, practice restrictions, or other recommendations related to the licensee's rehabilitation and safe practice.

The evaluator shall not have a financial relationship, personal relationship, or business relationship with the licensee within the last five years. The evaluator shall provide an objective, unbiased, and independent evaluation.

If the evaluator determines during the evaluation process that a licensee is a threat to himself/herself or others, the valuator shall notify the Board within 24 hours of such a determination.

For all evaluations, a final written report shall be provided to the Board no later than ten (10 days from the date the evaluator is assigned the matter unless the evaluator requests additional information to complete the evaluation, not to exceed 30 days.

2.REMOVAL FROM PRACTICE PENDING CLINICAL DIAGNOSTIC EVALUATION

The Board shall order the licensee to cease practice during the clinical diagnostic evaluation pending the results of the clinical diagnostic evaluation and review by Board staff.

While awaiting the results of the clinical diagnostic evaluation required in Uniform Standard #1, the licensee shall be randomly drug tested at least two (2) times per week.

After reviewing the results of the clinical diagnostic evaluation, and the criteria below, a probation manager shall determine, whether or not the licensee is safe to return to either part-time or full-time practice. However, no licensee shall return to practice until he or she has at least 30 days of negative drug tests.

- The license type
- The documented length of sobriety/time that has elapsed since substance use
- The scope, pattern of use, and history of drug/alcohol use
- The treatment history
- The licensee's medical history and current medical condition
- The nature, duration and severity of substance abuse and
- Whether that licensee is a threat to himself/herself or the public

3.BOARD COMMUNICATION WITH PROBATIONER'S EMPLOYER

The licensee shall provide to the Board the names, physical addresses, mailing addresses, and telephone numbers of all employers and supervisors and shall give specific written consent that the license authorizes the Board and the employers and supervisors to communicate regarding the licensee's work status, performance, and monitoring.

4.DRUG TESTING STANDARDS

The following standards shall govern all aspects of testing required to determine abstention from alcohol and drugs for any person whose license is placed on probation due to substance use.

Testing Frequency Schedule

A Board may order a licensee to drug test at any time. Additionally, each licensee shall be tested RANDOMLY in accordance with the schedule below:

Level	Segment of Probation/Diversion	Minimum Range Number of Random Tests
I	Year 1	52-104 per year
II*	Year 2+	36-104 per year

*The minimum range of 36-104 tests identified in level II is for the second year of probation and each year thereafter. Nothing precludes the Board from increasing the number of random tests for any reason. If the Board finds or suspects that a licensee has committed a violation of the Board's testing program or committed a Major Violation, as identified in Uniform Standard 10, the Board may reestablish the testing cycle by placing that licensee at the beginning of level I in addition to any other disciplinary action that may be pursued.

I. PREVIOUS TESTING/SOBRIETY

In cases where the Board has evidence that a licensee has participated in a treatment or monitoring program requiring random testing, prior to being subject to testing by the Board, the Board my give consideration to that testing in altering the testing frequency schedule so that it is equivalent to this standard.

II.VIOLATION(S) OUTSIDE OF EMPLOYMENT

An individual whose license is placed on probation for a single conviction or incident or two convictions or incidents, spanning greater than seven years from each other, where those violations did not occur at work or while on the licensee's way to work, where alcohol or drugs were a contributing factor, may bypass Level I and participate in Level II of the testing frequency schedule.

III.NOT EMPLOYED IN HEALTH CARE FIELD

The Board may reduce testing frequency to a minimum of 12 times per year for any person who is not practicing OR working in any health care field. If a reduced testing frequency schedule is established for this reason, a licensee shall notify and secure the approval of the Board. Prior to returning to any healthcare employment, the licensee shall be subject to Level I testing frequency for at least 60 days. At such time the person returns to employment, if the licensee has not previously met the standard, the licensee shall be subject to completing a full year at Level I of the testing frequency schedule, otherwise Level II testing shall be in effect.

IV.TOLLING

A Board may postpone all testing for any person whose probation is placed in a tolling status if the overall length of the probationary period is also tolled. A licensee shall notify the Board upon the licensee's return to California and shall be subject to testing as provided in this standard. If the licensee returns to employment in a health care field, and has not previously met the standard, the licensee shall be subject to completing a full year at Level I of the testing frequency schedule, otherwise Level II testing shall be in effect.

V.SUBSTANCE USE DISORDER NOT DIAGNOSED

In cases where no current substance use disorder diagnosis is made, a lesser period of monitoring and toxicology screening may be adopted by the Board, but no less than 24 times per year.

OTHER DRUG STANDARDS

Drug testing may be required on any day, including weekends and holidays.

The scheduling of drug tests shall be done on a random basis, preferably by a computer program, so that a licensee can make no reasonable assumption of when he/she will be tested again. The Board should be prepared to report data to support back-to-back testing as well as, numerous different intervals of testing.

Licensees shall be required to make daily contact with the Board to determine if drug testing is required.

Licensees shall be drug tested on the date of notification as directed by the Board.

Specimen collectors must either be certified by the Drug and Alcohol Testing Industry Association or have completed the training required to serve as a collector for the U.S.

Department of Transportation. Specimen collectors must adhere to the current U.S. Department of Transportation Specimen Collection Guidelines.

Testing locations shall comply with the Urine Specimen Collection Guidelines published by the U.S. Department of Transportation, regardless of the type of test administered.

Collection of specimens shall be observed. Prior to vacation or absence alternative drug testing location(s) must be approved by the Board.

Laboratories shall be certified and accredited by the U.S. Department of Health and Human Services.

A collection site must submit a specimen to the laboratory within one (1) business day of receipt. A chain of custody shall be used on all specimens. The laboratory shall process results and provide legally defensible test results within seven (7) days of receipt of the specimen. The Board will be notified of non-negative test results within one (1) business day and will be notified of negative test results within seven (7) business days.

The Board may use other testing methods in place of, or to supplement biological fluid testing, if the alternate testing method is appropriate.

5. PARTICIPATION IN GROUP SUPPORT MEETINGS

When determining the frequency of required group meeting attendance, the Board shall give consideration to the following:

- Recommendation of the clinical diagnostic evaluation pursuant to Uniform Standard #1
- The licensee's history
- The documented length of sobriety/time that has elapsed since substance use
- The recommendation of the clinical evaluator
- The scope and pattern of use
- The licensee's treatment history, and
- The nature, duration, and severity of substance abuse

Group Meeting Facilitator Qualifications and Requirements:

1. The meeting facilitator must have a minimum of three (3) years' experience in the treatment and rehabilitation of substance abuse, and shall be licensed or certified by the state or other nationally certified organizations.
2. The meeting facilitator must not have had a financial relationship, personal relationship, or business relationship with the licensee in the last five (5) years
3. The group meeting facilitator shall provide to the Board a signed document showing the licensee's name, the group name, the date and location of the meeting, the licensee's attendance and the licensee's level of participation and progress.
4. The facilitator shall report any unexcused absence within 24 hours.

