BOARD of CHIROPRACTIC EXAMINERS
STATE OF CALIFORNIA

BUSINESS, CONSUMER SERVICES AND HOUSING AGENCY • GAVIN NEWSOM, GOVERNOR
DEPARTMENT OF CONSUMER AFFAIRS • CALIFORNIA BOARD OF CHIROPRACTIC EXAMINERS
901 P St., Suite 142A, Sacramento, CA 95814
P (916) 263-5355 | Toll-Free (866) 543-1311 | F (916) 327-0039 | www.chiro.ca.gov

NOTICE OF BOARD MEETING

Radisson Hotel Oakland Airport
8400 Edes Avenue, Embarcadero Ballroom
Oakland, CA 94621
Front Desk (510) 969-2490
October 24, 2019
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 an hour lunch, immediately following the Petitioner Hearings and Closed Session.The Board will resume normal business matters at 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. Ku Il Lee Case No. AC 2013-976

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

4. **Hearing Re: Petition for Early Termination of Probation**
   A. Walker Scott Case No. AC 2016-1089

5. **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) 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

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

6. **Open Session: Announcements Regarding Closed Session**

7. **Chair's Report**
   Update on the Chair's Activities and Board's accomplishments and/or goals

8. **Approval of July 25, 2019, Board Meeting Minutes**

9. **Ratification of Approval of License Applications**

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

11. **Ratification of Approved Continuing Education Providers**

12. **Election of Board Officers for 2020. The Board Will Initiate Nomination Procedures for Board Officer Positions: Chair, Vice Chair, and Secretary.** Board members can either self-nominate or nominate other members. Voting will take place at the first meeting in 2020.

13. **Executive Officer's Report**
    A. Administration - Board staffing/organizational chart
    B. Budget - Fund condition update
    C. Licensing - Statistical trends
    D. Enforcement - Statistical trends
    E. OIS - Update

14. **Update, Discussion and Possible Action on Stem Cell and Regenerative Therapy Task Force Meeting by the Medical Board**

15. **Update, Review, Discussion and Possible Action on Long Term Healing Arts Programs Licensing Trends**

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

16. **Update, Review, Discussion and Possible Action on Licensing & Continuing Education Committee Meeting Agenda** Board may act on any item on the attached Licensing & Continuing Education Committee meeting agenda.

17. **Update, Discussion and Possible Action on Government & Public Affairs Committee Meeting Agenda** Board may act on any item on the attached Government & Public Affairs meeting agenda.

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

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 16 CCR Section 309-309.4
F. Revisions to Curriculum Requirements and Approval of Programs (16 CCR 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 16 CCR Section 354- Successful Examination (Obsolete provision)

19. Review, Discussion and Possible Action Regarding the Proposed 2020 Board Meeting Schedule

20. 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 at 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.

21. 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 Section 11125.]

22. Adjournment

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

The meeting facilities are accessible to individuals with physical disabilities. A person who needs a disability-related accommodation or modification 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.

BOARD of CHIROPRACTIC EXAMINERS
STATE OF CALIFORNIA

BUSINESS, CONSUMER SERVICES AND HOUSING AGENCY • GAVIN NEWSOM, GOVERNOR
DEPARTMENT OF CONSUMER AFFAIRS • CALIFORNIA BOARD OF CHIROPRACTIC EXAMINERS
901 P St., Suite 142A, Sacramento, CA 95814
P (916) 263-5355 | Toll-Free (866) 543-1311 | F (916) 327-0039 | www.chiro.ca.gov

NOTICE OF TELECONFERENCE
LICENSING & CONTINUING EDUCATION COMMITTEE MEETING

August 22nd, 2019

12 p.m. – 1:30 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 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)

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

Heather Dehn, D.C.
Dehn Chiropractic
4343 Marconi Ave., #5
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. **Approval of June 28, 2019 Committee Meeting Minutes**

3. **Review, Discussion and Possible Action on proposed language to Continuing Education regulations: Denial & Appeal of Providers and Denial & Appeal of Continuing Education Courses.**

4. **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.

5. **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.]

6. **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.

BOARD of CHIROPRACTIC EXAMINERS
STATE OF CALIFORNIA

BUSINESS, CONSUMER SERVICES AND HOUSING AGENCY • GAVIN NEWSOM, GOVERNOR
DEPARTMENT OF CONSUMER AFFAIRS • CALIFORNIA BOARD OF CHIROPRACTIC EXAMINERS
901 P St., Suite 142A, Sacramento, CA 95814
P (916) 263-5355 | Toll-Free (866) 543-1311 | F (916) 327-0039 | www.chiro.ca.gov

NOTICE OF TELECONFERENCE
LICENSING & CONTINUING EDUCATION COMMITTEE MEETING
October 10, 2019
4 p.m. – 5 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 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)

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

Heather Dehn, D.C.
Dehn Chiropractic
4343 Marconi Ave., #5
Sacramento, CA 95821
(916) 488-0202

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

Life Chiropractic College West
Postgraduate & Continuing Education, Room 136
25001 Industrial Blvd.
Hayward, CA 94545
(510) 780-4500 ext. 2030

Palmer College of Chiropractic
90 E. Tasman Dr., Room 121
San Jose, CA 95134
(408) 944-6000

Southern California University of Health Sciences
'Z' Building
16200 Amber Valley Drive,
Whittier CA. 90604
(800) 221-5222 ext. 366

AGENDA

1. **Call to Order & Establishment of a Quorum**

2. **Approval of August 22nd, 2019 Committee Meeting Minutes**

3. **Review, Discussion and Possible Action on Proposed Language to Continuing Education Regulations: Continuing Education Courses**

4. **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.

5. 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.]

6. 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.

NOTICE OF TELECONFERENCE
GOVERNMENT & PUBLIC AFFAIRS COMMITTEE MEETING

August 27, 2019
12 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 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, Discussion and Possible Action Regarding AB 5 (Gonzalez) Worker Status: Employees and Independent Contractors**
3. **Review, Discussion and Possible Action Regarding AB 1076 (Ting) Criminal Records: Automatic Relief**
4. **Review, Discussion and Possible Action Regarding SB 53 (Wilk) Open Meetings**
5. **Review, Discussion and Possible Action Regarding SB 425 (Hill) Health Care Practitioners: Licensee's File: Probationary Physician's and Surgeon's Certificate: Unprofessional Conduct**

6. 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.

4. 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.]

5. 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.

Agenda Item 8
October 24, 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 July 25, 2019, Board Meeting minutes.

Background

N/A

Recommendation(s)

N/A

Next Step

N/A

Attachment(s)

- Meeting minutes from the July 25,2019, Board Meeting.

BOARD of CHIROPRACTIC EXAMINERS
STATE OF CALIFORNIA

BUSINESS, CONSUMER SERVICES AND HOUSING AGENCY • GAVIN NEWSOM, GOVERNOR
DEPARTMENT OF CONSUMER AFFAIRS • CALIFORNIA BOARD OF CHIROPRACTIC EXAMINERS
901 P St., Suite 142A, Sacramento, CA 95814
P (916) 263-5355 | Toll-Free (866) 543-1311 | F (916) 327-0039 | www.chiro.ca.gov

BOARD OF CHIROPRACTIC EXAMINERS
PUBLIC SESSION MINUTES

July 25, 2019
The Bristol Hotel
1055 First Avenue, City Scene Room
San Diego, CA 92101

DRAFT

Board Members Present
Sergio Azzolino, D.C., Chair
Dionne McClain, D.C., Vice Chair
Frank Ruffino, Secretary
Corey Lichtman, D.C.
David Paris, D.C.

Staff Present
Robert Puleo, Executive Officer
Marcus McCarther, Assistant Executive Officer
Michael Kanotz, Senior Attorney
Dixie Van Allen, Staff Services Manager I
Kristin Walker, Staff Services Manager I
Valerie James, Staff Services Analyst
Andreia McMillen, Associate Government Program Analyst

Call to Order
Dr. Azzolino called the meeting to order at 9:03 a.m.

Roll Call
Mr. Ruffino called the roll. All members, except Dr. Dehn, were present. A quorum was established.

Pledge of Allegiance
Mr. Ruffino led the Pledge of Allegiance.

Hearing Re: Petition for Reinstatement of Revoked License

Administrative Law Judge, Debra Nye-Perkins, presided over and Deputy Attorney General, Tory Polin, appeared on behalf of the people of the State of California on the following hearings:

A. Phu Ba Nguyen Case No. AC 2004-405

Hearing Re: Petition for Early Termination of Probation

Administrative Law Judge, Debra Nye-Perkins, presided over and Deputy Attorney General, Tory Polin, appeared on behalf of the people of the State of California on the following hearings:

A. Mohamed El-Shimey Case No. AC 2016-1067

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 Section 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

Open Session

The Board went back into Open Session.

Chair's Report

Dr. Azzolino commended staff on all their hard work for the Board meeting. Dr. Azzolino and Mr. Puleo had recently met with members of the press who were conducting research on stem cell use in chiropractic offices. Dr. Azzolino wished to remind the profession that chiropractors were unable to practice injections in their profession.

Approval of May 21, 2019 Board Meeting Minutes

MOTION: DR. LICHTMAN MOVED TO APPROVE THE MINUTES OF THE MAY 21, 2019 BOARD MEETING.
SECOND: DR. PARIS SECONDED THE MOTION.

Discussion: There was none.

DRAFT

VOTE: 4-0, 1 - ABSENT(DR. AZZOLINO-AYE, MR. RUFFINO-AYE, DR. LICHTMAN-AYE, DR. PARIS-AYE, DR. MCCLAIN - ABSENT).
MOTION: CARRIED.

Ratification of Approval of License Applications

MOTION: DR. LICHTMAN MOVED TO RATIFY THE APPROVED LICENSE APPLICATIONS.
SECOND: DR. AZZOLINO SECONDED THE MOTION.

Discussion: There was none.

VOTE: 4-0, 1 - ABSTAINED (DR. AZZOLINO-AYE, DR. MCCLAIN – ABSTAIN, MR. RUFFINO-AYE, DR. LICHTMAN-AYE, DR. PARIS-AYE).
MOTION: CARRIED.

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

There was none.

Ratification of Approved Continuing Education Providers

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

Discussion: There was none.

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

Executive Officer's Report

A. Administration - Board staffing/organizational chart

Mr. Puleo announced that Tammi Pitto has accepted the Associate Government Program Analyst position in the Enforcement Unit. Additionally, there were a few staff position vacancies that would remain unfilled due to budget restrictions.

B. Budget - Fund Condition update

DRAFT

Mr. Puleo reviewed the Fund Condition Report. There had been some recent unanticipated expenses, as the Attorney General's Office had increased their fees. These factors could potentially lead the Board to increase their own fees.

C. Licensing - Statistical trends

Ms. Dixie Van Allen reported on the Licensing Trends Report, there had been a decrease in the total population for licensed chiropractors. The total number of cancelled licensees has surpassed the total amount of new licenses and restored licenses.

Mr. Puleo advised the Board that staff was monitoring the numbers closely, as this could greatly affect the Board's overall budget and efforts.

Dr. Azzolino asked if staff had communicated these findings to the Federation of Chiropractic Licensing Boards (FCLB).

Mr. Puleo agreed that staff had been in communication with FCLB and could share these fiscal statistics with them.

Dr. Azzolino hoped FCLB would also share similar information from other states, to determine if there was a national trend in decreasing licensee populations.

Public Comment: Dr. Jonathon Egan, Dean of Southern California University of Health Sciences, questioned if the Board knew how long the average licensee kept their license active prior to cancellation.

Ms. Van Allen responded that the Board did not. The statistics only reflected clear and active licenses, not inactive licenses.

Dr. Egan was also curious about statistics related to individuals who retire from the profession.

Ms. Van Allen shared that within the current regulations and database, there was not a listed retirement status and therefore the Board could not track those individuals.

Mr. Puleo stated that the Department of Consumer Affairs (DCA) could potentially assist in creating a report that would track the length of time an individual held a license before a license was cancelled.

Dr. McClain suggested that Board staff identify the items the Board felt was lacking from their current technology system, in order to ensure the new system had all the capabilities staff needed.

Mr. McCarther agreed and had been working closely with DCA's Office of Information Services (OIS) to identity all the needed functionality from the new technology system.

DRAFT

DCA had launched a new reporting system in the past year that Mr. McCarther would look into to determine if it could pull statistical data that could help with these questions.

Dr. Azzolino requested statistical information regarding licensees across healthcare specialties within California.

Public Comment: Dr. Christopher Green, chiropractor, shared that the FCLB website contains licensing statistical information from 2017 and 2018.

D. Enforcement - Statistical trends

Ms. Kristin Walker provided an update regarding statistical trends for the Enforcement Unit from fiscal year 2018/2019. Complaints received have increased, primarily due to failed Continuing Education (CE) audits. Additionally, Pending Complaints have increased, not solely as a result of CE audits, but with vacancies in the Enforcement Unit and training of new staff members.

Mr. Puleo wished to point out that the high volume of Pending Complaints was in part due to the influx in CE audits the Board was conducting. As a current priority of the Board, the numbers should surge and go down over time and is not reflective of a backlog in work from the unit.

Dr. Azzolino commended Ms. Walker and the Enforcement team on their hard work. He also inquired if the Board could assist in mitigating the number of failed CE audits.

Ms. Walker felt that heightened awareness by licensees was needed for them to meet all the CE requirements. There were very few licensees who blatantly refused to complete any CE courses, but rather, licensees were missing certain components of the requirements; mandatory subject areas or not completing the total number of hours.

Mr. McCarther shared that Ethics and Law was a frequently missed mandatory subject area and felt if more CE Providers offered Ethics and Law as a course, it would be more readily available to all licenses.

Dr. Azzolino wished to state for the record that Board Members were not a part of the selection process for CE audits and had no idea whom would be selected for an audit.

Public Comment: Dr. Egan stated that he thought CE tracking would be a future component to the Board's new technology system.

Mr. Puleo agreed that it was a future goal.

E. Technology update

Mr. McCarther provided an update on the Business Modernization Project, DCA would soon be accepting bids from vendors for the project. Most importantly the Board will

DRAFT

likely see deliverables in May 2020, including online complaint submission, online initial licensure application, and online license renewals. Mr. McCarther was also working with DCA on another project to allow for online renewal payments, forecasted to be available to the public in the next three months.

F. Travel Claim Process

Mr. Puleo reminded Board Members of the process to complete the Travel Claim Worksheet and the timeline for submitting forms to Board staff.

Review, Discussion and Possible Action on Naming of Chiropractic Practices

Mr. Kanotz provided a synopsis of the Moscone-Knox Professional Corporation Act and the naming conventions prescribed for sole chiropractic practitioners versus corporations.

Dr. Azzolino inquired as to the rationale in allowing sole practitioners more freedom in naming businesses, when corporations are more heavily regulated.

Mr. Kanotz could not determine a reason for this difference.

Dr. Azzolino inquired whether other healthcare boards require a sole practitioner to complete 'Doing Business As' (DBA) forms.

Mr. Kanotz was not aware.

Mr. Puleo agreed that there were currently no provisions in the Chiropractic Act that required a sole practitioner to clearly identify themselves as a chiropractor in their business names, they have much more freedom in naming conventions of their practices.

Mr. Ruffino inquired about the supplemental handout for the agenda item.

Mr. Kanotz will be emailing the Board Members some additional information.

Dr. Azzolino expressed interest in receiving additional information in business naming requirements from the other healthcare boards.

Public Comment: Dr. Ana Facchinato Campos, Director of Community Based Clinical Education at Southern California University of Health Sciences, asked if there were business naming requirements for inter-professional practices.

Mr. Kanotz responded that the Moscone-Knox Act did cover requirements as the inter-professional business would need to become incorporated and follow the naming conventions of a corporation.

DRAFT

Update, Discussion and Possible Action on June 28, 2019 Licensing & Continuing Education Committee Meeting

Dr. McClain provided an update regarding the June 28th Licensing & Continuing Education (CE) Committee Meeting. The Committee reviewed the CE meta-competencies as they related to the 14 subject areas previously discussed by the Committee. The Committee discussed potentially editing the mandatory hours requirements for Ethics and Law by incorporating sexual boundaries, professional boundaries and record keeping. Additionally, the Committee reviewed proposed draft language for CE Sections 360 – 366.

Dr. Azzolino shared his support in requiring all chiropractors and all healthcare professionals to participate in some sort of sexual harassment or sensitivity training. He would like to encourage DCA to facilitate an online training for all healthcare licensees.

Mr. McCarther stated that DCA's Solid Training and Development Unit had created similar content for other boards. Mr. McCarther's goal was to have an online CE course created for the Board to cover sexual harassment, professional boundaries, ethics and law.

Dr. Azzolino expressed that there had been some resistance amongst chiropractors in mandating this type of training but reiterated his interest in pursing this in an effort educate the profession and protect the public.

Mr. McCarther agreed that some practitioners were concerned over the perception of mandating a course focused on sexual boundaries but combined with an ethics and law course licensees would be achieving their mandatory subject area and the Board would be fulfilling their objective to protect the public.

Dr. McClain inquired into the timeline for a course from Solid.

Mr. McCarther responded that September or October would be the soonest the department would be able to work with the Board on this project.

Mr. Ruffino added that Assembly Member Lorena Gonzalez passed a bill mandating sexual harassment training for all California employers, depending on the organization's size.

Mr. McCarther responded that staff would look into the bill.

Update, Discussion and Possible Action on Legislation

Ms. McMillen reviewed updates on the bills the Board had previously voted to support.

DRAFT

Additionally, she reviewed updates on the bills the Board had previously voted to oppose.

Dr. Azzolino addressed his fellow Board Members with his concerns regarding AB 888 (Low) Opioid Prescriptions: Information: Nonpharmacological treatments for pain. The purview of the bill allowed for the oversight of another regulatory Board's licensees which has led to his unease.

Dr. Paris inquired if the Medical Board had previously required any verbal or written informed consent for patients and if AB 888 would be the first time to require them to do so.

Ms. McMillen agreed and stated that had been a concern raised in the Senate Committee.

Public Comment: Dr. Green shared that the New Mexico Chiropractic Board was facing a similar discussion regarding informed consent.

Update, Discussion and Possible Action on Pending Rulemaking

Ms. McMillen shared that staff had submitted the Denial of Application, Revocation or Suspension of Licensure rulemaking packet to the Board's legal counsel for review. The Probation Status Disclosure packet was currently being reviewed by management and staff anticipated submitting it to legal in the near future.

Public Comment for Items Not on the Agenda

Public Comment: A member of the public suggested having Board approved CE Providers required to allocate a certain amount of their coursework hours to mandatory subject areas such as ethics and law.

Mr. Puleo stated that the suggestion could be proposed to the Licensing & CE Committee.

Future Agenda Items

There was none.

Adjournment

Dr. Azzolino adjourned the meeting at 2:32 p.m.

DRAFT

(ATTACHMENT A)

Approval by Ratification of Formerly Approved License Applications between April 1, 2019 and June 30, 2019.

Name (First, Middle, Last)			Date Issued	DC#
Kerri	Ellen	Ward	4/3/2019	**34517**
Lucas	Ivan	Paredes	4/5/2019	**34518**
Dustin	Stephen	Marlow	4/5/2019	**34519**
Shea	Ashley	Stark	4/5/2019	**34520**
Darren		Siu	4/8/2019	**34521**
Ashley	Jordan	Murry	4/8/2019	**34522**
Ryan	James	Wasmund	4/11/2019	**34523**
Klinton	James	Kranski	4/17/2019	**34524**
Melinda	Noelle	Marqui	4/22/2019	**34525**
Jung	Hyun	Um	4/22/2019	**34526**
Stacy Summer	Cantero	Malimban	4/23/2019	**34527**
Amana		Wang	4/24/2019	**34528**
Corinne	Nicole	Alexander	4/25/2019	**34529**
Emily	Lorraine	Fry	4/25/2019	**34530**
Jacob	Lee	Maurer	4/30/2019	**34531**
Eunice	Hee	Nam	4/30/2019	**34532**
Brennen	Scott	Clement	5/8/2019	**34533**
Robert	Lee	Dubinick Jr.	5/8/2019	**34534**
Jacob	Nathan	Bartelt	5/8/2019	**34535**
Morgan	Anita	Cark	5/8/2019	**34536**
Danielle	Elizabeth	Diaz	5/8/2019	**34537**
Moses		Villarreal	5/9/2019	**34538**
Jamie	Katelyn	Pestana	5/9/2019	**34539**
Gianfranco		Calafiore	5/24/2019	**34540**
Surdeep	Singh	Dhaliwal	5/24/2019	**34541**
Kelsey	Elizabeth	Bjola	5/24/2019	**34542**
Jonathan	David	Adams	5/24/2019	**34543**
Tory	Nicole	Huey	5/24/2019	**34544**
Brian	David	Glynn	5/31/2019	**34545**
Rachael	Alicia	Knopf	5/31/2019	**34546**
Peter	Joseph	Quigley	5/31/2019	**34547**
Anthony	John	Schuller	5/31/2019	**34548**
Xavier	Antonio	Ortiz-Ramirez	5/31/2019	**34549**
CJ	Marie	Jarvis	5/31/2019	**34550**
Mike		Liu	5/31/2019	**34551**

DRAFT

Courtney	Lynn	Rokowski	5/31/2019	**34552**
Kristine	Malisa	Loharun	5/31/2019	**34553**
Rafael	Jesus	Zamora	5/31/2019	**34554**
David	Robert	Sedghi	5/31/2019	**34555**
Ariel	Morgan	Weishoff	5/31/2019	**34556**
Patrick	Kasey	Pierce	5/31/2019	**34557**
Larissa	Ann	Sternberger	5/31/2019	**34558**
Christina		Vo-Nguyen	6/5/2019	**34559**
Eric	Alexander	Pinto	6/5/2019	**34560**
Yoon	Chul	Choi	6/5/2019	**34561**
Jongrak		Jung	6/7/2019	**34562**
Tyler	George	Bigenho	6/7/2019	**34563**
Christopher	Michael	Pruter	6/7/2019	**34564**
Tomy		Ton	6/7/2019	**34565**
Raul	Gilbert	Ramirez	6/12/2019	**34566**
Hudson	Brian	Taylor	6/12/2019	**34567**
Bradley	Adam	Fitzgerald	6/12/2019	**34568**
Wyatt	Richard	Kissling	6/12/2019	**34569**
Alyssa	Mae	Sollenberger	6/12/2019	**34570**
Annie	Somi	Lee	6/12/2019	**34571**
Deanna	Margaret	Mendelsohn	6/14/2019	**34572**
Khodayar	Ashrafi	Khatiblou	6/14/2019	**34573**
Kathy	Pham	Huynh	6/14/2019	**34574**
Kelsie	Ann	Miller	6/18/2019	**34575**
Ashley	Nicole	Freidel	6/18/2019	**34576**
Mohammed	Alhadi	Jawad	6/19/2019	**34577**
Katarina	Paige	Rigali	6/19/2019	**34578**
Chieh-Hsin		Chen	6/19/2019	**34579**
Jamie	Marie	Smoak	6/19/2019	**34580**
Sun	Pil	Hwang	6/21/2019	**34581**
Chan	Young	Choi	6/21/2019	**34582**
Gene	Kou	Xiong	6/21/2019	**34583**
Robert	Baker	Hoffman	6/27/2019	**34584**
Mariya		Norkina	6/27/2019	**34585**
Shane	T	Kenning	6/27/2019	**34586**

DRAFT

(ATTACHMENT B)

Pending Ratification to Approve New Continuing Education Providers

Provider Name: ParticipAid **CE Oversight Contact Person:** Lindsey Stevens **Provider Status:** Individual	**Provider Name:** Richard Robertshaw, D.C. **CE Oversight Contact Person:** Richard Robertshaw **Provider Status:** Individual
Provider Name: Atousa Mahdavi D.C. **CE Oversight Contact Person:** Mark Algee **Provider Status:** Individual	**Provider Name:** Carol J Phillips D.C. **CE Oversight Contact Person:** Carol Phillips **Provider Status:** Individual
Provider Name: Julie Waterman **CE Oversight Contact Person:** Mark Algee **Provider Status:** Individual	**Provider Name:** Lori Sunshine MT-BC **CE Oversight Contact Person:** Mark Algee **Provider Status:** Individual
Provider Name: Shannon Parisi D.C. **CE Oversight Contact Person:** Mark Algee **Provider Status:** Individual	**Provider Name:** Matthew Kurt Alexander **CE Oversight Contact Person:** Matt Alexander **Provider Status:** Corporation
Provider Name: Dr PGA Golf Seminars **CE Oversight Contact Person:** Dr. Raj Jackson, D.C., P.G.A **Provider Status:** Individual	

DRAFT

BOARD of CHIROPRACTIC EXAMINERS
STATE OF CALIFORNIA

State of California
Gavin Newsom, Governor

Agenda Item 9
October 24, 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 July 1, 2019 and September 30, 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 July 1, 2019 and September 30, 2019.

