NOTICE OF TELECONFERENCE
ENFORCEMENT COMMITTEE MEETING
July 19, 2017
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:
901 P Street, Suite 142A
Sacramento, CA 95814
(916) 263-5355

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

John Roza, Jr., D.C.
800 Douglas Blvd.
Roseville, CA 95678
(916) 786-2267

AGENDA

1. **Call to Order**

2. **Review and Discussion on the Enforcement Committee Action Items from the 2017- 2019 BCE Strategic Plan**

3. **Discussion and Possible Action on the manner in which Enforcement Committee Statistical Information is provided at BCE Meetings (Strategic Plan Action Item 2.1.2)**

4. **Review, Discussion and Possible Action on creating an Outreach Publication Educating the Public on the Complaint Process (Strategic Plan Action Item 2.1.3)**

5. **Discussion and Possible Action on Establishing a Code of Ethics (Strategic Plan Action Item 2.2.1)**

6. **Discussion and Possible Action on the efforts to Educate Licensees' about Enforcement Issues Related to Social Media (Strategic Plan Goal Item 2.4)**

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.

8. Future Agenda Items

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

9. Adjournment

ENFORCEMENT COMMITTEE
Sergio Azzolino, D.C.
John Roza, Jr., D.C.

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

The meeting facilities are accessible to individuals with physical disabilities. A person who needs a disability-related accommodation or modification in order to participate in the meeting may make a request by contacting Valerie James at (916) 263-5355 ext. 5362 or e-mail valerie.james@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.

State of California
Edmund G. Brown Jr., Governor

Agenda Item #2
July 19, 2017

Review and Discussion of the Enforcement Action Items from the 2017-2019 BCE Strategic Plan

Purpose of the item

The Committee will review the 2017-2019 Strategic Plan goals and action items.

Action(s) requested

No action requested at this time.

Background

Following the completion and approval of the Strategic Plan, the Board developed action items to facilitate the completion of the Board's Goals. These items are used as objective measurements by the Board and staff to ensure the completion of the plan.

Recommendation(s)

No recommendation at this time.

Next Step

N/A

Attachment(s)

- BCE 2017-2019 Strategic Plan

Enforcement

Enforce laws and regulations to ensure consumer protection.

2.1

Develop and disseminate educational tools and materials that better inform stakeholders of the enforcement process.

Objective Measurement	
Created and disseminated materials.	
Action Item	**Completion Date**
2.1.1 Establish a two-member committee of the Board to review current enforcement data and publications available, and determine if content and format is sufficient for Board needs.	Q2 2017
2.1.2 New two-member committee to work with staff to develop new or revise existing materials, if necessary.	Q4 2017
2.1.3 Create outreach publications and materials educating public on complaint process. *Reference 3.2.2.	Q4 2017
2.1.4 Publish Expert Witness Guidelines in the "Licensees" and "Publications" sections of the Board website.	Q1 2017

2.2

Collaborate with professional associations to establish a code of ethics that promotes higher ethical standards for licensees.

Objective Measurement	
Made determination regarding next steps.	
Action Item	**Completion Date**
2.2.1 Review CCA's code of ethics at Enforcement Committee meeting.	Q2 2018
2.2.2 Determine whether additional action is necessary or not.	Q4 2018

2.3

Collaborate with other regulatory entities to increase their awareness of unlicensed practice (i.e., pastoral) and promote increased enforcement efforts to better safeguard the public.

Objective Measurement	
Increased other healthcare boards/bureaus awareness.	
Action Item	**Completion Date**
2.3.1 Communicate with other healthcare and healing arts boards/bureaus regarding cross-cutting enforcement issues.	Ongoing
2.3.2 Track complaints and outcomes related to cross-cutting enforcement issues.	Ongoing

2.4

Educate licensees about enforcement issues related to social media to mitigate occurrences of these violations.

Objective Measurement	
Posted documents and informed licensees.	
Action Item	**Completion Date**
2.4.1 Create an outreach document that provides information on potential violations resulting from social media activity.	Q3 2018
2.4.2 Post outreach document on BCE newsletter, website, and social media.	Q1 2019 and ongoing

State of California
Edmund G. Brown Jr., Governor

Agenda Item #3
July 19, 2017

Discussion and Possible Action on the manner in which Enforcement Committee Statistical Information is provided at BCE Meetings

Purpose of the item

The Committee will discuss the efficacy of the enforcement data provided at BCE meetings. Additionally, the Committee will review enforcement materials from other DCA Boards.

Action(s) requested

No action requested at this time.

Background

At the July 19, 2016 Board meeting, Members expressed interest in the possibility of revising enforcement data presented at Board meetings. Following the completion and approval of the 2017-2019 Strategic Plan, the Board developed action item 2.1.2 allowing the Committee to revise enforcement materials, if necessary. The Committee will review the existing enforcement data provided at Board meetings and may consider a revision to effectively inform stakeholders of the Board's progress towards meeting its enforcement goals.

Recommendation(s)

No recommendation at this time.

Next Step

N/A

Attachment(s)

- BCE Compliance Unit Stats FY 16/17
- BCE Enforcement Performance Measures Q2 Report (October-December 2016)
- BCE Disciplinary Action June 2017
- Board of Podiatric Medicine Performance Measures Q4 (April-June 2015) / Enforcement Statistics
- Board of Registered Nursing (BRN) Statistical Summary January 2017 / BRN Statistical Report
- Physical Therapy Board of California Performance Measures Q3 (January-March 2012) Monthly Enforcement Report to DCA

COMPLIANCE UNIT STATS

Fiscal Year	12/13	13/14	14/15	15/16	*16/17
COMPLAINTS					
Received	386	487	557	581	236
Pending	159	214	270	232	162
Closed with Insufficient Evidence	57	88	57	127	28
Closed with No Violation	84	140	100	97	43
Closed with Merit	95	148	220	235	115
Letter of Admonishment	2	5	3	4	3
Citations and Fines Issued (Total Fine Amount)	33($19,400)	26($18,500)	16($12,400)	17($11,600)	9($10,000)
ACCUSATIONS					
Filed	34	38	22	31	18
Pending	73	56	64	66	60
Revoked	11	12	9	3	5
Revocation Stayed: Probation	31	15	7	13	4
Revocation Stayed: Suspension and Probation	5	4	2	4	4
Suspension	0	0	0	0	0
Suspension Stayed: Probation	0	0	0	0	0
Suspension and Probation	0	0	0	0	0
Voluntary Surrender of License	11	8	8	9	8
Dismissed/Withdrawn	9	3	3	2	3
STATEMENT OF ISSUES					
Filed	1	5	2	0	0
Denied	0	2	1	0	0
Probationary License	3	1	2	1	0
Withdrawn	1	2	1	0	0
Granted	0	0	1	0	0
PETITION FOR RECONSIDERATION					
Filed	4	3	0	1	0
Granted	0	0	0	0	0
Denied	2	2	0	1	0
PETITION FOR REINSTATEMENT OF LICENSE					
Filed	6	5	8	7	3
Granted	2	1	1	0	0
Denied	5	3	4	7	2
PETITION FOR EARLY TERMINATION OF PROBATION					
Filed	6	11	4	8	3
Granted	1	0	0	1	0
Denied	1	3	5	2	0
PETITION FOR MODIFICATION OF PROBATION					
Filed	0	3	2	3	0
Granted	0	0	1	1	0
Denied	0	1	1	0	0
PETITION BY BOARD TO REVOKE PROBATION					
File	2	11	5	8	2
Revoked	3	5	2	3	5
PROBATION CASES					
Active	139	135	123	104	97

**FY 16/17: July 1, 2016 – December 31, 2016*

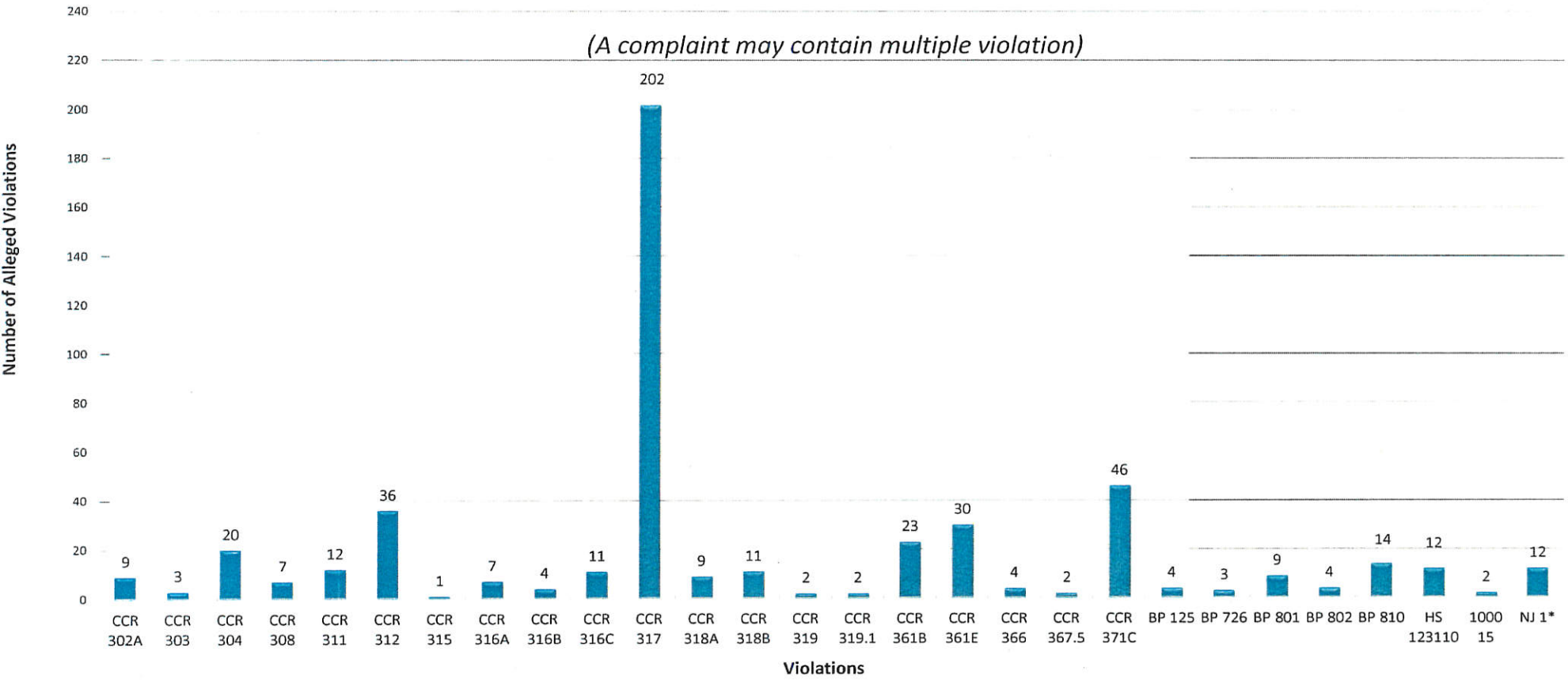
Revised February 8, 2017

Fiscal Year 2016/2017

July 1, 2016 - December 31, 2016

Total Number of Complaints Opened - 253

Total Number of Alleged Violations - 501



Unprofessional Conduct/Violation Codes/Descriptions

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

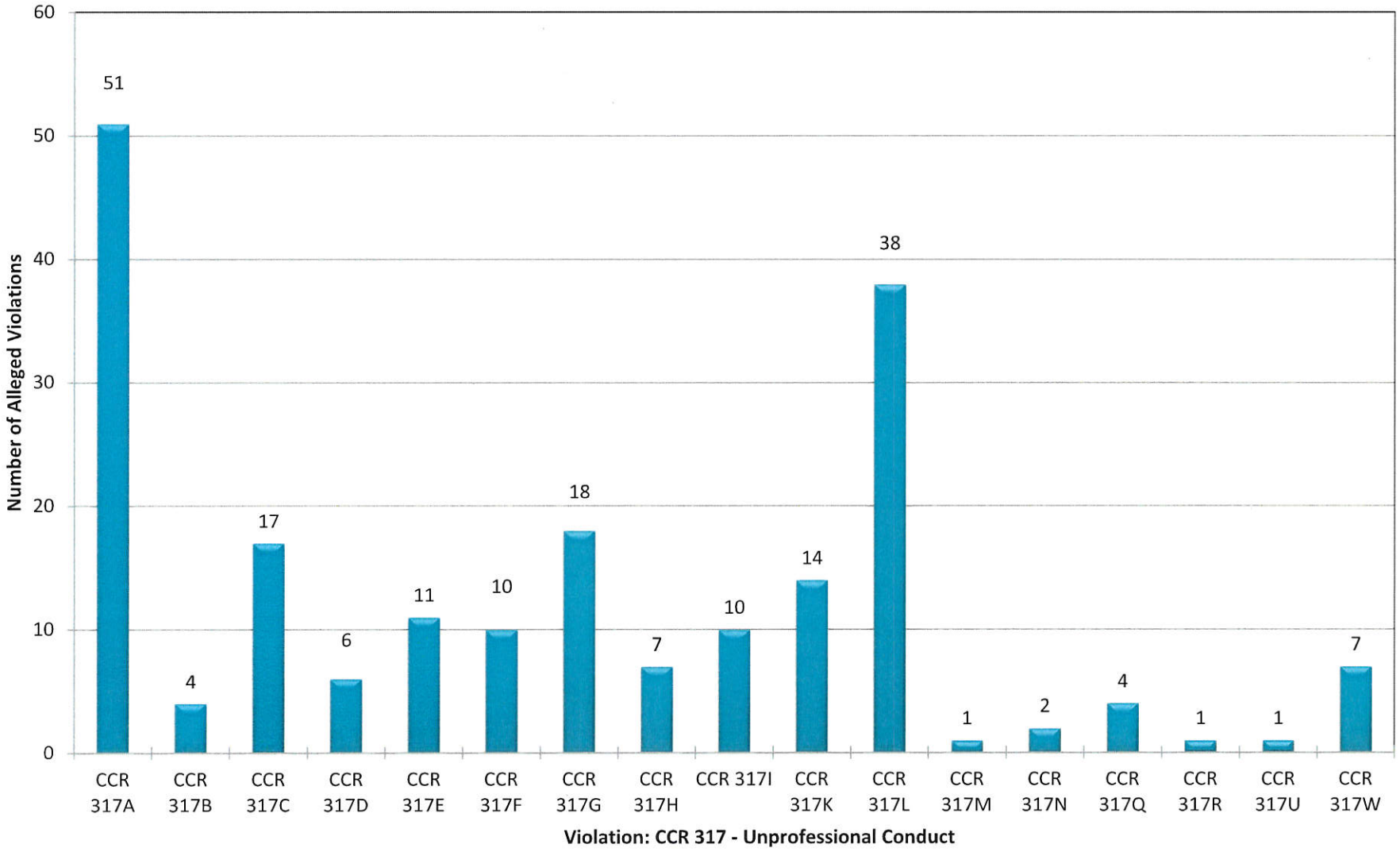
(a) Gross Negligence
(b) Repeated Negligent Acts
(c) Incompetence
(d) Excessive Treatment
(e) Conduct Endangering Public
(f) Administering to Oneself Drugs/Alcohol
(g) Conviction of a Crime Related to Chiropractic Duties
(h) Conviction of a Crime Involving Moral Turpitude/Physical Violence/etc.
(i) Conviction of a Crime Involving Drugs or Alcohol
(j) Dispensing Narcotics/Dangerous Drugs/etc.
(k) Moral Turpitude/Corruption/etc.
(l) False Representation
(m) Violation of the ACT/Regulations
(n) False Statement Given in Connection with an Application for Licensure
(o) Impersonating an Applicant
(p) Illegal Advertising related to Violations of Section 17500 BP
(q) Fraud/Misrepresentation
(r) Unauthorized Disclosure of Patient Records
(s) Employment/Use of Cappers or Steerers
(t) Offer/Receive Compensation for Referral
(u) Participate in an Illegal Referral Service
(v) Waiving Deductible or Co-Pay
(w) Fail to Refer Patient to Physician/Surgeon/etc.
(x) Offer or Substitution of Spinal Manipulation for Vaccination

Fiscal Year 2016/2017

July 1, 2016 - December 31, 2016

Number of Complaints Opened Alleging Violation of CCR 317= 202

(A complaint may contain multiple violations)



Violation Codes/Descriptions

The Chiropractic Initiative Act of California (ACT):

10 – Rules of Professional Conduct
15 – Noncompliance With and Violations of Act

California Code of Regulations (CCR):

302(a) – Scope of Practice
302.5 – Use of Laser
303 – Filing of Addresses
304 – Discipline by Another State
308 – Display of License
311 – Advertisements
312 – Illegal Practice
315 – Mental Illness
316 (a) – Responsibility for Conduct on Premises
316 (b) – Sexual Misconduct on Premises
316 (c) – Sexual Misconduct/Relations
317 – Unprofessional Conduct
318 – Chiropractic Patient Records/Accountable Billing
319 – Free or Discount Services
319.1 – Informed Consent
361(b) – 24 Hour CE Requirement
366 – Continuing Education Audits
367.5 – Application, Review of Refusal to Approve (corporations)
367.7 – Name of Corporation
371(c) – Renewal and Restoration

Business and Professions Code (BP):

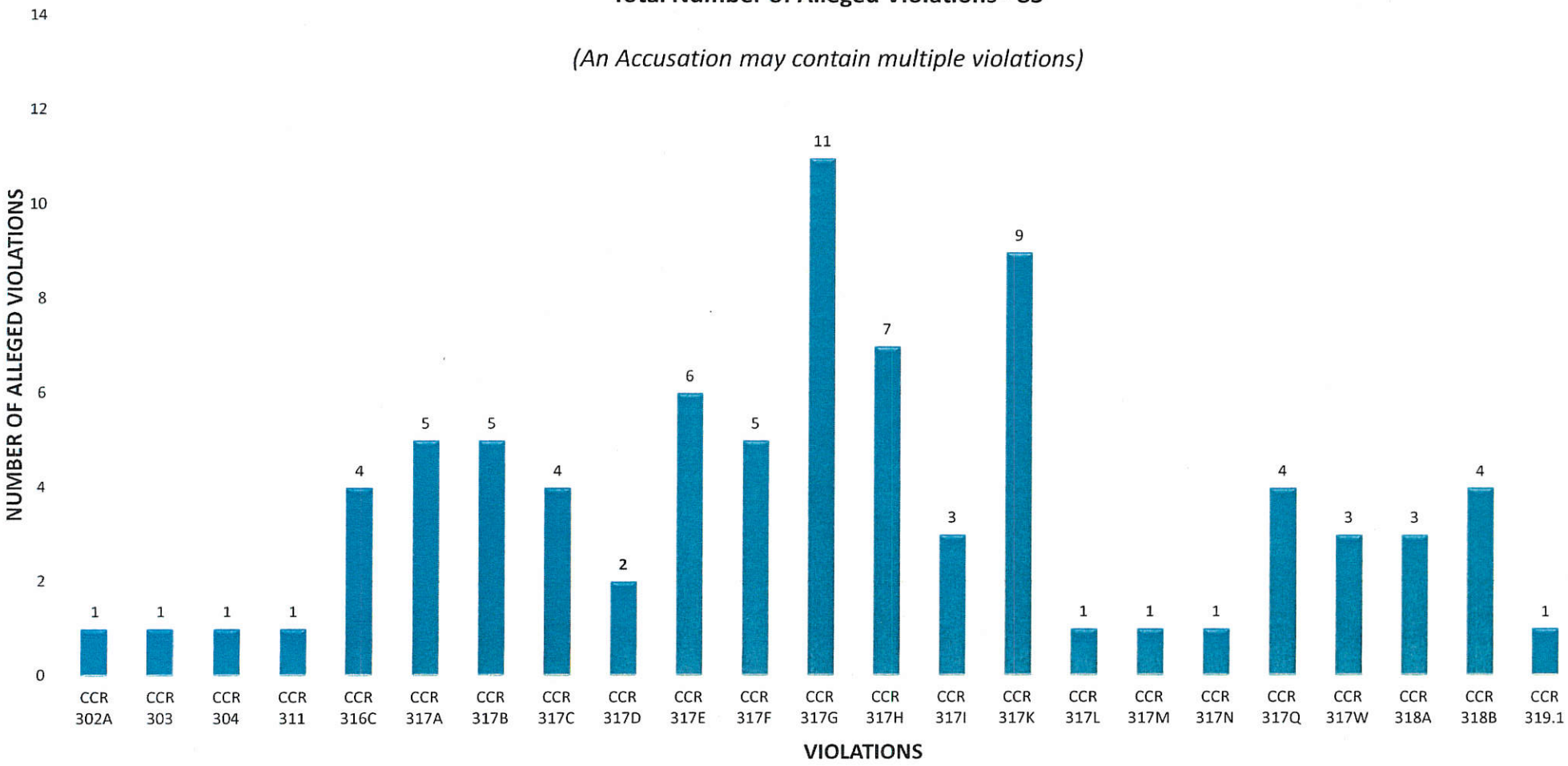
125 – Aiding/Abet Unlicensed Activity
801 (a) – Professional Reporting Requirements (Ins-malpractice settlements)
802 (a) – Professional Reporting Requirements (Lic-malpractice settlements)
810 – Insurance Fraud
1051 – Apply for a Corporation with the Board
1054 – Name of Chiropractic Corporation
17500 – Unlawful Advertising

Health and Safety Code (HS):

123110 – Patient Access to Health Records

Fiscal Year 2016/2017
July 1, 2016 - December 31, 2016
Number of Accusations Filed - 18
Total Number of Alleged Violations - 85

(An Accusation may contain multiple violations)



Department of Consumer Affairs

Board of Chiropractic Examiners

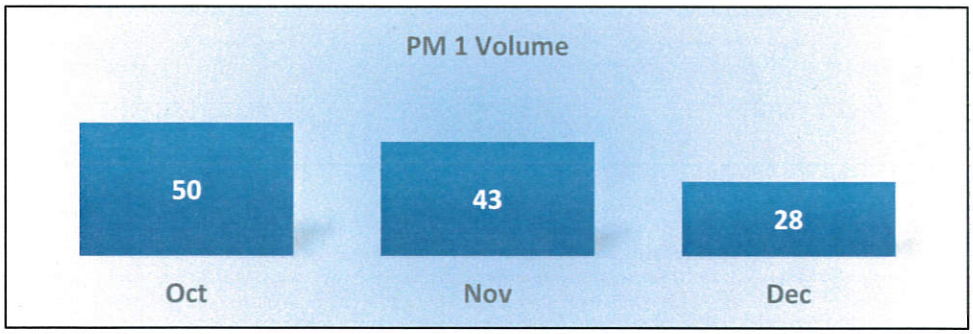
Enforcement Performance Measures

Q2 Report *(October - December 2016)*

To ensure stakeholders can review the Board's progress toward meeting its enforcement goals and targets, we have developed a transparent system of performance measurement. These measures will be posted publicly on a quarterly basis.

PM1 | Volume

Number of complaints and convictions received.

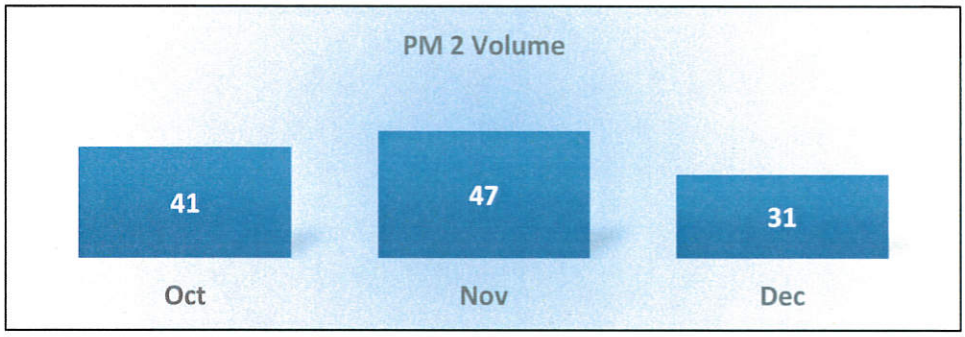


Total Received: 121 | **Monthly Average**: 40

Complaints: 109 | **Convictions**: 12

PM2 | Intake – Volume

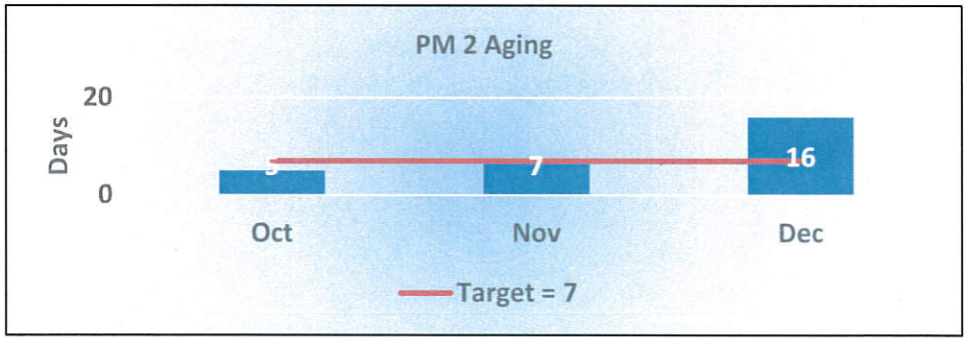
Number of complaints closed or assigned to an investigator.



Total: 119 | **Monthly Average:** 40

PM2 | Intake – Cycle Time

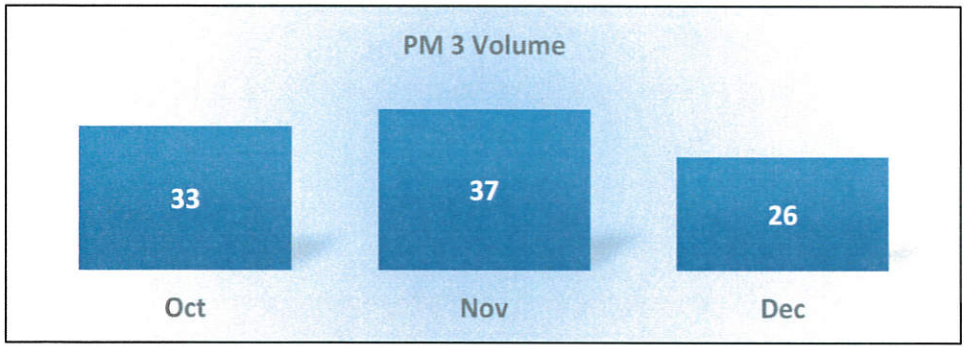
Average number of days from complaint receipt,
to the date the complaint was closed or assigned to an investigator.



Target Average: 7 Days | **Actual Average:** 9 Days

PM3 | Investigations – Volume

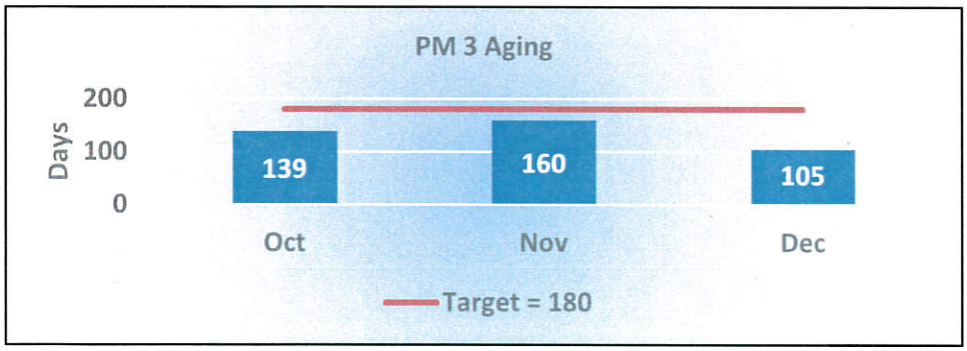
Number of investigations closed (not including cases transmitted to the Attorney General).



Total: 96 | **Monthly Average:** 32

PM3 | Investigations – Cycle Time

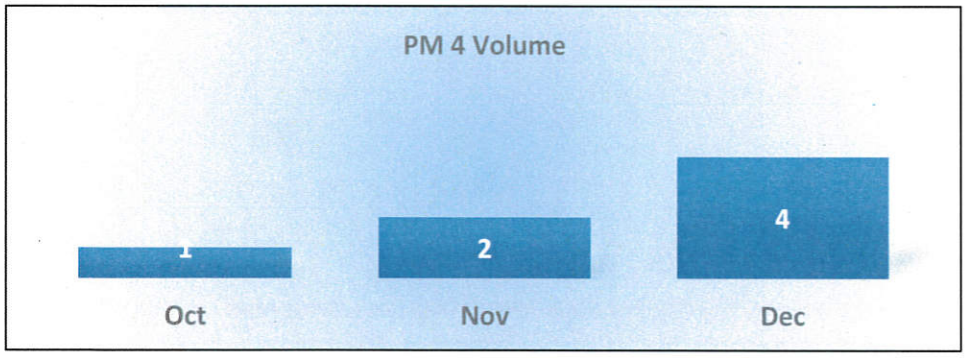
Average number of days to complete the entire enforcement process for cases not transmitted to the Attorney General.
(Includes intake and investigation.)



