State of California

BOARD OF CHIROPRACTIC EXAMINERS
BOARD MEMBER
ADMINISTRATIVE PROCEDURE MANUAL

Adopted October 2007
Revised January 2015

Edmund G. Brown Jr., Governor
State of California

MISSION STATEMENT

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

Members of the Board

Sergio Azzolino, D.C., Chair
Heather Dehn, D.C., Vice Chair
Julie A. Elginer, Dr.PH, Secretary
Dionne McClain, D.C.
John Roza, D.C.
Corey Lichtman, D.C.
Frank Ruffino, Public Member

Executive Officer
Robert C. Puleo

This procedure manual is a general reference including a review of some important laws, regulations, and these basic Board policies in order to guide the actions of the Board Members and ensure Board effectiveness and efficiency. The Chiropractic Initiative Act of 1922 (the Act) will be referenced and summarized throughout this procedure manual.

This Administrative Procedure Manual, regarding Board Policy, can be amended by four affirmative votes of any current or future Board.

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CHAPTER 1. Introduction

Overview

The Board of Chiropractic Examiners (Board) was created on December 21, 1922, through an initiative measure approved by the electors of California on November 7, 1922.

The Act states it is… "An act prescribing the terms upon which licenses may be issued to practitioners of chiropractic, creating the State Board of Chiropractic Examiners and declaring its powers and duties, prescribing penalties for violation hereof, and repealing all acts and parts of acts inconsistent herewith…"

The powers and authority of the Board is specifically defined in Section 4 of the Act. In general, the board is a policy-making and administrative review body comprised pursuant to the provisions of Section 1 to 20 of the Act. The Board, when full, is comprised of seven Members, five professional and two public, each appointed by the Governor. The Board's paramount purpose is to protect California consumers through the enforcement of the Act, other applicable laws and the California Code of Regulations related to the Practice of Chiropractic, identified herein as the Board's regulations. The Board is also mandated by the Initiative to supervise licensees, chiropractic colleges, and continuing education for relicensing.

Acronyms

ALJ	Administrative Law Judge
AG	Office of the Attorney General
APA	Administrative Procedure Act
BCE	Board of Chiropractic Examiners
B&P	Business and Professions Code
CalHR	California Department of Human Resources
CATS	Computer Assisted Testing Service
CCCP	California Code of Civil Procedure
CCR	California Code of Regulations
CE	Continuing Education
CLEAR	Council on Licensure Enforcement & Regulations
DAG	Deputy Attorney General
DCA	Department of Consumer Affairs
DOF	Department of Finance
DOI	Department of Insurance
DWC	Division of Workers Compensation
EO	Executive Officer
FCLB	Federation of Chiropractic Licensing Boards
NBCE	National Board of Chiropractic Examiners
SAM	State Administrative Manual
SCIF	State Compensation Insurance Fund
VCGCB	Victim Compensation and Government Claims Board

General Rules of Conduct

All Board Members shall act in accordance with their oath of office, and shall conduct themselves in a courteous, professional and ethical manner at all times. The Board serves at the pleasure of the governor, and shall conduct their business in an open manner, so that the public that they serve shall be both informed and involved, consistent with the provisions of the Bagley-Keene Open Meeting Act and all other governmental and civil codes applicable to similar boards within the State of California.

- Board Members are part of a state regulatory board and your individual rights to make independent public comments or statements takes a second place to supporting a uniform public presentation of a cohesive board.

- Board Members shall comply with all provisions of the Bagley-Keene Open Meeting Act and other applicable rules, regulations, codes and laws governing public employees.

- Board Members shall not speak or act for the Board without proper preauthorization from the Chair and/or EO prior to making any statement or press release. When possible, only the Chair or EO will make public statements or press statements.

- Board Members shall not privately or publicly lobby for, publicly endorse, or otherwise engage in any personal efforts that would tend to promote their own personal or political views or goals, as it pertains to issues related to jurisdiction of the Board, when those views or goals are in direct opposition to an official position adopted by the Board.

- Board Members shall not accept gifts from applicants, licensees, or members of the profession while serving on the Board. All Fair Political Practices Act Rules shall be followed.

- Board Members shall maintain the confidentiality of confidential documents and information related to Board business. Always confirm with the EO whether information is public and may be disclosed. The public's access should be from a source other than a BCE Member.

