



NOTICE OF BOARD MEETING

Southern California University of Health Sciences
16200 E Amber Valley Drive, Legacy Hall
Whittier, CA 90604
May 21, 2019
Front Office: (562) 947-8755
9:00 a.m. to 5:00 p.m.
or until completion of business

The Board of Chiropractic Examiners (Board) plans to webcast this meeting at
<https://thedcapage.wordpress.com/webcasts/>.

Webcast availability cannot, however, be guaranteed due to limitations on resources or other technical difficulties that may arise. If you wish to participate or to have a guaranteed opportunity to observe, please attend at the location specified above.

The Board will take a lunch break immediately following the Petitioner Hearings and Closed Session. The Board will resume normal business matters no earlier than 1:00 p.m.

AGENDA

1. **Open Session – Call to Order & Establishment of a Quorum**
Sergio Azzolino, D.C., Chair
Dionne McClain, D.C., Vice Chair
Frank Ruffino, Secretary
Heather Dehn, D.C.
Corey Lichtman, D.C.
David Paris, D.C.
2. **Pledge of Allegiance**
3. **Hearing Re: Petition for Reinstatement of Revoked License**
 - A. Daniel Calen Case No. AC 1998-55
 - B. Robert Glover Case No. AC 2010-808
 - C. Jeffrey Nabatmama Case No. AC 2003-332

-----15 Minute Break-----

4. Closed Session

The Board will meet in Closed Session to:

- A. Deliberate on Disciplinary Decisions and the above Petitions Pursuant to California Government Code Sections 11126(c)(3)
- B. Receive Advice from Legal Counsel Pursuant to California Government Code sections 11126(e) and 13963.1 Regarding Hugh Lubkin, D.C. v. Board of Chiropractic Examiners, Workers' Compensation Case No. ADJ7361379

-----1 Hour Lunch Break-----

- 5. Open Session: Announcements Regarding Closed Session**
 - 6. Chair's Report**
Update on the Chair's activities and Board's accomplishments and/or goals
 - 7. Update from Department of Consumer Affairs**
 - 8. Approval of February 15, 2019 Board Meeting Minutes**
 - 9. Ratification of Approved License Applications**
 - 10. Ratification of Denied License Applications in Which the Applicants Did Not Request a Hearing**
 - 11. Ratification of Approved Continuing Education Provider Applications**
 - 12. Executive Officer's Report**
 - A. Administration - Board staffing/organizational chart
 - B. Budget - Fund condition update
 - C. Licensing - Statistical trends
 - D. Enforcement - Statistical trends
 - E. IT Update
- 15 Minute Break-----
- 13. Update, Discussion and Possible Action on April 19, 2019 Enforcement Committee Meeting** Board may act on any item on the attached Enforcement Committee meeting agenda.
 - 14. Update, Discussion and Possible Action on April 16, 2019 Licensing & Continuing Education Committee Meeting** Board may act on any item on the attached Licensing & Continuing Education Committee meeting agenda.
 - 15. Update, Discussion and Possible Action on March 26, 2019 Government & Public Affairs Committee Meeting** Board may act on any item on the attached Government & Public Affairs Committee meeting agenda.
 - 16. Update, Discussion and Possible Action on Legislation:**
 - A. AB 544 (Brough)- Professions and vocations: inactive license fees and accrued and unpaid renewal fees
 - B. AB 613 (Low)- Professions and vocations: regulatory fees.
 - C. AB 888 (Low) Opioid prescriptions; information: nonpharmacological treatment for pain
 - D. SB 53 (Wilk)-Open meetings
 - E. SB 425 (Hill)- Health care practitioners: licensee's file: probationary physician's and surgeons' certificate: unprofessional conduct

17. Update, Discussion and Possible Action on the Federal “Sports Medicine Licensure Clarity Act of 2018”

18. Update, Discussion and Possible Action on Pending Rulemaking Files:

- A. Denial of Application: Revocation or Suspension of Licensure
- B. Probation Status Disclosure
- C. Consumer Protection Enforcement Initiative (CPEI)
- D. Revisions to BCE Disciplinary Guidelines & Uniform Standards for Substance Abusing Licensees
- E. Sponsored Free Health Care Events - Repeal CCR Sections (309-309.4)
- F. Revisions to Curriculum Requirements and Approval of Programs (Sections 330 – 331.16)
- G. Continuing Education Requirements (CE Provider and Course Approval)/Mandatory Cardiopulmonary Resuscitation (CPR) Certification for All Licensees
- H. Delegation of Authority to the Assistant Executive Officer
- I. Chiropractic Records Retention/Disposition of Patient Records Upon Closure of Practice on Death/Incapacity of Licensee Amend or Repeal CCR Section 354- Successful Examination (Obsolete provision)

19. Public Comment for Items Not on the Agenda

Note: The Board may not discuss or take action on any matter raised during this public comment section that is not included on this agenda, except to decide whether to place the matter on the agenda of a future meeting. [Government Code Sections 11125,11125.7(a).] Public comment is encouraged; however, if time constraints mandate, comments may be limited at the discretion of the Chair.

20. 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.]

21. Adjournment

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

The meeting facilities are accessible to individuals with physical disabilities. A person who needs a disability-related accommodation or modification to participate in the meeting may make a request by contacting the Board at (916) 263-5355 or e-mail chiro.info@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.

**NOTICE OF TELECONFERENCE
ENFORCEMENT COMMITTEE MEETING**

April 19, 2019

1:30 p.m. until completion of business

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:

Board of Chiropractic Examiners

901 P Street, Suite 142A
Sacramento, CA 95814
(916) 263-5355

Sergio Azzolino, D.C., Chair

Azzolino Chiropractic Neurology &
Integrative Wellness
1545 Broadway Street., Suite 1A
San Francisco, CA 94109
(415) 563-3800

David Paris, D.C.

VA Health Administration in Redding
760 Cypress Avenue
Redding, CA 96001
(530) 244-8806

Frank Ruffino, Public Member

Board of Chiropractic Examiners
901 P Street, Suite 142A
Sacramento, CA 95814
(916) 263-5355

AGENDA

- 1. Call to Order**
- 2. Approval of Minutes**
October 10, 2018
- 3. Review, Discussion and Possible Action on the Election of Committee Chair**
- 4. Review, Discussion and Possible Action regarding the Expert Witness Program**
- 5. Review, Discussion and Possible Action on the manner in which Enforcement Committee Statistical Information is presented at Board meetings.**
- 6. Review, Discussion and Possible Action regarding Chapter 570, Statutes of 2018 (SB 1448 – Probation Status: Disclosure)**

7. Review, Discussion and Possible Action regarding Chapter 995, Statutes of 2018 (AB 2138 – Denial of Application: Revocation or Suspension Licensure: Criminal Conviction)

8. Public Comment

Note: The Committee may not discuss or take action on any matter raised during this public comment section that is not included on this agenda, except to decide whether to place the matter on the agenda of a future meeting. [Government Code Sections 11125, 122507(a).] Public comment is encouraged; however, if time constraints mandate, comments may be limited at the discretion of the Chair.

9. Future Agenda Items; Items not on the Agenda

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

10. Adjournment

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

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NOTICE OF TELECONFERENCE
LICENSING & CONTINUING EDUCATION COMMITTEE MEETING

April 16, 2019

12:00 p.m. – 2:00 p.m. or until completion of business

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 Licensing, Continuing Education and Public Relations 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
(Board Staff)

Dionne McClain, D.C., Chair
McClain Sports & Wellness, Inc.
6360 Wilshire Blvd., #410
Los Angeles, CA 90048
(323) 653-1014

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

David Paris, D.C.
VA Health Administration in Redding
760 Cypress Ave.
Redding, CA 96001
(530) 244-8806

AGENDA

- 1. Call to Order & Establishment of a Quorum**
- 2. Selection of Committee Chair**
- 3. Approval of December 17, 2018 Committee Meeting Minutes**
- 4. Review and Discussion of Strategic Plan Goal 1**
- 5. Review, Discussion and Possible Action on proposed amendments to CE regulations**
- 6. Public Comment on Items Not on the Agenda**
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.
- 7. Future Agenda Items**
Note: The Committee may not discuss or take action on any matter raised during this future agenda items 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.]
- 8. Adjournment**

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

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State of California
Gavin Newsom, Governor

NOTICE OF TELECONFERENCE
GOVERNMENT & PUBLIC AFFAIRS COMMITTEE MEETING

March 26, 2019

9:30 a.m. until completion of business

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 Government and Public Affairs 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
(Board Staff)

Corey Lichtman, D.C.
Solana Beach Family and
Sports Chiropractic
538 Stevens Avenue,
Solana Beach, CA 92075
(858) 876-6300

Frank Ruffino, Public Member
901 P Street, Suite 142A
Sacramento, CA 95814
(916) 263-5355

AGENDA

1. Call to Order
2. Review, Discuss, and Possible Action on 2017-2019 BCE Strategic Plan Goals
3. Review, Discussion and Possible Action Regarding Approved Revisions to the Board Member Administrative Procedure Manual (BMAPM)
4. Discussion and Possible Action Regarding the Development of a Social Media Content Bank for the BCE
5. Review, Discussion and Possible Action Regarding AB 888 (Low) Controlled substances
6. Review, Discussion and Possible Action Regarding AB 613 (Low) Professions and vocations: regulatory fees.

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, 122507(a).] Public comment is encouraged; however, if time constraints mandate, comments may be limited at the discretion of the Chair.

8. Items Not on the Agenda

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

9. Adjournment

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**Agenda Item 8
May 21, 2019**

Approval of Minutes

Purpose of the item

The Board will review and approve the Board Meeting minutes of the previous Board Meeting.

Action(s) requested

The Board will be asked to make a motion to approve the February 15, 2019, Board Meeting minutes.

Background

N/A

Recommendation(s)

N/A

Next Step

N/A

Attachment(s)

- Meeting minutes from the February 15, 2019, Board Meeting.



BOARD OF CHIROPRACTIC EXAMINERS PUBLIC SESSION MINUTES

February 15, 2019

The Department of Consumer Affairs, Headquarters II
1747 N. Market Blvd., Room #186
Sacramento, CA 95834-1924

Board Members Present

Sergio Azzolino, D.C., Chair
Frank Ruffino, Secretary
Heather Dehn, D.C.
Corey Lichtman, D.C.
David Paris, D.C.

Staff Present

Robert Puleo, Executive Officer
Marcus McCarther, Assistant Executive Officer
Kenneth Swenson, Attorney III
Kristin Walker, Staff Services Manager I
Valerie James, Staff Services Analyst
Natalie Boyer, Staff Services Analyst
Andreia McMillen, Associate Government Program Analyst
Tammi Pitto, Staff Services Analyst
Nikkia Capizzano, Staff Services Analyst

Call to Order

Dr. Azzolino called the meeting to order at 8:07 a.m.

Roll Call

Mr. Ruffino called the roll. Dr. McClain was absent, all other members were present. A quorum was established.

Pledge of Allegiance

Mr. Ruffino led the Pledge of Allegiance.

Opening Announcements

Hearing Re: Petition for Reinstatement of Revoked License

Administrative Law Judge, Dena Coggins, presided over and Deputy Attorney General, Andrew Steinheimer, appeared on behalf of the people of the State of California on the following hearings:

- | | |
|--------------------------|----------------------|
| A. Thomas George Pollock | Case No. AC 2009-685 |
| B. Ehalid Dinkane | Case No. AC 1998-55 |
| C. Reza Aliakbar | Case No. AC 2007-592 |
| D. Kent W. Pollock | Case No. AC 2006-565 |

Closed Session

Following oral testimonies, the Board went into Closed Session for deliberation and determinations regarding:

- A. Deliberate on Disciplinary Decisions and the above Petitions Pursuant to California Government Code Sections 11126(c) and 13963.1
- B. Receive Advice from Legal Counsel Pursuant to California Government Code sections 11126(e) and 13963.1. Regarding Hugh Lubkin, D.C. v. Board of Chiropractic Examiners Workers' Compensation Case No. ADJ7361379

Open Session

The Board went back into Open Session.

Chair's Report

Dr. Azzolino welcomed the Board back into session and congratulated Dr. Paris on his appointment to the Board and Dr. McClain's on her reappointment to the Board. The Board had started the year with a full schedule and Dr. Azzolino was proud to notate that Board Members and staff have participated in numerous events within the profession to engage with licensees.

Approval of January 8, 2019 Board Meeting Minutes

MOTION: DR. DEHN MOVED TO APPROVE THE MINUTES OF THE JANUARY 8, 2019 BOARD MEETING.

SECOND: MR. RUFFINO SECONDED THE MOTION.

Discussion: There was none.

VOTE: 4-0, 1 - ABSTAINED (DR. AZZOLINO-AYE, MR. RUFFINO-AYE, DR. DEHN-AYE, DR. LICHTMAN-AYE, DR. PARIS-ABSTAINED).

MOTION: CARRIED.

Ratification of Approval of License Applications

MOTION: DR. DEHN MOVED TO RATIFY THE APPROVED LICENSE APPLICATIONS.

SECOND: MR. RUFFINO SECONDED THE MOTION.

Discussion: There were none.

VOTE: 5-0, (DR. AZZOLINO-AYE, MR. RUFFINO-AYE, DR. DEHN-AYE, DR. LICHTMAN-AYE, DR. PARIS-AYE).
MOTION: CARRIED.

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

There were none.

Ratification of Approved Continuing Education Providers

MOTION: MR. RUFFINO MOVED TO RATIFY THE APPROVED CONTINUING EDUCATION PROVIDERS.
SECOND: DR. DEHN SECONDED THE MOTION.

Discussion: There were none.

VOTE: 5-0, (DR. AZZOLINO-AYE, MR. RUFFINO-AYE, DR. DEHN-AYE, DR. LICHTMAN-AYE, DR. PARIS-AYE).
MOTION: CARRIED.

Executive Officer's Report

Mr. Puleo shared some of the recent community outreach events that he and Mr. McCarther had participated in, to continue the efforts of the Board to engage licensees.

A. Administration - Board staffing/organizational chart

Mr. Puleo introduced the Board's new Enforcement Manager, Ms. Kristin Walker and new member to the Enforcement Unit, Ms. Valerie James. Mr. Puleo also announced the departure of two Enforcement staff members, Ms. Lavella Matthews, who would be retiring in two months and Ms. Nikkia Capizzano, who would be leaving at the end of the month.

B. Budget - Fund condition update

Mr. Puleo introduced two guests from the Department of Consumer Affairs (DCA) to present technology and budget updates to the Board, Mr. Jason Piccione, Chief Information Officer for DCA, and Ms. Marie Reyes, Budget Analyst to the Board.

Mr. Piccione provided an update to the Board regarding the business modernization efforts and the procurement of a new information technology system for the Board. Mr. Piccione highlighted a four-phase process of identifying business needs, researching potential software opportunities, procuring the potential software and, finally, approval and execution of the software for Board staff.

Ms. Reyes updated the Board on budget processing within DCA and discussed the Board's current Fund Condition report.

Mr. Puleo pointed out that the cost of the new technology system was not included in the Fund Condition report.

Ms. Reyes stated that she was in constant contact with Mr. Puleo and Mr. McCarther regarding the Board's budget needs and spending in an effort to budget for the technology purchase.

Mr. Piccione highlighted some of the cost structures of procuring a technology software package for the Board.

C. Licensing - Statistical trends

Mr. Puleo shared a significant milestone for Licensing Trends, that the total number of licensed chiropractors had fallen below 13,000.

D. Enforcement - Statistical trends

Mr. Puleo reviewed the Enforcement Trends report with data from the past five fiscal years.

Dr. Azzolino noted that it appeared as if the complaints received had been going down over the past several years.

Mr. Puleo agreed that he could extend the report to include more fiscal years, as there had not been distinguishable trends among the data.

Bagley Keene Presentation by Kenneth Swenson, Legal Counsel

Mr. Swenson presented the Bagley-Keene Open Meeting Act's history, purposes and requirements as they relate to Board activities.

Update, Discussion and Possible Action on Government & Public Affairs Committee

Mr. Puleo provided an update regarding the December 11th, 2018 Government & Public Affairs Committee Meeting. The Committee discussed the proposed changes to the Board Member Administrative Procedure Manual (BMAPM). The Committee also intends to schedule a meeting in the near future to discuss legislative packages being introduced that could potentially be of interest or impact to the Board.

Update, Discussion and Possible Action on Licensing & Continuing Education Committee

Dr. Dehn provided an update regarding the December 17th, 2018 Licensing & Continuing Education (CE) Committee Meeting. Dr. Dehn shared that the Committee had been tasked, by the full Board, to review the possibility of making regulatory changes to the CE provider application, separate from the CE rulemaking package. The Committee was unable to come to an agreement on a course of action, and the topic had returned to the full Board for more members to weigh in on the advantages and disadvantages of separating the regulations. Dr. Dehn also emphasized that it would be up to the full Board to determine which regulatory

packages should receive priority of Board staff, as there were many currently in queue.

Dr. Azzolino inquired what differing opinions were presented at the Committee Meeting.

Dr. Dehn reiterated the full Board's concerns over having very limited information on individuals applying to be CE providers but Mr. Swenson had informed the Committee that many of the criminal background questions the Board was hoping to include on the provider application would not be approved through legal. Dr. Dehn also shared the problems of separating the regulations into two packages; firstly, staff resources and time were of concern and secondly, with two regulations going through the rulemaking process at the same time, there could potentially be changes that would affect either package prior to their completing the rulemaking process.

Mr. Puleo added that few changes would be possible to the CE provider application without the supporting authority in a regulation, that would include the provisions explaining new provider requirements.

Dr. Azzolino asked for Dr. Dehn's recommendation on the CE regulations.

Dr. Dehn stated that the CE provider application should be left as a part of the larger CE regulatory package.

Mr. Ruffino inquired if it would be of value to refer this topic back to the committee level, as a third member would be added to the committee and could potentially eliminate future indecisions.

Mr. Puleo agreed with this recommendation.

Mr. Swenson stated that as the topic was still in committee there would be no need for a motion. Mr. Swenson also shared one of the disadvantages of changing the CE provider application without supporting regulations, as this action could be deemed as an underground regulation.

Mr. Puleo suggested, as the topic was in front of the Board, to take a vote on whether to separate the two proposed regulatory packages or not.

**MOTION: DR. DEHN MOVED THAT THE CE PROVIDER APPLICATION NOT BE SEPARATED FROM THE CE REGULATORY PACKAGE AND THE TOPIC TO DETERMINE REGULATORY LANGUAGE BE REFERRED TO THE LICENSING & CONTINUING EDUCATION COMMITTEE.
SECOND: MR. RUFFINO SECONDED THE MOTION.**

Discussion: There were none.

**VOTE: 5-0, (DR. AZZOLINO-AYE, MR. RUFFINO-AYE, DR. DEHN-AYE, DR. LICHTMAN-AYE, DR. PARIS-AYE).
MOTION: CARRIED.**

Dr. Dehn summarized the remaining activities of the Licensing & CE Committee; the list of chiropractic adjustive techniques, Oregon's CE regulations and the staff lead focus group of CE providers.

Mr. Puleo shared staff's efforts to engage with a variety of CE providers for feedback, to ensure many ideas and concerns were covered in the drafting stages of the regulation, prior to initiating the rulemaking process.

Dr. Azzolino inquired whether feedback or concerns often came from a particular group or organization and if the Board could be proactive in addressing these concerns.

Mr. Puleo did not believe there was a particular group.

Dr. Azzolino reasserted the Board's interest in inviting all interested parties to attend Board Meetings or Committee Meetings to participate.

Update, Discussion and Possible Action on Pending Rulemaking

Ms. Andreia McMillen summarized staff efforts to update regulations to maintain compliance with AB 2138 (Chiu/Low) – Denial of Application: Revocation or Suspension Licensure: Criminal Conviction and SB1448 (Hill) – Probation Status: Disclosure. Additionally, legal counsel informed the Board that the initial review of the Delegation of Authority and Consumer Protection Enforcement Initiative regulation package had been completed.

Mr. Puleo shared the rulemaking process stages, the first being initial review of packages by the Board's legal counsel, following this, staff would make necessary changes to the language.

Update, Discussion and Possible Action on Board Committee Assignments

Mr. Puleo introduced the Committee Member assignments. With the addition of Dr. Paris, the Licensing & CE Committee and the Enforcement Committee now have three members. Currently the Government & Public Affairs Committee has two committee members.

Mr. Ruffino inquired if the Special Committee to Open the Act and the Special Committee for Curriculum Requirements could be combined into one committee. Or, if that was not the Board's wishes, then to add additional members to the Committee to Open the Act, as that was of great interest to the profession.

Dr. Dehn queried Mr. Ruffino in his interest in agendizing the potential of opening the Act, as he was not able to be present at the August 2018 Board Meeting when the Board voted on creating the special committee.

Mr. Ruffino stated that he did not have a specific goal in mind but had heard interest from stakeholders with differing opinions regarding opening the Act, he felt it would be of value to have the Board analyze and determine if there was indeed benefit in opening the Act.

Dr. Azzolino suggested making the Special Committee to Open the Act a three member committee and to schedule a meeting as soon as possible. He also agreed with Mr. Ruffino's recommendation of combining these two committees into one.

Mr. Puleo agreed and also suggested that if the Board did open and amend the Act, then it could be an appropriate avenue to make changes to the curriculum regulations.

Mr. Ruffino inquired if staff could prepare a memo of the processes that would be involved in potentially amending the Act.

Mr. Puleo heartily agreed. Mr. Puleo summarized the Board's sentiment that they wished to schedule a committee meeting as soon as possible and he would discuss with the Board Chair the member makeup of the committee.

Dr. Azzolino inquired if this committee could be made up of four members.

Mr. Swenson shared that an Advisory Committee could have four members and would comply with Bagley-Keene Open Meeting law, as long as it was advisory versus making policy decisions.

The Board was in agreement that the Special Committee to Open the Act and the Special Committee for Curriculum Requirements would be combined to create one Advisory Committee and the four members would be Dr. Azzolino, Mr. Ruffino, Dr. Dehn and Dr. McClain, pending any changes by the Board Chair.

Public Comment for Items Not on the Agenda

There were none.

Future Agenda Items

There were none.

Adjournment

Dr. Azzolino adjourned the meeting at 3:13 p.m.

(ATTACHMENT A)

Approval by Ratification of Formerly Approved License Applications
between October 1, 2018 and December 31, 2018.

Name (First, Middle, Last)			Date Issued	DC#
Sera	Elizabeth	Tekin	10/9/2018	34334
Stacy	Lea	Sanchez	10/9/2018	34335
Corinthian	Adolphous	Tyson	10/9/2018	34336
Joseph		Seifeddine	10/9/2018	34337
Alexandra	Penelope	Kitchell	10/9/2018	34338
Elizabeth	Rose	Moos	10/9/2018	34339
Monique	Nicole	Esquivel	10/10/2018	34340
Tyler	Clay	Holt	10/10/2018	34341
Christopher	Douglas	Jepsen	10/15/2018	34342
Jorge	Luis	Perez	10/15/2018	34343
Yasmin	Fatemi	Crick	10/19/2018	34344
Caitlin	Paige	Hagerty	10/19/2018	34345
Jacklyn	Renee	Muxen	10/26/2018	34346
Evelyn	Noel	Moseley	10/26/2018	34347
Brock		Lambert-Martinez	11/2/2018	34348
Chanel	Fialah	Putras	11/2/2018	34349
Allen		Du	11/5/2018	34350
Ysel	Jelle	Ganda	11/5/2018	34351
Amy	Michelle	Gates	11/5/2018	34352
Joshua	Michael	Drake	11/5/2018	34353
Alex	Jungmin	Hwang	11/5/2018	34354
Joshua	Tyler	Adams	11/8/2018	34355
Arlene	Noel	Chang	11/8/2018	34356
Brett	James	Haderlie	11/8/2018	34357
Frank	Alexios	Lee	11/8/2018	34358
Jocelyn	Kyndal	Mecham	11/8/2018	34359
	Alexander			
Mackenzie	Christian	Kolt	11/8/2018	34360
Noah	William	Volz	11/8/2018	34361
Elizabeth	Anne	Wells	11/9/2018	34362
Nihad	Fadhil	Jabbar	11/15/2018	34363
Jonathan	Hayes	Marshall	11/15/2018	34364
Lan	Thi	Moro	11/15/2018	34365
Lauren	Ashley	Aalders	11/15/2018	34366
Jennifer	Ann	DeWitt	11/15/2018	34367

Isabel	Liana	Eden	11/19/2018	34368
Mohammad	Mueen	Ghoury	11/19/2018	34369
Scott	Stefan	Castle	11/21/2018	34370
Alejandra		Gil	11/21/2018	34371
Dianna	Elizabeth	Rocha	11/21/2018	34372
Saebom		Kim	11/21/2018	34373
Matthew	James	Trimner	11/21/2018	34374
Christopher	Stuart	Vogelmann	11/21/2018	34375
Shaina	Lane	Lewinski	11/26/2018	34376
Derrick	Brian	Peterson	11/26/2018	34377
Kristina	Renee	Smith	11/26/2018	34378
Jesse	Mejorado	Felix	11/28/2018	34379
Mina		Iskander	12/4/2018	34380
Sangwook		Lee	12/4/2018	34381
Justina	Ann	Wong	12/4/2018	34382
Alison	Riley	Scarborough	12/4/2018	34383
Sangwook		Lee	12/4/2018	34384
Aubrey	Michelle	Hefner	12/7/2018	34385
Bradley	Joseph	Francis	12/7/2018	34386
Bryan	Nathan	Kao	12/11/2018	34387
Delaram		Shekarriz	12/11/2018	34388
Darian		Saber	12/11/2018	34389
Christopher	James	Branuelas	12/12/2018	34390
Lynn	Xuan Trang	Do	12/12/2018	34391
Sanam		Fazel	12/12/2018	34392
Eddy	Villarreal	Haro	12/12/2018	34393
Madison	Rebecca	Holzworth	12/19/2018	34394
Jacob	Perry	Almanrode	12/19/2018	34395
Ana	P	A Facchinato Campos	12/19/2018	34396
Jason	Drew	Fidler	12/19/2018	34397
Kevin	Andrew	Bruinsma	12/19/2018	34398
Marzeyeh		Mousavi	12/26/2018	34399
Amber	Rose	Morison	12/31/2018	34400
Colin	Eric	Lock	12/31/2018	34401

(ATTACHMENT B)

Pending Ratification to Approve New Continuing Education Providers

<u>CONTINUING EDUCATION PROVIDERS</u>	<u>DATE</u>
1. <u>David Cruz, DC</u>	<u>2/15/19</u>
2. <u>Easy Web CE</u>	<u>2/15/19</u>
3. <u>American College of Integrative and Functional Medicine, LLC.</u>	<u>2/15/19</u>
4. <u>Anthony B Morovati, DC</u>	<u>2/15/19</u>
5. <u>Christopher Greene, D.C.</u>	<u>2/15/19</u>
6. <u>SuperSpine, Inc.</u>	<u>2/15/19</u>
7. <u>Adam Harcourt, DC, DACNB</u>	<u>2/15/19</u>
8. <u>Dr. Eric Dickerson, DC</u>	<u>2/15/19</u>
9. <u>EasyCENow.com</u>	<u>2/15/19</u>

DRAFT



State of California
Gavin Newsom, Governor

Agenda Item 9
May 21, 2019

Ratification of Approved License Applications

Purpose of the item

The Board will review and ratify the attached list of approved license applications.

Action(s) requested

A motion is needed to ratify the attached list of approved license applications.

Background

Between January 1, 2019 and March 31, 2019, staff reviewed and confirmed that the applicants met all statutory and regulatory requirements.

Recommendation(s)

Staff requests the Board approve the list of approved license applications.

Next Step

N/A

Attachment(s)

- List of formerly approved license applications issued between January 1, 2019 and March 31, 2019.