Target Average: 180 Days | **Actual Average:** 138 Days

PM4 | Formal Discipline – Volume

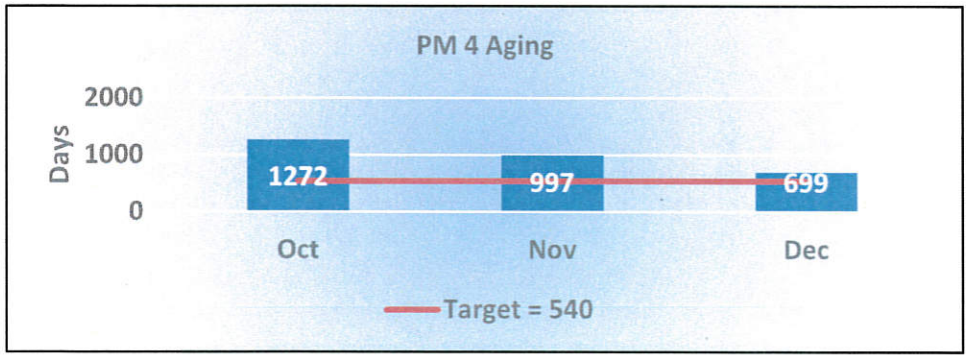
Cases closed after transmission to the Attorney General for formal disciplinary action. This includes formal discipline, and closures without formal discipline (e.g., withdrawals, dismissals, etc.).



Total: 7

PM4 | Formal Discipline – Cycle Time

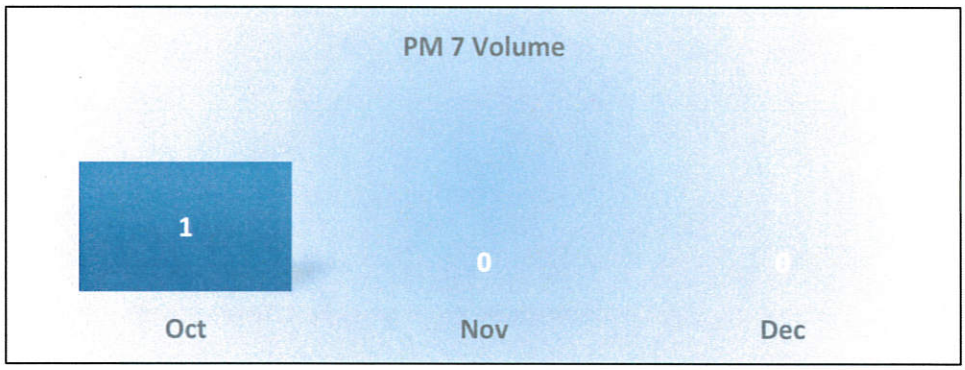
Average number of days to complete the entire enforcement process for cases transmitted to the Attorney General. (Includes intake, investigation, and case outcome.)



Target Average: 540 Days | **Actual Average:** 866 Days

PM7 |Probation Intake – Volume

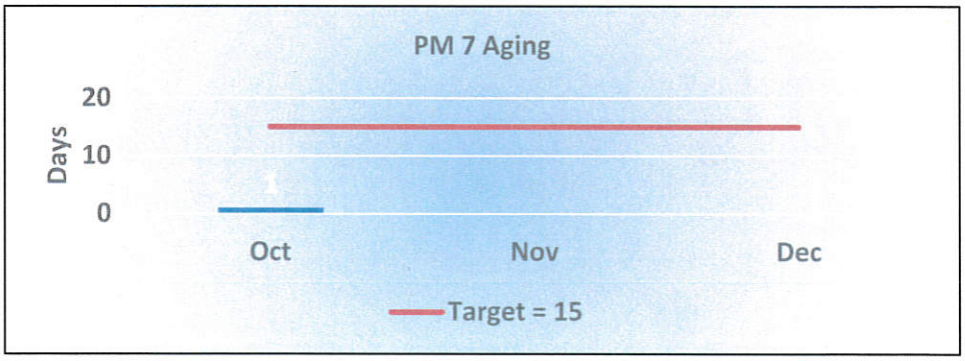
Number of new probation cases.



Total: 1

PM7 |Probation Intake – Cycle Time

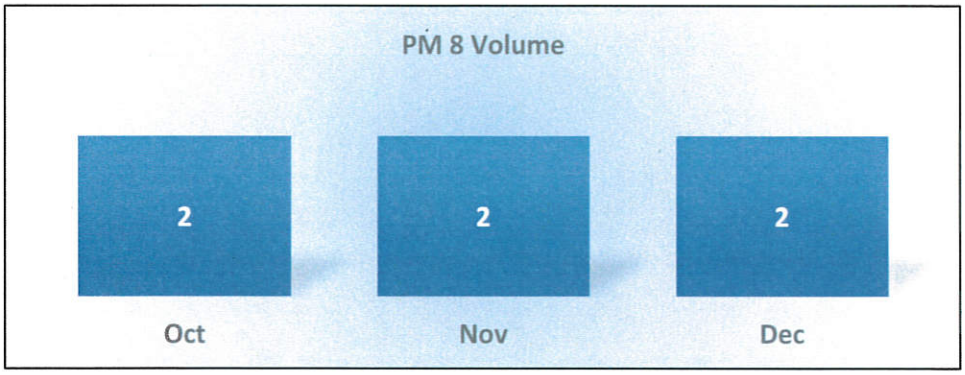
Average number of days from monitor assignment, to the date the monitor makes first contact with the probationer.



Target Average: 15 Days | **Actual Average:** 1 Day

PM8 |Probation Violation Response – Volume

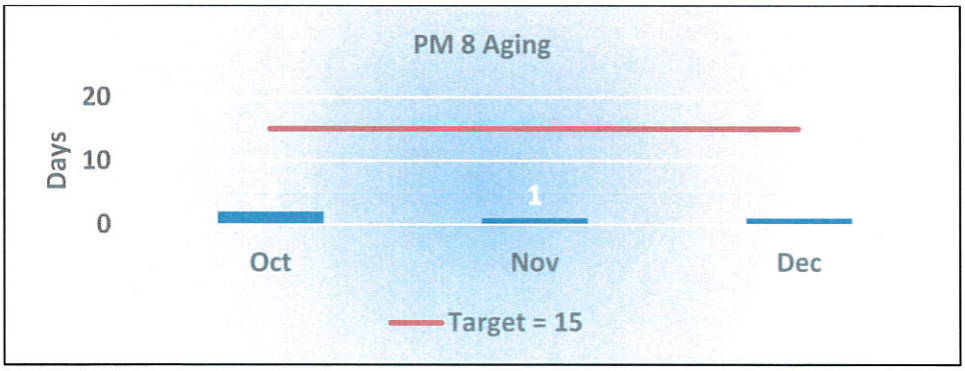
Number of probation violation cases.



Total: 6

PM8 |Probation Violation Response – Cycle Time

Average number of days from the date a violation of probation is reported, to the date the assigned monitor initiates appropriate action.



Target Average: 15 Days | **Actual Average:** 1 Day

June 2017

ACCUSATIONS FILED

Name and City	License No.	Date Filed	Alleged Violations
Derbeshyan, Hakop **Lake Balboa, CA**	DC 31249	6/21/2017	Conviction of a crime, which is substantially related to the duties of a chiropractor; unprofessional conduct/ endangering the health, welfare and safety of the public; unprofessional conduct/commission of acts involving moral turpitude, dishonesty, physical violence or corruption; conviction of a crime involving moral turpitude, dishonesty, physical violence or corruption
Stadish, Joseph J. **Hawthorne, CA**	DC 13723	6/27/2017	Holding self as a Medical Doctor; failure to file practice address; unprofessional conduct/ incompetence; knowingly making or signing a document related to the practice of chiropractic, which falsely represents the facts; conspiring to violate provisions of the ACT or regulations; participation in fraud/misrepresentation; unprofessional conduct/commission of acts involving moral turpitude, dishonesty, physical violence or corruption; failure to ensure or maintain accurate billings of chiropractic services

STATEMENT OF ISSUES

Name and City	License No.	Date Filed	Action	Effective Date	Violations
No Data to Report					

DISCIPLINARY ACTIONS

Name and City	License No.	Action	Effective Date	Violations
Pierce, Dolphus Dwayne II **Lemoore, CA**	DC 19570	Voluntary Surrender	6/3/2017	Participation in fraud/misrepresentation/ health insurance fraud; conviction of a crime involving moral turpitude, dishonesty, physical violence or corruption; conviction of a crime which is substantially related to the duties of a chiropractor; unprofessional conduct/commission of acts involving moral turpitude, dishonesty, physical violence or corruption; knowingly making or signing a document related to the practice of chiropractic, which falsely represents the facts
Svhlenger, Christopher Daniel **Stockton, CA**	DC 28424	Revoked, stayed, 3yrs probation	6/24/2017	Unprofessional conduct/ incompetence; unprofessional conduct/ excessive treatment ; failure to refer patient to a physician, surgeon or other licensed health care provider; failure to ensure or maintain accurate billings of chiropractic services; failure to obtain patient's written informed consent

Smith, Douglas Wayne Santa Barbara, CA	DC 17824	Revoked, stayed, 5yrs probation	6/21/2017	Dangerous use of alcohol in a manner dangerous to oneself and the public; conviction of a crime which is substantially related to the duties of a chiropractor
Villa, James Loreto Paramont, CA	DC 20883	Revoked, stayed, 3yrs probation	6/22/2017	Sexual misconduct /relations with a patient on premises; unprofessional conduct sexual misconduct/relations with a patient; unprofessional conduct/gross negligence; unprofessional conduct/ repeated negligent acts; unprofessional conduct/ excessive treatment; unprofessional conduct/ incompetence; unprofessional conduct/commission of acts involving moral turpitude, dishonesty, physical violence or corruption; failure to refer patient to a physician, surgeon or other licensed health care provider; failure to ensure or maintain accurate billings of chiropractic services

REINSTATMENT OF LICENSE

Name and City	License No.	Date Filed	Action	Effective Date	Violations
No Data to Report					

FINAL CITATIONS ISSUED

Name and City	License Number	Fine Amount	Date Issued	Violations
Thomas, Allen Adolphus III Westchester, CA	DC 30156	$1500	6/11/2017	Unlicensed individual/ illegal practice; failure to provide copies of patient records
Bellinger, Brian K Eureka, CA	DC 27012	$1500	6/11/2017	Unprofessional conduct sexual misconduct/relations with a patient
Le, Alexander Dinh Garden Grove, CA	DC 28899	$4000	6/30/2017	Participation in fraud/misrepresentation/ health insurance fraud; unprofessional conduct/ repeated negligent acts; failure to ensure or maintain accurate billings of chiropractic services; failure to obtain patient's written informed consent

PETITION FOR REINSTATEMENT

Name and City	License No.	Revocation Date	Action
Richardson, Charles Edward Sunland, CA	DC 33073	9/22/2014	Petition denied effective 6/27/2017

PETITION FOR EARLY TERMINATION OF PROBATION

Name and City	License Number	Probation End Date	Action
No Data to Report			

PETITION FOR MODIFICATION OF PROBATION

Name and City	License Number	Probation End Date	Action
No Data to Report			

Department of Consumer Affairs

Board of Podiatric Medicine

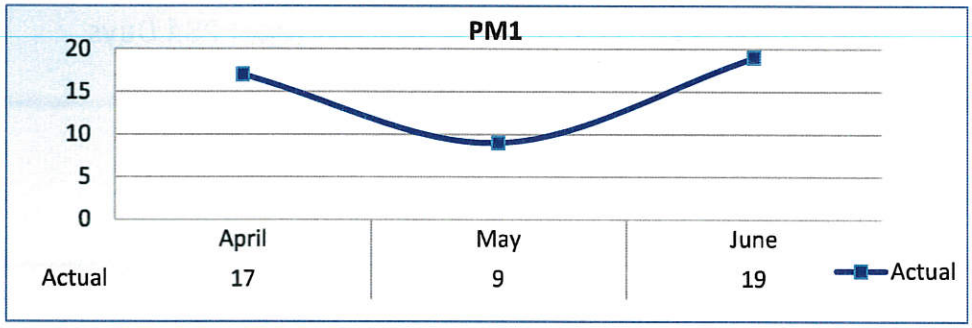
Performance Measures

Q4 Report *(April - June 2015)*

To ensure stakeholders can review the Board's progress toward meeting its enforcement goals and targets, we have developed a transparent system of performance measurement. These measures will be posted publicly on a quarterly basis.

PM1 | Volume

Number of complaints and convictions received.

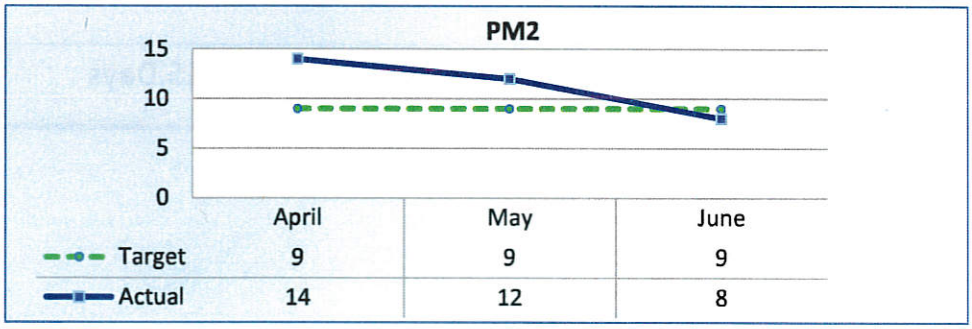


Total Received: 45 Monthly Average: 15

Complaints: 40 | **Convictions**: 5

PM2 | Intake

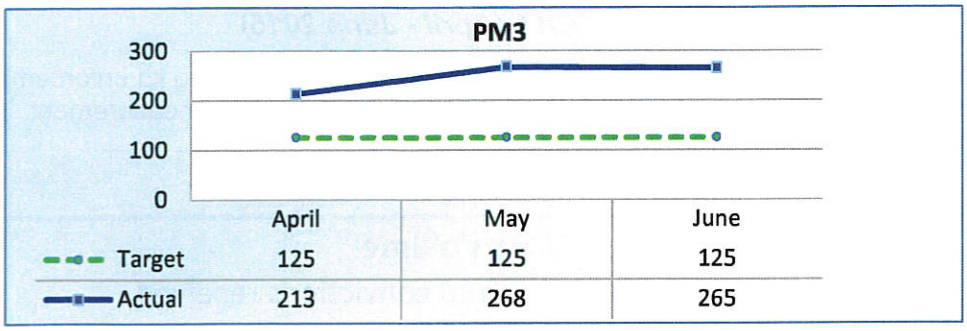
Average cycle time from complaint receipt, to the date the complaint was assigned to an investigator.



Target Average: 9 Days | **Actual Average:** 12 Days

PM3 | Intake & Investigation

Average number of days to complete the entire enforcement process for cases not transmitted to the AG. (Includes intake and investigation)

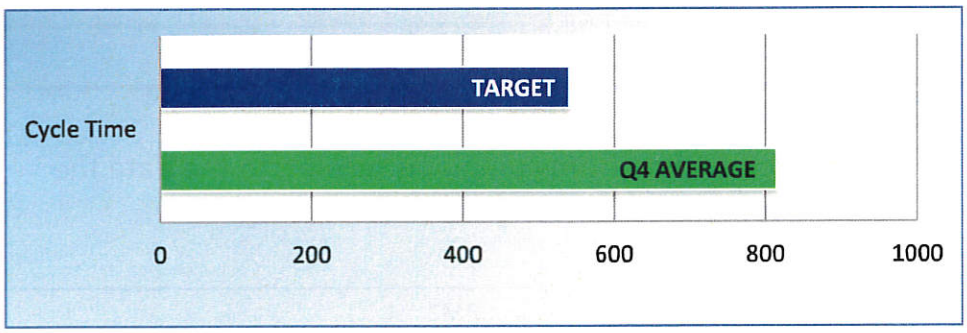


	April	May	June
Target	125	125	125
Actual	213	268	265

Target Average: 125 Days | **Actual Average:** 234 Days

PM4 | Formal Discipline

Average number of days to complete the entire enforcement process for cases transmitted to the AG for formal discipline. (Includes intake, investigation, and transmittal outcome)



Target Average: 540 Days | **Actual Average:** 815 Days

PM7 |Probation Intake

Average number of days from monitor assignment, to the date the monitor makes first contact with the probationer.

The Board did not contact any new probationers this quarter.

Target Average: 25 Days | **Actual Average:** N/A

PM8 |Probation Violation Response

Average number of days from the date a violation of probation is reported, to the date the assigned monitor initiates appropriate action.

The Board did not have any new probation violations this quarter.

Target Average: 14 Days | **Actual Average:** N/A

STATE OF CALIFORNIA
BOARD OF
PODIATRIC
MEDICINE

2016 Quarterly Calendar

2016

February

Feb 15
President's Day

Feb 19
Last day for bills to be **introduced**

Feb 10
BPM Committee Meetings

Feb 10
May License Renewals mailed out

March

Mar 9
BPM Sunset Hearing

Mar 4
BPM Board Meeting

Mar 28
Legislature reconvenes from Spring Recess

Mar 17
Spring Recess begins upon adjournment

Mar 10
June License Renewals mailed out

April

Apr 1
Cesar Chavez Day

Apr 6
Legislature reconvenes from Spring Recess

Apr 1
Residency Program Applications mailed

Apr 15
Last day to **submit motions** to Committee for May meetings

Apr 10
July License Renewals mailed out

Legislative Committee	Enforcement Committee	Public Education Committee	Licensing Committee	BPM Staff	CA Legislature	Committee Chairs	State Holidays DCA Information

ATTACHMENT G

Board of Podiatric Medicine

Enforcement Statistics – Complaint Data

Quarter 2 Report (October – December 2016)

Complaint Intake

	16-Oct	16-Nov	16-Dec	QTR 2 Total	Over QTR 2 last FY	+/- %
Received	10	13	14	37	23	+61%
Closed W/O Investigation	0	0	0	0	1	-100%
Assigned for investigation	8	14	16	38	24	+58%
Average days to close or assign **(Target = 9 Days)**	5	3	4	4	14	-71%
Pending	3	2	0			

Complaint Intake - Convictions/Arrests Reports

	16-Oct	16-Nov	16-Dec	QTR 2 Total	Over QTR 2 last FY	+/- %
Received	0	0	1	1	2	-50%
Assigned for investigation	0	0	1	1	1	0%
Average days to close or assign **(Target = 9 Days)**	0	0	3	3	2	+50%
Pending	0	0	0			

Total Complaint Intake

	16-Oct	16-Nov	16-Dec	QTR 2 Total	Over QTR 2 last FY	+/- %
Received	10	13	15	38	25	+52%
Assigned for investigation	8	14	17	39	25	+56%
Average days to close or assign **(Target = 9 days)**	5	3	4	4	14	-71%
Pending	3	2	0			

ATTACHMENT A

Board of Registered Nursing
Intervention Program
Statistical Summary
January 2017

INTAKES			
	Current Month	Year To Date	Program To Date
Referral Type*			
Board-Referred	5	70	3,863
Self-Referred	2	17	1,361
TOTAL INTAKES COMPLETED	**7**	**87**	**5,224**

NUMBER OF PARTICIPANTS: 379 (as of January 31, 2017)

**May change after Intake*

PRESENTING PROBLEM AT INTAKE			
	Current Month	Year To Date	Program To Date
Substance Abuse (only)	5	62	3,279
Mental Illness (only)	1	3	171
Dual Diagnosis	1	21	1,689
Undetermined	0	1	85
Most Common Substance Used Prior to Intake	Alcohol		

CLOSURES			
	Current Month	Year To Date	Program to Date
Successful Completion	7	71	2,155
Failure to Derive Benefit	0	2	125
Failure to Comply	1	4	982
Moved to Another State	0	0	52
Not Accepted by IEC	1	1	61
Voluntary Withdrawal Post-IEC	0	2	341
Voluntary Withdrawal Pre-IEC	1	13	542
Participant Withdrawn-Failure to sign contract	0	0	1
Closed Public Risk	1	11	362
No Longer Eligible	0	3	20
Clinically Inappropriate	0	0	34
Client Expired	0	0	41
Sent to Board Pre-IEC	0	0	2
TOTAL CLOSURES	**11**	**107**	**4,718**

INTAKE DEMOGRAPHICS			
	Current Month	Year To Date	Program to Date
Gender			
Female	6	67	4,077
Male	1	20	1,120
Unknown	0	0	27
Age Category (at Intake)			
20-24	0	0	34
25-29	1	7	425
30-34	2	17	880
35-39	1	22	1,091

40-44	2	10	1,073
45-49	0	16	842
50-54	0	6	534
55-59	1	5	242
60-64	0	3	79
65+	0	1	11
DOB Error/Not Entered	0	0	13
Ethnicity			
American Indian/Alaska Native	0	0	39
Asian/Asian Indian	0	0	124
African American	0	2	167
Hispanic	0	9	228
Native Hawaiian/Pacific Islander	1	1	31
Caucasian	6	63	4,280
Other	0	4	81
Not Reported	0	8	274
Worksite at Intake**			
Case Management	0	0	5
Clinic	0	0	118
Clinical - Public, non-profit	0	0	2
Corporation	0	0	9
DNovor's Office	0	0	46
Government Agency	0	0	7
Group Practice - profit	0	0	16
Health Maintenance Organization	0	0	6
HMO	0	0	1
Home Health Care	0	0	19
Hospital	0	6	2,603
Not Working in Nursing	0	0	4
Nursing Home	0	0	10
Other	0	1	248
Prison/Jail	0	0	13
Private Practice	0	0	9
Registery	0	1	179
Retail	0	0	1
School of Nursing	0	0	9
Telephone Advice	0	0	1
Temporary Service	0	0	3
Undetermined	7	41	608
Unemployed	0	38	1,307
***NOTE: RN licenses are placed on inactive status once an RN enrolls in the Program*			
Specialty at Intake			
Chemical Dependency	0	0	8
Critical Care	0	7	915
Dental Public Health	0	0	1
DNovor's Office	0	0	27
Emergency Department	0	7	595
Gerontology	0	0	28
Home Care	0	2	100
Hospital	0	12	349
Insurance	0	0	5
Medical Surgical	0	9	991

CALIFORNIA DEPARTMENT OF CONSUMER AFFAIRS

CASE REFERRAL GUIDELINES FOR INVESTIGATION

COMPLAINTS TO BE REFERRED TO DIVISION OF INVESTIGATION

CATEGORY 1 • URGENT

- *Acts of serious patient/consumer harm, great bodily injury, or death*
- *Mental or physical impairment of licensee with potential for public harm*
- *Practicing while under the influence of drugs/alcohol*
- *Repeated allegations of drug/alcohol abuse*
- *Narcotic/prescription drug theft; drug diversion; other unlawful possession*
- *Sexual misconduct with a patient*
- *Physical/mental abuse of a patient*
- *Over-prescribing*
- *Gross negligence/incompetence resulting in serious harm/injury*
- *Media/politically sensitive cases*

CATEGORY 2 • HIGH

- *Prescribing/dispensing without authority*
- *Unlicensed practice/unlicensed activity*
- *Aiding and abetting unlicensed activity*
- *Criminal violations including but not limited to prescription forgery, selling or using fraudulent documents and/or transcripts, possession of narcotics, major financial fraud, financial elder abuse, insurance fraud, etc.*
- *Exam subversion where exam is compromised*
- *Mandatory peer review reporting (B&P 805)*
- *Law enforcement standby/security (subject to staff availability)*

COMPLAINTS TO BE RETAINED BY BOARD/BUREAU STAFF

CATEGORY 3 • ROUTINE

- *General unprofessional conduct and/or general negligence/incompetence resulting in no injury or minor harm/injury (non-intentional act, nonlife threatening)*
- *Subsequent arrest notifications (no immediate public threat)*
- *Exam subversion (individual cheating where exam is not compromised)*
- *Medical malpractice reporting (B&P 801) cases unless evaluated as category 1 or 2*
- *Serving subpoenas for hearings and for records (non DOI investigations)*
- *Patient abandonment*
- *False/misleading advertising (not related to unlicensed activity or criminal activity)*
- *Applicant misconduct*

CATEGORY 4 • ROUTINE

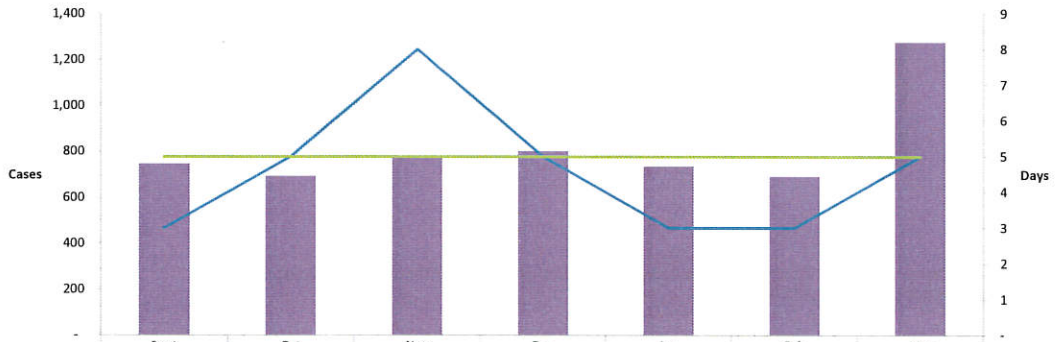
- *Unsanitary conditions*
- *Project abandonment*
- *Failure to release medical records*
- *Recordkeeping violations*
- *Continuing education violations*
- *Declaration and record collection (e.g., licensee statements, medical records, arrest and conviction records, employment records)*
- *Complaints of offensive behavior or language (e.g., poor bedside manner, rude, abrupt, etc.)*
- *Quality-of-service complaints*
- *Complaints against licensee on probation that do not meet category 1 or 2*
- *Anonymous complaints unless Board is able to corroborate that it meets category 1 or 2*
- *Nonjurisdictional issues*

Revised: August 2016

STATE OF CALIFORNIA
dca
DEPARTMENT OF CONSUMER AFFAIRS

BRN Complaint Intake Statistical Reports

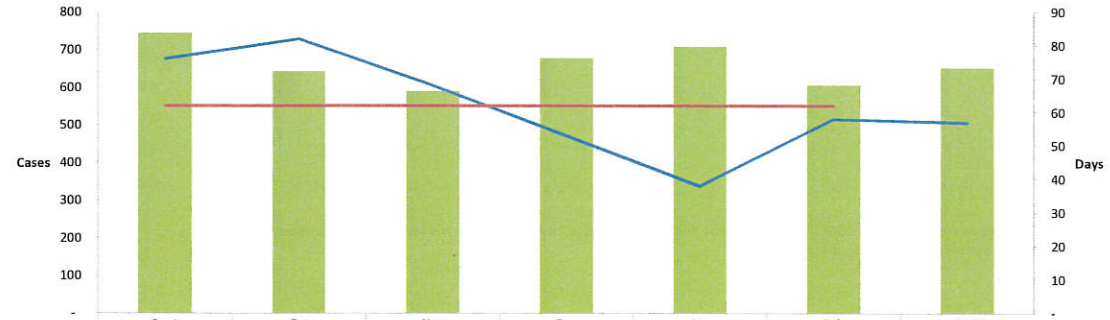
BRN-ENF-001: Complaint Received to Complaint Entered



	Sept	Oct	Nov	Dec	Jan	Feb	Mar
Volume	746	694	772	802	736	692	1,277
Age	3	5	8	5	3	3	5
Average Age	5	5	5	5	5	5	
Target	5	5	5	5	5	5	5

*The Average Age and Target for this reporting period are the same (5 days).
**The Case Age Average for March 2017 is not included for this reporting period, March's average will be calculated in subsequent months (Post-Audit 6 months' data) starting in April 2017.