6. DETERMINING WHAT TEATMENT IS NECESSARY

In determining whether inpatient, outpatient, or other types of treatment is necessary, the Board shall consider the following criteria:

- License type
- Licensee's history
- Documented length of sobriety/time that has elapsed since substance abuse
- Scope and pattern of substance use
- Licensee's treatment history
- Licensee's medical history and current medical condition
- Nature, duration, severity of substance abuse and
- Threat to self or the public

7. WORKSITE MONITOR REQUIREMENTS

If the Board determines that a worksite monitor is necessary for a particular licensee, the worksite monitor shall meet the following requirements to be considered for approval by the Board.

1. The worksite monitor shall not have any financial, personal, or a familial relationship with the licensee, or any other relationship that could reasonably be expected to compromise the ability of the monitor to render impartial and unbiased reports to the Board. If it is impractical for anyone but the licensee's employer to serve as the worksite monitor, this requirement may be waived by the Board; however, under no circumstances shall a licensee's worksite monitor be an employee of the licensee.
2. The worksite monitor's license shall include the scope of practice of the licensee that is being monitored or be another health are professional if no monitor with like practice is available.
3. The work site monitor shall have an active unrestricted license, with no disciplinary action within the last five (5) years.
4. The worksite monitor shall sign an affirmation that he or she has reviewed the terms and conditions of the licensee's disciplinary order and/or contract and agrees to monitor the licensee as set forth by the Board.
5. The worksite monitor must adhere to the following required methods of monitoring the licensee.

    a. Have face-to-face contact with the licensee in the work environment on a frequent basis as determined by the Board, at least once per week.
    b. Interview other staff in the office regarding the licensee's behavior, if applicable.
    c. Review the licensee's work attendance.

Reporting by the worksite monitor to the Board shall be as follows:

1. Any suspected substance abuse must be verbally reported to the Board and the licensee's employer within one (1) business day of occurrence. If occurrence is not

during the Board's normal business hours the verbal report must be within one (1)hour of the next business day. A written report shall be submitted to the Board within 48 hours of occurrence.

2. The worksite monitor shall complete and submit a written report monthly or as directed by the Board. The report shall include:

    a. The licensee's name
    b. License number
    c. Worksite monitor's name and signature
    d. Worksite monitor's license number
    e. Worksite location(s)
    f. Dates licensee had face-to-face contact with monitor
    g. Staff interviewed, if applicable
    h. Attendance report
    i. Any change in behavior and/or personal habits
    j. Any indicators that can lead to suspected substance abuse

The licensee shall complete the required consent forms and sign an agreement with the worksite monitor and the Board to allow the Board to communicate with the worksite monitor.

8. PROCEDURE FOR POSITIVE TESTING

When a licensee tests positive for a banned substance:

1. The Board shall order the licensee to cease practice
2. The Board shall contact the licensee and instruct the licensee to leave work; and
3. The Board shall notify the licensee's employer, if any, and worksite monitor, if any, that the licensee may not practice.

Thereafter, the Board will determine whether the positive drug test is in fact evidence of prohibited use. If so, proceed to Standard #9. If not, the Board shall immediately lift the cease practice order. In determining whether the positive test is evidence of prohibited use, the Board will engage in the following, as applicable:

1. Consult the specimen collector and the laboratory
2. Communicate with the licensee and/or any physician who is treating the licensee, and;
3. Communicate with any treatment provider, including group facilitator(s)

9-10. MAJOR/MINOR VIOLATIONS & CONSEQUENCES

Major violations include, but are not limited to the following:

1. Failure to complete a Board-ordered program or evaluation
2. Committing two or more minor violations of probation
3. Treating a patient while under the influence of drugs or alcohol
4. Committing any drug or alcohol offense, or any other offense that may or may not be related to drugs or alcohol, that is a violation of the Business and Professions Code or state or federal law
5. Failure to appear or provide a sample in accordance with the "biological fluid testing" term and condition.

6. Testing positive for a banned substance
7. Knowingly using, making, altering or possessing any object or product in such a way as to defraud a drug test designated to detect the presence of alcohol or a controlled substance
8. Failure to adhere to any suspension or restriction in practice

Consequences of major violations include, but are not limited to the following:

1. Licensee will be ordered to cease practice
    a. The licensee must undergo a new clinical diagnostic evaluation (if applicable);
    b. The licensee must test negative for at least a month of continuous drug testing before being allowed to practice.
        i. Termination of a contract/agreement
        ii. Referral for disciplinary action, such as suspension, revocation, or other action as determined by the Board

Minor violations include, but are not limited to the following:

1. Failure to submit complete and required documentation in a timely manner
2. Unexcused absence at required meetings
3. Failure to submit cost recovery or monthly probation monitoring costs timely
4. Any other violation that does not present a threat to the licensee or public
5. Failure to contact a monitor as required

Consequences of minor violations include, but are not limited to the following:

1. Removal from practice
2. Practice limitations
3. Required supervision
4. Increased documentation
5. Issuance of citation and fine or a warning notice
6. Required re-evaluation/testing
7. Other action as determined by the Board

11. PETITION FOR RETURN TO PRACTICE

"Petition" as used in this standard is an informal request as opposed to a "Petition for Modification" under the Administrative Procedure Act.

The licensee shall meet the following criteria before submitting a request (petition) to return to full time practice:

1. Sustained compliance with current recovery program
2. The ability to practice safely as evidenced by current work site reports, evaluations, and any other information relating to the licensee's substance abuse; and
3. Negative drug screening reports for at least six (6) months, two (2) positive worksite monitor reports, and complete compliance with other terms and conditions of the program.

12. PETITION FOR REINSTATEMENT

"Petition for Reinstatement" as used in this standard is an informal request as opposed to a "Petition for Reinstatement" under the Administrative Procedure Act.

The licensee must meet the following criteria to request (petition) for a full and unrestricted license:

1. Sustained compliance with the terms of the disciplinary order, if applicable;
2. Successful completion of recovery program, if required;
3. A consistent and sustained participation in activities that promote and support recovery including, but not limited to, ongoing support meetings, therapy, counseling, relapse prevention plan, and community activities;
4. Ability to practice safely; and,
5. Continuous sobriety for three (3) to five (5) years.

DISCIPLINARY ORDERS

PROBATION TERMS AND CONDITIONS

STANDARD CONDITIONS

Model Number

1. **Obey All Laws**

Respondent shall obey all federal, state and local laws, and all statutes and regulations governing the practice of chiropractic in California. A full and detailed account of any and all arrests and or convictions for any violations of law shall be reported by the respondent to the Board in writing within 72 hours of occurrence. To permit monitoring of compliance with this term, and within 45 days of the effective date of this decision, unless previously submitted as part of the licensure application process, respondent shall submit to the Department of Justice electronic fingerprint images (Live Scan) and related information required by the Department of Justice for the purpose of obtaining information as to the existence and content of a state or federal criminal record. ~~completed fingerprint cards and fingerprint fees within 45 days of the effective date of this decision, unless previously submitted as part of the licensure application process.~~ Respondent shall submit a recent 2" x 2" photograph of himself or herself within 45 days of the effective date of the final decision.

RATIONALE: See Regulation 321.1 fingerprint submission language; "or who are directed by the Board shall successfully complete a state and federal level criminal offender record information search conducted through the Department of Justice." With this condition the Board will be alerted of any criminal law violations by the probationer especially any such occurrences following the start of probation and whether or not the probationer has informed the Board's probation monitor or designee of these arrests.