Name (First, Middle, Last)			Date Issued	DC#
Patricia	S	Boulogne	1/9/2019	34402
Anastasia	Rafaela	Cannedy	1/9/2019	34403
Irene	Sarah	Alejandro	1/10/2019	34404
Cynequa	Starlena	Caldwell	1/10/2019	34405
Colby	James	Wilmer	1/15/2019	34406
Charminae	Nicole	Barnes	1/18/2019	34407
Damon	Kristopher	Anthony	1/18/2019	34408
Harpal	Singh	Gill	1/18/2019	34409
Arneka	April	Montford	1/23/2019	34410
Nicholas	David	Rosen	1/23/2019	34411
Ruben	Alexander	Montane	1/25/2019	34412
Thao	Dung Thi Tran	Aaron	1/29/2019	34413
Derek	Edward Neumeier	Barkalow	1/29/2019	34414
Allen	Gabriel	Bittaker	1/29/2019	34415
Corey	Scott	Diamond	1/29/2019	34416
Jessica	Christina	Dzieszko	1/29/2019	34417
Artem	Andrey	Abakumov	1/31/2019	34418
Maral		Basmajian	1/31/2019	34419
Sean	Patrick	Golden	1/31/2019	34420
Keiko	Alyssa	Hamano	1/31/2019	34421
Monique	Mailingh	Hamon	1/31/2019	34422
Charlene	L	Blades	1/31/2019	34423
Angelica	Joy	Malek	1/31/2019	34424
Kindra	Melody	Woo	1/31/2019	34425
Amy	Leeann	Winchester	1/31/2019	34426
La Mar	Anthony	Sheppard	1/31/2019	34427
Taylor	McKean	Moore	1/31/2019	34428
Alexandra	Maria	Trevisan	2/1/2019	34429
Ronald	M	Miller	2/1/2019	34430
Ronald	Thomas	Merriel	2/1/2019	34431
Brandon	Lee	Johnson	2/1/2019	34432
Franchesca	Vy	Nguyen	2/1/2019	34433
Kyung-Oh		Suh	2/6/2019	34434
David	Paul	Silverman	2/6/2019	34435
Kevin		Lew	2/6/2019	34436
Brian	Chris	Nook	2/6/2019	34437

BCE Ratification of Approved License Applications

May 21, 2019

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Annelies	Margarete	Wentzel	2/6/2019	34438
Austin	Robert	Rico	2/13/2019	34439
Tyler	William	Simpson	2/13/2019	34440
Hyeong	Ju	Lee	2/13/2019	34441
Manraj	Singh	Mangat	2/13/2019	34442
Tori	Leigh	Reccord	2/13/2019	34443
Haig	Peter	Basmadjian	2/14/2019	34444
Nancy		Chu	2/14/2019	34445
Andres	Tomas	De La Cruz	2/14/2019	34446
Ross		Hartwell	2/14/2019	34447
Peter	Thomas	Hibl	2/14/2019	34448
Anja	Fatima	Huq	2/14/2019	34449
Solomiya		Bachinsky	2/14/2019	34450
Blake	Christian	Daniels	2/14/2019	34451
Oscar	Miguel Angel	Del Rio-Marquez	2/14/2019	34452
Katharine	Ann	Baker	2/14/2019	34453
Laura	Nicole	Capparilli	2/14/2019	34454
Jessica	Meagan	Flores	2/14/2019	34455
Amanda	Tess	Star	2/14/2019	34456
Ayushi		Sinha	2/14/2019	34457
Catherine	Helene	Leduc Ramcharan	2/14/2019	34458
Cody		Weaver	2/14/2019	34459
Marcos	M	Naccarati	2/14/2019	34460
Gerissen		Tang	2/14/2019	34461
Carie	Sin-Jy	Kwan	2/14/2019	34462
Thai	Ngoc	Mai	2/14/2019	34463
John	Robert	Sanders	2/14/2019	34464
Leonela	Katherine	Martinez	2/20/2019	34465
Valerie	Dolores	Oldenburg	2/20/2019	34466
Toufu				
Tswjfw	Naolue	Moua	2/20/2019	34467
Nick	Kwangyeon	Nam	2/20/2019	34468
Keola	Aaron	Lorenzo	2/25/2019	34469
Benjamin	James	Leong	2/25/2019	34470
Alan	Richard	Palzer	2/25/2019	34471
Maily	Truc	Tran	2/25/2019	34472
Victoria	Trang	Pickelman	2/27/2019	34473
Ignacio	Alejandro	Ruiz	2/27/2019	34474
Sevak		Ovsepyan	2/27/2019	34475
Jaelee		Carlton	2/27/2019	34476
Sarah	Lynn	Cathers	2/27/2019	34477

BCE Ratification of Approved License Applications

May 21, 2019

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Fernando	Juarez	Gomez	2/27/2019	34478
Regina	Faith	Timbang	3/7/2019	34479
Jacqueline	Evamarie	Vekich	3/7/2019	34480
Suzanna	Kreemer	Wong	3/7/2019	34481
Kira	Kreemer	Wong	3/7/2019	34482
Christian	Rodrigo	Pinto	3/7/2019	34483
Tyler	Preston	Miyamoto	3/7/2019	34484
Oscar	Anthony	Alvarado	3/7/2019	34485
Michael	Anthony	Delfin	3/7/2019	34486
Afsaneh		Derakhshan	3/7/2019	34487
Christopher	Joseph	Campagna	3/8/2019	34488
Lauren	Alexandra	Crone	3/8/2019	34489
Ivonne	Alexis	Ferandell-Villarino	3/8/2019	34490
Meir	Mark	Cioraru	3/12/2019	34491
Jennifer	Leigh	Jensen	3/14/2019	34492
Josiah	David	Haber	3/19/2019	34493
Nathaniel	Aaron	Finkey	3/19/2019	34494
Jennifer	Miller	Bowser	3/19/2019	34495
Mario	Andres	Chavez	3/19/2019	34496
Seth	Lawrence	Gartenlaub	3/19/2019	34497
Jack	David	Howard	3/19/2019	34498
Warren	Scott	Albert	3/19/2019	34499
Kerri	Elizabeth	Domingo	3/19/2019	34500
David	James	Simpson	3/21/2019	34501
Madeline	Melissa	Klobuchar	3/21/2019	34502
Calvin	Patrick	Nell	3/21/2019	34503
Nicholas	Jacobos	Cone	3/29/2019	34504
Troy	Robert	Davis	3/29/2019	34505
Nathan	James	Andersen	3/29/2019	34506
Rae	Meyer	Bastoni	3/29/2019	34507
Evan	Tobias	Chin	3/29/2019	34508
Jason		Chin	3/29/2019	34509
Oscar	Lionel	Erkenswick	3/29/2019	34510
Alexandra	Irene	Fonseca	3/29/2019	34511
Amber	Dawn Depasquale	Gregory	3/29/2019	34512
Steven	David	Roffers	3/29/2019	34513
Jonathan	Gould	Warren	3/29/2019	34514
Andrey		Repetskiy	3/29/2019	34515
Tage	Sebastian	Kverneland	3/27/2019	34516



State of California
Edmund G. Brown Jr., Governor

Agenda Item 10
May 21, 2019

Ratification of Denied License Applications

Purpose of the item

The Board will review and ratify denied license applications in which an applicant did not appeal the Board's decision.

Action(s) requested

No action requested at this time.

Background

The Board of Chiropractic Examiners denies licensure to applicants who do not meet all statutory and regulatory requirements for a chiropractic license in California. Following a denial of licensure, an applicant has 60-days to appeal the Board's decision. If the applicant does not submit an appeal to the Board, the denial is upheld.

Recommendation(s)

During the period of January 1, 2019 to March 31, 2019, staff has reviewed and confirmed that applicants met all statutory and regulatory requirements for licensure. There were no denials or appeals during this time period.

At this time, no ratification is necessary.

Next Step

N/A

Attachment(s)

N/A

**Agenda Item 11
May 21, 2019**

Ratification to Approve Continuing Education Providers

Purpose of the item

The Board will be asked to review and ratify the new continuing education (CE) providers.

Action(s) requested

The Board will be asked to ratify the following new CE providers:

<p>Provider Name: Abkarian & Associates</p> <p>CE Oversight Contact Person: Albert Abkarian</p> <p>Provider Status: Corporation</p>	<p>Provider Name: Dr. Jonna Uibel Palmer, D.C.</p> <p>CE Oversight Contact Person: Jonna Palmer</p> <p>Provider Status: Individual</p>
<p>Provider Name: Southeast Sports Seminars</p> <p>CE Oversight Contact Person: Jessica Riddle</p> <p>Provider Status: Corporation</p>	<p>Provider Name: Dr. Linda Gerner, D.C., FICPA</p> <p>CE Oversight Contact Person: Lynn Gerner</p> <p>Provider Status: Individual</p>
<p>Provider Name: Gait Happens</p> <p>CE Oversight Contact Person: Milica McDowell</p> <p>Provider Status: Corporation</p>	<p>Provider Name: Human Garage</p> <p>CE Oversight Contact Person: Alex Cheng</p> <p>Provider Status: Corporation</p>
<p>Provider Name: Functional Movement Systems, LLC</p> <p>CE Oversight Contact Person: Jamie Harrill</p> <p>Provider Status: Partnership</p>	<p>Provider Name: Bloch Wellness & Sports Medicine</p> <p>CE Oversight Contact Person: Rochelle Neally</p> <p>Provider Status: Corporation</p>

CONT.

Provider Name: Teresa Rispoli CE Oversight Contact Person: Teresa Rispoli Provider Status: Individual	Provider Name: Shawn Steel Law Firm CE Oversight Contact Person: John Tawlian Provider Status: Corporation
Provider Name: Motus Education CE Oversight Contact Person: Kristen Newhalfen Provider Status: Corporation	

Background

N/A

Recommendation(s)

Staff requests the Board approve the new CE providers.

Next Step

N/A

Attachment(s)

- To maintain compliance with AB 434 (Baker) State Web accessibility: standard and reports, we are no longer able to provide scanned documents on our website. Copies of the CE provider applications will be made available in person at the May 21st Board Meeting. CE provider applications can be requested via a Public Request.



Executive Officer's Report

Purpose of the item

The Executive Officer will provide the Board Members an update on statistics related to Board Administration, Budget, Licensing, Enforcement and IT. Board Members will have the opportunity to ask questions as necessary.

Action(s) requested

No action requested at this time.

Background

A. Administration

- The Administrative Unit currently has a vacant Management Services Technician position. Due to budget constraints, the Board is unable to fill the position at this time.
- The Enforcement Unit has an Analyst (SSA) vacant position. Due to budget constraints, the Board is unable to fill the position at this time.
- The Enforcement Unit has an Associate Analyst (AGPA) vacant position. The Board has interviewed candidates for the AGPA position and hopes to complete the appointment soon.

B. Budget

- The Executive Officer will provide an overview of the attached Board Fund Condition Report.

C. Licensing

- The Licensing Manager will provide an overview of the attached licensing program data.

D. Enforcement

- The Enforcement Manager will provide an overview of the attached Enforcement program data.

E. IT Update

- The Assistant Executive Officer will provide an update on the Board's various information technology projects.

Recommendation(s)

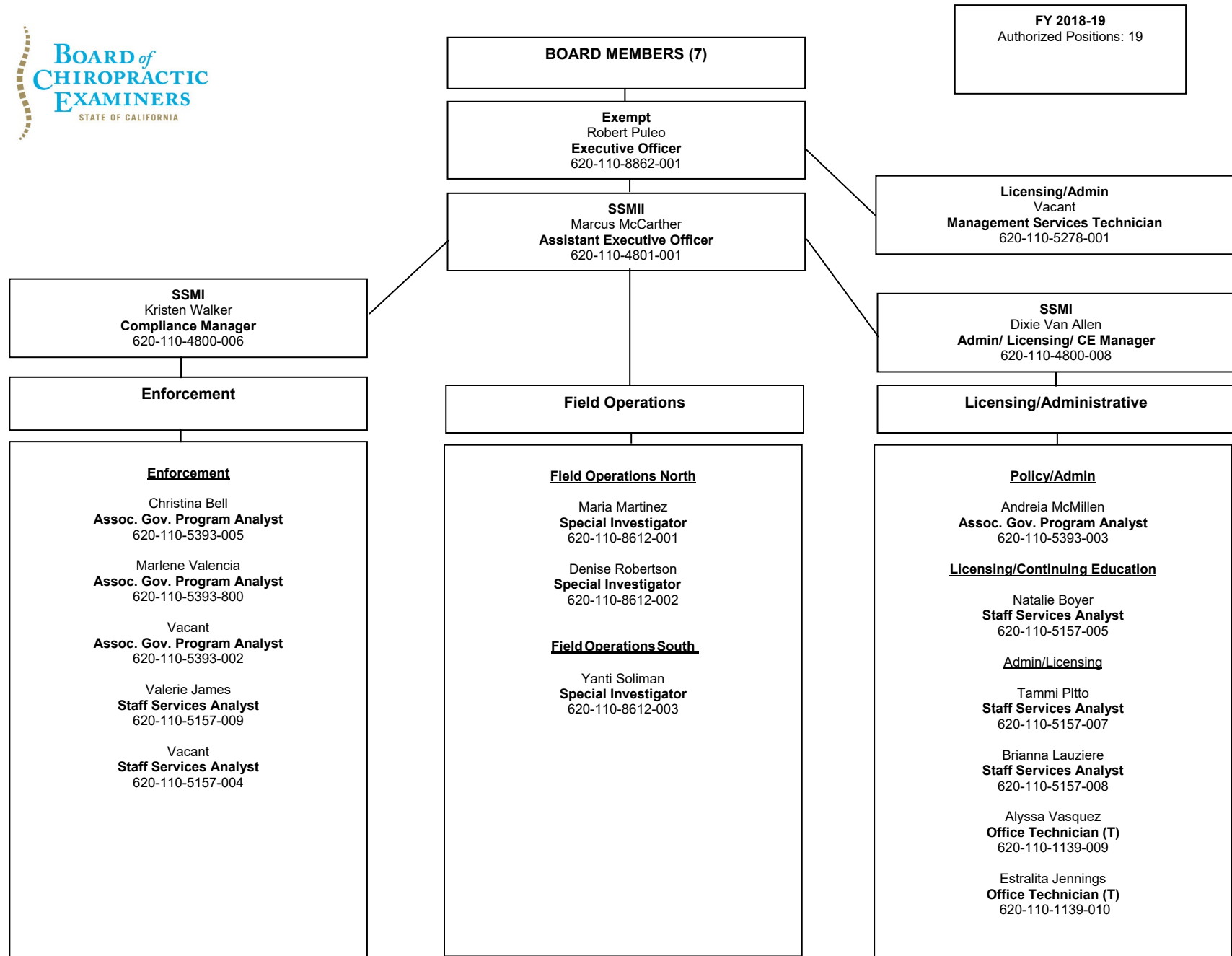
N/A

Next Step

N/A

Attachment(s)

- Org Chart/Staff Functions
- Updated Fund Condition
- Licensing Statistics
- Enforcement Statistics



FY 2018-19
Authorized Positions: 19

Executive Officer _____

Personnel Office _____

Board of Chiropractic Examiners Staff Functions

Executive Officer (620-110-8862-001) – Oversees management of the Board of Chiropractic Examiners. Directs negotiations for stipulated agreements, monitors deadlines and procedures for compliance with the Administrative Procedures Act. Directs the organization and coordination of committee, executive and task force meetings and compilation of data for Board meetings, ensures compliance with the Open Meetings Act, coordinates closed sessions and hearings, attends all Board meetings. Identifies the need for legislation and recommends modifications to existing statutes or regulations to the Board. Oversees all aspects of the legislative and rulemaking processes. Testifies before legislative committees on behalf of the Board, advocates consumer protection and lobbies on behalf of consumers and the Board, interprets and clarifies the Board’s Initiative Act, regulations, and policies. Represents the Board before professional and health associations or other state, federal, local, or community groups/entities.

Assistant Executive Officer (620-110-4801-001) - Oversees all administrative duties of the Administration, Enforcement, Licensing/Continuing Education, and Field Investigation divisions, directly supervises managers and field staff, assists the EO with special projects, attends Board and Committee meetings, acts as the Board’s liaison to DCA, attends all informal office conferences and writes resulting decisions. Oversees management of the Board in the EO’s absence and backs up managers in their absence, represents the Board before professional and health associations or other state, federal, local or community groups/entities in the absence of the EO. Develops, reviews and implements policies and operating procedures, directs the development and implementation of regulations adopted by the Board. Advises EO of critical issues which may result in litigation or require legislation, regulations or policy adjustment, oversees the planning and ensures timely preparation and mailing of all Board and Committee materials, directs the preparation of recurring special reports, monitors the Board’s revenue and expenditures.

Enforcement Manager (620-110-4800-006) – Manages and supervises compliance and probation programs/staff, performs case reviews and reviews case closure recommendations, participates in probationer interviews, attends informal citation conferences, reviews administrative citations and fines, monitors monthly caseload statistics, monitors success of Expert Consultant program, reviews AG billing statements for accuracy.

Enforcement Analyst (620-110-5393-002) - Reviews and investigates complex complaints, drafts recommendations for complaints including referral of complaints to the AG’s office, prepares packets for Petitioner hearings, evaluates administrative cases, and proposed decisions, stipulations and default decisions for adherence to the Admin. Procedures Act and Disciplinary Guidelines, develops settlement and probationary terms for the Executive Officer’s approval.

Probation Monitor (620-110-5393-005) – Monitors probationers for compliance with conditions and terms of probation, sends letters to probationers who are out of compliance with their terms of probation, coordinates site inspection or suspension visits with field staff, schedules probation interviews, refers cases to Board experts, consults with the AG’s office and makes recommendations to management on cases ready for petition to revoke or accusation referral due to non-compliance issues, tracks cases waiting to be heard at Office of Administrative Hearings, recommends settlement or probationary terms for management approval, prepares stay of decision, reviews and investigates complex complaints, drafts recommendations for complaints including referral of complaints to the AG’s office. Serves as coordinator for the Enforcement Committee.

Board of Chiropractic Examiners Staff Functions

Enforcement Analyst (620-110-5157-009) - Assists the public with inquiries about the complaint process, performs intake and assignment of consumer complaints and CE audits, requests court documents for subsequent arrest reports, requests Interim Suspension Orders or Penal Code 23 assistance, reviews and investigates routine consumer complaints, drafts recommendations for complaints including referral of complaints to the AG's office, reviews administrative cases and proposed decisions, stipulations and default decisions for adherence to the Admin. Procedures Act and Disciplinary Guidelines, tracks proposed decisions received and cases awaiting hearing at the Office of Administrative Hearings. Responds to subpoenas and enforcement related Public Record Act requests. Maintains enforcement files according to retention schedule. Serves as back-up to the probation monitor.

Enforcement Analyst (620-110-5393-800) - Reviews and investigates complex complaints, drafts recommendations for complaints including referral of complaints to the AG's office, prepares packets for Petitioner hearings, evaluates administrative cases, and proposed decisions, stipulations and default decisions for adherence to the Admin. Procedures Act and Disciplinary Guidelines, develops settlement and probationary terms for the Executive Officer's approval.

Enforcement Analyst (620-110-5157-004) – Assists the public with inquiries about the complaint process, performs intake and assignment of consumer complaints, requests court documents for subsequent arrest reports, requests Interim Suspension Orders or Penal Code 23 assistance, reviews and investigates routine consumer complaints, drafts recommendations for complaints including referral of complaints to the AG's office, reviews administrative cases and proposed decisions, stipulations and default decisions for adherence to the Admin. Procedures Act and Disciplinary Guidelines, tracks proposed decisions received and cases awaiting hearing at the Office of Administrative Hearings. Serves as the contact for the National Data Bank reporting.

Licensing, CE, Administration Manager (620-110-4800-008) - Manages and supervises licensing, continuing education, and administrative programs and staff, compiles and analyzes licensing workload statistics, assists applicants and licensees with licensing issues, reviews staff recommendations regarding licensure and continuing education applications and grants or denies approval, monitors development and administration of the California Law and Professional Practices Examination, attends Board and committee meetings, assists AEO and EO with preparation of special reports or projects.

Policy Analyst (620-110-5393-003) – Prepares and compiles rulemaking documents for the repeal, amendment or adoption of regulations. Identifies, tracks and analyzes legislative bills impacting the Board, acts as the back-up Personnel Liaison for Board staff, assists management with research and special projects. Acts as coordinator for the Government Affairs committee. Attends Board and committee meetings.

Retired Annuitant Policy Analyst (620-110-5393-907) – Prepares and compiles rulemaking documents for the repeal, amendment or adoption of regulations.

Administrative Assistant (620-110-5278-001) – Performs administrative tasks for the EO (responds to information requests, emails and telephone inquiries), compiles program statistical reports for EO's report at Board meetings, performs special projects assigned by EO, prioritizes EO's workload and maintains EO's calendar, coordinates EO's travel arrangements and processes travel claims.

Board of Chiropractic Examiners Staff Functions

Prepares Board meeting packets, Board meeting minutes, and operates webcasting equipment at Board and Committee meetings, identifies action items and prepares a prioritized list to the EO and management, recommends agenda items for future board meetings. Coordinates travel arrangements and travel claims for Board members, establishes contracts for meeting accommodations, provides back-up support to Licensing technicians, responds to subpoenas and public records requests, performs fleet management responsibilities, assist with preparation of contracts and interagency agreements for equipment maintenance work.

Licensing Analyst (620-110-5157-008) – Processes reciprocal and initial applications for a Chiropractic License including all supplemental documents relating to background, education and discipline, prepares deficiency and eligibility letters to applicants, restoration of cancelled and forfeited licenses, corporation applications, and inactive to active requests. Prepares contracts and interagency agreements for equipment maintenance work, supplies and training. Responds to telephone and written inquiries regarding application status, licensing requirements or processes, makes determinations and recommendations regarding licensure and denial of applicants. Refers cases to the AG's office for a Statement of Issues for applicants whose licensure was denied and decisions were appealed, prepares mail vote ballots to Board members, distributes decision to all parties once adopted by the Board. Serves as the recruitment coordinator for Examination Subject Matter Experts.

Licensing Analyst (620-110-5157-007) – Processes reciprocal and initial applications for a Chiropractic License including all supplemental documents relating to background, education and discipline, prepares deficiency and eligibility letters to applicants. Makes determinations and recommendations regarding licensure or denial of applicants. Prepares statistical reports to management, refers cases to the AG's office for a Statement of Issues for applicants whose licensure was denied and decisions were appealed, researches and responds to questions by the assigned Deputy Attorney General, prepares and mails vote ballots to Board members, distributes decision to all parties once adopted by the Board. Processes applications for Chiropractic Referral Services, approves licensees for the preceptor program, prepares information on newly licensed applicants for ratification at Board meetings. Acts as the HR Liaison for the Board and responds to inquiries on chiroinfo.

Licensing Technician (620-110-1139-008) – Processes Satellite Office certificates, renewals, license verifications and name and address changes. Answers telephones, maintains equipment and inventory of office supplies, compiles board meeting packets, and obtains approval for payment of bills.

Licensing Technician (620-110-1139-009) – Cashiers all monies received by the Board, requests refunds for overpayments, sends underpayment notices to licensees, performs Continuing Education audits, audits renewal statements for practicing with an expired license, updates CAS with information from death certificates, provides front counter support, answers telephones, greets visitors, receives and distributes mail.

CE/Licensing Analyst (620-110-5157-005) – Reviews and processes continuing education provider applications and continuing education course applications for submittal to manager for approval, maintains database of CE providers and courses, prepares information on CE providers for ratification at Board meetings, prepares approval letters for CE providers and CE courses, prepares

Board of Chiropractic Examiners Staff Functions

monthly statistical reports for the licensing manager. Acts as the Board's webmaster, maintains content on the Board's social media accounts, acts as the Liaison for the Licensing & Continuing Education Committee as well as the Board meetings.

0152 - Board of Chiropractic Examiners
Analysis of Fund Condition

Prepared 5/10/2019

(Dollars in Thousands)

Proposed Governor's Budget 2019-20	ACTUAL* 2017-18	CY* 2018-19	Governor's Budget				BY +4 2023-24
			BY 2019-20	BY +1 2020-21	BY +2 2021-22	BY +3 2022-23	
BEGINNING BALANCE	\$ 2,022	\$ 1,915	\$ 1,771	\$ 1,113	\$ 897	\$ 587	\$ 180
Prior Year Adjustment	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Adjusted Beginning Balance	\$ 2,022	\$ 1,915	\$ 1,771	\$ 1,113	\$ 897	\$ 587	\$ 180
REVENUES AND TRANSFERS							
Revenues:							
4121200 Delinquent fees	\$ 30	\$ 23	\$ 22	\$ 22	\$ 22	\$ 22	\$ 22
4127400 Renewal fees	\$ 3,299	\$ 3,664	\$ 4,108	\$ 4,108	\$ 4,108	\$ 4,108	\$ 4,108
4129200 Other regulatory fees	\$ 37	\$ 68	\$ 91	\$ 91	\$ 91	\$ 91	\$ 91
4129400 Other regulatory licenses and permits	\$ 151	\$ 259	\$ 354	\$ 354	\$ 354	\$ 354	\$ 354
4143500 Income from surplus money investments	\$ 18	\$ 21	\$ 20	\$ 13	\$ 9	\$ 3	\$ -
4172500 Miscellaneous revenues	\$ 1	\$ 1	\$ 1	\$ 1	\$ 1	\$ 1	\$ 1
Totals, Revenues	\$ 3,536	\$ 4,036	\$ 4,596	\$ 4,589	\$ 4,585	\$ 4,579	\$ 4,576
Totals, Resources	\$ 5,558	\$ 5,951	\$ 6,367	\$ 5,702	\$ 5,482	\$ 5,166	\$ 4,756
EXPENDITURES							
Disbursements:							
1111 Department of Consumer Affairs Regulatory Boards, Bureaus, Divisions (State Operations)	\$ 3,397	\$ 3,877	\$ 4,371	\$ 4,458	\$ 4,548	\$ 4,639	\$ 4,731
Proposed BIZ Mod SFL			\$ 540				
8880 Financial Information System for California (State Operations)	\$ 6	\$ -	\$ -1	\$ -	\$ -	\$ -	\$ -
9892 Supplemental Pension Payment (State Operations)	\$ -	\$ 41	\$ 85	\$ 85	\$ 85	\$ 85	\$ 85
9900 Statewide General Administrative Expenditures (Pro Rata) (State Operations)	\$ 240	\$ 262	\$ 259	\$ 262	\$ 262	\$ 262	\$ 262
Total Disbursements	\$ 3,643	\$ 4,180	\$ 5,254	\$ 4,805	\$ 4,895	\$ 4,986	\$ 5,078
FUND BALANCE							
Reserve for economic uncertainties	\$ 1,915	\$ 1,771	\$ 1,113	\$ 897	\$ 587	\$ 180	\$ -322
Months in Reserve	5.5	4.0	2.8	2.2	\$ 1.4	0.4	-0.7

*Fiscal Year 2017-18 & 2018-19 budget information reflects the latest available estimates pending final completion of the year-end financial reports for this department and/or fund(s)

NOTES:

- A. ASSUMES WORKLOAD AND REVENUE PROJECTIONS ARE REALIZED IN BY+1 AND ON-GOING.
- B. ASSUMES APPROPRIATION GROWTH OF 2% PER YEAR BEGINNING IN BY+1.
- C. ASSUMES INTEREST RATE AT 1.5%.
- D. ASSUMES NO PAYMENT TO THE VIRF LOAN
- E. OUTSTANDING VIRF LOAN BALANCE OF \$1,448,000.