ENF-0013-400: Open to Close Without Field Investigation



	Sept	Oct	Nov	Dec	Jan	Feb	Mar
Volume	745	644	590	678	710	607	653
Age	76	82	68	53	38	58	57
Average Age	62	62	62	62	62	62	

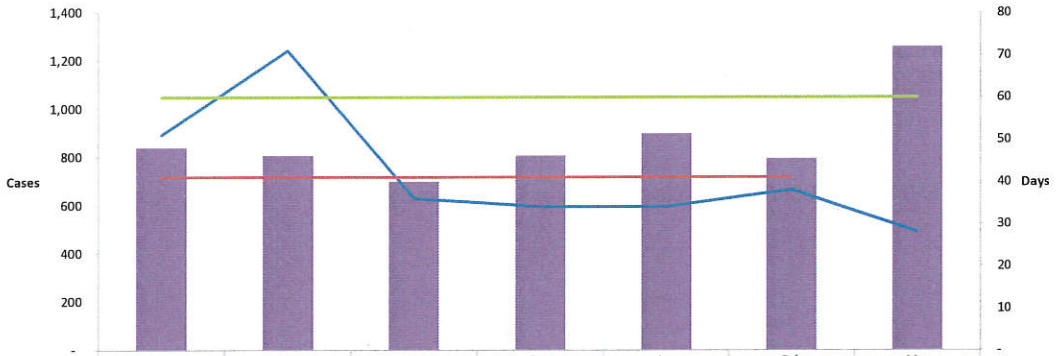
* The Case Age Average for March 2017 is not included for this reporting period, March's average will be calculated in subsequent months (Post-Audit 6 months' data) starting in April 2017.

BRN-ENF-002: Complaint Opened to Investigation Start

	Sept	Oct	Nov	Dec	Jan	Feb	Mar
Volume	713	637	739	761	715	662	1,246
Average Age	2.00	2.00	2.00	2.00	2.00	2.00	
Age	2.00	2.00	4.00	2.00	2.00	2.00	2.00

* The Case Age Average for March 2017 is not included for this reporting period, March's average will be calculated in subsequent months (Post-Audit 6 months' data) starting in April 2017.

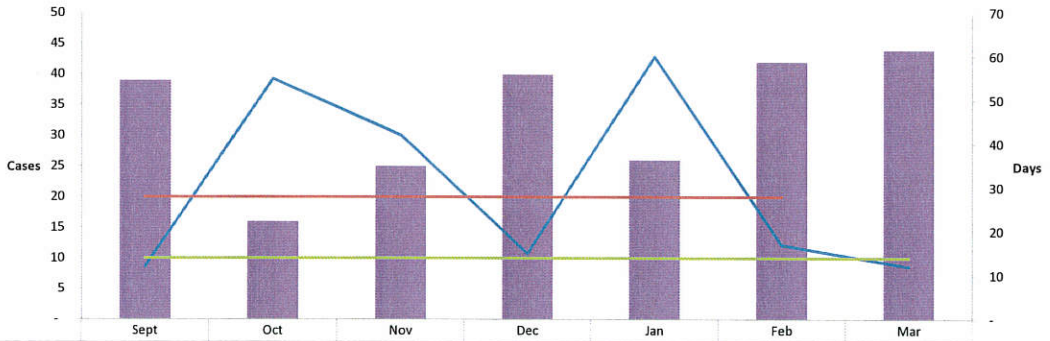
BRN-ENF-004: Desk Investigation Time



	Sept	Oct	Nov	Dec	Jan	Feb	Mar
Volume	840	807	700	807	899	795	1,259
Age	51	71	36	34	34	38	28
Average Age	41	41	41	41	41	41	
Target	60	60	60	60	60	60	60

* The Case Age Average for March 2017 is not included for this reporting period, March's average will be calculated in subsequent months (Post-Audit 6 months' data) starting in April 2017.

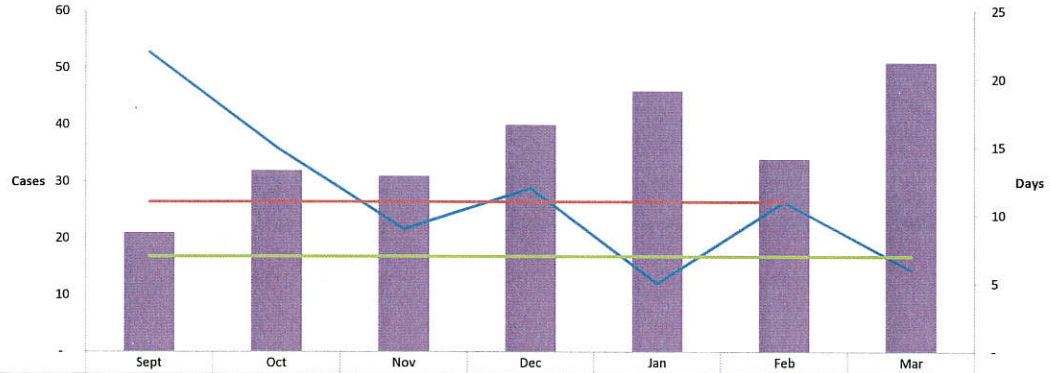
ENF-0031-400: Desk Investigation Completed to Non-Sworn Investigation Referral



	Sept	Oct	Nov	Dec	Jan	Feb	Mar
Volume	39	16	25	40	26	42	44
Age	12	55	42	15	60	17	12
Average Age	28	28	28	28	28	28	
Target	14	14	14	14	14	14	14

* The Case Age Average for March 2017 is not included for this reporting period, March's average will be calculated in subsequent months (Post-Audit 6 months' data) starting in April 2017.

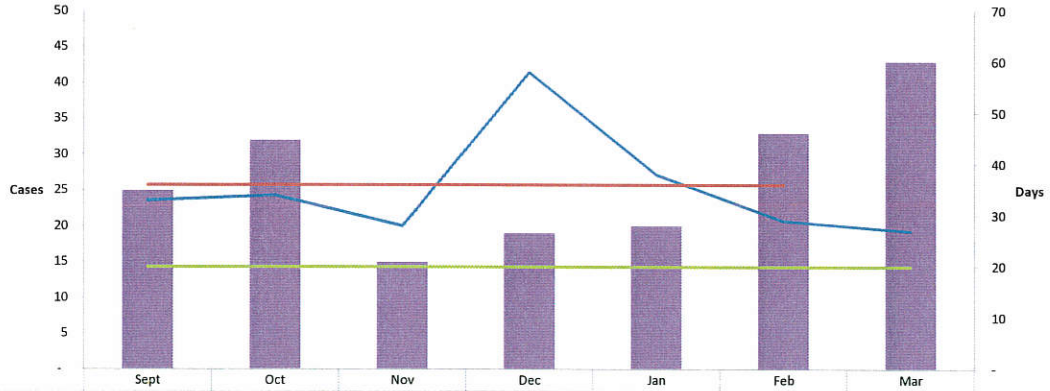
ENF-0031-400: Desk Investigation Completed to Sworn Investigation Referral



	Sept	Oct	Nov	Dec	Jan	Feb	Mar
Volume	21	32	31	40	46	34	51
Age	22	15	9	12	5	11	6
Average Age	11	11	11	11	11	11	
Target	7	7	7	7	7	7	7

* The Case Age Average for March 2017 is not included for this reporting period, March's average will be calculated in subsequent months (Post-Audit 6 months' data) starting in April 2017.

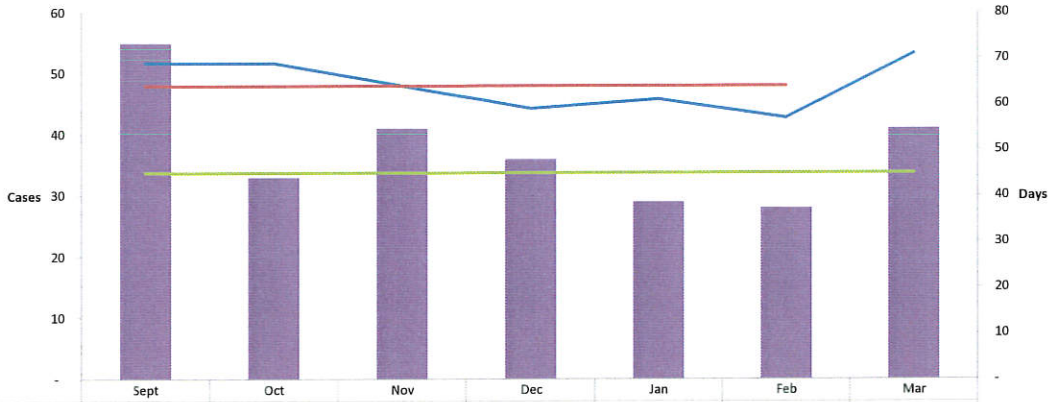
ENF-0015-400: Field Investigation Closed to Expert Referral



	Sept	Oct	Nov	Dec	Jan	Feb	Mar
Volume	25	32	15	19	20	33	43
Age	33	34	28	58	38	29	27
Average Age	36	36	36	36	36	36	
Target	20	20	20	20	20	20	20

* The Case Age Average for March 2017 is not included for this reporting period, March's average will be calculated in subsequent months (Post-Audit 6 months' data) starting in April 2017.

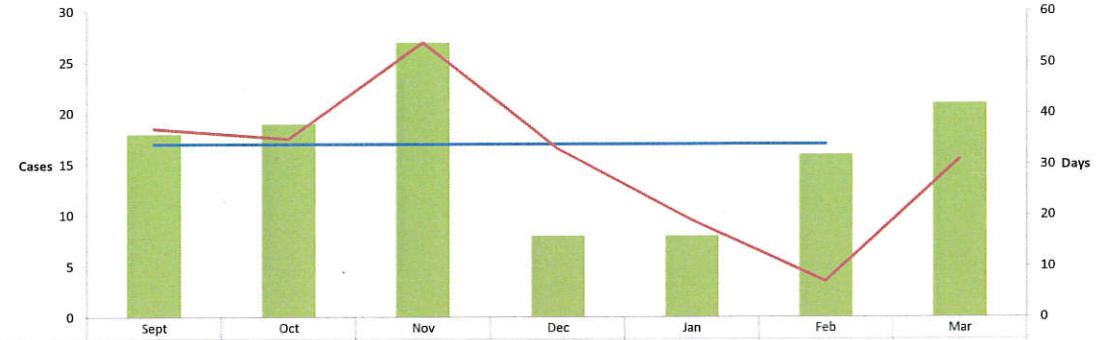
BRN-ENF-005: Time at Expert Witness



	Sept	Oct	Nov	Dec	Jan	Feb	Mar
Volume	55	33	41	36	29	28	41
Age	69	69	64	59	61	57	71
Average Age	64	64	64	64	64	64	
Target	45	45	45	45	45	45	45

* The Case Age Average for March 2017 is not included for this reporting period, March's average will be calculated in subsequent months (Post-Audit 6 months' data) starting in April 2017.

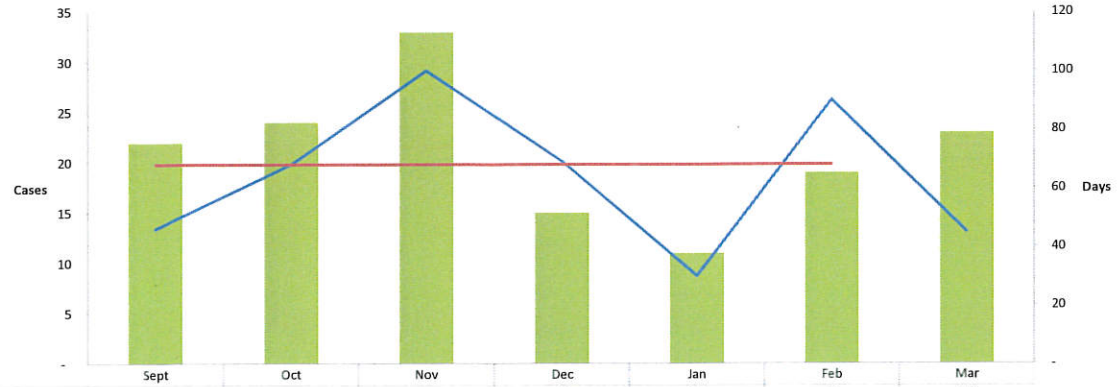
ENF-0032-400: Field Investigation Closed to AG Referral w/out Expert (Complaint Intake)



	Sept	Oct	Nov	Dec	Jan	Feb	Mar
Volume	18	19	27	8	8	16	21
Average Age	34	34	34	34	34	34	
Age	37	35	54	33	19	7	31

* The Case Age Average for March 2017 is not included for this reporting period, March's average will be calculated in subsequent months (Post-Audit 6 months' data) starting in April 2017.

ENF-0032-400: Field Investigation Closed to AG Referral w/out Expert (Total)



	Sept	Oct	Nov	Dec	Jan	Feb	Mar
Volume	22	24	33	15	11	19	23
Age	46	68	100	69	30	90	45
Average Age	68	68	68	68	68	68	

* The Case Age Average for March 2017 is not included for this reporting period, March's average will be calculated in subsequent months (Post-Audit 6 months' data) starting in April 2017.

Department of Consumer Affairs

Physical Therapy Board of California

Performance Measures

Q3 Report *(January - March 2012)*

To ensure stakeholders can review the Board's progress toward meeting its enforcement goals and targets, we have developed a transparent system of performance measurement. These measures will be posted publicly on a quarterly basis.

Volume

Number of complaints and convictions received.

Q3 Total: 356

Complaints: 298 Convictions: 58

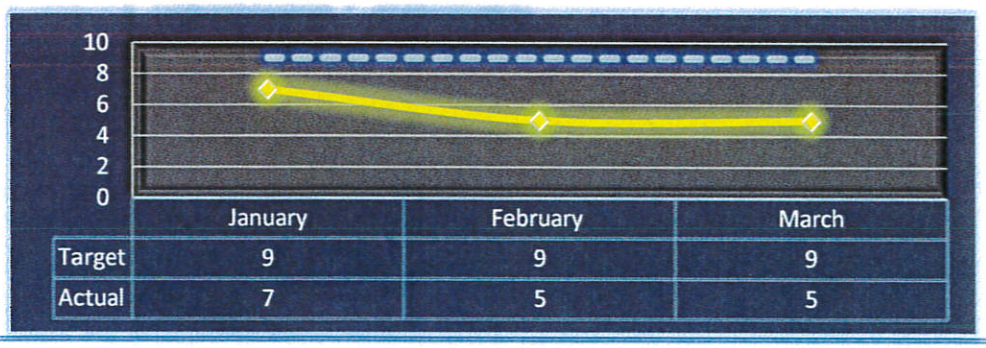
Q3 Monthly Average: 118

Intake

Average cycle time from complaint receipt, to the date the complaint was assigned to an investigator.

Target: 9 Days

Q3 Average: 6 Days

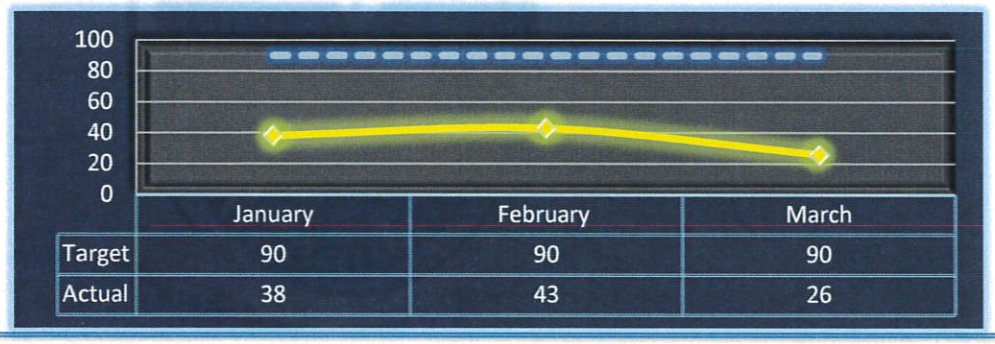


Intake & Investigation

Average cycle time from complaint receipt to closure of the investigation process. Does not include cases sent to the Attorney General or other forms of formal discipline.

Target: 90 Days

Q3 Average: 36 Days



	January	February	March
Target	90	90	90
Actual	38	43	26

Formal Discipline

Average number of days to complete the entire enforcement process for cases resulting in formal discipline. (Includes intake and investigation by the Board, and prosecution by the AG)

Target: 540 Days

Q3 Average: 530 Days

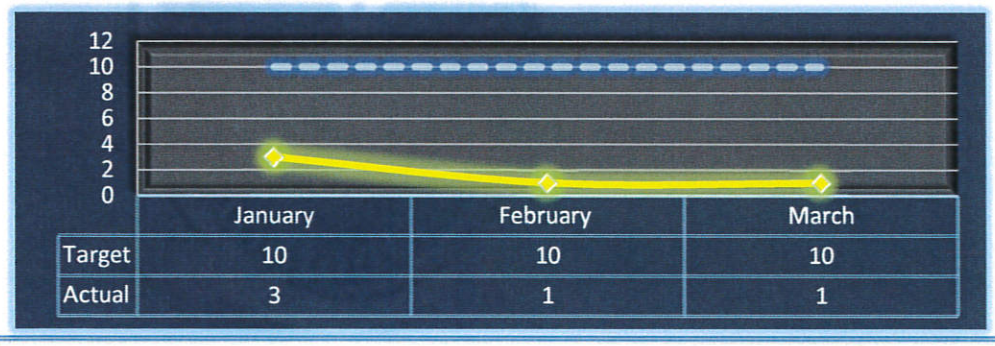
	January	February	March
Target	540	540	540
Actual	399		629

Probation Intake

Average number of days from monitor assignment, to the date the monitor makes first contact with the probationer.

Target: 10 Days

Q3 Average: 2 Days



	January	February	March
Target	10	10	10
Actual	3	1	1

Probation Violation Response

Average number of days from the date a violation of probation is reported, to the date the assigned monitor initiates appropriate action.

Target: 7 Days

Q3 Average: N/A

The Board did not handle any probation violations this quarter .

CHART 1 - Monthly Enforcement Report to DCA 2011/2012

AGENDA ITEM # 4(A)

Complaint Intake

Complaints Received by the Program.
Measured from date received to assignment for investigation or closure without action.

Complaints	Jul-11	Aug-11	Sep-11	Oct-11	Nov-11	Dec-11	Jan-12	Feb-12	Mar-12	Apr-12	May-12	Jun-12	YTD
Received	103	136	121	55	53	291	65	81	152				1057
Closed without Assignment for Investigation	1	4	0	0	1	3	1	0	0				10
Assigned for Investigation - *Note: Number of assigned cases may include cases from previous month; therefore totals will not add up.*	108	98	156	51	42	108	249	88	153				1053
Average Days to Close or Assigned for Investigation	7	5	6	6	7	6	8	5	5				6.1111
Pending	7	40	5	9	9	*199	13	6	5				

* The high volume of "pending" cases in Complaint Intake is due to the majority of cases being opened between Dec 27 & 30, 2011. This did not allow time for the analysts to assign all of the cases to themselves prior to Dec 31, 2011. Therefore these cases remain in "intake" for the month of December; however, the cases were assigned first week in January 2012.

Convictions/Arrest Reports	Jul-11	Aug-11	Sep-11	Oct-11	Nov-11	Dec-11	Jan-12	Feb-12	Mar-12	Apr-12	May-12	Jun-12	YTD
Received	17	29	26	27	14	10	27	22	9				181
Closed / Assigned for Investigation	18	29	29	26	14	6	29	19	9				179
Average Days to Close	6	5	5	4	5	3	4	3	4				4.3333
Pending	3	3	0	1	1	4	2	5	5				

Total Intake	Jul-11	Aug-11	Sep-11	Oct-11	Nov-11	Dec-11	Jan-12	Feb-12	Mar-12	Apr-12	May-12	Jun-12	YTD
Received	120	165	147	82	67	301	92	103	161				1238
Closed w/o Inv. Assignment	2	4	1	0	2	3	1	0	0				13
Assigned for Investigation	125	127	184	77	55	114	278	107	162				1229
Avg. Days to Close or Assign	7	5	6	5	6	6	7	5	5				5.7778
Pending	10	43	5	10	20	*203	15	11	10				124

* The high volume of "pending" cases in Total Intake is due to the majority of cases being opened between Dec 27 & 30, 2011. This did not allow time for the analysts to assign all of the cases to themselves prior to Dec 31, 2011. Therefore these cases remain in "intake" for the month of December; however, the cases were assigned first week in January 2012.

Investigation

Complaints investigated by the program whether by desk investigation or by field investigation.
Measured by date the complaint is received to the date the complaint is closed or referred for enforcement action.
If a complaint is never referred for Field Investigation, it will be counted as 'Closed' under Desk Investigation.
If a complaint is referred for Field Investigation, it will be counted as 'Closed' under Non-Sworn or Sworn.

Desk Investigation	Jul-11	Aug-11	Sep-11	Oct-11	Nov-11	Dec-11	Jan-12	Feb-12	Mar-12	Apr-12	May-12	Jun-12	YTD

Initial Assignment for Desk Investigation	125	127	184	77	55	114	278	106	161				1227
Closed	89	126	114	103	126	85	257	149	126				1175
Average Days to Close	48	56	75	97	75	165	40	47	26				69.889
Pending	499	498	568	538	463	490	508	462	490				

Field Investigation (Non-Sworn)	Jul-11	Aug-11	Sep-11	Oct-11	Nov-11	Dec-11	Jan-12	Feb-12	Mar-12	Apr-12	May-12	Jun-12	YTD
Assignment for Non-Sworn Field Investigation	*N/A*												0
Closed													0
Average Days to Close													
Pending													

Field Investigation (Sworn)	Jul-11	Aug-11	Sep-11	Oct-11	Nov-11	Dec-11	Jan-12	Feb-12	Mar-12	Apr-12	May-12	Jun-12	YTD
Assignment for Sworn Field Investigation	4	4	4	5	5	5	3	4	7				41
Closed	10	3	4	5	2	4	5	0	4				37
Average Days to Close	273	257	420	268	702	385	682	0	317				367.11
Pending	45	46	45	45	51	50	49	54	57				

FY 2011/2012

All Investigations	Jul-11	Aug-11	Sep-11	Oct-11	Nov-11	Dec-11	Jan-12	Feb-12	Mar-12	Apr-12	May-12	Jun-12	YTD
First Assignments	125	127	184	77	55	114	278	107	162				1229
Closed	99	129	118	108	128	89	262	149	130				1212
Average Days to Close	71	60	86	105	85	175	52	47	35				79.556
Pending	544	544	613	583	514	540	557	516	547				

All Investigations Aging	Jul-11	Aug-11	Sep-11	Oct-11	Nov-11	Dec-11	Jan-12	Feb-12	Mar-12	Apr-12	May-12	Jun-12	YTD
Up to 90 Days	76	100	90	55	112	56	236	136	122				983
91 to 180 Days	15	23	17	34	9	11	13	8	4				134
181 Days to 1 Year	5	5	5	17	3	13	6	3	3				60
1 to 2 Years	2	1	4	2	2	6	5	2	0				24
2 to 3 Years	1	0	2	0	2	2	2	0	1				10
Over 3 Years	0	0	0	0	0	1	0	0	0				1

Enforcement Actions

This section DOES NOT include subsequent discipline on a license. Data from complaint records combined/consolidated into a single case will not appear in this section.

	Jul-11	Aug-11	Sep-11	Oct-11	Nov-11	Dec-11	Jan-12	Feb-12	Mar-12	Apr-12	May-12	Jun-12	YTD
AG Cases Initiated	7	5	5	11	6	7	7	8	1				57
AG Cases Pending	71	73	73	77	81	78	81	89	84				
SOIs Filed	0	2	1	0	0	0	0	1	0				4
Accusations Filed	1	3	5	3	5	8	7	4	2				38

State of California
Edmund G. Brown Jr., Governor

Agenda Item #4
July 19, 2017

Review, Discussion and Possible Action on creating an Outreach Publication Educating the Public on the Complaint Process

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Purpose of the item

The Committee will review and discuss the development of a consumer complaint brochure. Additionally, the Committee will review complaint brochures from other CA Boards.

Action(s) requested

No action requested at this time.

Background

The 2017-2019 Strategic Plan action item 2.1.3 facilitates the development of outreach materials educating the public on the BCE complaint process. In an effort to develop an effective and transparent consumer complaint brochure, the Committee will discuss a comprehensive overview of the complaint process and provide guidance to filing chiropractic complaints.

Recommendation(s)

No recommendation at this time.

Next Step

N/A

Attachment(s)

- Current BCE Complaint Process
- Contractors State License Board Complaint Process
- Medical Board of California Complaint Process
- Board of Vocational Nursing and Psychiatric Technicians BVNPT Complaint Process

BOARD of CHIROPRACTIC EXAMINERS

STATE OF CALIFORNIA

The Mission of the Board of Chiropractic Examiners

The mission of the Board of Chiropractic Examiners is to protect the health, welfare, and safety of the public through licensure, education, and enforcement in chiropractic care.

Forms & Applications

Join Our Mailing List

Important Updates

- BCE Newsletter Winter/Spring 2017
- Strategic Plan 2017-2019
- Sponsored Free Health Care Events
- Information for Military Personnel and Their Spouses/Domestic Partners
- NOTICE TO LICENSEES REGARDING NEW CE REQUIREMENTS
- Online Automation System for State Disability Insurance
- Board of Chiropractic Examiners Adopts New Regulations for the Use of Lasers in Chiropractic
- Alert - Potential License Denial or Suspension for Failure to Pay Taxes
- Notice Regarding New Informed Consent Requirements
- Notice Regarding Board Regulation/Policy Interpretation
- Continuing Education and Annual License Renewals
- DMV Announces New CDL Medical Exam Guide

"The vertebrae of the spine are likely to be displaced or subluxated. One of more vertebrae may get out of place very much. This may cause serious complications, and even death, if not properly adjusted. Whoever pays no attention, or paying attention, does not comprehend them, how can he understand the disease which befalls man? The doctor should look well to the spine, for many diseases have their origin in vertebral displacements." ~Hippocrates

YOU MAY STILL HAVE NONRESIDENT WITHHOLDING RESPONSIBILITIES
FRANCHISE TAX BOARD NONRESIDENT WITHHOLDING REQUIREMENTS

If you pay California source income to nonresidents of California, the California Franchise Tax Board (FTB) wants to make you aware that unless certain exceptions apply, you must withhold and send to FTB seven percent of all payments that exceed $1,500 in a calendar year, (California Revenue and Taxation Code Section 18662). For more information on whether or not you are required by law to withhold or to get the appropriate forms to use, click the link below.

DECISION CHART
For a copy of the necessary forms visit the Forms and Publication page by clicking the link below.

FORMS & PUBLICATIONS
For more general information on withholding requirements, visit the Withholding on California Source Income by clicking the link below or contact us at (888) 792-4900.

CALIFORNIA WITHHOLDING

Translate this site:

File a Complaint

Quick Hits

- Contact Us
- License Search
- Chiropractic Initiative Act
- Chiropractic Rules & Regulations
- 2016 Sunset Review Report
- Request for a Board Speaker
- Frequently Asked Questions
- Continuing Education
- Board Meetings
- Proposed Regulations
- Department of Consumer Affairs

Save Our WATER

IF CALLED CONSERVE

Register to Vote

File a Complaint

To obtain a complaint form, please visit our Forms and Applications web page.

About Complaints

The Board of Chiropractic Examiners protects consumers through licensing and enforcement functions. The Board has the authority to require licensees to abide by provisions of the Chiropractic Initiative Act, Business and Professions Code, and those sections of the California Code of Regulations relating to the practice of chiropractic. Most Board actions alleging violations of these laws result from written complaints from a variety of sources.

All written complaints received by the Board are reviewed by the Enforcement Unit to determine whether the Board has jurisdiction, and if so, to prioritize the complaints.

Complaints alleging sexual misconduct, gross negligence/incompetence and insurance fraud are given priority attention and may be referred immediately to investigation. The Board also has jurisdiction over other categories of complaints, including but are not limited to, conviction of a criminal offense, deceptive or misleading advertising, and unlicensed practice.

The Board does not have jurisdiction in fee or billing disputes, general business practices, and personality conflicts. However, other civil channels are available to handle these issues.

How Do I File a Complaint?

All complaints must be in writing. Please provide a statement, which describes the nature of your complaint and include specific details and documentary evidence related to your complaint. This may include patient records, photographs, contracts, invoices, and correspondence. It is not necessary to refer to specific sections of the law which you feel have been violated. While anonymous complaints will be reviewed, they may be impossible to pursue without support from the complainant. The information contained in your complaint will determine what action the Board will take.

How the Board Handles Your Complaint

Following receipt of a complaint, the Board mails a notice of receipt to the complainant. Each complaint is reviewed to determine the course of action for the alleged violation or whether the Board has jurisdiction. In most instances, the Board cannot effectively investigate cases where the complainant wants to remain anonymous. California law requires the Board to have clear and convincing evidence of a violation in order to sustain disciplinary action. Consequently, the Board's investigative process can be lengthy.