2. **Quarterly Reports**

Respondent shall submit quarterly reports under penalty of perjury on a form entitled "Quarterly Probation Report" (No. QPR100 (Rev. 7/04)), certifying and documenting whether there has been compliance with all conditions of probation. Late or missing reports may be regarded as a violation of probation. If the final probation report is not made as directed, probation shall be extended automatically until such time as the final report is made.

RATIONALE: This provides the Board with a mechanism for maintaining communication with the Respondent. Late reports or missing reports shall be seen as violations. This enforcement tool could not be utilized in the past because mention of it was missing from term language.

3. **Probation Monitoring**

Respondent shall comply with the Board's probation compliance monitoring program, including investigator visits and site inspections. Failure to comply with probation monitoring shall be considered a violation of probation.

RATIONALE: This language includes the investigations unit interacting with probationers as the request of or in coordination with the probation monitor or designee.

4. **Interview with Board**

Respondent shall appear in person for interviews with the Board's enforcement staff, the full Board, or its designee upon request at various intervals and with reasonable notice.

5. **Continuing Education**

Respondent shall provide evidence of continuing education, required for license renewal, if requested by the Board.

6. **Reimbursement of Board Costs**

Respondent shall reimburse to the Board its costs of investigation and enforcement in the amount of $_____. Respondent may be permitted to pay these cots in a payment plan determined by the Board/designee or as determined in this order. Non-payment, by the dates and in the amounts determined by the Board, will be considered a violation of probation. The filing of bankruptcy by Respondent shall not relieve Respondent of his/her responsibility to reimburse the Board. If Respondent is in default of his responsibility to reimburse the Board, the Board will collect cost recovery from the Franchise Tax Board, the Internal Revenue Service or by any other means of attachment of earned wages legally available to the Board. ~~Respondent shall make said payments as follows: _____.~~

~~If respondent fails to pay the costs as directed by the Board and on the date(s) determined by the Board, probation shall be automatically extended until such time that all costs are paid in full.~~

7. **Tolling of Probation**

If respondent leaves California to reside or practice outside this state, or for any reason should respondent stop practicing chiropractic in California, respondent must notify the Board in writing of the dates of departure and return or the dates of non-practice within10 days of departure or return. Non-practice is defined as any period of time exceeding 30 days in which respondent is not engaging in the practice of chiropractic or any time the license is inactive or in forfeiture status. Periods of temporary residency or practice outside the state or of non-practice within the state shall not apply to reduction of the probationary period. It shall be a violation of probation for respondent's probation to remain tolled pursuant to the provisions of this condition for a period exceeding a total, combined total or consecutive period of [one] years.

RATIONALE: Per legal, we cannot actively impose or enforce specific terms on Probationers while they are tolling, only reasonably can we enforce that they report any change of address per regulation and that they know about the "obey all laws" term in the probation order. The other additional language changed simply allows probation to be completed in a reasonable time by lessening the likelihood of lengthy probation and also encourages an effective active probation program. "Combined total" was added to avoid probationers tolling up to their limit, returning for one day in California to practice and then return to tolling status, and allow their tolling period to start once again.

8. **No Preceptorships or Supervision of Interns**

Respondent shall not supervise any chiropractic student (intern) participating in a preceptor program or any unlicensed chiropractic graduate and shall not perform any of the duties of a preceptor.

9. **Violation of Probation**

If respondent violates probation in any respect, the Board, after giving respondent notice and the opportunity to be heard, may revoke probation and carry out the disciplinary order that was stayed. If an Accusation or Petition to Revoke Probation is filed against respondent during probation, the Board shall have continuing jurisdiction until the matter is final, and the period of probation shall be extended until the matter is final.

If respondent has not complied with any term or condition of probation, the Board shall have continuing jurisdiction over respondent, and probation shall automatically be extended until all terms and conditions have been met or the Board has taken other action as deemed appropriate to treat the failure to comply as a violation of probation, to terminate probation, and to impose the penalty which was stayed.

10. **Notification of Employment**

Within 10 days of a change in chiropractic employment -- either leaving or commencing chiropractic employment -- respondent shall so notify the Board in writing, including the name, address, phone number and license number of the new employer.

Chiropractic employment within the meaning of this provision shall include any full-time, part-time, independent contracting or temporary service as a chiropractor.

RATIONALE: Use of this additional language ensures that the new employment is specific to chiropractic and also includes independent contract work.

11. **Notice to Employers**

Respondent shall notify all present and prospective employers of the Accusation or Statement of Issues and ~~d~~Decision and Order in case No. _____ ~~and the terms, conditions and restrictions imposed on respondent by the decision.~~

Within 30 days of the effective date of this decision, and within 15 days of respondent undertaking new chiropractic employment, respondent shall cause his/her employer to report to the Board in writing acknowledging the employer has read the Accusation or Statement of Issues and the D~~d~~ecision in case No. _____.

"Employment" within the meaning of this provision shall include any full-time, part-time or temporary service as a chiropractor.

RATIONALE: Use of this additional language ensures that the new employer has been notified of all aspects of the probation. It also clarifies that only chiropractic employment needs to be reported to the Board. Independent contract work is also captured as employment.

12. **Notice to Employees**

Respondent shall, upon or before the effective date of this decision, ensure that all employees involved in chiropractic operations are made aware of all the terms and conditions of probation, either by posting the Decision and Order, circulating the Decision and Order, ~~a notice of the conditions of the terms and conditions, circulating such notice~~, or both. If the notice required by this provision is posted, it shall be posted in a prominent place and shall remain posted throughout probation. Respondent shall ensure that any employees hired or used after the effective date of this decision are made aware of all the terms and conditions of probation ~~by posting a notice, circulating a notice, or both~~.

"Employees" as used in this provision includes all full-time, part-time, temporary and independent contractors employed or hired at any time during probation.

Respondent shall, if requested, provide proof to the Board or its designee that all employees are aware of the decision in case No. _____ since its effective date.

RATIONALE: Paragraph flows better with the use of additional words for emphasis.

13. **License Surrender**

Following the effective date of this decision, if respondent ceases practicing due to retirement, health reasons or is otherwise unable to satisfy the terms and conditions of probation, respondent may voluntarily tender his/her license to the Board. The Board reserves the right to evaluate the respondent's request and to exercise its discretion whether to grant the request, or to take any other action deemed appropriate and reasonable under the circumstances. Upon formal acceptance of the tendered license, respondent will no longer be subject to the terms and conditions of probation. Respondent shall relinquish his/her wall license and pocket renewal license to the Board or its designee within 10 days from the date of acceptance. Surrender of respondent's license shall be considered a disciplinary action and shall become a part of Respondent's license history with the Board.

Option #1
Respondent may not petition the Board for reinstatement of his/her surrendered license for ~~2~~ _____years from the acceptance date of surrender. If respondent owes any outstanding costs associated with the investigation and enforcement of this disciplinary action the outstanding amount shall be paid in full within days of the effective date of this decision. ~~at the time the petition is submitted to the Board.~~

Option #2
Respondent may not petition the Board for reinstatement of his/her surrendered license for years from the acceptance date of surrender. If Respondent owes any outstanding costs associated with the investigation and enforcement of this disciplinary action the outstanding amount shall be paid in full at the time the petition is submitted to the Board.