- Board Members should avoid discussion of confidential Board business with petitioners, licensees or persons not authorized to receive confidential and restricted enforcement information. Failure to do so may result in the Board Member having to recuse him/herself due to conflict of interest issues. All consumers, applicants and licensees with enforcement related questions, concerns or complaints should be referred to the EO or Chair.

- Board Members shall commit adequate time to prepare for their Board responsibilities including the reviewing of Board meeting notes, administrative

cases to be reviewed and discussed, and the review of any other materials provided to the Board Members by staff, related to official Board business.

- Submission of votes have time requirements that are critical to meeting legal timeframe constraints. Board members shall make every attempt to meet the deadlines identified by Board staff.

- BCE Members shall submit reimbursement records each month to facilitate timely reimbursement.

- All travel for Board related business, other than routine Board meetings and Committee Meetings, must be submitted in writing and preapproved by the Chair and EO before travel.

- Board Members shall recognize the equal role and responsibilities of all other Board Members and interact with one another in a polite and professional manner.

- Board Members shall act fairly, be nonpartisan, impartial, and unbiased in their role of protecting the public and enforcing the Chiropractic Initiative Act.

- Board Members shall uphold the principle that the Board's primary mission is to protect the public.

- Board Members shall follow the guidelines set forth in Executive Order 66-2.

CHAPTER 2. Board Members & Meeting Procedures

Membership
(§1 Initiative Act)

Board Members are appointed and serve in accordance with Section 1 of the Initiative Act.

Board Meetings and Offices
(§6 Initiative Act)

Board meetings must be consistent with the Initiative Act and follow the terms and provisions of the Bagley-Keene Open Meeting Act.

Board Meetings
(Government Code Section 11120 et seq. - Bagley-Keene Open Meeting Act)

The Board complies with the provisions of the Government Code Section 11120, et seq., commonly referred to the Bagley-Keene Open Meeting Act Robert's Rules of Order, as long as there is no conflict with any superseding codes, laws or regulations.

All Meetings shall follow the provisions of the Bagley-Keene Open Meeting Act.

Any meetings deviating from a standard public meeting may be called, when required, in accordance with the Bagley-Keene Open Meeting Act, Government Code Section 11125.4

Whenever practical and appropriate, the Board should utilize available technology to conduct meetings so as to minimize the time and expenditures associated with staff and Board Member travel as well as the cost of renting meeting space.

Quorum
(§3 Initiative Act)

A majority of the Board (four Members) is required to constitute a quorum. The Board shall follow the provisions of §3 of the Initiative Act requiring a quorum of four (4) Members to carry any motion or resolution, to adopt any rule or disciplinary action, or to authorize the issuance of any license provided for within the Act.

Board Member Attendance at Board Meetings
(Board Policy)

Being a Member of the Board is a serious commitment of time and effort to the governor, and the people of the State of California. Board Members shall attend a minimum of 75% of all scheduled committee meetings and scheduled Board meetings. In extraordinary circumstances, the Chair may excuse a Board Member from this obligation. If a Member is unable to attend a Board Meeting, he or she must contact the Board Chair or the Executive Officer, and provide a verbal notice followed by a written explanation of their absence as soon as possible thereafter.

Public Attendance at Board Meetings
(Government Code Section 11120 et seq.)

Meetings are subject to all provisions of the Bagley-Keene Open Meeting Act. This Act governs meetings of the state regulatory Boards and meetings of committees of those Boards where the committee consists of more than two Members. It specifies meeting notice, agenda requirements, and prohibits discussing or taking action on matters not included on the agenda. If the agenda contains matters which are appropriate for closed session, the agenda shall cite the particular statutory section and subdivision authorizing the closed session.

Agenda Items
(Board Policy)

Board Members may submit agenda items for a future Board meeting during the “Future Agenda Items” section of a Board meeting or directly to Executive Officer 21days prior to a Board meeting

Agenda item requests shall be placed on the Board or Committee meeting agenda within two meetings from receipt of the original request.

In the event of a conflict in scheduling an agenda topic, the Board Secretary will discuss the proposed agenda item with the Board Chair, and the Board Chair shall make the final decision to schedule the item at the upcoming or following Board Meeting. The Board Secretary will work with the Executive Officer to finalize the agenda.

Notice of Meetings
(Government Code Section 11120 et seq.)

Meeting notices, including agendas, for Board meetings will be sent to persons on the Board’s mailing list at least 10 calendar days in advance, as specified in the Bagley-Keene Open Meeting Act. The notice shall include a staff person’s name, work address, and work telephone number who can provide further information prior to the meeting.