Name (First, Middle, Last)			Date Issued	DC#
Daniel	Matthew	Bartko	7/3/2019	**34587**
Alireza		Gogerdchian	7/3/2019	**34588**
Colton	Daniel	Korne	7/3/2019	**34589**
Babak	Agharokh	Mirabadi	7/11/2019	**34590**
Armand	Taylor	Contreras	7/11/2019	**34591**
Heather	Pearl Jin Ju	Yoon	7/11/2019	**34592**
Stanley	Minh	Vo	7/11/2019	**34593**
Amandeep	Singh	Walia	7/11/2019	**34594**
Nevin	Ramona	Cokdegerli	7/11/2019	**34595**
David	Joshua	Barton	7/26/2019	**34596**
Chijioke	Rowland	Anyanwu	7/26/2019	**34597**
Anthony	Wayne	Carpenter	7/31/2019	**34598**
Charles	Patrick	Small	7/31/2019	**34599**
Lily		Chan	7/31/2019	**34600**
Nicholas	Louis	Hagan	7/31/2019	**34601**
Pamela	Victoria	Ford	8/1/2019	**34602**
Ashley	Nicole	Franklin	8/1/2019	**34603**
Pierce	Austin	Sweeney	8/1/2019	**34604**
Charlotte	Denise	Burgess	8/1/2019	**34605**
Abigail	Colleen	Boorman	8/1/2019	**34606**
Christopher	Jordan	Motley	8/1/2019	**34607**
Diana		Wang	8/2/2019	**34608**
Johnathan		Shay	8/2/2019	**34609**
Nathan	David	Moursalian	8/2/2019	**34610**
Kent	Harold	Schwartz	8/2/2019	**34611**
Joshua	Eric	Silver	8/2/2019	**34612**
Tyanna	Chantel	Sutton	8/7/2019	**34613**
Catherine	Piama	Zabelin	8/8/2019	**34614**
Amit	Lalji	Khimji	8/8/2019	**34615**
Man Hin	Albert	Yeung	8/20/2019	**34616**
Cedric	Renardo	Stewart	8/20/2019	**34617**
Desiree	Lorraine	Yllan	8/20/2019	**34618**
Timothy	Joseph	Moynihan	8/20/2019	**34619**
Alina	Frances	Moloney	8/28/2019	**34620**
Ramsey	Andrew	Naber	8/28/2019	**34621**

Gordon	L	Chen	8/28/2019	**34622**
Kevin	Sin	Moc	8/28/2019	**34623**
Johnnie	Christopher	Morgan	8/28/2019	**34624**
Shaylee	Riyeko	Yano	8/28/2019	**34625**
Kelly	Anita	Couchman	8/28/2019	**34626**
Ali		Akhavan-Rajabi	8/28/2019	**34627**
David	Charles	Johnson	8/28/2019	**34628**
Zachary	Allen	Peters	8/28/2019	**34629**
Patricia	Guzman	Williams	8/28/2019	**34630**
Emma	Elizabeth	Eskilson	8/28/2019	**34631**
Kelsi	Lee	Kriewald	8/28/2019	**34632**
Jordan	David	Durrance	8/28/2019	**34633**
Gianna	Marie	Mautone	8/28/2019	**34634**
Kevin	Blake	Slocum	8/28/2019	**34635**
Emily	Joann	Holbrook	8/28/2019	**34636**
Kate	Kie	Russell	9/11/2019	**34637**
Cameron	Scott	Penta	9/11/2019	**34638**
Lewis	Laguardia	Lisel	9/11/2019	**34639**
Thomas	George	Le Lievre	9/11/2019	**34640**
Arnold	Zhao	Koo	9/11/2019	**34641**
Charles	Michael	Brennan	9/11/2019	**34642**
Navid		Niktabe	9/12/2019	**34643**
Cherene	Kathryn	Toscano	9/12/2019	**34644**
Jerry	Christopher	Morris	9/12/2019	**34645**
Hailey	Claire	Hirata	9/12/2019	**34646**
Broc	Walker	Sheets	9/12/2019	**34647**
Christopher	John	Meanley	9/26/2019	**34648**
Malia	Koalaulii	Sing	9/26/2019	**34649**
Maura	Rose	Mayer	9/26/2019	**34650**
Charles	Fullarton	Sabourin	9/26/2019	**34651**
Joshua	Bravo	Beltran	9/27/2019	**34652**
Junseok		Park	9/27/2019	**34653**
Nicole	Marie	Strasko	9/27/2019	**34654**
Lianna	Patricia	Hunt	9/27/2019	**34655**
Kristan	Elisabeth	Cassady	9/27/2019	**34656**
Kevin	Valdemoro	Camacho	9/30/2019	**34657**
Emily	Anne	Pillari	9/30/2019	**34658**

BOARD of CHIROPRACTIC EXAMINERS
STATE OF CALIFORNIA

State of California
Gavin Newsom, Governor

Agenda Item 10
October 24, 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 July 1, 2019 and September 30, 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

BOARD of CHIROPRACTIC EXAMINERS
STATE OF CALIFORNIA

State of California
Gavin Newsom, Governor

Agenda Item 11
October 24, 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:

Provider Name: National Provider Compliance Corporation **CE Oversight Contact Person:** Dr. Christine Barry **Provider Status:** Corporation	**Provider Name:** American First Responder **CE Oversight Contact Person:** Dr. Alejandro Platon **Provider Status:** Individual
Provider Name: American Chiropractic Association **CE Oversight Contact Person:** Jim Flanagan **Provider Status:** Professional Association	**Provider Name:** Dr. James Huang **CE Oversight Contact Person:** Dr. James Huang **Provider Status:** Individual
Provider Name: Kim B. Khauv, DC, MPH **CE Oversight Contact Person:** Dr. Kim B. Khauv **Provider Status:** Individual	

Background

N/A

Recommendation(s)

Staff requests the Board approve the new CE provider applicants.

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 October 24th Board Meeting. CE provider applications can be requested via a Public Records Request.

BOARD of CHIROPRACTIC EXAMINERS
STATE OF CALIFORNIA

BUSINESS, CONSUMER SERVICES AND HOUSING AGENCY • GAVIN NEWSOM, GOVERNOR
DEPARTMENT OF CONSUMER AFFAIRS • CALIFORNIA BOARD OF CHIROPRACTIC EXAMINERS
901 P St., Suite 142A, Sacramento, CA 95814
P (916) 263-5355 | Toll-Free (866) 543-1311 | F (916) 327-0039 | www.chiro.ca.gov

BOARD OF CHIROPRACTIC EXAMINERS
19 JUL 10 PM 12:40

CONTINUING EDUCATION PROVIDER APPLICATION

ALL questions on this application must be answered. **New CE Provider Applications** - Submit a complete application package including one original application with a check or money order for $84.00 payable to "BOCE". **CE Provider Biennial Renewal Reapplication** - Submit a complete application package including one original application with a check or money order for $56.00 payable to "BOCE". Please type or print neatly. When space provided is insufficient, attach additional sheets of paper. All attachments are considered part of the application. The Board will not process incomplete applications nor applications that do not include the correct application fee. Provider approval shall expire two years following the approval date.

FALSIFICATION OR MISREPRESENTATION OF ANY ITEM OR RESPONSE ON THIS APPLICATION OR ANY ATTACHMENT HERETO IS SUFFICIENT BASIS FOR DENYING COURSE APPROVAL

Please check the appropriate box:

■ **New CE Provider Application - $84** ☐ **CE Provider Biennial Renewal Reapplication - $56**

Provider's Name: National Provider Compliance Corporation		
Street Address 7373 University Ave, Suite 210		
City La Mesa	State CA	Zip Code 91942
CE Oversight Contact Person: Dr. Christine Barry	Telephone Numbers: Residence: (773) 750 2249 Business: (800) 669 3328	Email Address messine@roadrunner.co

Name of Provider's Designated Representative: (Individual responsible for signing certificates of course completion)
Dr. Christine Barry

Provider Status

☐ Individual ■ Corporation ☐ Health Facility ☐ University/College

☐ Partnership ☐ Professional Association ☐ Government Agency

Office Use Only	
Receipt No._____	Date cashiered JUL 12 2019

0004088117

BOARD of CHIROPRACTIC EXAMINERS
STATE OF CALIFORNIA

BUSINESS, CONSUMER SERVICES AND HOUSING AGENCY • GAVIN NEWSOM, GOVERNOR
DEPARTMENT OF CONSUMER AFFAIRS • CALIFORNIA BOARD OF CHIROPRACTIC EXAMINERS
901 P St., Suite 142A, Sacramento, CA 95814
P (916) 263-5355 | Toll-Free (866) 543-1311 | F (916) 327-0039 | www.chiro.ca.gov

CONTINUING EDUCATION PROVIDER APPLICATION

ALL questions on this application must be answered. **New CE Provider Applications -** Submit a complete application package including one original application with a check or money order for $84.00 payable to "BOCE". **CE Provider Biennial Renewal Reapplication -** Submit a complete application package including one original application with a check or money order for $56.00 payable to "BOCE". Please type or print neatly. When space provided is insufficient, attach additional sheets of paper. All attachments are considered part of the application. The Board will not process incomplete applications nor applications that do not include the correct application fee. Provider approval shall expire two years following the approval date.

FALSIFICATION OR MISREPRESENTATION OF ANY ITEM OR RESPONSE ON THIS APPLICATION OR ANY ATTACHMENT HERETO IS SUFFICIENT BASIS FOR DENYING COURSE APPROVAL

Please check the appropriate box:

■ **New CE Provider Application - $84** ☐ **CE Provider Biennial Renewal Reapplication - $56**

Provider's Name: American First Responder

Street Address: 2975 Wilshire Blvd. Suite 511

City: Los Angeles | State: CA | Zip Code: 90010

CE Oversight Contact Person: Dr. Alejandro Platon, D.C.

Telephone Numbers: Residence: (323) 989-7200 Business: (800) 573-0106 x 102

Email Address: alejandro@americanfirstresponder.com

Name of Provider's Designated Representative: (Individual responsible for signing certificates of course completion)
Giovanni Garbutt

Provider Status

■ Individual ☐ Corporation ☐ Health Facility ☐ University/College

☐ Partnership ☐ Professional Association ☐ Government Agency

Office Use Only

Receipt No._____ Date cashiered AUG 05 2019

00041018

2019 AUG -2 PM 12:32

BOARD of CHIROPRACTIC EXAMINERS
STATE OF CALIFORNIA

BUSINESS, CONSUMER SERVICES AND HOUSING AGENCY • GAVIN NEWSOM, GOVERNOR
DEPARTMENT OF CONSUMER AFFAIRS • CALIFORNIA BOARD OF CHIROPRACTIC EXAMINERS
901 P St., Suite 142A, Sacramento, CA 95814
P (916) 263-5355 | Toll-Free (866) 543-1311 | F (916) 327-0039 | www.chiro.ca.gov

CONTINUING EDUCATION PROVIDER APPLICATION

ALL questions on this application must be answered. **New CE Provider Applications -** Submit a complete application package including one original application with a check or money order for $84.00 payable to "BOCE". **CE Provider Biennial Renewal Reapplication -** Submit a complete application package including one original application with a check or money order for $56.00 payable to "BOCE". Please type or print neatly. When space provided is insufficient, attach additional sheets of paper. All attachments are considered part of the application. The Board will not process incomplete applications nor applications that do not include the correct application fee. Provider approval shall expire two years following the approval date.

FALSIFICATION OR MISREPRESENTATION OF ANY ITEM OR RESPONSE ON THIS APPLICATION OR ANY ATTACHMENT HERETO IS SUFFICIENT BASIS FOR DENYING COURSE APPROVAL

Please check the appropriate box:

■ **New CE Provider Application - $84** ☐ **CE Provider Biennial Renewal Reapplication - $56**

Provider's Name: American Chiropractic Association		
Street Address 1701 Clarendon Boulevard		
City Arlington	State VA	Zip Code 22209
CE Oversight Contact Person: Jim Flanagan	Telephone Numbers: Residence: ( ) Business: (703)276-8800	Email Address jflanagan@acatoday.org

Name of Provider's Designated Representative: (Individual responsible for signing certificates of course completion)
Karen Silberman, CAE

Provider Status

☐ Individual	☐ Corporation	☐ Health Facility	☐ University/College
☐ Partnership	■ Professional Association		☐ Government Agency

Office Use Only	
Receipt No._____	Date cashiered AUG 28 2019

00041632

BOARD of CHIROPRACTIC EXAMINERS
STATE OF CALIFORNIA

BUSINESS, CONSUMER SERVICES AND HOUSING AGENCY • GAVIN NEWSOM, GOVERNOR
DEPARTMENT OF CONSUMER AFFAIRS • CALIFORNIA BOARD OF CHIROPRACTIC EXAMINERS
901 P St., Suite 142A, Sacramento, CA 95814
P (916) 263-5355 | Toll-Free (866) 543-1311 | F (916) 327-0039 | www.chiro.ca.gov

CONTINUING EDUCATION PROVIDER APPLICATION

ALL questions on this application must be answered. **New CE Provider Applications** - Submit a complete application package including one original application with a check or money order for $84.00 payable to "BOCE". **CE Provider Biennial Renewal Reapplication** - Submit a complete application package including one original application with a check or money order for $56.00 payable to "BOCE". Please type or print neatly. When space provided is insufficient, attach additional sheets of paper. All attachments are considered part of the application. The Board will not process incomplete applications nor applications that do not include the correct application fee. Provider approval shall expire two years following the approval date.

FALSIFICATION OR MISREPRESENTATION OF ANY ITEM OR RESPONSE ON THIS APPLICATION OR ANY ATTACHMENT HERETO IS SUFFICIENT BASIS FOR DENYING COURSE APPROVAL

Please check the appropriate box:

■ **New CE Provider Application - $84** ☐ **CE Provider Biennial Renewal Reapplication - $56**

Provider's Name: Dr. James Huang

Street Address: 1280 Boulevard Way Suite 211		
City: Walnut Creek	State: CA	Zip Code: 94595
CE Oversight Contact Person: Dr. James Huang	Telephone Numbers: Residence: (510) 520-7804 Business: (925) 289-8010 925.289.8010	Email Address: drjameshuangdc@gmail.com

Name of Provider's Designated Representative: (Individual responsible for signing certificates of course completion)
James Huang

Provider Status

■ Individual ☐ Corporation ☐ Health Facility ☐ University/College
☐ Partnership ☐ Professional Association ☐ Government Agency

Office Use Only
Receipt No._____ Date cashiered SEP 09 2019

2019 SEP -6 PM 12:24
BOARD OF CHIROPRACTIC EX. MANTIC
0004123 11

BOARD of CHIROPRACTIC EXAMINERS
STATE OF CALIFORNIA

BUSINESS, CONSUMER SERVICES AND HOUSING AGENCY • GAVIN NEWSOM, GOVERNOR
DEPARTMENT OF CONSUMER AFFAIRS • CALIFORNIA BOARD OF CHIROPRACTIC EXAMINERS
901 P St., Suite 142A, Sacramento, CA 95814
P (916) 263-5355 | Toll-Free (866) 543-1311 | F (916) 327-0039 | www.chiro.ca.gov

CONTINUING EDUCATION PROVIDER APPLICATION

ALL questions on this application must be answered. **New CE Provider Applications -** Submit a complete application package including one original application with a check or money order for $84.00 payable to "BOCE". **CE Provider Biennial Renewal Reapplication -** Submit a complete application package including one original application with a check or money order for $56.00 payable to "BOCE". Please type or print neatly. When space provided is insufficient, attach additional sheets of paper. All attachments are considered part of the application. The Board will not process incomplete applications nor applications that do not include the correct application fee. Provider approval shall expire two years following the approval date.

FALSIFICATION OR MISREPRESENTATION OF ANY ITEM OR RESPONSE ON THIS APPLICATION OR ANY ATTACHMENT HERETO IS SUFFICIENT BASIS FOR DENYING COURSE APPROVAL

Please check the appropriate box:

■ **New CE Provider Application - $84** ☐ **CE Provider Biennial Renewal Reapplication - $56**

Provider's Name: KIM B. KHAUV, DC MPH		
Street Address 14132 LIVINGSTON ST.		
City TUSTIN	State CA	Zip Code 92780
CE Oversight Contact Person: KIM B. KHAUV, DC MPH	Telephone Numbers: Residence: (714) 931-4744 Business: (714) 931-4744	Email Address drkhauv@gmail.com

Name of Provider's Designated Representative: (Individual responsible for signing certificates of course completion)
KIM B. KHAUV, DC MPH

Provider Status

■ Individual	☐ Corporation	☐ Health Facility	☐ University/College
☐ Partnership	☐ Professional Association		☐ Government Agency

Office Use Only	
Receipt No._____	Date cashiered SEP 27 2019

1641340000

2019 SEP 25 PM 1:38
CALIFORNIA BOARD OF CHIROPRACTIC EXAMINERS

Agenda Item 12
October 24, 2019

Election of Board Officers for 2020. The Board Will Initiate Nomination Procedures for Board Officer Positions: Chair, Vice Chair, and Secretary.

Purpose of the item

The Board will nominate individuals for consideration to serve in the Board Officer positions of Chair, Vice Chair, and Secretary.

Action(s) requested

The Board will be asked for personal nominations or to nominate another Board Member to serve as a Board Officer in the positions of Chair, Vice Chair, and Secretary.

Background

At the August 8, 2018 Board meeting, Board Members voted to initiate the nomination process to elect Board Officer at the last public meeting of the year. The Board also voted on the Board Officer election process.

Recommendation(s)

N/A

Next Step

The election for Board Officers will be held at the first public Board Meeting of 2020.

Attachment(s)

- Procedure for Nominating and Electing Board Officers document
- Roll Call Sheet

BOARD of CHIROPRACTIC EXAMINERS
STATE OF CALIFORNIA

State of California
Gavin Newsom, Governor

Board of Chiropractic Examiners

Procedure for Electing Board Officers
as voted on by the full Board

Election:

- Legal counsel will preside over the Election of Board Officers
- For those not currently nominated, Board Members will be asked if they would like to be considered for a Board Officer position.
- Prior to electing a Board Officer, nominees will have the opportunity to provide their statements of interest for the Board Officer positions.
- Voting will take place one position at a time, allowing individuals nominated for multiple positions to have their intentions known.
- Elections will occur by officer position; starting with the Chair, Vice Chair and Secretary.
- Voting will be held in roll call order with the Chair voting last.

Board of Chiropractic Examiners
STATE OF CALIFORNIA

State of California
Gavin Newsom, Governor

Public Board Meeting
Roll Call for the Election of Officers names are listed in Alpha Order with the Chair being last
October 24, 2019

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

BOARD of CHIROPRACTIC EXAMINERS
STATE OF CALIFORNIA

State of California
Gavin Newsom, Governor

Agenda Item 13
October 24, 2019

Executive Officer's Report

Purpose of the item

The Executive Officer will provide the Board Members with 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 (MST) position. Due to budget constraints, the Board is unable to fill the position at this time.
- The Licensing Unit has a vacant Associate Government Analyst (AGPA) position. The Board has interviewed candidates for the AGPA position and anticipates the position to be filled before the next board meeting.
- The Enforcement Unit has a vacant Staff Services Analyst (SSA) position. Due to budget constraints, the Board is unable to fill the position at this time.

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.