RATIONALE: This condition change permits the Board to determine the appropriate length of time the Respondent should wait to or can petition for reinstatement of license.

14. **Completion of Probation**

Upon successful completion of probation, respondent's license will be fully restored.

OPTIONAL CONDITIONS

Model Number

1. **Actual Suspension**

As part of probation, respondent is suspended from the practice of chiropractic for (Ex: 30 days) beginning the effective date of this decision. The suspension notice shall remain posted at respondent's primary practice and/or all satellite practice addresses during the entire period of actual suspension. Respondent shall prominently post all suspension notice(s) provided by the Board for these locations ensuring such notices are posted in a place which is both conspicuous and readable to the public, near the entrance to respondent's practice(s). ~~in a place conspicuous and readable to the public. The suspension notice shall remain posted during the entire period of actual suspension.~~

Respondent shall not, directly or indirectly, engage in any conduct or make any statement which is intended to mislead or is likely to have the effect of misleading any patient, member of the public, or other person as to the nature of and reason for the suspension.

During suspension, respondent shall not enter any chiropractic practice. Respondent shall not direct or control any aspect of the practice of chiropractic. Subject to the above restrictions, respondent may continue to own or hold an interest in the chiropractic practice in which he or she holds an interest at the time this decision becomes effective.

Failure to post the suspension notice(s) as required by this Order may be regarded as a violation of probation. Failure to post the suspension notice(s) provided by the Board, will not apply to respondent's suspension time as designated in this Order and the suspension will remain in effect until there is successful compliance by respondent in completing the required number of days of suspension.

RATIONALE: This change includes suspension posting at both Satellite and primary practice addresses, near entrances. The added language covers chiropractors who practice at home. The word "both" is also included so there is no doubt where to put a posted suspension notice. It is assumed that probation conditions are still in effect even during respondent's suspension period.

2. **Drugs - Abstain From Use**

Respondent shall abstain from the personal use or possession of controlled substances as defined in the California Uniform Controlled Substances Act, and dangerous drugs as defined by Section 4022 of the Business and Professions Code, unless prescribed by a medical practitioner ~~for a bona fide illness~~.

3. ~~**Drug Abuse Counseling/Detoxification**~~

~~Within 30 days from the effective date of this Decision, respondent shall propose to the Board, for prior approval, the name of one or more drug abuse rehabilitation programs and shall, within 30 days after notification of the Board's approval of such a program, enroll in that approved substance abuse rehabilitation program, and comply with all requirements of the program, including drug testing. Respondent shall submit proof satisfactory to the Board of compliance with this term of probation. Failure to comply with the program requirements shall be considered a violation of probation. The costs for participation in the program shall be borne by the respondent. Respondent shall sign a Release of Information allowing the program to release to the Board all information the Board deems relevant. Probation shall be extended~~ automatically ~~until respondent successfully completes his/her rehabilitation program.~~

3. **Alcohol and Drug Abuse Treatment/Counseling**

Within 30 days from the effective date of this decision, respondent shall propose to the Board, for prior approval, the name of one or more inpatient or outpatient alcohol and drug abuse recovery programs which at a minimum is six (6) months in duration. Within 30 days after notification of the Board's approval of such program, respondent must enroll in the approved program. Failure to complete said program shall constitute a violation of probation. Subsequent to the completion of the program, respondent shall participate in on-going treatment such as receiving individual and/or group therapy from a psychologist trained in alcohol and drug abuse treatment, and/or attend Twelve Step meetings fo the equivalent as approved by the Board at least 3 times a week during the first years/months of probation. Respondent shall submit proof satisfactory to the Board of attendance in said programs. The costs for participation in the programs shall be borne by the respondent. Respondent shall sign a Release of Information allowing the programs to release to the Board all information the Board deems relevant.

RATIONALE: This condition is NEW. It replaces and combines the current and separate alcohol and drug abuse counseling/detoxification program term. The language addition is more specific to time frames required for treatment and allows the Board the option to specify the length of treatment.

4. **Alcohol - Abstain From Use**

Respondent shall abstain from the use of any alcoholic product or beverages.

RATIONALE: Adding "product" allows us to detect if testing results on a probationer included consumption of alcoholic beverages or products not limited to: Nyquil, mouth wash, or hand sanitizer.

~~5. **Alcohol Abuse Counseling/Detoxification**~~

~~Within 30 days from the effective date of this Decision, respondent shall propose to the Board, for prior approval, the name of one or more alcohol abuse rehabilitation programs and shall, within 30 days after notification of the Board's approval of such a program, enroll in that approved alcohol abuse rehabilitation program, and cooperate with all requirements of the program, including drug testing. Respondent shall submit proof satisfactory to the Board of compliance with this term of probation. Failure to comply with the program requirements shall be considered a violation of probation. The costs for participation in the program shall be borne by the respondent. Respondent shall sign a Release of Information allowing the program to release to the Board all information the Board deems relevant. Probation shall be extended automatically until respondent successfully completes his/her rehabilitation program.~~

~~6. **Blood and/or Urine Testing**~~

~~Respondent shall immediately submit, with or without prior notice, to blood and/or urine testing, at respondent's expense, upon the request of the Board or its designee. The length and frequency of this testing requirement will be determined by the Board. Any confirmed positive finding will be considered a violation of probation.~~

RATIONAL: Replaced with NEW term "Drug and Alcohol Testing"

6. Drug and Alcohol Testing

Upon the request of the Board or its designee, respondent shall immediately submit, with or without prior notice, to observed blood, urine, hair, breath, saliva or any other mode of testing and location as determined by the Board, at respondent's expense. Respondent's failure to pay costs and timely submit for testing will constitute a violation of probation. Any confirmed positive finding will be considered a violation of this term. Any attempts by respondent to circumvent the requirements of this term shall also be considered a violation of this term. This includes, but is not limited to, respondent's failure to submit a testable sample or his /her use of any device

designated to fraudulently defeat drug tests. If the Board files a petition to revoke probation or an accusation, the Board may suspend respondent from practice pending the final decision on the petition to revoke probation or the accusation. This period of suspension will not apply to the reduction of this probationary period. All terms and conditions of probation remain in effect during the period of suspension.

RATIONALE: This added language prohibits respondent from defaulting on his/her responsibility to pay for ongoing testing. Also, allows for sound frequently monitored/random substance testing program if we use additional industry specimen screening tests besides blood and urine. This is currently compatible with the DCA's contract for same services on probationer substance testing. As well, the probation monitor requesting random tests will be able to get testing feedback immediately if any probationer was caught being dishonest or adulterating the testing sample or its validity for the process.