Notice of Meetings Posted on the Internet
(Government Code Section 11125 et seq.)

Meeting notices shall be posted on the Board's web site at least 10 days in advance of the meeting, and include the name, address, and telephone number of staff who can provide further information prior to the meeting.

E-Mail Ballots
(Government Code Section 11526 and Board Policy)

The Board must approve any proposed decision or stipulation before the formal discipline becomes final and the penalty can take effect.

Proposed stipulations and decisions are e-mailed to each Board Member for his or her vote. For stipulations, a background memorandum from the assigned deputy attorney general accompanies the e-mail ballot. A two-week deadline generally is given for the e-mail ballots for stipulations and proposed decisions to be completed and returned to the Board's office.

Holding Disciplinary Cases for Board Meetings
(Board Policy)

When voting on e-mail ballots for proposed disciplinary decisions or stipulations, a Board Member may wish to discuss a particular aspect of the decision or stipulation before voting. If this is the case, the ballot must be marked "hold for discussion," and the reason for the hold must be provided on the mail e-ballot. This allows staff the opportunity to prepare information being requested.

If one vote is cast to hold a case for discussion, the case is set aside and not processed (even if four votes have been cast on a decision). Instead the case is scheduled for a discussion during a closed session at the next Board meeting.

If the matter is held for discussion, staff counsel will preside over the closed session to assure compliance with the Administrative Procedure Act and Open Meeting Act.

If the Board Member is comfortable voting on the matter, but wishes to discuss the policy behind the decision or case, the ballot should be marked "Policy Issue for Discussion. I have voted above. Issue: _____." The Executive Officer will respond directly to the Member. If still unresolved or if the matter is to be referred to the Board, the policy issue will be placed on the agenda for discussion at the next Enforcement Committee Meeting.

Any time a Member votes to “hold for discussion” the Chair, EO and Legal Counsel will discuss the Member’s concern(s) for educational purposes and to evaluate if any administrative policy modifications should be proposed.

Record of Meetings
(Board Policy)

All original video and audio recordings are to be maintained and archived indefinitely and never destroyed. The typed minutes are only a summary, not a transcript, of each Board meeting. They shall be prepared by Board staff and submitted for review by Board Members before the next Board meeting.

Board minutes must be approved or disapproved at the next scheduled meeting of the Board. When approved, the minutes shall serve as the official record of the meeting. The minutes of each Board meeting shall be maintained for 27 years per the Board’s retention schedule.

Recording
(Government Code Section 11124.1(b))

The meeting may be audio and video recorded by the public or any other entity in accordance with the Bagley-Keene Open Meeting Act, the members of the public may tape record, videotape or otherwise record a meeting unless they are disruptive to the meeting and the Chair has specifically warned them of their being disruptive, then the Chair may order that their activities be ceased**.**

The Board may place audio and video recorded public board meetings on its web site at www.chiro.ca.gov.

Meeting Rules
(Board Policy)

The Board will use Robert’s Rules of Order, to the extent that it does not conflict with state law (e.g., Bagley-Keene Open Meeting Act or other state laws or regulations), as a guide when conducting the meetings. Questions of order are clarified by the Board's legal counsel.

Public Comment
(Board Policy)

Public comment is always encouraged and allowed, however, if time constraints mandate, time limits may be imposed at the discretion of the Chair. Due to the need for the Board to maintain fairness and neutrality when performing its adjudicative function, the Board shall not receive any information from a member of the public regarding matters that are currently under or subject to investigation, or involve a pending or criminal administrative action.

1. If, during a Board meeting, a person attempts to provide the Board with any information regarding matters that are currently under or subject to investigation or involve a pending administrative or criminal action, the person shall be advised that the Board cannot properly consider or hear such substantive information and the person must be instructed to refrain from making such comments.

2. If, during a Board meeting, a person wishes to address the Board concerning alleged errors of procedure or protocol or staff misconduct involving matters that are currently under or subject to investigation or involve a pending administrative or criminal action, the Board will address the matter as follows:

    a. Where the allegation involves errors of procedure or protocol, the Board may designate either its Executive Officer or a Board employee to review whether the proper procedure or protocol was followed and to report back to the Board.
    b. Where the allegation involves significant staff misconduct, the Board shall direct the Executive Officer to review the allegation and to report back to the Board.