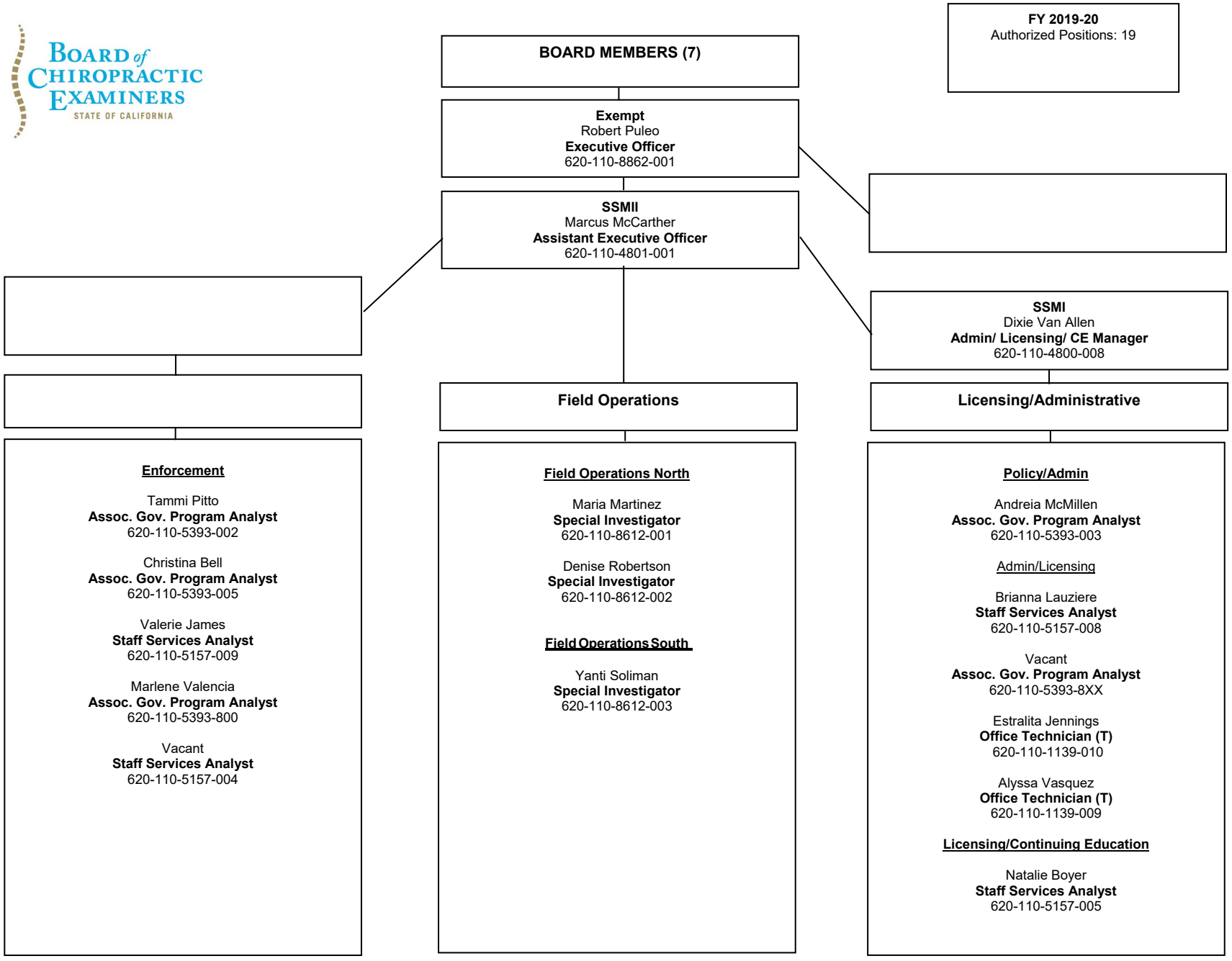
E. IT Update

- 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)
- Organizational Chart/Staff Functions
- Updated Fund Condition
- Licensing Statistics
- Enforcement Statistics



Executive Officer _____

Personnel Office _____

9/4/19

0152 - Board of Chiropractic Examiners
Analysis of Fund Condition

Prepared 10.17.19

(Dollars in Thousands)

NOTE: $1.448 Million VIRF Loan Balance

2019-20 Budget Act

		PY 2017-18	PY 2018-19	Budget Act CY 2019-20	BY 2020-21	BY+1 2021-22
BEGINNING BALANCE		$ 2,022	$ 1,916	$ 1,892	$ 1,234	$ 415
Prior Year Adjustment		$ -	$ -	$ -	$ -	$ -
Adjusted Beginning Balance		$ 2,022	$ 1,916	$ 1,892	$ 1,234	$ 415
REVENUES AND TRANSFERS						
Revenues:						
141200	Sales of documents	$ -	$ -	$ -	$ -	$ -
142500	Miscellaneous services to the public	$ -	$ -	$ -	$ -	$ -
150500	Interest Income From Interfund Loans	$ -	$ -	$ -	$ -	$ -
160400	Sale of fixed assets	$ -	$ -	$ -	$ -	$ -
4121200	Delinquent fees	$ 30	$ 37	$ 22	$ 22	$ 22
4127400	Renewal fees	$ 3,300	$ 3,555	$ 4,108	$ 4,108	$ 4,108
4129200	Other regulatory fees	$ 38	$ 57	$ 91	$ 91	$ 91
4129400	Other regulatory licenses and permits	$ 151	$ 260	$ 354	$ 354	$ 354
4143500	Income from surplus money investments	$ 18	$ 35	$ 20	$ 6	$ -
4171400	Escheat of unclaimed checks and warrants	$ -	$ -	$ -	$ -	$ -
4172500	Miscellaneous revenues	$ 1	$ 1	$ 1	$ 1	$ 1
161900	Other Revenue - Cost Recoveries	$ -	$ -	$ -	$ -	$ -
164600	Fines and Forfeitures	$ -	$ -	$ -	$ -	$ -
Totals, Revenues		$ 3,538	$ 3,945	$ 4,596	$ 4,582	$ 4,576
	Totals, Resources	$ 5,560	$ 5,861	$ 6,488	$ 5,816	$ 4,991
EXPENDITURES						
Disbursements:						
1111	Department of Consumer Affairs Regulatory Boards, Bureaus, Divisions (State Operations)	$ 3,398	$ 3,666	$ 4,911	$ 5,058	$ 5,210
8880	Financial Information System for California (State Operations)	$ 6	$ -	-1	-1	-1
9892	Supplemental Pension Payment (State Operations)	$ -	$ 41	$ 85	$ 85	$ 85
9900	Statewide General Administrative Expenditures (Pro Rata) (State Operations)	$ 240	$ 262	$ 259	$ 259	$ 259
Total Disbursements		$ 3,644	$ 3,969	$ 5,254	$ 5,401	$ 5,553
FUND BALANCE						
Reserve for economic uncertainties		$ 1,916	$ 1,892	$ 1,234	$ 415	$ -562
Months in Reserve		5.8	4.3	2.7	0.9	$ -1.2

NOTES:

A. ASSUMES WORKLOAD AND REVENUE PROJECTIONS ARE REALIZED IN BY+1 AND ON-GOING.
B. ASSUMES APPROPRIATION GROWTH OF 3% 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 2019-20

Total Population of Clear Chiropractic Licenses

Month	Total Licenses
July	12,916
August	12,907
September	12,887
October	
November	
December	
January	
February	
March	
April	
May	
June	

New Chiropractic License Issued

Month	Received	Issued
July	45	15
August	21	35
September	34	22
October		
November		
December		
January		
February		
March		
April		
May		
June		

Number of Restored Cancelled Licenses

Month	Received	Issued
July	5	2
August	0	4
September	8	3
October		
November		
December		
January		
February		
March		
April		
May		
June		

New Satellite Office Certificates Issued

Month	Received	Issued
July	100	41
August	120	144
September	75	94
October		
November		
December		
January		
February		
March		
April		
May		
June		

Corporation Registrations Issued

Month	Received	Issued
July	15	7
August	3	7
September	14	17

Licensing Population as of June 30, 2019

License Type	Clear Licenses
Chiropractors	12,887
Satellite Offices	4,114
Corporation Registrations	1,391

Applications Received and Processed – July 1, 2019 through September 30, 2019

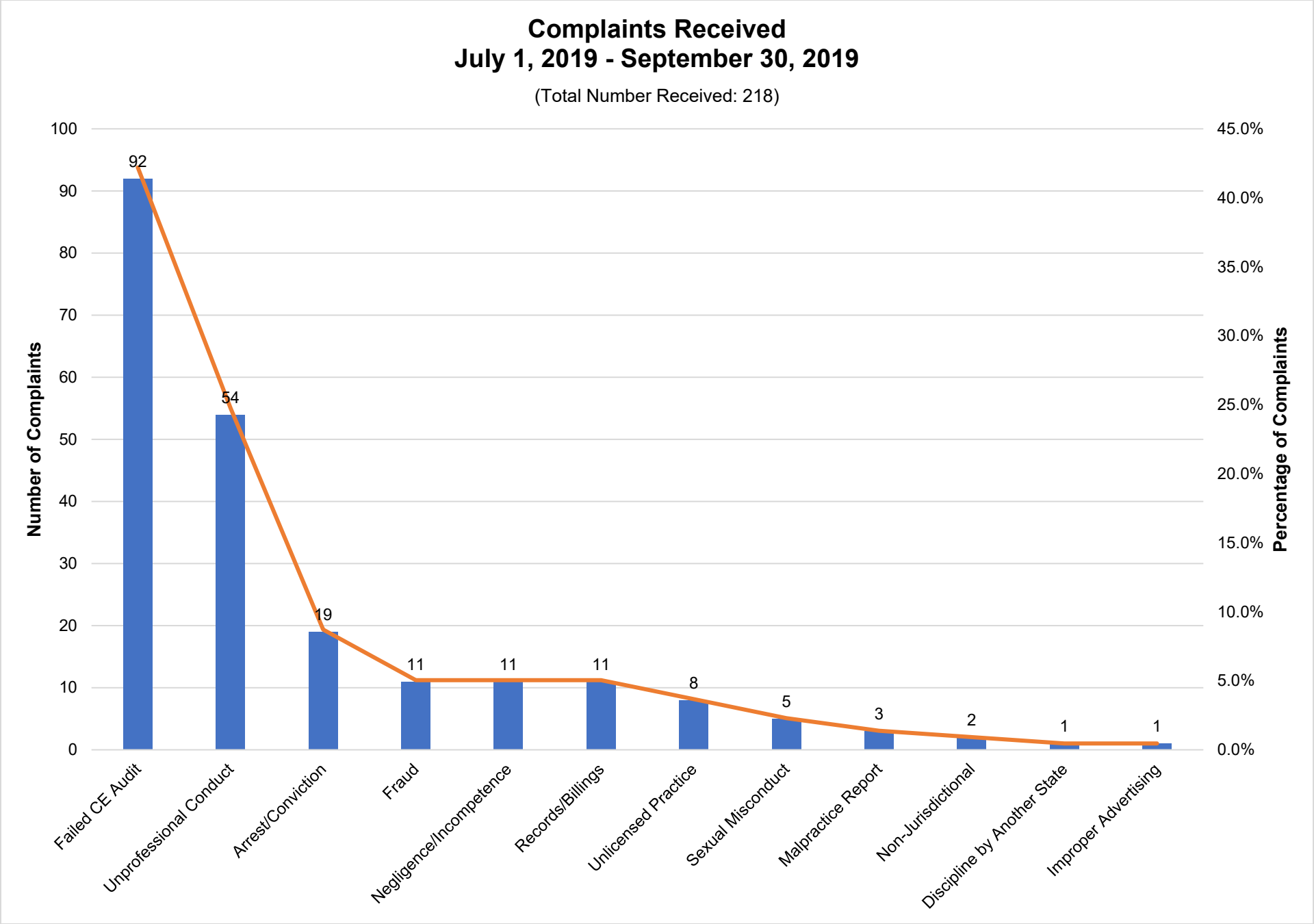
Application Type	Received	Issued	Denied	Pending
Initial Chiropractic	100	72	0	104
Reciprocal	0	2	0	0
Restorations (Cancelled & Forfeiture)	31	30	0	15
Corporation	32	31	0	8

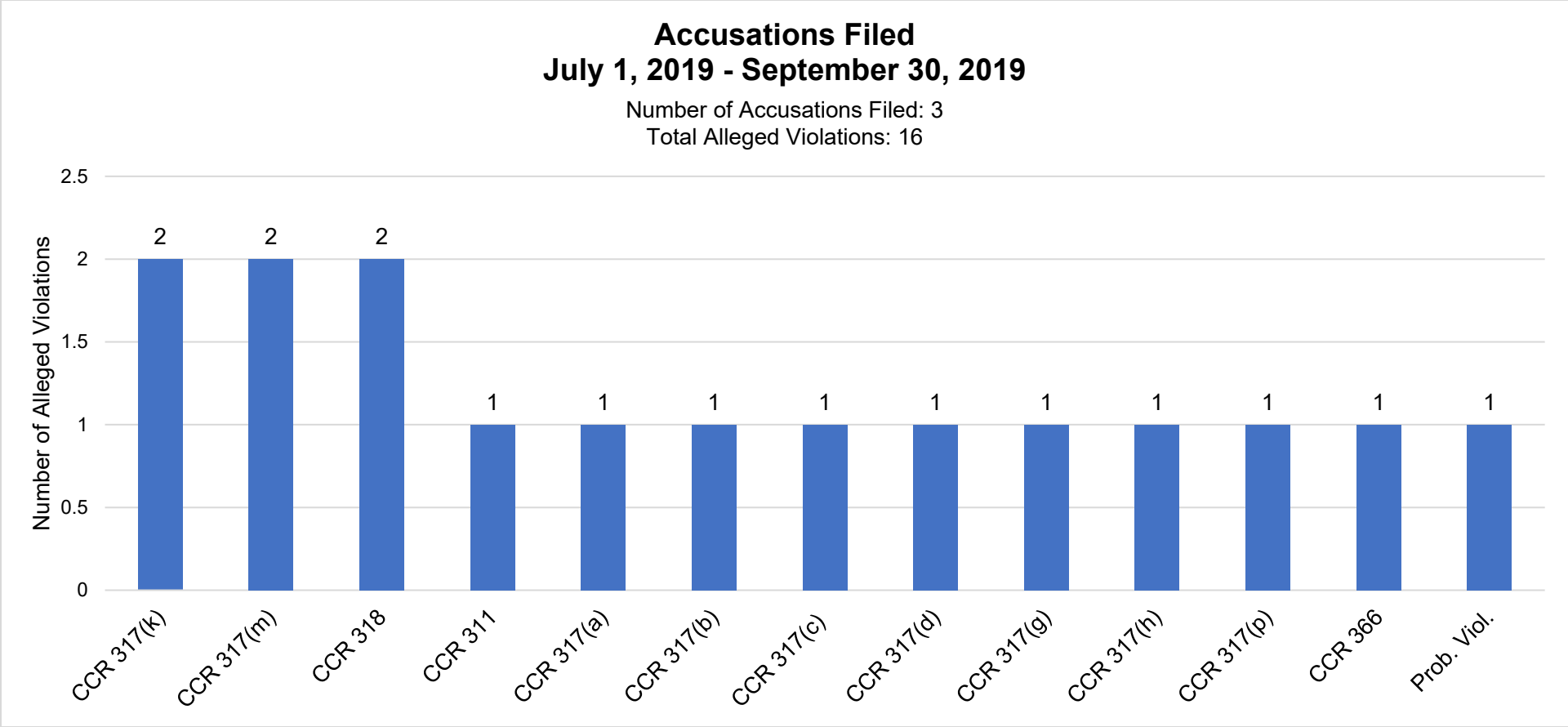
BOARD OF CHIROPRACTIC EXAMINERS
ENFORCEMENT STATISTICS

FISCAL YEAR	15/16	16/17	17/18	18/19	19/20*
COMPLAINTS					
Received	581	490	479	641	218
Pending	232	183	235	613	594
Closed with Insufficient Evidence	127	79	72	63	18
Closed with No Violation	97	75	75	38	11
Closed with Merit	235	184	214	56	6
Letter of Admonishment	4	4	17	62	156
Citations Issued	17	26	25	27	7
Total Fines Assessed	$11,600	$36,900	$24,650	$20,300	$8,000
ACCUSATIONS					
Filed	31	35	34	21	3
Pending	66	65	55	38	41
Revoked	3	10	9	13	2
Revocation Stayed: Probation	13	11	15	14	1
Rev. Stayed: Suspension and Probation	4	5	1	0	0
Voluntary Surrender of License	9	14	9	15	2
Dismissed/Withdrawn	2	6	0	2	0
STATEMENTS OF ISSUES					
Filed	0	1	2	1	0
Denied	0	0	0	0	0
Probationary License	1	0	0	1	0
Withdrawn	0	0	0	1	0
Granted	0	0	0	0	0
PETITIONS FOR RECONSIDERATION					
Filed	1	0	0	1	1
Granted	0	0	0	0	0
Denied	1	0	0	1	1
PETITIONS FOR REINSTATEMENT OF LICENSE					
Filed	7	6	6	3	3
Granted	0	0	0	0	0
Denied	7	3	3	8	2
PETITIONS FOR EARLY TERMINATION OF PROBATION					
Filed	8	3	2	1	0
Granted	1	0	0	0	0
Denied	2	2	5	1	0
PETITIONS FOR MODIFICATION OF PROBATION					
Filed	3	0	1	0	0
Granted	1	0	1	0	0
Denied	0	0	0	0	0
PETITIONS BY BOARD TO REVOKE PROBATION					
Filed	8	5	6	7	1
Revoked	3	10	9	4	2
PROBATION CASES					
Active	104	92	90	80	62

FY 19/20: July 1, 2019 – September 30, 2019

Revised October 15, 2019


Complaints Received
July 1, 2019 - September 30, 2019
(Total Number Received: 218)
Number of Complaints
Percentage of Complaints
100
90
80
70
60
50
40
30
20
10
0
45.0%
40.0%
35.0%
30.0%
25.0%
20.0%
15.0%
10.0%
5.0%
0.0%
92
54
19
11
11
11
8
5
3
2
1
1
Failed CE Audit
Unprofessional Conduct
Arrest/Conviction
Fraud
Negligence/Incompetence
Records/Billings
Unlicensed Practice
Sexual Misconduct
Malpractice Report
Non-Jurisdictional
Discipline by Another State
Improper Advertising



Violation Codes/Descriptions

CCR 311 – Advertisements
CCR 317(a) – Gross Negligence
CCR 317(b) – Repeated Negligent Acts
CCR 317(c) – Incompetence
CCR 317(d) – Excessive Treatment
CCR 317(g) – Conviction of Substantially-Related Crime
CCR 317(h) – Conviction Involving Moral Turpitude, Dishonesty, Etc.
CCR 317(k) – Moral Turpitude/Dishonesty/Corruption
CCR 317(m) – Violation of Act/Regulations
CCR 317(p) – Advertising in Violation of BPC 17500
CCR 318 – Chiropractic Patient Records/Accountable Billing
CCR 366 – Continuing Education Audits
Prob. Viol. – Failure to Comply with Board's Probation Terms

BOARD of CHIROPRACTIC EXAMINERS
STATE OF CALIFORNIA

BUSINESS, CONSUMER SERVICES AND HOUSING AGENCY • GAVIN NEWSOM, GOVERNOR
DEPARTMENT OF CONSUMER AFFAIRS • CALIFORNIA BOARD OF CHIROPRACTIC EXAMINERS
901 P St., Suite 142A, Sacramento, CA 95814
P (916) 263-5355 | Toll-Free (866) 543-1311 | F (916) 327-0039 | www.chiro.ca.gov

JULY 2019

DISCIPLINARY ACTIONS

Name and City	License No.	Action	Effective Date	Violation(s)
Barri, Michael Edward Santa Ana, CA	DC 24281	Stipulated Surrender	7/21/2019	• CCR 317(g) – unprofessional conduct: convictions of substantially related crimes • CCR 317(h) – unprofessional conduct: convictions of crimes involving moral turpitude and dishonesty • CCR 317(k) – unprofessional conduct: commission of acts involving moral turpitude, dishonesty, and corruption • CCR 317(q) – unprofessional conduct: participation in acts of fraud and misrepresentation • CCR 317(t) – unprofessional conduct: offering or acceptance of a commission or other consideration as compensation or inducement for referring patients • CCR 318(b) – unprofessional conduct: failure to ensure accurate billing for chiropractic services • BPC 810(a)(1), (a)(2), and (b) – insurance fraud • BPC 650(a) – unearned rebates, refunds, and discounts

ACT: Chiropractic Initiative Act
BPC: Business and Professions Code
CCR: California Code of Regulations, Title 16
H&S: Health and Safety Code

DISCIPLINARY ACTIONS (Continued)

Name and City	License No.	Action	Effective Date	Violation(s)
Poon, Susan Rancho Santa Margarita, CA	DC 22259	Revoked	7/21/2019	• CCR 317(b) – unprofessional conduct: repeated acts of negligence • CCR 317(c) – unprofessional conduct: incompetence • CCR 317(k) – unprofessional conduct: moral turpitude, dishonesty, corruption • CCR 317(l) – unprofessional conduct: knowingly making or signing any document relating to practice which falsely represents the facts • CCR 317(q) – unprofessional conduct: participation in act of fraud or misrepresentation • CCR 317(v) – unprofessional conduct: entering into agreement to waive deductible or co-payment amount • CCR 318(b) – accountable billings • CCR 319.1 – informed consent • BPC 810 and Insurance Code section 1871.4 – insurance fraud • BPC 650 – receipt of compensation for referrals • Failure to comply with the terms and conditions of probation
Foli, Michael Fallbrook, CA	DC 17135	Revoked, Stayed, 4 Years' Probation	7/26/2019	• BPC 726 and CCR 316(c) – unprofessional conduct: sexual misconduct • BPC 726 and CCR 316(b) – unprofessional conduct: sexual acts and erotic behavior at place of business • CCR 317(a) – unprofessional conduct: gross negligence • CCR 317(b) – unprofessional conduct: repeated acts of negligence • CCR 317(e) – unprofessional conduct: endanger the health, welfare, and safety of patient • CCR 317(k) – unprofessional conduct: moral turpitude and dishonesty

ACT: Chiropractic Initiative Act
BPC: Business and Professions Code
CCR: California Code of Regulations, Title 16
H&S: Health and Safety Code

ACCUSATIONS FILED

No Data to Report

STATEMENT OF ISSUES

No Data to Report

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

ACT: Chiropractic Initiative Act
BPC: Business and Professions Code
CCR: California Code of Regulations, Title 16
H&S: Health and Safety Code

BOARD of CHIROPRACTIC EXAMINERS
STATE OF CALIFORNIA

BUSINESS, CONSUMER SERVICES AND HOUSING AGENCY • GAVIN NEWSOM, GOVERNOR
DEPARTMENT OF CONSUMER AFFAIRS • CALIFORNIA BOARD OF CHIROPRACTIC EXAMINERS
901 P St., Suite 142A, Sacramento, CA 95814
P (916) 263-5355 | Toll-Free (866) 543-1311 | F (916) 327-0039 | www.chiro.ca.gov

AUGUST 2019

DISCIPLINARY ACTIONS

Name and City	License No.	Action	Effective Date	Violation(s)
Stadish, Joseph Hawthorne, CA	DC 13723	Revoked	8/19/2019	• Failure to comply with the terms and conditions of probation
Paredes, Jaime Mission Hills, CA	DC 29326	Stipulated Surrender	8/30/2019	• CCR 317(g) and BPC 490 – unprofessional conduct: conviction of a substantially related crime • CCR 317(h) – unprofessional conduct: conviction of offense involving dishonesty • CCR 317(k) – unprofessional conduct: commission of dishonest acts • CCR 317(l) – unprofessional conduct: knowingly made false representation related to chiropractic practice • BPC 810(a)(1) and (2) – unprofessional conduct: knowingly prepared writing to support false claim • CCR 317(q) – unprofessional conduct: participation in acts of fraud or misrepresentation • CCR 318(b) – unprofessional conduct: failure to make timely reimbursement for overbilling for services • CCR 317(l), 361(b) and (e), and 371(c) – unprofessional conduct: knowingly made false representation in 2017 renewal application; failure to comply with continuing education requirements • CCR 317(l) – unprofessional conduct: failure to cooperate with Board audit