~~7. **Take and Pass Law Examination**~~

~~Respondent shall take and pass a written or practical examination within the first two years of probation. If respondent is directed to take an examination currently required of new applicants for licensure as a chiropractor, the examination shall be taken on a regularly scheduled date. If respondent fails this examination, respondent must take and pass a re-examination. The respondent shall pay the cost of the examination and any subsequent re-examinations at the examination fee currently in place. Failure to pass a required examination prior to the termination date of probation shall constitute a violation of probation and automatically extend the period of probation.~~

~~**Option #1:** If respondent fails the first examination, respondent shall cease the practice of chiropractic until the examination has been passed, as evidenced by the written notice to respondent from the Board.~~

7. ~~**Take and Pass the Law Exam**~~ **California Law and Professional Practice Examination (CLPPE)**

Respondent shall take and pass the California Law and Professional Practice Examination (CLPPE) within the first year of probation. If Respondent fails this examination, Respondent must take and pass a re-examination. ~~a written or practical examination within the first two years of probation. If respondent is directed to take an examination currently required of new applicants for licensure as a chiropractor, the examination shall be taken on a regularly scheduled date. If respondent fails this examination, respondent must take and pass a re-examination. The respondent shall pay the cost of the examination and any subsequent re-examinations at the examination fee currently in place. Failure to pass a required examination~~

~~prior to the termination date of probation shall constitute a violation of probation and automatically extend the period of probation.~~

Respondent shall pay the cost of the examination and any subsequent re-examinations at the examination fee currently in place. Failure to pass the CLPPE within the first year of probation shall constitute a violation of probation.

Option #1: If respondent fails the first examination, respondent shall cease the practice of chiropractic until the examination has been passed, as evidenced by the written notice to respondent from the Board.

Option #2: Respondent shall not practice chiropractic until respondent has passed the required examination and has been so notified by the Board in writing.

8. **Special Purposes Examination for Chiropractic (SPEC)**

Respondent shall take and pass the SPEC examination administered by the National Board of Chiropractic Examiners (NBCE) within the first year ~~two years~~ of probation. If respondent fails this examination, respondent must take and pass a re-examination. Respondent is responsible to provide proof to the Board of successful completion of this examination. Respondent shall pay the cost of the examination and any subsequent re-examinations at the examination fee set by the NBCE. Failure to pass the SPEC examination after two attempts constitutes a violation of probation.

RATIONALE: This update allows for the appropriate deadline to be selected for the case, depending on the nature of it.

~~9. **Monitoring**~~

~~Within 30 days of the effective date of this decision, respondent shall submit to the Board, for its prior approval, a plan of practice in which respondent's practice shall be monitored by another doctor of chiropractic who shall submit written reports to the Board on a quarterly basis. It shall be respondent's responsibility to assure that the required reports are filed in a timely fashion. The monitor shall be independent, with no prior professional or personal relationship with respondent. The monitoring shall be, as required by the Board, either: Continuous - 75% to 100% of a work week; Substantial At least 50% of a work week; Partial - At least 25% of a work week; or Daily Review Supervisor's review of probationer's daily activities within 24 hours.~~

~~If the monitor resigns or respondent changes employment respondent shall, within 15 days, submit the name of new monitor. If respondent changes employment, respondent shall have his or her new monitor, within 15 days after employment commences, submit notification to the~~

~~Board in writing stating they have read the decision in case number _____ and is familiar with the level of supervision as determined by the Board. Any costs for such monitoring shall be paid by respondent.~~

~~**Option #1**: Respondent is prohibited from engaging in solo practice.~~

~~**Option #2:** Respondent shall be prohibited from unilaterally signing insurance and worker's compensation insurance claim documents. All insurance and workers' compensation insurance claim forms are to be co-signed by a licensed chiropractor approved by the Board~~.

9. Practice Monitoring by Another Licensed Doctor of Chiropractic

Respondent's practice shall be monitored by another doctor of chiropractic. Any costs for such monitoring shall be paid by respondent. Within 45 days of the effective date of this decision, respondent shall submit to the Board for its prior approval, the name and completed application, provided by the Board, of a licensed chiropractor in this state to monitor respondent's practice. The Practice Monitor must have an active California chiropractic license in good standing with the Board and with no prior or current disciplinary action. The Monitor shall be independent, with no prior professional or personal relationship with respondent and the Monitor shall not be in a familial relationship with or be an employee, partner or associate of respondent. The respondent's new/current employer may be considered to be the Monitor if he/she meets all criteria as set forth in this term. The Monitor must have at least 5 years of licensed chiropractic experience in California.

LEVELS OF MONITORNING

Option 1-Levels of Monitoring are described below and pre-determined for respondent to be at the _____ level in Case No: _____.

Maximum Level-The Monitor provides monitoring and/or supervision in the work environment at all times.

Intermediate Level-The Monitor provides monitoring and/or supervision in the work environment at least half of the hours respondent works.

Minimum Level-The Monitor provides monitoring and/or supervision in the work environment at least twice a week.

Infrequent Level-The Monitor provides monitoring and/or supervision in the work environment at least once a week.

Option 2-The specific monitoring level in Case No. _____ shall be determined by the Board or its designee within 30 days of the effective date of this decision.

It is respondent's responsibility to ensure their Monitor has received copies of the Accusation and Decision and Order in Case No: _____. The Monitor shall submit to the Board in writing that the/she has read and understands the respondent's Decision and Order in Case No: _____, as well as the level of monitoring required. The Monitor shall have face-to-face contact with the licensee in the work environment on a continuous basis as determined by the Board, but at least once per week. The Monitor shall review the licensee's work attendance and behavior. The Monitor shall interview other staff in the office regarding the licensee's behavior, if applicable.

The Monitor shall submit written reports to the Board, on a form designated by the Board, on a quarterly basis. Respondent must ensure that the required reports from the Monitor are submitted in a timely fashion. If the Monitor resigns, respondent shall immediately notify the Board and within 15 days of event, submit to the Board in writing the name and application of a new Monitor for pre-approval.

The respondent shall allow Monitor access to fiscal and patient records. Respondent shall notify all current and potential patients of this term of probation which will affect the confidentiality of their records. Such notification shall be signed by each patient if their treatment records will be reviewed.

NOTE: Based upon review of the Monitor reports, respondent's monitoring level may be increased or decreased at the discretion of the Board or its designee.

Option 3- Respondent is prohibited from engaging in solo practice.

Option 4-Respondent shall be prohibited from unilaterally signing insurance and workers' compensation insurance claim documents. All insurance and workers' compensation insurance claim forms are to be co-signed by a licensed chiropractor pre-approved by the Board.

NOTE: Recommended in cases of insurance and workers' compensation insurance fraud.

RATIONALE: This term makes attempt to ensure that respondent's practice management is adequately monitored. Criteria for monitor have been incorporated here and on a new Monitor Application. Cases worthy of this level of monitoring may include those with violation for incompetence, negligence, patient injury, substance abuse or unprofessional conduct. A form designated by the Board will be used by the Monitor to report findings and observations to the Board. A Practice Monitor can also check for billing and fiscal inaccuracies against respondent's recordkeeping.