Substantiated Complaints

If a complaint is substantiated after review or investigation, there are different actions that can be taken against the license. Formal disciplinary action may range from a public reprimand, probation or even license revocation. As an alternative to formal discipline, the Board can issue a citation. Citations are considered sanctions and are issued in cases involving minor violations of a law or regulation governing the practice of chiropractic. The Board has authority to issue citations to chiropractors for specified violations of law. Citations are not formal discipline, although they constitute a public record of the action taken.

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Get Adobe Reader

BOARD of CHIROPRACTIC EXAMINERS
STATE OF CALIFORNIA

State of California
Edmund G. Brown Jr., Governor

Consumer Complaint Form

Please Print or Type

Please provide all the requested information.

COMPLAINT REGISTERED AGAINST				
Name of Chiropractor:		Phone: ( )		
Practice Name:				
Practice Address:	City:	County	State:	Zip Code:

PERSON REGISTERING COMPLAINT			
Name of Person Registering Complaint:		Work Phone: ( )	
Address:		Home Phone: ( )	
City:	County:	State:	Zip Code:
Have you filed a complaint with any other organization? (Please specify)			

DETAILS OF THE COMPLAINT	
Type of Illness or Injury/Reason for Appointment:	Date of Visit(s):

State your complaint in detail: (Attach additional sheets if necessary.)

NOTICE: Except for the name of the chiropractor, all information requested is voluntary, but failure to provide the requested information may delay or prevent the investigation of your complaint. Provide as much information as possible in connection with the complaint. Information on this form will be used in part to determine whether a violation of state law has occurred. If a violation is substantiated, the information may be transmitted to other governmental agencies, including the Attorney General's Office.

Signature _____ Date _____

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

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

Board of Chiropractic Examiners

AUTHORIZATION FOR RELEASE OF PATIENT RECORDS

Patient Name: _____

Date of Birth: _____ Social Security Number: _____

I, the undersigned hereby authorize:

Chiropractor _____ Chiropractor _____

Facility _____ Facility _____

Address _____ Address _____

_____ _____

Phone Number _____ Phone Number _____

Chiropractor _____ Chiropractor _____

Facility _____ Facility _____

Address _____ Address _____

_____ _____

Phone Number _____ Phone Number _____

to disclose records in the course of my diagnosis and treatment, including medical, psychiatric, alcohol and drug abuse records to the **BOARD OF CHIROPRACTIC EXAMINERS, ENFORCEMENT PROGRAM**. This disclosure of records authorized herein is required for official use, including investigation and possible administrative proceedings regarding any violations of the laws of the State of California. This authorization shall remain valid until the Board of Chiropractic Examiners of the State of California completes its investigation and proceedings arising out of the complaint and/or investigation.

A copy of this authorization shall be as valid as the original. I understand that I have a right to receive a copy of this authorization upon my request.

Signature: _____ _____

Patient Date

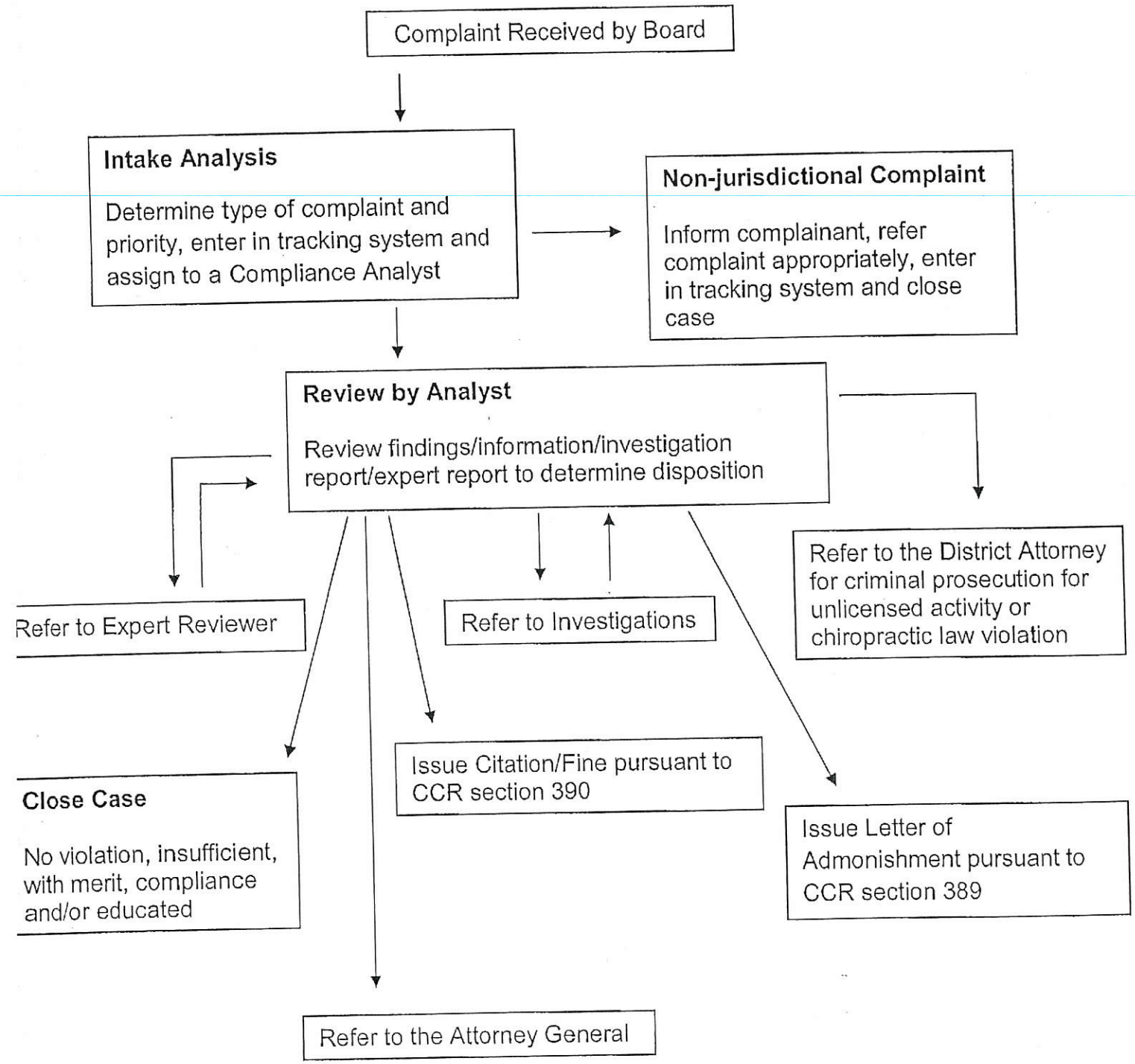
Or: _____ _____ _____

Legal Representative Relationship Date

Rev. 11/03

Complaint Process

Complaints are received from many sources: the public, another government agency, another licensee, a professional association, law enforcement, insurance companies or internally.



How to File a Complaint

You can file a complaint online at **www.cslb.ca.gov**, by mail (after downloading a complaint form) or by requesting a form through CSLB's automated telephone system at 1-800-321-CSLB (2752).

Any way you file your complaint, you will need to send CSLB copies (not the original documents) of all relevant printed documentation **(no CDs or flash drives)**. All pertinent information, such as all contracts (all pages, front and back), change orders, and cancelled checks (front and back), should be included and mailed to the appropriate office below. Photos also can be submitted. Failure to provide all documentation could result in a processing delay.

For complaints about work performed in Imperial, Los Angeles, Orange, Riverside, San Bernardino, San Diego, and Ventura counties, send complaint forms and documentation to:

Norwalk Intake and Mediation Center
12501 East Imperial Highway, Suite 620
Norwalk, CA 90650

For complaints about work performed in any California county not mentioned above, send complaint forms and documentation to:

Sacramento Intake and Mediation Center
P.O. Box 269116
Sacramento, CA 95826-9116

CSLB Arbitration Programs

CSLB administers two arbitration programs: a mandatory program for disputes involving alleged damages of $12,500 or less, and a voluntary program for disputes involving allegations of damage between $12,500 and $50,000.

Complaints must meet stringent criteria to qualify for referral to a CSLB arbitration program. CSLB staff will determine whether the dispute meets these criteria.

For more information about these programs, review CSLB's Mandatory Arbitration Program or Voluntary Arbitration Program guides. Both are available on the CSLB website at **www.cslb.ca.gov**, or by calling 1-800-321-CSLB (2752).

Information Disclosure

CSLB provides information about the status of a contractor's license, bond, and workers' compensation insurance, as well as pending and prior legal actions. This information is available at **www.cslb.ca.gov** or by calling the appropriate Legal Action Disclosure Unit listed below:

Northern California: (916) 255-4041

Southern California: (562) 345-7656

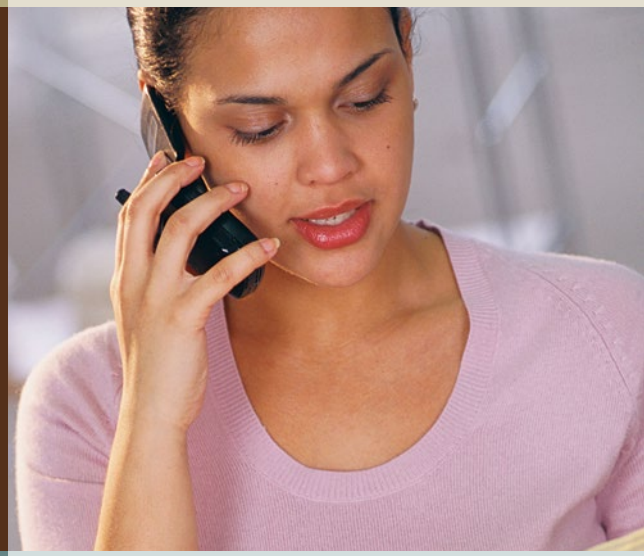
CONTRACTORS STATE LICENSE BOARD
P.O. Box 26000
Sacramento, CA 95826-0026
800.321.CSLB (2752)
www.cslb.ca.gov • CheckTheLicenseFirst.com

DEPARTMENT OF CONSUMER AFFAIRS

13P-036/0116

A CONSUMER GUIDE TO FILING

Construction Complaints



CONTRACTORS STATE LICENSE BOARD

Department of Consumer Affairs

Unlicensed Activity

It is illegal to contract in California for jobs that are $500 or more (combined labor and material costs) without a state contractor license. CSLB actively works against unlicensed activity and the illegal underground economy through undercover sting operations, sweeps of active construction sites, and assisting with prosecution undertaken by local jurisdictions.

Homeowners may have little recourse if dissatisfied with a project that was undertaken by an unlicensed contractor. CSLB can issue a warning, a citation, or refer the complaint to a local district attorney; however, it is ultimately up to the homeowner to seek restitution for damage or repair caused by an unlicensed contractor.

The Contractors State License Board (CSLB) protects consumers by licensing and regulating California contractors. Consumers or contractors who have an unresolved issue with a contractor can file a complaint with CSLB. CSLB aims to settle complaints through early intervention and mediation.

Complaint Jurisdiction

Complaints within CSLB's jurisdiction involve alleged violations of California Contractors' State License Law by licensed or unlicensed contractors for up to four years from the date of a suspected illegal act.

The term "contractor" includes individuals or companies that offer services to improve real property including, but not limited to, home building, remodeling, room additions, swimming pools, painting, roofing, landscaping, plumbing, electrical, heating and air-conditioning, and the installation and repair of mobile homes.

CSLB provides help to consumers through mediation, arbitration, referral to other government agencies, or by providing information about other avenues for individual redress. These alternatives include small claims court and referring consumers with private arbitration clauses in their contracts to the arbitration process. CSLB will take legal action against a contractor, when appropriate, for violations of the applicable state laws and regulations.

How Complaints are Handled

CSLB reviews every written complaint to determine if it falls within its jurisdiction. Complaints involving a threat to public health and safety, elder abuse, and cases where consumers have suffered a significant financial injury are given the highest priority. CSLB also prioritizes complaints based on the order of receipt, and available resources and staffing.

Once a complaint has been received, CSLB's Intake and Mediation Center representatives mail a written confirmation to the complainant. A notice also is sent to the contractor to encourage resolution without further CSLB intervention.

Mediation

If the complaint is not resolved by the disputing parties, CSLB may ask for additional information and/or documentation. A consumer services representative (CSR) may call the parties and/or will make the arrangements if mediation is appropriate.

If mediation is unsuccessful, other options include referral to a CSLB arbitration program, assignment to a CSLB enforcement representative (ER) for investigation, or referral to alternative civil or dispute resolution methods.

Depending on the severity of the actions, the complaint may be closed with a warning letter to the contractor. A warning letter remains a matter of record and could support further action against the contractor if future violations occur.

Investigation

If a CSR determines that the complaint requires further investigation, it will be assigned to an ER. The ER's investigation will determine if there is adequate evidence to support a finding of a violation of Contractors' State License Law. The investigation may include interviews with anyone involved in or who has information about the case.

Disciplinary Action

Licensed contractors found guilty of violating the law can face suspension or loss of their license. Citations also may include civil penalties of up to $5,000 and/or orders to make or compensate for repairs. (If disciplinary action is undertaken, the case is prosecuted on behalf of CSLB by the state Attorney General's Office. The Attorney General is not counsel for the complainant.)

Small Claims Court

An investigation by CSLB does not guarantee restitution to complainants. If your primary interest is to gain restitution, you should pursue the matter in small claims court or consult an attorney. A brochure that explains how to file a claim in small claims court (for damages of $10,000 or less) is available on the CSLB website, **www.cslb.ca.gov** or by calling (800) 321-CSLB (2752). The California Courts website provides additional details about small claims topics at **http://www.courts.ca.gov/1256.htm**.

If you prevail in a civil or arbitration case against a licensed contractor, send CSLB documentation that proves your case was construction-related and that you have an unsatisfied, final judgment against the contractor. If satisfactory proof is received, CSLB has authority to suspend the contractor's license if the judgment or award is final and not satisfied.

The Medical Board has no authority over the following:

- **Chiropractors** *(contact Board of Chiropractic Examiners)*
- **Dentists** *(contact Dental Board of California)*
- **Health Maintenance Organizations (HMOs)** *(contact Department of Managed Health Care)*
- **Hospitals** *(contact Dept. of Public Health)*
- **Insurance** *Companies (contact Department of Insurance)*
- **Malpractice actions/civil lawsuits** *If you are seeking damages and restitution only, you need to seek legal advice. The Medical Board cannot share information or assist with lawsuits.*
- **Medi-Cal** *(contact Department of Health Care Services or Department of Justice, Medi-Cal Fraud)*
- **Medicare** *(contact the federal centers for Medicare and Medicaid)*
- **Nurses** *(contact the Board of Registered Nursing or the Board of Vocational Nurse and Psychiatric Technicians)*
- **Optometrists** *(contact Board of Optometry)*
- **Osteopathic Physicians (DOs)** *(contact Osteopathic Medical Board of California)*

The Medical Board also has no authority over ethical/office issues (attitude, "bedside manner", demeanor, office staff), prices charged or to obtain a refund from a medical provider ***unless*** *there is a double payment by the insurance company.*

MEDICAL BOARD OF CALIFORNIA

Central Complaint Unit
2005 Evergreeen Street, Suite 1200
Sacramento, CA 95815

- **To obtain information about the complaint process, call our Consumer Information Unit:**

1-800-633-2322
or (916) 263-2424
Fax: (916) 263-2435

- **To check on a specific doctor visit:**

http://www.mbc.ca.gov/Breeze/License_Verification.aspx

Visit our Website:

http://www.mbc.ca.gov

The mission of the Medical Board of California is to protect health care consumers through the proper licensing and regulation of physicians and surgeons and certain allied health care professions and through the vigorous, objective enforcement of the Medical Practice Act, and to promote access to quality medical care through the Board's licensing and regulatory functions.

Revised 05/2016

How Complaints Are Handled

Central Complaint Unit
1-800-633-2322
http://www.mbc.ca.gov

Medical Board of California

the state agency that licenses medical doctors, investigates complaints, and disciplines those who violate the law

OVERVIEW OF THE COMPLAINT REVIEW PROCESS

The Medical Board of California (Board) has authority over licensed medical doctors (M.D.s) and certain allied health professionals. The Board also has the authority to enforce the provisions of the Medical Practice Act. The enforcement power is detailed in the California Business and Professions Code which governs the practice of medicine in the state.

All complaints filed with the Board are handled with equal consideration. When you file a complaint it is assigned to a Consumer Services Analyst for review. The analyst will gather all the information necessary for your complaint to be evaluated. The initial review of your complaint will be undertaken immediately and, if appropriate, mediated at this point. If it is determined an investigation is needed, the case will be referred to a district office in the area where the complaint originated. Depending on the complexity of the case, it may take several months to resolve the complaint and this does not include the time necessary for a formal investigation and an accusation to be filed. As with any legal proceeding the accused is guaranteed his or her right to due process.

■ Quality of Care Complaints

If your complaint involves the quality of medical care and treatment you received, the Board will obtain copies of all relevant information pertaining to that treatment. The Board will ask you to sign an "Authorization for Release of Medical Information" if one was not included with your complaint form. **It is important that you sign the medical release form and return it as soon as possible to avoid delay in processing your complaint.**

Once the analyst has your signed release form, a request will be made for all medical records needed, as well as a written summary of the care from each of the treating medical providers. When all records and summaries are received, all documents are analyzed by Board staff to determine whether there is sufficient evidence for referral to a medical consultant. If referral to a consultant is warranted, the entire file is forwarded to the consultant for a thorough review. If there is insufficient evidence to pursue the matter, the complaint will be closed in the Board's Central Complaint Unit.

The review conducted by the medical consultant will determine if the complaint requires further review by a Department of Consumer Affairs investigative office or whether the complaint should be closed in the Board's Central Complaint Unit.

If the medical consultant determines the treatment by the physician or allied health care professional in question does not fall below the acceptable standard of medical care, the Board has no authority to proceed and the complaint will be closed. If the Board finds that the treatment fell below the standard of care but does not represent gross negligence, the complaint will be closed but will be maintained on file for the Board's future reference. If a complaint is referred for further investigation and a violation is confirmed, the complaint may be submitted to the Office of the Attorney General for a formal charge that may lead to disciplinary action against the physician's license.

By law the Board cannot review matters that occurred more than seven years ago. Business and Professions Code Section 2230.5 states that any accusation (or formal charges against the physician's license) filed against a licensee shall be filed within seven years after the act or omission/incident. This means that the Board's investigation must be concluded, the case transmitted to the Attorney General's office and the accusation filed by the Attorney General's office before the seven year time limit expires.

There are exceptions to the Statute of Limitations, those are:

- Complaints involving sexual misconduct
- Care and treatment provided to a minor
- Proven intentional concealment of specified unprofessional conduct

■ Failure to Provide Medical Records

If a medical provider fails to release a copy of your medical records to you upon your written request, he/she may be in violation of Health and Safety Code Section 123100. You may file a complaint with the Board which would allow the Board to pursue the matter with the medical provider.

■ High Priority Complaints

Complaints alleging negligence that involve patient death or serious bodily injury are given the highest priority. Complaints alleging sexual misconduct, excessive prescribing, unlicensed practice of medicine or substance abuse will usually be forwarded to an investigative office for further investigation. However, if the complaint allegations are not clear you may be contacted for further information before determining whether an immediate field investigation is warranted.

■ Injury, Disability, Fitness for Duty Evaluations

You have a right to a copy of your medical exam no matter who pays for it. Medical providers often conduct evaluations to determine an individual's medical condition related to an injury, disability, or fitness for duty. The Board has limited jurisdiction in this area as no "care and treatment" is provided. If you are dissatisfied with the results of your evaluation, appeal processes may be available through the agency or individual who requested the evaluation. It is recommended that the appeal options be pursued.

Consumer Protection and the Enforcement Program

BVNPT

BOARD OF VOCATIONAL NURSING
AND PSYCHIATRIC TECHNICIANS

PUBLIC PROTECTION AND THE BOARD

The Board of Vocational Nursing and Psychiatric Technicians (Board) is responsible for the examination and licensure of vocational nursing and psychiatric technician applicants. It protects consumers from unprofessional and unsafe practitioners by regulating the education, practice, and discipline of licensed vocational nurses (LVNs) and psychiatric technicians (PTs).

TYPES OF VIOLATIONS

There are many types of violations for which LVNs or PTs may be disciplined. Most involve unprofessional conduct, such as:

Incompetence: The lack of possession of and the failure to exercise the degree of learning, skill, care, and experience ordinarily possessed by a responsible licensee.

Gross negligence: A substantial departure from the standard of care that under similar circumstances would have ordinarily been exercised by a competent licensee and that has or could have resulted in harm to the consumer.

Conviction of serious crime: Convicted of a crime substantially related to the qualifications, functions, or duties of the licensee. A conviction of a crime can also lead to the denial of a license.

YOUR RIGHTS AS A CONSUMER

When receiving care, you have a right to:

- Be treated by a competent and qualified LVN or PT.
- Be informed of the name and licensure status of the LVN or PT providing your care.
- Confidentiality and privacy during care.
- File a complaint with the Board if you believe you received substandard care by a licensee.
- Contact the Board with questions or concerns, and receive a prompt, accurate, and courteous response.

FILING A COMPLAINT

Anyone may file a complaint if they believe a licensee has violated the law or provided substandard care. A complaint should be filed when a consumer is abused in any way, is the victim of sexual misconduct, or is treated by an LVN or PT impaired by drugs or alcohol, negligently, and/or in any manner that brings into question issues of competence, negligence, or professional conduct.

Complaints are most often received from consumers; their families; other members of the health care industry; law enforcement agencies; and health care facilities. According to State regulations, LVNs and PTs are required to report to the Board instances of unprofessional conduct by their fellow licensees.

A complaint may be submitted online or filed by writing the Board's Enforcement Unit at:

Board of Vocational Nursing & Psychiatric Technicians
2535 Capitol Oaks Drive, Suite 205
Sacramento, CA 95833

Consumers can also call the Board at (916) 263-7800 to receive a complaint form. The form may also be downloaded from the website (**www.bvnpt.ca.gov**). The completed form should be mailed to the Board.

AFTER THE COMPLAINT IS FILED

The Board has established an aggressive enforcement program to ensure that timely and appropriate disciplinary action is taken against unprofessional, incompetent, or grossly negligent practitioners. The Board utilizes the services of the Department of Consumer Affairs' Division of Investigation, the Attorney General's Office and the Office of Administrative Hearings to ensure that disciplinary actions are handled in a fair, expeditious, and judicious manner.

Examples of Formal Discipline Include:

Revocation—The license is taken away from the licensee for a minimum of one year.

Suspension—The license is temporarily taken away from the licensee for not less than 30 days.

Probation—The license is placed on probationary status, which includes specific terms and conditions of compliance.

Cite/Fine:—The licensee is issued a citation and required to pay a fine commensurate with the violation committed.

Public Letter of Reprimand—The licensee is issued a reprimand letter and required to pay a fine commiserate with the violation and/or complete course work.

How long is the review process?

Normally, the required time for reviewing your complaint may range between eight to 12 weeks. However, if additional information is requested by the expert review, the process could take longer.

The initial review of your complaint will be undertaken immediately; however, depending on the complexity of the case, it may take six to 12 months to resolve.

LICENSEES AND DISCIPLINARY ACTIONS

The Board publishes and distributes its Enforcement Action List in January and July each year. The list identifies LVNs and PTs against whom enforcement action was taken during the six months immediately preceding publication of the list. The list is available on the Board's website, **www.bvnpt.ca.gov**, in the "Enforcement" section.

MISSION

The mission of the Board of Vocational Nursing and Psychiatric Technicians is to protect the health and safety of consumers by promoting quality vocational nursing and psychiatric technician care in California.

BVNPT

BOARD OF VOCATIONAL NURSING
AND PSYCHIATRIC TECHNICIANS

2535 Capitol Oaks Drive, Suite 205
Sacramento, CA 95833
Phone: (916) 263-7800
E-mail: bvnpt@dca.ca.gov

www.bvnpt.ca.gov

16_107

State of California
Edmund G. Brown Jr., Governor

Agenda Item #5
July 19, 2017

Discussion and Possible Action on Establishing a Code of Ethics

Purpose of the item

The Committee will discuss the possible adoption of a code of ethics to promote higher ethical standards for licensees. Additionally, the Committee will review CCA's and ACA's code of ethics.

Action(s) requested

The Committee asks the Chair to review the attached California Chiropractic Association (CCA) and American Chiropractic Association's (ACA) code of ethics, provide feedback regarding the CCA and ACA models, and discuss the purpose of the desired efficacy in relation to the Board's consumer protection mandate.

Background

The 2017-2019 Strategic Plan Goal 2.2 and action item 2.2.1 state that the Committee is encouraged to establish a code of ethics to promote higher ethical standards for licensees. The Committee will review and consider this action item to promote licensees' responsibilities to patients, the public and their profession.

Recommendation(s)

No recommendation at this time.

Next Step

N/A

Attachment(s)

- CCA Code of Ethics
- ACA Code of Ethics

CALIFORNIA CHIROPRACTIC ASSOCIATION

CODE OF ETHICS

INTRODUCTION

The California Chiropractic Association's (CCA) Code of Ethics consists of an Introduction, a Preamble, General Principles, Sanctions, specific Rules of Ethics, and Administrative Procedures. The Introduction discusses the intent, organization, procedural considerations, and scope of application of the Code of Ethics. The Preamble and General Principles are aspirational goals to guide Doctors of Chiropractic toward the highest ideals of chiropractic practice. Although the Preamble and General Principles are not themselves enforceable rules, they should be considered by Doctors of Chiropractic in arriving at an ethical course of action and may be used by ethics bodies in interpreting the Ethical Standards. The Ethical Standards are written to address specific issues of conduct in a variety of role applications and they may vary in use depending upon the context. The Ethical Standards are not exhaustive and should be viewed as a living document subject to periodic review as needed. The fact that a given conduct is not specifically addressed by the Code of Ethics does not mean that it is necessarily either ethical or unethical.

Membership in the CCA commits members to adhere to the CCA Code of Ethics and to the rules and procedures used to implement it. A members acceptance in the CCA ensures that they will remain accountable for any ethics action initiated during their membership although they may terminate their membership at a time subsequent to the action.

The Code of Ethics applies only to a Doctor of Chiropractic's work-related activities, that is, activities that are a part of the doctor's scientific and professional functions or that are chiropractic in nature. It includes the clinical or treatment practice of chiropractic, research, teaching, supervision of trainees, development of assessment instruments, conducting assessments, educational counseling, organizational consulting, social intervention, administration, professional association and other activities as well. Purely private conduct is not addressed in the Code of Ethics except as it applies to actions of the Board of Chiropractic Examiners as related to in the Administrative Procedures.

The Code of Ethics is intended to provide standards of professional conduct that can be applied by the CCA and any other bodies that may choose to adopt them. Whether or not a Doctor of Chiropractic has violated the Code of Ethics does not by itself determine whether he or she is legally liable in a court action, whether a contract is enforceable, or whether other legal consequences occur. However, compliance with or violation of the Code of Ethics may be admissible as evidence in some legal proceedings, depending on the circumstances.

In the process of making decisions regarding their professional behavior, Doctors of Chiropractic must consider this Code of Ethics, in addition to applicable laws and the Board of Chiropractic Examiners' regulations. If the Code of Ethics establishes a higher standard of conduct than is required by law, Doctors of Chiropractic must meet the higher ethical standard.

If the Code of Ethics standard appears to conflict with the requirements of the law, then Doctors of Chiropractic make known their commitment to the Code of Ethics and take steps to resolve the conflict in a responsible manner. If neither law nor the Code of Ethics resolves an issue, Doctors of Chiropractic should consider other professional material and the dictates of their own conscience, as well as seek consultation with others within the field when it is practical.

The procedures for filing, investigating, and resolving complaints of unethical conduct and inquiries are described in the Administrative Procedures section. The actions that the CCA may take for violations of the Code of Ethics include actions such as reprimand, censure, probationary membership, termination of CCA membership, and referral of the matter to other bodies. Complainants who seek remedies such as monetary damages in alleging ethical violations by a Doctor of Chiropractic must resort to private negotiation,

administrative bodies, or the courts. Actions that violate the Code of Ethics may lead to the independent imposition of sanctions on a Doctor of Chiropractic by bodies other than the CCA, in separate actions unrelated to the CCA ethics procedures.