ACT: Chiropractic Initiative Act
BPC: Business and Professions Code
CCR: California Code of Regulations, Title 16
H&S: Health and Safety Code

ACCUSATIONS FILED

Name and City	License No.	Date Filed	Alleged Violation(s)
Ramos, Jonathan Michael Ontario, CA	DC 12026	8/9/2019	• CCR 317(g) – unprofessional conduct: conviction of substantially related crime • CCR 317(h) – unprofessional conduct: convictions and acts involving moral turpitude • CCR 317(k) – unprofessional conduct: acts involving moral turpitude

FINAL CITATIONS

Name and City	License No.	Fine Amount	Date Final	Violation(s)
Migotti, Keith Salinas, CA	DC 16744	$1,500	8/8/2019	• CCR 317 – unprofessional conduct • CCR 390.5 – unprofessional conduct: failure to comply with order of abatement
Coflin, Daniel L. Concord, CA	DC 28050	$500	8/14/2019	• CCR 318(a), (a)(2), (a)(3) – chiropractic patient records: required content
Hunt, John Glendora, CA	DC 15612	$1,000	8/25/2019	• CCR 318(a) – failure to maintain patient records • H&S 123110 – failure to provide a patient with a copy of their patient records
Nwude, Fidelis Inglewood, CA (Two citations issued)	DC 25773	$2,000 $500	8/25/2019 8/25/2019	• CCR 318(a)(5) and (7) – chiropractic patient records: required content; failure to document treatments provided • CCR 318(a)(7) and 319.1 – written informed consent • CCR 317 – unprofessional conduct • CCR 318(a)(7) and 319.1 – written informed consent • CCR 317 – unprofessional conduct
Tabarovskaya, Olga West Hollywood, CA	DC 30275	$1,500	8/25/2019	• CCR 318(a) – failure to make patient records available to a Board representative upon presentation of the patient's written consent • H&S 123110 – failure to provide a patient with a copy of their patient records

ACT: Chiropractic Initiative Act
BPC: Business and Professions Code
CCR: California Code of Regulations, Title 16
H&S: Health and Safety Code

PETITIONS FOR REINSTATEMENT

Name	License No.	Status	Board Action/Decision
Daniel, Calen	DC 32057	Revoked effective 6/20/2014	Petition for reinstatement denied effective 8/30/2019
Nabatmama, Jeffrey	DC 24181	Surrendered effective 12/18/2004	Petition for reinstatement denied effective 8/30/2019

STATEMENT OF ISSUES

No Data to Report

LICENSE REINSTATEMENTS

No Data to Report

PETITIONS FOR EARLY TERMINATION OF PROBATION

No Data to Report

PETITIONS FOR MODIFICATION OF PROBATION

No Data to Report

ACT: Chiropractic Initiative Act
BPC: Business and Professions Code
CCR: California Code of Regulations, Title 16
H&S: Health and Safety Code

BOARD of CHIROPRACTIC EXAMINERS
STATE OF CALIFORNIA

BUSINESS, CONSUMER SERVICES AND HOUSING AGENCY • GAVIN NEWSOM, GOVERNOR
DEPARTMENT OF CONSUMER AFFAIRS • CALIFORNIA BOARD OF CHIROPRACTIC EXAMINERS
901 P St., Suite 142A, Sacramento, CA 95814
P (916) 263-5355 | Toll-Free (866) 543-1311 | F (916) 327-0039 | www.chiro.ca.gov

SEPTEMBER 2019

ACCUSATIONS FILED

Name and City	License No.	Date Filed	Alleged Violation(s)
Le, Dinh Stockton, CA	DC 27110	9/9/2019	• CCR 311 – false or misleading advertising • CCR 317(a) – unprofessional conduct: gross negligence • CCR 317(b) – unprofessional conduct: repeated negligent acts • CCR 317(c) – unprofessional conduct: incompetence • CCR 317(d) – unprofessional conduct: excessive treatment • CCR 317(k) – unprofessional conduct: commission of acts involving dishonesty • CCR 317(p) – unprofessional conduct: use of advertising which violates BPC 17500 • CCR 318 – failure to maintain patient records and billing records • BPC 17500 – false or misleading advertising
Bachmeyer, Trevor Alamo, CA (Accusation and Second Amended Petition to Revoke Probation Filed)	DC 29377	9/24/2019	• CCR 317(m) and 366 – unprofessional conduct: failure to provide verification of continuing education to the Board • CCR 317(m) and 318(a) – unprofessional conduct: failure to provide patient records to the Board • Failure to comply with probation terms: obey all laws; submit quarterly probation reports; comply with probation monitoring; submit monthly cost recovery installments; submit a billing monitor; and take and pass an ethics and boundaries examination

ACT: Chiropractic Initiative Act
BPC: Business and Professions Code
CCR: California Code of Regulations, Title 16
H&S: Health and Safety Code

FINAL CITATIONS

Name and City	License No.	Fine Amount	Date Final	Violation(s)
Mandell, Steven Glendora, CA	DC 16665	$1,000	9/12/2019	• CCR 317(h) – unprofessional conduct: conviction of an offense involving moral turpitude and dishonesty • CCR 317(k) – unprofessional conduct: commission of an act involving moral turpitude and dishonesty

DISCIPLINARY ACTIONS

No Data to Report

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

ACT: Chiropractic Initiative Act
BPC: Business and Professions Code
CCR: California Code of Regulations, Title 16
H&S: Health and Safety Code

Agenda Item 14
October 24, 2019

Update, Discussion and Possible Action on Stem Cell and Regenerative Therapy Task Force by the Medical Board

Purpose of the item

The Board will receive an update from the September 18, 2019 Medical Board of California (MBC) Stem Cell and Regenerative Therapy Interested Parties Meeting.

Action(s) requested

No action required.

Background

On September 18, 2019, the MBC convened the Stem Cell and Regenerative Therapy Interested Parties Meeting in order to provide a forum for stakeholders to hear information from various state regulatory entities regarding their oversight of the practice of stem cell and regenerative therapies. Medical Board members Randy Hawkins, M.D. and Howard Krauss, M.D. presided over the Task Force meeting. There were presentations from the Department of Public Health's Food and Drug Branch (CDPH), California Institute for Regenerative Medicine (CIRM), the UC Davis Medical Center, Alpha Stem Cell Clinic. Finally, the Task Force discussed the Federation of State Medical Board's (FSMB) Report and Recommendations from their workgroup to study regenerative and stem cell therapy practices.

Additionally, the Task Force Members participating reiterated to stakeholders the primacy of **Business and Professions Code section 684(b)(1)**, which requires a health care practitioner who performs a stem cell therapy that is subject to FDA regulation, but is not FDA-approved, must provide notice to the patient seeking stem cell therapy that the health care provider provides stem cell therapy that has not been FDA-approved and that the patient is encouraged to consult with their primary care provider prior to undergoing stem cell therapy. Further, **Business and Professions Code section 684(d)(1)** provides the applicable licensing boards the authority to issue a citation or fine for up to $1000 for each violation of this section.

Recommendation(s)

N/A

Next Step

N/A

Attachment(s)

- MBC Stem Cell and Regenerative Therapy Interested Parties Meeting Agenda https://www.mbc.ca.gov/About_Us/Meetings/Agendas/688/ip-Agenda-20190918.pdf
- Business and Professions Code section 684 https://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?lawCode=BPC&sectionNum=684
- FSMB's Report and Recommendations from their workgroup to study regenerative and stem cell therapy practices http://www.fsmb.org/siteassets/advocacy/policies/fsmb-stem-cell-workgroup-report.pdf
- CDPH's presentation, "Role in Stem Cell Regulation and Investigations" https://www.mbc.ca.gov/About_Us/Meetings/Materials/1958/ip-AgendaItem5-20190918.pdf
- CIRM's presentation, "Driving Standards for Regenerative Medicine Treatments in California: A Perspective from CIRM" https://www.mbc.ca.gov/About_Us/Meetings/Materials/1955/ip-AgendaItem3-20190918.pdf
- Dr. Mehrdad Abedi, UC Davis Professor, presentation "How the Alpha Stem Cell Clinics Network Delivers Stem Cell Treatments to Patients" https://www.mbc.ca.gov/About_Us/Meetings/Materials/1959/ip-AgendaItem4-20190918.pdf

Agenda Item 15
October 24, 2019

Update, Review, Discussion and Possible Action on Long Term Healing Arts Programs Licensing Trends

Purpose of the item

The Board will review and discuss California healing arts licensing trends.

Action(s) requested

N/A

Background

The Board has noticed a gradual decline in the licensee population. As a result, the Board has expressed concern over the decline and has tasked staff to research the issue and provide its findings to the Board.

At the July 25, 2019 board meeting, Board members expressed interest in discussing healing arts licensing trends and directed staff to gather statistical information for a future agenda item. Staff believes that understanding internal and external factors that impact licensing statistics could help mitigate negative trends and ensure the Board's long-term sustainability.

Recommendation(s)

N/A

Next Step

N/A

Attachment(s)

- California Healing Arts Licensing Trend Data

Action(s) requested

No action requested at this time.

Long Term California Healing Arts Programs Licensing Trends

	2013		2014		2015		2016		2017		2018		
Board	**Total**	**New**	**Total**	**New**	**Total**	**New**	**Total**	**New**	**Total**	**New**	**Total**	**New**	**Population Trend**
Acupuncture	13,636	600	17,059	872	17,581	565	16,126	518	11,999	534	12,185	452	fluctuating
Chiropractic	13,394	319	13,402	323	13,337	345	13,262	306	13,191	318	13,075	318	last 4 years going down
Dental	45,443	1,059	42,550	1,035	42,284	1,088	41,083	962	41,084	1,171	57,337	1,192	fluctuating
Medical	135,208	5,439	137,320	5,522	138,741	5,882	141,967	6,317	144,441	6,802	147,494	6,694	going up
Naturopathic Medicine	613	60	525	69	501	81	619	65	674	102	745	94	last 3 years going up
Occupational Therapy	12,347	860	N/A	854	13,858	961	12,791	1,035	13,380	1,177	13,905	1,308	last 2 years going up
Osteopathic Medical	6,796	524	8,011	608	8,747	681	9,074	684	9,843	910	10,511	891	last 3 years going up
Physical Therapy	33,185	1,150	27,128	1,192	27,965	1,226	28,865	1,443	29,366	1,655	30,449	1,805	last 4 years going up
Registered Nursing	403,438	21,679	414,159	20,208	433,551	22,911	418,980	24,135	432,080	30,595	442,383	29,714	last 3 years going up

Agenda Item 16
October 24, 2019

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

Purpose of the item

The Board will receive an update from the August 22, 2019 and October 10, 2019 Licensing & Continuing Education (CE) Committee Meetings.

Action(s) requested

No action required.

Background

Dr. Azzolino has joined the Committee as the Chair as Dr. McClain has stepped down from the Licensing & CE Committee.

The Licensing & CE Committee met on August 22nd to review and discuss the proposed language and policy amendments to California Code of Regulations (CCR) Sections 362.1 – 363.1. The Committee discussed potentially removing criminal background requirements from the CE Provider Application and corresponding regulatory language. They clarified the causes of approval withdrawal, status denial and the appeal process for providers. Finally, they reviewed the sample CE Provider Application and the CE Event Application, suggesting edits and additional content to be included.

At the October 10th meeting, the Committee reviewed and discussed the proposed language and policy amendments to CCR Sections 363 – 363.4. The Committee identified some policy issues surrounding the proposed course content competencies and recommended changes to the meta-competency framework. Additionally, the Committee reviewed the sample CE Event Application, the Instructor Attestation Form and the Post Course Evaluation Form. Members suggested additional content be included on the Instructor Attestation Form and the Post Course Evaluation Form.

Recommendation(s)

N/A

Next Step

N/A

Attachment(s)

- Licensing & Continuing Education Committee Meeting Agenda – August 22nd,
- Licensing & Continuing Education Committee Meeting Agenda – October 10th

BOARD of CHIROPRACTIC EXAMINERS
STATE OF CALIFORNIA

BUSINESS, CONSUMER SERVICES AND HOUSING AGENCY • GAVIN NEWSOM, GOVERNOR
DEPARTMENT OF CONSUMER AFFAIRS • CALIFORNIA BOARD OF CHIROPRACTIC EXAMINERS
901 P St., Suite 142A, Sacramento, CA 95814
P (916) 263-5355 | Toll-Free (866) 543-1311 | F (916) 327-0039 | www.chiro.ca.gov

NOTICE OF TELECONFERENCE
LICENSING & CONTINUING EDUCATION COMMITTEE MEETING

August 22nd, 2019

12 p.m. – 1:30 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 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)

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

Heather Dehn, D.C.
Dehn Chiropractic
4343 Marconi Ave., #5
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. **Approval of June 28, 2019 Committee Meeting Minutes**

3. **Review, Discussion and Possible Action on proposed language to Continuing Education regulations: Denial & Appeal of Providers and Denial & Appeal of Continuing Education Courses.**

4. **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.

5. **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.]

6. **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.

BOARD of CHIROPRACTIC EXAMINERS
STATE OF CALIFORNIA

BUSINESS, CONSUMER SERVICES AND HOUSING AGENCY • GAVIN NEWSOM, GOVERNOR
DEPARTMENT OF CONSUMER AFFAIRS • CALIFORNIA BOARD OF CHIROPRACTIC EXAMINERS
901 P St., Suite 142A, Sacramento, CA 95814
P (916) 263-5355 | Toll-Free (866) 543-1311 | F (916) 327-0039 | www.chiro.ca.gov

NOTICE OF TELECONFERENCE
LICENSING & CONTINUING EDUCATION COMMITTEE MEETING
October 10, 2019
4 p.m. – 5 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 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)

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

Heather Dehn, D.C.
Dehn Chiropractic
4343 Marconi Ave., #5
Sacramento, CA 95821
(916) 488-0202

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

Life Chiropractic College West
Postgraduate & Continuing Education, Room 136
25001 Industrial Blvd.
Hayward, CA 94545
(510) 780-4500 ext. 2030

Palmer College of Chiropractic
90 E. Tasman Dr., Room 121
San Jose, CA 95134
(408) 944-6000

Southern California University of Health Sciences
'Z' Building
16200 Amber Valley Drive,
Whittier CA. 90604
(800) 221-5222 ext. 366

AGENDA

1. **Call to Order & Establishment of a Quorum**

2. **Approval of August 22nd, 2019 Committee Meeting Minutes**

3. **Review, Discussion and Possible Action on Proposed Language to Continuing Education Regulations: Continuing Education Courses**

4. **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.

5. 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.]

6. 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.

BOARD of CHIROPRACTIC EXAMINERS
STATE OF CALIFORNIA

State of California
Gavin Newsom, Governor

Agenda Item 17
October 24, 2019

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

---

Purpose of the item

The Board will receive an update from the August 27, 2019 Government and Public Affairs Committee Meeting.

Action(s) requested
N/A

Background

Board staff has been monitoring several bills that were introduced during the 2019 legislative session. Most of these bills would have a potential minor but absorbable programmatic impact and raise no significant policy issues. At this time, no bills require the Board to take further action.

The Committee met on August 27, 2019 to review and discuss the following bills:

Bill	Author	Title	Status	Position
AB 5	**Gonzalez**	Worker Status: Employees and Independent Contractors	Signed by the Governor and Chaptered by the Secretary of State 09/18/19 *Chapter 296, Statutes of 2019*	No Position
AB 1076	**Ting**	Criminal Records: Automatic Relief	Signed by the Governor and Chaptered by the Secretary of State 10/08/19 *Chapter 578, Statutes of 2019*	No Position

Support

Bill	Author	Title	Status	Position
SB 425	**Hill**	Health Care Practitioners: Licensee's file: Probationary Physician's & Surgeon's Certificate: Unprofessional	Signed by the Governor and Chaptered by the Secretary of State 10/12/19 *Chapter 849, Statutes of 2019*	Support

Oppose

Bill	Author	Title	Status	Position
SB 53	**Wilk**	Open Meetings	Held in committee and under submission on 08/30/19	Oppose

Bill	Author	Summary	Amended
AB 5	**Gonzalez**	This bill codified the decision of the California Supreme Court in *Dynamex Operations West, Inc. v. Superior Court of Los Angeles (2018)* that presumes a worker is an employee unless a hiring entity satisfies a three-factor test (ABC) in order to lawfully classify a worker as an independent contractor. This bill also expands the scope of Dynamex to include unemployment and other labor protections.	**09/06/19**
AB 1076	**Ting**	This bill requires the Department of Justice (DOJ) to automate the process to seal arrest records and dismiss convictions by reviewing the records on the statewide criminal justice databases on a monthly basis and identifying individuals who are eligible to have certain arrests and convictions sealed, with specified exemptions. With an automated process in place, the bill requires the DOJ to grant relief to an eligible individual without a petition or motion being filed on the individual's behalf.	**08/30/19**
SB 53	**Wilk**	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.	**3/05/19**
SB 425	**Hill**	This bill requires a health facility, clinic or other specified entities 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 provider to the appropriate licensing board within 15 days. This bill also imposes a fine for failure to report.	**9/05/19**

Recommendation(s)

Staff does not have any recommendations at this time.

Next Step
N/A

Attachment(s)

- AB 5 bill analysis and text
- AB 1076 bill analysis and text
- SB 53 bill text
- SB 425 bill text

NOTICE OF TELECONFERENCE
GOVERNMENT & PUBLIC AFFAIRS COMMITTEE MEETING

August 27, 2019
12 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 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, Discussion and Possible Action Regarding AB 5 (Gonzalez) Worker Status: Employees and Independent Contractors**
3. **Review, Discussion and Possible Action Regarding AB 1076 (Ting) Criminal Records: Automatic Relief**
4. **Review, Discussion and Possible Action Regarding SB 53 (Wilk) Open Meetings**
5. **Review, Discussion and Possible Action Regarding SB 425 (Hill) Health Care Practitioners: Licensee's File: Probationary Physician's and Surgeon's Certificate: Unprofessional Conduct**

6. 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.

4. 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.]

5. 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.

Board of Chiropractic Examiners
Bill Analysis

Bill Number: AB 5
Author: Assembly Member Lorena Gonzalez
Bill Version: Chaptered by the Secretary of State 09/18/2019
Subject: Worker Status: Employees and Independent Contractors
Sponsor: California Labor Federation
Status of Bill: Signed by the Governor; Chapter 296, Statutes of 2019

Summary:

This bill would codify the decision of the California Supreme Court in *Dynamex Operations West, Inc. v. Superior Court of Los Angeles* (2018) that presumes a worker is an employee unless a hiring entity satisfies a three-factor test (ABC) in order to lawfully classify a worker as an independent contractor. This bill would also expand the scope of Dynamex to include unemployment and other labor protections.

Existing Law:

- Establishes a comprehensive set of protections for employees, including a minimum wage, meal and rest periods, workers' compensation coverage in the event of an industrial injury sick leave, and disability insurance (DI) in the event if a non-industrial disability, paid family leave, and unemployment insurance (UI).
  (Labor Code §§ 201, 226.7, 246, 512, 1182.12 & 3600 and UC Code §§ 1251&2601).

- Creates the Industrial Welfare Commission (IWC), which promulgates industry-specific wage orders that set the wages, hours, and working conditions of employees. The IWC wage orders have the force of regulation and are enforced by the Division of Labor Standards Enforcement (DLSE). (Labor Code §§ 70, 1173, 1177, 1195 & 1197).

- Requires, for purposes of this analysis, a hiring entity to satisfy specified criteria in the Borello test, the primary California Supreme Court precedent, in order to lawfully classify a worker as an independent contractor. The factors in the Borello test include, but are not limited to, the right to discharge without cause and whether the worker performing services is engaged in a distinct occupation or business and the method of payment, whether by the time or the job. (*S.G. Borello & Sons. Inc. v. Department of Industrial Relations* (1989) 48 Cal. 3rd 341)

- Requires, for the purposes of IWC wage orders, a hiring entity to satisfy the following circumstances included in the holding in Dynamex, known as the ABC, test to lawfully classify a worker as an independent contractor:

a) The worker is free from the control and direction of the hirer in connection with the performance of the work, both under the contract for the performance of such work and in fact;
b) The worker performs work that is outside the usual course of the hiring entity's business; and
c) The worker is customarily engaged in an independently established trade, occupation, or business of the same nature as the work performed for the hiring entity. (*Dynamex Operations West v. Superior Court of Los Angeles* (2018) 4 Cal. 5th 903)

<u>This Bill Would:</u>

- Codify the recent decision in *Dynamex Operations West v. Superior Court of Los Angeles* (2018) (Dynamex), for the purposes of IWC wage orders, by overturning the California Supreme Court's decision in the Borello ruling.

- Expand the definition of "employee", for purposes of unemployment insurance provisions, to include workers who are defined as employees pursuant to the holding in Dynamex.

- Provides that for purposes of the Labor Code, the Unemployment Insurance and the IWC's wage orders, a person providing labor or services for remuneration shall be considered an employee unless the hiring entity demonstrates the ABC test was satisfied.

- Exempt specified occupations from the ABC test and instead require the employment relationship to be established by the Borello test. Exempt occupations include but are not limited to:

  a) licensed insurance agents; b) certain health care professionals such as physicians, surgeons, dentists, podiatrists, psychologists and veterinarians; c) registered securities broker-dealers or investment advisors and; d) hairstylists and barbers; e) individuals performing work under a contract for professional services with another business entity.

- Exempt a business entity formed as a sole proprietorship, limited company or Corporation or "business service provider" from the holding in Dynamex if the business service provider has a contract with another business or "contracting business" to provide services under specified criteria.

- Amend the existing labor law to address worker's compensation and the holding in Dynamex.

- Make findings and declarations on Dynamex, the negative consequences of misclassification.

- Authorize an action for injunctive relief to prevent employee misclassification to be brought by the Attorney General and specified local prosecuting agencies.