~~10. **Auditing of Billing Practices**~~

~~Within 60 days of the effective date of this decision, respondent shall submit to the Board, for its prior approval, the name and qualifications of a licensed certified public accountant (CPA) in this state, and a plan by which such CPA would monitor respondent's billing practices. The CPA shall be independent, with no present or prior business, professional, or personal financial relationship with respondent. The CPA approved by the Board shall submit written reports to the Board on a quarterly basis verifying that monitoring has taken place as required. It shall be respondent's responsibility to ensure that the required reports are filed in a timely fashion.~~

~~Respondent shall give the CPA access to respondent's fiscal records. Monitoring shall consist of at least 4 hours per quarter of review of respondent's fiscal records. After two quarters, if the CPA determines that less time is sufficient for compliance, the respondent may request Board approval of a reduction of the number of hours of review. If ever the CPA prepares a quarterly report to the Board which finds substantial errors or omissions in, or questionable billing practices, monitoring may be increased at the discretion of the Board and respondent shall comply therewith. All costs of monitoring shall be borne by respondent.~~

~~If at any time during the period of probation, the CPA quits or is otherwise unavailable to perform his/her monitoring duties, within 30 days of the same, respondent shall submit to the Board, for its prior approval, the name and qualifications of a licensed CPA in this state and a plan by which such CPA would monitor respondent's billing practices.~~

~~(This option was moved from number 9 above, as option 3 to here) **Option #1:** Within 45 days of the effective date of this decision and on a quarterly basis thereafter and at respondent's expense, respondent shall obtain a review of the books and records of respondent's chiropractic practice by a certified public accountant licensed in good standing in this state approved by the Board. Said certified public accountant shall review the books and records of respondent's chiropractic practice to determine whether respondent has delivered, received or accepted any rebate, refund, commission, preference, patronage, dividend, discount or other consideration, whether in the form of money or otherwise, as compensation or inducement for the referral of patients, clients or customers to him/her or his/her practice or by him/her. Within 10 days of the completion of each review, said certified public accountant shall complete and submit a written report of his/her review to the Board. Respondent shall be responsible for the completion and submission of each said report. Failure to comply with this condition shall be considered a violation of probation.~~

10. **Billing Monitor**

Within sixty (60) days of the effective date of this decision, Respondent shall submit the Board or its designee for its prior approval, the name along with Curriculum Vitae of a person to act as Respondent's monitor. The billing monitor can be one of the following:

- A licensed Chiropractor, who is licensed in good professional standing and licensed for at least five (5) years; or
- A Certified Professional Coder in good professional standing; or
- A Certified Medical/Healthcare Biller or Auditor in good professional standing, or
- A Certified Public Accountant in good professional standing; or
- A Professional Bookkeeper in good professional standing

For purposes of this section, good professional standing means, that the billing monitor cannot have his or her professional Chiropractic license or personal professional certification with any history of administrative disciplinary action or probation or with any prior civil or criminal action against them involving insurance fraud, or acts of moral turpitude or dishonesty.

All proposed billing monitors shall be independent, with no professional or personal relationship with Respondent, including a familial relationship with or be an employee, partner, or associate of Respondent. It is Respondent's responsibility to ensure their billing monitor has copies of the Accusation in this matter along with the Decision and Order for reference. Once the Board has approved a billing monitor, Respondent shall submit a plan or scope of review by which the billing monitor will provide monitoring of Respondent's billing practices. Respondent must have a continuous record of chiropractic treatment of patients, which shall include billing, accounting, and payment records, to be examined by the billing monitor. Pro bono treatment or trade for services will not be accepted. Failure to treat patients on a fee for service basis will be considered non-compliance with this term and Respondent's probation will be tolled until Respondent treats patients on a fee for service basis. If at any time during the period of probation, the billing monitor quits or is otherwise unavailable to perform his or her monitoring duties, within fifteen (15) calendar days of the same, Respondent shall submit to the Board, for its prior approval, the name and qualifications of one or more persons to be the billing monitor. The billing monitor shall submit written reports to the Board on a quarterly basis verifying that monitoring has taken place as required. It shall be Respondent's responsibility to ensure that the required reports are filed in a timely manner. Respondent shall give the monitor access to all of Respondent's chiropractic practice business records including financial and patient records. Monitoring shall consist of at least four (4) hours, per quarter, of review of Respondent's records. This review shall take place in Respondent's office or Respondent's place of employment. If any patient records will be reviewed by the 3rd party billing monitor related to required monitoring or audit activities, Respondent must notify his or her patients of this purpose and also ensure notified patients submit a signed authorization release of records in accordance with privacy law (HIPPA) for this purpose. If the monitor prepares a quarterly report to the Board which finds substantial errors or omissions in, and/ or questionable billing practices, monitoring may be increased at the discretion of the Board and Respondent shall immediately comply therewith. All costs of monitoring shall be borne by the Respondent.

Option 1-Respondent shall be prohibited from unilaterally signing insurance and workers' compensation insurance claim documents. All insurance and workers' compensation insurance claim forms are to be co-signed by a licensed chiropractor pre-approved by the Board.

RATIONALE: This term is new. This new term allows more options than only a CPA for monitoring purposes. The added language assists in not allowing Respondent to circumvent the Order and avoid the proof of rehabilitation that is required after violations such as insurance fraud, failure to ensure accurate billings, etc. Proper monitoring cannot take place if the practice is absent fee for service patients.

11. **Restitution for Consumers**

Within ~~1~~ _____years/months from the effective date of this decision, respondent shall pay to _____ the amount of $_____. If respondent fails to pay the restitution as directed by the Board and on the dates(s) determined by the Board, it shall be a violation of probation. Respondent shall provide proof to the Board of restitution. ~~Failure to pay the costs within the first year of probation is a violation of probation.~~

RATIONALE: Fraud or negligent action usually deems this term. Careful review is made to ensure that proper restitution is made to timely either the patient or any other applicable entity. Restitution may be made within a specific time frame or on a payment schedule. Restitution should cover those amounts that are a direct result of the actions of Respondent.

12. **Psychiatric or Psychological Evaluation**

Within ~~30~~ 10 days of the effective date of this decision, and on a periodic basis as may be required by the Board or its designee, respondent shall undergo, at his/her own expense, psychiatric evaluation by a ~~Board-appointed or~~ Board-approved psychiatrist or psychotherapist. Respondent shall sign a release which authorizes the evaluator to furnish the Board a current diagnosis and written report regarding the respondent's judgment and ability to function independently as a chiropractor with safety to public and whatever other information the Board deems relevant to the case. The completed evaluation is the sole property of the Board. It is respondent's responsibility to ensure their therapist has copies of the Accusation as well as the Decision and Order in this matter.

If the psychiatrist or psychotherapist recommends and the Board or its designee directs respondent to undergo psychotherapy, respondent shall, within 30 days of written notice of the need for psychotherapy, submit to the Board or its designee for its prior approval, the recommended program for ongoing psychotherapeutic treatment ~~care~~. Respondent shall undergo and continue psychotherapy, at respondent's own expense, until further notice from the Board. Respondent shall have the treating psychotherapist submit quarterly reports to the Board, or its designee. If recommended by the psychiatrist or psychotherapist and approved by the Board or its designee, respondent shall be barred from practicing chiropractic until the

treating psychotherapist recommends, in writing and stating the basis thereof, that respondent can safely practice chiropractic, and the Board approves said recommendation.

During suspension, respondent shall not enter any chiropractic practice. Respondent shall not direct or control any aspect of the practice of chiropractic. Subject to the above restrictions, respondent may continue to own or hold an interest in any chiropractic practice in which he or she holds an interest during the period of suspension.