**BOARD OF CHIROPRACTIC EXAMINERS
LICENSING TRENDS
FY 2018-19**

Total Population of Clear Chiropractic Licenses

Month	Total Licenses
July	13,029
August	13,066
September	13,043
October	13,010
November	12,991
December	12,956
January	12,944
February	12,964
March	12,967
April	12,953

New Chiropractic License Issued

Month	Received	Issued
July	32	7
August	34	28
September	23	20
October	38	14
November	9	32
December	50	22
January	50	27
February	23	50
March	16	38
April	18	16

Number of Restored Cancelled Licenses

Month	Received	Issued
July	1	0
August	3	3
September	3	0
October	2	1
November	1	1
December	3	3
January	1	2
February	5	2
March	2	2
April	3	2

New Satellite Office Certificates Issued

Month	Received	Issued
July	84	102
August	135	168
September	123	84
October	120	135
November	87	148
December	96	89
January	72	86
February	95	48
March	96	127
April	93	54

Corporation Registrations Issued

Month	Received	Issued
July	9	10
August	8	7
September	4	4
October	10	6
November	4	5
December	7	6
January	4	3
February	14	8
March	11	12
April	12	21

Licensing Population as of April 30, 2019

License Type	Clear Licenses
Chiropractors	12,953
Satellite Offices	4,289
Corporation Registrations	1,366

Applications Received and Processed – July 1, 2018 through April 30, 2019

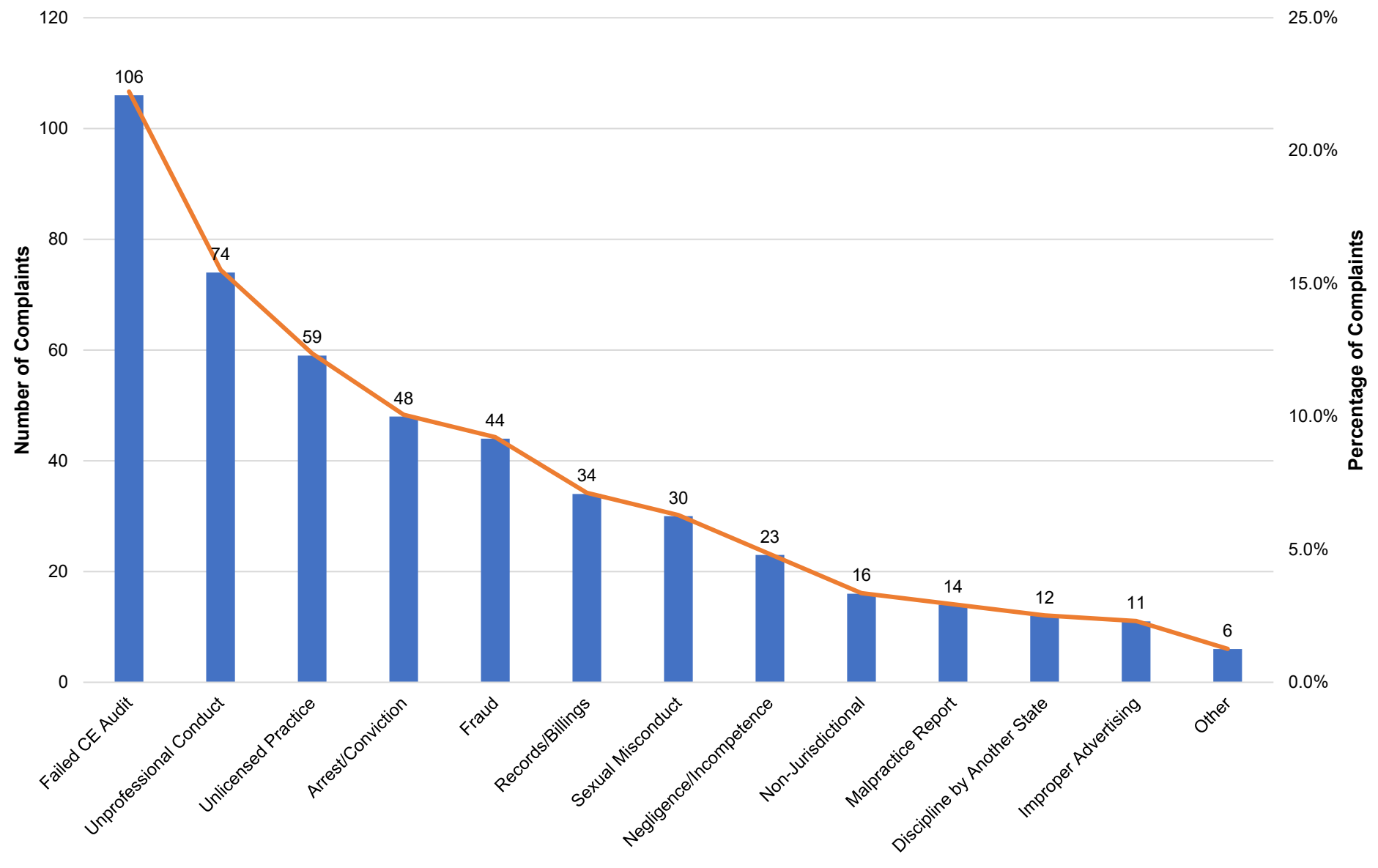
Application Type	Received	Issued	Denied	Pending
Initial Chiropractic	542	438	0	96
Reciprocal	9	5	0	3
Restorations (Cancelled & Forfeiture)	106	95	0	15
Corporation	83	82	0	6

**BOARD OF CHIROPRACTIC EXAMINERS
ENFORCEMENT STATISTICS**

FISCAL YEAR	14/15	15/16	16/17	17/18	18/19*
<u>COMPLAINTS</u>					
Received	557	581	490	479	477
Pending	270	232	183	235	500
Closed with Insufficient Evidence	57	127	79	72	53
Closed with No Violation	100	97	75	75	36
Closed with Merit	220	235	184	214	44
Letter of Admonishment	3	4	4	17	46
Citations Issued	16	17	26	25	26
Total Fines Assessed	\$12,400	\$11,600	\$36,900	\$24,650	\$18,800
<u>ACCUSATIONS</u>					
Filed	22	31	35	34	19
Pending	64	66	65	55	41
Revoked	9	3	10	9	12
Revocation Stayed: Probation	7	13	11	15	12
Rev. Stayed: Suspension and Probation	2	4	5	1	0
Voluntary Surrender of License	8	9	14	9	12
Dismissed/Withdrawn	3	2	6	0	2
<u>STATEMENTS OF ISSUES</u>					
Filed	2	0	1	2	1
Denied	1	0	0	0	0
Probationary License	2	1	0	0	1
Withdrawn	1	0	0	0	1
Granted	1	0	0	0	0
<u>PETITIONS FOR RECONSIDERATION</u>					
Filed	0	1	0	0	0
Granted	0	0	0	0	0
Denied	0	1	0	0	0
<u>PETITIONS FOR REINSTATEMENT OF LICENSE</u>					
Filed	8	7	6	6	3
Granted	1	0	0	0	0
Denied	4	7	3	3	4
<u>PETITIONS FOR EARLY TERMINATION OF PROBATION</u>					
Filed	4	8	3	2	1
Granted	0	1	0	0	0
Denied	5	2	2	5	1
<u>PETITIONS FOR MODIFICATION OF PROBATION</u>					
Filed	2	3	0	1	0
Granted	1	1	0	1	0
Denied	1	0	0	0	0
<u>PETITIONS BY BOARD TO REVOKE PROBATION</u>					
Filed	5	8	5	6	7
Revoked	2	3	10	9	4
<u>PROBATION CASES</u>					
Active	123	104	92	90	82

Complaints Received July 1, 2018 - April 30, 2019

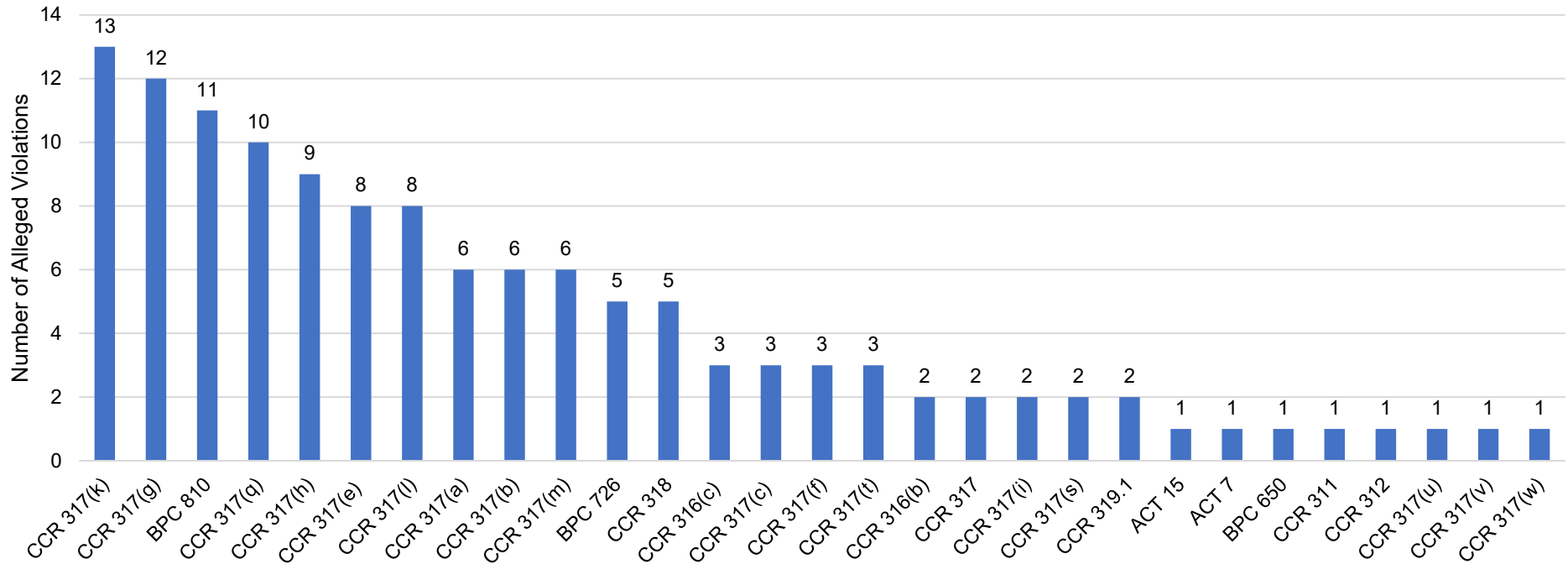
(Total Number Received: 477)



Accusations Filed July 1, 2018 - April 30, 2019

Number of Accusations Filed: 19

Total Alleged Violations: 129



Violation Codes/Descriptions

CCR 311 – Advertisements
 CCR 312 – Illegal Practice
 CCR 316(b) – Sexual Misconduct on Premises
 CCR 316(c) – Sexual Misconduct/Relations
 CCR 317 – Unprofessional Conduct
 CCR 317(a) – Gross Negligence
 CCR 317(b) – Repeated Negligent Acts
 CCR 317(c) – Incompetence
 CCR 317(e) – Conduct Endangering Public
 CCR 317(f) – Administer to Oneself Drugs/Alcohol
 CCR 317(g) – Conviction of Crime Related to Chiropractic
 CCR 317(h) – Conviction of Crime Involving Moral Turpitude
 CCR 317(i) – Conviction of Crime Involving Drugs/Alcohol
 CCR 317(k) – Moral Turpitude/Corruption/Etc.
 CCR 317(l) – False Representation

CCR 317(m) – Violation of Act/Regulations
 CCR 317(q) – Fraud/Misrepresentation
 CCR 317(s) – Employment/Use of Cappers or Steerers
 CCR 317(t) – Offer/Receive Compensation for Referral
 CCR 317(u) – Participate in Illegal Referral Service
 CCR 317(v) – Waiving Deductible or Co-Pay
 CCR 317(w) – Fail to Refer Patient to Physician/Surgeon/Etc.
 CCR 318 – Chiropractic Patient Records/Accountable Billing
 CCR 319.1 – Informed Consent
 ACT 7 – Unauthorized Practice of Medicine
 ACT 15 – Noncompliance with and Violations of Act
 BPC 650 – Receipt of Compensation for Referrals
 BPC 726 – Sexual Abuse/Misconduct/Relations
 BPC 810 – Insurance Fraud

JANUARY 2019

ACCUSATIONS FILED

Name and City	License No.	Date Filed	Alleged Violation
Foli, Michael J. Fallbrook, CA	DC 17135	1/3/2019	Sexual misconduct with a patient; committed multiple sexual acts of misconduct with a patient at chiropractic place of business; unprofessional conduct/commission of acts involving moral turpitude and dishonesty; unprofessional conduct/ endangering the health, welfare or safety of patients; unprofessional conduct/gross negligence; unprofessional conduct/ repeated negligent acts.

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
Zorich, Thomas J. Roseville, CA	DC 20052	Revoked	1/6/2019	Failure to comply with the Board's probation compliance monitoring program.
Ngo, Anthony LC San Francisco, CA	DC 27497	Stipulated Surrender	1/19/2019	Failure to comply with the terms and conditions of probation; failure to abstain from the use of drugs while on probation with the Board; failure to participate in drug and alcohol testing and positive test results while on probation with the Board.

REINSTATEMENT OF LICENSE

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

FINAL CITATIONS ISSUED

Name and City	License No.	Fine Amount	Date Issued	Violations
No Data to Report				

PETITION FOR REINSTATEMENT

Name and City	License No.	Revocation Date	Action
Haberman, Arthur J. Temecula, CA	DC 14619	11/7/2003	Petition denied effective 1/27/2019
Martello, Daniel M. San Francisco, CA	DC 17901	6/3/1995	Petition denied effective 1/27/2019

PETITION FOR EARLY TERMINATION OF PROBATION

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

PETITION FOR MODIFICATION OF PROBATION

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



FEBRUARY 2019

ACCUSATIONS FILED

Name and City	License No.	Date Filed	Alleged Violation(s)
Darrow, Benjamin Daly City, CA	DC 28884	2/6/2019	Unprofessional conduct; unprofessional conduct: commission of acts involving dishonesty in the course of activities as a license holder; unprofessional conduct: knowingly making or signing false documents; unprofessional conduct: participation in acts of fraud; unprofessional conduct: inaccurate billing; unprofessional conduct: knowing preparation of writings made to support a false insurance claim; insurance fraud; unauthorized practice of medicine.

STATEMENT OF ISSUES

No Data to Report

DISCIPLINARY ACTIONS

Name and City	License No.	Action	Effective Date	Violation(s)
Elchami, Tarek San Diego, CA	DC 27051	Revoked, Stayed, 4 Years' Probation	2/2/2019	Unprofessional conduct: substantially related conviction; unprofessional conduct: conviction of offense involving dishonesty; unprofessional conduct: commission of an act involving dishonesty; unprofessional conduct: knowingly making or signing any document relating to the practice of chiropractic which falsely represents the existence or nonexistence of facts; unprofessional conduct: participation in any act of fraud or misrepresentation; insurance fraud.

DISCIPLINARY ACTIONS (Continued)

Name and City	License No.	Action	Effective Date	Violation(s)
Garcia, Timothy Oxnard, CA	DC 20192	Revoked, Stayed, 3 Years' Probation	2/27/2019	Unprofessional conduct: endangering the health, welfare, or safety of the public; unprofessional conduct: conviction of a crime substantially related to the duties, functions, and qualifications of a chiropractor.
Milman, Michael Los Angeles, CA	DC 30154	Revoked	2/28/2019	Unprofessional conduct: conviction of a substantially related crime; unprofessional conduct: conviction involving moral turpitude, dishonesty, physical violence, or corruption; unprofessional conduct: acts involving moral turpitude, dishonesty, and/or corruption; unprofessional conduct: fraud or misrepresentation; unprofessional conduct: violating any provisions of the Act or board regulations.

FINAL CITATIONS

No Data to Report

LICENSE REINSTATEMENTS

No Data to Report

PETITIONS FOR REINSTATEMENT

No Data to Report

PETITIONS FOR EARLY TERMINATION OF PROBATION

No Data to Report

PETITIONS FOR MODIFICATION OF PROBATION

No Data to Report



MARCH 2019

ACCUSATIONS FILED

Name and City	License No.	Date Filed	Alleged Violation(s)
Poon, Susan Rancho Santa Margarita, CA	DC 22259	3/7/2019	Unprofessional conduct: repeated acts of negligence; unprofessional conduct: incompetence; moral turpitude, dishonesty, corruption; knowingly making or signing any document relating to practice which falsely represents the facts; participation in act of fraud or misrepresentation; entering into agreement to waive deductible or co-payment amount; accountable billings; informed consent; insurance fraud; receipt of compensation for referrals; failure to comply with the terms and conditions of probation.
Rigler, Steven San Diego, CA	DC 17802	3/20/2019	Criminal conviction for conspiracy to commit honest services mail fraud; conviction of offenses/acts involving moral turpitude, dishonesty, or corruption; knowingly making or signing any document which falsely represents the facts; unprofessional conduct: fraud, use of cappers, illegal rebates; unprofessional conduct; unprofessional conduct: gross negligence; unprofessional conduct: repeated negligent acts; unprofessional conduct: inadequate records.

STATEMENT OF ISSUES

No Data to Report

DISCIPLINARY ACTIONS

Name and City	License No.	Action	Effective Date	Violation(s)
Forster, Joseph San Clemente, CA	DC 30638	Revoked	3/10/2019	Failure to comply with the board's probation compliance monitoring program; failure to comply with the tolling provision.

DISCIPLINARY ACTIONS (Continued)

Name and City	License No.	Action	Effective Date	Violation(s)
Nguyen, David Westminster, CA	DC 22241	Stipulated Surrender	3/13/2019	Convicted of crimes substantially related to the qualifications, functions, and duties of a chiropractor; conviction of offenses/acts involving moral turpitude; knowingly making or signing any document which falsely represents the facts; conspiring to violate provisions of the Act; fraud; illegal referral of patients for compensation; insurance fraud.
Nwoga, Ekechi Aiken, SC	DC 30405	Stipulated Surrender	3/21/2019	Failure to comply with the terms and conditions of probation; failure to practice in California.
Sherf, John Sherman Oaks, CA	DC 31222	Stipulated Surrender	3/23/2019	Conviction of a substantially related crime; conviction involving moral turpitude; acts involving moral turpitude; violating and/or abetting violation of the Act; knowingly make/sign any document to falsely represent facts; participation in act of fraud or misrepresentation; failure to obey all laws; failure to submit quarterly reports; failure to pass ethics and boundaries examination; failure to comply with the board's probation monitoring.
Roth, Michael Ventura, CA	DC 16839	Stipulated Surrender	3/24/2019	Unprofessional conduct: moral turpitude and dishonesty; sexual conduct with patients; unprofessional conduct: sexual acts and erotic behavior at place of business; unprofessional conduct: endanger the health, welfare, and safety of patients; unprofessional conduct: violation of Act and board regulations.
Hau, Spencer Cupertino, CA	DC 32692	Stipulated Surrender	3/29/2019	Sexual relations on premises; sexual relations with patient; unprofessional conduct: endangering the health, welfare, or safety of the public; unprofessional conduct.

FINAL CITATIONS

Name and City	License No.	Fine Amount	Date Final	Violation(s)
Sottile, Danielle Tehachapi, CA	DC 22172	\$3,000	3/13/2019	Unprofessional conduct: endangering the public; unprofessional conduct: failure to refer patient to physician.
Orpelli, Aaron Los Angeles, CA	DC 24545	\$1,000	3/16/2019	Patient records: required content; accountable billings; informed consent.
Rothman, Yariv Santa Monica, CA (Two citations issued)	DC 25498	\$500 \$500	3/21/2019 3/21/2019	Patient records: required content; failure to ensure accurate billings. Patient records: required content; failure to ensure accurate billings.

LICENSE REINSTATEMENTS

No Data to Report

PETITIONS FOR REINSTATEMENT

No Data to Report

PETITIONS FOR EARLY TERMINATION OF PROBATION

No Data to Report

PETITIONS FOR MODIFICATION OF PROBATION

No Data to Report

APRIL 2019

ACCUSATIONS FILED

Name and City	License No.	Date Filed	Alleged Violation(s)
Mehta, Amit Encino, CA	DC 27484	4/29/2019	<ul style="list-style-type: none"> • CCR 317(g) – conviction of substantially related crimes • CCR 317(f) – dangerous use of alcohol • CCR 317(i) – convictions of crimes involving the consumption of alcohol • CCR 317(e) – unprofessional conduct: endangering the public

DISCIPLINARY ACTIONS

Name and City	License No.	Action	Effective Date	Violation(s)
Moon, Steven Concord, CA	DC 15323	Revoked, Stayed, 3 Years' Probation	4/10/2019	<ul style="list-style-type: none"> • CCR 317(g) – unprofessional conduct: conviction of substantially related crimes • CCR 317(h) – unprofessional conduct: conviction involving moral turpitude, dishonesty, physical violence, or corruption
Zawada, Scott Roseville, CA	DC 27891	Revoked, Stayed, 2 Years' Probation	4/13/2019	<ul style="list-style-type: none"> • CCR 317(a) – unprofessional conduct: gross negligence • CCR 317(b) – unprofessional conduct: repeated acts of negligence • CCR 317(c) – unprofessional conduct: incompetence • CCR 317(e) – unprofessional conduct: endangering the health, safety, or welfare • CCR 318(a) – patient records • CCR 319.1 – unprofessional conduct: informed consent • CCR 317(m) – violation of Act and/or regulations

FINAL CITATIONS

Name and City	License No.	Fine Amount	Date Final	Violation(s)
Dederick, Jan El Cerrito, CA	DC 15179	\$500	4/4/2019	<ul style="list-style-type: none">• CCR 361(b) – 24-hour CE requirement• CCR 361(e) – mandatory CE categories• CCR 371(c) – renewal CE requirement
Elcenko, Marguerite Antioch, CA (Two citations issued)	DC 22657	\$500 \$500	4/24/2019 4/24/2019	<ul style="list-style-type: none">• CCR 318(a) – failure to provide patient records to the Board• H&S 123110 – failure to provide patient records to patient• CCR 318(a) – failure to provide patient records to the Board• H&S 123110 – failure to provide patient records to patient

STATEMENT OF ISSUES

No Data to Report

LICENSE REINSTATEMENTS

No Data to Report

PETITIONS FOR REINSTATEMENT

No Data to Report

PETITIONS FOR EARLY TERMINATION OF PROBATION

No Data to Report

PETITIONS FOR MODIFICATION OF PROBATION

No Data to Report

**Agenda Item 13
May 21, 2019**

**Update, Discussion and Possible Action on April 19, 2019 Enforcement
Committee Meeting**

Purpose of the item

The Board will receive an update from the April 19, 2019 Enforcement Committee meeting.

Action(s) requested

The Board will be asked to make a motion to approve draft language and initiate the rulemaking process to implement the following:

- AB 2138 (Low) Licensing Boards: denial of application: revocation or suspension of licensure: criminal conviction. Chapter 995, Statutes of 2018
- SB 1448 (Hill) Probation Status: Disclosure. Chapter 570, Statutes of 2018

Background

The Enforcement Committee met on April 19, 2019 to review and discuss statistical data presented at Board meetings and to receive an update on the progress made toward meeting the Enforcement Expert Witness program's objectives. Additionally, the Committee held a discussion on the selection of the Committee Chair, reviewed and discussed draft language regarding AB 2138 and SB 1448, to recommend to the full Board a motion to approve the regulatory language as proposed, and commence the rulemaking process.

Election of Committee Chair

Dr. Paris was elected as Chair of the Committee.

Enforcement Statistical Information presented at BCE meetings

At the July 19, 2017 Committee meeting, members expressed interest in reviewing and discussing enforcement data regularly in an effort to enhance enforcement data transparency.

At the April 19, 2019 meeting, staff proposed some revisions to the existing enforcement information presented at Board meetings. The committee reviewed the materials, discussed minor improvements and approved the recommendation.

Update on the Enforcement Expert Witness Program

Following the completion and approval of the 2014-2017 BCE Strategic Plan, the Board developed standards to evaluate expert consultants and define their responsibilities to establish consistency among expert consultant reports. Following modifications to the Expert Witness Program, questions remained regarding the efficacy of the program.

Staff has recently asked a selection of experts to review a sample case report, which will help the Board determine whether an applicant possesses the knowledge and skills in relation to the desirable qualifications as an Expert Witness. Additionally, staff anticipates initiating the recruitment to expand the pool of skilled experts in the near future.

Rulemaking

Pursuant to recently enacted state legislation, AB 2138 and SB 1448, the Board is required to develop regulations that conform to new statutory mandates.

At the April 19, 2019 meeting, the Committee reviewed and discussed draft language regarding AB 2138 and SB 1448 and made two recommendations to the full Board for approval.

Recommendation(s)

❖ AB 2138

To have regulations in place by July 1, 2020, the Board needs to adopt regulatory language at the May 21st, 2019 Board meeting to meet the expedited regulation review process proposed by the Department of Consumer Affairs (DCA).

The Committee asks the Board to make a motion to approve the regulatory language as proposed (or with amendments) to add Sections 316.5 Substantial Relationship Criteria, 327 Rehabilitation, Rehabilitation Criteria for Suspensions or Revocations and amend Section 326 to Rehabilitation Criteria for Denials and Reinstatements and delegates authority to the Executive Officer to make non-substantive changes and commence the rulemaking process.

❖ SB 1448

The Committee asks the Board to make a motion to approve the regulatory language as proposed (or with amendments) to add Section 308.1 Probation Status Disclosure and delegates authority to the Executive Officer to make non-substantive changes and commence the rulemaking process.

Next Step

N/A

Attachment(s)

- Enforcement Committee Agenda
- Draft language for CCR Section 316.5 Substantial Relationship Criteria; Section 326 Rehabilitation Criteria for Denials and Reinstatements; 327 Rehabilitation Criteria for Suspensions and Revocations
- Draft language for CCR Section 308.1 Probation Status Disclosure Pursuant to Probationary Orders Effective July 1, 2019
- Patient Notification of Probation Status (form)
- Notice to Licensees

**NOTICE OF TELECONFERENCE
ENFORCEMENT COMMITTEE MEETING**

April 19, 2019

1:30 p.m. until completion of business

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:

Board of Chiropractic Examiners

901 P Street, Suite 142A
Sacramento, CA 95814
(916) 263-5355

Sergio Azzolino, D.C., Chair

Azzolino Chiropractic Neurology &
Integrative Wellness
1545 Broadway Street., Suite 1A
San Francisco, CA 94109
(415) 563-3800

David Paris, D.C.

VA Health Administration in Redding
760 Cypress Avenue
Redding, CA 96001
(530) 244-8806

Frank Ruffino, Public Member

Board of Chiropractic Examiners
901 P Street, Suite 142A
Sacramento, CA 95814
(916) 263-5355

AGENDA

- 1. Call to Order**
- 2. Approval of Minutes**
October 10, 2018
- 3. Review, Discussion and Possible Action on the Election of Committee Chair**
- 4. Review, Discussion and Possible Action regarding the Expert Witness Program**
- 5. Review, Discussion and Possible Action on the manner in which Enforcement Committee Statistical Information is presented at Board meetings.**
- 6. Review, Discussion and Possible Action regarding Chapter 570, Statutes of 2018 (SB 1448 – Probation Status: Disclosure)**

7. Review, Discussion and Possible Action regarding Chapter 995, Statutes of 2018 (AB 2138 – Denial of Application: Revocation or Suspension Licensure: Criminal Conviction)

8. Public Comment

Note: The Committee may not discuss or take action on any matter raised during this public comment section that is not included on this agenda, except to decide whether to place the matter on the agenda of a future meeting. [Government Code Sections 11125, 122507(a).] Public comment is encouraged; however, if time constraints mandate, comments may be limited at the discretion of the Chair.

9. Future Agenda Items; Items not on the Agenda

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

10. Adjournment

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

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

Title 16. Board of Chiropractic Examiners

Draft AB 2138 Compliance Language

1. Add Section 316.5 to Article 2 of Division 4 of Title 16 of the California Code of Regulations to read:

§ 316.5 Substantial Relationship Criteria.

(a) For the purposes of the denial, suspension or revocation of a license pursuant to section 141 or Division 1.5 (commencing with section 475) of the Business and Professions code, a crime, professional misconduct, or act shall be considered substantially related to the qualifications, functions or duties of a licensee, if to a substantial degree it evidences present or potential unfitness of a person holding such a license to perform the functions authorized by the license in a manner consistent with the public health, safety or welfare.

(b) In making the substantial relationship determination required under subdivision (a) for a crime, the board shall consider the following criteria:

- (1) The nature and gravity of the offense;
- (2) The number of years elapsed since the date of the offense; and
- (3) The nature and duties of a licensee or applicant [or the license type sought or held by the person].

(c) For purposes of subdivision (a), substantially related crimes, professional misconduct, or acts shall include, but are not limited to, the following:

- (1) Violating or attempting to violate, directly or indirectly, or assisting in or abetting the violation of, or conspiring to violate any provision or term of the Chiropractic Initiative Act or other state or federal laws governing the practice of chiropractic.
- (2) Conviction of child abuse, as defined in sections 270-273.75 of the Penal Code.
- (3) A conviction requiring a person to register as a sex offender pursuant to section 290 of the Penal code.
- (4) Any crime, professional misconduct, or act involving the sale, gift, administration, or furnishing of narcotics or dangerous drugs or dangerous devices, as defined in Section 4022 of the Business and Professions Code.
- (5) Conviction for assault, battery or other violence.
- (6) Conviction of a crime involving lewd conduct or sexual impropriety.
- (7) Conviction of a crime involving fiscal dishonesty.
- (8) Conviction for driving under the influence of drugs or alcohol.

Note: Authority cited: Sections 1000-4(b), Section 1000-10(a), Section 1000-10 (b), Business and Professions Code (Chiropractic Initiative Act of California, Stats. 1923, p. 1xxxviii). Reference: Sections 141, 480, 481, 482, 488, 493, Business and Professions Code.

2. Amend Section 326 of Article 3 of Division 4 of Title 16 of the California Code of Regulations to read:

§ 326 ~~Criteria for Rehabilitation.~~ Rehabilitation Criteria for Denials and Reinstatements.

~~(a) When considering the denial of a license, the Board, in evaluating the rehabilitation of the applicant and his or her present eligibility for a license, will consider the following criteria:~~

- ~~(1) The nature and severity of the act(s) or offense(s) under consideration as grounds for denial.~~
- ~~(2) Evidence of any act(s) committed subsequent to the act(s) or crime(s) under consideration as grounds for denial.~~
- ~~(3) The time that has elapsed since commission of the act(s) or crime(s) referred to in subdivision (1) or (2).~~
- ~~(4) Whether the applicant has complied with any terms of parole, probation, restitution or any other sanctions lawfully imposed against the applicant.~~
- ~~(5) Evidence, if any, of rehabilitation submitted by the applicant.~~

When considering the denial of a license under section 480 of the Business and Professions Code or granting a petition for reinstatement under section 1003 of the Code or pursuant to subdivision (c) of Section 10 of the Chiropractic Act, the Board shall evaluate whether the applicant or petitioner has made a showing of rehabilitation and has established present fitness for a license.

(a) Where the denial is, or the surrender or revocation was, in part on the ground(s) that the applicant or petitioner was convicted of a crime, the Board shall find that the applicant or petitioner has made a showing of rehabilitation if the person completed the criminal sentence without a violation of parole or probation.

~~(b) When considering the suspension or revocation of a license on the grounds that a licensee has been convicted of a crime, the Board, in evaluating the rehabilitation of such person and his or her present eligibility for a license, will consider the following criteria:~~

- ~~(1) Nature and severity of the act(s) or offense(s).~~
- ~~(2) Total criminal record.~~
- ~~(3) The time that has elapsed since the commission of the act(s) or offense(s).~~
- ~~(4) Whether the licensee has complied with all terms of parole, probation, restitution or any other sanctions lawfully imposed against the licensee.~~
- ~~(5) Evidence, if any, of rehabilitation submitted by the licensee.~~

(b) Where the denial is, or the surrender or revocation was, not based on a conviction, or the Board determines that the applicant or petitioner did not make a showing of rehabilitation based on the criteria in subdivision (a), the Board shall apply the following criteria in evaluating an applicant's or petitioner's rehabilitation:

- (1) The nature and severity of the crime(s) or professional misconduct.
- (2) Evidence of any act(s) committed subsequent to the crime(s) that are the grounds for denial, or that were grounds for surrender or revocation, which could also be considered as grounds for denial under Business and Professions Code Section 480, and the time that has elapsed between them.
- (3) The extent to which the applicable parole or probation period was shortened or lengthened, and the reason(s) the period was modified.
- (4) The extent to which the applicant or petitioner has complied with any terms of parole, probation, restitution, or any other sanctions lawfully imposed against the applicant or petitioner.

(5) The terms or conditions of parole or probation and the extent to which they bear on the applicant's or petitioner's rehabilitation.

(6) The reason for granting and the length(s) of applicable parole or probation period(s).

(7) The extent to which the terms or conditions of parole or probation were modified, and the reason(s) for modification.

(8) Evidence, if any, of rehabilitation submitted by the applicant or petitioner demonstrating that the applicant or petitioner has a mature, measured appreciation of the gravity of the misconduct and remorse for the harm caused. Evidence should also show a demonstrated course of conduct by the applicant or petitioner that convinces and assures the Board that the public will be safe if the person is permitted to be licensed to practice chiropractic.

Note: Authority cited: Sections 1000-4(b), Section 1000-10(a), Section 1000-10 (b), Business and Professions Code (Chiropractic Initiative Act of California, Stats. 1923, p. 1xxxviii). Reference: Sections 141, 480, 481, 482, 488, 493, Business and Professions Code.