Background:

According to the author's office:

> In 2004, a misclassification lawsuit was filed against a package and document delivery company called Dynamex Operations West, a nationwide delivery service company which had converted all of its delivery drivers from employees of the company to independent contractors. Prior to 2004, all of the delivery drivers were employees solely to cut costs at the expense of its own workers. Drivers continued to perform the same job, were required to use their own vehicles and pay for all transportation expenses and uniforms without the protections afforded under the California Labor Code and wage orders.
>
> In April 2018, the California Supreme Court issued the landmark decision in the Dynamex ruling which was in favor of the drivers and based its ruling on a three-part ABC test used to determine employment status.
>
> Many companies have increasingly shifted toward a business model that relies on the misclassification of employees by forcing them to act as independent contractors and lose employee rights and protections while the employer maintains the right to set rates, direct work and impose discipline and control upon workers.
>
> The Division of Labor Standards Enforcement (DLSE) estimates that the misclassification of workers results in an estimated annual loss of $7 billion per year in payroll tax revenue to the state, that otherwise could have supported General Fund programs for public safety, education and infrastructure.

Fiscal Impact:

- The Board of Chiropractic Examiners does not anticipate a fiscal impact to the fund due to this legislation. However, individual chiropractors who hire an employee or an independent contractor may need to seek legal services to ensure they comply with labor laws.

Support & Opposition:

Support:

Over 50 organizations support AB 5, including but not limited to:

- California Labor Federation (Sponsor)
- California Nurses Association
- National Association of Insurance and Financial Advisors of California
- SEIU CA
- SEIU Local 1000
- State Building and Construction Trades Council

Opposition:

Over 30 organizations oppose AB 5, including but not limited to:

- California Society for Respiratory Care
- California Trucking Association
- National Federation of Independent Business
- Electrologists' Association of California

Arguments:

Pro:

- The California Labor Federation, sponsor of this bill, states that the ABC test "prevents the common practice in many industries of a company forcing an individual to act as an independent business while the company maintains the right to set rates, direct work, and impose discipline. It distinguishes carefully between a trucking company that has no employee drivers (misclassification) and a trucking company that contracts with a mechanic (legitimate contractor). Bringing misclassified workers into employee status will mean more workers have a safety net when they are sick, laid off, or hurt at work."

- State Building and Construction Trades Council (SBTC) argues that AB 5 would assist the Division of Labor Standards Enforcement hold law breaking contractors accountable and restore tax revenue for unemployment insurance, disability insurance and employer contributions to the workers' compensation system by preventing misclassification.

- This bill would reinforce Labor Code protections for misclassified workers by expanding the definition of "employee" for purposes of unemployment insurance and labor code provisions.

Con:

- The National Federation of Independent Business (NFIB) expressed concern over the Dynamex ruling, which overturns the Borello test by establishing the stringent ABC test that is unworkable for every single business in a state and economy as diverse as California's.

- The ABC test states that an independent contractor must work for an employer, but not in their client's normal course of business. However, there is no clear provision in the bill regarding general guidelines for what constitutes a hiring entity's "course of business", which makes it prone to misinterpretation.

  This bill would not only be detrimental to the interests of employers, it could have a significant economic impact on small businesses as more workers could potentially be classified as employees rather than independent contractors. In those cases, it could be costly for small businesses to retain or hire more employees while complying with requirements relating to minimum wages, overtime compensation, and standards for working conditions for the protection of employees' rights and benefits.

- Dynamex focuses on a case-by-case analysis on each and every occupation, placing specific occupations, that in some cases need to meet explicit requirements, under the Borello test. Beyond the list of specified occupations, there is no clear reason as to why certain occupations and professional services are exempt from the ABC test and others are not. However, it appears that some of these occupations and professional services employ a higher proportion of contractors in California according to the UC Berkeley Labor Center.

  Generally, many of the occupations that are exempt in this bill are not bound by minimum wages but are instead commission based, set and negotiate rates with clients for the work provided or establish a written contract between the worker and the hiring entity identifying the worker as a non-employee for state tax purposes.

Staff Recommended Position: WATCH

The Board does not have jurisdiction over general business practices and is not authorized to discipline licensees for violations of employment law.

STATE OF CALIFORNIA
AUTHENTICATED
ELECTRONIC LEGAL MATERIAL

Assembly Bill No. 5

CHAPTER 296

An act to amend Section 3351 of, and to add Section 2750.3 to, the Labor Code, and to amend Sections 606.5 and 621 of the Unemployment Insurance Code, relating to employment, and making an appropriation therefor.

[Approved by Governor September 18, 2019. Filed with Secretary of State September 18, 2019.]

legislative counsel's digest

AB 5, Gonzalez. Worker status: employees and independent contractors.

Existing law, as established in the case of Dynamex Operations West, Inc. v. Superior Court of Los Angeles (2018) 4 Cal.5th 903 (Dynamex), creates a presumption that a worker who performs services for a hirer is an employee for purposes of claims for wages and benefits arising under wage orders issued by the Industrial Welfare Commission. Existing law requires a 3-part test, commonly known as the "ABC" test, to establish that a worker is an independent contractor for those purposes.

Existing law, for purposes of unemployment insurance provisions, requires employers to make contributions with respect to unemployment insurance and disability insurance from the wages paid to their employees. Existing law defines "employee" for those purposes to include, among other individuals, any individual who, under the usual common law rules applicable in determining the employer-employee relationship, has the status of an employee.

This bill would state the intent of the Legislature to codify the decision in the Dynamex case and clarify its application. The bill would provide that for purposes of the provisions of the Labor Code, the Unemployment Insurance Code, and the wage orders of the Industrial Welfare Commission, a person providing labor or services for remuneration shall be considered an employee rather than an independent contractor unless the hiring entity demonstrates that the person is free from the control and direction of the hiring entity in connection with the performance of the work, the person performs work that is outside the usual course of the hiring entity's business, and the person is customarily engaged in an independently established trade, occupation, or business. The bill, notwithstanding this provision, would provide that any statutory exception from employment status or any extension of employer status or liability remains in effect, and that if a court rules that the 3-part test cannot be applied, then the determination of employee or independent contractor status shall be governed by the test adopted in S. G. Borello & Sons, Inc. v. Department of Industrial Relations (1989) 48 Cal.3d 341 (Borello). The bill would exempt specified occupations from the application of Dynamex, and would instead provide that these

occupations are governed by Borello. These exempt occupations would include, among others, licensed insurance agents, certain licensed health care professionals, registered securities broker-dealers or investment advisers, direct sales salespersons, real estate licensees, commercial fishermen, workers providing licensed barber or cosmetology services, and others performing work under a contract for professional services, with another business entity, or pursuant to a subcontract in the construction industry.

The bill would also require the Employment Development Department, on or before March 1, 2021, and each March 1 thereafter, to issue an annual report to the Legislature on the use of unemployment insurance in the commercial fishing industry. The bill would make the exemption for commercial fishermen applicable only until January 1, 2023, and the exemption for licensed manicurists applicable only until January 1, 2022. The bill would authorize an action for injunctive relief to prevent employee misclassification to be brought by the Attorney General and specified local prosecuting agencies.

This bill would also redefine the definition of "employee" described above, for purposes of unemployment insurance provisions, to include an individual providing labor or services for remuneration who has the status of an employee rather than an independent contractor, unless the hiring entity demonstrates that the individual meets all of specified conditions, including that the individual performs work that is outside the usual course of the hiring entity's business. Because this bill would increase the categories of individuals eligible to receive benefits from, and thus would result in additional moneys being deposited into, the Unemployment Fund, a continuously appropriated fund, the bill would make an appropriation. The bill would state that addition of the provision to the Labor Code does not constitute a change in, but is declaratory of, existing law with regard to violations of the Labor Code relating to wage orders of the Industrial Welfare Commission. The bill would also state that specified Labor Code provisions of the bill apply retroactively to existing claims and actions to the maximum extent permitted by law while other provisions apply to work performed on or after January 1, 2020. The bill would additionally provide that the bill's provisions do not permit an employer to reclassify an individual who was an employee on January 1, 2019, to an independent contractor due to the bill's enactment.

Existing provisions of the Labor Code make it a crime for an employer to violate specified provisions of law with regard to an employee. The Unemployment Insurance Code also makes it a crime to violate specified provisions of law with regard to benefits and payments.

By expanding the definition of an employee for purposes of these provisions, the bill would expand the definition of a crime, thereby imposing a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Appropriation: yes.

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

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

(a) On April 30, 2018, the California Supreme Court issued a unanimous decision in Dynamex Operations West, Inc. v. Superior Court of Los Angeles (2018) 4 Cal.5th 903 (Dynamex).

(b) In its decision, the Court cited the harm to misclassified workers who lose significant workplace protections, the unfairness to employers who must compete with companies that misclassify, and the loss to the state of needed revenue from companies that use misclassification to avoid obligations such as payment of payroll taxes, payment of premiums for workers' compensation, Social Security, unemployment, and disability insurance.

(c) The misclassification of workers as independent contractors has been a significant factor in the erosion of the middle class and the rise in income inequality.

(d) It is the intent of the Legislature in enacting this act to include provisions that would codify the decision of the California Supreme Court in Dynamex and would clarify the decision's application in state law.

(e) It is also the intent of the Legislature in enacting this act to ensure workers who are currently exploited by being misclassified as independent contractors instead of recognized as employees have the basic rights and protections they deserve under the law, including a minimum wage, workers' compensation if they are injured on the job, unemployment insurance, paid sick leave, and paid family leave. By codifying the California Supreme Court's landmark, unanimous Dynamex decision, this act restores these important protections to potentially several million workers who have been denied these basic workplace rights that all employees are entitled to under the law.

(f) The Dynamex decision interpreted one of the three alternative definitions of "employ," the "suffer or permit" definition, from the wage orders of the Industrial Welfare Commission (IWC). Nothing in this act is intended to affect the application of alternative definitions from the IWC wage orders of the term "employ," which were not addressed by the holding of Dynamex.

(g) Nothing in this act is intended to diminish the flexibility of employees to work part-time or intermittent schedules or to work for multiple employers.

SEC. 2. Section 2750.3 is added to the Labor Code, to read:

2750.3. (a) (1) For purposes of the provisions of this code and the Unemployment Insurance Code, and for the wage orders of the Industrial Welfare Commission, a person providing labor or services for remuneration

shall be considered an employee rather than an independent contractor unless the hiring entity demonstrates that all of the following conditions are satisfied:

(A) The person is free from the control and direction of the hiring entity in connection with the performance of the work, both under the contract for the performance of the work and in fact.

(B) The person performs work that is outside the usual course of the hiring entity's business.

(C) The person is customarily engaged in an independently established trade, occupation, or business of the same nature as that involved in the work performed.

(2) Notwithstanding paragraph (1), any exceptions to the terms "employee," "employer," "employ," or "independent contractor," and any extensions of employer status or liability, that are expressly made by a provision of this code, the Unemployment Insurance Code, or in an applicable order of the Industrial Welfare Commission, including, but not limited to, the definition of "employee" in subdivision 2(E) of Wage Order No. 2, shall remain in effect for the purposes set forth therein.

(3) If a court of law rules that the three-part test in paragraph (1) cannot be applied to a particular context based on grounds other than an express exception to employment status as provided under paragraph (2), then the determination of employee or independent contractor status in that context shall instead be governed by the California Supreme Court's decision in S. G. Borello & Sons, Inc. v. Department of Industrial Relations (1989) 48 Cal.3d 341 (Borello).

(b) Subdivision (a) and the holding in Dynamex Operations West, Inc. v. Superior Court of Los Angeles (2018) 4 Cal.5th 903 (Dynamex), do not apply to the following occupations as defined in the paragraphs below, and instead, the determination of employee or independent contractor status for individuals in those occupations shall be governed by Borello.

(1) A person or organization who is licensed by the Department of Insurance pursuant to Chapter 5 (commencing with Section 1621), Chapter 6 (commencing with Section 1760), or Chapter 8 (commencing with Section 1831) of Part 2 of Division 1 of the Insurance Code.

(2) A physician and surgeon, dentist, podiatrist, psychologist, or veterinarian licensed by the State of California pursuant to Division 2 (commencing with Section 500) of the Business and Professions Code, performing professional or medical services provided to or by a health care entity, including an entity organized as a sole proprietorship, partnership, or professional corporation as defined in Section 13401 of the Corporations Code. Nothing in this subdivision shall apply to the employment settings currently or potentially governed by collective bargaining agreements for the licensees identified in this paragraph.

(3) An individual who holds an active license from the State of California and is practicing one of the following recognized professions: lawyer, architect, engineer, private investigator, or accountant.

(4) A securities broker-dealer or investment adviser or their agents and representatives that are registered with the Securities and Exchange Commission or the Financial Industry Regulatory Authority or licensed by the State of California under Chapter 2 (commencing with Section 25210) or Chapter 3 (commencing with Section 25230) of Division 1 of Part 3 of Title 4 of the Corporations Code.

(5) A direct sales salesperson as described in Section 650 of the Unemployment Insurance Code, so long as the conditions for exclusion from employment under that section are met.

(6) A commercial fisherman working on an American vessel as defined in subparagraph (A) below.

(A) For the purposes of this paragraph:

(i) "American vessel" has the same meaning as defined in Section 125.5 of the Unemployment Insurance Code.

(ii) "Commercial fisherman" means a person who has a valid, unrevoked commercial fishing license issued pursuant to Article 3 (commencing with Section 7850) of Chapter 1 of Part 3 of Division 6 of the Fish and Game Code.

(iii) "Working on an American vessel" means the taking or the attempt to take fish, shellfish, or other fishery resources of the state by any means, and includes each individual aboard an American vessel operated for fishing purposes who participates directly or indirectly in the taking of these raw fishery products, including maintaining the vessel or equipment used aboard the vessel. However, "working on an American vessel" does not apply to anyone aboard a licensed commercial fishing vessel as a visitor or guest who does not directly or indirectly participate in the taking.

(B) For the purposes of this paragraph, a commercial fisherman working on an American vessel is eligible for unemployment insurance benefits if they meet the definition of "employment" in Section 609 of the Unemployment Insurance Code and are otherwise eligible for those benefits pursuant to the provisions of the Unemployment Insurance Code.

(C) On or before March 1, 2021, and each March 1 thereafter, the Employment Development Department shall issue an annual report to the Legislature on the use of unemployment insurance in the commercial fishing industry. This report shall include, but not be limited to, reporting the number of commercial fishermen who apply for unemployment insurance benefits, the number of commercial fishermen who have their claims disputed, the number of commercial fishermen who have their claims denied, and the number of commercial fishermen who receive unemployment insurance benefits. The report required by this subparagraph shall be submitted in compliance with Section 9795 of the Government Code.

(D) This paragraph shall become inoperative on January 1, 2023, unless extended by the Legislature.

(c) (1) Subdivision (a) and the holding in Dynamex do not apply to a contract for "professional services" as defined below, and instead the determination of whether the individual is an employee or independent

contractor shall be governed by Borello if the hiring entity demonstrates that all of the following factors are satisfied:

(A) The individual maintains a business location, which may include the individual's residence, that is separate from the hiring entity. Nothing in this subdivision prohibits an individual from choosing to perform services at the location of the hiring entity.

(B) If work is performed more than six months after the effective date of this section, the individual has a business license, in addition to any required professional licenses or permits for the individual to practice in their profession.

(C) The individual has the ability to set or negotiate their own rates for the services performed.

(D) Outside of project completion dates and reasonable business hours, the individual has the ability to set the individual's own hours.

(E) The individual is customarily engaged in the same type of work performed under contract with another hiring entity or holds themselves out to other potential customers as available to perform the same type of work.

(F) The individual customarily and regularly exercises discretion and independent judgment in the performance of the services.

(2) For purposes of this subdivision:

(A) An "individual" includes an individual providing services through a sole proprietorship or other business entity.

(B) "Professional services" means services that meet any of the following:

(i) Marketing, provided that the contracted work is original and creative in character and the result of which depends primarily on the invention, imagination, or talent of the employee or work that is an essential part of or necessarily incident to any of the contracted work.

(ii) Administrator of human resources, provided that the contracted work is predominantly intellectual and varied in character and is of such character that the output produced or the result accomplished cannot be standardized in relation to a given period of time.

(iii) Travel agent services provided by either of the following: (I) a person regulated by the Attorney General under Article 2.6 (commencing with Section 17550) of Chapter 1 of Part 3 of Division 7 of the Business and Professions Code, or (II) an individual who is a seller of travel within the meaning of subdivision (a) of Section 17550.1 of the Business and Professions Code and who is exempt from the registration under subdivision (g) of Section 17550.20 of the Business and Professions Code.

(iv) Graphic design.

(v) Grant writer.

(vi) Fine artist.

(vii) Services provided by an enrolled agent who is licensed by the United States Department of the Treasury to practice before the Internal Revenue Service pursuant to Part 10 of Subtitle A of Title 31 of the Code of Federal Regulations.

(viii) Payment processing agent through an independent sales organization.

(ix) Services provided by a still photographer or photojournalist who do not license content submissions to the putative employer more than 35 times per year. This clause is not applicable to an individual who works on motion pictures, which includes, but is not limited to, projects produced for theatrical, television, internet streaming for any device, commercial productions, broadcast news, music videos, and live shows, whether distributed live or recorded for later broadcast, regardless of the distribution platform. For purposes of this clause a "submission" is one or more items or forms of content produced by a still photographer or photojournalist that: (I) pertains to a specific event or specific subject; (II) is provided for in a contract that defines the scope of the work; and (III) is accepted by and licensed to the publication or stock photography company and published or posted. Nothing in this section shall prevent a photographer or artist from displaying their work product for sale.

(x) Services provided by a freelance writer, editor, or newspaper cartoonist who does not provide content submissions to the putative employer more than 35 times per year. Items of content produced on a recurring basis related to a general topic shall be considered separate submissions for purposes of calculating the 35 times per year. For purposes of this clause, a "submission" is one or more items or forms of content by a freelance journalist that: (I) pertains to a specific event or topic; (II) is provided for in a contract that defines the scope of the work; (III) is accepted by the publication or company and published or posted for sale.

(xi) Services provided by a licensed esthetician, licensed electrologist, licensed manicurist, licensed barber, or licensed cosmetologist provided that the individual:

(I) Sets their own rates, processes their own payments, and is paid directly by clients.

(II) Sets their own hours of work and has sole discretion to decide the number of clients and which clients for whom they will provide services.

(III) Has their own book of business and schedules their own appointments.

(IV) Maintains their own business license for the services offered to clients.

(V) If the individual is performing services at the location of the hiring entity, then the individual issues a Form 1099 to the salon or business owner from which they rent their business space.

(VI) This subdivision shall become inoperative, with respect to licensed manicurists, on January 1, 2022.

(d) Subdivision (a) and the holding in Dynamex do not apply to the following, which are subject to the Business and Professions Code:

(1) A real estate licensee licensed by the State of California pursuant to Division 4 (commencing with Section 10000) of the Business and Professions Code, for whom the determination of employee or independent contractor status shall be governed by subdivision (b) of Section 10032 of the Business and Professions Code. If that section is not applicable, then this determination shall be governed as follows: (A) for purposes of

unemployment insurance by Section 650 of the Unemployment Insurance Code; (B) for purposes of workers compensation by Section 3200 et seq.; and (C) for all other purposes in the Labor Code by Borello. The statutorily imposed duties of a responsible broker under Section 10015.1 of the Business and Professions Code are not factors to be considered under the Borello test.

(2) A repossession agency licensed pursuant to Section 7500.2 of the Business and Professions Code, for whom the determination of employee or independent contractor status shall be governed by Section 7500.2 of the Business and Professions Code, if the repossession agency is free from the control and direction of the hiring person or entity in connection with the performance of the work, both under the contract for the performance of the work and in fact.

(e) Subdivision (a) and the holding in Dynamex do not apply to a bona fide business-to-business contracting relationship, as defined below, under the following conditions:

(1) If a business entity formed as a sole proprietorship, partnership, limited liability company, limited liability partnership, or corporation ("business service provider") contracts to provide services to another such business ("contracting business"), the determination of employee or independent contractor status of the business services provider shall be governed by Borello, if the contracting business demonstrates that all of the following criteria are satisfied:

(A) The business service provider is free from the control and direction of the contracting business entity in connection with the performance of the work, both under the contract for the performance of the work and in fact.

(B) The business service provider is providing services directly to the contracting business rather than to customers of the contracting business.

(C) The contract with the business service provider is in writing.

(D) If the work is performed in a jurisdiction that requires the business service provider to have a business license or business tax registration, the business service provider has the required business license or business tax registration.

(E) The business service provider maintains a business location that is separate from the business or work location of the contracting business.

(F) The business service provider is customarily engaged in an independently established business of the same nature as that involved in the work performed.

(G) The business service provider actually contracts with other businesses to provide the same or similar services and maintains a clientele without restrictions from the hiring entity.

(H) The business service provider advertises and holds itself out to the public as available to provide the same or similar services.

(I) The business service provider provides its own tools, vehicles, and equipment to perform the services.

(J) The business service provider can negotiate its own rates.

(K) Consistent with the nature of the work, the business service provider can set its own hours and location of work.

(L) The business service provider is not performing the type of work for which a license from the Contractor's State License Board is required, pursuant to Chapter 9 (commencing with Section 7000) of Division 3 of the Business and Professions Code.

(2) This subdivision does not apply to an individual worker, as opposed to a business entity, who performs labor or services for a contracting business.

(3) The determination of whether an individual working for a business service provider is an employee or independent contractor of the business service provider is governed by paragraph (1) of subdivision (a).

(4) This subdivision does not alter or supersede any existing rights under Section 2810.3.

(f) Subdivision (a) and the holding in Dynamex do not apply to the relationship between a contractor and an individual performing work pursuant to a subcontract in the construction industry, and instead the determination of whether the individual is an employee of the contractor shall be governed by Section 2750.5 and by Borello, if the contractor demonstrates that all the following criteria are satisfied:

(1) The subcontract is in writing.

(2) The subcontractor is licensed by the Contractors State License Board and the work is within the scope of that license.

(3) If the subcontractor is domiciled in a jurisdiction that requires the subcontractor to have a business license or business tax registration, the subcontractor has the required business license or business tax registration.

(4) The subcontractor maintains a business location that is separate from the business or work location of the contractor.

(5) The subcontractor has the authority to hire and to fire other persons to provide or to assist in providing the services.

(6) The subcontractor assumes financial responsibility for errors or omissions in labor or services as evidenced by insurance, legally authorized indemnity obligations, performance bonds, or warranties relating to the labor or services being provided.

(7) The subcontractor is customarily engaged in an independently established business of the same nature as that involved in the work performed.

(8) (A) Paragraph (2) shall not apply to a subcontractor providing construction trucking services for which a contractor's license is not required by Chapter 9 (commencing with Section 7000) of Division 3 of the Business and Professions Code, provided that all of the following criteria are satisfied:

(i) The subcontractor is a business entity formed as a sole proprietorship, partnership, limited liability company, limited liability partnership, or corporation.