3. The Board may deny a person the right to address the Board and have the person removed if such person becomes disruptive at the Board meeting. The Board accepts the conditions established in the Bagley-Keene Open Meeting Act and appreciates that at times the public may disapprove, reprimand, or otherwise present an emotional presentation to the Board, and it is the Board's duty and obligation to allow that public comment, as provided by law.

CHAPTER 3. Travel & Salary Policies & Procedures

Board related travel incurs additional expenses and potential liabilities. The State incurs liability risk any time a Board member travels to represent the BCE, regardless of whether the Board member pays for their own travel expenses. Board members must complete the appropriate paperwork and follow established policies and procedures for timely reimbursement of travel claims.

Travel Approval
(Board Policy)

Travel arrangements for regularly scheduled Board meetings and committee meetings do not require prior approval. Any other Board related travel requires preapproval by the Board Chair and Executive Officer. Expenses and per diem reimbursement are provided to Board members in accordance with established State travel reimbursement rules.

Travel Arrangements
(Board Policy)

Board Members who prefer to make their own travel arrangements are encouraged to coordinate with the Board Liaison on lodging accommodations. You need to obtain an original receipt to submit for reimbursement. Always seek hotels that charge the state rate. Preauthorization is required if the state rate is to be exceeded.

Out-of-State Travel
(SAM Section 700 et seq.)

Out-of-state travel for all persons representing the state of California is controlled and must be approved by the Governor's Office. Permission for out-of-state travel must be obtained through the Executive Officer. Individual Board Members can not authorize out-of-state travel. Board Members will be reimbursed for actual lodging expenses, supported by vouchers, and will be reimbursed for meal and supplemental expenses. Keep all original receipts and submit with your travel expense claim.

Travel Claims
(SAM Section 700 et seq.)

Rules governing reimbursement of travel expenses for Board Members are the same as for management-level state staff. All expenses shall be claimed on the appropriate travel expense claim forms. The Board Liaison maintains these forms and completes them as needed.

The Executive Officer's travel and per diem reimbursement claims shall be submitted to the Board Chair for approval.

It is advisable for Board Members to submit their travel expense forms immediately after returning from a trip and not later than thirty days following the trip.

Salary Per Diem
(§1 Initiative Act and B&P Code Section 103)

Compensation in the form of salary per diem and reimbursement of travel and other related expenses for Board Members is regulated by the B&P Code Section 103. Board Members are paid out of the funds of the Board, as provided for within the Chiropractic Initiative Act.

Salary Per Diem
(Board Policy)

Accordingly, the following general guidelines shall be adhered to in the payment of salary per diem or reimbursement for travel:

1. A salary per diem or reimbursement for travel-related expenses shall be paid to Board Members for attendance at official Board or committee meetings.

   Attendance at gatherings, events, hearings, conferences or meetings other than official Board or committee meetings shall be approved by the Board Chair & Executive Officer prior to the Board Member's travel and attendance.

   The term "day actually spent in the discharge of official duties" shall mean such time as is expended from the commencement of a Board or committee meeting until that meeting is adjourned.

2. For Board-specified work, Board Members will be compensated for actual time spent performing work authorized by the Board Chair. This may also include, but is not limited to, authorized attendance at other gatherings, events, meetings, hearings, or conferences, such as the FCLB, NBCE, CE, Ambassador at Large, Lectures, etc.. Work also includes preparation time for Board or committee meetings and reading and deliberating mail ballots for disciplinary actions.

3. Reimbursable work does not include miscellaneous reading and information gathering unrelated to Board business and not related to any meeting, preparation time for a presentation and participation at meetings not related to official participation of the Members duties with the Board.

4. Board Members may participate on their own (i.e., as a citizen or professional) at an event or meeting but not as an official Board representative unless approved in writing by the Chair. Requests must

be submitted in writing to the Chair for approval and a copy provided to the Executive Officer. However, Board Members should recognize that even when representing themselves as “individuals,” their positions might be misconstrued as that of the Board and a BCE Member must use their best effort to continue to clarify this separation.

CHAPTER 4. Board Officers & Committees

Officers of the Board
(§3 Initiative Act)

The Board shall elect at the first meeting of each new year a Chair, Vice Chair and Secretary from the Members of the Board as specified in the Initiative Act.

Officer Vacancies
(Board Policy)

The chain of administrative protocol starts with the Chair. If unavailable or recused, the Vice-Chair shall take over the duties of the Chair until the Chair returns. If the Vice-Chair is unavailable, the Secretary shall take over the duties of the Chair until the Vice Chair or Chair returns.