(Optional) Commencing on the effective date of this decision, respondent shall not engage in the practice of chiropractic until notified in writing by the Board or its designee that respondent is psychologically fit to practice chiropractic.

NOTE: Strongly recommended for those cases where evidence demonstrates that mental illness or disability was a contributing cause of the violation.

RATIONALE: We added that respondent is to give his/her therapist a copy of the Order and Accusation.

13. **Psychotherapy**

Within 60 days of the effective date of this decision, respondent shall submit to the Board, for its prior approval, the name and qualifications of a psychotherapist or licensed mental health practitioner of respondent's choice. Should respondent, for any reason, cease treatment with the approved psychotherapist or licensed mental health practitioner, respondent shall notify the Board immediately and, within 30 days of ceasing treatment, submit the name of a replacement psychotherapist or licensed mental health practitioner of respondent's choice to the Board for its prior approval. It is respondent's responsibility to ensure their therapist has copies of the Accusation and Decision and Order in this matter.

Upon approval of the psychotherapist or licensed mental health practitioner, respondent shall undergo and continue treatment, with that therapist and at respondent's expense, until the Board deems that no further psychotherapy is necessary. Respondent shall have the treating psychotherapist submit quarterly status reports to the Board. The Board may require respondent to undergo psychiatric evaluations by a Board-appointed or Board-approved psychiatrist or psychotherapist.

If recommended by the psychotherapist or licensed mental health practitioner and approved by the Board or its designee, respondent shall be barred from practicing chiropractic until the treating psychotherapist or licensed mental health practitioner recommends, in writing and stating the basis thereof, that respondent can safely practice chiropractic, and the Board approves said recommendation.

During suspension, respondent shall not enter any chiropractic practice. Respondent shall not direct or control any aspect of the practice of chiropractic. Subject to the above restrictions, respondent may continue to own or hold an interest in any chiropractic practice in which he or she holds an interest during the period of suspension.

NOTE: Appropriate for those cases where evidence demonstrates sexual misconduct or commission of an act punishable as a sexual crime. Also appropriate in cases where evidence demonstrates impairment (Ex; mental illness, alcohol and/or drug abuse)

RATIONALE: This additional comment could be helpful to assign this term, if appropriate or emphasis in certain cases. We also added that Respondent to give his/her therapist a copy of the Order and Accusation.

14. **Medical Evaluation**

Within 60 days of the effective date of this decision, and on a periodic basis thereafter as may be required by the Board or its designee, respondent shall undergo a medical evaluation, at respondent's expense, ~~by a Board-appointed or~~ Board-approved physician who shall furnish a medical report to the Board or its designee.

If respondent is required by the Board or its designee to undergo medical treatment, respondent shall, within 30 days of written notice from the Board, submit to the Board for its prior approval, the name and qualifications of a physician of respondent's choice. Upon Board approval of the treating physician, respondent shall undergo and continue medical treatment, with that physician and at respondent's expense, until further notice from the Board. Respondent shall have the treating physician submit quarterly reports to the Board. Should respondent, for any reason, cease treatment with the approved physician, respondent shall notify the Board immediately and, within 30 days of ceasing treatment, submit the name of a replacement physician of respondent's choice to the Board for its prior approval.

If recommended by the physician and approved by the Board or its designee, respondent shall be barred from practicing chiropractic until the treating physician recommends, in writing and stating the basis thereof, that respondent can safely practice chiropractic, and the Board approves said recommendation.

During suspension, respondent shall not enter any chiropractic practice. Respondent shall not direct or control any aspect of the practice of chiropractic. Subject to the above restrictions, respondent may continue to own or hold an interest in any chiropractic practice in which he or she holds an interest during the period of suspension.

(Optional) Upon the effective date of this decision, respondent shall not engage in the practice of chiropractic until notified in writing by the Board of its determination that respondent is medically fit to practice safely.

NOTE: Appropriate for those cases where the evidence demonstrates that the respondent has had a physical problem/disability which was a contributing cause of the violation(s) and which may affect the respondent's ability to practice.

15. Ethics and Boundaries Examination

Respondent shall take and pass an Ethics and Boundaries examination administered by either:

- A national testing organization such as The National Board of Chiropractic Examiners (NBCE) or its' testing designee; or
- An equivalent accredited educational service provider institution or agency program, such as Professional Boundaries, INC. which provides licensed health professionals with course curriculum or test plan which covers Ethics and Boundaries subject matter

The examination must be taken and successfully passed within the first year of probation. If respondent fails this examination, respondent must take and pass a re-examination. Respondent is responsible to provide proof to the Board of successful completion of this examination. Respondent shall pay the cost of the examination and any subsequent re-examinations set forth by the testing agency. Classroom attendance is specifically required. Online courses/programs will not be approved. Failure to pass the Ethics and Boundaries examination after two attempts constitutes a violation of probation.

16. **Education Course**

Within 60 (sixty) days of the effective date of this decision, and on an annual basis thereafter, respondent shall submit to the Board for its prior approval, a program in (e.g. specify course subject matter) which shall not be lets than _____ hours per year, for each year of probation. _____ hours of the education may be obtained through distance learning. This program shall be in addition to the chiropractic continuing education requirements for re-licensure, and shall be obtained with all costs being paid by respondent. Respondent shall provide written proof of attendance in said course or courses as are approved by the Board. Failure to complete the annual _____ hours of education, each year of probation, constitutes a violation of probation.

RATIONALE: Section enhanced to include distance learning.

17. **Community Service**

Within 60 days of the effective date of this decision, respondent shall submit to the Board, for its prior approval, a community service program in which respondent shall provide volunteer services on a regular basis with a non-profit ~~to a~~ community or charitable facility or agency for at least _____ hours per month for the first_____ months/years of probation. Such community service does not necessarily include chiropractic service. Respondent shall ensure that the Board receives documentation and/or certification of community service hours by the facility or agency on a monthly/quarterly basis.

Community service required by this condition shall be performed in the State of California. Community service performed prior to the effective date of this decision shall no be accepted in fulfillment of this condition.

Failure to complete the community service as set out hereinabove is grounds for filing a petition to revoke probation

RATIONALE: Adding these comments is appropriate in those cases where the respondent will need to rehabilitate from wrongdoing after actually or potentially harming the public, consumer or a patient. Also, time frames to complete service can be set. Paragraph flows better with the use of additional words for emphasis.

18. **Restricted Practice**

Respondent's practice of chiropractic shall be restricted to [specify patient population and/or setting] for the first _____ years of probation. Within 30 days from the effective date of the decision, respondent shall submit to the Board, for prior approval, a plan to implement this restriction. Respondent shall submit proof, satisfactory to the Board, of compliance with this term of probation.

NOTE: The restrictions shall be appropriate to the violation.