(ii) For work performed after January 1, 2020, the subcontractor is registered with the Department of Industrial Relations as a public works

contractor pursuant to Section 1725.5, regardless of whether the subcontract involves public work.

(iii) The subcontractor utilizes its own employees to perform the construction trucking services, unless the subcontractor is a sole proprietor who operates their own truck to perform the entire subcontract and holds a valid motor carrier permit issued by the Department of Motor Vehicles.

(iv) The subcontractor negotiates and contracts with, and is compensated directly by, the licensed contractor.

(B) For work performed after January 1, 2020, any business entity that provides construction trucking services to a licensed contractor utilizing more than one truck shall be deemed the employer for all drivers of those trucks.

(C) For purposes of this paragraph, "construction trucking services" mean hauling and trucking services provided in the construction industry pursuant to a contract with a licensed contractor utilizing vehicles that require a commercial driver's license to operate or have a gross vehicle weight rating of 26,001 or more pounds.

(D) This paragraph shall only apply to work performed before January 1, 2022.

(E) Nothing in this paragraph prohibits an individual who owns their truck from working as an employee of a trucking company and utilizing that truck in the scope of that employment. An individual employee providing their own truck for use by an employer trucking company shall be reimbursed by the trucking company for the reasonable expense incurred for the use of the employee owned truck.

(g) Subdivision (a) and the holding in Dynamex do not apply to the relationship between a referral agency and a service provider, as defined below, under the following conditions:

(1) If a business entity formed as a sole proprietor, partnership, limited liability company, limited liability partnership, or corporation ("service provider") provides services to clients through a referral agency, the determination whether the service provider is an employee of the referral agency shall be governed by Borello, if the referral agency demonstrates that all of the following criteria are satisfied:

(A) The service provider is free from the control and direction of the referral agency in connection with the performance of the work for the client, both as a matter of contract and in fact.

(B) If the work for the client is performed in a jurisdiction that requires the service provider to have a business license or business tax registration, the service provider has the required business license or business tax registration.

(C) If the work for the client requires the service provider to hold a state contractor's license pursuant to Chapter 9 (commencing with Section 7000) of Division 3 of the Business and Professions Code, the service provider has the required contractor's license.

(D) The service provider delivers services to the client under service provider's name, rather than under the name of the referral agency.

(E) The service provider provides its own tools and supplies to perform the services.

(F) The service provider is customarily engaged in an independently established business of the same nature as that involved in the work performed for the client.

(G) The service provider maintains a clientele without any restrictions from the referral agency and the service provider is free to seek work elsewhere, including through a competing agency.

(H) The service provider sets its own hours and terms of work and is free to accept or reject clients and contracts.

(I) The service provider sets its own rates for services performed, without deduction by the referral agency.

(J) The service provider is not penalized in any form for rejecting clients or contracts. This subparagraph does not apply if the service provider accepts a client or contract and then fails to fulfill any of its contractual obligations.

(2) For purposes of this subdivision, the following definitions apply:

(A) "Animal services" means services related to daytime and nighttime pet care including pet boarding under Section 122380 of the Health and Safety Code.

(B) "Client" means a person or business that engages a service contractor through a referral agency.

(C) "Referral agency" is a business that connects clients with service providers that provide graphic design, photography, tutoring, event planning, minor home repair, moving, home cleaning, errands, furniture assembly, animal services, dog walking, dog grooming, web design, picture hanging, pool cleaning, or yard cleanup.

(D) "Referral agency contract" is the agency's contract with clients and service contractors governing the use of its intermediary services described in subparagraph (C).

(E) "Service provider" means a person or business who agrees to the referral agency's contract and uses the referral agency to connect with clients.

(F) "Tutor" means a person who develops and teaches their own curriculum. A "tutor" does not include a person who teaches a curriculum created by a public school or who contracts with a public school through a referral company for purposes of teaching students of a public school.

(3) This subdivision does not apply to an individual worker, as opposed to a business entity, who performs services for a client through a referral agency. The determination whether such an individual is an employee of a referral agency is governed by subdivision (a).

(h) Subdivision (a) and the holding in Dynamex do not apply to the relationship between a motor club holding a certificate of authority issued pursuant to Chapter 2 (commencing with Section 12160) of Part 5 of Division 2 of the Insurance Code and an individual performing services pursuant to a contract between the motor club and a third party to provide motor club services utilizing the employees and vehicles of the third party and, instead, the determination whether such an individual is an employee

of the motor club shall be governed by Borello, if the motor club demonstrates that the third party is a separate and independent business from the motor club.

(i) (1) The addition of subdivision (a) to this section of the Labor Code by this act does not constitute a change in, but is declaratory of, existing law with regard to wage orders of the Industrial Welfare Commission and violations of the Labor Code relating to wage orders.

(2) Insofar as the application of subdivisions (b), (c), (d), (e), (f), (g), and (h) of this section would relieve an employer from liability, those subdivisions shall apply retroactively to existing claims and actions to the maximum extent permitted by law.

(3) Except as provided in paragraphs (1) and (2) of this subdivision, the provisions of this section of the Labor Code shall apply to work performed on or after January 1, 2020.

(j) In addition to any other remedies available, an action for injunctive relief to prevent the continued misclassification of employees as independent contractors may be prosecuted against the putative employer in a court of competent jurisdiction by the Attorney General or by a city attorney of a city having a population in excess of 750,000, or by a city attorney in a city and county or, with the consent of the district attorney, by a city prosecutor in a city having a full-time city prosecutor in the name of the people of the State of California upon their own complaint or upon the complaint of a board, officer, person, corporation, or association.

SEC. 3. Section 3351 of the Labor Code, as amended by Section 33 of Chapter 38 of the Statutes of 2019, is amended to read:

3351. "Employee" means every person in the service of an employer under any appointment or contract of hire or apprenticeship, express or implied, oral or written, whether lawfully or unlawfully employed, and includes:

(a) Aliens and minors.

(b) All elected and appointed paid public officers.

(c) All officers and members of boards of directors of quasi-public or private corporations while rendering actual service for the corporations for pay. An officer or member of a board of directors may elect to be excluded from coverage in accordance with paragraph (16), (18), or (19) of subdivision (a) of Section 3352.

(d) Except as provided in paragraph (8) of subdivision (a) of Section 3352, any person employed by the owner or occupant of a residential dwelling whose duties are incidental to the ownership, maintenance, or use of the dwelling, including the care and supervision of children, or whose duties are personal and not in the course of the trade, business, profession, or occupation of the owner or occupant.

(e) All persons incarcerated in a state penal or correctional institution while engaged in assigned work or employment as defined in paragraph (1) of subdivision (a) of Section 10021 of Title 8 of the California Code of Regulations, or engaged in work performed under contract.

(f) All working members of a partnership or limited liability company receiving wages irrespective of profits from the partnership or limited liability company. A general partner of a partnership or a managing member of a limited liability company may elect to be excluded from coverage in accordance with paragraph (17) of subdivision (a) of Section 3352.

(g) A person who holds the power to revoke a trust, with respect to shares of a private corporation held in trust or general partnership or limited liability company interests held in trust. To the extent that this person is deemed to be an employee described in subdivision (c) or (f), as applicable, the person may also elect to be excluded from coverage as described in subdivision (c) or (f), as applicable, if that person otherwise meets the criteria for exclusion, as described in Section 3352.

(h) A person committed to a state hospital facility under the State Department of State Hospitals, as defined in Section 4100 of the Welfare and Institutions Code, while engaged in and assigned work in a vocation rehabilitation program, including a sheltered workshop.

(i) Beginning on July 1, 2020, any individual who is an employee pursuant to Section 2750.3. This subdivision shall not apply retroactively.

SEC. 4. Section 606.5 of the Unemployment Insurance Code is amended to read:

606.5. (a) Whether an individual or entity is the employer of specific employees shall be determined pursuant to subdivision (b) of Section 621, except as provided in subdivisions (b) and (c).

(b) As used in this section, a "temporary services employer" and a "leasing employer" is an employing unit that contracts with clients or customers to supply workers to perform services for the client or customer and performs all of the following functions:

(1) Negotiates with clients or customers for such matters as time, place, type of work, working conditions, quality, and price of the services.

(2) Determines assignments or reassignments of workers, even though workers retain the right to refuse specific assignments.

(3) Retains the authority to assign or reassign a worker to other clients or customers when a worker is determined unacceptable by a specific client or customer.

(4) Assigns or reassigns the worker to perform services for a client or customer.

(5) Sets the rate of pay of the worker, whether or not through negotiation.

(6) Pays the worker from its own account or accounts.

(7) Retains the right to hire and terminate workers.

(c) If an individual or entity contracts to supply an employee to perform services for a customer or client, and is a leasing employer or a temporary services employer, the individual or entity is the employer of the employee who performs the services. If an individual or entity contracts to supply an employee to perform services for a client or customer and is not a leasing employer or a temporary services employer, the client or customer is the employer of the employee who performs the services. An individual or entity that contracts to supply an employee to perform services for a customer

or client and pays wages to the employee for the services, but is not a leasing employer or a temporary services employer, pays the wages as the agent of the employer.

(d) In circumstances which are in essence the loan of an employee from one employer to another employer wherein direction and control of the manner and means of performing the services changes to the employer to whom the employee is loaned, the loaning employer shall continue to be the employer of the employee if the loaning employer continues to pay remuneration to the employee, whether or not reimbursed by the other employer. If the employer to whom the employee is loaned pays remuneration to the employee for the services performed, that employer shall be considered the employer for the purposes of any remuneration paid to the employee by the employer, regardless of whether the loaning employer also pays remuneration to the employee.

SEC. 5. Section 621 of the Unemployment Insurance Code is amended to read:

621. "Employee" means all of the following:

(a) Any officer of a corporation.

(b) Any individual providing labor or services for remuneration has the status of an employee rather than an independent contractor unless the hiring entity demonstrates all of the following conditions:

(1) The individual is free from the control and direction of the hiring entity in connection with the performance of the work, both under the contract for the performance of the work and in fact.

(2) The individual performs work that is outside the usual course of the hiring entity's business.

(3) The individual is customarily engaged in an independently established trade, occupation, or business of the same nature as that involved in the work performed.

(c) (1) Any individual, other than an individual who is an employee under subdivision (a) or (b), who performs services for remuneration for any employing unit if the contract of service contemplates that substantially all of those services are to be performed personally by that individual either:

(A) As an agent-driver or commission-driver engaged in distributing meat products, vegetable products, fruit products, bakery products, beverages (other than milk), or laundry or drycleaning services, for their principal.

(B) As a traveling or city salesperson, other than as an agent-driver or commission-driver, engaged upon a full-time basis in the solicitation on behalf of, and the transmission to, their principal (except for sideline sales activities on behalf of some other person) of orders from wholesalers, retailers, contractors, or operators of hotels, restaurants, or other similar establishments for merchandise for resale or supplies for use in their business operations.

(C) As a home worker performing work, according to specifications furnished by the person for whom the services are performed, on materials or goods furnished by that person that are required to be returned to that person or a designee thereof.

(2) An individual shall not be included in the term "employee" under the provisions of this subdivision if that individual has a substantial investment in facilities used in connection with the performance of those services, other than in facilities for transportation, or if the services are in the nature of a single transaction not part of a continuing relationship with the employing unit for whom the services are performed.

(d) Any individual who is an employee pursuant to Section 601.5 or 686.

(e) Any individual whose services are in subject employment pursuant to an election for coverage under any provision of Article 4 (commencing with Section 701) of this chapter.

(f) Any member of a limited liability company that is treated as a corporation for federal income tax purposes.

SEC. 6. No provision of this measure shall permit an employer to reclassify an individual who was an employee on January 1, 2019, to an independent contractor due to this measure's enactment.

SEC. 7. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

O

Board of Chiropractic Examiners
Bill Analysis

Bill Number: AB 1076
Author: Assembly Member Phil Ting
Bill Version: Chaptered by the Secretary of State 10/08/2019
Subject: Criminal Records: Automatic Relief
Sponsor: California for Safety and Justice
Status of Bill: Signed by the Governor; Chapter 578, Statutes of 2019

Summary:

This bill would require the Department of Justice (DOJ) to review the records in its criminal justice databases on a monthly basis and identify individuals who are eligible for relief by having their arrest records or conviction records withheld from disclosure, with specified exemptions. It would also require the DOJ to grant relief to an individual without a petition or motion being filed on the individual's behalf.

Existing Law:

- Authorizes a person who was arrested to petition the court to seal their arrest record if they successfully completed certain diversion or deferment programs following an arrest for a crime, or if the arrest did not result in a conviction. The arrest is deemed to have never occurred. (Pen. Code § 851.87, § 851.87 and § 851.91 (a))

- Requires a court to dismiss the accusation or information against the defendant and release the defendant from all penalties and disabilities resulting from the offense if relief is granted, with exceptions. (Pen. Code § 1203.4 (a) (1))

- Authorizes a defendant to petition to withdraw a plea of guilty or nolo contendere and enter a plea of not guilty if the defendant has fulfilled the conditions of probation, or if other specified circumstances are met. The defendant must not be serving a sentence for any offense, on probation for any offense, or charged with the commission of any offense. (Pen. Code § 1203.4 (a) (1))

- Authorizes a defendant, who meets specified conditions, to file a similar petition if they were convicted of a misdemeanor and not granted probation, convicted of an infraction, or completed a sentence for certain felonies. (Pen. Code § 1203.4a (a), § 1203.4a (b) & § 1203.41).

- Authorizes a defendant to withdraw a plea of guilty and dismiss the charges if the defendant was convicted of an offense prior to the 2011 Realignment Act, for a crime for

which the defendant would otherwise have been eligible for sentencing. (Pen. Code § 1203.42)

<u>This Bill Would:</u>

- Require the DOJ to review records in the statewide criminal justice databases on a monthly basis and, based on the information reviewed, identify persons who are eligible to have their arrest record sealed.

- Specify that a person is eligible for arrest record relief if they meet the following conditions:

    - The arrest was for a misdemeanor offense and the charge was dismissed;
    - The arrest was for a misdemeanor offense, there is no indication that criminal proceedings have been initiated, at least one calendar year has elapsed since the date of the arrest, and no conviction occurred.
    - The arrest was for an offense that is punishable by imprisonment in county jail, there is no indication that criminal proceedings have been initiated, and at least three calendar years have elapsed since the date of the arrest, and no conviction has occurred.
    - The person successfully completed a diversion or deferment program.

- Require the DOJ to grant arrest record relief to an eligible person, without requiring the eligible person to file a petition for such relief.

- Require the DOJ to update to the state summary criminal history information to document the relief has been granted. The note "Arrest relief granted" would be included in all statewide criminal databases with a record of arrest.

- Require the DOJ to electronically submit a notice to the superior court having jurisdiction over arrest record relief was granted. The court would be prohibited from disclosing information concerning an arrest that is granted relief to a board, except for the person whose arrest was granted relief.

- Require the DOJ to review records in the statewide criminal justice databases on a monthly basis and, based on the information reviewed, identify persons who are eligible to have convictions sealed.

- Specify that a person is eligible for automatic conviction relief if they meet the following conditions:
    - The person is not required to register as a sex offender.
    - The person does not have an active record for local, state, or federal supervision in the Supervised Release File.

- Based on the information in the DOJ's databases, the person is not currently serving a sentence for any offense and does not have any pending criminal charges.
- There is no indication that the conviction resulted in a sentence of incarceration in the state prison.
- The defendant was sentenced to probation and has completed the term of probation without revocation on or after January 1, 2020.
- The defendant was convicted of an infraction or misdemeanor and was not granted probation, has completed their sentence and at least one calendar year has elapsed since the date of judgment.

- Require the DOJ to grant conviction record relief, including dismissal of a conviction, to an eligible person, without requiring the eligible person to file a petition for such relief.

- Require the DOJ to update the state summary criminal history information to document the relief has been granted. The note "Relief granted" would be included in all statewide criminal databases with a record of the conviction.

- Require the DOJ to electronically submit a notice to the superior court having jurisdiction over arrest record relief was granted. The court would be prohibited from disclosing information concerning a conviction that is granted relief to a board, except for the person whose conviction was granted relief.

- Specify that arrest record relief granted pursuant to the provisions of this bill is subject to the following conditions:
  - It has no effect on the ability of a criminal justice agency to access and use records that are granted relief to the same extent that would have been permitted for a criminal justice agency had relief not been granted;
  - It does not limit the jurisdiction of the court over any subsequently filed motion to amend the record, petition or motion for postconviction relief, or collateral attack on a conviction for which relief has been granted;
  - In any subsequent prosecution of the defendant for any other offense, the prior conviction may be pleaded and proved and shall have the same effect as if the relief had not been granted.

- Authorize the prosecuting attorney or probation department to file a petition to prohibit the DOJ from granting automatic relief based on a showing that granting such relief would pose a threat to the public safety.

- Establish a process for an attorney petitioning to prohibit the DOJ from granting relief.

- Provide that the court shall give notice to the defendant and conduct a hearing on the motion within 45 days after the motion is filed.

Background:

According to the author's office:

"Individuals with criminal records face barriers in gaining employment, making them more likely to reoffend. Current law allows individuals to clear arrests that did not result in a conviction, and to clear convictions that are eligible for dismissal by petitioning the court. This imposes a burden on affected individuals to be more aware of their eligibility and retain an attorney to proactively file the necessary petition. There is a great cost to our economy and society when we shut out job-seeking workers looking for a better future. This bill would open doors to those facing employment and house barriers by automating the process of clearing an arrest or criminal record for eligible individuals."

According to the bill's sponsor, Californians for Safety and Justice, "nearly 90 % of employers, 80 % of landlords, and 60 % of colleges screen applicants' criminal records. The *Survey of California Victims and Populations Affected by Mental Health, Substance Issues, and Convictions* found that 76 percent of individuals with a criminal conviction report instability in finding a job or housing, obtaining a license, paying for fines or fees, and having health issues. A National Institute of Justice study found that having a criminal record reduced the chance of getting a job or call back by 50%."

AB 1076 would require the DOJ to automate the process of having eligible arrest records sealed, and eligible conviction records dismissed. This would allow formerly arrested and convicted individuals to dedicate their time and resources toward securing employment immediately upon their release into the community. This bill would also reduce barriers to housing and the likelihood of subsequent criminal behavior in the future.

Fiscal Impact:

AB 1076 would have an insignificant fiscal impact upon the BCE. This bill would limit the number of violations being reported to the Board, thereby resulting in a reduction of workload and expenses.

Support & Opposition:

Support:

- California for Safety and Justice (Sponsor)
- American Civil Liberties Union of California
- California Public Defenders Association
- Community Works
- Feminists in Action
- Indivisible: Sausalito, Stanislaus and San Diego Central
- Initiate Justice

- National Association of Social Workers, California Chapter
- Showing up for Racial Justice, Marin
- Sister Warrior Freedom Coalition
- Southern California Coalition
- We the People – San Diego

Opposition:

- California Board of Accountancy
- California Board of Psychology
- Contractors State License Board
- California District Attorneys Association
- California Law Enforcement Association of Records Supervisors, Inc.

Arguments:

Pro:

- The bill's sponsor, Californians for Safety and Justice (CFJ) claims that "Eight million California residents have criminal convictions on their records that hamper their ability to find work and housing, secure public benefits, or even get admitted to college. Millions more have old arrests on their record that never resulted in a conviction but remain as obstacles of employment."

- The bill's sponsor also asserts that this bill would automate arrest and conviction relief by dismissing eligible convictions for individuals who have completed their probation and/or county jail sentence, arrests that did not result in a conviction for qualified misdemeanors, non-violent, non-sex felonies three years after arrest.

Con:

- This bill would preclude a board's receipt of convictions from DOJ in the course of reviewing an application if they resulted in:
  - County jail for a specified term and a court suspends the execution of concluding a portion of the term for a period selected at the court's discretion;
  - Conviction of misdemeanor and no probation granted, completion of sentence and at least one calendar year has elapsed since the day of judgement;

  The Board would be precluded from using these types of convictions for licensing and enforcement purposes. Many of these non-serious convictions may still have the potential to harm consumers if an eligible individual develops a pattern for non-violent crimes, thereby limiting a board's ability to fully serve its public protection purpose.

- The California District Attorneys Association (CDAA) argues that it is not clear whether the intent of this bill is to provide automatic arrest record relief to a defendant who has

pled guilty to other charges and might be on probation, parole or in custody on the offense that was not dismissed.

- The California Psychology Board argues that this bill would preclude access to arrest and conviction information for purposes of determining a licensee's or petitioner's fitness to practice independently and the degree of rehabilitation achieved by the individual.

- Although this bill requires DOJ to provide notice to the court when it grants relief, there is no similar provision that requires a notice to be sent to the individual for whom relief has been granted. This may curtail the benefits that are otherwise gained by going through the court process where a person is assured that their record has been sealed or dismissed.

- In light of the recent Attorney General's Office (AG) increase in billings, there is no provision in AB 1076 allowing a board to recover AG's fees in the event that a court determines an eligible individual is relieved from all penalties and assessments, which could result in an annual revenue loss for the BCE. Additionally, this bill does not provide clarification as to whether a person who is eligible for relief is required to pay any penalties and how much is assessed in monetary penalties.

Staff Recommended Position: **NEUTRAL**

Assembly Bill No. 1076

Passed the Assembly September 10, 2019

_____

Chief Clerk of the Assembly

Passed the Senate September 5, 2019

_____

Secretary of the Senate

This bill was received by the Governor this_____day of_____, 2019, at_____o'clock____m.

_____

Private Secretary of the Governor

CHAPTER _____

An act to amend Sections 480, 480.2, and 11345.2 of the Business and Professions Code, to amend Section 432.7 of the Labor Code, to amend Section 11105 of, and to add Sections 851.93 and 1203.425 to, the Penal Code, and to amend Section 13555 of the Vehicle Code, relating to criminal records.

legislative counsel's digest

AB 1076, Ting. Criminal records: automatic relief.

Existing law authorizes a person who was arrested and has successfully completed a prefiling diversion program, a person who has successfully completed a specified drug diversion program, a person who has successfully completed a specified deferred entry of judgment program, and a person who has suffered an arrest that did not result in a conviction, under certain conditions, to petition the court to seal the person's arrest record. Under existing law, if a defendant successfully completes certain diversion programs, the arrest for the crime for which the defendant was diverted is deemed to have never occurred.

Existing law authorizes a defendant to petition to withdraw the defendant's plea of guilty or nolo contendere and enter a plea of not guilty, if the defendant has fulfilled the conditions of probation, or if other specified circumstances are met, and the defendant is not then serving a sentence for any offense, on probation for any offense, or charged with the commission of any offense. If relief is granted, existing law requires the court to dismiss the accusation or information against the defendant and release the defendant from all penalties and disabilities resulting from the offense, with exceptions. Existing law also authorizes a defendant to file a similar petition if the defendant was convicted of a misdemeanor and not granted probation, was convicted of an infraction, or completed a sentence for certain felonies, and the defendant met specified conditions.