DRAFT

3. Add Section 327 to Article 3 of Division 4 of Title 16 of the California Code of Regulations to read:

§ 327 Rehabilitation Criteria for Suspensions or Revocations.

When considering the discipline of a chiropractic license, the board shall evaluate whether the licensee has made a showing of rehabilitation and is presently fit for a license.

(a) Where the basis for discipline is the conviction of a crime or unprofessional conduct, the board shall consider whether the licensee has made a showing of rehabilitation only if the person completed the criminal sentence without a violation of parole or probation. In making this determination, the Board shall consider the following criteria:

(1) Nature and severity of the crime(s) or unprofessional conduct.

(2) The reason for granting and the length(s) of the applicable parole or probation period(s).

(3) The extent to which the applicable parole or probation period was shortened or lengthened, and the reason(s) the period was modified.

(4) The terms or conditions of parole or probation and the extent to which they bear on the licensee's rehabilitation.

(5) The extent to which the terms or conditions of parole or probation were modified, and the reason(s) for modification.

(b) Where the basis for discipline is not based on a conviction, or the Board determines that the licensee did not make a showing of rehabilitation based on the criteria in subdivision (a), the Board shall apply the following criteria in evaluating the licensee's rehabilitation:

(1) Total criminal record and/or record of discipline or other enforcement action.

(2) The time that has elapsed since commission of the crime(s) or unprofessional conduct.

(3) Whether the licensee has complied with any terms of parole, probation, restitution or any other sanctions lawfully imposed against such person.

(4) If applicable, evidence of dismissal proceedings pursuant to section 1203.4 of the Penal Code.

(5) The criteria in subdivision (a)(1)-(5), as applicable.

(6) Evidence, if any, of rehabilitation submitted by the licensee demonstrating that the licensee has a mature, measured appreciation of the gravity of the misconduct and remorse for the harm caused. Evidence should also show a demonstrated course of conduct by the licensee that convinces and assures the Board that the public will be safe if the person is permitted to remain licensed to practice chiropractic.

Note: Authority cited: Sections 1000-4(b), Section 1000-10(a), Section 1000-10 (b), Business and Professions Code (Chiropractic Initiative Act of California, Stats. 1923, p. 1xxxviii). Reference: Sections 141, 480, 481, 482, 488, 493, Business and Professions Code.

Title 16. Board of Chiropractic Examiners

Draft Language for SB 1448

1. **Add Section 308.1 to Article 1 of Division 4 of Title 16 of the California Code of Regulations to read:**

§308.1 Probation Status Disclosure

(a) It shall be the duty of every licensee placed upon probation by the board, on or after July 1, 2019, to provide to each patient, the patient's legal guardian or health care surrogate the form entitled "Patient Notification of Probation Status" (6/19), which is hereby incorporated, to disclose the following information:

(1) The licensee's probation status;

(2) The length of the probation, including the probation end date;

(3) The term(s) and condition(s) of probation, including all practice restrictions placed upon the licensee by the board;

(4) The board's telephone number;

(5) A brief explanation of how the patient can find further information about probationary conditions or causes for probation on the Board's website, on the Licensing Details Page.

(b) Each licensee required to provide a disclosure pursuant to subdivision (a) shall obtain a separate signed copy of the "Patient Notification of Probation Status" form from each patient, the patient's guardian or health care surrogate.

(c) A licensee shall not be required to provide a disclosure pursuant to subdivision (a) if any of the following applies:

(1) The patient is unconscious or otherwise unable to comprehend the disclosure and sign the copy of the disclosure pursuant to subdivision (b) and a guardian or health care surrogate is unavailable to comprehend the disclosure and sign the copy.

(2) The visit occurs in an emergency room or an urgent care facility ~~or the visit is unscheduled~~, including consultations in inpatient facilities.

~~(3) The licensee who will be treating the patient during the visit is not known to the patient until immediately prior to the start of the visit.~~

(4) (3) The licensee does not have a direct treatment relationship with the patient.

(d) On and after July 1, 2019, the board shall provide the following information, with respect to licensees on probation and licensees practicing under probationary licenses, in plain view on the licensee's profile page on the board's ~~online license information Internet~~ website.

(1) For probation imposed pursuant to a stipulated settlement, the causes alleged in the operative accusation along with a designation identifying those causes by which the licensee has expressly admitted guilt and a statement that acceptance of the settlement is not an admission of guilt.

(2) For probation imposed by an adjudicated decision of the board, the causes for probation stated in the final probationary order.

(3) For a licensee granted a probationary license, the causes by which the probationary license was imposed.

(4) The length of the probation and end date.

(5) All practice restrictions placed on the license by the board.

Note: Authority cited: Sections 1000-4(b), Section 1000-10(a), Section 1000-10 (b), Business and Professions Code (Chiropractic Initiative Act of California, Stats. 1923, p. 1xxxviii). Reference: Section 1007, Business and Professions Code.

DRAFT



PATIENT NOTIFICATION OF PROBATION STATUS

The licensed chiropractor, named below, has been placed on probation with the Board of Chiropractic Examiners (Board). Conditions of probation require the licensed chiropractor to notify you of his or her probationary status.

Chiropractor's Name: John Doe License Number: DC -12345

Probationary Period: year(s).

Effective Date: From to .

The following terms and conditions, including practice restriction(s), placed on the licensed chiropractor by the Board may affect your treatment:

Dr. Doe D.C. must have a third-party chaperone while consulting, examining and/or treating female patients.

The Section Below is to be Completed by the Patient

- ✓ I acknowledge that the licensed chiropractor has notified me regarding his or her current probationary status, the length of the probation and the end date, and all practice restrictions placed on the licensed chiropractor by the Board.
- ✓ I understand that any additional information regarding the licensed chiropractor's probationary term(s) and condition(s), causes for probation alleged in an Accusation, a Statement of Issues or the legal conclusions of an Administrative Law Judge can be accessed through the Board's website, on the Licensing Details page (<https://www.chiro.ca.gov/licensees/index.shtml>)

Please print and sign your name below. If you are the patient's responsible party (legal guardian or health care surrogate), you may print and sign your name on behalf of the patient.

Print Name: _____

Signature: _____ Date: _____

The Section Below is to be Completed by the Licensed Chiropractor

I hereby certify that the information provided is true, correct and complete to the best of my knowledge.

Print Name: _____

Signature: _____



NOTICE TO LICENSEES

DATE

CHIROPRACTOR'S NAME, D.C.

ADDRESS

RE: Senate Bill 1448 – Probation Status Disclosure

Dear Dr. _____,

On September 19, 2018, SB 1448 (*Hill – Healing Arts Licensees: Probation Status: Disclosure*), known as the “Patients Right to Know Act of 2018”, was signed into law and will require specified health care professionals, including licensed chiropractors, who have been placed on probation on or after July 1, 2019 to disclose their probationary status to all patients.

Effective **July 1, 2019**, SB 1448 requires licensees of the Board of Chiropractic Examiners (Board) to provide the following information on a written separate disclosure to patients:

- The licensee's probation status
- The length of the probation, including the probation end date
- The term(s) and condition(s) of probation, including but not limited to all practice restrictions placed on the licensee by the Board
- The Board's telephone number and a brief explanation of how the patient can find further information about probationary conditions or causes for probation on the Board's website, on the Licensing Details Page.

Furthermore, SB 1448 requires licensees to obtain a signed copy of a written disclosure from each patient prior to their first visit.

To assist licensees in complying with the provisions of SB 1448, the Board will develop a Patient Notification form. However, licensees are not required to use the Board's form and may develop their own disclosure form when this law takes effect.

If you have any questions or concerns, my contact information is below.

Sincerely,

NAME

Associate Probation Monitor

Enforcement Unit

(916) 263-5355 ext. xxxx

Name@dca.ca.gov

Enclosure

**Agenda Item 14
May 21, 2019**

**Update, Discussion and Possible Action on Licensing & Continuing Education
Committee Meeting Agenda**

Purpose of the item

The Board will receive an update from the April 16th, 2019 Licensing & Continuing Education (CE) Committee Meeting.

Action(s) requested

No action required.

Background

The Licensing & CE Committee met on April 16th, 2019 to review and discuss Strategic Goal Plan 1 and proposed amendments to the CE regulations.

Strategic Goal Plan 1

The Committee members received an update of the in-progress items on the Strategic Goal Plan 1. The Committee discussed technology updates for the board office, CE audits and potentially developing an ethics and law CE course based on the 'Top Ten Violations'.

Proposed Amendments to CE regulations

With the addition of the newest Committee Member, Dr. Paris, the Committee wished to hear his views on the proposed changes to the CE regulations. Dr. Paris introduced the topic of utilizing the Council on Chiropractic Education's (CCE) accreditation standards and meta-competencies as a roadmap for identifying needed subject areas for the Board's CE regulations. Each CCE meta-competency in their accreditation standards has a definition, objectives and outcomes of the course; Dr. Paris proposed this as a means of both assisting CE providers in submitting applications and board staff in reviewing courses. Board staff will conduct further research and present additional material to the Committee based on these proposed suggestions.

The Committee also discussed the denial and appeal process for providers, the proposed changes to the CE provider application and potential definitions of a CE 'course'.

Recommendation(s)

N/A

Next Step

N/A

Attachment(s)

- Licensing & Continuing Education Committee Meeting Agenda – April 16, 2019



NOTICE OF TELECONFERENCE
LICENSING & CONTINUING EDUCATION COMMITTEE MEETING

April 16, 2019

12:00 p.m. – 2:00 p.m. or until completion of business

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 Licensing, Continuing Education and Public Relations 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
(Board Staff)

Dionne McClain, D.C., Chair
McClain Sports & Wellness, Inc.
6360 Wilshire Blvd., #410
Los Angeles, CA 90048
(323) 653-1014

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

David Paris, D.C.
VA Health Administration in Redding
760 Cypress Ave.
Redding, CA 96001
(530) 244-8806

AGENDA

1. **Call to Order & Establishment of a Quorum**
2. **Selection of Committee Chair**
3. **Approval of December 17, 2018 Committee Meeting Minutes**
4. **Review and Discussion of Strategic Plan Goal 1**
5. **Review, Discussion and Possible Action on proposed amendments to CE regulations**
6. **Public Comment on Items Not on the Agenda**
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.
7. **Future Agenda Items**
Note: The Committee may not discuss or take action on any matter raised during this future agenda items 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.]
8. **Adjournment**

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

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

**Agenda Item 15
May 21, 2019**

**Update, Discussion and Possible Action on March 26, 2019
Government & Public Affairs Committee Meeting**

Purpose of the item

The Board will receive an update from the March 26, 2019 Government & Public Affairs Committee Meeting.

Action(s) requested

The Board will be asked to review and approve the most recent changes to the Board Member Administrative Procedure Manual (BMAPM).

Background

The Committee met on March 26, 2019 to review and discuss the Strategic Plan goals assigned to the Committee. The Committee reviewed and proposed revisions to the BMAPM and held a discussion on the development of a social media content bank. Additionally, the Committee received an update on some bills introduced during the current legislative session.

2017-2019 BCE Strategic Plan

The Committee determined that Strategic Plan Action item 3.2.1 “Continue to schedule annual Meet & Greets with legislative offices and provide relevant information” is an ongoing item because these meetings will be scheduled on an as-needed-basis. The Committee also received an update on Strategic Plan Action item 3.3.1 “Establish a calendar of events sponsored by applicable entities”. The events calendar has been created and is continually populated with information regarding future events.

Board Member Administrative Procedure Manual

Annually, the Board completes a comprehensive review of the BMAPM. The BMAPM was created to serve as a reference guide regarding the functions of the Board and its committees, roles of Board members and general information on operating procedures, administration and staff policies.

At the March 26th, 2019 meeting, the Committee reviewed the BMAPM and proposed additional changes to the section on Vice-Chair duties regarding the Executive Officer’s Annual Evaluation.

Social Media Content Bank

The Committee discussed the possibility of developing a social media content bank to share information of interest to consumers, licensees and stakeholders. The Committee is interested in exploring this topic further.

Legislative Update

The Committee reviewed and discussed AB 613 (Low) Professions and vocations: regulatory fees. **The Committee took a watch position on this bill.**

- AB 613 authorizes the Board to adjust fees once every four years by an amount no greater than the increase in the California Price Index (CPI) for the preceding four years, subject to specified conditions.

The Committee reviewed and discussed AB 888 (Low) Opioids prescriptions: information: Nonpharmacological treatments for pain. **The Committee took a support position on this bill.**

- AB 888 extends the requirement for a prescriber, in treating a patient of any age, to discuss the risks associated with opioids and the availability of certain nonpharmacological treatments before issuing the first opioid prescription. This bill also requires prescribers to obtain written informed consent and to offer a referral to a provider of nonpharmacological treatments for pain as deemed appropriate by the prescriber.

Recommendation(s)

N/A

Next Step

N/A

Attachment(s)

- Government & Public Affairs Committee Agenda
- Board Member Administrative Procedure Manual



State of California
Gavin Newsom, Governor

NOTICE OF TELECONFERENCE
GOVERNMENT & PUBLIC AFFAIRS COMMITTEE MEETING

March 26, 2019

9:30 a.m. until completion of business

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 Government and Public Affairs 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
(Board Staff)

Corey Lichtman, D.C.
Solana Beach Family and
Sports Chiropractic
538 Stevens Avenue,
Solana Beach, CA 92075
(858) 876-6300

Frank Ruffino, Public Member
901 P Street, Suite 142A
Sacramento, CA 95814
(916) 263-5355

AGENDA

1. Call to Order
2. Review, Discuss, and Possible Action on 2017-2019 BCE Strategic Plan Goals
3. Review, Discussion and Possible Action Regarding Approved Revisions to the Board Member Administrative Procedure Manual (BMAPM)
4. Discussion and Possible Action Regarding the Development of a Social Media Content Bank for the BCE
5. Review, Discussion and Possible Action Regarding AB 888 (Low) Controlled substances
6. Review, Discussion and Possible Action Regarding AB 613 (Low) Professions and vocations: regulatory fees.

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, 122507(a).] Public comment is encouraged; however, if time constraints mandate, comments may be limited at the discretion of the Chair.

8. Items Not on the Agenda

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

9. Adjournment

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

The meeting facilities are accessible to individuals with physical disabilities. A person who needs a disability-related accommodation or modification to participate in the meeting may make a request by contacting the Board at (916) 263-5355 or e-mail chiro.info@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

BOARD OF CHIROPRACTIC EXAMINERS BOARD MEMBER ADMINISTRATIVE PROCEDURE MANUAL

Adopted October 2007
Revised January 2019



Gavin Newsom, Governor
State of California

MISSION STATEMENT

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

BOARD MEMBER ADMINISTRATIVE PROCEDURE MANUAL

Members of the Board

Sergio Azzolino, D.C., Chair
Dionne McClain, D.C., Vice Chair
Frank Ruffino, Secretary
Heather Dehn, D.C.
Corey Lichtman, D.C.
David Paris, D.C.

Executive Officer

Robert C. Puleo

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

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

BOARD MEMBER ADMINISTRATIVE PROCEDURE MANUAL

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BOARD MEMBER ADMINISTRATIVE PROCEDURE MANUAL

CHAPTER 1. Introduction

Overview

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

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

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

State of California Acronyms

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

BOARD MEMBER ADMINISTRATIVE PROCEDURE MANUAL

General Rules of Conduct

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

- ❖ Board Members are part of a state regulatory board and your individual rights to make independent public comments or statements takes a second place to supporting a uniform public presentation of a cohesive board.
- ❖ Board Members shall comply with all provisions of the Bagley-Keene Open Meeting Act and other applicable rules, regulations, codes and laws governing public employees.
- ❖ Board Members shall not speak or act for the Board without proper preauthorization from the Chair and/or **Executive Officer (EO)** prior to making any statement or press release. When possible, the Board Chair, in consultation with the Vice Chair, shall determine which Board members have expertise in respective areas to act as spokesperson for the Board.
- ❖ Board Members shall not privately or publicly lobby for, publicly endorse, or otherwise engage in any personal efforts that would tend to promote their own personal or political views or goals, as it pertains to issues related to jurisdiction of the Board, when those views or goals are in direct opposition to an official position adopted by the Board.
- ❖ Board Members shall not accept gifts from applicants, licensees, or members of the profession while serving on the Board. All Fair Political Practices Act Rules shall be followed.
- ❖ Board Members shall maintain the confidentiality of confidential documents and information related to Board business. Always confirm with the EO whether information is public and may be disclosed. The public's access should be from a source other than a **Board Member**.
- ❖ Board Members should avoid discussion of confidential Board business with petitioners, licensees or persons not authorized to receive confidential and restricted enforcement information. Failure to do so may result in the Board Member having to recuse him/herself due to conflict of interest issues. All consumers, applicants and licensees with enforcement related questions, concerns or complaints should be referred to the EO or Chair.

BOARD MEMBER ADMINISTRATIVE PROCEDURE MANUAL

- ❖ Board Members shall commit adequate time to prepare for their Board responsibilities including the reviewing of Board meeting notes, administrative cases to be reviewed and discussed, and the review of any other materials provided to the Board Members by staff, related to official Board business.
- ❖ Submission of votes have time requirements that are critical to meeting legal timeframe constraints. Board members shall make every attempt to meet the deadlines identified by Board staff and meet the vote submission requirement established by the Board.
- ❖ **Board BCE** Members shall submit reimbursement records each month to facilitate timely reimbursement.
- ❖ All travel for Board related business, other than routine Board meetings and Committee Meetings, must be submitted in writing and preapproved by the Chair and EO before travel.
- ❖ Board Members shall recognize the equal role and responsibilities of all other Board Members and interact with one another in a polite and professional manner.
- ❖ Board Members shall act fairly, be nonpartisan, impartial, and unbiased in their role of protecting the public and enforcing the Chiropractic Initiative Act.
- ❖ Board Members shall uphold the principle that the Board's primary mission is to protect the public.
- ❖ Board Members shall follow the guidelines set forth in Executive Order 66-2.
- ❖ Board Members shall comply with all State, Department, and Board required trainings.

BOARD MEMBER ADMINISTRATIVE PROCEDURE MANUAL

CHAPTER 2. Board Members & Meeting Procedures

Membership (§1 Initiative Act)

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

Role of Board Officers (Board Policy)

Board Chair

- The Chair may consult with the Vice Chair **or** Secretary **or** another Board Member and the **EO Executive Officer**. However, all conversations must be consistent with Bagley Keene Open Meeting Act restrictions, which mandate that no more than two Members can actively discuss Board business.
- **Determines, in after consultation with with the consent of** the Vice Chair and EO, which Board Members have expertise in respective areas to act as spokesperson for the Board of Chiropractic Examiners (attends legislative hearings and testifies on behalf of the Board, attends meetings with stakeholders and Legislators on behalf of Board, talks to the media on behalf of the Board. **Assigns the The** most qualified Board Member **shall be assigned** the task at hand.
- Signs letters on behalf of the Board.
- Meets and/or communicates with the **EO Executive Officer** and the Vice Chair on a regular basis.
- Provides oversight to the **EO Executive Officer** in performance of **his or her the EO duties**.
- Verifies accuracy and approves timesheets, approves travel and signs travel expense claims for the EO **and Board Members**.
- In consultation with the Vice Chair and EO, establishes committees including, but not limited, to two-person committees/subcommittees and/or task forces to research policy questions when necessary.
- The composition of the committees **and the appointment of the Members** shall be determined by the Board Chair.
- Communicates with other Board Members for Board business in compliance with the Open Meeting Act.
- Approves Board Meeting agendas.
- Chairs and facilitates Board Meetings.
- Signs specified full board enforcement approval orders.

Vice Chair

- Is **back-up Back-up** for the above-referenced duties in the Chair's absence.

BOARD MEMBER ADMINISTRATIVE PROCEDURE MANUAL

- Coordinates the EO annual evaluation process including requesting staff including contacting DCA Office of Human Resources or to obtain a copy of the EO's Executive Officer Performance Evaluation Form and distribute the evaluation form to Members. distributes the evaluation form to members. Additionally, the Vice Chair shall request that legal counsel collates and to collates the ratings and comments for discussion.
- In consultation with the Chair and EO, establishes committees, including, but not limited to, two-person committees/subcommittees and/or task forces to research policy questions when necessary.
- In consultation with the Chair, oversees assignment of Board Members to serve as liaison to the organizations listed in Ch. 7. Other Policies & Procedures.

Secretary

- Calls the roll at each Board meeting and reports that a quorum has been established.
- Calls the roll for each action item.
- In consultation with the Chair and EO, approves Board meeting agendas.

Committee Chair

- Approves Committee agendas.
- Chairs and facilitates Committee meetings.
- Reports the activities of the Committee to the full Board.

Board Meetings and Offices (§6 Initiative Act)

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

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

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

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

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

Whenever practical and appropriate, the Board should utilize available technology to conduct meetings so as to minimize the time and expenditures

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associated with staff and Board Member travel as well as the cost of renting meeting space.

Quorum

(§3 Initiative Act)

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

Board Member Attendance at Board and Committee Meetings

(Board Policy)

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

Public Attendance at Board Meetings

(Government Code Section 11120 et seq.)

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

Agenda Items

(Board Policy)

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

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

In the event of a conflict in scheduling an agenda topic, the Board Secretary will discuss the proposed agenda item with the Board Chair, and the Board

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Chair shall make the final decision to schedule the item at the upcoming or following Board Meeting. The Board Secretary will work with the **EO Executive Officer** to finalize the agenda.

Notice of Meetings

(Government Code Section 11120 et seq.)

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

Notice of Meetings Posted on the Internet

(Government Code Section 11125 et seq.)

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

Board Meeting Locations

(Board Policy – 2013 Strategic Plan)

The Board holds meetings at various geographic locations throughout the state to increase accessibility. It is recommended that at least one meeting per year is held in Sacramento, one in Southern California, and one at a California Chiropractic College. All meeting locations will be scheduled subject to available space and budget limitations.

Bagley-Keene Open Meeting Act

(Board Policy)

The Bagley-Keene Open Meeting Act prohibits more than two members of the Board from discussing, deliberating or taking action on any board business outside of a public meeting of the board. **(Gov. Code § 11122.5, subdivision (b) (1). (Gov. Code § 11121.5, subdivision (b) (1).)**

If Board Members have concern regarding the nature of a communication, questions should be directed to the **EO Executive Officer** or Legal Counsel.

E-Mail Ballots

(Government Code Section 11526 and Board Policy)

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

Proposed stipulations and decisions are e-mailed to each Board Member for his or her vote. For stipulations, a background memorandum from the

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assigned deputy attorney general accompanies the e-mail ballot. A two-week deadline generally is given for the e-mail ballots for stipulations and proposed decisions to be completed and returned to the Board's office.

Board Members are required to submit a vote on no less than 75% of proposed stipulations and decisions provided for review. If a Board Member is unable to meet this minimum requirement, the Board Member may be subject to a conversation from the Board Chair or Vice Chair.

Holding Disciplinary Cases for Board Meetings (Board Policy)

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

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

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

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

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

Record of Meetings (Board Policy)

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

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

Recording

(Government Code Section 11124.1(b))

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

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

Meeting Rules

(Board Policy)

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

Public Comment

(Board Policy)

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

1. If, during a Board meeting, a person attempts to provide the Board with any information regarding matters that are currently under or subject to investigation or involve a pending administrative or criminal action, the person shall be advised that the Board cannot properly consider or hear such substantive information and the person must be instructed to refrain from making such comments.
2. If, during a Board meeting, a person wishes to address the Board concerning alleged errors of procedure or protocol or staff misconduct involving matters that are currently under or subject to investigation or

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involve a pending administrative or criminal action, the Board will address the matter as follows:

- a. Where the allegation involves errors of procedure or protocol, the Board may designate either its EO Executive Officer or a Board employee to review whether the proper procedure or protocol was followed and to report back to the Board.
 - b. Where the allegation involves significant staff misconduct, the Board shall direct the EO Executive Officer to review the allegation and to report back to the Board.
3. The Board may deny a person the right to address the Board and have the person removed if such person becomes disruptive at the Board meeting. The Board accepts the conditions established in the Bagley-Keene Open Meeting Act and appreciates that at times the public may disapprove, reprimand, or otherwise present an emotional presentation to the Board, and it is the Board's duty and obligation to allow that public comment, as provided by law.

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CHAPTER 3. Travel & Salary Policies & Procedures

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

Travel Approval (Board Policy)

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

Travel Arrangements (Board Policy)

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

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

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

Travel Claims (SAM Section 700 et seq.)

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

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

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

Salary Per Diem

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

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

Salary Per Diem

(Board Policy)

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

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

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

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

2. For Board-specified work, Board Members will be compensated for actual time spent performing work authorized by the Board Chair. This may also include, but is not limited to, authorized attendance at other gatherings, events, meetings, hearings, or conferences, such as the FCLB, NBCE, CE, Ambassador at Large, Lectures, etc... Work also includes preparation time for Board or committee meetings and reading and deliberating mail ballots for disciplinary actions.
3. Reimbursable work does not include miscellaneous reading and information gathering unrelated to Board business and not related to any meeting, preparation time for a presentation and participation at meetings not related to official participation of the Members duties with the Board.
4. Board Members may participate on their own (i.e., as a citizen or professional) at an event or meeting but not as an official Board representative unless approved in writing by the Chair. Requests must

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

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CHAPTER 4. Board Officers & Committees

Officers of the Board (§3 Initiative Act)

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

Nomination of Officers **(Board Policy)**

The Board shall nominate officers at the last meeting of the year. Nominations shall occur by roll call order, with the Chair announcing his/her nomination last. Board Members may self-nominate or nominate other Members. Nominees shall provide their statement of qualifications to the Board at the first meeting of the year, in which elections shall take place.

Election of Officers **(Board Policy)**

The election of officers shall occur in the following order: a) Chair, b) Vice Chair, and c) Secretary. Voting shall be held in alphabetical roll call order, with the Chair voting last.

Officer Vacancies (Board Policy)

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

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

Communication Between Officers (Board Policy)

The Chair, Vice Chair and Secretary must have timely and effective communication for the efficient operation of the **Board BCE**. Failure to respond to email correspondences or failing to address specific topics is inconsistent with professionalism and if a repetitive failure to communicate persists, this will be discussed in a meeting with that officer the Chair and EO to resolve the concern. If all parties agree that communication cannot be

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resolved, any Board Member may agendize the ongoing concern for the next full Board Meeting and notify the Board's appointing authority when necessary.

Committee Appointments (Board Policy)

The composition of the committees ~~and the appointment of the Members~~ shall be determined by the Board Chair in consultation with the Vice Chair and the EO. The Chair should attempt to refrain from serving on multiple committees unless no other Board Member is available to serve.

Committee members shall appoint the Chair of their respective committee. If a disagreement arises, the Committee members shall consult with the Board Chair, the Vice Chair and the EO.

All conversations must be consistent with Bagley Keene Open Meeting Act restrictions which mandate that no more than two Board Members can actively discuss Board business.

Standing Committees (Board Policy)

The Board has three standing committees:

- 1. Licensing, Continuing Education and Public Relations Committee**
The Committee proposes policies and standards regarding chiropractic colleges, doctors of chiropractic, satellite offices, corporation registration, and continuing education providers and courses. ~~The Committee also develops strategies to communicate with the public through various forms of media.~~
- 2. Enforcement and Scope of Practice Committee**
The Committee proposes regulations, policies, and standards to ensure compliance with chiropractic law and regulations. The Committee continuously seeks ways to improve the Board's enforcement activities.
- 3. Government and Public Affairs Committee and Strategic Planning Committee**
The Committee proposes and reviews policies, procedures, to address audit and sunset review deficiencies.

The Committee works directly with the ~~Executive Officer EO~~ and staff to monitor budget expenditures, trends, and the contingent fund levels.

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

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

The Committee develops strategies to communicate with the public through various forms of media.

The Committee oversees all administrative issues regarding Board BCE operations.

The Committee develops draft strategic plans and monitors the Board's progress in achieving goal and objectives. The Board must develop a strategic plan in the year of the Joint Sunset Review Oversight Hearings once every three years. The Committee must report progress on the strategic plan annually beginning in 2013.

Committee Meetings (Board Policy)

Each of these committees is comprised of at least two Board Members. Staff provides technical and administrative input and support. The committees are an important venue for ensuring that staff and Board Members share information and perspectives in crafting and implementing the Board's objectives and goals.

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

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

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

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

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Attendance at Committee Meetings

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

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

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

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

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

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CHAPTER 5. General Operating Procedures

Board Member Addresses

(Board Policy)

Board Member home addresses and personal telephone numbers are considered confidential. However, this information may have to be disclosed in response to a subpoena or records request. A roster of Board Members is maintained for public distribution on the Board's web site using the Board's address and telephone number.

Board Member Written Correspondence and Mailings

(Board Policy)

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

Request to Access Licensee or Applicant Records

(Board Policy)

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

Communications with Other Organizations & Individuals

(Board Policy)

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

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

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

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

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Press Statements and Contacts (Board Policy)

Board Members shall not speak or act for the Board without proper preauthorization from the Chair and/or EO prior to making any statement or press release. When possible, the Board Chair, in consultation with the Vice Chair, ~~shall will~~ determine which Board Members have expertise in respective areas to act as spokesperson for the Board ~~Board of Chiropractic Examiners~~.

Business Cards (Board Policy)

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

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

BCE Identification Cards (Board Policy)

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

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CHAPTER 6. Board Administration & Staff

Executive Officer (§3 Initiative Act)

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

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

Executive Officer Evaluation (Board Policy)

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

Board Administration (Board Policy)

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

Board Staff (§4 Initiative Act)

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

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

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

Board Budget (Board Policy)

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

Strategic Planning (Board Policy)

The Board must develop a strategic plan ~~in the year of the Joint Sunset Review Oversight Hearings~~. The Government & Public Affairs Committee shall have overall responsibility for the Board's strategic planning process and shall assist staff in the monitoring and reporting of the strategic plan to the Board.