19. **Third Party ~~Presence - Sexual Transgressors~~ Chaperone**

During probation, respondent shall have a third party ~~present~~ chaperone present in the examination or treatment room while consulting, examining and/or treating ~~while examining and/or treating~~ (female/male/minor) patients. Respondent shall, within 30 days of the effective date of the decision, submit to the Board or its designee for its approval the name(s), photo identification and contact information of persons who will be the third party chaperone. The chaperone must be a health care professional, licensed or certified, by a healing arts Boardor Bureau, within the California Department of Consumer Affairs. The

chaperone's license/certification shall at all times be valid and in good standing. The chaperone cannot have any prior or current disciplinary action against their license/certification. ~~of persons who will be the third party present and a plan describing the third party's duties.~~

Respondent shall maintain a log of all patients seen for whom a third party chaperone is required. The log shall contain: 1) patient name, address and telephone number; 2)date of service; 3) chaperone signature; 4) patient gender; and 5) patient signature. Respondent shall keep this login a separate file or ledger, in chronological order, shall make the log available for immediate inspection and copying by the Board or its designee, and shall retain the log for the entire term of probation. Failure to maintain a log of all patients requiring a third party chaperone, or to make the log available for immediate inspection, is a violation of probation.

The respondent shall execute a release authorizing the third party(ies) ~~present~~ chaperone to divulge any information that the Board or its designee may request on a periodic basis during the probation monitoring.

~~*NOTE: Sexual transgressors should be placed in a supervised environment.*~~

RATIONALE: This condition continues to allow the Board to monitor Respondent by use of a third party chaperone in those misconduct cases, which may include, but is not limited to, sexual misconduct. Chaperone must be in the room with the patient at all times.

20. **Notification to Patients**

Respondent shall notify all current and potential patients of his/her ~~the~~ probation requirements by posting a copy of the final Decision and Order in this matter and by giving a form designated by the Board, for each patient to sign. Respondent shall post a copy of the Decision within ublic view inside common areas within the practice which includes the front desk, the examination room(s) and patient reception room(s). Patient ~~especially any term or condition of probation which will affect their treatment or the confidentiality of their records. Such~~ notification shall be signed by each patient prior to continuing or commencing treatment. Respondent shall submit, upon request by the Board, satisfactory evidence of compliance with this term of probation. ~~Terms of probation which require such notification include, but are not limited to, suspension of practice, supervised practice, and restricted practice.~~

RATIONALE: Similar to what is required by employee notice, we require posting of the Decision to alert patients and patients must sign a form. Posting of Decision would occur at front desk, in treatment/waiting rooms, etc.

21. **Criminal Probation/Parole Reports**

Respondent shall provide a copy of the conditions of any criminal probation/parole to the Board, in writing, within 10 days of the issuance or modification of those conditions. Respondent shall provide the name of his or her probation/parole officer to the Board, in writing, within 10 days after that officer is designated or a replacement for that officer is designated. Respondent shall provide a copy of all criminal probation/parole reports to the Board within 10 days after respondent receives a copy of such a report.

California Code of Regulations, Title 16, Division 4, Article 2
Board of Chiropractic Examiners

§ 319.1. Informed Consent.

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

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

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

Informed Consent and Your Practice

■ *An interview with Simon Dagenais, DC, PhD, MSc (part 1).*

Earlier this year, *The Back Letter* gave extensive coverage to an article by Dagenais, et al., in *The Journal of Manipulative and Physiological Therapeutics* on informed consent in the chiropractic profession, calling it "perhaps the best article ever written on informed consent for low back pain." In this interview [reprinted with permission from *Health Insights Today*, a web publication of Cleveland Chiropractic College – Kansas City], Dr. Dagenais discusses a wide range of issues related to informed consent, including the need for practitioners of all types to become well-informed about all alternative treatment approaches so they may share these in an unbiased way with patients, thus

CONTINUED ON PAGE 26

Informed Consent and Your Practice

CONTINUED FROM PAGE 1

enabling patients to make informed decisions about their health care choices.

Dr. Dagenais, your article focused specifically on informed consent in the chiropractic profession, but The Back Letter *saw it as very relevant for all types of practitioners who treat low back pain. Let's start by looking at the basic purpose of informed consent. Doctors often think of it as a way to minimize their chances of being sued. Is there more to it?* I first learned about informed consent in chiropractic school and didn't really know what they were trying to teach us. It seemed that some people were approaching informed consent as a way to protect yourself against lawsuits – no matter what else you do, have informed consent.

But that wasn't the only view. Some people also just viewed informed consent as a routine office procedure that they delegated to their front staff, like collecting the person's insurance information. It was something you were expected to do, but that wasn't worth spending much time on. And I think other people viewed it as a sales pitch: an opportunity to put whatever treatment you're offering in the best light so that during the informed consent, you are further convincing the person that they've made the right decision by coming to you.

Other doctors probably feel that informed consent is just a waste of time. They don't understand it, they feel annoyed by it and they don't see any legitimate purpose for it. Informed consent is just another thing to slow them down, another administrative burden.

Dr. Simon Dagenais is uniquely qualified as an expert in a wide range of health and health policy areas. After receiving his doctor of chiropractic degree from the Southern California University of Health Sciences in 2000, he received a PhD in environmental health, science and policy (with emphasis in epidemiology and public health) from the University of California, Irvine in 2005, followed by a master's of science degree in health economics, policy, and management from the London School of Economics in 2011. He is also certified in biomedical regulatory affairs by the University of California, San Diego, and certified as a clinical research coordinator by the Association of Clinical Research Professionals.

Along with Scott Haldeman, DC, MD, PhD, Dr. Dagenais was an instrumental contributor to the widely respected Bone and Joint Decade 2000-2010 Task Force on Neck Pain and Its Associated Disorders, whose work was documented in eight papers in *Spine* in 2008. Currently, he is the program co-chair for nonoperative treatment of the North American Spine Society (NASS) and also serves on the NASS value committee.

The list of his other accomplishments is extraordinarily impressive for a relatively young research and policy expert – perhaps best illustrated by the fact that his peer-reviewed articles, commentaries, technical reports, books and book chapters totaled 100 as of mid-2013.

Informed Consent: A Reaction to World War II Atrocities

Informed consent was not always a part of health care. How and why did it begin? There's been a big shift in how people view doctors. A hundred years ago, doctors made decisions and people followed them. That's just the way it was, and no one questioned it. But that patriarchal and paternalistic model was eventually questioned.

The ethical foundation for informed consent in health care came out of the atrocities committed by doctors in World War II. In hindsight, people recognized that society shouldn't assume doctors are always right and benevolent. But even if they are, we should still make sure it's the patient making decisions about what really affects them.

What came out of all that is the principle that patients have the ability to decide what happens to them. No matter what the doctor thinks is best, it's up to the patient to determine that for themselves.

Yet the patient, on his or her own, d not necessarily have all the information they would need to make that decision, unless it's provided by the doctor. That' the rub. The doctor might think he ha all of the information the patient nee to make the right decision, but he doc get to make the decision. And the pati doesn't have all that knowledge and expertise, but it's still their decision. S you're always left with a bit of friction.

This is the "agent problem." In economics, when you have someone who depends on someone else to help them make a decision because of their expertise, you are counting on that

CONTINUED ON PAGE 30

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. ~~1~~1xxxviii)). Reference: Sections 1000-4(b) and 1000-10(a) ~~of the~~ (Chiropractic Initiative Act of California (Stats. 1923, p. ~~1~~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 individual~~s~~ 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;

(~~4~~D) 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. Student**s** ~~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)).

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.