PREAMBLE

The ultimate purpose of the California Chiropractic Association's Code of Ethics is to ensure that the people of the State of California will receive the highest quality chiropractic health care from its members who subscribe to the epitome of ethical conduct.

Doctors of Chiropractic work to develop a valid and reliable body of scientific knowledge based on research. They may apply that knowledge to health care in a variety of contexts. In doing so, they perform many roles, such as researcher, educator, diagnostician, treatment provider, supervisor, consultant, administrator, social interventionist, and expert witness. Their goal is to broaden knowledge of health care and, where appropriate, to apply it pragmatically to improve the condition of both the individual and society. Doctors of Chiropractic respect the central importance of freedom of inquiry and expression in research, teaching, and publication. They also strive to help the public in developing informed judgments and choices concerning health care. This Code of Ethics provides a common set of values upon which Doctors of Chiropractic base their professional and scientific work.

This Code of Ethics is intended to provide both the general principles and the decision rules to cover most situations encountered by Doctors of Chiropractic. It has as its primary goal the welfare and protection of the individuals and groups with whom chiropractors work. It is the individual responsibility of each chiropractor to aspire to the highest possible standards of conduct. Doctors of Chiropractic respect and protect human and civil rights, and do not knowingly participate in or condone unfair discriminatory practices.

The development of a dynamic set of ethical standards for a Doctor of Chiropractic's work-related conduct requires a personal commitment to a lifelong effort to act ethically: to encourage ethical behavior by students, preceptors, supervisors, employees, and colleagues, as appropriate; and to consult with others, as needed, concerning ethical problems. Each Doctor of Chiropractic supplements, but does not violate the Code of Ethics' values and rules on the basis of guidance drawn from personal values, culture, and experience.

GENERAL PRINCIPLES

The General Principles section of the Code of Ethics forms the aspirational and inspirational model standards of exemplary professional conduct for all members. They serve as goals that the California Chiropractic Association members should constantly strive to reach. Although not in themselves enforceable, they form the framework for most ethical decisions.

A. Ethics in Chiropractic

An issue of ethics in chiropractic is resolved by the determination that the best interest of the patient is served.

B. Integrity in Chiropractic

The Doctor of Chiropractic seeks to promote integrity in the science, art, philosophy, teaching, and practice of chiropractic. In these activities the Doctor of Chiropractic is honest, fair, and respectful of others. Those Doctors of Chiropractic who behave unethically, or who engage in fraud or deception, should be identified to appropriate authorities.

C. Competence in Chiropractic

The Doctor of Chiropractic must maintain competence by continued study. They recognize the boundaries of their particular competencies and the limitations of their expertise. They provide only those services and use only those techniques for which they are qualified by education, training, or experience. The Doctor of Chiropractic is cognizant of the fact that the competencies required in serving, teaching, and/or studying groups of people vary with the distinctive characteristics of those groups. In those areas where recognized professional standards do not yet exist, the Doctor of

Chiropractic exercises careful judgment and takes appropriate precautions to protect the welfare of those with whom he/she works. They maintain knowledge of relevant scientific and professional information related to the services they render, and recognize the need for ongoing education. The Doctor of Chiropractic makes use of scientific, professional, technical, and administrative resources.

D. Professional Responsibility in Chiropractic

Open communication with the patient is essential. Patient confidences must be safeguarded within the constraints of the law. Doctors of Chiropractic uphold professional standards of conduct, clarify their professional roles and obligations, accept appropriate responsibility for their behavior, and adapt their methods to the needs of different populations. Doctors of Chiropractic consult with, refer to, or cooperate with other professionals and institutions to the extent needed to serve the best interests of their patients and other recipients of their services. The moral standards and conduct of a Doctor of Chiropractic are personal matters to the same degree as is true for any other person, except as their conduct may compromise their professional responsibilities or reduce the public's trust in chiropractic or Doctors of Chiropractic. When appropriate, they consult with colleagues in order to prevent or avoid unethical conduct.

E. Commercial Relationships in Chiropractic

Fees for chiropractic services must not exploit patients or others who pay for their services. Doctors of Chiropractic seek to contribute to the welfare of those with whom they interact professionally. Doctors of Chiropractic are sensitive to real and ascribed differences in power between themselves and others, and they do not exploit or mislead other people during or after professional relationships.

SANCTIONS

Perhaps the most onerous and difficult task of an ethics reviewer is using the sanctions provided within the Code of Ethics in dealing with behavior found unsuitable in their colleagues. It requires the careful and thoughtful consideration of the behavior and the context in which the behavior was exhibited. It is with this consideration in mind, that a range of sanctions is suggested for each area in which there was an ethical infraction. These guidelines are suggested only, as the ethical reviewer must ultimately be given the latitude, within the consensus process, to express their own particular degree of concern for the exhibited behavior.

The sanctions listed below are not meant to be exhaustive and it is expected that they will be reviewed periodically and perhaps expanded upon.

Sanctions:

1. Reprimand

This is a written reprimand from Ethics Committee Chairperson indicating the areas of ethics violation. Reprimand is the appropriate sanction if there has been an ethics violation but the violation was not of the kind to cause harm to another person or to cause substantial harm to the profession, and was not otherwise of sufficient gravity to warrant a more severe sanction.

2. Censure

Censure is the appropriate sanction if there has been an ethics violation, and the violation was of a kind likely to cause harm to another person, but the violation was not likely to cause substantial harm to that person or to the profession, and was not otherwise of sufficient gravity to warrant a more severe sanction.

3. Censure With Publication

Censure with publication in either the *CCA Journal* or other appropriate publication is a sanction which may be used if there has been an ethics violation whose severity warrants more than censure alone and the publication of which would serve to alert other members and recipients of these publications of the ethical violations of that member.

4. Suspension of Membership

Suspension for a fixed period of time may be an appropriate sanction if there has been an ethics violation, and the violation was likely to cause substantial harm to another person and the profession. Suspension from CCA is also to be used in the event that the State Board of Chiropractic Examiners suspends the member's license. The CCA suspension shall run coterminous-with the State Board suspension. The suspension time may be for a fixed time and/or until conditions specified by the Ethics Committee are met.

5. Drop From Membership

Dropping from membership in the CCA may be used if there has been an ethics violation, and the violation was likely to cause substantial harm to another person and the profession. Dropping from membership is also to be used in the event that the State Board of Chiropractic Examiners finds that the member's license is to be revoked and shall run coterminously with such revocation. (Refer to CCA Bylaws regarding membership termination.)

Directives:

The following are additional sanctions referred to as directives which will allow the appropriate ethics body to apply directed action by the member who has violated the Code of Ethics.

A. Cease and Desist Order

Such a directive requires that the Subject Member cease and desist the specific unethical behavior.

B. Supervision Requirement

Such a directive requires that the Subject Member be supervised. This may take the form of indirect supervision where another member is reported to by the Subject Member on a periodic basis for a specified time frame.

C. Education, Training or Tutorial Requirement

Such a directive requires that the Subject Member engage in education, training, or a tutorial specified by the reviewing body.

D. Probation

Such a directive requires monitoring of the Subject Member by the Committee to ensure compliance with Code of Ethics mandated directives. Probation is also to be used in the event that the State Board of Chiropractic Examiners places the Subject Member on probation and the CCA probation shall run coterminously with the State Board probation.

RULES OF ETHICS

1. GENERAL STANDARDS

1.01 Applicability of the Code of Ethics

The activity of a Doctor of Chiropractic subject to the Code of Ethics may be reviewed under these Rules of Ethics only if the activity is part of his or her work-related functions or the activity is chiropractic in nature. Personal activities having no connection to or effect upon chiropractic roles are not subject to the Code of Ethics.

Suggested Sanction(s)/Directive(s): 1, A

1.02 Relationship of Ethics and Law

If a Doctor of Chiropractic's ethical responsibilities conflict with law, Doctors of Chiropractic make known their commitment to the Code of Ethics and take steps to resolve the conflict in responsible manner.

Suggested Sanction(s)/Directive(s): 1, A

1.03 Professional and Scientific Relationship

Doctors of Chiropractic provide diagnostic, therapeutic, teaching, research, supervisory, consultative, or other chiropractic services in the context of a defined professional or scientific relationship or role. (See also Standards 2.01, and 7.02 Forensic Assessments.)

Suggested Sanction(s)/Directive(s): 1, 2, A

1.04 Boundaries of Competence

(a) Doctors of Chiropractic provide services, teach, and conduct research within the boundaries of their competence, based on their education, training, supervised experience, or appropriate professional experience.

Suggested Sanction(s)/Directive(s): 1, 2, A, B, C

(b) Doctors of Chiropractic provide services, teach or conduct research in new areas or involving new techniques after first undertaking appropriate study, training, supervision, and/or consultation from persons who are competent in those areas or techniques.

Suggested Sanction(s)/Directive(s): 1, 2, A, B, C

(c) In those emerging areas in which generally recognized standards for preparatory training do not yet exist, Doctors of Chiropractic nevertheless take reasonable steps to ensure the competence of their work and to protect patients, student, research participants, and others from harm.

Suggested Sanction(s)/Directive(s): 1, 2, 3, 4, 5, A, B, C

1.05 Maintaining Expertise

Doctors of Chiropractic who engage in assessment, treatment, teaching, research, organizational consulting, or other professional activities maintain a reasonable level of awareness of current scientific and professional information in their fields of activity, and undertake ongoing efforts to maintain competence in the skills they use.

Suggested Sanction(s)/Directive(s): 1, C

1.06 Basis for Scientific and Professional Judgments

Doctors of Chiropractic rely on scientifically and professionally derived knowledge when making scientific or professional judgments or when engaging in scholarly or professional endeavors.

Suggested Sanction(s)/Directive(s): 1, 2, A, C

1.07 Describing the Nature and Results of Chiropractic Services

(a) When Doctors of Chiropractic provide assessment, evaluation, diagnosis, treatment, counseling, supervision, teaching, consultation, research or other chiropractic services to an individual, a group, or an organization, they provide, using language that is reasonably understandable to the recipient of the information beforehand, about the nature of such services, and appropriate information later about results and conclusions.

Suggested Sanction(s)/Directive(s): 1, A, B, C

(b) If Doctors of Chiropractic are precluded by law or by organizational roles from providing such information to particular individuals or groups, they so inform those individuals or groups at the outset of the service.

Suggested Sanction(s)/Directive(s): 1, A, B, C

1.08 Human Differences

Where differences of age, gender, race, ethnicity, national origin, religion, sexual orientation, disability, language, or socio-economic status significantly affect the work of Doctors of Chiropractic concerning particular individuals or groups, Doctors of Chiropractic obtain the training, experience, consultation, or supervision necessary to ensure the competence of their services, or they make appropriate referrals.

Suggested Sanction(s)/Directive(s): 1, 2, A, C

1.09 Respecting Others

In their work-related activities, Doctors of Chiropractic respect the rights of others to hold values, attitudes, and opinions that differ from their own.

Suggested Sanction(s)/Directive(s): 1, 2, A

1.10 Nondiscrimination

In their work-related activities, Doctors of Chiropractic do not engage in unfair discrimination based on age, gender, race, ethnicity, national origin, religion, sexual orientation, disability, socio-economic status, or any basis proscribed by law.

Suggested Sanction(s)/Directive(s): 1, 2, A, B, C

1.11 Sexual Harassment

(a) Doctors of Chiropractic do not engage in sexual harassment. Sexual harassment is sexual solicitation, physical advances, or verbal or nonverbal conduct that is sexual in nature, that occurs in connection with the Doctor of Chiropractic's activities or roles as a Doctor of Chiropractic, and that either: (1) is unwelcome, is offensive, or creates a hostile workplace environment, and the Doctor of Chiropractic knows or is told this; or (2) is sufficiently severe or intense to be abusive to a reasonable person in the context. Sexual harassment can consist of a single intense or severe act or of multiple persistent or pervasive acts.

Suggested Sanction(s)/Directive(s): 1, 2, 3, 4, 5, A, B, C, D

(b) Doctors of Chiropractic accord sexual harassment complainants and respondents dignity and respect. Doctors of Chiropractic do not participate in denying a person academic admittance or advancement, employment, tenure, or promotion, based solely upon their having made, or their being the subject of sexual harassment charges. This does not preclude taking action based upon the outcome of such proceedings or consider ation of other appropriate information.

Suggested Sanction(s)/Directive(s): 1, 2, 3, 4, 5, A, C

1.12 Other Harassment

Doctors of Chiropractic do not knowingly engage in behavior that is harassing or demeaning to persons with whom they interact in their work based on factors such as those persons' age, gender, race, ethnicity, national origin, religion, sexual orientation, disability, language, or socio-economic status.

Suggested Sanction(s)/Directive(s): 1, 2, 3, 4, 5, A, B, D

1.13 Personal Problems and Conflicts

(a) Doctors of Chiropractic recognize that their personal problems and conflicts may interfere with their effectiveness. Accordingly, they refrain from undertaking an activity when they know

or should know that their personal problems are likely to lead to harm to a patient, colleague, student, research participant, or other person to whom they may owe a professional or scientific obligation.

Suggested Sanction(s)/Directive(s): 1, 2, 3, A, B, D

(b) In addition, Doctors of Chiropractic have an obligation to be alert to signs of, and to obtain assistance for, their personal problems at an early stage in order to prevent significantly impaired performance.

Suggested Sanction(s)/Directive(s): 1, 2, D

(c) When Doctors of Chiropractic become aware of personal problems that may interfere with their performing work-related duties adequately, they take appropriate measures, such as obtaining professional consultation or assistance, and determine whether they should limit, suspend, or terminate their work-related duties.

Suggested Sanction(s)/Directive(s): 1, 2, A, D

1.14 Avoiding Harm

Doctors of Chiropractic take reasonable steps to avoid harming their patients, research participants, students, preceptors, and others with whom they work, and to minimize harm where it is foreseeable and unavoidable.

Suggested Sanction(s)/Directive(s): 1, 2, A, B, C, D

1.15 Misuse of Influence

Because the scientific and professional judgments and actions of a Doctor of Chiropractic may affect the lives of others, they are alert to and guard against personal, financial, social or organizational factors that might lead to misuse of their influence.

Suggested Sanction(s)/Directive(s): 1, 2, 3, 4, A

1.16 Misuse of Work

(a) Doctors of Chiropractic do not participate in activities when it appears likely that their skills or data will be misused by others, unless corrective mechanisms are available.

Suggested Sanction(s)/Directive(s): 1, 2, A

(b) If Doctors of Chiropractic learn of misuse or misrepresentation of their work, they take reasonable steps to correct or minimize the misuse or misrepresentation.

Suggested Sanction(s)/Directive(s): 1, 2, 3, A

1.17 Multiple Relationships

(a) In many communities and situations, it may not be feasible or reasonable for Doctors of Chiropractic to avoid social or other nonprofessional contacts with person such as patients, students, supervisees, preceptors, or research participants. Doctors of Chiropractic must always be sensitive to the potential harmful effects of other contacts on their work and on those persons with whom they deal. A Doctor of Chiropractic refrains from entering into or promising to enter into a personal scientific, professional, financial, or other relationship with such persons if it appears likely that such a relationship reasonably might impair
their objectivity or otherwise interfere with effectively performing his or her functions as a Doctor of Chiropractic, or might harm or exploit the other party.

Suggested Sanction(s)/Directive(s): 1, 2, A

(b) Likewise, whenever feasible, a Doctor of Chiropractic refrains from taking on professional or scientific obligations when preexisting relationships would create a risk of such harm.

Suggested Sanction(s)/Directive(s): 1, 2, A

(c) If a Doctor of Chiropractic finds that, due to unforeseen factors, a potentially harmful multiple relationship has arisen, the Doctor of Chiropractic attempts to resolve it with due regard for the best interests of the affected person and maximal compliance with the Code of Ethics.

Suggested Sanction(s)/Directive(s): 1, 2, A

1.18 Exploitative Relationships

(a) Doctors of Chiropractic do not exploit persons over whom they have supervisory, evaluative, or other authority such as students, preceptors, supervisees, employees, research participants, and patients.

Suggested Sanction(s)/Directive(s): 1, 2, A

(b) Doctors of Chiropractic do not engage in sexual relationships with students, preceptors, or supervisees in training over whom the Doctor of Chiropractic has evaluative or direct authority, because such relationships are so likely to impair judgment or be exploitative.

Suggested Sanction(s)/Directive(s):

1.19 Consultations and Referrals

(a) Doctors of Chiropractic arrange for appropriate consultations and referrals based principally on the best interests of their patients or clients, with appropriate consent, and subject to other relevant considerations, including applicable law and contractual obligations.

Suggested Sanction(s)/Directive(s): 1, 2, A

(b) When indicated and professionally appropriate, Doctors of Chiropractic cooperate with other professionals in order to serve their patients or clients effectively and appropriately.

Suggested Sanction(s)/Directive(s): 1, 2, A

(c) Referrals of Doctors of Chiropractic are consistent with law.

Suggested Sanction(s)/Directive(s): 1, 2, A, C

1.20 Third Party Requests for Services

(a) When a Doctor of Chiropractic agrees to provide services to a person or entity at the request of a third party, the Doctor of Chiropractic clarifies to the extent feasible, at the outset of the service, the nature of the relationship with each party. This clarification includes the role of the Doctor of Chiropractic (such as treatment provider, organizational consultant, diagnostician, or expert witness), the probable uses of the services provided or the information obtained, and the fact that there may be limits to confidentiality.

Suggested Sanction(s)/Directive(s): 1, 2, A, C

(b) If there is foreseeable risk of the Doctor of Chiropractic's being called upon to perform conflicting roles because of the involvement of a third party, the Doctor of Chiropractic clarifies the nature and direction of his or her responsibilities, keeps all parties appropriately informed as matters develop, and resolves the situation in accordance with this Code of Ethics.

Suggested Sanction(s)/Directive(s): 1, 2, A, C

1.21 Delegation to and Supervision of Subordinates

(a) Doctors of Chiropractic delegate to their employees, preceptors, supervisees, and research assistants only those responsibilities that such persons can reasonably be expected to perform competently, on the basis of their education, training, or experience, either independently or with the level of supervision being provided.

Suggested Sanction(s)/Directive(s): 1, 2, A, C

(b) Doctors of Chiropractic provide proper training and supervision to their employees, preceptors and supervisees and take reasonable steps to see that such persons perform services responsibly, competently, and ethically.

Suggested Sanction(s)/Directive(s): 1, 2, A, C

(c) If institutional policies, procedures, or practices prevent fulfillment of this obligation, Doctors of Chiropractic attempt to modify their role or to correct the situation to the extent feasible.

Suggested Sanction(s)/Directive(s): 1, 2, A, C

1.22 Documentation of Professional and Scientific Work

(a) Doctors of Chiropractic appropriately document their professional and scientific work in order to facilitate provision of services later by them or by other professionals, to ensure accountability, and to meet other requirements of institutions or the law.

Suggested Sanction(s)/Directive(s): 1, C

(b) When Doctors of Chiropractic have reason to believe that records of their professional services will be used in legal proceedings involving recipients of or participants in their work, they have a responsibility to create and maintain documentation in the kind of detail and quality that would be consistent with reasonable scrutiny in an adjudicative forum.

Suggested Sanction(s)/Directive(s): 1, 2, C

1.23 Records and Data

Doctors of Chiropractic create, maintain, disseminate, store, retain, and dispose of records and data relating to their research, practice, and other work in accordance with law and in a manner that permits compliance with the requirements of the Code of Ethics.

Suggested Sanction(s)/Directive(s): 1, B

1.24 Fees and Financial Arrangements

(a) As early as is feasible in a professional or scientific relationship, the Doctor of Chiropractic and the patient, client, or other appropriate recipient of chiropractic services reach an agreement specifying the compensation and the billing arrangements.

Suggested Sanction(s)/Directive(s): 1, B

(b) Doctors of Chiropractic do not exploit recipients of services or payors with respect to services.

Suggested Sanction(s)/Directive(s): 1, B

(c) Doctors of Chiropractic's fee practices are consistent with law.

Suggested Sanction(s)/Directive(s): 1, A

(d) Doctors of Chiropractic do not misrepresent their fees.

Suggested Sanction(s)/Directive(s): 1, A

(e) If limitations to services can be anticipated because of limitations in financing, this is discussed with the patient, client, or other appropriate recipient of services as early as feasible.

Suggested Sanction(s)/Directive(s): 1, A

(f) If the patient, client, or other recipient of services does not pay for services as agreed, and if the Doctor of Chiropractic wishes to use collection agencies or legal measures to collect the fees, the Doctor of Chiropractic first informs the person that such measures will be taken and provides that person an opportunity to make prompt payments. (See also Standard 5.11, Withholding Records for Nonpayment.)

Suggested Sanction(s)/Directive(s): 1, A

1.25 Accuracy in Reports to Payors and Funding Sources

In their reports to payors for services or sources of research funding, Doctors of Chiropractic accurately state the nature of the research or service provided, the fees or charges, and where applicable, the identity of the provider, the findings, and the diagnosis.

Suggested Sanction(s)/Directive(s): 1, 2, A

1.26 Referral and Fees

When a Doctor of Chiropractic pays, receives payment from, or divides fees with another professional other than in an employer-employee relationship, the payment to each is based on the services (clinical, consultative, administrative, or other) provided and is not based on the referral itself.

Suggested Sanction(s)/Directive(s): 1, A

2. EVALUATION, ASSESSMENT, OR TREATMENT

2.01 Evaluation, Diagnosis, and Treatment in Professional Conduct

(a) Doctors of Chiropractic perform evaluations, diagnostic services, or treatment only within the context of a defined professional relationship.

Suggested Sanction(s)/Directive(s): 1, A

(b) Doctors of Chiropractic's assessments, recommendations, reports, and chiropractic diagnostic or evaluative statements are based on information and techniques (including personal intake interviews of the individual when appropriate) sufficient to provide appropriate substantiation for their findings. (See also Standard 7.02, Forensic Assessments)

Suggested Sanction(s)/Directive(s): 1, A

2.02 Competence and Appropriate Use of Assessments and Treatment Protocols

(a) Doctors of Chiropractic who develop, administer, score, interpret, or use chiropractic assessment techniques, interviews, tests, or instruments do so in a manner and for purposes that are appropriate in light of the research on or evidence of the use fulness and proper application of the techniques.

Suggested Sanction(s)/Directive(s): 2, B

(b) Doctors of Chiropractic refrain from misuse of assessment techniques, treatments, results, and interpretations and take reasonable steps to prevent others from misusing the information these techniques provide. This includes refraining from releasing raw test results or raw data to persons, other than to patients or clients as appropriate, who are not qualified to use such information.

Suggested Sanction(s)/Directive(s): 2, B

2.03 Test Construction

Doctors of Chiropractic who develop and conduct research with tests and other assessment techniques use scientific procedures and current professional knowledge for test design, standardization, validation, reduction or elimination of bias, and recommendations for use.

Suggested Sanction(s)/Directive(s): 2, B

2.04 Use of Assessment in General and With Special Populations

(a) Doctors of Chiropractic who perform treatment or administer, score, interpret, or use assessment techniques are familiar with the reliability, validation, and related standardization or outcome studies of, and proper applications and uses of, the techniques they use.

Suggested Sanction(s)/Directive(s): 2, B

(b) Doctors of Chiropractic recognize limits to the certainty with which diagnoses, judgments, or predictions can be made about individuals.

Suggested Sanction(s)/Directive(s): 1, A

(c) Doctors of Chiropractic attempt to identify situations in which particular treatments or assessment techniques or norms may not be applicable or may require adjustment in administration or interpretation because of factors such as individuals gender, age, race, ethnicity, national origin, religion, sexual orientation, disability, language, or socio-economic status.

Suggested Sanction(s)/Directive(s): 2, B

2.05 Interpreting Assessment Results

When interpreting assessment results, including automated interpretations, Doctors of Chiropractic take into account the various test factors and characteristics of the person being assessed that might affect the judgment of the Doctor of Chiropractic or reduce the accuracy of their interpretations. They indicate any significant reservations they have about the accuracy or limitations of their interpretations.

Suggested Sanction(s)/Directive(s): 1, A

2.06 Unqualified Persons

Doctors of Chiropractic do not promote the use of chiropractic treatment or assessment techniques by unqualified persons.

Suggested Sanction(s)/Directive(s):

2.07 Obsolete Tests and Outdated Test Results

(a) Doctors of Chiropractic do not base their assessment or treatment decisions or recommendations on data or test results that are outdated for the current purpose.

Suggested Sanction(s)/Directive(s): 1, A, C

(b) Similarly, Doctors of Chiropractic do not base such decisions or recommendations on tests and measures that are obsolete and not useful for the current purpose.

Suggested Sanction(s)/Directive(s):

2.08 Test Scoring and Interpretation Services

(a) Doctors of Chiropractic who offer assessment or scoring procedures to other professionals accurately describe the purpose, norms, validity, reliability, and applications of the procedures and any special qualifications applicable to their use.

Suggested Sanction(s)/Directive(s): 1, A

(b) Doctors of Chiropractic select scoring and interpretation services (including automated services) on the basis of evidence of the validity of the program and procedures as well as on other appropriate considerations.

Suggested Sanction(s)/Directive(s): 1, A, C

(c) Doctors of Chiropractic retain appropriate responsibility for the appropriate application, interpretation, and use of assessment instruments, whether they score and interpret such tests themselves or use automated or other services.

Suggested Sanction(s)/Directive(s): 1, A

2.09 Explaining Assessment Results

Unless the nature of the relationship is clearly explained to the person being assessed in advance and precludes provision of an explanation of results (such as in some organizational consulting, preemployment or security screening, and forensic evaluations), Doctors of Chiropractic ensure that an explanation of the results is provided using language that is reasonably understandable to the person assessed or to another legally authorized person on behalf of the patient or client. Regardless of whether the scoring and interpretation are done by the Doctor of Chiropractic, by assistants, or by automated or other outside services, Doctors of Chiropractic take reasonable steps to ensure that appropriate explanations of results are given.

Suggested Sanction(s)/Directive(s): 1, 2, A, C

2.10 Maintaining Test/Assessment Security

Doctors of Chiropractic make reasonable efforts to maintain the integrity and security of tests and other assessment techniques consistent with law, contractual obligations, and in a manner that permits compliance with the requirements of this Code of Ethics.

Suggested Sanction(s)/Directive(s): 1, 2, A, B, C

3. ADVERTISING AND OTHER PUBLIC STATEMENTS

3.01 Definition of Public Statements

Doctors of Chiropractic comply with this Code of Ethics in public statements relating to their professional services, products, or publications or to the field of chiropractic. Public statements include but are not limited to paid or unpaid advertising, brochures, printed matter, directory listings, personal resumes or curricula vitae, interviews or comments for use in media, statements in legal proceedings, lectures and public oral presentations, and published materials.

Suggested Sanction(s)/Directive(s): 1, 2, 3, 4, 5, A, B, E

3.02 Statements by Others

(a) Doctors of Chiropractic who engage others to create or place public statements that promote their professional practice, products, or activities retain professional responsibility for such statements.

Suggested Sanction(s)/Directive(s): 1, 2, 3, 4, 5, A, B, E

(b) In addition, Doctors of Chiropractic make reasonable efforts to prevent others whom they do not control (such as employees, publishers, sponsors, organizational clients, and representative of the print and broadcast media) from making deceptive statements concerning the practice or professional or scientific activities of Doctors of Chiropractic.

Suggested Sanction(s)/Directive(s): 1, 2, 3, 4, 5, A, B, C, E

(c) If Doctors of Chiropractic learn of deceptive statements about their work made by others, Doctors of Chiropractic make reasonable efforts to correct such statements.

Suggested Sanction(s)/Directive(s): 1, 2, 3, 4, 5, A, E

(d) Doctors of Chiropractic do not compensate employees of press, radio, television, or other communication media in return for publicity in a news item.

Suggested Sanction(s)/Directive(s): 1, 2, 3, 4, 5, A, B, E

(e) A paid advertisement relating to the Doctor of Chiropractic's activities must be identified as such, unless it is apparent from the context.

Suggested Sanction(s)/Directive(s): 1, 2, 3, A, B, E

3.03 Avoidance of False or Deceptive Statements

(a) Doctors of Chiropractic do not make public statements that are false, deceptive, misleading, or fraudulent, either because of what they state, convey, or suggest or because of what they omit, concerning their research, practice, or other work activities or those of persons or organizations with which they are affiliated. As examples (and not in limitation) of this standard, Doctors of Chiropractic do not make false or deceptive statements concerning (1) their training, experience, or competence; (2) their academic degrees; (3) their credentials; (4) their institutional or association affiliations; (5) their services; (6) the scientific or clinical basis for, or results or degree of success of their services; (7) their fees; or (8) their publications or research findings.