If the Chair becomes unable to fulfill their duties, the Vice-Chair will become the Chair until the next scheduled election. The new Chair may appoint their choice of Vice-Chair. The Secretary will remain the same. If any other officer (Vice-Chair or Secretary) becomes unavailable, the Chair shall appoint a replacement until the next general elections.

Communication Between Officers
(Board Policy)

The Chair, Vice-Chair and Secretary must have timely and effective communication for the efficient operation of the BCE. Failure to respond to email correspondences or failing to address specific topics is inconsistent with professionalism and if a repetitive failure to communicate persists, this will be discussed in a meeting with that officer the Chair and EO to resolve the concern. If all parties agree that communication can not be resolved, the Chair may agendize the ongoing concern and, if necessary, call for a special election at the next full Board Meeting.

Committee Appointments
(Board Policy)

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

The composition of the committees and the appointment of the Members shall be determined by the Board Chair. The Chair may consult with the Vice Chair or Secretary and the Executive Officer. All conversations must be consistent with Bagley Keene Open Meeting Act Restrictions which mandate that no more than two Members can actively discuss Board business.

Standing Committees
(Board Policy)

The Board has three standing committees:

1. **Licensing, Continuing Education, and Public Relations Committee**
   The Committee proposes policies and standards regarding chiropractic colleges, doctors of chiropractic, satellite offices, corporation registration, and continuing education providers and courses. The Committee also develops strategies to communicate with the public through various forms of media.

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

3. **Government Affairs and Strategic Planning Committee**
   The Committee proposes and reviews policies, procedures, to address audit and sunset review deficiencies.

   The Committee works directly with the Executive Officer and staff to monitor budget expenditures, trends, and the Contingent Fund levels.

   The Committee shall monitor individual line item expenditure and look for anomalies with a three year pattern for purposes of preparing a budget change proposal to correct either an under or over expenditure.

   The committee will review and recommend positions on legislative bills that affect the Board. The guidelines for identifying, tracking, analyzing, taking positions on proposed legislation are set forth in the BCE "Legislative Bill Tracking" manual.

   The Committee oversees all administrative issues regarding BCE operations.

   This Committee develops draft strategic plans and monitors the Board's progress in achieving goal and objectives. The Board must develop a strategic plan once every three years. The Committee must report progress on the strategic plan annually beginning in 2013.

Committee Meetings
(Board Policy)

Each of these committees is comprised of at least two Board Members. Staff provides technical and administrative input and support. The committees are an important venue for ensuring that staff and Board Members share

information and perspectives in crafting and implementing the Board's objectives and goals.

The Board's committees allow Board Members, the public, stakeholders and staff to discuss and conduct problem solving on issues related to the Board's objective and goals. .

The committees are charged with coordinating Board efforts to reach the Board's objective and goals and achieving positive results on its performance measures.

The Board Chair designates one member of each committee as the committee's chairperson.

The committee chair will work with the Executive Officer and the Board Chair to set the committee's goals and meeting agendas. The Committee Chair coordinates the committee's work, ensures progress toward the Board's priorities, and presents reports at each meeting.

During any public committee meeting, comments from the public are encouraged, and the meetings themselves are frequently public forums on specific issues before a committee. Committees shall comply with the Bagley-Keene Open Meeting Act.

Attendance at Committee Meetings

(Board Policy and Government Code Section 11122.5 et seq.)

If a Board Member wishes to attend a meeting of a committee of which he or she is not a member, the Board Member must notify the committee chair, Executive Officer, and Board Chair.

Board Members who are not members of the committee which is meeting cannot sit at the dais, make any comment, or ask or answer any questions. Only committee members may vote during the committee meeting.

The Board's legal counsel works with the Executive Officer to assure that all meetings meet the requirements for a public meeting and are properly noticed.

Whenever possible, the Board's legal counsel shall attend committee meetings.

CHAPTER 5. General Operating Procedures

Board Member Addresses
(Board Policy)

Board Member addresses and telephone numbers are confidential and shall not be released to the public without expressed authority of the individual Board Member. A roster of Board Members is maintained for public distribution on the Board's web site using the Board's address and telephone number.

Request for DMV Confidential Status may be submitted on the completed DMV form to the Executive Officer, who will sign the form

Board Member Written Correspondence and Mailings
(Board Policy)

All correspondence, press releases, articles, memoranda or any other communication written by any Board Member in his or her official capacity must be approved by the Board Chair and Executive Officer. The Executive Officer will reproduce and distribute the document and a copy in a chronological file.