This bill would, commencing January 1, 2021, and subject to an appropriation in the annual Budget Act, require the Department of Justice, on a monthly basis, to review the records in the statewide criminal justice databases and to identify persons who are eligible

for relief by having their arrest records, or their criminal conviction records, withheld from disclosure, as specified. The bill would require the department to grant relief to an eligible person, without requiring a petition or motion. The bill would not limit petitions, motions, or orders for relief, as required or authorized by any other law.

The bill would require an update to the state summary criminal history information to document the relief granted. The bill would require the department, on a monthly basis, to electronically submit a notice to the superior court having jurisdiction over the criminal case, informing the court of all cases for which relief was granted. The bill would prohibit the court from disclosing information concerning an arrest or conviction granted relief, with exceptions.

The bill would authorize the prosecuting attorney or probation department, no later than 90 calendar days before the date of a person's eligibility for relief, to file a petition to prohibit the department from granting automatic relief for criminal conviction records as described above. If the court grants that petition, the bill would prohibit the department from granting relief, but the person would continue to be eligible for relief through other existing procedures, including petitions to the court.

The bill would require the Department of Justice to annually publish statistics regarding relief granted pursuant to the provisions of this bill, as specified.

The bill would require a court, at the time of sentencing, to advise each defendant of their right to conviction relief pursuant to the provisions of this bill, as specified.

The bill would make conforming changes.

This bill would incorporate additional changes to Section 480 of the Business and Professions Code, as added by Section 4 of Chapter 995 of the Statutes of 2018, proposed by AB 1521 to be operative only if this bill and AB 1521 are enacted and this bill is enacted last.

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

SECTION 1. Section 480 of the Business and Professions Code, as amended by Section 3 of Chapter 995 of the Statutes of 2018, is amended to read:

480. (a) A board may deny a license regulated by this code on the grounds that the applicant has one of the following:

(1) Been convicted of a crime. A conviction within the meaning of this section means a plea or verdict of guilty or a conviction following a plea of nolo contendere. Any action that a board is permitted to take following the establishment of a conviction may be taken when the time for appeal has elapsed, or the judgment of conviction has been affirmed on appeal, or when an order granting probation is made suspending the imposition of sentence, irrespective of a subsequent order under the provisions of Section 1203.4, 1203.4a, 1203.41, or 1203.425 of the Penal Code.

(2) Done any act involving dishonesty, fraud, or deceit with the intent to substantially benefit themselves or another, or substantially injure another.

(3) (A) Done any act that if done by a licentiate of the business or profession in question, would be grounds for suspension or revocation of license.

(B) The board may deny a license pursuant to this subdivision only if the crime or act is substantially related to the qualifications, functions, or duties of the business or profession for which the application is made.

(b) Notwithstanding any other provision of this code, a person shall not be denied a license solely on the basis that they have been convicted of a felony if they have obtained a certificate of rehabilitation under Chapter 3.5 (commencing with Section 4852.01) of Title 6 of Part 3 of the Penal Code or that they have been convicted of a misdemeanor if they have met all applicable requirements of the criteria of rehabilitation developed by the board to evaluate the rehabilitation of a person when considering the denial of a license under subdivision (a) of Section 482.

(c) Notwithstanding any other provisions of this code, a person shall not be denied a license solely on the basis of a conviction that has been dismissed pursuant to Section 1203.4, 1203.4a, 1203.41, or 1203.425 of the Penal Code. An applicant who has a conviction that has been dismissed pursuant to Section 1203.4, 1203.4a, or 1203.41 of the Penal Code shall provide proof of the dismissal.

(d) A board may deny a license regulated by this code on the ground that the applicant knowingly made a false statement of fact that is required to be revealed in the application for the license.

(e) This section shall become inoperative on July 1, 2020, and, as of January 1, 2021, is repealed.

SEC. 2. Section 480 of the Business and Professions Code, as added by Section 4 of Chapter 995 of the Statutes of 2018, is amended to read:

480. (a) Notwithstanding any other provision of this code, a board may deny a license regulated by this code on the grounds that the applicant has been convicted of a crime or has been subject to formal discipline only if either of the following conditions are met:

(1) The applicant has been convicted of a crime within the preceding seven years from the date of application that is substantially related to the qualifications, functions, or duties of the business or profession for which the application is made, regardless of whether the applicant was incarcerated for that crime, or the applicant has been convicted of a crime that is substantially related to the qualifications, functions, or duties of the business or profession for which the application is made and for which the applicant is presently incarcerated or for which the applicant was released from incarceration within the preceding seven years from the date of application. However, the preceding seven-year limitation shall not apply in either of the following situations:

(A) The applicant was convicted of a serious felony, as defined in Section 1192.7 of the Penal Code or a crime for which registration is required pursuant to paragraph (2) or (3) of subdivision (d) of Section 290 of the Penal Code.

(B) The applicant was convicted of a financial crime currently classified as a felony that is directly and adversely related to the fiduciary qualifications, functions, or duties of the business or profession for which the application is made, pursuant to regulations adopted by the board, and for which the applicant is seeking licensure under any of the following:

(i) Chapter 1 (commencing with Section 5000) of Division 3.

(ii) Chapter 6 (commencing with Section 6500) of Division 3.

(iii) Chapter 9 (commencing with Section 7000) of Division 3.

(iv) Chapter 11.3 (commencing with Section 7512) of Division 3.

(v) Licensure as a funeral director or cemetery manager under Chapter 12 (commencing with Section 7600) of Division 3.

(vi) Division 4 (commencing with Section 10000).

(2) The applicant has been subjected to formal discipline by a licensing board in or outside California within the preceding seven years from the date of application based on professional misconduct that would have been cause for discipline before the board for which the present application is made and that is substantially related to the qualifications, functions, or duties of the business or profession for which the present application is made. However, prior disciplinary action by a licensing board within the preceding seven years shall not be the basis for denial of a license if the basis for that disciplinary action was a conviction that has been dismissed pursuant to Section 1203.4, 1203.4a, 1203.41, 1203.42, or 1203.425 of the Penal Code or a comparable dismissal or expungement.

(b) Notwithstanding any other provision of this code, a person shall not be denied a license on the basis that the person has been convicted of a crime, or on the basis of acts underlying a conviction for a crime, if that person has obtained a certificate of rehabilitation under Chapter 3.5 (commencing with Section 4852.01) of Title 6 of Part 3 of the Penal Code, has been granted clemency or a pardon by a state or federal executive, or has made a showing of rehabilitation pursuant to Section 482.

(c) Notwithstanding any other provision of this code, a person shall not be denied a license on the basis of any conviction, or on the basis of the acts underlying the conviction, that has been dismissed pursuant to Section 1203.4, 1203.4a, 1203.41, 1203.42, or 1203.425 of the Penal Code, or a comparable dismissal or expungement. An applicant who has a conviction that has been dismissed pursuant to Section 1203.4, 1203.4a, 1203.41, or 1203.42 of the Penal Code shall provide proof of the dismissal if it is not reflected on the report furnished by the Department of Justice.

(d) Notwithstanding any other provision of this code, a board shall not deny a license on the basis of an arrest that resulted in a disposition other than a conviction, including an arrest that resulted in an infraction, citation, or a juvenile adjudication.

(e) A board may deny a license regulated by this code on the ground that the applicant knowingly made a false statement of fact that is required to be revealed in the application for the license. A board shall not deny a license based solely on an applicant's failure to disclose a fact that would not have been cause for denial of the license had it been disclosed.

(f) A board shall follow the following procedures in requesting or acting on an applicant's criminal history information:

(1) A board issuing a license pursuant to Chapter 3 (commencing with Section 5500), Chapter 3.5 (commencing with Section 5615), Chapter 10 (commencing with Section 7301), Chapter 20 (commencing with Section 9800), or Chapter 20.3 (commencing with Section 9880), of Division 3, or Chapter 3 (commencing with Section 19000) or Chapter 3.1 (commencing with Section 19225) of Division 8 may require applicants for licensure under those chapters to disclose criminal conviction history on an application for licensure.

(2) Except as provided in paragraph (1), a board shall not require an applicant for licensure to disclose any information or documentation regarding the applicant's criminal history. However, a board may request mitigating information from an applicant regarding the applicant's criminal history for purposes of determining substantial relation or demonstrating evidence of rehabilitation, provided that the applicant is informed that disclosure is voluntary and that the applicant's decision not to disclose any information shall not be a factor in a board's decision to grant or deny an application for licensure.

(3) If a board decides to deny an application for licensure based solely or in part on the applicant's conviction history, the board shall notify the applicant in writing of all of the following:

(A) The denial or disqualification of licensure.

(B) Any existing procedure the board has for the applicant to challenge the decision or to request reconsideration.

(C) That the applicant has the right to appeal the board's decision.

(D) The processes for the applicant to request a copy of the applicant's complete conviction history and question the accuracy or completeness of the record pursuant to Sections 11122 to 11127 of the Penal Code.

(g) (1) For a minimum of three years, each board under this code shall retain application forms and other documents submitted by an applicant, any notice provided to an applicant, all other communications received from and provided to an applicant, and criminal history reports of an applicant.

(2) Each board under this code shall retain the number of applications received for each license and the number of

applications requiring inquiries regarding criminal history. In addition, each licensing authority shall retain all of the following information:

(A) The number of applicants with a criminal record who received notice of denial or disqualification of licensure.

(B) The number of applicants with a criminal record who provided evidence of mitigation or rehabilitation.

(C) The number of applicants with a criminal record who appealed any denial or disqualification of licensure.

(D) The final disposition and demographic information, consisting of voluntarily provided information on race or gender, of any applicant described in subparagraph (A), (B), or (C).

(3) (A) Each board under this code shall annually make available to the public through the board's internet website and through a report submitted to the appropriate policy committees of the Legislature deidentified information collected pursuant to this subdivision. Each board shall ensure confidentiality of the individual applicants.

(B) A report pursuant to subparagraph (A) shall be submitted in compliance with Section 9795 of the Government Code.

(h) "Conviction" as used in this section shall have the same meaning as defined in Section 7.5.

(i) This section does not in any way modify or otherwise affect the existing authority of the following entities in regard to licensure:

(1) The State Athletic Commission.

(2) The Bureau for Private Postsecondary Education.

(3) The California Horse Racing Board.

(j) This section shall become operative on July 1, 2020.

SEC. 2.5. Section 480 of the Business and Professions Code, as added by Section 4 of Chapter 995 of the Statutes of 2018, is amended to read:

480. (a) Notwithstanding any other provision of this code, a board may deny a license regulated by this code on the grounds that the applicant has been convicted of a crime or has been subject to formal discipline only if either of the following conditions are met:

(1) The applicant has been convicted of a crime within the preceding seven years from the date of application that is substantially related to the qualifications, functions, or duties of

the business or profession for which the application is made, regardless of whether the applicant was incarcerated for that crime, or the applicant has been convicted of a crime that is substantially related to the qualifications, functions, or duties of the business or profession for which the application is made and for which the applicant is presently incarcerated or for which the applicant was released from incarceration within the preceding seven years from the date of application. However, the preceding seven-year limitation shall not apply in either of the following situations:

(A) The applicant was convicted of a serious felony, as defined in Section 1192.7 of the Penal Code or a crime for which registration is required pursuant to paragraph (2) or (3) of subdivision (d) of Section 290 of the Penal Code.

(B) The applicant was convicted of a financial crime currently classified as a felony that is directly and adversely related to the fiduciary qualifications, functions, or duties of the business or profession for which the application is made, pursuant to regulations adopted by the board, and for which the applicant is seeking licensure under any of the following:

(i) Chapter 6 (commencing with Section 6500) of Division 3.

(ii) Chapter 9 (commencing with Section 7000) of Division 3.

(iii) Chapter 11.3 (commencing with Section 7512) of Division 3.

(iv) Licensure as a funeral director or cemetery manager under Chapter 12 (commencing with Section 7600) of Division 3.

(v) Division 4 (commencing with Section 10000).

(2) The applicant has been subjected to formal discipline by a licensing board in or outside California within the preceding seven years from the date of application based on professional misconduct that would have been cause for discipline before the board for which the present application is made and that is substantially related to the qualifications, functions, or duties of the business or profession for which the present application is made. However, prior disciplinary action by a licensing board within the preceding seven years shall not be the basis for denial of a license if the basis for that disciplinary action was a conviction that has been dismissed pursuant to Section 1203.4, 1203.4a, 1203.41, 1203.42, or 1203.425 of the Penal Code or a comparable dismissal or expungement.

(b) Notwithstanding any other provision of this code, a person shall not be denied a license on the basis that the person has been

convicted of a crime, or on the basis of acts underlying a conviction for a crime, if that person has obtained a certificate of rehabilitation under Chapter 3.5 (commencing with Section 4852.01) of Title 6 of Part 3 of the Penal Code, has been granted clemency or a pardon by a state or federal executive, or has made a showing of rehabilitation pursuant to Section 482.

(c) Notwithstanding any other provision of this code, a person shall not be denied a license on the basis of any conviction, or on the basis of the acts underlying the conviction, that has been dismissed pursuant to Section 1203.4, 1203.4a, 1203.41, 1203.42, or 1203.425 of the Penal Code, or a comparable dismissal or expungement. An applicant who has a conviction that has been dismissed pursuant to Section 1203.4, 1203.4a, 1203.41, or 1203.42 of the Penal Code shall provide proof of the dismissal if it is not reflected on the report furnished by the Department of Justice.

(d) Notwithstanding any other provision of this code, a board shall not deny a license on the basis of an arrest that resulted in a disposition other than a conviction, including an arrest that resulted in an infraction, citation, or a juvenile adjudication.

(e) A board may deny a license regulated by this code on the ground that the applicant knowingly made a false statement of fact that is required to be revealed in the application for the license. A board shall not deny a license based solely on an applicant's failure to disclose a fact that would not have been cause for denial of the license had it been disclosed.

(f) A board shall follow the following procedures in requesting or acting on an applicant's criminal history information:

(1) A board issuing a license pursuant to Chapter 3 (commencing with Section 5500), Chapter 3.5 (commencing with Section 5615), Chapter 10 (commencing with Section 7301), Chapter 20 (commencing with Section 9800), or Chapter 20.3 (commencing with Section 9880), of Division 3, or Chapter 3 (commencing with Section 19000) or Chapter 3.1 (commencing with Section 19225) of Division 8 may require applicants for licensure under those chapters to disclose criminal conviction history on an application for licensure.

(2) Except as provided in paragraph (1), a board shall not require an applicant for licensure to disclose any information or documentation regarding the applicant's criminal history. However, a board may request mitigating information from an applicant

regarding the applicant's criminal history for purposes of determining substantial relation or demonstrating evidence of rehabilitation, provided that the applicant is informed that disclosure is voluntary and that the applicant's decision not to disclose any information shall not be a factor in a board's decision to grant or deny an application for licensure.

(3) If a board decides to deny an application for licensure based solely or in part on the applicant's conviction history, the board shall notify the applicant in writing of all of the following:

(A) The denial or disqualification of licensure.

(B) Any existing procedure the board has for the applicant to challenge the decision or to request reconsideration.

(C) That the applicant has the right to appeal the board's decision.

(D) The processes for the applicant to request a copy of the applicant's complete conviction history and question the accuracy or completeness of the record pursuant to Sections 11122 to 11127 of the Penal Code.

(g) (1) For a minimum of three years, each board under this code shall retain application forms and other documents submitted by an applicant, any notice provided to an applicant, all other communications received from and provided to an applicant, and criminal history reports of an applicant.

(2) Each board under this code shall retain the number of applications received for each license and the number of applications requiring inquiries regarding criminal history. In addition, each licensing authority shall retain all of the following information:

(A) The number of applicants with a criminal record who received notice of denial or disqualification of licensure.

(B) The number of applicants with a criminal record who provided evidence of mitigation or rehabilitation.

(C) The number of applicants with a criminal record who appealed any denial or disqualification of licensure.

(D) The final disposition and demographic information, consisting of voluntarily provided information on race or gender, of any applicant described in subparagraph (A), (B), or (C).

(3) (A) Each board under this code shall annually make available to the public through the board's internet website and through a report submitted to the appropriate policy committees

of the Legislature deidentified information collected pursuant to this subdivision. Each board shall ensure confidentiality of the individual applicants.

(B) A report pursuant to subparagraph (A) shall be submitted in compliance with Section 9795 of the Government Code.

(h) "Conviction" as used in this section shall have the same meaning as defined in Section 7.5.

(i) This section does not in any way modify or otherwise affect the existing authority of the following entities in regard to licensure:

(1) The State Athletic Commission.

(2) The Bureau for Private Postsecondary Education.

(3) The California Horse Racing Board.

(j) This section shall become operative on July 1, 2020.

SEC. 3. Section 480.2 of the Business and Professions Code is amended to read:

480.2. (a) The Bureau for Private Postsecondary Education, the State Athletic Commission, and the California Horse Racing Board may deny a license regulated by it on the grounds that the applicant has one of the following:

(1) Been convicted of a crime.

(2) Done any act involving dishonesty, fraud, or deceit with the intent to substantially benefit themselves or another, or substantially injure another.

(3) (A) Done any act that if done by a licentiate of the business or profession in question, would be grounds for suspension or revocation of license.

(B) The Bureau for Private Postsecondary Education, the State Athletic Commission, and the California Horse Racing Board may deny a license pursuant to this subdivision only if the crime or act is substantially related to the qualifications, functions, or duties of the business or profession for which the application is made.

(b) Notwithstanding any other provision of this code, a person shall not be denied a license solely on the basis that the person has been convicted of a felony if that person has obtained a certificate of rehabilitation under Chapter 3.5 (commencing with Section 4852.01) of Title 6 of Part 3 of the Penal Code or that the person has been convicted of a misdemeanor if the person has met all applicable requirements of the criteria of rehabilitation developed by the Bureau for Private Postsecondary Education, the State

Athletic Commission, and the California Horse Racing Board to evaluate the rehabilitation of a person when considering the denial of a license under paragraph (1) of subdivision (f).

(c) Notwithstanding any other provisions of this code, a person shall not be denied a license by the Bureau for Private Postsecondary Education, the State Athletic Commission, or the California Horse Racing Board solely on the basis of a conviction that has been dismissed pursuant to Section 1203.4, 1203.4a, 1203.41, or 1203.425 of the Penal Code. An applicant who has a conviction that has been dismissed pursuant to Section 1203.4, 1203.4a, or 1203.41 of the Penal Code shall provide proof of the dismissal.

(d) The Bureau for Private Postsecondary Education, the State Athletic Commission, and the California Horse Racing Board may deny a license regulated by it on the ground that the applicant knowingly made a false statement of fact that is required to be revealed in the application for the license.

(e) The Bureau for Private Postsecondary Education, the State Athletic Commission, and the California Horse Racing Board shall develop criteria to aid it, when considering the denial, suspension, or revocation of a license, to determine whether a crime or act is substantially related to the qualifications, functions, or duties of the business or profession it regulates.

(f) (1) The Bureau for Private Postsecondary Education, the State Athletic Commission, and the California Horse Racing Board shall develop criteria to evaluate the rehabilitation of a person either when:

(A) Considering the denial of a license under this section.

(B) Considering suspension or revocation of a license under Section 490.

(2) The Bureau for Private Postsecondary Education, the State Athletic Commission, and the California Horse Racing Board shall take into account all competent evidence of rehabilitation furnished by the applicant or licensee.

(g) Except as otherwise provided by law, following a hearing requested by an applicant pursuant to subdivision (b) of Section 485, the Bureau for Private Postsecondary Education, the State Athletic Commission, and the California Horse Racing Board may take any of the following actions:

(1) Grant the license effective upon completion of all licensing requirements by the applicant.

(2) Grant the license effective upon completion of all licensing requirements by the applicant, immediately revoke the license, stay the revocation, and impose probationary conditions on the license, which may include suspension.

(3) Deny the license.

(4) Take other action in relation to denying or granting the license as the Bureau for Private Postsecondary Education, the State Athletic Commission, or the California Horse Racing Board, in its discretion, may deem proper.

(h) Notwithstanding any other law, in a proceeding conducted by the Bureau for Private Postsecondary Education, the State Athletic Commission, or the California Horse Racing Board to deny an application for a license or to suspend or revoke a license or otherwise take disciplinary action against a person who holds a license, upon the ground that the applicant or the licensee has been convicted of a crime substantially related to the qualifications, functions, and duties of the licensee in question, the record of conviction of the crime shall be conclusive evidence of the fact that the conviction occurred, but only of that fact, and the Bureau for Private Postsecondary Education, the State Athletic Commission, and the California Horse Racing Board may inquire into the circumstances surrounding the commission of the crime in order to fix the degree of discipline or to determine if the conviction is substantially related to the qualifications, functions, and duties of the licensee in question.

(i) Notwithstanding Section 7.5, a conviction within the meaning of this section means a plea or verdict of guilty or a conviction following a plea of nolo contendere. Any action that the Bureau for Private Postsecondary Education, the State Athletic Commission, or the California Horse Racing Board is permitted to take following the establishment of a conviction may be taken when the time for appeal has elapsed, the judgment of conviction has been affirmed on appeal, or when an order granting probation is made suspending the imposition of sentence, irrespective of a subsequent order under the provisions of Section 1203.4, 1203.4a, 1203.41, or 1203.425 of the Penal Code.

(j) This section shall become operative on July 1, 2020.

SEC. 4. Section 11345.2 of the Business and Professions Code, as amended by Section 14 of Chapter 995 of the Statutes of 2018, is amended to read:

11345.2. (a) An individual shall not act as a controlling person for a registrant if any of the following apply:

(1) The individual has entered a plea of guilty or no contest to, or been convicted of, a felony. Notwithstanding subdivision (c) of Section 480, if the individual's felony conviction has been dismissed pursuant to Section 1203.4, 1203.4a, 1203.41, or 1203.425 of the Penal Code, the bureau may allow the individual to act as a controlling person.

(2) The individual has had a license or certificate to act as an appraiser or to engage in activities related to the transfer of real property refused, denied, canceled, or revoked in this state or any other state.

(b) Any individual who acts as a controlling person of an appraisal management company and who enters a plea of guilty or no contest to, or is convicted of, a felony, or who has a license or certificate as an appraiser refused, denied, canceled, or revoked in any other state shall report that fact or cause that fact to be reported to the office, in writing, within 10 days of the date the individual has knowledge of that fact.

(c) This section shall become inoperative on July 1, 2020, and, as of January 1, 2021, is repealed.