Periodic Fee Audit (Board Policy)

The Board shall periodically conduct a fee audit to determine if the revenue earned from current fees is sufficient to maintain the Board's reserve and solvency into the future. The Board shall conduct the fee analysis every three to five years using the 2017 methodology. Finally, at the Board Meeting preceding the completion of the report, the results of the fee audit shall be provided to the Board for review.

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CHAPTER 7. Other Policies & Procedures

Various Other Tasks and Responsibilities

(Board Policy)

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

- FCLB
- NBCE
- Ambassador at Large Presentations
- Lectures
- Attend Meetings of Other Regulatory Boards
- Meetings with Colleges and State Associations

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

Board Member Disciplinary Actions

(Board Policy)

If a Board Member violates any provision of the Administrative Procedure Manual, the Chair will either telephone or write to that Member identifying the concern. If the matter is not resolved, any Board Member may agendize the matter **for discussion** at the next Board meeting and notify the Board's appointing authority when necessary.

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

Terms and Removal of Board Members

(§2 Initiative Act)

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

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

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

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

Resignation of Board Members (Board Policy)

In the event that a Board Member chooses to resign, the Board Member and the **EO Executive Officer** should notify the Governor's Office of Appointments.

Conflict of Interest (Government Code Section 87100)

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

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

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

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

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

Contact with Licensees and Applicants (Board Policy)

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

Contact with Respondents (Board Policy)

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

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Board Members ~~shall~~ ~~should~~ not discuss pending disciplinary matters with any parties to such matters, including the respondent, his/her attorney, ~~Board BCE~~ enforcement staff, and DAGs. If a Board Member is contacted by a party ~~regarding to~~ a disciplinary matter, the Board Member ~~shall~~ ~~should~~ refer the individual to the ~~EO Executive Officer~~. When in doubt, the Board Member ~~shall~~ ~~should~~ seek advice from the ~~EO Executive Officer~~ or the Board's Legal Counsel.

Service of Legal Documents (Board Policy)

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

Serving as an Expert Witness (Executive Order 66.2)

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

1. Using the prestige or influence of a State office for the appointee's private gain or advantage.
2. Using state time, facilities, equipment, or supplies for the appointee's private gain or advantage, or the private gain or advantage of another.
3. Using confidential information acquired by virtue of State involvement for the appointee's private gain or advantage, or the private gain or advantage of another.
4. Receiving or accepting money or any other consideration from anyone other than the State for the performance of an act which the appointee would be required or expected to render in the regular course of hours of his or her State employment or as a part of the appointee's duties as a State officer.

Request for Grants (Board Policy)

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

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

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

Gifts from Licensees and Applicants (Board Policy)

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

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

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

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

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

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

If a Board Member receives a telephone call from an applicant under any circumstances or licensee against whom an action is pending, he or she ~~shall~~ ~~should~~ immediately inform the caller that communication on this matter is prohibited by law ~~tell the person they cannot speak to them about the matter~~ and notify ~~inform~~ the **EO Executive Officer** and the Board’s legal counsel.

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

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

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

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

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

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

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

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

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

Per DCA Legal Opinion, Board Member Orientation Training is required for newly appointed Board Members and reappointed Board Members as every appointment is considered a new appointment.

It is the **Board's BCE's** policy that new Board Members shall, to the extent possible complete the orientation training within six months of assuming

BOARD MEMBER ADMINISTRATIVE PROCEDURE MANUAL

office. Additional training shall be provided at the request of the Board or individual Board Members.

Ethics Training

(Government Code Section 11146)

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

Sexual Harassment Prevention Training

(Government Code Section 12950.1)

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

Board Member Onboarding and Orientation

(Board Policy - 2013 BCE Strategic Plan)

Within six months of initial appointment, each new Board Member shall travel to the Board office in Sacramento for orientation and onboarding meetings with the **EO Executive Officer** and one Board Member (as assigned by the Board Chair). Prior to the orientation, the new Board Member shall review their Board Member binder (provided by Board staff) and prepare questions for discussion. Items to be covered in this meeting include introductions to Board staff, review of staff roles and responsibilities, administrative processes, historical information about the Board, collaboration between staff and Board Members and overall expectations. **EO Executive Officer** shall notify the Board Chair once the meeting has occurred.

Injury to a Board Member

(Labor Code Section 4600)

If you are or believe you may have been injured, notify the **EO Executive Officer**. Injuries are required to be reported and this assists the **EO Executive Officer** in remaining compliant with the Labor Code Rules and Regulations. The reported injury will be reviewed by State Compensation Insurance Fund. They have the option to either accept or deny that claim. If the claim is denied, and you believe you have a legitimate claim, you should consult with an attorney. If the claim of injury is accepted by the insurance carrier, then treatment is provided in accordance with the California Labor Code (L.C.). Specifically:

L.C. 4600(a) Medical, surgical, chiropractic, acupuncture, and hospital treatment, including nursing, medicines, medical and surgical supplies, crutches, and apparatuses, including orthotic and prosthetic devices and services, that is reasonably required to cure or relieve the injured worker from the effects of his or her injury shall be provided by the employer.

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

Addendums

Applicable provisions of the following:

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

**Agenda Item 16
May 21, 2019**

Update, Discussion and Possible Action on Legislative Update

Purpose of the item

This agenda item has been included to provide the Board with an update on the current legislative session.

Action(s) requested

The Board will be asked to take a position on the following bills:

- A. AB 544 (Brough) – Professions and vocations: inactive license fees and accrued and unpaid renewal fees [Oppose]
- B. AB 613 (Low) – Professions and vocations: regulatory fees [Support]
- C. AB 888 (Low) – Opioid prescriptions: nonpharmacological treatment for pain [Support]
- D. SB 53 (Wilk) – Open meetings [Neutral]
- E. SB 425 (Hill) – Health care practitioners: licensee’s file: probationary physician’s and surgeon’s certificate: unprofessional conduct [Support]

Background

Board staff is monitoring several bills that were introduced during the 2019 legislative session. These bills would have a potential minor but absorbable programmatic impact and raise no significant policy issues, except for AB 544 (Brough) – Professions and vocations: inactive license fees and accrued and unpaid renewal fees.

Recommendation(s)

N/A

Next Step

N/A

Attachment(s)

- AB 544 analysis and bill text
- AB 613 analysis and bill text
- AB 888 analysis and bill text
- SB 53 analysis and bill text
- SB 425 analysis and bill text

Board of Chiropractic Examiners Bill Analysis

Bill Number: AB 544

Author: Assembly member William Brough

Bill Version: Amended March 21, 2019

Subject: Professions and vocations: inactive license fees and accrued and unpaid renewal fees.

Sponsor: Author

Status of Bill: Referred to Asm. Com. on APPR - Suspense file.

Summary:

This bill would limit the maximum renewal fee for an inactive license issued by a regulatory board within the Department of Consumer Affairs (DCA) to no more than 50 % of the renewal fee for an active license. It also prohibits a board from requiring payment of accrued and unpaid renewal fees as a condition of reinstating an expired license.

Existing Law:

- Provides for the licensure and regulation of professions and vocations by various boards of the DCA.
- Establishes the inactive category of health professionals' licensure. An inactive license allows a healing arts licensee, who is not active in the practice of his or her profession, to maintain licensure. Business and Professions Code (BPC) § 700.
- Requires a healing arts board to issue an inactive license to a current holder of an active license that is not suspended, revoked, or otherwise disciplined by that board. (BPC § 701).
- Prohibits the holder of a healing arts license from engaging in any activity for which an active license or certificate is required (BPC § 702).
- Requires the renewal fee for an active license in the healing arts to also apply to the renewal of an inactive license in the healing arts. (BPC § 703).
- Application of delinquency fees or accrued and unpaid renewal fees for the renewal of expired licenses shall not apply to licensees or registrations that have lawfully been designated as inactive or retired (BPC § 121.5).
- Establishes that any of the boards, bureaus or commissions within the DCA may establish, by regulation, a system for an inactive category of licensure for persons who are not actively engaged in the practice of their profession or vocation (BPC § 462)

This Bill Would:

- a) Reduce costs for licensees who wish to maintain an inactive license status by capping the annual renewal fee for an inactive license to no more than 50 % of the renewal fee for an active license.

- b) Reduce costs for former licensees who wish to reinstate an expired license by prohibiting boards from requiring payment of accrued and unpaid renewal fees as a condition of reinstatement.

Background:

According to the author's office:

This bill would help reduce the barrier to reenter the workforce. The Little Hoover has reported that one in five Californians must be licensed to work. For a lower-income licensed occupation in California, applicants pay, on average, \$300 in licensing fees, spend 549 days in education and training and are required to pass one exam. The purpose of occupational licensing is consumer protection; however, there are certain regulations in place that have erected barriers to entry or reentry into occupations.

Licensing boards within DCA have various provisions related to placing licenses on inactive status and/or for reinstating a license that has been allowed to expire. Some licensed professionals may choose to place their licenses on inactive status for various reasons, but in most cases are still required to pay the full biennial license fees even though they are not engaging in the profession at all. While some professionals are allowed to reinstate an expired license within 5 years, many of those are required to pay all accrued renewal fees in addition to any applicable delinquency fees. It is not fair to require those individuals to pay several years of accrued renewal fees to reinstate the license and start working again.

Fiscal Impact:

- a) This bill would have a significant fiscal impact upon the BCE. The Board currently licenses approximately 13,000 licensees, of which 1,415 are in an inactive license status. This bill seeks to reduce costs for licensees who wish to maintain an inactive license status by capping the annual renewal fee. In other words, this bill would limit the Board's current renewal fee for an inactive license (\$313) to no more than 50 % of the renewal fee for an active license, which was recently set at \$313. Based on these figures, the Board's revenue would be reduced by \$221,000, annually, without a corresponding reduction in workload and other expenses.
- b) This bill would reduce fees for former licensees who wish to reinstate an expired license by waiving the payment of accrued or unpaid renewal fees as a condition of reinstatement. This provision would not have a fiscal impact upon the BCE. Currently, the BCE requires a one-time payment of a license restoration fee (\$626) to reinstate an expired license.

According to the Assembly Appropriations Committee analysis, the total fee revenue reductions to DCA boards and bureaus are of nearly \$9.6 millions (various special funds) annually, potentially threatening the fiscal solvency of several programs. Nearly \$6 million of the projected loss results from the prohibition to collect unpaid fees when reinstating an

expired license, while approximately \$3.7 million results from the required reduction to inactive license renewals.

Support & Opposition:

Support:

- No support on file

Opposition:

- Speech-Language Pathology and Audiology and Hearing Aid Dispensers Board

Arguments:

Pro:

- According to the author's office, this bill would help reduce barriers to reentering the workforce.

Con:

- The Speech-Language Pathology and Audiology and Hearing Aid Dispensers Board expressed concern over the negative impact this bill would have on the board's day-to-day operations. "This bill would prohibit the Board from collecting full license renewal fees when renewing an expired license, resulting in revenue loss for the Board. This provision of the bill could create a disincentive for licensees to keep their license current and the Board may see an increase in the number of licensees in delinquent status. Meanwhile, these licensees continue to be workload for the Board."
- This bill would not only reduce the Board's annual revenue by \$221,000, it would also increase the Board's workload, as staff would be required to take additional steps to process inactive license renewals. The BCE has a small staff and the extra workload may not be absorbed by existing staff. This bill may result in backlogs and the need for overtime.
- There is no provision in the bill allowing a board to recover full license renewal fees from a licensee with an inactive license who may wish to place his/her license on an active status.

Staff's Recommended Position: OPPOSE

AB 544 would have a devastating impact on the BCE's already strained budget. Processing an active or inactive license renewal requires the same workload. In addition, when a licensee places their license in inactive status, the BCE's overhead remains the same. If this bill is enacted, the BCE would need to immediately raise license renewal fees to avoid insolvency.

ASSEMBLY BILL

No. 544

Introduced by Assembly Member Brough

February 13, 2019

~~An act to amend Section 4073 of the Business and Professions Code, relating to healing arts. An act to amend Sections 121.5, 462, 703, 1006.5, 1718, 1718.3, 1936, 2427, 2456.3, 2535.2, 2538.54, 2646, 2734, 2892.1, 2984, 3147, 3147.7, 3524, 3774, 3775.5, 4545, 4843.5, 4901, 4966, 4989.36, 4999.104, 5070.6, 5600.2, 5680.1, 6796, 6980.28, 7076.5, 7417, 7672.8, 7725.2, 7729.1, 7881, 7883, 8024.7, 8802, 9832, 9832.5, 9884.5, 19170.5, and 19290 of the Business and Professions Code, relating to professions and vocations.~~

legislative counsel's digest

AB 544, as amended, Brough. ~~Prescriptions. Professions and vocations: inactive license fees and accrued and unpaid renewal fees.~~

Existing law provides for the licensure and regulation of professions and vocations by various boards within the Department of Consumer Affairs. Existing law provides for the payment of a fee for the renewal of certain licenses, certificates, or permits in an inactive status, and, for certain licenses, certificates, and permits that have expired, requires the payment of all accrued fees as a condition of reinstatement of the license, certificate, or permit.

This bill would limit the maximum fee for the renewal of a license in an inactive status to no more than 50% of the renewal fee for an active license. The bill would also prohibit a board from requiring payment of accrued and unpaid renewal fees as a condition of reinstating an expired license or registration.

~~The Pharmacy Law provides for the licensure and regulation of pharmacists and pharmacies by the California State Board of Pharmacy, which is within the Department of Consumer Affairs, and authorizes a pharmacist filling a prescription order for a drug product prescribed by its brand or trade name to select another drug product with the same active chemical ingredients of the same strength, quantity, and dosage form, and of the same generic drug name of those drug products having the same active chemical ingredients, as specified.~~

~~This bill would make a nonsubstantive change to that provision.~~

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~ yes.
State-mandated local program: no.

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

1 SECTION 1. Section 121.5 of the Business and Professions

2 Code is amended to read:

3 121.5. (a) Except as otherwise provided in this code, the
4 application of delinquency fees ~~or accrued and unpaid renewal~~
5 ~~fees~~ for the renewal of expired licenses or registrations shall not
6 apply to licenses or registrations that have lawfully been designated
7 as inactive or retired.

8 (b) *Notwithstanding any other law, a board shall not require a*
9 *person to pay accrued and unpaid renewal fees as a condition of*
10 *reinstating an expired license or registration.*

11 SEC. 2. Section 462 of the Business and Professions Code is
12 amended to read:

13 462. (a) Any of the boards, bureaus, commissions, or programs
14 within the department may establish, by regulation, a system for
15 an inactive category of licensure for persons who are not actively
16 engaged in the practice of their profession or vocation.

17 (b) The regulation shall contain the following provisions:

18 (1) The holder of an inactive license issued pursuant to this
19 section shall not engage in any activity for which a license is
20 required.

21 (2) An inactive license issued pursuant to this section shall be
22 renewed during the same time period in which an active license
23 is renewed. The holder of an inactive license need not comply with
24 any continuing education requirement for renewal of an active
25 license.

1 (3) The renewal fee for a license in ~~an active status shall apply~~
 2 ~~also for a renewal of a license in an inactive status, unless a lesser~~
 3 ~~renewal fee is specified by the board. status shall be no more than~~
 4 ~~50 percent of the renewal fee for a license in an active status.~~

5 (4) In order for the holder of an inactive license issued pursuant
 6 to this section to restore ~~his or her~~ the license to an active status,
 7 the holder of an inactive license shall comply with all the
 8 following:

9 (A) Pay the renewal fee.

10 (B) If the board requires completion of continuing education
 11 for renewal of an active license, complete continuing education
 12 equivalent to that required for renewal of an active license, unless
 13 a different requirement is specified by the board.

14 (c) This section shall not apply to any healing arts board as
 15 specified in Section 701.

16 *SEC. 3. Section 703 of the Business and Professions Code is*
 17 *amended to read:*

18 703. (a) An inactive healing arts license or certificate issued
 19 pursuant to this article shall be renewed during the same time
 20 period at which an active license or certificate is renewed. In order
 21 to renew a license or certificate issued pursuant to this article, the
 22 holder thereof need not comply with any continuing education
 23 requirement for renewal of an active license or certificate.

24 (b) ~~The Notwithstanding any other law, the renewal fee for a~~
 25 ~~license or certificate in an active inactive status shall apply also~~
 26 ~~for renewal of a license or certificate in an inactive status, unless~~
 27 ~~a lower fee has been established by the issuing board. be no more~~
 28 ~~than 50 percent of the renewal fee for a license in an active status.~~

29 *SEC. 4. Section 1006.5 of the Business and Professions Code*
 30 *is amended to read:*

31 1006.5. Notwithstanding any other law, the amount of
 32 regulatory fees necessary to carry out the responsibilities required
 33 by the Chiropractic Initiative Act and this chapter are fixed in the
 34 following schedule:

35 (a) Fee to apply for a license to practice chiropractic: three
 36 hundred seventy-one dollars (\$371).

37 (b) Fee for initial license to practice chiropractic: one hundred
 38 eighty-six dollars (\$186).

39 (c) Fee to renew an active ~~or inactive~~ license to practice
 40 chiropractic: three hundred thirteen dollars (\$313).

- 1 (d) Fee to renew an inactive license to practice chiropractic:
- 2 no more than 50 percent of the renewal fee for an active license.
- 3 ~~(d)~~
- 4 (e) Fee to apply for approval as a continuing education provider:
- 5 eighty-four dollars (\$84).
- 6 ~~(e)~~
- 7 (f) Biennial continuing education provider renewal fee: fifty-six
- 8 dollars (\$56).
- 9 ~~(f)~~
- 10 (g) Fee to apply for approval of a continuing education course:
- 11 fifty-six dollars (\$56) per course.
- 12 ~~(g)~~
- 13 (h) Fee to apply for a satellite office certificate: sixty-two dollars
- 14 (\$62).
- 15 ~~(h)~~
- 16 (i) Fee to renew a satellite office certificate: thirty-one dollars
- 17 (\$31).
- 18 ~~(i)~~
- 19 (j) Fee to apply for a license to practice chiropractic pursuant
- 20 to Section 9 of the Chiropractic Initiative Act: three hundred
- 21 seventy-one dollars (\$371).
- 22 ~~(j)~~
- 23 (k) Fee to apply for a certificate of registration of a chiropractic
- 24 corporation: one hundred eighty-six dollars (\$186).
- 25 ~~(k)~~
- 26 (l) Fee to renew a certificate of registration of a chiropractic
- 27 corporation: thirty-one dollars (\$31).
- 28 ~~(l)~~
- 29 (m) Fee to file a chiropractic corporation special report:
- 30 thirty-one dollars (\$31).
- 31 ~~(m)~~
- 32 (n) Fee to apply for approval as a referral service: five hundred
- 33 fifty-seven dollars (\$557).
- 34 ~~(n)~~
- 35 (o) Fee for an endorsed verification of licensure: one hundred
- 36 twenty-four dollars (\$124).
- 37 ~~(o)~~
- 38 (p) Fee for replacement of a lost or destroyed license: fifty
- 39 dollars (\$50).
- 40 ~~(p)~~

1 (q) Fee for replacement of a satellite office certificate: fifty
2 dollars (\$50).

3 ~~(q)~~

4 (r) Fee for replacement of a certificate of registration of a
5 chiropractic corporation: fifty dollars (\$50).

6 ~~(r)~~

7 (s) Fee to restore a forfeited or canceled license to practice
8 chiropractic: double the annual renewal fee specified in subdivision
9 (c).

10 ~~(s)~~

11 (t) Fee to apply for approval to serve as a preceptor: thirty-one
12 dollars (\$31).

13 ~~(t)~~

14 (u) Fee to petition for reinstatement of a revoked license: three
15 hundred seventy-one dollars (\$371).

16 ~~(u)~~

17 (v) Fee to petition for early termination of probation: three
18 hundred seventy-one dollars (\$371).

19 ~~(v)~~

20 (w) Fee to petition for reduction of penalty: three hundred
21 seventy-one dollars (\$371).

22 *SEC. 5. Section 1718 of the Business and Professions Code is*
23 *amended to read:*

24 1718. Except as otherwise provided in this chapter, an expired
25 license may be renewed at any time within five years after its
26 expiration on filing of application for renewal on a form prescribed
27 by the board, and payment of ~~all accrued~~ *the* renewal and
28 delinquency fees. If the license is renewed more than 30 days after
29 its expiration, the licensee, as a condition precedent to renewal,
30 shall also pay the delinquency fee prescribed by this chapter.
31 Renewal under this section shall be effective on the date on which
32 the application is filed, on the date on which the renewal fee is
33 paid, or on the date on which the delinquency fee, if any, is paid,
34 whichever last occurs. If so renewed, the license shall continue in
35 effect through the expiration date provided in Section 1715 which
36 next occurs after the effective date of the renewal, when it shall
37 expire if it is not again renewed.

38 *SEC. 6. Section 1718.3 of the Business and Professions Code*
39 *is amended to read:*

1 1718.3. (a) A license which is not renewed within five years
2 after its expiration may not be renewed, restored, reinstated, or
3 reissued thereafter, but the holder of the license may apply for and
4 obtain a new license if the following requirements are satisfied:

5 (1) No fact, circumstance, or condition exists which would
6 justify denial of licensure under Section 480.

7 (2) ~~He or she~~ *The person* pays all of the fees which would be
8 required of him or her if he or she if *the person* were then applying
9 for the license for the first time and all the renewal and delinquency
10 fees which have accrued since the date on which he or she last
11 renewed his or her license. *fees.*

12 (3) ~~He or she~~ *The person* takes and passes the examination, if
13 any, which would be required of him or her if he or she if *the*
14 *person* were then applying for the license for the first time, or
15 otherwise establishes to the satisfaction of the board that with due
16 regard for the public interest, ~~he or she~~ *the person* is qualified to
17 practice the profession or activity in which ~~he or she~~ *again the*
18 *person* seeks to be licensed.

19 (b) The board may impose conditions on any license issued
20 pursuant to this section, as it deems necessary.

21 (c) The board may by regulation provide for the waiver or refund
22 of all or any part of the examination fee in those cases in which a
23 license is issued without an examination under this section.

24 *SEC. 7. Section 1936 of the Business and Professions Code is*
25 *amended to read:*

26 1936. Except as otherwise provided in this article, an expired
27 license may be renewed at any time within five years after its
28 expiration by filing an application for renewal on a form prescribed
29 by the hygiene board and payment of ~~all accrued~~ *the* renewal and
30 delinquency fees. If the license is renewed after its expiration, the
31 licensee, as a condition precedent of renewal, shall also pay the
32 delinquency fee prescribed by this article. Renewal under this
33 section shall be effective on the date on which the application is
34 filed, on the date on which the renewal fee is paid, or on the date
35 on which the delinquency fee, if any, is paid, whichever last occurs.
36 If so renewed, the license shall continue in effect until the
37 expiration date provided in Section 1935 that next occurs after the
38 effective date of the renewal.

39 *SEC. 8. Section 2427 of the Business and Professions Code is*
40 *amended to read:*

1 2427. (a) Except as provided in Section 2429, a license which
2 has expired may be renewed at any time within five years after its
3 expiration on filing an application for renewal on a form prescribed
4 by the licensing authority and payment of ~~all accrued~~ *the* renewal
5 ~~fees~~ *fee* and any other fees required by Section 2424. If the license
6 is not renewed within 30 days after its expiration, the licensee, as
7 a condition precedent to renewal, shall also pay the prescribed
8 delinquency fee, if any. Except as provided in Section 2424,
9 renewal under this section shall be effective on the date on which
10 the renewal application is filed, on the date on which the renewal
11 ~~fee or accrued renewal fees are~~ *is* paid, or on the date on which
12 the delinquency fee or the delinquency fee and penalty fee, if any,
13 are paid, whichever last occurs. If so renewed, the license shall
14 continue in effect through the expiration date set forth in Section
15 2422 or 2423 which next occurs after the effective date of the
16 renewal, when it shall expire and become invalid if it is not again
17 renewed.

18 (b) Notwithstanding subdivision (a), the license of a doctor of
19 podiatric medicine which has expired may be renewed at any time
20 within three years after its expiration on filing an application for
21 renewal on a form prescribed by the licensing authority and
22 payment of ~~all accrued~~ *the* renewal ~~fees~~ *fee* and any other fees
23 required by Section 2424. If the license is not renewed within 30
24 days after its expiration, the licensee, as a condition precedent to
25 renewal, shall also pay the prescribed delinquency fee, if any.
26 Except as provided in Section 2424, renewal under this section
27 shall be effective on the date on which the renewal application is
28 filed, on the date on which the renewal ~~fee or accrued renewal fees~~
29 ~~are~~ *is* paid, or on the date on which the delinquency fee or the
30 delinquency fee and penalty fee, if any, are paid, whichever last
31 occurs. If so renewed, the license shall continue in effect through
32 the expiration date set forth in Section 2422 or 2423 which next
33 occurs after the effective date of the renewal, when it shall expire
34 and become invalid if it is not again renewed.

35 *SEC. 9. Section 2456.3 of the Business and Professions Code*
36 *is amended to read:*

37 2456.3. Except as provided in Section 2429, a license which
38 has expired may be renewed at any time within five years after its
39 expiration by filing an application for renewal on a form prescribed
40 by the board and payment of ~~all accrued~~ *the* renewal ~~fees~~ *fee* and

1 any other fees required by Section 2455. Except as provided in
2 Section 2456.2, renewal under this section shall be effective on
3 the date on which the renewal application is filed, on the date on
4 which the renewal fee ~~or accrued renewal fees are~~ *is* paid, or on
5 the date on which the delinquency fee or the delinquency fee and
6 penalty fee, if any, are paid, whichever last occurs. If so renewed,
7 the license shall continue in effect through the expiration date set
8 forth in Section 2456.1 which next occurs after the effective date
9 of the renewal.

10 *SEC. 10. Section 2535.2 of the Business and Professions Code*
11 *is amended to read:*

12 2535.2. Except as provided in Section 2535.3, a license that
13 has expired may be renewed at any time within five years after its
14 expiration upon filing of an application for renewal on a form
15 prescribed by the board and payment of ~~all accrued and unpaid~~
16 ~~renewal fees.~~ *the renewal fee.* If the license is not renewed on *or*
17 before its expiration, the licensee, as a condition precedent to
18 renewal, shall also pay the prescribed delinquency fee. Renewal
19 under this section shall be effective on the date on which the
20 application is filed, on the date on which ~~all the renewal fees are~~
21 *fee is* paid, or on the date on which the delinquency fee is paid,
22 whichever last occurs. If so renewed, the license shall continue in
23 effect through the expiration date provided in Section 2535, after
24 the effective date of the renewal, when it shall expire and become
25 invalid if it is not again renewed.

26 *SEC. 11. Section 2538.54 of the Business and Professions Code*
27 *is amended to read:*

28 2538.54. Except as otherwise provided in this article, an expired
29 license may be renewed at any time within three years after its
30 expiration on filing of an application for renewal on a form
31 prescribed by the board, and payment of ~~all accrued and unpaid~~
32 ~~renewal fees.~~ *the renewal fee.* If the license is renewed after its
33 expiration the licensee, as a condition precedent to renewal, shall
34 also pay the delinquency fee prescribed by this article. Renewal
35 under this section shall be effective on the date on which the
36 application is filed, on the date on which the renewal fee is paid,
37 or on the date on which the delinquency fee, if any, is paid,
38 whichever last occurs. If so renewed, the license shall continue in
39 effect through the date provided in Section 2538.53 which next

1 occurs after the effective date of the renewal, when it shall expire
2 if it is not again renewed.

3 *SEC. 12. Section 2646 of the Business and Professions Code*
4 *is amended to read:*

5 2646. A license that has expired may be renewed at any time
6 within five years after its expiration by applying for renewal as
7 set forth in Section 2644. Renewal under this section shall be
8 effective on the date on which the renewal application is filed, on
9 the date on which the renewal fee ~~or accrued renewal fees are~~ *is*
10 paid, or on the date on which the delinquency fee and penalty fee,
11 if any, are paid, whichever last occurs. A renewed license shall
12 continue in effect through the expiration date set forth in Section
13 2644 that next occurs after the effective date of the renewal, at
14 which time it shall expire and become invalid if it is not so
15 renewed.

16 *SEC. 13. Section 2734 of the Business and Professions Code*
17 *is amended to read:*

18 2734. Upon application in writing to the board and payment
19 of ~~the~~ *a fee not to exceed 50 percent of the* biennial renewal fee,
20 a licensee may have ~~his~~ *their* license placed in an inactive status
21 for an indefinite period of time. A licensee whose license is in an
22 inactive status may not practice nursing. However, such a licensee
23 does not have to comply with the continuing education standards
24 of Section 2811.5.

25 *SEC. 14. Section 2892.1 of the Business and Professions Code*
26 *is amended to read:*

27 2892.1. Except as provided in Sections 2892.3 and 2892.5, an
28 expired license may be renewed at any time within four years after
29 its expiration upon filing of an application for renewal on a form
30 prescribed by the board, payment of ~~all accrued and unpaid renewal~~
31 ~~fees,~~ *the renewal fee,* and payment of any fees due pursuant to
32 Section 2895.1.

33 If the license is renewed more than 30 days after its expiration,
34 the licensee, as a condition precedent to renewal, shall also pay
35 the delinquency fee prescribed by this chapter. Renewal under this
36 section shall be effective on the date on which the application is
37 filed, on the date on which ~~all the renewal fees are~~ *fee is* paid, or
38 on the date on which the delinquency fee is paid, whichever last
39 occurs. If so renewed, the license shall continue in effect through
40 the date provided in Section 2892 which next occurs after the

1 effective date of the renewal, when it shall expire if it is not again
2 renewed.

