



BCE Enforcement Committee Meeting Update



State of California
Edmund G. Brown Jr., Governor

**NOTICE OF TELECONFERENCE
ENFORCEMENT COMMITTEE MEETING**

May 12, 2015

1:00 p.m.

One or more Committee Members will participate in this meeting at the teleconference sites listed below. Each teleconference location is accessible to the public and the public will be given an opportunity to address the Enforcement Committee at each teleconference location. The public teleconference sites for this meeting are as follows:

Teleconference Meeting Locations:

Sergio Azzolino, DC
1545 Broadway St., Suite 1a
San Francisco, CA 94109
(415) 563-3800

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

Frank Ruffino, Public Member
Rancho San Diego Library
11555 Via Rancho San Diego
El Cajon, CA 92019
(619) 660-5370

AGENDA

1. **Call to Order**
2. **Approval of Minutes**
March 13, 2015
3. **Discussion/Possible Action Regarding Amendments to the Board of Chiropractic Examiners Disciplinary Guidelines**
4. **Discussion/Possible Action Regarding the Incorporation of SB 1441 Uniform Standards Related to Substance Abusing Licensees into the Board of Chiropractic Examiners Disciplinary Guidelines**
5. **Discussion/Possible Action Regarding a Possible Statutory Change to Government Code Section 11522 Which Would Allow the Board to Assign Petitions for Reinstatement or Reduction of Penalty to an Administrative Law Judge**
6. **Discussion and Review of the Question on the Petitioner Application(s):**
Have you ever had disciplinary action taken against any professional license in this state or any other state?
7. **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).] Public comment is encouraged; however, if time constraints mandate, comments may be limited at the discretion of the Chair.

T (916) 263-5355	Board of Chiropractic Examiners
F (916) 327-0039	901 P Street, Suite 142A
TT/TDD (800) 735-2929	Sacramento, California 95814
Consumer Complaint Hotline	www.chiro.ca.gov
(866) 543-1311	

8. Future Agenda Items

9. Adjournment

ENFORCEMENT COMMITTEE

Sergio Azzolino, D.C., Chair

Heather Dehn, D.C.

Frank Ruffino, Public Member

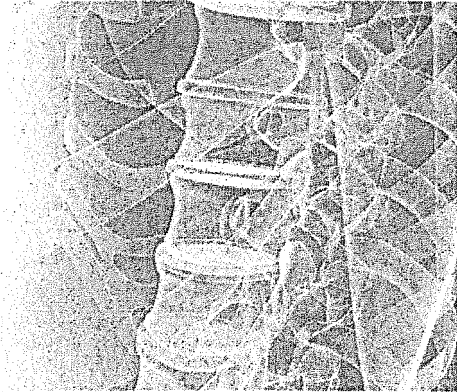
Meetings of the Board of Chiropractic Examiners' Committee are open to the public except when specifically noticed otherwise in accordance with the Open Meeting Act. Public comments will be taken on agenda items at the time the specific item is raised. The Board's Committee may take action on any item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

The meeting facilities are accessible to individuals with physical disabilities. A person who needs a disability-related accommodation or modification in order to participate in the meeting may make a request by contacting Marlene Valencia at (916) 263-5355 ext. 5363 or e-mail marlene.valencia@dca.ca.gov or send a written request to the Board of Chiropractic Examiners, 901 P Street, 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.

THE BOARD OF CHIROPRACTIC EXAMINERS

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

Disciplinary Guidelines And Model Disciplinary Orders

Revised Month, 2015

STATE OF CALIFORNIA



DEPARTMENT OF BUSINESS PROFESSIONS

Table of Contents

	Page No.
<u>Introduction.....</u>	3
<u>Probation Monitor Purpose.....</u>	4
<u>Stipulated Settlements.....</u>	4
<u>Disciplinary Guidelines</u>	
• <u>Factors to Be Considered in Determining Penalties.....</u>	5
• <u>Terms of Probation.....</u>	5
• <u>Standard Conditions.....</u>	6
• <u>Optional Conditions.....</u>	6
<u>Categories of Violations and Recommended Penalties</u>	
• <u>Category I.....</u>	7-8
• <u>Category II.....</u>	9-10
• <u>Category III.....</u>	11-12
• <u>Category IV.....</u>	13
<u>Disciplinary Guidelines for use by Administrative Law Judges.....</u>	14
<u>Model Disciplinary Orders Language.....</u>	15-18
<u>Disciplinary Orders Probation Terms and Conditions</u>	
• <u>Standard Conditions.....</u>	19-24
• <u>Optional Conditions.....</u>	25-40

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 licensees. In keeping with its mandate to protect the affected population of consumers, the Board has adopted the following recommended guidelines 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

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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 by the Board 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

4054 Name of a chiropractic corporation

4055 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 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 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 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.

10. Severability Clause

Each condition of probation contained herein is a separate and distinct condition. If any condition of this Order, or any application thereof, is declared unenforceable in whole, in part, or to any extent, the remainder of this Order and all other applicants thereof, shall not be affected. Each condition of this Order shall separately be valid and enforceable to the fullest extent permitted by law.

11. Uniform Standards for Substance-Abusing Licensees

Pursuant to Business and Profession Code section 315, the Uniform Standard for Substance-Abusing Licensee (Uniform Standards) are applied throughout this order and shall be adhered to throughout the entire term of probation.

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 costs 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, may 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 within 10 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 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 Decision 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. Valid License Status

Respondent shall maintain a current, active and valid license for the length of the probation period. Failure to pay all fees and meet CE requirements prior to his/her license expiration date shall constitute a violation of probation.

15. Maintenance of Valid License

Respondent shall, at all times while on probation, maintain an active current license with the Board including any period during which license is suspended or probation is tolled.

15. Completion of Probation

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

DISCIPLINARY ORDERS

PROBATION TERMS AND CONDITIONS

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 to 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, and any report setting forth such confirmed positive finding shall be received as admissible, direct evidence in any proceedings to revoke probation based on such finding. 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 MONITORING

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 4 _____ 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 less 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 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 Board or 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 log in 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 public 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.