Request to Access Licensee or Applicant Records
(Board Policy)

Board Member shall not access a licensee's, or applicant's file without the Executive Officer's knowledge and approval. Records or copies of records shall not be removed from the Board's office at any time.

Communications with Other Organizations & Individuals
(Board Policy)

The Board has an "Ambassador at Large" program allowing Board Members to speak at public or private functions.

All communications relating to any Board action or policy to any individual or organization shall be made only by the Chair of the Board, his or her designee, or the Executive Officer.

Any Board Member who is contacted by any of the above should inform the Board Chair or Executive Officer of the contact immediately.

All correspondence shall be issued on the Board's standard letterhead and will be disseminated by the Executive Officer.

Press Statements and Contacts
(Board Policy)

Members shall direct press inquiries to the Executive Officer who will work in conjunction with DCA Public Affairs Office to respond. Only the Board Chair or Executive Officer are authorized to publically represent the Board to the press or news agents, reporters or agencies.

Business Cards
(Board Policy)

Business cards will be provided to each Board Member with the Board Member's name and official BCE e-mail address. The business cards will provide the Board office address, telephone and fax numbers, and website address.

Board Members' personal business cards shall not reference or list their appointment as a BCE Member.

BCE Identification Cards
(Board Policy)

BCE Members shall be issued an identification card from BCE that list they are appointed and commissioned and duly sworn, and if an officer of the BCE, that shall be stated.

CHAPTER 6. Board Administration & Staff

Executive Officer
(§3 Initiative Act)

The Board employs an Executive Officer and establishes his/her salary in accordance with the State law.

The Executive Officer is responsible for the financial operations and integrity of the Board, and is the official custodian of records. The Executive Officer is an "exempt" employee, who serves at the pleasure of the Board, and may be terminated, in accordance with the provisions of the Bagley-Keene Open Meeting Act.

Executive Officer Evaluation
(Board Policy)

At the first Board meeting of each fiscal year or at any time thereafter as determined by the Board, the Board evaluation of the Executive Officer is presented by the Board Chair, or his/her Board Member designee, during a closed session. Board Members provide information to the Chair on the Executive Officer's performance in advance of this meeting. If the Board members have concerns with an Executive Officer's performance, the Board members should consult with the Deputy Director of DCA's Legal Affairs Office.

Board Administration
(Board Policy)

Strategies for the day-to-day management of programs and staff shall be the responsibility of the Executive Officer as an instrument of the Board. The Executive Officer supervises and administers the staff. Board Members shall not directly discipline, reprimand, or otherwise supervise staff.

Board Staff
(§4 Initiative Act)

Employees of the Board, with the exception of the Executive Officer, are civil service employees. Their employment, pay, benefits, discipline, termination, and conditions of employment are governed by myriad civil service laws and regulations and often by collective bargaining labor agreements.

Because of this complexity, the Board delegates this authority and responsibility for management of the civil service staff to the Executive Officer as an instrument of the Board.

Board Members may express any staff concerns to the Executive Officer but shall refrain from involvement in any civil service matters. Board Members shall not become involved in the personnel issues of any state employee.

Board Budget
(Board Policy)

One member of the Board, designated by the Board Chair, and the Executive Officer or the Executive Officer's designee will attend and testify at legislative budget hearings to communicate all budget issues to the Administration and Legislature. The Executive Officer or his/her designee shall communicate regularly with DCA's Budget Office and report all issues to the Board.

Strategic Planning
(Board Policy)

The Board must develop a strategic plan once every three years, beginning in 2013. The Government Affairs Committee shall have overall responsibility for the Board's strategic planning process and shall assist staff in the monitoring and reporting of the strategic plan to the Board.

CHAPTER 7. Other Policies & Procedures

Various Other Tasks and Responsibilities
(Board Policy)

Promotion of public safety is enhanced with goal orientation and focus. The Board shall also assign Board Members and/or staff to serve as liaison to the following entities:

- FCLB
- NBCE
- Continuing Education Audits
- Ambassador at Large Presentations
- Lectures
- Attend Meetings of Other Regulatory Boards
- Meetings with EO, Colleges, and Associations

This process shall be overseen by the Vice-Chair in consultation with the Chair.