Suggested Sanction(s)/Directive(s): 1, 2, 3, 4, 5, A, B, E

(b) Doctors of Chiropractic claim as credentials for their chiropractic work, only degrees that (1) were earned from a regionally accredited educational institution or (2) were the basis for chiropractic licensure by the State of California.

Suggested Sanction(s)/Directive(s): 1, 2, 3, 4, 5, A, B, E

3.04 Media Presentations

When Doctors of Chiropractic provide advice or comment by means of public lectures, demonstrations, radio or television programs, prerecorded tapes, printed articles, mailed material, or other media, they take reasonable precautions to ensure that (1) the statements are based on appropriate chiropractic literature and practice, (2) the statements are otherwise consistent with this Code of Ethics, and (3) the recipients of the information are not encouraged to infer that a relationship has been established with them personally.

Suggested Sanction(s)/Directive(s): 1, 2, 3, 4, 5, A, B, C, E

4. TREATMENT

4.01 Structuring the Relationship

(a) Doctors of Chiropractic discuss with patients or clients as early as is feasible in the therapeutic relationship appropriate issues, such as the nature and anticipated course of treatment, fees, and confidentiality. (See also Standards 1.24, Fees and Financial Arrangements, and 5.01 Discussing the Limits of Confidentiality.)

Suggested Sanction(s)/Directive(s): 1, 2, 3, 4, 5, A, B, E

(b) When the Doctor of Chiropractic's work with patients or clients will be supervised, the above discussion includes that fact, and the name of the supervisor, when the supervisor has legal responsibility for the case.

Suggested Sanction(s)/Directive(s): 1, 2, A

(c) When the treating person is a student intern, the patient or client is informed of that fact.

Suggested Sanction(s)/Directive(s): 1, 2, A

(d) Doctors of Chiropractic make reasonable efforts to answer patient's questions and to avoid apparent misunderstandings about treatment. Whenever possible, Doctors of Chiropractic provide oral and/or written information, using language that is reasonably understandable to the patient or client.

Suggested Sanction(s)/Directive(s): 1, 2, A, C

4.02 Informed Consent to Treatment

(a) Doctors of Chiropractic obtain informed consent to treatment or related procedures, using language that is reasonably understandable to participants. The content of informed consent will vary depending on many circumstances; however, informed consent generally implies that the person (1) has the capacity to consent, (2) has been informed of significant information concerning the procedure, individual risks and benefits of and alternatives, (3) has freely and without undue influence expressed consent, and (4) consent has been documented.

Suggested Sanction(s)/Directive(s): 1, 2, 3, 4, 5, A, B, C

(b) When persons are legally incapable of giving informed consent, Doctors of Chiropractic obtain informed permission from a legally authorized person, if such substitute consent is permitted by law.

Suggested Sanction(s)/Directive(s): 1, 2, 3, 4, 5, A, B, C

(c) In addition, Doctors of Chiropractic (1) inform those persons who are legally incapable of giving informed consent about the proposed treatments in a manner commensurate with the person's reasoning capacities as can best be determined at the time, (2) seek their assent to those treatments, and (3) consider such persons preferences and best interests.

Suggested Sanction(s)/Directive(s): 1, 2, 3, 4, 5, A, B, C

4.03 Couple and Family Relationships

(a) When a Doctor of Chiropractic agrees to provide services to several persons who have a relationship (such as husband and wife or parents and children), the Doctor of Chiropractic attempts to clarify at the outset (1) which of the individuals are patients and (2) the relationship the Doctor of Chiropractic will have with each person. This clarification includes the role of the Doctor of Chiropractic and probable uses of the services provided or the information obtained. (See also Standard 5.01, Discussing the Limits of Confidentiality.)

Suggested Sanction(s)/Directive(s): 1, 2, 3, 4, 5, A, B, C

(b) As soon as it becomes apparent that the Doctor of Chiropractic may be called upon to perform potentially conflicting roles (witness for one party in a divorce proceeding), the Doctor of Chiropractic attempts to clarify and adjust, or withdraw from roles appropriately. (See also Standard 7.03, Clarification of Role, under Forensic Activities.)

Suggested Sanction(s)/Directive(s): 1, 2, 3, 4, 5, A, B, C

4.04 Providing Chiropractic Services to Those Served by Others

In deciding whether to offer to provide services to those already receiving chiropractic services elsewhere, Doctors of Chiropractic carefully consider the treatment issues and the potential patient's welfare. The Doctor of Chiropractic discusses these issues with the patient or client, or another legally authorized person on behalf of the patient, in order to minimize the risk of confusion and conflict, consults with other service providers when appropriate, and proceeds with caution and sensitivity to the therapeutic issues.

Suggested Sanction(s)/Directive(s): 1, 2, 3, 4, 5, A, B

4.05 Sexual Intimacies With Current Patients or Clients

Doctors of Chiropractic do not engage in sexual intimacies with current patients or clients.

Suggested Sanction(s)/Directive(s): 1, 2, 3, 4, 5, A, B, D

4.06 Sexual Intimacies With Former Patients

(a) Doctors of Chiropractic do not engage in sexual intimacies with a former patient or client for at least two years after cessation or termination of professional services or until the patient's care has been transfered to the practice of another Doctor of Chiropractic.

Suggested Sanction(s)/Directive(s): 1, 2, 3, 4, 5, A, B, D

(b) Because sexual intimacies with a former patient or client are so potentially confusing or harmful to the patient or client, and because such intimacies undermine public confidence in the chiropractic profession and thereby deter the public's use of needed services, Doctors of Chiropractic do not engage in sexual intimacies with former patients or clients even after a two year interval except in the most unusual circumstances. The Doctor of Chiropractic who engages in such activity even after the two years following cessation or termination of treatment

bears the burden of demonstrating that there has been no exploitation, in light of all relevant factors, including (1) the amount of time that has passed since therapy terminated, (2) the nature and duration of the therapy, (3) the circumstances of termination, (4) the patient's or client's personal history, (5) the patient's or client's mental status as best can be determined by the Doctor of Chiropractic, (6) the likelihood of adverse impact on the patient or client and others, and (7) any statements or actions made by the Doctor of Chiropractic during the course of treatment suggesting or inviting the possibility of a post-termination sexual or romantic relationship with the patient or client. (See also Standard 1.17, Multiple Relationships.)

Suggested Sanction(s)/Directive(s): 1, 2, 3, 4, 5, A, B, D

4.08 Interruption of Services

(a) Doctors of Chiropractic make reasonable efforts to plan facilitating care in the event that chiropractic services are interrupted by factors such as the Doctor of Chiropractic's illness, death, unavailability, or relocation or by the patient's relocation or patient's financial limitations. (See also Standard 5.09, Preserving Records and Data.)

Suggested Sanction(s)/Directive(s): 1, 2, A, C

(b) When entering into employment or contractual relationships, Doctors of Chiropractic provide for orderly and appropriate resolution of responsibility for patient or client care in the event that the employment or contractual relationship ends, with paramount consideration given to the welfare of the patient or client.

Suggested Sanction(s)/Directive(s): 1, 2, A, C

4.09 Terminating the Professional Relationship

(a) Doctors of Chiropractic do not abandon patients or clients. (See also Standard 1.24(e), Fees and Financial Arrangements.)

Suggested Sanction(s)/Directive(s): 1, 2, 3, A

(b) Doctors of Chiropractic terminate a professional relationship when it becomes reasonably clear that the patient or client no longer needs the service, is not benefiting, or is being harmed by continued service.

Suggested Sanction(s)/Directive(s): 1, 2, 3, 4, 5, A, B, C, E

(c) Prior to termination for whatever reason, except where precluded by the patient's or client's conduct, the Doctor of Chiropractic discusses the patient's or client's views and needs, provides appropriate pretermination discussion, suggests alternative service providers as appropriate, and takes other reasonable steps to facilitate transfer of responsibility to another provider if the patient or client needs one immediately.

Suggested Sanction(s)/Directive(s): 1, 2, 3, A, C

5. PRIVACY AND CONFIDENTIALITY

5.01 Discussing the Limits of Confidentiality

(a) Doctors of Chiropractic discuss with persons and organizations with whom they establish a scientific or professional relationship (including, to the extent feasible, minors and their legal representatives) (1) the relevant limitations on confidentiality, including limitations where applicable in organizational consulting, and (2) the foreseeable uses of the information generated through their services.

Suggested Sanction(s)/Directive(s): 1, 2, 3, B, C

(b) Unless it is not feasible or is contraindicated, the discussion of confidentiality occurs at the outset of the relationship and thereafter as new circumstances may warrant.

Suggested Sanction(s)/Directive(s): 1, 2, 3, B, C

(c) Permission for electronic recording of interviews is secured from patients and clients.

Suggested Sanction(s)/Directive(s): 1, 2, 3, B, C

5.02 Maintaining Confidentiality

Doctors of Chiropractic have a primary obligation and take reasonable precautions to respect the confidentiality rights of those with whom they work or consult, recognizing that confidentiality may be established by law, institutional rules, or professional or scientific relationships. (See also 6.26, Professional Reviewers.)

Suggested Sanction(s)/Directive(s): 1, 2, B, C

5.03 Minimizing Intrusions on Privacy

(a) In order to minimize intrusions on privacy, Doctors of Chiropractic include in written and oral reports, consultations, and the like, only information germane to the purpose for which the communication is made.

Suggested Sanction(s)/Directive(s): 1, 2, B, C

(b) Doctors of Chiropractic discuss confidential information obtained in clinical or consulting relationships, or evaluative data concerning patients, individual or organizational clients, students, research participants, supervisees, preceptors, and employees, only for appropriate scientific or professional purposes and only with persons clearly concerned with such matters.

Suggested Sanction(s)/Directive(s): 1, 2, B, C

5.04 Maintenance of Records

Doctors of Chiropractic maintain appropriate confidentiality in creating, storing, accessing, transferring, and disposing of records under their control, whether these are written, automated, or in any other medium. Doctors of Chiropractic maintain and dispose of records in accordance with law and in manner that permits compliance with the requirements of this Code of Ethics.

Suggested Sanction(s)/Directive(s): 1, 2, 3, A, B, C

5.05 Disclosures

(a) Doctors of Chiropractic disclose confidential information without the consent of the individual only as mandated by law, or where permitted by law for a valid purpose, such as (1) to provide needed professional services to the patient or the individual or organizational client, (2) to obtain appropriate professional consultations, (3) to protect the patient or other client or others from harm, or (4) to obtain payment for services, in which instance disclosure is limited to the minimum that is necessary to achieve the purpose.

Suggested Sanction(s)/Directive(s): 1, 2, B

(b) Doctors of Chiropractic also may disclose confidential information with the appropriate consent of the patient or the individual or organizational client (or of another legally authorized person on behalf of the patient or client), unless prohibited by law.

Suggested Sanction(s)/Directive(s): 1, 2, B

5.06 Consultations

When consulting with colleagues, Doctors of Chiropractic do not share confidential information that reasonably could lead to the identification of a patient, client, research participant, or other person or organization with whom they have a confidential relationship unless they have obtained the prior consent of the person or organization or the disclosure cannot be avoided, and (2) they share information only to the extent necessary to achieve the purpose of the consultation. (See also Standard 5.02, Maintaining Confidentiality.)

Suggested Sanction(s)/Directive(s): 1, 2, B

5.07 Confidential Information in Databases

(a) If confidential information concerning recipients of chiropractic services is to be entered into databases or systems of records available to persons whose access has not been consented to by the recipient, then Doctors of Chiropractic use coding or other techniques to avoid the inclusion of personal identifiers.

Suggested Sanction(s)/Directive(s): 1, A, B

(b) If a research protocol approved by an institutional review board or similar body requires inclusion of personal identifiers, such identifiers are deleted before the information is made accessible to persons other than those of whom the subject was advised.

Suggested Sanction(s)/Directive(s): 1, A, B

(c) If such deletion is not feasible, then before Doctors of Chiropractic transfer such data to others or review such data collected by others, they take reasonable steps to determine that appropriate consent of personally identifiable individuals has been obtained.

Suggested Sanction(s)/Directive(s): 1, A, B

5.08 Use of Confidential Information for Didactic or Other Purposes

(a) Doctors of Chiropractic do not disclose in their writings, lectures, or other public media, confidential, personally identifiable information concerning their patients, individual or organizational clients, students, research participants, or other recipients of their services that they obtained during the course of their work, unless the person or organization has consented in writing or unless there is other ethical or legal authorization for doing so.

Suggested Sanction(s)/Directive(s): 1, A, B

(b) Ordinarily, in such scientific and professional presentations, Doctors of Chiropractic disguise confidential information concerning such persons or organizations so that they are not individually identifiable to others and so that discussions do not cause harm to subjects who might identify themselves.

Suggested Sanction(s)/Directive(s): 1, A, B

5.09 Preserving Records and Data

A Doctor of Chiropractic makes plans so that the confidentiality of records and data is protected in the event of the Doctor of Chiropractic's death, incapacity, or withdrawal from the position or practice.

Suggested Sanction(s)/Directive(s): 1, 2, A, C

5.10 Ownership of Records and Data

Recognizing that ownership of records and data is governed by legal principles, Doctors of Chiropractic take reasonable and lawful steps so that records and data remain available to the extent needed to serve the best interests of patients, individual or organizational clients, research participants, or appropriate others.

Suggested Sanction(s)/Directive(s): 1, A, B

5.11 Withholding Records for Nonpayment

Doctors of Chiropractic may not withhold records under their control that are requested for a patient's or client's treatment solely because payment has not been received, except as otherwise provided by law.

Suggested Sanction(s)/Directive(s): 2, 3, 4, A, C

6. TEACHING, TRAINING SUPERVISION, RESEARCH, AND PUBLISHING

6.01 Design of Education and Training Programs

Doctors of Chiropractic who are responsible for education and training programs seek to ensure that the programs are competently designed, provide the proper experiences, and meet the requirements for licensure, certification, or other goals for which claims are made by the program.

Suggested Sanction(s)/Directive(s): 1, 2, 3, A, B

6.02 Description of Education and Training Programs

(a) Doctors of Chiropractic responsible for education and training programs seek to ensure that there is a current and accurate description of the program content, training goals and objectives, and requirements that must be met for satisfactory completion of the program. This information must be made readily available to all interested parties.

Suggested Sanction(s)/Directive(s): 1

(b) Doctors of Chiropractic seek to ensure that statements concerning their course outlines are accurate and not misleading, particularly regarding the subject matter to be covered, bases for evaluating progress, and the nature of course experiences. (See also Standard 3.03, Avoidance of False or Deceptive Statements.)

Suggested Sanction(s)/Directive(s): 1, 2, A, B, C

(c) To the degree to which they exercise control, Doctors of Chiropractic responsible for announcements, catalogs, brochures, or advertisements describing workshops, seminars, or other non-degree-granting educational programs ensure that they accurately describe the audience for which the program is intended, the educational objectives, the presenters and the fees involved.

Suggested Sanction(s)/Directive(s): 1, 2, A, B, C

6.03 Accuracy and Objectivity in Teaching

(a) When engaged in teaching or training, Doctors of Chiropractic present chiropractic information accurately and with a degree of objectivity.

Suggested Sanction(s)/Directive(s): 1, 2, A, B, C

(b) When engaged in teaching or training, Doctors of Chiropractic recognize the power they hold over students or supervisees and therefore make reasonable efforts to avoid engaging in conduct that is personally demeaning to students and supervisees. (See also Standards 1.09, Respecting Others, and 1.12, Other Harassment.)

Suggested Sanction(s)/Directive(s): 1, 2, A, B, C, D

6.04 Limitation on Teaching

Doctors of Chiropractic do not teach the use of techniques or procedures that require specialized training, licensure, or expertise, to individuals who lack the prerequisite training, legal scope of practice, or expertise.

Suggested Sanction(s)/Directive(s): 1, 2, A, B, C

6.05 Assessing Student and Supervisee Performance

(a) In academic and supervisory relationships, Doctors of Chiropractic establish an appropriate process for providing feedback to students and supervisees.

Suggested Sanction(s)/Directive(s): 1, A, B, C

(b) Doctors of Chiropractic evaluate students and supervisees on the basis of their actual performance on relevant and established program requirements.

Suggested Sanction(s)/Directive(s): 1, A, B, C

6.06 Planning Research

(a) Doctors of Chiropractic design, conduct, and report research in accordance with recognized standards of scientific competence and ethical research.

Suggested Sanction(s)/Directive(s): 1, 2, 3, A, B, C

(b) Doctors of Chiropractic plan their research so as to minimize the possibility that results will be misleading.

Suggested Sanction(s)/Directive(s): 1, 2, 3, A, B, C

(c) In planning research, Doctors of Chiropractic consider its ethical acceptability under the Code of Ethics. If an ethical issue is unclear, Doctors of Chiropractic seek to resolve the issue through consultation with institutional review boards, animal care and use committees, peer consultations, or other proper mechanisms.

Suggested Sanction(s)/Directive(s): 1, 2, 3, A, B, C

(d) Doctors of Chiropractic take reasonable steps to implement appropriate protections for the rights and welfare or human participants, other persons affected by the research, and the welfare of animal subjects.

Suggested Sanction(s)/Directive(s): 1, 2, 3, 4, 5, A, B, C, D

6.07 Responsibility

(a) Doctors of Chiropractic conduct research competently and with due concern for the dignity and welfare of the participants.

Suggested Sanction(s)/Directive(s): 1, 2, 3, 4, 5, A, B, C, D

(b) Doctors of Chiropractic are responsible for the ethical conduct of research conducted by them or by others under their supervision or control.

Suggested Sanction(s)/Directive(s): 1, 2, A

(c) Researchers and assistants are permitted to perform only those tasks for which they are appropriately trained and prepared.

Suggested Sanction(s)/Directive(s): 1, 2, A, B, C

(d) As part of the process of development and implementation of research projects, Doctors of Chiropractic consult those with expertise concerning any special population under investigation or most likely to be affected.

Suggested Sanction(s)/Directive(s): 1, C

6.08 Compliance With Law and Standards

Doctors of Chiropractic plan and conduct research in a manner consistent with federal and state law and regulations, as well as professional standards governing the conduct of research, and particularly those standards governing research with human participants and animal subjects.

Suggested Sanction(s)/Directive(s): 1, 2, 3, 4, 5, A, B, C, D

6.09 Institutional Approval

Doctors of Chiropractic obtain from host institutions or organizations appropriate approval prior to conducting research, and they provide accurate information about their research proposals. They conduct their research in accordance with the approved research protocol.

Suggested Sanction(s)/Directive(s): 1, A, B, C

6.10 Research Responsibilities

Prior to conducting research (except research involving only anonymous surveys, etc.), Doctors of Chiropractic enter into an agreement with participants that clarifies the nature of the research and the responsibilities of each party.

Suggested Sanction(s)/Directive(s): 1, 2, A, B

6.11 Informed Consent to Research

(a) Doctors of Chiropractic use language that is reasonably understandable to research participants in obtaining their appropriate informed consent (except as provided in Standard 6.12, Dispensing With Informed Consent). Such informed consent is appropriately documented.

Suggested Sanction(s)/Directive(s): 1, 2, 3, A

(b) Using language that is reasonably understandable to participants, Doctors of Chiropractic inform participants of the nature of the research; they inform participants that they are free to participate or to decline to participate or to withdraw from the research; they explain the foreseeable consequences of declining or withdrawing; they inform the participants of significant factors that may be expected to influence their willingness to participate (such as risks, discomfort, adverse effects, or limitations on confidentiality, except as provided in Standard 6.15, Deception in Research); and they explain other aspects about which the prospective participants inquire.

Suggested Sanction(s)/Directive(s): 1, 2, B

(c) When Doctors of Chiropractic conduct research with individuals such as students or subordinates, Doctors of Chiropractic take special care to protect the prospective participants from adverse consequences of declining or withdrawing from participation.

Suggested Sanction(s)/Directive(s): 1, 2, A, B

(d) When research participation is a course requirement or opportunity for extra credit, the prospective participant is given the choice of equitable alternative activities.

Suggested Sanction(s)/Directive(s): 1, A

(e) For persons who are legally incapable of giving informed consent, Doctors of Chiropractic nevertheless (1) provide an appropriate explanation, (2) obtain the participant's assent and (3) obtain appropriate permissions from a legally authorized person, if such substitute consent is permitted by law.

Suggested Sanction(s)/Directive(s): 1, A

6.12 Dispensing With Informed Consent

Before determining that planned research (such as research involving anonymous questionnaires, certain kinds of archieval research, etc.) does not require the informed consent of research participants, Doctors of Chiropractic consider applicable regulations and institutional review board requirements, and they consult with colleagues as appropriate.

Suggested Sanction(s)/Directive(s): 1, A

6.13 Informed Consent in Research Filming or Recording

Doctors of Chiropractic obtain informed consent from research participants prior to filming or recording them in any form, unless the research involves simply naturalistic observations in public places and it is not anticipated that the recording will be used in a manner that could cause personal identification or harm.

Suggested Sanction(s)/Directive(s): 1, 2, A

6.14 Offering Inducements for Research Participants

(a) If offering professional services as an inducement to obtain research participants, Doctors of Chiropractic make clear the nature of the services, as well as the risks, obligations, and limitations. (See also Standard 1.18.)

Suggested Sanction(s)/Directive(s): 1, 2, 3, 4, 5, A, B, C

(b) Doctors of Chiropractic do not offer excessive or inappropriate financial or other inducements to obtain research participants, particularly when it might tend to coerce participation.

Suggested Sanction(s)/Directive(s): 1, 2, 3, 4, 5, A, B, C

6.15 Deception in Research

(a) Doctors of Chiropractic do not conduct a study involving deception unless they have determined that the use of deceptive techniques is justified by the study's prospective scientific, educational, or applied value and that equally effective alternative procedures that do not use deception are not feasible.

Suggested Sanction(s)/Directive(s): 1, 2, 3, 4, 5, A, B, C

(b) Doctors of Chiropractic never deceive research participants about significant aspects that would affect their willingness to participate, such as physical risks, discomfort, or other traumatic experiences.

Suggested Sanction(s)/Directive(s): 1, 2, 3, 4, 5, A, B, C

(c) Any other deception that is an integral feature of the design and conduct of an experiment must be explained to participants as early as feasible, preferably at the conclusion of their participation, but no later than at the conclusion of the research. (See also Standard 6.18, Providing Participants With Information About the Study.)

Suggested Sanction(s)/Directive(s): 1, 2, A, B

6.16 Sharing and Utilizing Data

Doctors of Chiropractic inform research participants of their anticipated sharing or further use of personally identifiable research data and of the possibility of unanticipated future uses.

Suggested Sanction(s)/Directive(s): 1, 2, A

6.17 Minimizing Invasiveness

In conducting research, Doctors of Chiropractic interfere with the participants or milieu from which data are collected only in a manner that is warranted by an appropriate research design and that is consistent with chiropractor's roles as scientific investigators.

Suggested Sanction(s)/Directive(s): 1, 2, A

6.18 Providing Participants With Information About the Study

(a) Doctors of Chiropractic provide a prompt opportunity for participants to obtain appropriate information about the nature, results, and conclusions of the research, and attempt to correct any misconceptions that participants may have.

Suggested Sanction(s)/Directive(s): 1, 2, A

(b) If scientific or humane values justify delaying or withholding this information, Doctors of Chiropractic take reasonable measure to reduce the risk of harm.

Suggested Sanction(s)/Directive(s): 1, 2, 3, 4, 5, A, B, C

6.19 Honoring Commitments

Doctors of Chiropractic take reasonable measures to honor all commitments they have made to research participants.

Suggested Sanction(s)/Directive(s): 1, 2, 3, A, B

6.20 Care and Use of Animals in Research

(a) Doctors of Chiropractic who conduct research involving animals treat them humanely.

Suggested Sanction(s)/Directive(s): 1, 2, 3, A, C

(b) Doctors of Chiropractic acquire, care for, and use of animals in compliance with current federal, state, and local laws and regulations, and with professional standards.

Suggested Sanction(s)/Directive(s): 1, 2, 3, A, C

(c) Doctors of Chiropractic trained in research methods and experienced in the care of laboratory animals supervise all procedures involving animals and are responsible for ensuring appropriate consideration of their comfort, health, and humane treatment.

Suggested Sanction(s)/Directive(s): 1, 2, 3, A, C

(d) Doctors of Chiropractic ensure that all individuals using animals under their supervision have received instruction in research methods and in the care, maintenance, and handling of the species being used, to the extent appropriate to their role.

Suggested Sanction(s)/Directive(s): 1, 2, 3, A, C

(e) Responsibilities and activities of individuals assisting in a research project are consistent with their respective competencies.

Suggested Sanction(s)/Directive(s): 1, 2, 3, A, C

(f) Doctors of Chiropractic make reasonable efforts to minimize the discomfort, infection, illness, and pain of animal subjects.

Suggested Sanction(s)/Directive(s): 1, 2, 3, A, C

(g) A procedure subjecting animals to pain, stress, or privation is used only when an alternative procedure is unavailable and the goal is justified by its prospective scientific, educational, or applied value.

Suggested Sanction(s)/Directive(s): 1, 2, 3, A, C

(h) Surgical procedures are performed under appropriate anesthesia; techniques to avoid infection and minimize pain are followed during and after surgery.

Suggested Sanction(s)/Directive(s): 1, 2, 3, A, C

(i) When it is appropriate that the animal's life be terminated, it is done rapidly, with an effort to minimize pain, and in accordance with accepted procedures.

Suggested Sanction(s)/Directive(s): 1, 2, 3, A, C

6.21 Reporting of Results

(a) Doctors of Chiropractic do not fabricate data or falsify results in their publications.

Suggested Sanction(s)/Directive(s): 1, 2, 3, A, C

(b) If Doctors of Chiropractic discover significant errors in their published data, they take steps to correct such errors in a correction, retraction, erratum, or other appropriate publication means.

Suggested Sanction(s)/Directive(s): 1, 2, 3, A, C

6.22 Plagiarism

Doctors of Chiropractic do not present substantial portions or elements of another's work or data as their own, even if the other work or data source is cited occasionally.

Suggested Sanction(s)/Directive(s): 1, 2, 3, A

6.23 Publication Credit

(a) Doctors of Chiropractic take responsibility and credit, including authorship credit, only for work they have actually performed or to which they have contributed.

Suggested Sanction(s)/Directive(s): 1, 2, 3, A

(b) Principal authorship and other publication credits accurately reflect the relative scientific or professional contributions of the individuals involved, regardless of their relative status. Mere possession of an institutional position, such as Department Chair, does not justify authorship credit. Minor contributions to the research or to the writing for publications are appropriately acknowledged, such as in footnotes or in an introductory statement.

Suggested Sanction(s)/Directive(s): 1, 2, 3, A

(c) A student is usually listed as principal author on any multiple-authored article that is substantially based on the student's dissertation or thesis.

Suggested Sanction(s)/Directive(s): 1, 2, 3, A

6.24 Duplicate Publication of Data

Doctors of Chiropractic do not publish, as original data, data that had been previously published. This does not preclude republishing data when they are accompanied by proper acknowledgement.

Suggested Sanction(s)/Directive(s): 1, 2, 3, A

6.25 Sharing Data

After research results are published, Doctors of Chiropractic do not withhold the data on which their conclusions are based from other competent professionals who seek to verify the substantive claims through reanalysis and who intend to use such data only for that purpose, provided that the confidentiality of the participants can be protected and unless legal rights concerning proprietary data preclude their release.

Suggested Sanction(s)/Directive(s): 1, 2, 3, A

6.26 Professional Reviewers

Doctors of Chiropractic who review material submitted for publication, grant, or other research proposal review respect the confidentiality of and the proprietary rights in such information of those who submitted it.

Suggested Sanction(s)/Directive(s): 1, 2, 3, A

7. FORENSIC ACTIVITIES

7.01 Professionalism

Doctors of Chiropractic who perform forensic functions, such as assessments, interviews, consultations, reports, or expert testimony, must comply with all other provisions of this Code of Ethics to the extent that they apply to such activities. In addition, Doctors of Chiropractic base their forensic work on appropriate knowledge of and competence in the areas underlying such work, including specialized knowledge, concerning special populations. (See also Standards 1.06, Basis for Scientific and Professional Judgments; 1.08 Human Differences; 1.15 Misuse of Influence; and 1.22, Documentation of Professional and Scientific Work.)

Suggested Sanction(s)/Directive(s): 1, 2, 3, A, C

7.02 Forensic Assessments

(a) Forensic assessments, recommendations, and reports of Doctors of Chiropractic are based on information and techniques (including personal interviews of the individual, when appropriate) sufficient to provide appropriate substantiation for their findings. (See also Standards 1.03; Professional and Scientific Relationship; 1.22 Documentation of Professional and Scientific Work; 2.01 Evaluation, Diagnosis, and Treatment in Professional Conduct; and 2.05 Interpreting Assessment Results.)