3 *SEC. 15. Section 2984 of the Business and Professions Code*
4 *is amended to read:*

5 2984. Except as provided in Section 2985, a license that has
6 expired may be renewed at any time within three years after its
7 expiration on filing of an application for renewal on a form
8 prescribed by the board and payment of ~~all accrued and unpaid~~
9 ~~the renewal fees.~~ *fee*. If the license is renewed after its expiration,
10 the licensee, as a condition precedent to renewal, shall also pay
11 the prescribed delinquency fee, if any. Renewal under this section
12 shall be effective on the date on which the application is filed, on
13 the date on which ~~all the renewal fees are~~ *fee is* paid, or on the date
14 on which the delinquency fee, if any, is paid, whichever last occurs.
15 If so renewed, the license shall continue in effect through the
16 expiration date provided in Section 2982 which next occurs after
17 the effective date of the renewal, when it shall expire and become
18 invalid if it is not again renewed.

19 *SEC. 16. Section 3147 of the Business and Professions Code*
20 *is amended to read:*

21 3147. (a) Except as otherwise provided by Section 114, an
22 expired optometrist license may be renewed at any time within
23 three years after its expiration, and a retired license issued for less
24 than three years may be reactivated to active status, by filing an
25 application for renewal or reactivation on a form prescribed by the
26 board, paying ~~all accrued and unpaid the renewal fees~~ *fee* or
27 ~~reactivation fees~~ *fee* determined by the board, paying any
28 delinquency fees prescribed by the board, and submitting proof of
29 completion of the required number of hours of continuing education
30 for the last two years, as prescribed by the board pursuant to
31 Section 3059. Renewal or reactivation to active status under this
32 section shall be effective on the date on which all of those
33 requirements are satisfied. If so renewed or reactivated to active
34 status, the license shall continue as provided in Sections 3146 and
35 3147.5.

36 (b) Expired statements of licensure, branch office licenses, and
37 fictitious name permits issued pursuant to Sections 3070, 3077,
38 and 3078, respectively, may be renewed at any time by filing an
39 application for renewal, paying ~~all accrued and unpaid renewal~~

1 ~~fees, the renewal fee~~, and paying any delinquency fees prescribed
2 by the board.

3 *SEC. 17. Section 3147.7 of the Business and Professions Code*
4 *is amended to read:*

5 3147.7. The provisions of Section 3147.6 shall not apply to a
6 person holding a license that has not been renewed within three
7 years of expiration, if the person provides satisfactory proof that
8 ~~he or she~~ *the person* holds an active license from another state and
9 meets all of the following conditions:

- 10 (a) Is not subject to denial of a license under Section 480.
- 11 (b) Applies in writing for restoration of the license on a form
12 prescribed by the board.
- 13 (c) Pays ~~all accrued and unpaid~~ *the renewal fee* and any
14 delinquency fees prescribed by the board.
- 15 (d) Submits proof of completion of the required number of hours
16 of continuing education for the last two years.
- 17 (e) Takes and satisfactorily passes the board's jurisprudence
18 examination.

19 *SEC. 18. Section 3524 of the Business and Professions Code*
20 *is amended to read:*

21 3524. A license or approval that has expired may be renewed
22 at any time within five years after its expiration by filing an
23 application for renewal on a form prescribed by the board or
24 Medical Board of California, as the case may be, and payment of
25 ~~all accrued and unpaid renewal fees.~~ *the renewal fee*. If the license
26 or approval is not renewed within 30 days after its expiration, the
27 licensed physician assistant and approved supervising physician,
28 as a condition precedent to renewal, shall also pay the prescribed
29 delinquency fee, if any. Renewal under this section shall be
30 effective on the date on which the application is filed, on the date
31 on which ~~all the renewal fees are~~ *fee is* paid, or on the date on
32 which the delinquency fee, if any, is paid, whichever occurs last.
33 If so renewed, the license shall continue in effect through the
34 expiration date provided in Section 3522 or 3523 which next occurs
35 after the effective date of the renewal, when it shall expire, if it is
36 not again renewed.

37 *SEC. 19. Section 3774 of the Business and Professions Code*
38 *is amended to read:*

39 3774. On or before the birthday of a licensed practitioner in
40 every other year, following the initial licensure, the board shall

1 mail to each practitioner licensed under this chapter, at the latest
2 address furnished by the licensed practitioner to the executive
3 officer of the board, a notice stating the amount of the renewal fee
4 and the date on which it is due. The notice shall state that failure
5 to pay the renewal fee on or before the due date and submit
6 evidence of compliance with Sections 3719 and 3773 shall result
7 in expiration of the license.

8 Each license not renewed in accordance with this section shall
9 expire but may within a period of three years thereafter be
10 reinstated upon payment of ~~all accrued and unpaid~~ *the* renewal
11 ~~fees~~ and penalty fees required by this chapter. The board may also
12 require submission of proof of the applicant's qualifications, except
13 that during the three-year period no examination shall be required
14 as a condition for the reinstatement of any expired license that has
15 lapsed solely by reason of nonpayment of the renewal fee.

16 *SEC. 20. Section 3775.5 of the Business and Professions Code*
17 *is amended to read:*

18 3775.5. The fee for an inactive license shall be ~~the same as~~ *no*
19 *more than 50 percent of the renewal fee for an active license* for
20 the practice of respiratory care as specified in Section 3775.

21 *SEC. 21. Section 4545 of the Business and Professions Code*
22 *is amended to read:*

23 4545. Except as provided in Section 4545.2, a license that has
24 expired may be renewed at any time within four years after its
25 expiration on filing an application for renewal on a form prescribed
26 by the board, payment of ~~all accrued and unpaid renewal fees,~~ *the*
27 *renewal fee*, and payment of all fees required by this chapter. If
28 the license is renewed more than 30 days after its expiration, the
29 holder, as a condition precedent to renewal, shall also pay the
30 delinquency fee prescribed by this chapter. Renewal under this
31 section shall be effective on the date on which the application is
32 filed, on the date on which the renewal fee is paid, or on the date
33 on which the delinquency fee, if any, is paid, whichever last occurs.
34 If so renewed, the license shall continue in effect through the date
35 provided in Section 4544 which next occurs after the effective date
36 of the renewal, when it shall expire if it is not again renewed.

37 A certificate which was forfeited for failure to renew under the
38 law in effect before October 1, 1961, shall, for the purposes of this
39 article, be considered to have expired on the date that it became
40 forfeited.

1 *SEC. 22. Section 4843.5 of the Business and Professions Code*
2 *is amended to read:*

3 4843.5. Except as otherwise provided in this article, an expired
4 certificate of registration may be renewed at any time within five
5 years after its expiration on filing of an application for renewal on
6 a form prescribed by the board, and payment of ~~all accrued and~~
7 ~~unpaid renewal fees.~~ *the renewal fee.* If the certificate of
8 registration is renewed more than 30 days after its expiration, the
9 registrant, as a condition precedent to renewal, shall also pay the
10 delinquency fee prescribed by this article. Renewal under this
11 section shall be effective on the date on which the application is
12 filed, on the date ~~all the renewal fees are~~ *fee is* paid, or on the date
13 on which the delinquency fee, if any, is paid, whichever occurs
14 last.

15 *SEC. 23. Section 4901 of the Business and Professions Code*
16 *is amended to read:*

17 4901. Except as otherwise provided in this chapter, an expired
18 license or registration may be renewed at any time within five
19 years after its expiration on filing of an application for renewal on
20 a form prescribed by the board, and payment of ~~all accrued and~~
21 ~~unpaid renewal fees.~~ *the renewal fee.* If the license or registration
22 is renewed more than 30 days after its expiration, the licensee or
23 registrant, as a condition precedent to renewal, shall also pay the
24 delinquency fee prescribed by this chapter. Renewal under this
25 section shall be effective on the date on which the application is
26 filed, on the date on which ~~all renewal fees are~~ *the renewal fee is*
27 paid, or on the date on which the delinquency fee, if any, is paid,
28 whichever last occurs. If so renewed, the license or registration
29 shall continue in effect through the expiration date provided in
30 Section 4900 that next occurs after the effective date of the renewal,
31 when it shall expire if it is not again renewed.

32 *SEC. 24. Section 4966 of the Business and Professions Code*
33 *is amended to read:*

34 4966. Except as provided in Section 4969, a license that has
35 expired may be renewed at any time within three years after its
36 expiration by filing of an application for renewal on a form
37 provided by the board, paying ~~all accrued and unpaid renewal fees,~~
38 *the renewal fee,* and providing proof of completing continuing
39 education requirements. If the license is not renewed prior to its
40 expiration, the acupuncturist, as a condition precedent to renewal,

1 shall also pay the prescribed delinquency fee. Renewal under this
 2 section shall be effective on the date on which the application is
 3 filed, on the date on which the renewal fee is paid, or on the date
 4 the delinquency fee is paid, whichever occurs last. If so renewed,
 5 the license shall continue in effect through the expiration date
 6 provided in Section 4965, after the effective date of the renewal,
 7 when it shall expire and become invalid if it is not again renewed.

8 *SEC. 25. Section 4989.36 of the Business and Professions Code*
 9 *is amended to read:*

10 4989.36. A licensee may renew a license that has expired at
 11 any time within three years after its expiration date by taking all
 12 of the actions described in Section 4989.32 and by paying ~~all~~
 13 ~~unpaid prior renewal fees and delinquency fees.~~ *the delinquency*
 14 *fee.*

15 *SEC. 26. Section 4999.104 of the Business and Professions*
 16 *Code is amended to read:*

17 4999.104. Licenses issued under this chapter that have expired
 18 may be renewed at any time within three years of expiration. To
 19 renew an expired license described in this section, the licensee
 20 shall do all of the following:

21 (a) File an application for renewal on a form prescribed by the
 22 board.

23 ~~(b) Pay all fees that would have been paid if the license had not~~
 24 ~~become delinquent.~~

25 ~~(c)~~

26 ~~(b) Pay all the delinquency fees.~~ *fee.*

27 ~~(d)~~

28 (c) Certify compliance with the continuing education
 29 requirements set forth in Section 4999.76.

30 ~~(e)~~

31 (d) Notify the board whether ~~he or she~~ *the licensee* has been
 32 convicted, as defined in Section 490, of a misdemeanor or felony,
 33 or whether any disciplinary action has been taken by any regulatory
 34 or licensing board in this or any other state, subsequent to the
 35 licensee's last renewal.

36 *SEC. 27. Section 5070.6 of the Business and Professions Code*
 37 *is amended to read:*

38 5070.6. Except as otherwise provided in this chapter, an expired
 39 permit may be renewed at any time within five years after its
 40 expiration upon the filing of an application for renewal on a form

1 prescribed by the board, payment of ~~all accrued and unpaid renewal~~
2 ~~fees~~ *the renewal fee*, and providing evidence satisfactory to the
3 board of compliance as required by Section 5070.5. If the permit
4 is renewed after its expiration, its holder, as a condition precedent
5 to renewal, shall also pay the delinquency fee prescribed by this
6 chapter. Renewal under this section shall be effective on the date
7 on which the application is filed, on the date on which the ~~accrued~~
8 ~~renewal fees are~~ *fee is* paid, or on the date on which the
9 delinquency fee, if any, is paid, whichever last occurs. If so
10 renewed, the permit shall continue in effect through the date
11 provided in Section 5070.5 that next occurs after the effective date
12 of the renewal, when it shall expire if it is not again renewed.

13 *SEC. 28. Section 5600.2 of the Business and Professions Code*
14 *is amended to read:*

15 5600.2. Except as otherwise provided in this chapter, a license
16 which has expired may be renewed at any time within five years
17 after its expiration on filing of application for renewal on a form
18 prescribed by the board, and payment of ~~all accrued and unpaid~~
19 ~~renewal fees.~~ *the renewal fee*. If a license is renewed more than
20 30 days after its expiration, the licenseholder, as a condition
21 precedent to renewal, shall also pay the delinquency fee prescribed
22 by this chapter. Renewal under this section shall be effective on
23 the date on which the application is filed, on the date on which the
24 renewal fee is paid, or on the date on which the delinquency fee,
25 if any, is paid, whichever last occurs. If so renewed, the license
26 shall continue in effect through the expiration date provided in this
27 chapter which next occurs after the effective date of the renewal,
28 when it shall expire if it is not again renewed.

29 *SEC. 29. Section 5680.1 of the Business and Professions Code*
30 *is amended to read:*

31 5680.1. Except as otherwise provided in this chapter, a license
32 that has expired may be renewed at any time within five years after
33 its expiration on filing of an application for renewal on a form
34 prescribed by the board, and payment of ~~all accrued and unpaid~~
35 ~~renewal fees.~~ *the renewal fee*. If the license is renewed more than
36 30 days after its expiration, the licenseholder, as a condition
37 precedent to renewal, shall also pay the delinquency fee prescribed
38 by this chapter. Renewal under this section shall be effective on
39 the date on which the application is filed, on the date on which ~~all~~
40 ~~the renewal fees are~~ *fee is* paid, or on the date on which the

1 delinquency fee, if any, is paid, whichever last occurs. If so
2 renewed, the license shall continue in effect through the date
3 provided in Section 5680 that next occurs after the effective date
4 of the renewal, when it shall expire if it is not again renewed.

5 *SEC. 30. Section 6796 of the Business and Professions Code*
6 *is amended to read:*

7 6796. Except as otherwise provided in this article, certificates
8 of registration as a professional engineer and certificates of
9 authority may be renewed at any time within five years after
10 expiration on filing of application for renewal on a form prescribed
11 by the board and payment of ~~all accrued and unpaid renewal fees.~~
12 *the renewal fee.* If the certificate is renewed more than 60 days
13 after its expiration, the certificate holder, as a condition precedent
14 to renewal, shall also pay the delinquency fee prescribed by this
15 chapter. Renewal under this section shall be effective on the date
16 on which the application is filed, on the date on which the renewal
17 fee is paid, or on the date on which the delinquency fee, if any, is
18 paid, whichever last occurs.

19 The expiration date of a certificate renewed pursuant to this
20 section shall be determined pursuant to Section 6795.

21 *SEC. 31. Section 6980.28 of the Business and Professions Code*
22 *is amended to read:*

23 6980.28. A locksmith license not renewed within three years
24 following its expiration may not be renewed thereafter. Renewal
25 of the license within three years, or issuance of an original license
26 thereafter, shall be subject to payment of any ~~and all fines~~ *fine*
27 assessed by the chief or the director ~~which are~~ *that is* not pending
28 appeal and all other applicable fees.

29 *SEC. 32. Section 7076.5 of the Business and Professions Code*
30 *is amended to read:*

31 7076.5. (a) A contractor may inactivate ~~his or her~~ *their* license
32 by submitting a form prescribed by the registrar accompanied by
33 the current active license certificate. When the current license
34 certificate has been lost, the licensee shall pay the fee prescribed
35 by law to replace the license certificate. Upon receipt of an
36 acceptable application to inactivate, the registrar shall issue an
37 inactive license certificate to the contractor. The holder of an
38 inactive license shall not be entitled to practice as a contractor until
39 ~~his or her~~ *their* license is reactivated.

1 (b) Any licensed contractor who is not engaged in work or
2 activities which require a contractor's license may apply for an
3 inactive license.

4 (c) Inactive licenses shall be valid for a period of four years
5 from their due date.

6 (d) During the period that an existing license is inactive, no
7 bonding requirement pursuant to Section 7071.6, 7071.8 or 7071.9
8 or qualifier requirement pursuant to Section 7068 shall apply. An
9 applicant for license having met the qualifications for issuance
10 may request that the license be issued inactive unless the applicant
11 is subject to the provisions of Section 7071.8.

12 (e) The board shall not refund any of the renewal fee which a
13 licensee may have paid prior to the inactivation of ~~his or her~~ the
14 license.

15 (f) An inactive license shall be renewed on each established
16 renewal date by submitting the renewal application and paying the
17 inactive renewal fee.

18 (g) An inactive license may be reactivated by submitting an
19 application acceptable to the registrar, by paying ~~the full~~ a fee no
20 more than 50 percent of the renewal fee for an active ~~license~~
21 license, and by fulfilling all other requirements of this chapter. No
22 examination shall be required to reactivate an inactive license.

23 (h) The inactive status of a license shall not bar any disciplinary
24 action by the board against a licensee for any of the causes stated
25 in this chapter.

26 *SEC. 33. Section 7417 of the Business and Professions Code*
27 *is amended to read:*

28 7417. Except as otherwise provided in this article, a license
29 that has expired for failure of the licensee to renew within the time
30 fixed by this article may be renewed at any time within five years
31 following its expiration upon application and payment of ~~all~~
32 ~~accrued and unpaid~~ the renewal ~~fees~~ and delinquency fees. If the
33 license is renewed after its expiration, the licensee, as a condition
34 precedent to renewal, shall also pay the delinquency fee and meet
35 current continuing education requirements, if applicable, prescribed
36 by this chapter. Renewal under this section shall be effective on
37 the date on which the application is filed, or on the date on which
38 the ~~accrued~~ renewal ~~fees~~ *are fee* is paid, or on the date on which
39 the delinquency fee, if any, is paid, whichever occurs last. If so
40 renewed, the license shall continue in effect through the expiration

1 date provided in this article which next occurs following the
2 effective date of the renewal, when it shall expire if it is not again
3 renewed.

4 *SEC. 34. Section 7672.8 of the Business and Professions Code*
5 *is amended to read:*

6 7672.8. All cremated remains disposer registrations shall expire
7 at midnight on September 30 of each year. A person desiring to
8 renew ~~his or her~~ *their* registration shall file an application for
9 renewal on a form prescribed by the bureau accompanied by the
10 required fee. A registration that has expired may be renewed within
11 five years of its expiration upon payment of ~~all accrued and unpaid~~
12 ~~renewal fees.~~ *the renewal fee.* The bureau shall not renew the
13 registration of any person who has not filed the required annual
14 report until ~~he or she~~ *the person* has filed a complete annual report
15 with the department.

16 *SEC. 35. Section 7725.2 of the Business and Professions Code*
17 *is amended to read:*

18 7725.2. Except as otherwise provided in this chapter, a license
19 that has expired may be renewed at any time within five years after
20 its expiration on filing of an application for renewal on a form
21 prescribed by the bureau and payment of ~~all accrued and unpaid~~
22 ~~renewal fees.~~ *the renewal fee.* If the license is not renewed within
23 30 days after its expiration the licensee, as a condition precedent
24 to renewal, shall also pay the delinquency fee prescribed by this
25 chapter. Renewal under this section shall be effective on the date
26 on which the application is filed, on the date on which ~~all the~~
27 ~~renewal fees are~~ *fee is* paid, or on the date on which the
28 delinquency fee, if any, is paid, whichever last occurs. If so
29 renewed, the license shall continue in effect through the date
30 provided in Section 7725 that next occurs after the effective date
31 of the renewal, when it shall expire if it is not again renewed.

32 If a license is not renewed within one year following its
33 expiration, the bureau may require as a condition of renewal that
34 the holder of the license pass an examination on the appropriate
35 subjects provided by this chapter.

36 *SEC. 36. Section 7729.1 of the Business and Professions Code*
37 *is amended to read:*

38 7729.1. The amount of fees prescribed for a license or
39 certificate of authority under this act is that fixed by the following
40 provisions of this article. Any license or certificate of authority

1 provided under this act that has expired may be renewed within
2 five years of its expiration upon payment of ~~all accrued and unpaid~~
3 ~~renewal and regulatory fees.~~ *the renewal fee.*

4 *SEC. 37. Section 7881 of the Business and Professions Code*
5 *is amended to read:*

6 7881. Except as otherwise provided in this article, certificates
7 of registration as a geologist or as a geophysicist, or certified
8 specialty certificates, may be renewed at any time within five years
9 after expiration on filing an application for renewal on a form
10 prescribed by the board and payment of ~~all accrued and unpaid~~
11 ~~renewal fees.~~ *the renewal fee.* If the certificate is renewed more
12 than 30 days after its expiration, the certificate holder, as a
13 condition precedent to renewal, shall also pay the delinquency fee
14 prescribed by this chapter. Renewal under this section shall be
15 effective on the date on which the application is filed, on the date
16 on which ~~all the renewal fees are~~ *fee is* paid, or on the date on
17 which the delinquency fee, if any, is paid, whichever last occurs.
18 If so renewed, the certificate shall continue in effect through the
19 date provided in Section 7880 that next occurs after the effective
20 date of the renewal, when it shall expire if it is not again renewed.

21 *SEC. 38. Section 7883 of the Business and Professions Code*
22 *is amended to read:*

23 7883. A revoked certificate is subject to expiration as provided
24 in this article, but it may not be renewed. If it is reinstated after its
25 expiration, the holder of the certificate, as a condition precedent
26 to its reinstatement, shall pay a reinstatement fee in an amount
27 equal to the renewal fee in effect on the last regular date before
28 the date on which it is ~~reinstated, plus all accrued and unpaid~~
29 ~~renewal fees~~ *reinstated* and the delinquency fee, if any, accrued
30 at the time of its revocation.

31 *SEC. 39. Section 8024.7 of the Business and Professions Code*
32 *is amended to read:*

33 8024.7. The board shall establish an inactive category of
34 licensure for persons who are not actively engaged in the practice
35 of shorthand reporting.

36 (a) The holder of an inactive license issued pursuant to this
37 section shall not engage in any activity for which a license is
38 required.

39 (b) An inactive license issued pursuant to this section shall be
40 renewed during the same time period in which an active license

1 is renewed. The holder of an inactive license is exempt from any
2 continuing education requirement for renewal of an active license.

3 (c) The renewal fee for a license in an active status shall ~~apply~~
4 ~~also for a renewal of a license in an inactive status, unless a lesser~~
5 ~~renewal fee is specified by the board.~~ *be no more than 50 percent*
6 *of the renewal fee for a license in an active status.*

7 (d) In order for the holder of an inactive license issued pursuant
8 to this section to restore ~~his or her~~ *their* license to an active status,
9 the holder of an inactive license shall comply with both of the
10 following:

11 (1) Pay the renewal fee.

12 (2) If the board requires completion of continuing education for
13 renewal of an active license, complete continuing education
14 equivalent to that required for renewal of an active license, unless
15 a different requirement is specified by the board.

16 *SEC. 40. Section 8802 of the Business and Professions Code*
17 *is amended to read:*

18 8802. Except as otherwise provided in this article, licenses
19 issued under this chapter may be renewed at any time within five
20 years after expiration on filing of application for renewal on a form
21 prescribed by the board and payment of ~~all accrued and unpaid~~
22 ~~renewal fees.~~ *the renewal fee.* If the license is renewed more than
23 30 days after its expiration, the licensee, as a condition precedent
24 to renewal, shall also pay the delinquency fee prescribed by this
25 chapter. Renewal under this section shall be effective on the date
26 on which the application is filed, on the date on which the renewal
27 fee is paid, or on the date on which the delinquency fee, if any, is
28 paid, whichever last occurs. If so renewed, the license shall
29 continue in effect through the date provided in Section 8801 which
30 next occurs after the effective date of the renewal, when it shall
31 expire if it is not again renewed.

32 *SEC. 41. Section 9832 of the Business and Professions Code*
33 *is amended to read:*

34 9832. (a) Registrations issued under this chapter shall expire
35 no more than 12 months after the issue date. The expiration date
36 of registrations shall be set by the director in a manner to best
37 distribute renewal procedures throughout the year.

38 (b) To renew an unexpired registration, the service dealer shall,
39 on or before the expiration date of the registration, apply for

1 renewal on a form prescribed by the director, and pay the renewal
2 fee prescribed by this chapter.

3 (c) To renew an expired registration, the service dealer shall
4 apply for renewal on a form prescribed by the director, pay the
5 renewal fee in effect on the last regular renewal date, and pay ~~all~~
6 ~~accrued and unpaid~~ the delinquency ~~and renewal fees.~~ *fee.*

7 (d) Renewal is effective on the date that the application is ~~filed,~~
8 ~~filed and~~ the renewal ~~fee is paid,~~ and ~~all~~ delinquency fees are paid.

9 (e) For purposes of implementing the distribution of the renewal
10 of registrations throughout the year, the director may extend by
11 not more than six months, the date fixed by law for renewal of a
12 registration, except that in that event any renewal fee that may be
13 involved shall be prorated in a manner that no person shall be
14 required to pay a greater or lesser fee than would have been
15 required had the change in renewal dates not occurred.

16 *SEC. 42. Section 9832.5 of the Business and Professions Code*
17 *is amended to read:*

18 9832.5. (a) Registrations issued under this chapter shall expire
19 no more than 12 months after the issue date. The expiration date
20 of registrations shall be set by the director in a manner to best
21 distribute renewal procedures throughout the year.

22 (b) To renew an unexpired registration, the service contractor
23 shall, on or before the expiration date of the registration, apply for
24 renewal on a form prescribed by the director, and pay the renewal
25 fee prescribed by this chapter.

26 (c) To renew an expired registration, the service contractor shall
27 apply for renewal on a form prescribed by the director, pay the
28 renewal fee in effect on the last regular renewal date, and pay ~~all~~
29 ~~accrued and unpaid~~ the delinquency and renewal fees.

30 (d) Renewal is effective on the date that the application is ~~filed,~~
31 ~~filed and~~ the renewal ~~fee is paid,~~ and ~~all~~ delinquency fees are paid.

32 (e) For purposes of implementing the distribution of the renewal
33 of registrations throughout the year, the director may extend, by
34 not more than six months, the date fixed by law for renewal of a
35 registration, except that, in that event, any renewal fee that may
36 be involved shall be prorated in such a manner that no person shall
37 be required to pay a greater or lesser fee than would have been
38 required had the change in renewal dates not occurred.

39 (f) This section shall remain in effect only until January 1, 2023,
40 and as of that date is repealed.

1 *SEC. 43. Section 9884.5 of the Business and Professions Code*
2 *is amended to read:*

3 9884.5. A registration that is not renewed within three years
4 following its expiration shall not be renewed, restored, or reinstated
5 thereafter, and the delinquent registration shall be canceled
6 immediately upon expiration of the three-year period.

7 An automotive repair dealer whose registration has been canceled
8 by operation of this section shall obtain a new registration only if
9 ~~he or she~~ *the automotive repair dealer* again meets the requirements
10 set forth in this chapter relating to registration, is not subject to
11 denial under Section 480, and pays the applicable fees.

12 An expired registration may be renewed at any time within three
13 years after its expiration upon the filing of an application for
14 renewal on a form prescribed by the bureau and the payment of
15 ~~all accrued~~ *the* renewal and delinquency fees. Renewal under this
16 section shall be effective on the date on which the application is
17 filed and ~~all~~ *the* renewal and delinquency fees are paid. If so
18 renewed, the registration shall continue in effect through the
19 expiration date of the current registration year as provided in
20 Section 9884.3, at which time the registration shall be subject to
21 renewal.

22 *SEC. 44. Section 19170.5 of the Business and Professions Code*
23 *is amended to read:*

24 19170.5. (a) Except as provided in Section 19170.3, licenses
25 issued under this chapter expire two years from the date of
26 issuance. To renew ~~his or her~~ *a* license, a licensee shall, on or
27 before the date on which it would otherwise expire, apply for
28 renewal on a form prescribed by the chief, and pay the fees
29 prescribed by Sections 19170 and 19213.1. If a licensee fails to
30 renew ~~his or her~~ *their* license before its expiration, a delinquency
31 fee of 20 percent, but not more than one hundred dollars (\$100),
32 notwithstanding the provisions of Section 163.5, shall be added
33 to the renewal fee. If the renewal fee and delinquency fee are not
34 paid within 90 days after expiration of a license, the licensee shall
35 be assessed an additional penalty fee of 30 percent of the renewal
36 fee.

37 (b) Except as otherwise provided in this chapter, a licensee may
38 renew an expired license within six years after expiration of the
39 license by filing an application for renewal on a form prescribed

1 by the bureau, and paying ~~all accrued renewal, delinquent, the~~
2 ~~renewal, delinquency,~~ and penalty fees.

3 (c) A license that is not renewed within six years of its expiration
4 shall not be renewed, restored, reinstated, or reissued, but the holder
5 of the license may apply for and obtain a new license if both of
6 the following requirements are satisfied:

7 (1) No fact, circumstance, or condition exists which would
8 justify denial of licensure under Section 480.

9 (2) The licensee pays ~~all the~~ renewal, delinquency, and penalty
10 ~~fees that have accrued since the date on which the license was last~~
11 ~~renewed.~~ fees.

12 (d) The bureau may impose conditions on any license issued
13 pursuant to subdivision (c).

14 *SEC. 45. Section 19290 of the Business and Professions Code*
15 *is amended to read:*

16 19290. (a) Permits issued under this chapter expire two years
17 from the date of issuance. To renew a permit, a permittee shall,
18 on or before the date on which it would otherwise expire, apply
19 for renewal on a form prescribed by the chief, and continue to pay
20 the fees prescribed in Sections 19288 and 19288.1. Notwithstanding
21 Section 163.5, if a permittee fails to renew the permit before its
22 expiration, a delinquency fee of 20 percent of the most recent fee
23 paid to the bureau pursuant to Sections 19288 and 19288.1 shall
24 be added to the amount due to the bureau at the next fee interval.
25 If the renewal fee and delinquency fee are not paid within 90 days
26 after expiration of a permit, the permittee shall be assessed an
27 additional fee of 30 percent of the most recent fee paid to the
28 bureau pursuant to Sections 19288 and 19288.1.

29 (b) Except as otherwise provided in this chapter, a permittee
30 may renew an expired permit within two years after expiration of
31 the permit by filing an application for renewal on a form prescribed
32 by the bureau, and paying ~~all accrued~~ fees.

33 (c) A permit that is not renewed within two years of its
34 expiration shall not be renewed, restored, reinstated, or reissued,
35 but the holder of the expired permit may apply for and obtain a
36 new permit as provided in this chapter, upon payment of all fees
37 that accrued since the date the permit was last renewed.