Board Member Disciplinary Actions
(Board Policy)

If a Board Member violates any provision of the Administrative Procedure Manual, the Chair will either telephone or write to that Member identifying the concern. If the matter is not resolved, the Chair may agendize the matter at the next Board meeting.

If the violation concerns the Chair's conduct, the Vice-Chair will handle the matter until it is resolved.

Terms and Removal of Board Members
(§2 Initiative Act)

The Governor shall appoint the Members of the Board. Each appointment shall be for the term of four years, except that an appointment to fill a vacancy shall be for the unexpired term only. Each Member shall serve until his successor has been appointed and qualified or until one year has elapsed since the expiration of his term whichever first occurs.

No person shall serve more than two consecutive terms on the Board nor be eligible for appointment thereafter until the expiration of four years from the expiration of such second consecutive term, effective January 2, 1974. The Governor may remove a Member from the Board after receiving sufficient proof of the inability or misconduct of said Member.

Resignation of Board Members
(Government Code Section 1750 (b))

In the event that a Board Member chooses to resign, a letter shall be sent to the Governor's Office with the effective date of the resignation. Written notification is required by state law. A copy of this letter shall also be sent to the Board Chair and the Executive Officer.

Conflict of Interest
(Government Code Section 87100)

Board Members are responsible for complying with the California Political Reform Act (Government Code Sections 81000-91014).

Board Members must file a Statement of Economic Interest (Form 700) upon appointment to office, upon leaving office, and on an annual basis in between.

No Board Member may make, participate in making, or in any way attempt to use his or her official position to influence a governmental decision in which he or she knows or has reason to know he or she has a financial interest.

Any Board Member who has a financial interest shall disqualify him or herself from making or attempting to use his or her official position to influence the decision.

Any Board Member who feels he or she is entering into a situation where there is a potential for a conflict of interest should immediately consult the Executive Officer or the Board's legal counsel.

Contact with Licensees and Applicants
(Board Policy)

Board Members shall not intervene on behalf of a licensee or applicant for licensure for any reason. They should forward all correspondence, contacts or inquiries to the Executive Officer.

Contact with Respondents
(Board Policy)

Board Members should not directly participate in complaint handling and resolution or investigations. To do so would subject the Board Member to disqualification in any future disciplinary action against the licensee.

Board Members should not discuss pending disciplinary matters with any parties to such matters, including the respondent, his/her attorney, BCE enforcement staff, and DAGs. If a Board Member is contacted by a party to a disciplinary matter, the Board Member should refer the individual to the

Executive Officer. When in doubt, the Board Member should seek advice from the Executive Officer or the Board's Legal Counsel.

Service of Legal Documents
(Board Policy)

If a Board Member is personally served as a party in any legal proceeding related to his or her capacity as a Board Member, he or she must contact the Executive Officer immediately.

Serving as an Expert Witness
(Executive Order 66.2)

Pursuant to Executive Order 66-2, no employment, activity, or enterprise shall be engaged in by any gubernatorial appointee which might result in, or create the appearance of resulting in any of the following:

1. Using the prestige or influence of a State office for the appointee's private gain or advantage.

2. Using state time, facilities, equipment, or supplies for the appointee's private gain or advantage, or the private gain or advantage of another.

3. Using confidential information acquired by virtue of State involvement for the appointees private gain or advantage, or the private gain or advantage of another.

4. Receiving or accepting money or any other consideration from anyone other than the State for the performance of an act which the appointee would be required or expected to render in the regular course of hours of his or her State employment or as a part of the appointee's duties as a State officer.

Request for Grants
(Board Policy)

All requests for funding allocations to Board specific projects shall be approved by the Board during a regularly scheduled meeting.

Any requests for grants outside of Board business or projects must be made by the Executive Officer at the Chair's direction. If a Board Member makes an individual request, a copy of the request shall be forwarded to the Executive Officer as soon as possible.

The mechanism for receipt, management, and dispersal of funds shall be pre-arranged and approved by the Board.

Gifts from Licensees and Applicants
(Board Policy)

Gifts of any kind create potential obligations or conflicts of interest and should therefore be declined or reported pursuant to the California Political Reform Act.

Ex Parte Communications
(Government Code Section 11430.10 et seq.)

The Government Code contains provisions prohibiting ex parte communications. An "ex parte" communication is a communication to the decision-maker made by one party to an enforcement action without participation by the other party. While there are specified exceptions to the general prohibition, the key provision is found in subdivision (a) of section 11430.10, which states:

> "While the proceeding is pending, there shall be no communication, direct or indirect, regarding any issue in the proceeding to the presiding officer from an employee or representative of an agency that is a party or from an interested person outside the agency, without notice and an opportunity for all parties to participate in the communication."