Suggested Sanction(s)/Directive(s): 1, 2, 3, 4, 5, A, B, C

(b) Except as noted in (c), below, Doctors of Chiropractic provide written or oral forensic reports or testimony of the chiropractic characteristics of an individual only after they have conducted an examination of the individual adequate to support their statements or conclusions.

Suggested Sanction(s)/Directive(s): 1, 2, 3, 4, 5, A, B, C

(c) When, despite reasonable efforts, such an examination is not feasible, Doctors of Chiropractic clarify the impact of their limited information on the reliability and validity of their reports and testimony, and they appropriately limit the nature and extent of their conclusions or recommendations.

Suggested Sanction(s)/Directive(s): 1, 2, 3, 4, 5, A, B, C

7.03 Clarification of Role

In most circumstances, Doctors of Chiropractic avoid performing multiple and potentially conflicting roles in forensic matters. When Doctors of Chiropractic may be called on to serve in more than one role in a legal proceeding - for example, as consultant or expert for one party or for the court and as a fact witness - they clarify role expectations and the extent of confidentiality in advance to the extent feasible, and thereafter as changes occur, in order to avoid compromising their professional judgment and objectivity and in order to avoid misleading others regarding their role.

Suggested Sanction(s)/Directive(s): 1, 2, 3, 4, 5, A, B, C

7.04 Truthfulness and Candor

(a) In forensic testimony and reports, Doctors of Chiropractic testify truthfully, honestly, and candidly and, consistent with applicable legal procedures, describe fairly the bases for their testimony and conclusions.

Suggested Sanction(s)/Directive(s): 1, 2, 3, 4, 5, A, B, C

(b) Whenever necessary to avoid misleading, Doctors of Chiropractic acknowledge the limits of their data or conclusions.

Suggested Sanction(s)/Directive(s): 1, 2, 3, A

7.05 Prior Relationships

A prior professional relationship with a party does not preclude Doctors of Chiropractic from testifying as fact witnesses or from testifying to their services to the extent permitted by applicable law. Doctors of Chiropractic appropriately take into account ways in which the prior relationship might affect their professional objectivity or opinions and disclose the potential conflict to the relevant parties.

Suggested Sanction(s)/Directive(s): 1, 2, 3, 4, 5, A, B, C

7.06 Compliance With Law and Rules

In performing forensic roles, Doctors of Chiropractic are familiar with the rules governing their roles. Doctors of Chiropractic are aware of the occasionally competing demands placed upon them by these principles and the requirements of the court system, and attempt to resolve these conflicts by making known their commitment to this Code of Ethics and taking steps to resolve the conflict in a responsible manner. (See also Standard 1.02, Relationship of Ethics and Law.)

Suggested Sanction(s)/Directive(s): 1, 2, 3, A, C

8. RESOLVING ETHICAL ISSUES

8.01 Familiarity With Ethics Code

Doctors of Chiropractic have an obligation to be familiar with this Code of Ethics, other applicable ethics codes, and their application to the work of Doctors of Chiropractic. Lack of awareness or misunderstanding of an ethical standard is not itself a defense to a charge of unethical conduct.

Suggested Sanction(s)/Directive(s): 1, 2, 3, C

8.02 Confronting Ethical Issues

When a Doctor of Chiropractic is uncertain whether a particular situation or course of action would violate this Code of Ethics, a Doctor of Chiropractic ordinarily consults with other Doctors of Chiropractic knowledgeable about ethical issues, with the CCA Ethics Committee Chairperson, or with other appropriate authorities in order to choose a proper response.

Suggested Sanction(s)/Directive(s): 1, 2, C

8.03 Conflicts Between Ethics and Organizational Demands

If the demands of an organization with which Doctors of Chiropractic are affiliated conflict with this Code of Ethics, Doctors of Chiropractic clarify the nature of the conflict, make known their commitment to the Code of Ethics, and seek to resolve the conflict in a way that permits the fullest adherence to the Code of Ethics.

Suggested Sanction(s)/Directive(s): 1, 2, 3, 4, 5, A, B, C

8.04 Informal Resolutions of Ethical Violations

When Doctors of Chiropractic believe that there may have been an ethical violation by a Doctor of Chiropractic, they attempt to resolve the issue by bringing it to the attention of that individual if an informal resolution appears appropriate and the intervention does not violate any confidentiality right that may be involved.

Suggested Sanction(s)/Directive(s): 1, 2

8.05 Reporting Ethical Violations

If an apparent ethical violation is not appropriate for informal resolution under Standard 8.04 or is not resolved properly in that fashion, Doctors of Chiropractic take further action appropriate to the situation, unless such action conflicts with confidentiality rights in ways that cannot be resolved. Such action might include referral to the CCA Ethics Committee or to the Board of Chiropractic Examiners.

Suggested Sanction(s)/Directive(s): 1, 2

8.06 Cooperating With Ethics Committees

(a) Doctors of Chiropractic cooperate in ethics investigations, proceedings, and resulting requirements of the California Chiropractic Association. In doing so, they make efforts to resolve any issues as to confidentiality. Failure to cooperate is itself an ethics violation.

Suggested Sanction(s)/Directive(s): 1, 2, 3, 4, 5, A

(b) Member Doctors of Chiropractic of the California Chiropractic Association agree to abide by the ultimate decision of the California Chiropractic Association ethics process regardless of their membership status if the apparent violation took place within a time frame when they were a member of the California Chiropractic Association.

Suggested Sanction(s)/Directive(s): 1, 2, 3, 4, 5

8.07 Improper Complaints

Doctors of Chiropractic do not file or encourage the filing of ethics complaints that are frivolous and are intended to harm the respondent rather than to protect the public.

Suggested Sanction(s)/Directive(s): 1, 2, 3, 4, 5

Appreciation is extended to the American Psychological Association for the use of their Code of Ethics as a guide for the production of the California Chiropractic Association Code of Ethics.

ADMINISTRATIVE PROCEDURES

The Administrative Procedures provide for the structure and operation of the CCA Ethics Committee and detail the procedures followed by the Ethics Committee, the CCA Executive Committee, and the CCA Board of Directors in handling Inquiries or Challenges (defined below) raised under the Rules of Ethics. All members of the California Chiropractic Association (CCA) are required to comply with these Administrative Procedures; failure to cooperate with the CCA Ethics Committee, the CCA Executive Committee, or the CCA Board of Directors in a proceeding on a Challenge may be considered according to the same procedures and with the same sanctions as failure to observe the Rules of Ethics.

DEFINITIONS USED IN THE ADMINISTRATIVE PROCEDURES

"Board" means the CCA Board of Directors.

"Challenge" means a request for a finding by the CCA Ethics Committee that a Subject Member (defined below) has failed to observe the CCA Rules of Ethics.

"Chairperson" means the Chairperson of the CCA Ethics Committee.

"Code" means the CCA Code of Ethics.

"Committee" means the CCA Ethics Committee.

"Executive Committee" means the CCA Executive Committee.

"Executive Director" means the CCA Executive Director.

"Inquiry" means a request for issuance of an advisory opinion by the Board interpreting the CCA Rules of Ethics.

"Legal/Regulatory Body" means any law enforcement agency, licensing authority or governmental peer review committee.,

"Petitioner" means the individual or organization that submitted the Inquiry or Challenge.

"President" means the CCA President.

"Rules" means the CCA Rules of Ethics.

"Society" means the CCA component chiropractic society of which the Subject Member is a member.

"Subject Member" means the CCA member whose conduct is the subject of a Challenge.

"Submission" means the materials submitted by a Petitioner (defined above) to initiate or substantiate an Inquiry or Challenge.

1. Ethics Committee.

1.01 **Composition.** The Committee shall be composed of six members appointed by the President and confirmed by the Board of Directors, each of whom shall meet the following minimum criteria:

has been licensed as a doctor of chiropractic in California for at least five years immediately preceding his/her appointment to the Ethics Committee;

has not had any public action taken against his/her license by the Chiropractic Board of California or any licensing agency of any State;

has not had any public sanctions by the CCA or any other duly constituted ethics body pertaining to violations of a code of ethics to which the member is obligated to adhere;

has not been convicted of any felony (including nolo contendere convictions), and has not been convicted of any crime (including nolo contendere convictions) involving moral turpitude, whether misdemeanor or felony;

agrees in writing on a form acceptable to the CCA to never use, in any situation and in any manner whatsoever, any information whatsoever, obtained through the Ethics Committee.

1.02 **Meetings.** Meetings of the Committee shall be held at the call of the Chairperson, and may be held by telephone conference or in person, at the discretion of the Chairperson in accordance with these Administrative Procedures.

1.03 **Quorum.** Fifty percent plus one of the members of the Committee (including the Chairperson) shall constitute a quorum.

1.04 **Term.** The term of appointment for Committee members shall be three years in staggered terms. The terms shall be staggered such that two members' terms expire each year. Commencing with the 1997-1998 Committee, each member of the Committee shall serve no more than two terms, or a maximum of six consecutive years, whichever is less. A member who is not eligible for re-appointment may be re-appointed after the member has not been on the Committee for three years.

2. Inquiries and Challenges.

2.01 **Preliminary Review.** The Chairperson shall preliminarily review each Submission to determine whether it is an Inquiry or a Challenge. A Submission, whether or not designated by the Petitioner as an Inquiry or Challenge, may be construed by the Chairperson as either an Inquiry or a Challenge in the light of the information in the Submission. A Challenge or an Inquiry shall not be considered unless it is submitted in writing and signed by its Petitioner(s). Inquiries and Challenges may be submitted by Chiropractic Doctors (whether or not they are CCA members), CCA Societies, health care institutions, health care reimbursers, other health professionals, patients, or organizations representing any of these.

2.02 **Preliminary Disposition.**

2.02.1 Upon preliminary review of a Submission, the Chairperson may conclude that the Submission (i) contains insufficient information on which to base a determination (ii) is frivolous or inconsequential, i.e., it does not present an issue of interpretation or application of the Rules adequate to constitute an Inquiry or Challenge or (iii) makes allegations which, if true, would not justify the imposition of any of the sanctions or directives outlined in the Code. If a Submission is rejected for lack of information or as frivolous or inconsequential, the Submission shall be disposed of by notice from the Chairperson to the Petitioner, if the Petitioner is identified. If a Submission is rejected as not justifying a sanction, the Chairperson or a member of the Committee assigned by the Chairperson shall conduct brief, informal mediation between the Subject Member and the Petitioner. Each such preliminary disposition by the Chairperson of a Submission and the results of any such mediation shall be reported to the Committee.

2.02.2 If the Submission contains information alleging a violation of the Chiropractic Act or other state law and if the Chairperson concludes that pursuing the matter contained in the Submission would prejudice a potential or ongoing investigation by any governmental agency, the Chairperson may elect to delay pursuing the matter submitted until such time as it would be prudent to do so. Each such delay shall be reported to the Committee.

2.03 **Requests for Information.** In each case where the Chairperson concludes that a Submission establishes an Inquiry or a Challenge, the Chairperson shall send a Request for Information to the Petitioner and/or the Subject Member, at the Chairperson's discretion.

3. Proceedings on Inquiries.

3.01 **Hearing on an Inquiry.** In an Inquiry, the Committee shall give 30 days notice to those CCA members who, in the opinion of the Committee, may be interested in, or affected by, issuance of an advisory opinion, of a 30 day open comment period followed by a hearing to receive the written comments of those CCA members who are interested in, or may be affected by, issuance of an advisory opinion. The notice may contain a tentative proposed advisory opinion. At the conclusion of the 30 day comment period, the Committee shall hold a hearing by telephone conference or in person, at the discretion of the Chairperson. Such hearing shall be held within 30 days of the close of the comment period. Any interested person may provide information orally and may be subject to questioning by the Committee. The hearing shall be conducted by the Committee with a quorum participating. The Chairperson shall preside at the hearing and assure that these Administrative Procedures are followed. The Chairperson shall present the issues raised by the Inquiry and any tentative proposed Committee recommendation for an advisory opinion. Any information may be considered which is relevant or potentially relevant. Except for the California Chiropractic Association, no participant, may be represented by legal counsel at the hearing.

3.02 **Request for Written Comments on an Inquiry.** In an Inquiry, at the conclusion of the comment period and the hearing, at least a quorum of the Committee shall deliberate, taking into account any written or oral testimony submitted during the comment period or at the hearing. At

the Chairperson's discretion, the Committee may deliberate in person, in a telephone conference, or through the collection and review of written comments by Committee members. If the deliberation occurs through written comments, each member of the Committee who was either present at the hearing, if any, or had the opportunity to review written information submitted in connection with the Inquiry, shall submit a written opinion to the Chairperson as to the proper outcome of the Inquiry.

3.03 **Recommendation for an Advisory Opinion on an Inquiry.** Upon completion of the deliberation process in an Inquiry, the Committee shall recommend to the Executive Committee the issuance by the Board of an advisory opinion interpreting the Rules, or shall recommend no action be taken. The Committee's recommendation may but shall not be required to be the tentative proposed advisory opinion included in the notice of the open comment period. If the Committee so recommends, a proposed advisory opinion shall be prepared under the supervision of the Chairperson and submitted to the Executive Committee. The Committee's recommendation, including the proposed advisory opinion, if any, shall represent a consensus of the Committee members participating in the deliberation, and shall be reported to the Executive Committee. The Executive Committee may accept the Committee's recommendation in whole or in part, may modify the Committee's recommendation, may request that the Committee review the Submission and the comments again, or may determine to take no action. Upon completion of the Executive Committee's review of the recommendations, if the Executive Committee takes no action, the Inquiry shall be dismissed with notice to the Petitioner.

3.04 **Advisory Opinion.** Upon completion of the Executive Committee's review of the Committee's recommendation, if the Executive Committee determines that an advisory opinion should be issued, the Executive Committee shall recommend the issuance by the Board of an advisory opinion. The Board may accept the Executive Committee's recommendation in whole or in part, may modify the Executive Committee's or the Committee's recommendation, may determine that no action need be taken or may request that the Committee review the Submission and the comments again and present a second recommendation. Upon completion of the Board's review of the recommendations, if the Board takes no action, the Inquiry shall be dismissed with notice to the Petitioner. If the Board issues an advisory opinion, the advisory opinion shall be binding on all CCA members and shall be made available to CCA members for review.

4. Proceedings on Challenges.

4.01 **Limitations.**

4.01.1 A Challenge shall not be valid if the Challenge relates solely to care rendered to a patient more than one year prior to the date the Submission was received by the CCA unless, the Chairperson determines that extenuating circumstances prevented the Petitioner from making the Challenge on a timely basis.

4.01.2 A Challenge shall not be valid if the Challenge relates solely to a dispute arising out of (i) the Subject Member's performance of an independent medical examination or the Subject Member's resulting report or (ii) the Subject Member's performance of a "paper review." This limitation shall not apply if (a) the dispute is based on an allegation that the Subject Member caused physical or emotional harm to the patient which harm is unrelated to the Subject Member's report or (b) the behavior complained of is egregious in the judgment of the Chairperson.

4.02 **Hearings on a Challenge.** If the Chairperson determines that a Submission is a valid Challenge, the Subject Member shall have the right to a hearing. The Request for Information to the Subject Member shall set forth with particularity both the actions by the Subject Member that are subject of the Challenge, the information or records that the Committee believes it needs in order to decide the Challenge, and the specific Rule(s) that appear to be implicated. The Request for Information shall give 30 days written notice of the Subject Member's right to request a hearing and the Subject Member's obligation to provide the requested information (the Information Period). Upon timely request by the Subject Member for a hearing, the Committee shall hold a

hearing by telephone conference or in person, at the discretion of the Chairperson. Such hearing shall be held within 30 days following the Information Period. The Committee shall give at least 15 days notice to the Petitioner of such hearing.

Hearings shall be conducted by the Committee with a quorum participating. The Chairperson shall preside at the hearing and assure that these Administrative Procedures are followed. The Subject Member may refute the charges raised in the Challenge and may offer any exculpatory information. The Subject Member may offer information through witnesses, all of whom may be subject to questioning. The Committee may request witnesses to appear at the hearing if the Chairperson determines that such witnesses may provide information relevant to the Committee's deliberation and determination. Any information may be considered which is relevant or potentially relevant as determined by the Chairperson. The hearing shall be conducted under the rules of Executive Session and shall be closed to all except the Committee, the Subject Member, the Petitioner, their witnesses, and CCA staff. Neither the CCA nor any other participant may be represented by legal counsel. At the conclusion of the hearing, at least a quorum of the Committee shall deliberate, taking into account any written or oral information submitted during or prior to the hearing. At the Chairperson's discretion, the Committee may deliberate in person, in a telephone conference, or through the collection and review of written comments by Committee members. If the deliberation occurs through written comments, each member of the Committee who was either present at the hearing, if any, or had the opportunity to review written information submitted in connection with the Challenge, shall submit a written opinion to the Chairperson as to the proper outcome of the Challenge.

4.03 **Determination of Non-Observance.** At the close of the deliberation process, the Committee, under the direction of the Chairperson, shall make a determination whether the Subject Member has failed to observe the Rules. The determination shall represent a consensus of the Committee members participating in the deliberation. If the Committee determines that the Subject Member has failed to observe the Rules, the Committee shall impose an appropriate sanction or directive or both upon the Subject Member as provided in section 4.05 below, subject to appeal rights as set forth in section 4.06 below. The Subject Member shall be notified in writing of the determination and of any sanction or directive and of the Subject Member's right to appeal as set forth in section 4.06 below. If the Petitioner agrees in advance and in writing not to disclose the portion of the determination, sanction and other information related to the Challenge that is not made public by the Committee, the Committee shall notify the Petitioner of the determination and of any sanction or directive and shall notify the Petitioner that such determination is subject to appeal. Additional publication shall occur only to the extent provided in the sanctions themselves. If the Committee determines that the Subject Member has not failed to observe the Rules, the Challenge shall be dismissed, with notice to the Subject Member and to the Petitioner.

4.04 **Alternative Disposition.** Before the Committee makes a determination that the Subject Member has failed to observe the Rules, the Committee may elect, at its discretion, based upon its assessment of the nature and severity of the possible non-observance when viewed from the point of view of the best interests of the Subject Member's patients, to offer the Subject Member an opportunity to submit written assurance that the alleged non-observance will not occur in the future in lieu of a determination and sanctions. If such an offer is extended, the Subject Member must submit the required written assurance in terms that are acceptable to the Committee within thirty days of receipt of the offer. If the Committee accepts the assurance, notice shall be given to the Petitioner if the Petitioner agrees in advance and in writing not to disclose the action.

4.05 **Sanctions.** Upon a determination that the Subject Member has failed to observe the Rules, and in accordance with the "Sanctions" section of the Rules, the Committee shall impose one or more of the sanctions or one or more of the directives, or both, identified in the particular Rule that the Committee determines that the Subject Member has failed to observe, or shall impose a different sanction or directive that is appropriate for the exhibited behavior. The sanction applied must reasonably relate to the nature and severity of the non-observance, focusing upon reformation of the conduct of the Subject Member.

A Subject Member suspended as a result of a determination of non-observance shall be deprived of all benefits of membership during the period of suspension, except continued participation in any CCA-endorsed insurance programs. If the Subject Member is dropped from CCA membership as a result of a determination of non-observance, and such determination is upheld on appeal as set forth in Section 4.06, or if no appeal is requested by the Subject Member within the period set forth in Section 4.06, the Committee may communicate the determination on the Challenge to any Legal/Regulatory Body. Except as set forth below, the entire record, including the record of any appeal, shall be sealed by the Committee and the CCA and no part of it shall be communicated by the members of the Board, the Executive Committee, any CCA appellate body, the Committee, the CCA staff, or any others who assisted in the proceeding on the Challenge, to any third parties. However, the final determination may be disclosed in the following circumstances:

(1) Publication pursuant to Code of Ethics Section IV(3);
(2) Disclosure by a member with the express written permission of the CCA;
(3) Disclosure as required in connection with the filing of a credentialling application;
(4) Disclosure via legal proceeding;
(5) Disclosure by the CCA to the Petitioner and the Subject Member.

A Subject Member who is dropped as a result of a determination of a non-observance may not reapply for CCA membership in any class for a period of one year.

4.06 **Appeal.** Any determination of the Committee regarding a Challenge may be appealed to the Board by the Subject Member or the Petitioner. Any imposition of sanctions or directives shall not be final until all appeals have been exhausted or the time period for appeal has elapsed.

All requests for appeals must be made in writing to the Executive Director within 30 days of receipt of notification of a determination. The President shall appoint an Appeals Hearing Committee composed of one Board member from each state section as set forth in CCA Codified Policy Article 6, Section A.1.d. Prior to the next regularly scheduled Board meeting, the Appeals Hearing Committee shall conduct a hearing and deliberation in accordance with the procedures for hearings set forth in these Administrative Procedures, and shall forward a recommendation to the Board for final determination, provided that the appellant has submitted his or her request for appeal sixty days in advance of such meeting. The only information that may be considered during an appeal is the information presented in the Submission or at the hearing. The appellant shall advise the Appeals Hearing Committee in writing of the reasons he or she believes the Ethics Committee's determination was in error. After the appeals body has deliberated, it shall issue its determination to the Petitioner and Subject Member.

4.07 **Rehearings.** Rehearings shall be granted at the sole discretion of the Chairperson only in situations of extreme extenuating circumstances.

4.08 **Resignation During Challenge.** If the Subject Member resigns from the CCA at any time during the pendency of the proceeding on the Challenge, the Challenge shall be suspended without further action. The entire record shall be kept confidential. If the Subject Member reinstates his or her CCA membership within three years, the Challenge shall be reinstituted at the time membership is approved. If the Subject Member reinstates his or her membership three years or more after resigning, the Challenge may be reinstituted if a majority of the Committee members vote to reinstitute the Challenge.

Revised 2/19-20, 2000

5. Conflict of Interest.

Any member of the Committee or the Board who has any personal or financial interest in the outcome of any Challenge, or who otherwise has a conflict of interest with respect to the Challenge, shall notify the Chairperson or, in the case of an appeal, the chairperson of the body conducting the appeal, and immediately withdraw from participating in the review or appeal of that Challenge. Examples of such conflicts of interest include, but are not limited to: having made a complaint to any regulatory or law

enforcement agency or the Committee against the Subject Member; having been the subject of a complaint by the Subject Member; a Committee member's (or member of any appeal body) patient or immediate family member having made a complaint against a Subject Member, and being the Petitioner in the Challenge. In addition, any member of any of the above-referenced bodies shall withdraw from participation in deliberations or determination of any case on appeal if such member participated in the review of the Challenge as a member of the Committee or as a member of any appellate body which reviewed the Challenge except to the extent necessary or useful to advise the present appellate body of the prior reviewing body's determinations and deliberations and to explain its decisions.

If a Petitioner or Subject Member believes that a member of the Ethics Committee has an obligation to withdraw from the review of a case involving him or her pursuant to the provisions of this Section 5, the Petitioner or Subject Member may notify the Ethics Committee Chairperson or the CCA Executive Director in writing and request that such Ethics Committee member be withdrawn from review of the case. If the Executive Director or Ethics Committee Chairperson receives such a request within the Information Period, the CCA shall conduct a reasonable investigation into the matter and shall determine in its reasonable discretion whether to withdraw the Ethics Committee member from review of the case. The decision of the CCA shall be binding on the Ethics Committee member and the parties.

6. Fees.

The Committee may charge an appropriate administrative fee to cover the costs of holding hearings or appeals. Such fees shall be approved by the Board and applied uniformly. As a public service benefit, any fee for an ethics review of a CCA member by a patient shall be waived.

7. Limitations on Applicability.

The CCA Code of Ethics applies only to CCA members. It is enforceable only by the CCA. The CCA does not encourage or imply adoption, implementation, or enforcement of its Code of Ethics by any other organization.

FEES FOR PROCESSING Ethics Complaints

The following fee structure was approved by the CCA Board of Directors at the May 17-18, 1997 Board of Directors meeting:

Party Who Filed	Complaint	Appeal
Patient or "Civilian"	Zero	$ 100.00
Insurance Company	$ 100.00	$ 250.00
Attorney	$ 100.00	$ 250.00
CCA Member Doctor	$ 100.00	$ 250.00
Non-CCA Doctor	$ 250.00	$ 500.00

ACA Code of Ethics

PREAMBLE

This Code of Ethics is based upon the acknowledgement that the social contract dictates the profession's responsibilities to the patient, the public, and the profession; and upholds the fundamental principle that the paramount purpose of the chiropractic doctor's professional services shall be to benefit the patient.

TENETS

I. Doctors of chiropractic should adhere to a commitment to the highest standards of excellence and should attend to their patients in accordance with established best practices.

II. Doctors of chiropractic should maintain the highest standards of professional and personal conduct, and should comply with all governmental jurisdictional rules and regulations.

III. Doctor-patient relationships should be built on mutual respect, trust and cooperation. In keeping with these principles, doctors of chiropractic shall demonstrate absolute honesty with regard to the patient's condition when communicating with the patient and/or representatives of the patient. Doctors of chiropractic shall not mislead patients into false or unjustified expectations of favorable results of treatment. In communications with a patient and/or representatives of a patient, doctors of chiropractic should never misrepresent their education, credentials, professional qualification or scope of clinical ability.

IV. Doctors of chiropractic should preserve and protect the patient's confidential information, except as the patient directs or consents, or the law requires otherwise.

V. Doctors of chiropractic should employ their best good faith efforts to provide information and facilitate understanding to enable the patient to make an informed choice in regard to proposed chiropractic treatment. The patient should make his or her own determination on such treatment.

VI. The doctor-patient relationship requires the doctor of chiropractic to exercise utmost care that he or she will do nothing to exploit the trust and dependency of the patient. Sexual misconduct is a form of behavior that adversely affects the public welfare and harms patients individually and collectively. Sexual misconduct exploits the doctor-patient relationship and is a violation of the public trust.

VII. Doctors of chiropractic should willingly consult and seek the talents of other health care professionals when such consultation would benefit their patients or when their patients express a desire for such consultation.

VIII. Doctors of chiropractic should never neglect nor abandon a patient. Due notice should be afforded to the patient and/or representatives of the patient when care will be withdrawn so that appropriate alternatives for continuity of care may be arranged.

IX. With the exception of emergencies, doctors of chiropractic are free to choose the patients they will serve, just as patients are free to choose who will provide healthcare services for them. However, decisions as to who will be served should not be based on race, religion, ethnicity, nationality, creed, gender, handicap or sexual preference.

X. Doctors of chiropractic should conduct themselves as members of a learned profession and as members of the greater healthcare community dedicated to the promotion of health, the prevention of illness and the alleviation of suffering. As such, doctors of chiropractic should collaborate and cooperate with other health care professionals to protect and enhance the health of the public with the goals of reducing morbidity, increasing functional capacity, increasing the longevity of the U.S. population and reducing health care costs.

XI. Doctors of chiropractic should exercise utmost care that advertising is truthful and accurate in representing the doctor's professional qualifications and degree of competence. Advertising should not exploit the vulnerability of patients, should not be misleading and should conform to all governmental jurisdictional rules and regulations in connection with professional advertising.

XII. As professions are self-regulating bodies, doctors of chiropractic shall protect the public and the

profession by reporting incidents of unprofessional, illegal, incompetent and unethical acts to appropriate authorities and organizations and should stand ready to testify in courts of law and in administrative hearings.

XIII. Doctors of chiropractic have an obligation to the profession to endeavor to assure that their behavior does not give the appearance of professional impropriety. Any actions which may benefit the practitioner to the detriment of the profession must be avoided so as to not erode the public trust.

XIV. Doctors of chiropractic should recognize their obligation to help others acquire knowledge and skill in the practice of the profession. They should maintain the highest standards of scholarship, education and training in the accurate and full dissemination of information and ideas.

For more information on how to file a complaint or obtain an advisory opinion, please request a copy of the "Administrative Procedures for the Code of Ethics"

The ACA's Code of Ethics was revised and ratified by the ACA House of Delegates September 2007.

State of California
Edmund G. Brown Jr., Governor

Agenda Item #6
July 19, 2017

Discussion and Possible Action on the Efforts to Educate Licensees' about Enforcement Issues Related to Social Media

Purpose of the item

The Committee will discuss potential enforcement issues resulting from social media activity. Additionally, the Committee will review articles related to HIPAA violations on social media.

Action(s) requested

No action requested at this time.