38 (d) The bureau may impose conditions on any permit issued
39 pursuant to subdivision (c).

1 SECTION 1. Section 4073 of the Business and Professions
2 Code is amended to read:

3 4073. (a) A pharmacist filling a prescription order for a drug
4 product prescribed by its trade or brand name may select another
5 drug product with the same active chemical ingredients of the same
6 strength, quantity, and dosage form, and of the same generic drug
7 name as determined by the United States Adopted Names (USAN)
8 and accepted by the federal Food and Drug Administration (FDA);
9 of those drug products having the same active chemical ingredients.

10 (b) In no case shall a selection be made pursuant to this section
11 if the prescriber personally indicates, either orally or in the
12 prescriber's own handwriting, "Do not substitute," or words of
13 similar meaning. Nothing in this subdivision shall prohibit a
14 prescriber from checking a box on a prescription marked "Do not
15 substitute"; provided that the prescriber personally initials the box
16 or checkmark. To indicate that a selection shall not be made
17 pursuant to this section for an electronic data transmission
18 prescription as defined in subdivision (c) of Section 4040, a
19 prescriber may indicate "Do not substitute," or words of similar
20 meaning, in the prescription as transmitted by electronic data, or
21 may check a box marked on the prescription "Do not substitute."
22 In either instance, it shall not be required that the prohibition on
23 substitution be manually initialed by the prescriber.

24 (c) Selection pursuant to this section is within the discretion of
25 the pharmacist, except as provided in subdivision (b). The person
26 who selects the drug product to be dispensed pursuant to this
27 section shall assume the same responsibility for selecting the
28 dispensed drug product as would be incurred in filling a
29 prescription for a drug product prescribed by generic name. There
30 shall be no liability on the prescriber for an act or omission by a
31 pharmacist in selecting, preparing, or dispensing a drug product
32 pursuant to this section. In no case shall the pharmacist select a
33 drug product pursuant to this section unless the drug product
34 selected costs the patient less than the prescribed drug product.
35 Cost, as used in this subdivision, is defined to include any
36 professional fee that may be charged by the pharmacist.

37 (d) This section shall apply to all prescriptions, including those
38 presented by or on behalf of persons receiving assistance from the
39 federal government or pursuant to the California Medical
40 Assistance Program set forth in Chapter 7 (commencing with

1 ~~Section 14000) of Part 3 of Division 9 of the Welfare and~~
2 ~~Institutions Code.~~

3 ~~(e) When a substitution is made pursuant to this section, the use~~
4 ~~of the cost-saving drug product dispensed shall be communicated~~
5 ~~to the patient and the name of the dispensed drug product shall be~~
6 ~~indicated on the prescription label, except where the prescriber~~
7 ~~orders otherwise.~~

O

Board of Chiropractic Examiners Bill Analysis

Bill Number: AB 613

Author: Assembly member Evan Low

Bill Version: Introduced February 14, 2019

Subject: Professions and Vocations: regulatory fees

Sponsor: Author

Status of Bill: Passed out of Assembly on 4/25/19 (50-21-9), ordered to Senate. Referred to Sen. RLS. Com.

Summary:

This bill authorizes each board and bureau within the Department of Consumer Affairs (DCA) to adjust licensing fees once every four years by an amount not greater than the increase in the California Consumer Price Index (CPI) for the preceding four years, subject to specified conditions.

Existing Law:

- Establishes the DCA within the Business, Consumer Services and Housing Agency. (Business and Professions Code (BPC) § 100)
- Enumerates various regulatory boards, bureaus, committees, and commissions under the DCA's jurisdiction (BPC §101)
- Defines "board" as also inclusive of "bureau," "commission," "committee," "department," "division," "examining committee," "program," and "agency." (BPC § 22)
- Authorizes a board to charge fees for the reasonable regulatory cost of administering the regulatory program for the profession or vocation.
- Establishes the Professions and Vocations Fund within the State Treasury, which consists of approximately 38 special funds with revenue derived primarily from fines and fees collected by boards under the DCA, as authorized by statute and through regulations. (BPC § 205)
- Provides that the Department of Industrial Relations is responsible for determining the CPI, which is primarily used to measure inflation. (Revenue and Taxation Code § 2212)

This Bill Would:

Add Section 101.1 to the Business and Professions Code to:

- Authorize each board under the jurisdiction of DCA, no more than once every four years, to increase any of its existing fees by an amount not to exceed the increase in the CPI for the preceding four years.
- Require that any CPI-based fee adjustment made by a board receive approval from the Director of DCA, who shall approve the adjustment only if none of the following apply:

- a) The board has unencumbered funds in an amount that is equal to more than the board's operating budget for the next two fiscal years.
- b) The fee would exceed the reasonable regulatory costs to the board in administering the provisions for which the fee is authorized.
- c) The director determines that the fee increase would be injurious to the public health, safety, or welfare.
- Clarify that the fee adjustments allowed by the bill do not apply to administrative fines, civil penalties, or criminal penalties.
- Establish an appropriation by authorizing an increase in the amount of fees deposited into a continuously appropriated fund.

Background:

According to the author's office:

Currently, a board seeking to increase its fees must either seek legislation or go through the rulemaking process under the Administrative Procedure Act. Either of these processes is cumbersome and may contribute to the delay in addressing imbalances between revenue and expenditures. As a result, many boards struggle to recover programmatic expenses, thereby undermining their fund solvency. By then, the proposed fee adjustment follows such a prolonged period of time that the resulting increase is significant. This creates substantial uncertainty for licensees and causes even the most necessary fee adjustments to become controversial. This bill would allow for a regulatory board to adjust its fees administratively, without going through legislative or regulatory procedures, in proportion to CPI increases. By allowing boards to easily adjust fees, they are able to make modest, regularly scheduled changes to what they charge licensees, which will promote healthier fund conditions without the need for formal rulemaking. The impact of changes in fees would be less significant for licensees, and the effects of inflation will cease to be a factor in future deficiencies in board's special funds.

Fiscal Impact:

In addition to the gradual and modest fee increases once every four years, this bill would have a substantial positive impact upon the BCE as it would decrease workload and streamline the process to adjust fees regularly, if need be.

Support & Opposition:

Support:

California Board of Accountancy
California Pharmacists Association

Opposition:

California Orthopedic Association

Arguments:

Pro:

- The California Board of Accountancy (CBA) states that this bill “would provide flexibility and authority to modestly adjust its fees in line with changing economic conditions.”
- This bill would enable licensing programs to make regularly scheduled changes to their fees in proportion to CPI increases, which would help align revenue and expenditures, thereby ensuring healthier fund conditions and long-term sustainability of DCA boards and bureaus.
- In addition to creating more fund stability, this bill would possibly prevent licensees from being abruptly confronted with drastic increases in fees.

Con:

- The California Orthopedic Association (COA) opposes the bill. The COA is concerned that “licensing fees for doctors are already high.” COA goes on to argue that “given our state’s problem with access to health care, we are concerned with anything that could discourage more doctors from practicing here.”
- It could be argued that this bill interferes with the autonomy of DCA’s regulatory boards by granting the Director authority to overrule a board’s policy decision to increase fees under specified circumstances.
- CPI-linked adjustments are not automatic and would be substantially gradual, resulting in more modest increases than most fee adjustments currently sought by boards through statute or regulations.

Staff Recommended Position: SUPPORT

This bill would streamline the process to adjust fees commensurate with inflation, thereby enabling the BCE to focus its efforts on core consumer protection functions.

Introduced by Assembly Member Low

February 14, 2019

An act to add Section 101.1 to the Business and Professions Code, relating to professions and vocations, and making an appropriation therefor.

legislative counsel's digest

AB 613, as introduced, Low. Professions and vocations: regulatory fees.

Exiting law establishes the Department of Consumer Affairs, which is comprised of boards that are established for the purpose of regulating various professions and vocations, and generally authorizes a board to charge fees for the reasonable regulatory cost of administering the regulatory program for the profession or vocation. Existing law establishes the Professions and Vocations Fund in the State Treasury, which consists of specified special funds and accounts, some of which are continuously appropriated.

This bill would authorize each board within the department to increase every 4 years any fee authorized to be imposed by that board by an amount not to exceed the increase in the California Consumer Price Index for the preceding 4 years, subject to specified conditions. The bill would require the Director of Consumer Affairs to approve any fee increase proposed by a board except under specified circumstances. By authorizing an increase in the amount of fees deposited into a continuously appropriated fund, this bill would make an appropriation.

Vote: majority. Appropriation: yes. Fiscal committee: yes.
State-mandated local program: no.

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

1 SECTION 1. Section 101.1 is added to the Business and
2 Professions Code, to read:
3 101.1. (a) Notwithstanding any other law, no more than once
4 every four years, any board listed in Section 101 may increase any
5 fee authorized to be imposed by that board by an amount not to
6 exceed the increase in the California Consumer Price Index, as
7 determined pursuant to Section 2212 of the Revenue and Taxation
8 Code, for the preceding four years in accordance with the
9 following:
10 (1) The board shall provide its calculations and proposed fee,
11 rounded to the nearest whole dollar, to the director and the director
12 shall approve the fee increase unless any of the following apply:
13 (A) The board has unencumbered funds in an amount that is
14 equal to more than the board’s operating budget for the next two
15 fiscal years.
16 (B) The fee would exceed the reasonable regulatory costs to the
17 board in administering the provisions for which the fee is
18 authorized.
19 (C) The director determines that the fee increase would be
20 injurious to the public health, safety, or welfare.
21 (2) The adjustment of fees and publication of the adjusted fee
22 list is not subject to the Administrative Procedure Act (Chapter
23 3.5 (commencing with Section 11340) of Part 1 of Division 3 of
24 Title 2) of the Government Code.
25 (b) For purposes of this section, “fee” includes any fees
26 authorized to be imposed by a board for regulatory costs. “Fee”
27 does not include administrative fines, civil penalties, or criminal
28 penalties.

O

Board of Chiropractic Examiners Bill Analysis

Bill Number: AB 888
Author: Assembly member Evan Low
Bill Version: Amended April 11, 2019
Subject: Opioid Prescriptions: Information: Nonpharmacological treatments for pain
Sponsor: California Chiropractic Association
Status of Bill: In Assembly, on third reading on the floor

Summary:

Extends the requirement for a prescriber to discuss with patients the risks associated with opioids and the availability of certain nonpharmacological treatments before issuing the first prescription for a controlled substance containing an opioid. It also requires prescribers to obtain written informed consent and to offer a referral to a provider of nonpharmacological treatments for pain as deemed appropriate by the prescriber.

Existing Law:

- Allows a physician, dentist, podiatrist, veterinarian, naturopathic doctor, registered nurse, certified nurse-midwife, optometrist, or out-of-state prescriber to write or issue a prescription. (Health and Safety Code Section HSC) § 11150)
- Requires a prescription for a controlled substance to be issued for a legitimate medical purpose by a licensed practitioner acting in the usual course of their professional practice, and that the responsibility for the proper prescribing and dispensing of controlled substances is upon the prescribing practitioner, but a corresponding responsibility rests with the pharmacist who fills the prescription. (HSC § 11153)
- Prohibits medical professions from prescribing, administering, or dispensing a controlled substance to an addict, as defined. (HSC § 11156)
- Requires a prescriber to discuss the following with a minor, or the minor's parent, guardian or other adult authorized to consent to the minor's medical treatment, prior to dispensing or issuing a prescription of opioids to a minor for the first time:
 - a) The risks of addiction and overdose associated with the use of opioids;
 - b) The increased risk of addiction to an opioid to an individual who is suffering from both mental and substance abuse disorders;
 - c) The danger of taking an opioid with a benzodiazepine, alcohol, or another central nervous system depressant; and
 - d) Any other information required by law.(HSC § 11158.1)
- Makes an exception to the requirement for the prescriber in the case of a patient who is being treated for a diagnosis of chronic pain, as specified.
- Requires certain health care practitioners, beginning October 2, 2018, to consult the Controlled Substance Utilization Review and Evaluation System (CURES) database to review a patient's controlled substance history before prescribing a Schedule II, Schedule III or

Schedule IV controlled substance to the patient for the first time and at least once every four months thereafter if the substance remains part of the treatment of the patient, with certain exceptions. (HSC § 11165.4)

- The federal Patient Protection and Affordable Care Act (PPACA), requires a health benefit plan issuer that offers coverage in the small group or individual market to ensure that the coverage includes the essential health benefits package, as defined.

This Bill Would:

- 1) Extend the requirement for a prescriber, in treating patients of any age, to discuss the risks associated with opioids and the availability of nonpharmacological treatments for pain before issuing the first prescription for a controlled substance containing an opioid.
- 2) Exempt a patient currently receiving hospice care from paragraph one, above.
- 3) Require prescribers, in treating patients of any age, to obtain written informed consent from the patient for an opiate prescription and to offer a referral to a provider of nonpharmacological treatments for pain as deemed appropriate by the prescriber.
- 4) Define nonpharmacological treatments to include acupuncture, chiropractic care, physical therapy, occupational therapy and licensed mental health provider services.
- 5) Make legislative findings and declarations relating to addiction associated with overreliance on prescription medication for pain management and provide that nonpharmacological treatments for pain should be considered during the next update to the state's essential health benchmark plan.

Background:

According to the author's office:

Alternative therapies to treat pain can reduce reliance on opioid drugs and alleviate the opioid epidemic. The California Health Care Foundation (CHCF) has reported that enough opioids are prescribed in a single year in California for every person in the state to medicate themselves around the clock for a month. While there has been a growing awareness of the risks that come with opioids and prescription pain medications, patients are rarely made aware of non-opioid treatments for serious pain management needs. Studies have shown that, for many patients, pursuing non-pharmacological therapies can be equally or more effective for treating pain, without the risks of addiction or overdose associated with pharmaceutical painkillers.

This bill would recognize the expansive body of research into the efficacy of less invasive treatments for pains that do not pose the same serious risks as opioid medication. As the opioid crisis continues to permeate a national dialogue about the dangers associated with prescription pain medication, this bill would empower patients with the choice of less invasive options while preserving the important relationship between health professionals and their patients.

Nonpharmacological Treatments for Pain. This bill is intended to increase awareness of, and access to, certain nonpharmacological pain management therapies including, acupuncture, chiropractic, physical therapy, occupational therapy, and behavioral health. According to the author, these healing arts practices have been shown to be effective in the treatment of pain but are considered less invasive than pharmacological options and do not pose the same risk of addiction or overdose.

This bill would require that in a clinical context where a physician or another prescriber may prescribe an opioid medication for a patient, communication occurs on the risks of opioids. Further, the types of nonpharmacological treatments for pain that have clinically demonstrated efficacy with lower associated risks must also be discussed. Following that discussion, the bill does not require that a patient pursue a nonpharmacological approach prior to filling a prescription for opioids; however, a referral must be offered to the patient. This bill does not restrict a prescriber’s ability to make recommendations about the appropriateness or potential disadvantages of any such treatment, and an opioid may ultimately still be prescribed without any other therapies being pursued.

Fiscal Impact:

Likely minor, absorbable impact to the BCE for enforcement and/or for updating regulations, if necessary.

Support & Opposition:

Support:

- California Chiropractic Association (Sponsor)
- California Acupuncture and Traditional Medicine Association
- California Health Coalition Advocacy
- Independent Physical Therapists of California
- Occupational Therapy Association of California

Opposition:

- California Medical Association

Arguments:

Pro:

- The California Chiropractic Association (CAL-CHIRO), sponsor of this bill, states that this bill would reduce the over-reliance on prescription opioids by integrating nonpharmacological treatments to pain management care plans and ensure patients are making well-informed decisions. According to CAL-CHIRO, the CHCF has reported that “alternative treatments to opioids, including chiropractic care, have been found to play an important role in the delivery of cost-effective, non-drug services in both acute and chronic stages”.

- CAL-CHIRO states that in order to adequately address the opioid crisis in California, it is important to evaluate evidenced based treatment options such as nonpharmacological providers, as well as other mechanisms designed to stop opioid addiction in the first place.
- The Occupational Therapy Association is in support of this bill and states that “in 2016, there were 2,012 opioid-related overdose deaths in California. This bill is another important step to change the conversations surrounding pain management. Nonpharmacological pain management includes several different ways to alter thoughts and focus concentration to better manage and reduce pain.”

Con:

- The California Medical Association (CMA) expressed concern over the provision regarding written informed consent requirement for every patient who is prescribed an opioid medication. “This is a further unnecessary administrative hurdle for physicians who are already constantly handed more and more forms to have signed, disclosures to give, discussions to have, and other impediments to providing the most appropriate care for their patient. These one-size-fits-all discussions on opioids will now be mandated, and every element of the discussion will be required to be cited, diminishing the value of the discussion completely.” CMA states that physicians are already required to discuss the risks and side effects of a patient’s new medication and treatment plan. “This bill goes beyond this requirement by dictating what is an appropriate conversation to have about opioids and ignores the specific treatment the opioid is being provided for and the condition of that individual patient.” CMA concludes by stating it is for this reason that informed consent is not prescribed in statute but held to the Medical Board of California’s determination for each individual patient receiving care.

Staff Recommended Position: SUPPORT

AB 888 would not directly impact the BCE. However, the bill brings awareness to nonpharmacological options, which have been shown than pharmaceutical pain killers to be equally or more effective for treating pain, without the risks of addiction or overdose. This bill would ensure patients receive information necessary to make informed decisions before an opioid is prescribed.

AMENDED IN ASSEMBLY APRIL 11, 2019
AMENDED IN ASSEMBLY MARCH 21, 2019
california legislature—2019–20 regular session

ASSEMBLY BILL

No. 888

Introduced by Assembly Member Low

February 20, 2019

An act to amend Section 11158.1 of the Health and Safety Code, relating to controlled substances.

legislative counsel's digest

AB 888, as amended, Low. Opioid prescriptions: information: nonpharmacological treatments for pain.

Existing law requires a prescriber, with certain exceptions, before directly dispensing or issuing for a minor the first prescription for a controlled substance containing an opioid in a single course of treatment, to discuss specified information with the minor, the minor's parent or guardian, or another adult authorized to consent to the minor's medical treatment.

This bill would extend that requirement for the prescriber by applying it to any patient, not only a minor, under those circumstances. The bill would also require the prescriber to discuss the availability of nonpharmacological treatments for pain, as defined.

Existing law makes an exception to the requirement for the prescriber in the case of a patient who is being treated for a diagnosis of chronic intractable pain, as specified.

This bill would remove that exception and would instead make an exception in the case of a patient who is currently receiving hospice care.

The bill would require the prescriber, after discussing the information, to ~~offer~~ offer, as deemed appropriate by the prescriber, a referral for a provider of nonpharmacological treatments for pain, and to obtain informed written consent from the patient, a minor patient's parent or guardian, or another authorized adult, as specified.

Existing federal law, the federal Patient Protection and Affordable Care Act (PPACA), requires a health benefit plan issuer that offers coverage in the small group or individual market to ensure that the coverage includes the essential health benefits package, as defined.

This bill would make legislative findings and declarations relating to addiction associated with overreliance on prescription medication for pain management, and providing that nonpharmacological treatments for pain should be considered during the next update to the state's essential health benefits benchmark plan.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

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

1 SECTION 1. The Legislature finds and declares all of the
2 following:

3 (a) The opioid crisis has devastated communities within
4 California, which has prompted an urgent discussion about the
5 risks of addiction associated with overreliance on prescription
6 medication for pain management.

7 (b) A growing body of research indicates that certain
8 nonpharmacological therapies are proven to be equally effective
9 to treat certain causes of pain as prescription opioids, without
10 placing patients at risk for addiction or overdose.

11 (c) To this end, awareness of, and access to, nonpharmacological
12 treatments for pain are vitally important to the state's efforts to
13 combat the opioid crisis, and that coverage of these treatments
14 should be considered during the next update to the state's essential
15 health ~~benefit~~ benefits benchmark plan pursuant to Section 156.111
16 of Title 45 of the Code of Federal Regulations.

17 SEC. 2. Section 11158.1 of the Health and Safety Code is
18 amended to read:

19 11158.1. (a) Except when a patient is being treated as set forth
20 in Sections 11159, 11159.2, and 11167.5, and Article 2
21 (commencing with Section 11215) of Chapter 5, pertaining to the

1 treatment of addicts, or except when a patient is currently receiving
2 hospice care, a prescriber shall discuss all of the following
3 information with the patient, or, if the patient is a minor, the minor,
4 the minor's parent or guardian, or another adult authorized to
5 consent to the minor's medical treatment, before directly dispensing
6 or issuing to a patient the first prescription in a single course of
7 treatment for a controlled substance containing an opioid:

8 (1) The risks of addiction and overdose associated with the use
9 of opioids.

10 (2) The increased risk of addiction to an opioid for an individual
11 who is suffering from both mental and substance abuse disorders.

12 (3) The danger of taking an opioid with a benzodiazepine,
13 alcohol, or another central nervous system depressant.

14 (4) The availability of nonpharmacological treatments for pain.

15 (5) Any other information required by law.

16 (b) After discussing the information required by subdivision
17 (a), the prescriber shall do both of the following:

18 (1) Obtain informed written consent from the patient, a minor
19 patient's parent or guardian, or another adult authorized to consent
20 to the minor patient's medical treatment, which shall be placed in
21 the patient's medical record and shall contain all of the following:

22 (A) The name and quantity of the controlled substance being
23 prescribed or issued to the patient, and the amount of the initial
24 dose.

25 (B) A statement certifying that the prescriber discussed with
26 the patient, a minor patient's parent or guardian, or another adult
27 authorized to consent to the minor patient's medical treatment, the
28 information required by subdivision (a).

29 (C) A space for the signature of the patient, a minor patient's
30 parent or guardian, or another adult authorized to consent to the
31 minor patient's medical treatment.

32 (2) ~~Offer~~ *Offer, as deemed appropriate by the prescriber, a*
33 *referral for a provider of nonpharmacological treatments for pain.*

34 (c) This section does not apply in any of the following
35 circumstances:

36 (1) If the patient's treatment includes emergency services and
37 care as defined in Section 1317.1.

38 (2) If the patient's treatment is associated with, or incidental to,
39 an emergency surgery, regardless of whether the surgery is
40 performed on an inpatient or outpatient basis.

1 (3) If, in the prescriber’s professional judgment, fulfilling the
2 requirements of subdivision (a) or (b) would be detrimental to the
3 patient’s health or safety, or in violation of the patient’s legal rights
4 regarding confidentiality.

5 (d) For purposes of this section, “nonpharmacological treatments
6 for pain” include, but are not limited to, acupuncture, chiropractic
7 care, physical therapy, occupational therapy, and licensed mental
8 health provider services.

9 *(e) This section shall not be construed as requiring health care*
10 *coverage, or changing existing health care coverage requirements,*
11 *for nonpharmacological treatments for pain.*

12 ~~(e)~~

13 (f) Notwithstanding any other law, including Section 11374,
14 failure to comply with this section shall not constitute a criminal
15 offense.

Board of Chiropractic Examiners
Bill Analysis

Bill Number: SB 53
Author: Senator Scott Wilk
Bill Version: Amended on March 3, 2019
Subject: Open Meetings
Sponsor: Author
Status of Bill: Passed out of Senate on 04/22/19 (38-0), urgency clause adopted. Ordered to Assembly. Referred to Sen. G.O Com.

Summary:

This bill would modify the Bagley-Keene Open meeting Act (Bagley-Keene) to require two-member advisory committees of a “state body” to hold open, public meetings if at least one member of the advisory committee is supported by state funds.

Existing Law:

- Requires, under Bagley-Keene, that all meetings of a state body, as defined, be open and public and that all persons be permitted to attend and participate in a meeting of a state body, subject to certain conditions and exceptions.

This Bill Would:

- Require that, under Bagley-Keene, a two-member advisory board, commission, committee, subcommittee, or similar multimember advisory body of a state body, is defined as a “state body” if a member of that larger state body sits on the advisory board, commission, committee, subcommittee, or similar multimember advisory body is supported, in whole or in part, by funds provided by the state body.

Background:

According to the author’s office:

“This bill provides much-needed transparency to state government. The Bagley-Keene Act, which sets open meeting requirements for state government, is ambiguous in its definition of which state bodies must comply with Bagley-Keene.” Further, the author states that “the ambiguity of Bagley-Keene has for years provided a loophole for state agencies that create two-member committees and claim they are exempt from opening meeting requirements so long as they do not take action on anything. This bill clarifies Bagley-Keene to state in definite terms that any multimember body that is funded by a state body, created by formal

action, or served by a state official is defined as a state body and falls under the scope of the Bagley-Keene.”

Fiscal Impact:

This bill would subject the activities of two-member advisory committees to the Open Meeting Act, thereby requiring the BCE to hold additional public meetings. Staff and Board Member process changes may occur, particularly if there is a need to travel and manage duties related to public meetings, resulting in a minor, absorbable impact to the BCE.

Support & Opposition:

Support:

- CalAware
- California Association of Licensed Investigators
- California News Publishers Association
- League of Women Voters of California

Opposition:

- California Board of Accountancy

Arguments:

Pro:

- In support, the California Association of Licensed Investigators states, “the provisions [of this bill] would enhance transparency in these meetings, helping to ensure the public is provided critical opportunity to become aware of the issues, proceedings, deliberations, and decisions in these proceedings, and will therefore be able to provide meaningful comments.”
- Californians Aware (CalAware) argues that standing committees should hold open and public meetings because that is where “policy decisions are developed and deliberated in detail and because it is at the committee level [...] that the public, including but not limited to witnesses in support or opposition to a proposal, is able to testify.”

Con:

- The California Board of Accountancy (CBA) asserts that it “recognizes the value of our open meeting laws, and therefore, operates in an open and transparent manner”. However, CBA has also expressed concern “SB 53 may prevent the CBA from conducting certain outreach and communication activities that include more than one-member present, as that may constitute a meeting, and therefore be subject to the Open Meeting Act. This bill would also appear to prohibit two board members meeting together with Legislators in support of any

important consumer protection issues relating to the practice of public accountancy as it would be impractical to publicly notice such visits.”

- Governor Jerry Brown vetoed similar measures in previous years. Governor Brown has argued that “advisory committees do not have the authority to act on their own and must present any findings and recommendations to a larger body in a public formal action.”

Staff Recommended Position: NEUTRAL

AMENDED IN SENATE MARCH 5, 2019

SENATE BILL

No. 53

Introduced by Senator Wilk

~~(Coauthor: Assembly Member Lackey)~~

(Coauthors: Senators Bates, Glazer, Jones, and Portantino)

(Coauthors: Assembly Members Choi, Gallagher, Lackey, Mathis, and Patterson)

December 10, 2018

An act to amend Section 11121 of the Government Code, relating to state government, and declaring the urgency thereof, to take effect immediately.

legislative counsel's digest

SB 53, as amended, Wilk. Open meetings.

The Bagley-Keene Open Meeting Act requires that all meetings of a state body, as defined, be open and public and that all persons be permitted to attend and participate in a meeting of a state body, subject to certain conditions and exceptions.

This bill would specify that the definition of "state body" includes an advisory board, advisory commission, advisory committee, advisory subcommittee, or similar multimember advisory body of a state body that consists of 3 or more individuals, as prescribed, except a board, commission, committee, or similar multimember body on which a member of a body serves in ~~his or her~~ *their* official capacity as a representative of that state body and that is supported, in whole or in part, by funds provided by the state body, whether the multimember body is organized and operated by the state body or by a private corporation.

This bill would declare that it is to take effect immediately as an urgency statute.

Vote: $\frac{2}{3}$. Appropriation: no. Fiscal committee: yes.

State-mandated local program: no.

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

1 SECTION 1. Section 11121 of the Government Code is
 2 amended to read:
 3 11121. As used in this article, “state body” means each of the
 4 following:
 5 (a) Every state board, or commission, or similar multimember
 6 body of the state that is created by statute or required by law to
 7 conduct official meetings and every commission created by
 8 executive order.
 9 (b) A board, commission, committee, or similar multimember
 10 body that exercises any authority of a state body delegated to it by
 11 that state body.
 12 (c) An advisory board, advisory commission, advisory
 13 committee, advisory subcommittee, or similar multimember
 14 advisory body of a state body, if created by formal action of the
 15 state body or of any member of the state body, and if the advisory
 16 body so created consists of three or more persons, except as
 17 provided in subdivision (d).
 18 (d) A board, commission, committee, or similar multimember
 19 body on which a member of a body that is a state body pursuant
 20 to this section serves in ~~his or her~~ *their* official capacity as a
 21 representative of that state body and that is supported, in whole or
 22 in part, by funds provided by the state body, whether the
 23 multimember body is organized and operated by the state body or
 24 by a private corporation.
 25 (e) Notwithstanding subdivision (a) of Section 11121.1, the
 26 State Bar of California, as described in Section 6001 of the
 27 Business and Professions Code. This subdivision shall become
 28 operative on April 1, 2016.
 29 SEC. 2. This act is an urgency statute necessary for the
 30 immediate preservation of the public peace, health, or safety within
 31 the meaning of Article IV of the California Constitution and shall
 32 go into immediate effect. The facts constituting the necessity are:

1 In order to avoid unnecessary litigation and ensure the people's
2 right to access the meetings of public bodies pursuant to Section
3 3 of Article 1 of the California Constitution, it is necessary that
4 this act take effect immediately.

O

Board of Chiropractic Examiners Bill Analysis

Bill Number: SB 425
Author: Senator Jerry Hill
Bill Version: Amended April 30, 2019
Subject: Health Care Practitioners: licensee's file: probationary physician's and surgeon's certificate: unprofessional conduct
Sponsor: Author
Status of Bill: Re-referred to Com. on APPR. Set for hearing May 13, 2019.