Board Members are prohibited from an ex parte communication with Board enforcement staff, a licensee or a respondent while a proceeding is pending.

Occasionally, an applicant who is being formally denied licensure, or a licensee against whom disciplinary action is being taken, will attempt to directly contact Board Members. If the communication is written, the person should read only far enough to determine the nature of the communication. Once he or she realizes it is from a person against whom an action is pending, they should reseal the documents and send them to the Executive Officer.

If a Board Member receives a telephone call from an applicant under any circumstances or licensee against whom an action is pending, he or she should immediately tell the person they cannot speak to them about the matter and inform the Executive Officer and the Board's legal counsel.

If the person insists on discussing the case, he or she should be told that the Board Member will be required to recuse him or herself from any participation in the matter. Therefore, continued discussion is of no benefit to the applicant or licensee.

If a Board Member believes that he or she has received an unlawful ex parte communication, he or she should contact the Executive Officer and the Board's legal counsel.

The Honoraria Prohibition
(Government Code Section 89503)
(FPPC Regulations, Title 2, Division 6)

As a general rule, Members of the Board should decline honoraria for speaking at, or otherwise participating in, professional association conferences and meetings. A Member of a state Board is precluded from accepting an honorarium from any source, if the Member would be required to report the receipt of income or gifts from that source on his or her statement of economic interest.

Board Members are required to report income from, among other entities, professional associations and continuing education providers. Therefore, a Board Member should decline all offers for honoraria for speaking or appearing before such entities.

There are limited exceptions to the honoraria prohibition. The acceptance of an honorarium is not prohibited under the following circumstances:
(1) when a honorarium is returned to the donor (unused) within 30 days; (2) when an honorarium is delivered to the State Controller within thirty days for donation to the General Fund (for which a tax deduction is not claimed); and (3) when an honorarium is not delivered to the Board Member, but is donated directly to a bona fide charitable, educational, civic, religious, or similar tax exempt, non-profit organization.

In light of this prohibition, Members should report all offers of honoraria to the Board Chair so that he or she, in consultation with the Executive Officer and staff counsel, may determine whether the potential for conflict of interest exists.

Board Member Orientation
(Business & Professions Code Section 453 and Board Policy)

B&P Section 453 requires every newly appointed Board Member, within one year of assuming office, to complete a training and orientation program offered by DCA regarding, among other things, his or her functions, responsibilities, and obligations as a Member of a Board.

It is the BCE's policy that new Board Members shall, to the extent possible complete the orientation training within six months of assuming office. Additional training shall be provided at the request of the Board or individual Board Members.

Ethics Training
(Government Code Section 11146)

California law requires all appointees to take an ethics orientation within the first six months of their appointment and to repeat this ethics orientation every two years throughout their term.

Sexual Harassment Prevention Training
(Government Code Section 12950.1)

Board Members are required to undergo sexual harassment prevention training and education once every two years. Staff will coordinate the training.

Injury to a Board Member
(Labor Code Section 4600)

If you are or believe you may have been injured, notify the Executive Officer. Injuries are required to be reported and this assists the Executive Officer in remaining compliant with the Labor Code Rules and Regulations. The reported injury will be reviewed by State Compensation Insurance Fund. They have the option to either accept or deny that claim. If the claim is denied, and you believe you have a legitimate claim, you should consult with an attorney. If the claim of injury is accepted by the insurance carrier, then treatment is provided in accordance with the California Labor Code (L.C.). Specifically: L.C. 4600(a) Medical, surgical, chiropractic, acupuncture, and hospital treatment, including nursing, medicines, medical and surgical supplies, crutches, and apparatuses, including orthotic and prosthetic devices and services, that is reasonably required to cure or relieve the injured worker from the effects of his or her injury shall be provided by the employer.

If You Have Additional Questions: Ask the Executive Officer or Staff Counsel. You can also call the Department of Industrial Relations, Division of Workers Compensation at (800) 736-7401 or go to the DWC web site at http://www.dir.ca.gov/dwc.

Addendums

Applicable provisions of the following:

- Executive Order 66-2
- Government Code
- State Administrative Manual
- Bagley-Keene Open Meeting Act
- Business and Professions Code
- Initiative Act
- Labor Code