Background

The 2017-2019 Strategic Plan Goal Item 2.4 was established to make licensees aware of enforcement issues related to social media. Although social media is a great tool for licensees to establish and grow their businesses, sharing information has become a serious problem as they are faced with a higher risk of violating Health Insurance Portability and Accountability Act (HIPAA) laws. The Committee plans on developing outreach materials to inform licensees about these potential issues (pamphlets, social media blurbs, etc.). In addition, a future BCE newsletter article will address examples of HIPAA violations on social media, including 5-10 common mistakes, and the importance of developing an appropriate risk mitigation plan to help eliminate HIPAA violations.

Recommendation(s)

No recommendation at this time.

Next Step

N/A

Attachment(s)

- Health Care Compliance Association (HCCA) Today, February 2013
- Chiropractic Economics, Keeping Social Media HIPAA-compliant
- Pro Publica, Stung by Yelp Reviewsm Health Providers Spill Patient Secrets

HCCA
HEALTH CARE COMPLIANCE ASSOCIATION

Compliance TODAY

February 2013

A PUBLICATION OF THE HEALTH CARE COMPLIANCE ASSOCIATION

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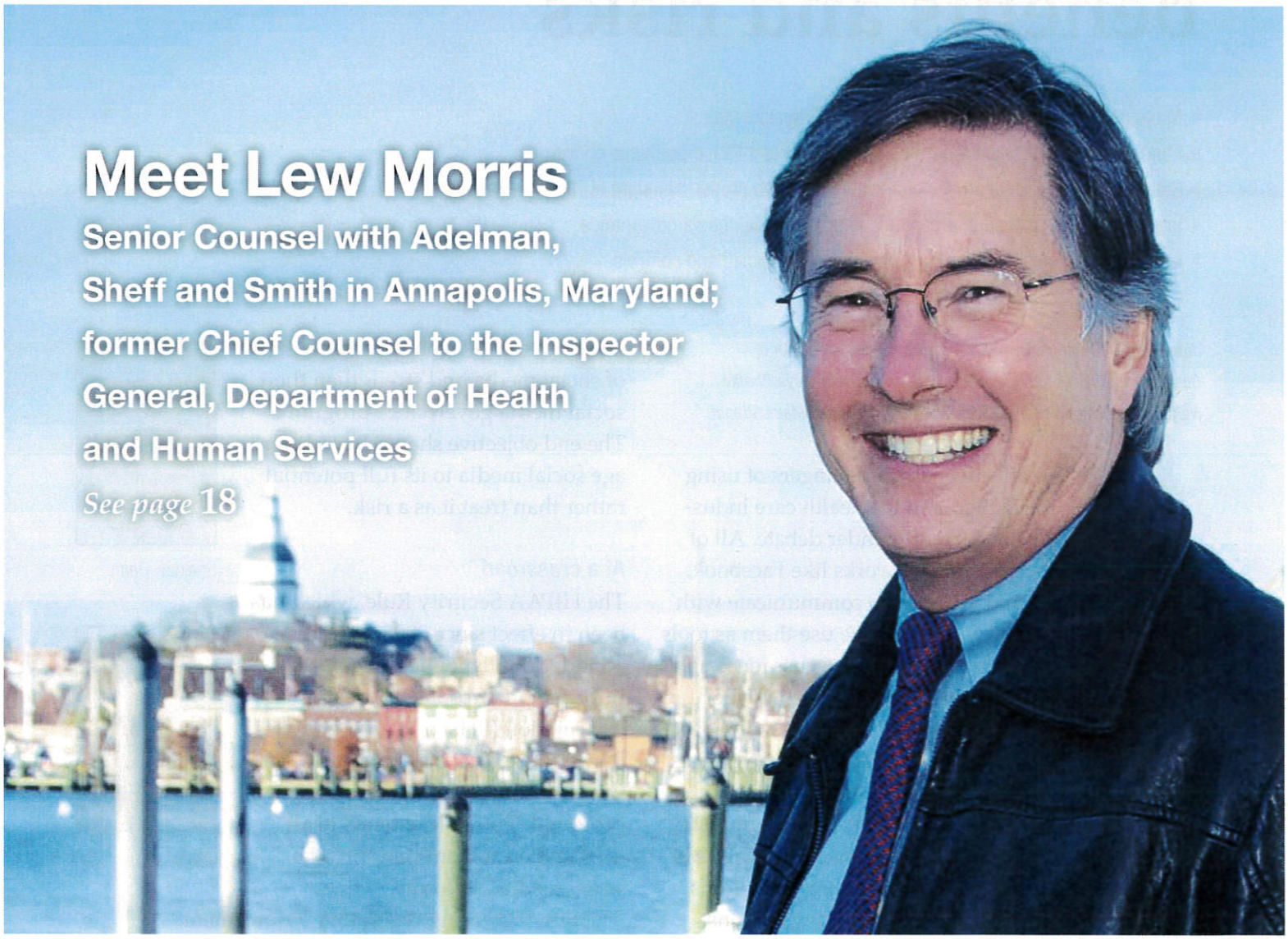

Meet Lew Morris

Senior Counsel with Adelman, Sheff and Smith in Annapolis, Maryland; former Chief Counsel to the Inspector General, Department of Health and Human Services

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by Jim Sheldon-Dean and Vidya Phalke, PhD

Social media and HIPAA compliance: Balancing benefits and risks

» Make social media work for you, rather than against you.
» Ensure that social media programs and HIPAA compliance practices converge.
» Balance the benefits and risks of social media with proper oversight of HIPAA violations.
» Implement a risk-based approach for effective social media governance.
» Strengthen credibility with robust social media policies and controls.

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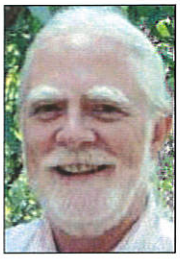
The effectiveness and dangers of using social media in the health care industry are currently under debate. All of us use social media networks like Facebook, LinkedIn, and Google+ to communicate with our friends and relatives. We use them as tools to share information and to discuss ideas and issues. From a marketing perspective, social media platforms provide customers with quick and easy access to information and help companies engage customers directly in real time.

When it comes to the health care industry too, social media provides many benefits. But it has also caused health care organizations to land in the news for the wrong reasons. Recent reports of cases where health care professionals uploaded the photos of patients on social networking sites have led to penalties and tighter regulatory scrutiny. Such incidents not only violate a patient's privacy, but also demonstrate non-compliance with the Health Insurance Portability and Accountability Act (HIPAA). Therefore, health care providers need to carefully consider the risks of social media and strengthen their social media governance program. The end objective should be to leverage social media to its full potential rather than treat it as a risk.


Sheldon-Dean

Phalke

At a crossroad

The HIPAA Security Rule, which has been in effect since 2005, requires all individually identifiable health information or protected health information (PHI) that an organization creates, receives, maintains, or transmits in electronic form to be protected. This rule extends to all information transmitted through social media platforms.

With increasing regulatory enforcement, health care providers need to be extra careful about transmitting and disclosing patient information through social media. The fines for willful neglect range from $10,000 upwards. And right now, regulators are looking to hold up examples of health care providers that don't effectively comply with HIPAA on social media sites.

Regulators have also begun conducting HIPAA audits of covered entities subject to the HIPAA Privacy and Security rules. The audit program, which is already under way, is expected to involve 115 random audits by the end of 2012. This means that health care providers need to have the appropriate social media policies, controls, monitoring procedures, training, and documentation in place. Otherwise, they could get into serious trouble.

That being said, organizations shouldn't stay away from social media out of the fear of non-compliance with HIPAA. Having a social media presence helps protect one's reputation. It enables organizations to control what is being said in their name by, for instance, a disgruntled former employee. Therefore, it is important to effectively manage and monitor social media interactions so that it works for an organization, rather than against it.

...it is important to effectively manage and monitor social media interactions so that it works for an organization, rather than against it.

Leveraging social media

Social media is a great tool for both patients and health care providers because it breaks the barriers of both distance and time. Patients generally use social media to compare notes on doctors, medications and their side effects, and treatment experiences. They may also want to share their emotional and physical difficulties with fellow sufferers, as well as their health care providers. For the digitally savvy younger generation, social media may be the mode of communication they prefer to employ with doctors.

Health care providers benefit from social media in three major ways:

- **Sharing treatment information**
  Social media presents a quick and efficient way of letting patients know about group therapies or new treatments. However, privacy concerns need to be addressed. When it comes to health information—especially mental health-related information—the loss of privacy could have significant risk. HIPAA requires health care providers to act according to the preferences of patients. Providers can communicate with patients through social media only with their patients' express permission, and after informing them of the involved risks and probable impact of those risks.
- **Professional support**
  Social networking forums are a great place to create support groups where doctors pool information and experiences on diseases and their treatment. However, strict controls for IT security, access, and information sharing need to be implemented. HIPAA rules also need to be followed to ensure that professionals do not share the private details and case histories of patients.
- **Marketing and branding**
  Providers may want to reach out to patients and the larger community for marketing and branding purposes. But these efforts should adhere to HIPAA guidelines such that patient confidentiality rules are not breached. For example, there are cancer survivors who actively publicize that they've survived cancer and take part in awareness drives. But there are also others who prefer that no one knows of their experience, and they will mind being included in a marketing database. Hence, health care

organizations need to embed HIPAA compliance requirements into each aspect of their social media governance program.

Building an effective social media strategy

If ineffectively managed, social media risks can not only harm patient privacy, but can also lead to heavy regulatory sanctions and, more importantly, permanent reputational damage. Therefore, it is crucial that health care organizations implement a robust and well-planned approach to assess and mitigate these risks, and ensure that social media use is controlled and carefully monitored. Below are a few steps to keep in mind while developing a social media strategy:

- **Do your research and define expectations**

Before establishing a social media presence, health care providers need to find out what is being said about their organization online. They also need to check if someone is wrongfully representing the organization. Be it receptionists or doctors, staff members should not represent the organization in an official capacity on their personal profiles, because they may not have an accurate overall picture.

After conducting this research, health care providers should set expectations and define the purpose of their social media strategy—be it to share treatment information, create a professional support group, or enhance marketing. Accordingly, stakeholders need to decide which key messages should be conveyed.

- **Establish roles and responsibilities**

Organizations cannot afford to take their social media presence for granted. The role of coordinating, monitoring, and controlling social media conversations should be assigned to select employees. Responsibilities need to be clearly defined as to *who* will handle any breaking or negative news and how it will be handled.

In addition, formal approvals should be obtained. The IT security and HIPAA compliance departments, for instance, will need to understand what the privacy and security implications of leveraging social media are, and what kinds of violations may arise, before approving any type of social media communication.

- **Conduct a risk analysis**

Before outlining social media policies and practices, health care providers need to understand the risks of non-compliance with HIPAA. Risk assessments help determine and quantify the probability and impact of such risks. Take, for instance, the risk of sharing dental appointment reminders on social networks. The probability that this information will be disclosed to the general public is high, but the impact of this disclosure is almost always nil. Most people wouldn't really care if anyone else knows that it's time for their annual dental appointment. In such cases, the overall risk score is low.

Based on these risk scores, organizations can determine high risk areas in their social media communication program and put in place controls to mitigate the risks.

Considering that the regulatory and corporate environment is constantly changing, it is beneficial to have an adaptable and streamlined risk management process—starting from risk identification, and extending to risk scoping, risk assessment, risk mitigation, and risk scoring.

It is also valuable to have a centralized risk-control library that helps standardize risk definitions and harmonize risk controls, especially in large health care organizations that have departments and business units scattered across locations. Common risk definitions and controls reduce risk management redundancies and enhance top-level visibility.

- **Implement and train employees on specific social media policies**

Based on HIPAA requirements and the feedback from the legal team, health care providers need to draw up policies with abundant

real-world cases that explain what can and cannot be discussed online. These policies need to be reviewed periodically to ensure that they are being followed in letter and in spirit.

In addition, all medical and paramedical professionals need to be trained on the do's and don'ts of using social media for patient and client interactions, as well as professional interactions. Clearly defined policies and procedures, and a closed-loop training program minimize the likelihood of serious breaches of privacy and security regulations. Through training, professionals also gain a forum on which they can ask their questions and get quick responses.

A systematic approach to the creation and storage of policies, reviews, and approvals; awareness and training; compliance tracking; and visibility should be established. Control redundancies can be avoided by dovetailing social media policies with other organizational policies. In addition, mapping each policy to the corresponding risks and controls makes it easier to implement policy changes, while also improving accountability and transparency.

▶ **Manage compliance effectively**

Leveraging social media will be the way forward for health care organizations, and this medium can be made more effective if it has an appropriate risk mitigation plan built in to manage HIPAA violations. Organizations need to know what kind of breaches can happen and how they can be controlled. They should clearly know what kind of information is shared, how it is shared, which social media platforms are used, and how the information is documented. They also need to decide which social media platform to use—private platforms with very strict access controls are better than public sites.

No matter which platform they decide to use, health care providers need to regularly monitor social media conversations for possible HIPAA violations. If the traffic is low, like in a small clinic with just two doctors, one hour a week is all that is needed to manually "listen" to what is being said about the company online and to respond and react to it. On the other hand, a lot of traffic, especially in a large organization, merits a system that is more sophisticated. It should be able to automatically search for key words, send alerts to management, trigger corrective action, and align internal controls or policies, based on what is found online.

No matter which platform they decide to use, health care providers need to regularly monitor social media conversations for possible HIPAA violations.

If a non-compliance incident, such as a violation of information confidentiality, occurs on a social media site, health care providers should have a fairly robust system in place to help them react fast, investigate the issue, and implement the appropriate corrective action. The system should be able to collate all the required details of the incident, help perform a root cause analysis, and track the entire corrective action process. More importantly, it should help organizations prevent such incidents from recurring by triggering alerts to change a control that isn't working or by revising training programs.

To proactively identify incidents, as well as compliance issues, risks, and areas of improvement, health care providers need complete and real-time visibility into their social media governance processes. A graphic risk matrix, for example, helps a provider identify where it is and where it ideally should be, as far as social

media policies and compliance requirements are concerned.

Prepare for HIPAA audits

Regulators conduct HIPAA audits on a random basis to ensure that all health care providers are following all regulations related to the HIPAA Privacy, Security, and Breach Notification rules. Providers will need to deliver all the information required for the audit in a short span of just three weeks. So, they should always be audit-ready, and have periodic internal audits to spot any areas where controls need to be revised.

While preparing for HIPAA audits, organizations need to be aware that HIPAA regulations are constantly being updated. To ensure that social media policies and practices reflect these updates, health care providers should track changes in HIPAA regulations, measure their impact, and align controls accordingly. The complete process of integrating with online Medicare and Medicaid information sources, capturing HIPAA change alerts, measuring their impact, and aligning the social media governance program accordingly can be automated.

Health care providers who leverage social media need to overcome the associated risks by building an effective social media governance, risk, and compliance program. This will help them realize the true benefits that social media provides. Why not leverage social media as an effective tool to monitor changes in the external environment, identify risks, and align internal operations? For example, social media conversations that highlight the negative impact of a particular drug or medical device can be monitored, analyzed, and acted upon accordingly by a hospital.

Social media gives health care providers a platform to establish closer relationships with patients, and can be an important marketing tool. Professionals can pool their knowledge and experiences for the greater benefit of their patients. On the other hand, there is great potential for loss of privacy and security of patient information, and for unethical behavior on the part of providers.

Therefore, it is essential for health care providers to have a robust social media governance program supported by appropriate policies and practices, an enterprise-wide risk management process, a mechanism to continuously identify gaps, and a strategy to ultimately leverage social media to a health care organization's benefit. Such a system could help patients have real-time access to their providers and the latest medical information for their ailments without any worries about identity theft or loss of privacy. It will also help management have a clear overall picture of the risks in the internal and external environment and help formulate more effective plans for the future.

Social media policies

- Be brief and to the point
- Cover blogging, social networks, and collaborative wikis
- Separate personal and business activity
- Provide examples of what to do and what not to do
- Define how you will manage your business presence
- Define responsibilities for official representatives
- Define rules for establishing a new presence online
- Conduct regular reviews to ensure compliance

chiropractic economics

Keeping social media HIPAA-compliant

Kaitlin Morrison February 11, 2016

Like other forms of electronic communication, social media websites present strong marketing opportunities and the chance to reach patients directly.

Unfortunately, social media websites also present risks such as violating HIPAA by sharing patient information online.

Knowing the risks of using social media can help you stay in compliance with HIPAA and make the most of social media's benefits.

Anonymous is not enough

Many practices know that patients' names should be kept private, but HIPAA privacy requirements go beyond protecting patient names. In fact, you should avoid revealing any information that may allow others to guess the patient's identity. [1] Controlling who sees information you post is difficult online and readers who are familiar with the patient may see what you post—keeping the patient anonymous does not necessarily protect their personal identity.

According to the Boston Globe, one physician unintentionally posted information revealing a patient's identity on a social media website and was subsequently fired from her position and reprimanded by the state's licensing authority. The patient was anonymous, yet information about his condition allowed community members to guess who he was. [2]

In practice, it is possible to de-identify patient information but impossible to completely prevent others from identifying the individual. [1] In fact, the U.S. Department of Health and Human Services notes that information about an individual's five-digit zip code, birthdate and gender is probably enough to uniquely identify over half of America's population. [1] In theory, sharing a few demographic facts about your patient on social media may be enough to disclose their identity online and violate HIPAA. If your patient has an unusual medical condition, occupation or other uncommon characteristics, disclosure risks may be even higher.

To be absolutely sure that your social media use is not releasing personally-identifiable information about patients, you should do your own research and create a social media policy to protect your practice.

Make a social media plan

An article in *Compliance Today*, the journal of the Health Care Compliance Association, suggests weighing the risks of social media, outlining specific uses and purposes for your practice's social media accounts and assigning specific employees to those accounts while monitoring these websites for compliance. [3]

The article's authors, Jim Sheldon-Dean and Dr. Vidya Phalke, PhD, suggest you take steps to reduce your risks of violating HIPAA, including: [3]

- Social media policies—Your practice should identify how social media will be used, who is permitted to use your clinic's social media accounts and what types of information may be shared. You should carefully consider what risks exist and how you will respond to them if they happen. For example, consider whether or not personal pages may "friend" patients and how clinical information should be protected.
- Employee training—If your office has employees, you should regularly train them on HIPAA compliance and your social media policy.
- Verify compliance—Know how HIPAA protects patient privacy and understand what HIPAA violations look like. Familiarize yourself with how patient identities may be accidently revealed on your social media accounts, then monitor the use of those accounts.

Be careful when communicating with individual patients

Since the risk of accidently releasing personal information on social media is high, you may want to be careful about contacting individuals. While it may be permissible under HIPAA to privately communicate via social media with a patient, you need to be absolutely sure your patient approves of communicating on social media and understands both the risks and possible outcomes of a data breech. [3]

It would be wise to restrict the types of information you discuss, even in a private message because the text of your conversation may be accessible by others, such as the company that owns the social media website. Explain this possibility and other risks to your patient before beginning to discuss personal information. [3]

HIPAA regulations may change, so be sure to do your own research before using social media to communicate with your patients. The U.S. Department of Health and Human Resources offers a HIPAA for Professionals resource where you can find more specific guidance.

Use social media while protecting your patients

Social media allows you to market your practice, connect with new patients and interact with the chiropractic community so for your practice, these benefits may outweigh the risks of social media. If you are careful and do your own research, you can reduce these risks and benefit from social media's possibilities.

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Filed Under: Practice Management Software, Resource Center

Policing Patient Privacy

Stung by Yelp Reviews, Health Providers Spill Patient Secrets

The vast majority of reviews on Yelp are positive. But in trying to respond to critical ones, some doctors, dentists and chiropractors appear to be violating the federal patient privacy law known as HIPAA.

by Charles Ornstein
ProPublica, May 27, 2016, 11 a.m.

Private medical details about Angela Grijava's daughter were revealed by a chiropractor responding to a negative review on Yelp. (Max Whittaker for ProPublica)

This story was co-published with The Washington Post.

Burned by negative reviews, some health providers are casting their patients' privacy aside and sharing intimate details online as they try to rebut criticism.

In the course of these arguments — which have spilled out publicly on ratings sites like Yelp — doctors, dentists, chiropractors and massage therapists, among others, have divulged details of patients' diagnoses, treatments and idiosyncrasies.

One Washington state dentist turned the tables on a patient who blamed him for the loss of a molar: "Due to your clenching and grinding habit, this is not the first molar tooth you have lost due to a fractured root," he wrote. "This tooth is no different."

In California, a chiropractor pushed back against a mother's claims that he misdiagnosed her daughter with scoliosis. "You brought your daughter in for the exam in early March 2014," he wrote. "The exam identified one or more of the signs I mentioned above for scoliosis. I absolutely

About the Series

This year, ProPublica has been chronicling how weaknesses in federal and state laws, as well as lax enforcement, have left patients vulnerable to damaging invasions of privacy.

More reporting like this:

recommended an x-ray to determine if this condition existed; this x-ray was at no additional cost to you."

And a California dentist scolded a patient who accused him of misdiagnosing her. "I looked very closely at your radiographs and it was obvious that you have cavities and gum disease that your other dentist has overlooked. ... You can live in a world of denial and simply believe what you want to hear from your other dentist or make an educated and informed decision."

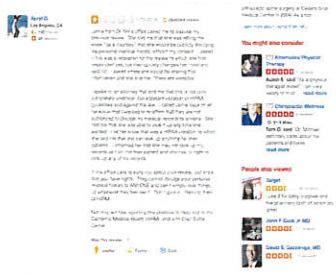
- Nursing Home Workers Share Explicit Photos of Residents on Snapchat
- HIPAA Helper: Who is Revealing Your Private Medical Information?
- Few Consequences For Health Privacy Law's Repeat Offenders
- New Jersey Psychology Practice Revealed Patients' Mental Disorders in Debt Lawsuits

Health professionals are adapting to a harsh reality in which consumers rate them on sites like Yelp, Vitals and RateMDs much as they do restaurants, hotels and spas. The vast majority of reviews are positive. But in trying to respond to negative ones, some providers appear to be violating the Health Insurance Portability and Accountability Act, the federal patient privacy law known as HIPAA. The law forbids them from disclosing any patient health information without permission.

Yelp has given ProPublica unprecedented access to its trove of public reviews — more than 1.7 million in all — allowing us to search them by keyword. Using a tool developed by the Department of Computer Science and Engineering at the NYU Tandon School of Engineering, we identified more than 3,500 one-star reviews (the lowest) in which patients mention privacy or HIPAA. In dozens of instances, responses to complaints about medical care turned into disputes over patient privacy.

When Reviews Spawn Privacy Disputes

Read some examples of Yelp reviews that prompted provider replies describing patients and aspects of their treatment, and how patients say their privacy was violated. **See the documents.**



The patients affected say they've been doubly injured — first by poor service or care and then by the disclosure of information they considered private.

The shock of exposure can be effective, prompting patients to back off.

"I posted a negative review" on Yelp, a client of a California dentist wrote in 2013. "After that, she posted a response with details that included my personal dental information. ... I removed my review to protect my medical privacy."

The consumer complained to the Office for Civil Rights within the U.S. Department of Health and Human Services, which enforces HIPAA. The office warned the dentist about posting personal information in response to Yelp reviews. It is currently investigating a New York dentist for divulging personal information about a patient who complained about her care, according to a letter reviewed by ProPublica.

The office couldn't say how many complaints it has received in this area because it doesn't track complaints this way. ProPublica has previously reported about the agency's historic inability to analyze its complaints and identify repeat HIPAA violators.

Deven McGraw, the office's deputy director of health information privacy, said health professionals responding to online reviews can speak generally about the way they treat patients but must have permission to discuss individual cases. Just because patients have

rated their health provider publicly doesn't give their health provider permission to rate them in return.

"If the complaint is about poor patient care, they can come back and say, 'I provide all of my patients with good patient care' and 'I've been reviewed in other contexts and have good reviews,' " McGraw said. But they can't "take those accusations on individually by the patient."

McGraw pointed to a 2013 case out of California in which a hospital was fined $275,000 for disclosing information about a patient to the media without permission, allegedly in retaliation for the patient complaining to the media about the hospital.

Yelp's senior director of litigation, Aaron Schur, said most reviews of doctors and dentists aren't about the actual health care delivered but rather their office wait, the front office staff, billing procedures or bedside manner. Many health providers are careful and appropriate in responding to online reviews, encouraging patients to contact them offline or apologizing for any perceived slights. Some don't respond at all.

"There's certainly ways to respond to reviews that don't implicate HIPAA," Schur said.

In 2012, University of Utah Health Care in Salt Lake City was the first hospital system in the country to post patient reviews and comments online. The system, which had to overcome doctors' resistance to being rated, found positive comments far outnumbered negative ones.

"If you whitewash comments, if you only put those that are highly positive, the public is very savvy and will consider that to be only advertising," said Thomas Miller, chief medical officer for the University of Utah Hospitals and Clinics.

Unlike Yelp, the University of Utah does not allow comments about a doctor's medical competency and it does not allow physicians to respond to comments.

In discussing their battles over online reviews, patients said they'd turned to ratings sites for closure and in the hope that their experiences would help others seeking care. Their providers' responses, however, left them with a lingering sense of lost trust.

Angela Grijalva brought her then 12-year-old daughter to Maximize Chiropractic in Sacramento, Calif., a couple years ago for an exam. In a one-star review on Yelp, Grijalva alleged that chiropractor Tim Nicholl led her daughter to "believe she had scoliosis and urgently needed x-rays, which could be performed at her next appointment. ... My daughter cried all night and had a tough time concentrating at school."

But it turned out her daughter did not have scoliosis, Grijalva wrote. She encouraged parents to stay away from the office.

Nicholl replied on Yelp, acknowledging that Grijalva's daughter was a patient (a disclosure that is not allowed under HIPAA) and discussing the procedures he performed on her and her condition, though he said he could not disclose specifics of the diagnosis "due to privacy and patient confidentiality."

"The next day you brought your daughter back in for a verbal review of the x-rays and I informed you that the x-rays had identified some issues, but the good news was that your daughter did not have scoliosis, great news!" he recounted. "I proceeded to adjust your daughter and the adjustment went very well, as did the entire appointment; you made no mention of a 'misdiagnosis' or any other concern."

In an interview, Grijalva said Nicholl's response "violated my daughter and her privacy."

"I wouldn't want another parent, another child to go through what my daughter went through: the panic, the stress, the fear," she added.

Nicholl declined a request for comment. "It just doesn't seem like this is worth my time," he said. His practice has mixed reviews on Yelp, but more positive than negative.

A few years ago, Marisa Speed posted a review of North Valley Plastic Surgery in Phoenix after her then–3-year-old son received stitches there for a gash on his chin. "Half-way through the procedure, the doctor seemed flustered with my crying child. ...," she wrote. "At this point the doctor was more upset and he ended up throwing the instruments to the floor. I understand that dealing with kids requires extra effort, but if you don't like to do it, don't even welcome them."

An employee named Chase replied on the business's behalf: "This patient presented in an agitated and uncontrollable state. Despite our best efforts, this patient was screaming, crying, inconsolable, and a danger to both himself and to our staff. As any parent that has raised a young boy knows, they have the strength to cause harm."

Speed and her husband complained to the Office for Civil Rights. "You may wish to remove any specific information about current or former patients from your Web-blog," the Office for Civil Rights wrote in an October 2013 letter to the surgery center.

In an email, a representative of the surgery center declined to comment. "Everyone that was directly involved in the incident no longer works here. The nurse on this case left a year ago, the surgeon in the case retired last month, and the administrator left a few years ago," he wrote.

Reviews of North Valley Plastic Surgery are mixed on Yelp.

'Stay Far, Far Away' and Other Things Gleaned From Yelp Health Reviews

In a new partnership with Yelp, ProPublica has been given unprecedented access to the rating site's 1.3 million reviews of healthcare providers. One dental chain attracted 3,000 reviews, the vast majority bad. **Read the story.**

Health providers have tried a host of ways to try to combat negative reviews. Some have sued their patients, attracting a torrent of attention but scoring few, if any, legal successes. Others have begged patients to remove their complaints.

Jeffrey Segal, a onetime critic of review sites, now says doctors need to embrace them. Beginning in 2007, Segal's company, Medical Justice, crafted contracts that health providers could give to patients asking them to sign over the copyright to any reviews, which allowed providers to demand that negative ones be removed. But after a lawsuit, Medical Justice stopped recommending the contracts in 2011.

Segal said he has come to believe reviews are valuable and that providers should encourage patients who are satisfied to post positive reviews and should respond — carefully — to negative ones.

"For doctors who get bent out of shape to get rid of negative reviews, it's a denominator problem," he said. "If they only have three reviews and two are negative, the denominator is the problem. ... If you can figure out a way to cultivate reviews from hundreds of patients rather than a few patients, the problem is solved."

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