Summary:

This bill would require every health facility, clinic or other entity with any arrangement authorizing a licensed health care professional to provide care for patients, to report allegations of sexual abuse and sexual misconduct by a licensed health care practitioner to the appropriate licensing board within 15 days and imposes a fine for failure to report.

Existing Law:

- Establishes various practice acts in the Business and Professions Code (BPC) governed by various licensing boards within the Department of Consumer Affairs (DCA), which provide for the licensing and regulation of health care professionals. (BPC §500)
 - a) Establishes various violations that constitute unprofessional conduct and grounds for disciplinary action, including the commission of any act of sexual abuse, misconduct, or relations with a patient, client, or customer. (BPC § §725 & 726).
 - b) Authorizes licensing boards to deny, suspend, or revoke a license and provides various procedures around the denial, suspension, or revocation of a licensee.
- Requires the chief of staff and chief executive officer, medical director, or administrator of a licensed health care facility to file a report when a licentiate's application for staff privileges or membership is denied, or the licentiate's staff privileges or employment are terminated or revoked for a medical disciplinary cause. (BPC § 805)
- Requires the chief of staff and chief executive officer, medical director, or administrator of a licensed health care facility to file a report within 15 days after the peer review body makes a final decision or recommendation to take disciplinary action against a licentiate that must be reported pursuant to Section 805 of the BPC. (BPC § 805.01)
 - a) This reporting requirement is only required if the recommended action is taken for specific reasons, including sexual misconduct with one or more patients during a course of treatment or an examination. (BPC § 805.01 (b) (4).)
 - b) A willful failure to make the required report is punishable by a fine of \$ 100,000 per violation, and any other failure is punishable by a fine of \$ 50,000. (BPC § 805.01 (g) & (h).)
- Requires healing arts boards to create and maintain a central file of the names of all persons who hold a license and contain an individual historical record for each licensee including, among other things, disciplinary information.

- Specifies that the contents of a central file that are not public records must remain confidential, except that the licensee involved, or their counsel or representative, have the right to inspect and have copies made of the licensee's complete file, other than provisions that could potentially disclose the identity of an information source. In order to protect an information source, a board may either redact the source's identifying information or provide a comprehensive summary of the material.
(BPC § 800)

This Bill Would:

- Require a health facility, clinic or other entity that makes any arrangement under which a healing arts licensee is allowed to practice or provide care for patients, including but not limited to a postsecondary educational institution, to report any allegation of sexual abuse or sexual misconduct made against a healing arts licensee to the relevant state licensing agency within 15 days of receiving the allegation of sexual abuse or sexual misconduct.
 - a) Specify that an arrangement under which a licensee is allowed to practice or provide care for patients includes but is not limited to, full staff privileges, active staff privileges, limited staff privileges, auxiliary staff privileges, provisional staff privileges, temporary staff privileges, courtesy staff privileges, locum tenens arrangements, and contractual arrangements to provide services, including but not limited to, arrangements to provide outpatient services.
- Require the relevant agency to investigate the circumstances underlying a received report.
- Require an employee or healing arts licensee that works in a health facility, clinic or other entity, who has knowledge of any allegation of sexual abuse or sexual misconduct by a licensed health care professional, to file a report with both the licensee's licensing board and the administration of the health facility, clinic or other entity within 15 days of knowing about the allegation of sexual abuse or sexual misconduct.
 - a) Specify that failure of an employee or healing arts licensee to file the report of alleged sexual abuse or sexual misconduct may constitute unprofessional conduct.
- Impose a fine for failure to make the required report.
 - a) The fine for a willful failure is not to exceed \$100,000.
 - b) The fine for any other failure is not to exceed \$50,000.
 - c) The fine may be imposed in any civil or administrative action proceeding, as specified.
- Provide that a person, including an employee or individual contracted or subcontracted to provide health care services, a health facility or clinic, a health care service plan, or other entity, will not incur any civil or criminal liability as a result of making the required report.
- Delete the specification that the summary of the material in a licensee's file be comprehensive.

- **Background:**

According to the author's office:

"This bill closes legal loopholes that can allow a subject of repeated sexual abuse and misconduct complaints to work at a health facility for years because the relevant regulatory board is not notified by the facility of the allegations against a licensee. Allegations of sexual abuse or misconduct must be reported swiftly to the appropriate licensing board for review so that regulators can determine whether to conduct an independent, confidential investigation. State regulatory boards cannot fulfill their responsibilities to protect patients and other consumers, if they are not notified of these serious allegations involving their licensees. The failure to do that shields bad actors while exposing patients to greater risks."

The author notes that in May 2018, an investigation by the *Los Angeles Times* disclosed multiple unresolved complaints of alleged sexual misconduct involving a doctor who worked at the University of Southern California (USC) student health center for almost 30 years. The author states that "none of the prior complaints were reported to the MBC."

The author claims that this issue prompted him, as then-chair of the Senate Business and Professions and Economic Development Committee, to conduct a hearing on sexual misconduct reporting in the medical profession. The author states that "the differing reporting standards for various health facilities were among the issues raised in the hearing. Some health facilities, because of their size or type, have no requirement to report allegations of patient sexual abuse or sexual misconduct involving medical professionals to any licensing board. Other health facilities have in-house peer review groups that decide whether a complaint should be forwarded to the appropriate licensing board."

Fiscal Impact:

The BCE does not anticipate a large increase in enforcement cases as a result of this bill. The fiscal impact is likely minor and absorbable for enforcement and/or for updating regulations, if necessary.

Support & Opposition:

Support:

- Consumer Attorneys of California
- Consumer Watchdog
- Medical Board of California

Opposition:

- California Chapter of the American College of Cardiology
- California Medical Association

Arguments:

Pro:

- The Consumer Attorneys of California (CAOC) asserts that this bill will close loopholes that can allow a subject of repeated sexual abuse and misconduct complaints to work at a health facility for years because the relevant regulatory board is not notified by the facility of the allegations against a licensee. The CAOC states “SB 425 will protect vulnerable populations from individuals who abuse positions of trust”.
- The Consumer Watchdog “recognizes the urgent need for SB 425’s mandate that accusations of doctors’ sexual misconduct or assault of patients be immediately reported to regulators for investigation.” It also claims the failure to investigate multiple, credible allegations of sexual misconduct places thousands of patients in harm’s way.

Con:

- The California Medical Association (CMA) expressed concern over the requirement that every potential complaint, whether or not it is substantiated, actually spoken by the patient, or simply a rumor in a staff break room, be reported to the licensing board of the licensee who is the subject of the complaint.
- Additionally, the CMA and the California Chapter of the American College of Cardiology argue that the provision requiring every healing arts licensee working within a health facility, clinic or other entity report any allegation of sexual abuse or misconduct is extremely problematic and “completely ignores the current, effective peer review process put in place for hospitals by requiring every healing arts licensee working within a hospital to report any complaint of sexual allegation or misconduct that they received, or even knew of. If any licensee fails to do this, they will be levied a disproportionate fine of \$50,000-\$100,000.”

Staff Recommended Position: SUPPORT

SB 425 would ensure the BCE receives timely notification and the opportunity to investigate complaints of sexual abuse or misconduct.

AMENDED IN SENATE APRIL 30, 2019

AMENDED IN SENATE APRIL 11, 2019

SENATE BILL

No. 425

Introduced by Senator Hill

February 21, 2019

An act to amend Sections 800, 2221, and 2234 of, and to add Section 805.8 to, the Business and Profession Code, relating to healing arts.

legislative counsel's digest

SB 425, as amended, Hill. Health care practitioners: licensee's file: probationary physician's and surgeon's certificate: unprofessional conduct.

Existing law requires the Medical Board of California and specified other boards responsible for the licensure, regulation, and discipline of health care practitioners to separately create and maintain a central file of the names of all persons who hold a license, certificate, or similar authority from that board, including prescribed historical information for each licensee. Existing law makes the contents of any central file that are not public records confidential, except that the licensee or their counsel or a representative are authorized to inspect and have copies made of the licensee's complete file other than the disclosure of the identity of an information source. Existing law authorizes a board to protect an information source by providing a copy of the material with only those deletions necessary to protect the identity of the source or by providing a comprehensive summary of the substance of the material.

This bill would delete the specification that the summary be comprehensive.

Existing law establishes a peer review process for certain healing arts licentiates, as defined, and requires the chief of staff of a medical or

professional staff or other chief executive officer, medical director, or administrator of any peer review body and the chief executive officer or administrator of any licensed health care facility or clinic to report specified information, including the denial or revocation of staff privileges, as defined, for a medical disciplinary cause or reason, within 15 days of the denial or revocation to the relevant state licensing agency. Existing law makes a violation of this reporting requirement punishable by a civil fine.

This bill would require any health facility or ~~clinic, administrator or chief executive officer of a health care service plan,~~ *clinic* or other entity that makes any arrangement under which a healing arts licensee is allowed to practice or provide care for patients to report any allegation of sexual abuse or sexual misconduct made against a healing arts licensee to the relevant state licensing agency within 15 days of receiving the allegation and would require the relevant agency to investigate the circumstances underlying a received report. The bill would also require an employee or healing arts licensee that works in a health facility or ~~clinic, health care service plan,~~ *clinic* or other entity with knowledge of any allegation of sexual abuse or sexual misconduct by a healing arts licensee to report to the relevant state agency having jurisdiction over the healing arts licensee and the administration of the health facility or ~~clinic, health care service plan,~~ *clinic* or other entity within 15 days of knowing about the allegation of sexual abuse or sexual misconduct. The bill would make a willful failure to file the report by a health facility or ~~clinic, health care service plan,~~ *clinic* or other entity punishable by a civil fine not to exceed \$100,000 per violation and any other failure to make that report punishable by a civil fine not to exceed \$50,000 per violation, as specified. The bill would also prohibit a person, including an employee or individual contracted or subcontracted to provide health care services, a health facility or ~~clinic, a health care service plan,~~ *clinic* or other entity from incurring civil or criminal liability as a result of making a ~~report.~~ *report if made in good faith.*

The Medical Practice Act establishes the Medical Board of California for the licensure, regulation, and discipline of physicians and surgeons.

The act authorizes the board to deny a physician's and surgeon's certificate to an applicant guilty of unprofessional conduct or of any cause that would subject a licensee to revocation or suspension of their license. The act authorizes the board in its sole discretion to issue a probationary physician's and surgeon's certificate to an applicant subject to terms and conditions.

This bill would require the board to disclose a probationary physician's and surgeon's certificate and the operative statement of issues to an inquiring member of the public and to post the certificate and statement on the board's internet website for 10 years from issuance.

The act requires the board to take action against any licensee who is charged with unprofessional conduct and provides that unprofessional conduct includes the repeated failure by a certificate holder who is the subject of an investigation by the board, in the absence of good cause, to attend and participate in an interview by the board.

This bill would delete the condition that the failure to attend and participate in an interview by the board be repeated. The bill would also delete an obsolete provision.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

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

1 SECTION 1. Section 800 of the Business and Professions Code
2 is amended to read:
3 800. (a) The Medical Board of California, the Podiatric
4 Medical Board of California, the Board of Psychology, the Dental
5 Board of California, the Dental Hygiene Board of California, the
6 Osteopathic Medical Board of California, the State Board of
7 Chiropractic Examiners, the Board of Registered Nursing, the
8 Board of Vocational Nursing and Psychiatric Technicians of the
9 State of California, the State Board of Optometry, the Veterinary
10 Medical Board, the Board of Behavioral Sciences, the Physical
11 Therapy Board of California, the California State Board of
12 Pharmacy, the Speech-Language Pathology and Audiology and
13 Hearing Aid Dispensers Board, the California Board of
14 Occupational Therapy, the Acupuncture Board, and the Physician
15 Assistant Board shall each separately create and maintain a central
16 file of the names of all persons who hold a license, certificate, or
17 similar authority from that board. Each central file shall be created
18 and maintained to provide an individual historical record for each
19 licensee with respect to the following information:
20 (1) Any conviction of a crime in this or any other state that
21 constitutes unprofessional conduct pursuant to the reporting
22 requirements of Section 803.

1 (2) Any judgment or settlement requiring the licensee or the
2 licensee's insurer to pay any amount of damages in excess of three
3 thousand dollars (\$3,000) for any claim that injury or death was
4 proximately caused by the licensee's negligence, error or omission
5 in practice, or by rendering unauthorized professional services,
6 pursuant to the reporting requirements of Section 801 or 802.

7 (3) Any public complaints for which provision is made pursuant
8 to subdivision (b).

9 (4) Disciplinary information reported pursuant to Section 805,
10 including any additional exculpatory or explanatory statements
11 submitted by the licentiate pursuant to subdivision (f) of Section
12 805. If a court finds, in a final judgment, that the peer review
13 resulting in the 805 report was conducted in bad faith and the
14 licensee who is the subject of the report notifies the board of that
15 finding, the board shall include that finding in the central file. For
16 purposes of this paragraph, "peer review" has the same meaning
17 as defined in Section 805.

18 (5) Information reported pursuant to Section 805.01, including
19 any explanatory or exculpatory information submitted by the
20 licensee pursuant to subdivision (b) of that section.

21 (b) (1) Each board shall prescribe and promulgate forms on
22 which members of the public and other licensees or certificate
23 holders may file written complaints to the board alleging any act
24 of misconduct in, or connected with, the performance of
25 professional services by the licensee.

26 (2) If a board, or division thereof, a committee, or a panel has
27 failed to act upon a complaint or report within five years, or has
28 found that the complaint or report is without merit, the central file
29 shall be purged of information relating to the complaint or report.

30 (3) Notwithstanding this subdivision, the Board of Psychology,
31 the Board of Behavioral Sciences, and the Respiratory Care Board
32 of California shall maintain complaints or reports as long as each
33 board deems necessary.

34 (c) (1) The contents of any central file that are not public
35 records under any other provision of law shall be confidential
36 except that the licensee involved, or the licensee's counsel or
37 representative, may inspect and have copies made of the licensee's
38 complete file except for the provision that may disclose the identity
39 of an information source. For the purposes of this section, a board
40 may protect an information source by providing a copy of the

1 material with only those deletions necessary to protect the identity
2 of the source or by providing a summary of the substance of the
3 material. Whichever method is used, the board shall ensure that
4 full disclosure is made to the subject of any personal information
5 that could reasonably in any way reflect or convey anything
6 detrimental, disparaging, or threatening to a licensee’s reputation,
7 rights, benefits, privileges, or qualifications, or be used by a board
8 to make a determination that would affect a licensee’s rights,
9 benefits, privileges, or qualifications. The information required to
10 be disclosed pursuant to Section 803.1 shall not be considered
11 among the contents of a central file for the purposes of this
12 subdivision.

13 (2) The licensee may, but is not required to, submit any
14 additional exculpatory or explanatory statement or other
15 information that the board shall include in the central file.

16 (3) Each board may permit any law enforcement or regulatory
17 agency when required for an investigation of unlawful activity or
18 for licensing, certification, or regulatory purposes to inspect and
19 have copies made of that licensee’s file, unless the disclosure is
20 otherwise prohibited by law.

21 (4) These disclosures shall effect no change in the confidential
22 status of these records.

23 SEC. 2. Section 805.8 is added to the Business and Professions
24 Code, to read:

25 805.8. (a) As used in this section, the following terms shall
26 have the following meanings:

27 (1) “Agency” means the relevant state licensing agency with
28 regulatory jurisdiction over a healing arts licensee listed in
29 paragraph ~~(3)~~. ~~(2)~~.

30 ~~(2) “Health care service plan” means a health care service plan~~
31 ~~licensed under Chapter 2.2 (commencing with Section 1340) of~~
32 ~~Division 2 of the Health and Safety Code.~~

33 ~~(3)~~

34 (2) “Healing arts licensee” or “licensee” means a licensee
35 licensed under Division 2 (commencing with Section 500) or any
36 initiative act referred to in that division. “Healing arts licensee”
37 or “licensee” also includes a person authorized to practice medicine
38 pursuant to Sections 2064.5, 2113, and 2168.

39 ~~(4)~~

1 (3) “Other entity” includes, but is not limited to, a postsecondary
2 educational institution as defined in Section 66261.5 of the
3 Education Code.

4 (b) A health facility or ~~clinic, the administrator or chief~~
5 ~~executive officer of a health care service plan, clinic~~ or other entity
6 that makes any arrangement under which a healing arts licensee
7 is allowed to practice or provide care for patients shall file a report
8 of any allegation of sexual abuse or sexual misconduct made
9 against a healing arts licensee to the agency within 15 days of
10 receiving the allegation of sexual abuse or sexual misconduct. An
11 arrangement under which a licensee is allowed to practice or
12 provide care for patients includes, but is not limited to, full staff
13 privileges, active staff privileges, limited staff privileges, auxiliary
14 staff privileges, provisional staff privileges, temporary staff
15 privileges, courtesy staff privileges, locum tenens arrangements,
16 and contractual arrangements to provide professional services,
17 including, but not limited to, arrangements to provide outpatient
18 services.

19 (c) An employee or a healing arts licensee that works in any
20 health facility or ~~clinic, health care service plan, clinic~~ or other
21 entity that subdivision (b) applies to who has knowledge of any
22 allegation of sexual abuse or sexual misconduct by a healing arts
23 licensee shall file a report with the agency that has regulatory
24 jurisdiction over the healing arts licensee and the administration
25 of the health facility or ~~clinic, health care service plan, clinic~~ or
26 other entity within 15 days of knowing about the allegation of
27 sexual abuse or sexual misconduct.

28 (d) A willful failure to file the report described in subdivision
29 (b) shall be punishable by a fine not to exceed one hundred
30 thousand dollars (\$100,000) per violation. The fine may be imposed
31 in any civil or administrative action or proceeding brought by or
32 on behalf of any agency having regulatory jurisdiction over the
33 licensee regarding whom the report was or should have been filed.
34 If the person who is designated or otherwise required to file the
35 report under this section is a licensed physician and surgeon, the
36 action or proceeding shall be brought by the Medical Board of
37 California. If the person who is designated or otherwise required
38 to file the report required under this section is a licensed doctor of
39 podiatric medicine, the action or proceeding shall be brought by
40 the Podiatric Medical Board of California. The fine shall be paid

1 to that agency, but not expended until appropriated by the
2 Legislature. A violation of this subdivision may constitute
3 unprofessional conduct by the licensee. A person who is alleged
4 to have violated this subdivision may assert any defense available
5 at law. As used in this subdivision, “willful” means a voluntary
6 and intentional violation of a known legal duty.

7 (e) Except as provided in subdivision (d), any failure to file the
8 report described in subdivision (b) shall be punishable by a fine
9 not to exceed fifty thousand dollars (\$50,000) per violation. The
10 fine may be imposed in any civil or administrative action or
11 proceeding brought by or on behalf of any agency having
12 regulatory jurisdiction over the person regarding whom the report
13 was or should have been filed. If the person who is designated or
14 otherwise required to file the report required under this section is
15 a licensed physician and surgeon, the action or proceeding shall
16 be brought by the Medical Board of California. If the person who
17 is designated or otherwise required to file the report required under
18 this section is a licensed doctor of podiatric medicine, the action
19 or proceeding shall be brought by the Podiatric Medical Board of
20 California. The fine shall be paid to that agency, but not expended
21 until appropriated by the Legislature. The amount of the fine
22 imposed, not exceeding fifty thousand dollars (\$50,000) per
23 violation, shall be proportional to the severity of the failure to
24 report and shall differ based upon written findings, including
25 whether the failure to file caused harm to a patient or created a
26 risk to patient safety; whether any person who is designated or
27 otherwise required by law to file the report required under this
28 section exercised due diligence despite the failure to file or whether
29 the person knew or should have known that a report required under
30 this section would not be filed; and whether there has been a prior
31 failure to file a report required under this section. The amount of
32 the fine imposed may also differ based on whether a health care
33 facility or clinic is a small or rural hospital as defined in Section
34 124840 of the Health and Safety Code.

35 (f) A person, including an employee or individual contracted
36 or subcontracted to provide health care services, a health facility
37 or clinic, ~~a health care service plan~~, or other entity shall not incur
38 any civil or criminal liability as a result of making a report required
39 by this ~~section~~. *section if made in good faith.*

1 (g) The agency shall investigate the circumstances underlying
2 a report received pursuant to this section.

3 SEC. 3. Section 2221 of the Business and Professions Code is
4 amended to read:

5 2221. (a) The board may deny a physician's and surgeon's
6 certificate to an applicant guilty of unprofessional conduct or of
7 any cause that would subject a licensee to revocation or suspension
8 of their license. The board, in its sole discretion, may issue a
9 probationary physician's and surgeon's certificate to an applicant
10 subject to terms and conditions, including, but not limited to, any
11 of the following conditions of probation:

12 (1) Practice limited to a supervised, structured environment
13 where the licensee's activities shall be supervised by another
14 physician and surgeon.

15 (2) Total or partial restrictions on drug prescribing privileges
16 for controlled substances.

17 (3) Continuing medical or psychiatric treatment.

18 (4) Ongoing participation in a specified rehabilitation program.

19 (5) Enrollment and successful completion of a clinical training
20 program.

21 (6) Abstention from the use of alcohol or drugs.

22 (7) Restrictions against engaging in certain types of medical
23 practice.

24 (8) Compliance with all provisions of this chapter.

25 (9) Payment of the cost of probation monitoring.

26 (b) The board may modify or terminate the terms and conditions
27 imposed on the probationary certificate upon receipt of a petition
28 from the licensee. The board may assign the petition to an
29 administrative law judge designated in Section 11371 of the
30 Government Code. After a hearing on the petition, the
31 administrative law judge shall provide a proposed decision to the
32 board.

33 (c) The board shall deny a physician's and surgeon's certificate
34 to an applicant who is required to register pursuant to Section 290
35 of the Penal Code. This subdivision does not apply to an applicant
36 who is required to register as a sex offender pursuant to Section
37 290 of the Penal Code solely because of a misdemeanor conviction
38 under Section 314 of the Penal Code.

39 (d) An applicant shall not be eligible to reapply for a physician's
40 and surgeon's certificate for a minimum of three years from the

1 effective date of the denial of their application, except that the
2 board, in its discretion and for good cause demonstrated, may
3 permit reapplication after not less than one year has elapsed from
4 the effective date of the denial.

5 (e) The board shall disclose a probationary physician's and
6 surgeon's certificate issued pursuant to this section and the
7 operative statement of issues to an inquiring member of the public
8 and shall post the certificate and statement on the board's internet
9 website for 10 years from issuance.

10 SEC. 4. Section 2234 of the Business and Professions Code is
11 amended to read:

12 2234. The board shall take action against any licensee who is
13 charged with unprofessional conduct. In addition to other
14 provisions of this article, unprofessional conduct includes, but is
15 not limited to, the following:

16 (a) Violating or attempting to violate, directly or indirectly,
17 assisting in or abetting the violation of, or conspiring to violate
18 any provision of this chapter.

19 (b) Gross negligence.

20 (c) Repeated negligent acts. To be repeated, there must be two
21 or more negligent acts or omissions. An initial negligent act or
22 omission followed by a separate and distinct departure from the
23 applicable standard of care shall constitute repeated negligent acts.

24 (1) An initial negligent diagnosis followed by an act or omission
25 medically appropriate for that negligent diagnosis of the patient
26 shall constitute a single negligent act.

27 (2) When the standard of care requires a change in the diagnosis,
28 act, or omission that constitutes the negligent act described in
29 paragraph (1), including, but not limited to, a reevaluation of the
30 diagnosis or a change in treatment, and the licensee's conduct
31 departs from the applicable standard of care, each departure
32 constitutes a separate and distinct breach of the standard of care.

33 (d) Incompetence.

34 (e) The commission of any act involving dishonesty or
35 corruption that is substantially related to the qualifications,
36 functions, or duties of a physician and surgeon.

37 (f) Any action or conduct that would have warranted the denial
38 of a certificate.

39 (g) The failure by a certificate holder, in the absence of good
40 cause, to attend and participate in an interview by the board. This

1 subdivision shall only apply to a certificate holder who is the
2 subject of an investigation by the board.

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17. Update, Discussion and Possible Action on the Federal “Sports Medicine Licensure Clarity Act 2018”

Will be provided as a supplemental handout at the Board meeting.

**Agenda Item 18
May 21, 2019**

Update, Discussion and Possible Action on Pending Rulemaking

Purpose of the item

The Board will receive a status update on pending regulatory proposals.

Action(s) requested

No action requested.

Background

The Board currently has ten regulatory proposals in various stages of completion.

Pursuant to recently enacted state law, AB 2138 ¹ and SB 1448 ², the Board will develop regulations that conform to new statutory mandates.

Additionally, staff are actively working on changes to the Continuing Education and the Uniform Standards and Disciplinary Guidelines regulations.

Legal counsel returned the Delegation of Authority and Consumer Protection Enforcement Initiative packages after completion of the initial review. Staff will now make necessary changes and assemble these two files for submission to the Office of Administrative Law for notice.

Recommendation(s)

No recommendations.

Next Step

N/A

Attachment(s)

1. BCE regulation tracking sheet
2. BCE regulation summary sheet

¹ Assembly Bill 2138 (Chiu/Low) – Denial of Application: Revocation or Suspension Licensure: Criminal Conviction. This bill was enacted as Stats. 2018, ch. 995

² Senate Bill 1448 (Hill) – Probation Status: Disclosure. This bill was enacted as Stats. 2018, ch. 570

Group A – Legislatively Mandated		Status
1	Denial of Application - Revocation or Suspension of Licensure (CCR Sections 304, 317, 321 and 326)	Staff drafted and legal approved proposed language
2	Probation Status Disclosure (CCR Section 384)	Staff drafted and legal approved proposed language
3	Consumer Protection Enforcement Initiative	Legal counsel completed the initial review of the rulemaking file. Package is with the Board for further revisions.
4	Revisions to BCE Disciplinary Guidelines & Uniform Standards for Substance Abusing Licensees	Package under development at the Board.
5	Sponsored Free Health Care Events - Repeal CCR Article 1.5 (Sections 309-309.4)	Not commenced
Group B		Status
1	Revisions to Curriculum requirements and approval of programs (CCR Article 4, Sections 330 – 331.16)	Curriculum Committee is working with stakeholders to develop this package. Chiropractic Colleges have submitted recommended changes regarding this regulatory proposal.
2	Continuing Education Requirements (CE Provider and Course Approval) / Mandatory Cardiopulmonary Resuscitation (CPR) Certification for all licensees	Package under development at the Board. Committee is currently working through policy issues regarding this regulatory proposal.
3	Delegation of Authority to the Assistant Executive Officer	Legal counsel completed the initial review of the rulemaking file. Package is with the Board for further revisions.
Group C		Status
1	Chiropractic Records Retention/Disposition of Patient Records Upon Closure of Practice or Death/Incapacity of Licensee	Approved rulemaking process 4/16/15
2	Amend or Repeal CCR Section 354 - Successful Examination (Obsolete provision)	Not commenced

<u>Proposed Regulation</u>	<u>Proposed Change(s)</u>
Denial of Application - Revocation or Suspension of Licensure (CCR Sections 304, 317, 321 and 326)	Effective July 1, 2020, the BCE's application for licensure, as well as other existing regulations, will be amended to comply with new legislation, AB 21381 ¹ , which will limit the Board's discretion in using prior criminal history (convictions or underlying acts) as grounds for licensing determinations and establish new prohibitions relating to the denial, suspension, and revocation of licensure. Additionally, the BCE will need to develop denial criteria, review and possibly amend existing rehabilitation criteria.
Probation Status Disclosure (CCR Section 384)	Effective July 1, 2019, a new statute, SB 1448 ² , requires licensees placed on probation to notify all patients of their probationary status. The BCE's proposed regulation would add CCR section 325.2 requiring licensees on probation to provide a patient notification form, developed by the BCE, to all patients, which would ensure greater consumer protection and consistency with the provisions of BPC, section 1007 (a).
Consumer Protection Enforcement Initiative	The proposed changes would add or amend 12 sections within the California Code of Regulations that would establish stricter reporting and disclosure requirements by licensees and applicants and increase the BCE's enforcement authority and access to critical information for use in investigations.
Revisions to BCE Disciplinary Guidelines & Uniform Standards for Substance Abusing Licensees	The BCE's Disciplinary Guidelines are being revised to streamline the enforcement process and provide greater protection to consumers. Additionally, the BCE will need to review and possibly amend the SB 1441 Uniform Standards for Substance Abusing Licensees. Ultimately, the Uniform Standards will be incorporated by reference into the Board's Disciplinary Guidelines.
Sponsored Free Health Care Events - Repeal CCR Article 1.5, Sections 309-309.4	AB 512 (Rendon): Licensure Exemption, which was enacted as Stats. 2013, ch. 111, ceased having effect January 1, 2018. No further legislation action has been taken to extend this law. The Board will need to repeal CCR Article 1.5 Sponsored Free Health Care Events
Revisions to Curriculum requirements and approval of programs (CCR Article 4, Sections 330 – 331.16)	
CE Requirements (CE Provider and Course Approval)	
Delegation of Authority to the Assistant Executive Officer	The proposed regulation would delegate to the Board's Assistant Executive Officer the authority to approve settlement agreements for revocation, surrender, and interim suspension of a license, or allow the Executive Officer to delegate this function to another designee.
Chiropractic Records Retention/Disposition of Patient Records Upon Closure of Practice or Death/Incapacity of Licensee (Amendment to CCR Sections 312.2 and 318)	
Amend or Repeal CCR Section 354 - Successful Examination (Obsolete provision)	

¹ Assembly Bill 2138 (Chiu/Low – Licensing Boards: Denial of Application: Revocation or Suspension of Licensure: Criminal Conviction). This bill was enacted as Stats. 2018, ch. 995

² Senate Bill 1448 (Hill – Healing Arts Licensees: Probation Status: Disclosure) This bill was enacted as Stats. 2018, ch. 570