SEC. 5. Section 11345.2 of the Business and Professions Code, as added by Section 15 of Chapter 995 of the Statutes of 2018, is amended to read:

11345.2. (a) An individual shall not act as a controlling person for a registrant if any of the following apply:

(1) The individual has entered a plea of guilty or no contest to, or been convicted of, a felony. If the individual's felony conviction has been dismissed pursuant to Section 1203.4, 1203.4a, 1203.41, 1203.42, or 1203.425 of the Penal Code, the bureau may allow the individual to act as a controlling person.

(2) The individual has had a license or certificate to act as an appraiser or to engage in activities related to the transfer of real property refused, denied, canceled, or revoked in this state or any other state.

(b) Any individual who acts as a controlling person of an appraisal management company and who enters a plea of guilty

or no contest to, or is convicted of, a felony, or who has a license or certificate as an appraiser refused, denied, canceled, or revoked in any other state shall report that fact or cause that fact to be reported to the office, in writing, within 10 days of the date the individual has knowledge of that fact.

(c) This section shall become operative on July 1, 2020.

SEC. 6. Section 432.7 of the Labor Code is amended to read:

432.7. (a) (1) An employer, whether a public agency or private individual or corporation, shall not ask an applicant for employment to disclose, through any written form or verbally, information concerning an arrest or detention that did not result in conviction, or information concerning a referral to, and participation in, any pretrial or posttrial diversion program, or concerning a conviction that has been judicially dismissed or ordered sealed pursuant to law, including, but not limited to, Sections 1203.4, 1203.4a, 1203.425, 1203.45, and 1210.1 of the Penal Code. An employer also shall not seek from any source whatsoever, or utilize, as a factor in determining any condition of employment including hiring, promotion, termination, or any apprenticeship training program or any other training program leading to employment, any record of arrest or detention that did not result in conviction, or any record regarding a referral to, and participation in, any pretrial or posttrial diversion program, or concerning a conviction that has been judicially dismissed or ordered sealed pursuant to law, including, but not limited to, Sections 1203.4, 1203.4a, 1203.425, 1203.45, and 1210.1 of the Penal Code. This section shall not prevent an employer from asking an employee or applicant for employment about an arrest for which the employee or applicant is out on bail or on their own recognizance pending trial.

(2) An employer, whether a public agency or private individual or corporation, shall not ask an applicant for employment to disclose, through any written form or verbally, information concerning or related to an arrest, detention, processing, diversion, supervision, adjudication, or court disposition that occurred while the person was subject to the process and jurisdiction of the juvenile court. An employer also shall not seek from any source whatsoever, or utilize, as a factor in determining any condition of employment including hiring, promotion, termination, or any apprenticeship training program or any other training program leading to employment, any record concerning or related to an

arrest, detention, processing, diversion, supervision, adjudication, or court disposition that occurred while a person was subject to the process and jurisdiction of the juvenile court.

(3) For purposes of this section:

(A) "Conviction" includes a plea, verdict, or finding of guilt, regardless of whether a sentence is imposed by the court.

(B) "Conviction" does not include, and shall not be construed to include, any adjudication by a juvenile court or any other court order or action taken with respect to a person who is under the process and jurisdiction of the juvenile court.

(b) This section shall not prohibit the disclosure of the information authorized for release under Sections 13203 and 13300 of the Penal Code, to a government agency employing a peace officer. However, the employer shall not determine any condition of employment other than paid administrative leave based solely on an arrest report. The information contained in an arrest report may be used as the starting point for an independent, internal investigation of a peace officer in accordance with Chapter 9.7 (commencing with Section 3300) of Division 4 of Title 1 of the Government Code.

(c) If a person violates this section, or Article 6 (commencing with Section 11140) of Chapter 1 of Title 1 of Part 4 of the Penal Code, the applicant may bring an action to recover from that person actual damages or two hundred dollars ($200), whichever is greater, plus costs, and reasonable attorney's fees. An intentional violation of this section shall entitle the applicant to treble actual damages, or five hundred dollars ($500), whichever is greater, plus costs, and reasonable attorney's fees. An intentional violation of this section is a misdemeanor punishable by a fine not to exceed five hundred dollars ($500).

(d) The remedies under this section shall be in addition to and not in derogation of all other rights and remedies that an applicant may have under any other law.

(e) Persons seeking employment or persons already employed as peace officers or persons seeking employment for positions in the Department of Justice or other criminal justice agencies as defined in Section 13101 of the Penal Code are not covered by this section.

(f) (1) Except as provided in paragraph (2), this section does not prohibit an employer at a health facility, as defined in Section

1250 of the Health and Safety Code, from asking an applicant for employment either of the following:

(A) With regard to an applicant for a position with regular access to patients, to disclose an arrest under any section specified in Section 290 of the Penal Code.

(B) With regard to an applicant for a position with access to drugs and medication, to disclose an arrest under any section specified in Section 11590 of the Health and Safety Code.

(2) (A) An employer specified in paragraph (1) shall not inquire into information concerning or related to an applicant's arrest, detention, processing, diversion, supervision, adjudication, or court disposition that occurred while the person was subject to the process and jurisdiction of juvenile court law, unless the information concerns an adjudication by the juvenile court in which the applicant has been found by the court to have committed a felony or misdemeanor offense specified in paragraph (1) that occurred within five years preceding the application for employment.

(B) Notwithstanding any other provision of this subdivision, an employer specified in paragraph (1) shall not inquire into information concerning or related to an applicant's juvenile offense history that has been sealed by the juvenile court.

(3) An employer seeking disclosure of offense history under paragraph (2) shall provide the applicant with a list describing the specific offenses under Section 11590 of the Health and Safety Code or Section 290 of the Penal Code for which disclosure is sought.

(g) (1) A peace officer or employee of a law enforcement agency with access to criminal or juvenile offender record information maintained by a local law enforcement criminal or juvenile justice agency shall not knowingly disclose, with intent to affect a person's employment, any information pertaining to an arrest or detention or proceeding that did not result in a conviction, including information pertaining to a referral to, and participation in, any pretrial or posttrial diversion program, to any person not authorized by law to receive that information.

(2) Any other person authorized by law to receive criminal or juvenile offender record information maintained by a local law enforcement criminal or juvenile justice agency shall not knowingly disclose any information received pertaining to an arrest or

detention or proceeding that did not result in a conviction, including information pertaining to a referral to, and participation in, any pretrial or posttrial diversion program, to any person not authorized by law to receive that information.

(3) Except for those specifically referred to in Section 1070 of the Evidence Code, a person who is not authorized by law to receive or possess criminal or juvenile justice records information maintained by a local law enforcement criminal or juvenile justice agency, pertaining to an arrest or other proceeding that did not result in a conviction, including information pertaining to a referral to, and participation in, any pretrial or posttrial diversion program, shall not knowingly receive or possess that information.

(h) "A person authorized by law to receive that information," for purposes of this section, means any person or public agency authorized by a court, statute, or decisional law to receive information contained in criminal or juvenile offender records maintained by a local law enforcement criminal or juvenile justice agency, and includes, but is not limited to, those persons set forth in Section 11105 of the Penal Code, and any person employed by a law enforcement criminal or juvenile justice agency who is required by that employment to receive, analyze, or process criminal or juvenile offender record information.

(i) This section does not require the Department of Justice to remove entries relating to an arrest or detention not resulting in conviction from summary criminal history records forwarded to an employer pursuant to law.

(j) As used in this section, "pretrial or posttrial diversion program" means any program under Chapter 2.5 (commencing with Section 1000) or Chapter 2.7 (commencing with Section 1001) of Title 6 of Part 2 of the Penal Code, Section 13201 or 13352.5 of the Vehicle Code, Sections 626, 626.5, 654, or 725 of, or Article 20.5 (commencing with Section 790) of Chapter 2 of Part 1 of Division 2 of, the Welfare and Institutions Code, or any other program expressly authorized and described by statute as a diversion program.

(k) (1) Subdivision (a) shall not apply to any city, city and county, county, or district, or any officer or official thereof, in screening a prospective concessionaire, or the affiliates and associates of a prospective concessionaire for purposes of consenting to, or approving of, the prospective concessionaire's

application for, or acquisition of, any beneficial interest in a concession, lease, or other property interest.

(2) For purposes of this subdivision the following terms apply:

(A) "Screening" means a written request for criminal or juvenile history information made to a local law enforcement agency.

(B) "Prospective concessionaire" means any individual, general or limited partnership, corporation, trust, association, or other entity that is applying for, or seeking to obtain, a public agency's consent to, or approval of, the acquisition by that individual or entity of any beneficial ownership interest in any public agency's concession, lease, or other property right whether directly or indirectly held. However, "prospective concessionaire" does not include any of the following:

(i) A lender acquiring an interest solely as security for a bona fide loan made in the ordinary course of the lender's business and not made for the purpose of acquisition.

(ii) A lender upon foreclosure or assignment in lieu of foreclosure of the lender's security.

(C) "Affiliate" means any individual or entity that controls, or is controlled by, the prospective concessionaire, or who is under common control with the prospective concessionaire.

(D) "Associate" means any individual or entity that shares a common business purpose with the prospective concessionaire with respect to the beneficial ownership interest that is subject to the consent or approval of the city, county, city and county, or district.

(E) "Control" means the possession, direct or indirect, of the power to direct, or cause the direction of, the management or policies of the controlled individual or entity.

(l) (1) Subdivision (a) does not prohibit a public agency, or any officer or official thereof, from denying consent to, or approval of, a prospective concessionaire's application for, or acquisition of, any beneficial interest in a concession, lease, or other property interest based on the criminal history information of the prospective concessionaire or the affiliates or associates of the prospective concessionaire that show any criminal conviction for offenses involving moral turpitude. Criminal history information for purposes of this subdivision includes any criminal history information obtained pursuant to Section 11105 or 13300 of the Penal Code.

(2) In considering criminal history information, a public agency shall consider the crime for which the prospective concessionaire or the affiliates or associates of the prospective concessionaire was convicted only if that crime relates to the specific business that is proposed to be conducted by the prospective concessionaire.

(3) Any prospective concessionaire whose application for consent or approval to acquire a beneficial interest in a concession, lease, or other property interest is denied based on criminal history information shall be provided a written statement of the reason for the denial.

(4) (A) If the prospective concessionaire submits a written request to the public agency within 10 days of the date of the notice of denial, the public agency shall review its decision with regard to any corrected record or other evidence presented by the prospective concessionaire as to the accuracy or incompleteness of the criminal history information utilized by the public agency in making its original decision.

(B) The prospective concessionaire shall submit the copy or the corrected record of any other evidence to the public agency within 90 days of a request for review. The public agency shall render its decision within 20 days of the submission of evidence by the prospective concessionaire.

(m) (1) Paragraph (1) of subdivision (a) does not prohibit an employer, whether a public agency or private individual or corporation, from asking an applicant about, or seeking from any source information regarding, a particular conviction of the applicant if, pursuant to Section 1829 of Title 12 of the United States Code or any other federal law, federal regulation, or state law, any of the following apply:

(A) The employer is required by law to obtain information regarding the particular conviction of the applicant, regardless of whether that conviction has been expunged, judicially ordered sealed, statutorily eradicated, or judicially dismissed following probation.

(B) The applicant would be required to possess or use a firearm in the course of their employment.

(C) An individual with that particular conviction is prohibited by law from holding the position sought by the applicant, regardless of whether that conviction has been expunged, judicially ordered

sealed, statutorily eradicated, or judicially dismissed following probation.

(D) The employer is prohibited by law from hiring an applicant who has that particular conviction, regardless of whether that conviction has been expunged, judicially ordered sealed, statutorily eradicated, or judicially dismissed following probation.

(2) For purposes of this subdivision, "particular conviction" means a conviction for specific criminal conduct or a category of criminal offenses prescribed by any federal law, federal regulation, or state law that contains requirements, exclusions, or both, expressly based on that specific criminal conduct or category of criminal offenses.

(n) Nothing in this section shall prohibit an employer, whether a public agency or private individual or corporation, required by state, federal, or local law to conduct criminal background checks for employment purposes or to restrict employment based on criminal history from complying with those requirements, or to prohibit the employer from seeking or receiving an applicant's criminal history report that has been obtained pursuant to procedures otherwise provided for under federal, state, or local law. For purposes of this subdivision, federal law shall include rules or regulations promulgated by a self-regulatory organization, as defined in Section 3(a)(26) of the Securities Exchange Act of 1934, pursuant to the authority in Section 19(b) of the Securities Exchange Act of 1934, as amended by 124 Stat. 1652 (Public Law 11-203).

SEC. 7. Section 851.93 is added to the Penal Code, to read:

851.93. (a) (1) On a monthly basis, the Department of Justice shall review the records in the statewide criminal justice databases, and based on information in the state summary criminal history repository, shall identify persons with records of arrest that meet the criteria set forth in paragraph (2) and are eligible for arrest record relief.

(2) A person is eligible for relief pursuant to this section, if the arrest occurred on or after January 1, 2021, and meets any of the following conditions:

(A) The arrest was for a misdemeanor offense and the charge was dismissed.

(B) The arrest was for a misdemeanor offense, there is no indication that criminal proceedings have been initiated, at least

one calendar year has elapsed since the date of the arrest, and no conviction occurred, or the arrestee was acquitted of any charges that arose, from that arrest.

(C) The arrest was for an offense that is punishable by imprisonment pursuant to paragraph (1) or (2) of subdivision (h) of Section 1170, there is no indication that criminal proceedings have been initiated, at least three calendar years have elapsed since the date of the arrest, and no conviction occurred, or the arrestee was acquitted of any charges arising, from that arrest.

(D) The person successfully completed any of the following, relating to that arrest:

(i) A prefiling diversion program, as defined in Section 851.87, administered by a prosecuting attorney in lieu of filing an accusatory pleading.

(ii) A drug diversion program administered by a superior court pursuant to Section 1000.5, or a deferred entry of judgment program pursuant to Section 1000 or 1000.8.

(iii) A pretrial diversion program, pursuant to Section 1000.4.

(iv) A diversion program, pursuant to Section 1001.9.

(v) Any diversion program described in Chapter 2.8 (commencing with Section 1001.20), Chapter 2.8A (commencing with Section 1001.35), Chapter 2.81 (commencing with Section 1001.40), Chapter 2.9 (commencing with Section 1001.50), Chapter 2.9A (commencing with Section 1001.60), Chapter 2.9B (commencing with Section 1001.70), Chapter 2.9C (commencing with Section 1001.80), Chapter 2.9D (commencing with Section 1001.81), or Chapter 2.92 (commencing with Section 1001.85), of Title 6.

(b) (1) The department shall grant relief to a person identified pursuant to subdivision (a), without requiring a petition or motion by a party for that relief if the relevant information is present in the department's electronic records.

(2) The state summary criminal history information shall include, directly next to or below the entry or entries regarding the person's arrest record, a note stating "arrest relief granted," listing the date that the department granted relief, and this section. This note shall be included in all statewide criminal databases with a record of the arrest.

(3) Except as otherwise provided in subdivision (d), an arrest for which arrest relief has been granted is deemed not to have

occurred, and a person who has been granted arrest relief is released from any penalties and disabilities resulting from the arrest, and may answer any question relating to that arrest accordingly.

(c) On a monthly basis, the department shall electronically submit a notice to the superior court having jurisdiction over the criminal case, informing the court of all cases for which a complaint was filed in that jurisdiction and for which relief was granted pursuant to this section. Commencing on February 1, 2021, for any record retained by the court pursuant to Section 68152 of the Government Code, except as provided in subdivision (d), the court shall not disclose information concerning an arrest that is granted relief pursuant to this section to any person or entity, in any format, except to the person whose arrest was granted relief or a criminal justice agency, as defined in Section 851.92.

(d) Relief granted pursuant to this section is subject to the following conditions:

(1) Arrest relief does not relieve a person of the obligation to disclose an arrest in response to a direct question contained in a questionnaire or application for employment as a peace officer, as defined in Section 830.

(2) Relief granted pursuant to this section has no effect on the ability of a criminal justice agency, as defined in Section 851.92, to access and use records that are granted relief to the same extent that would have been permitted for a criminal justice agency had relief not been granted.

(3) This section does not limit the ability of a district attorney to prosecute, within the applicable statute of limitations, an offense for which arrest relief has been granted pursuant to this section.

(4) Relief granted pursuant to this section does not affect a person's authorization to own, possess, or have in the person's custody or control any firearm, or the person's susceptibility to conviction under Chapter 2 (commencing with Section 29800) of Division 9 of Title 4 of Part 6, if the arrest would otherwise affect this authorization or susceptibility.

(5) Relief granted pursuant to this section does not affect any prohibition from holding public office that would otherwise apply under law as a result of the arrest.

(6) Relief granted pursuant to this section does not affect the authority to receive, or take adverse action based on, criminal history information, including the authority to receive certified

court records received or evaluated pursuant to Section 1522, 1568.09, 1569.17, or 1596.871 of the Health and Safety Code, or pursuant to any statutory or regulatory provisions that incorporate the criteria of those sections.

(e) This section shall not limit petitions, motions, or orders for arrest record relief, as required or authorized by any other law, including, but not limited to, Sections 851.87, 851.90, 851.91, 1000.4, and 1001.9.

(f) The department shall annually publish statistics for each county regarding the total number of arrests granted relief pursuant to this section and the percentage of arrests for which the state summary criminal history information does not include a disposition, on the OpenJustice Web portal, as defined in Section 13010.

(g) This section shall be operative commencing January 1, 2021, subject to an appropriation in the annual Budget Act.

SEC. 8. Section 1203.425 is added to the Penal Code, immediately following Section 1203.42, to read:

1203.425. (a) (1) On a monthly basis, the Department of Justice shall review the records in the statewide criminal justice databases, and based on information in the state summary criminal history repository and the Supervised Release File, shall identify persons with convictions that meet the criteria set forth in paragraph (2) and are eligible for automatic conviction record relief.

(2) A person is eligible for automatic conviction relief pursuant to this section if they meet all of the following conditions:

(A) The person is not required to register pursuant to the Sex Offender Registration Act.

(B) The person does not have an active record for local, state, or federal supervision in the Supervised Release File.

(C) Based upon the information available in the department's record, including disposition dates and sentencing terms, it does not appear that the person is currently serving a sentence for any offense and there is no indication of any pending criminal charges.

(D) Except as otherwise provided in clause (iii) of subparagraph (E), there is no indication that the conviction resulted in a sentence of incarceration in the state prison.

(E) The conviction occurred on or after January 1, 2021, and meets either of the following criteria:

(i) The defendant was sentenced to probation and, based upon the disposition date and the term of probation specified in the department's records, appears to have completed their term of probation without revocation.

(ii) The defendant was convicted of an infraction or misdemeanor, was not granted probation, and, based upon the disposition date and the term specified in the department's records, the defendant appears to have completed their sentence, and at least one calendar year has elapsed since the date of judgment.

(b) (1) Except as specified in subdivision (h), the department shall grant relief, including dismissal of a conviction, to a person identified pursuant to subdivision (a), without requiring a petition or motion by a party for that relief if the relevant information is present in the department's electronic records.

(2) The state summary criminal history information shall include, directly next to or below the entry or entries regarding the person's criminal record, a note stating "relief granted," listing the date that the department granted relief and this section. This note shall be included in all statewide criminal databases with a record of the conviction.

(3) Except as otherwise provided in subdivision (d) and in Section 13555 of the Vehicle Code, a person granted conviction relief pursuant to this section shall be released from all penalties and disabilities resulting from the offense of which the person has been convicted.

(c) On a monthly basis, the department shall electronically submit a notice to the superior court having jurisdiction over the criminal case, informing the court of all cases for which a complaint was filed in that jurisdiction and for which relief was granted pursuant to this section. Commencing on February 1, 2021, for any record retained by the court pursuant to Section 68152 of the Government Code, except as provided in subdivision (d), the court shall not disclose information concerning a conviction granted relief pursuant to this section or Section 1203.4, 1203.4a, 1203.41, or 1203.42, to any person or entity, in any format, except to the person whose conviction was granted relief or a criminal justice agency, as defined in Section 851.92.

(d) Relief granted pursuant to this section is subject to the following conditions:

(1) Relief granted pursuant to this section does not relieve a person of the obligation to disclose a criminal conviction in response to a direct question contained in a questionnaire or application for employment as a peace officer, as defined in Section 830.

(2) Relief granted pursuant to this section does not relieve a person of the obligation to disclose the conviction in response to any direct question contained in any questionnaire or application for public office, or for contracting with the California State Lottery Commission.

(3) Relief granted pursuant to this section has no effect on the ability of a criminal justice agency, as defined in Section 851.92, to access and use records that are granted relief to the same extent that would have been permitted for a criminal justice agency had relief not been granted.

(4) Relief granted pursuant to this section does not limit the jurisdiction of the court over any subsequently filed motion to amend the record, petition or motion for postconviction relief, or collateral attack on a conviction for which relief has been granted pursuant to this section.

(5) Relief granted pursuant to this section does not affect a person's authorization to own, possess, or have in the person's custody or control any firearm, or the person's susceptibility to conviction under Chapter 2 (commencing with Section 29800) of Division 9 of Title 4 of Part 6, if the criminal conviction would otherwise affect this authorization or susceptibility.

(6) Relief granted pursuant to this section does not affect any prohibition from holding public office that would otherwise apply under law as a result of the criminal conviction.

(7) Relief granted pursuant to this section does not affect the authority to receive, or take adverse action based on, criminal history information, including the authority to receive certified court records received or evaluated pursuant to Section 1522, 1568.09, 1569.17, or 1596.871 of the Health and Safety Code, or pursuant to any statutory or regulatory provisions that incorporate the criteria of those sections.

(8) Relief granted pursuant to this section does not make eligible a person who is otherwise ineligible to provide, or receive payment for providing, in-home supportive services pursuant to Article 7 (commencing with Section 12300) of Chapter 3 of Part 3 of

Division 9 of the Welfare and Institutions Code, or pursuant to Section 14132.95, 14132.952, or 14132.956 of the Welfare and Institutions Code.

(9) In any subsequent prosecution of the defendant for any other offense, the prior conviction may be pleaded and proved and shall have the same effect as if the relief had not been granted.

(e) This section shall not limit petitions, motions, or orders for relief in a criminal case, as required or authorized by any other law, including, but not limited to, Sections 1203.4 and 1204.4a.

(f) The department shall annually publish statistics for each county regarding the total number of convictions granted relief pursuant to this section and the total number of convictions prohibited from automatic relief pursuant to subdivision (h), on the OpenJustice Web portal, as defined in Section 13010.

(g) Subdivisions (a) to (f), inclusive, shall be operative commencing January 1, 2021, subject to an appropriation in the annual Budget Act.

(h) (1) The prosecuting attorney or probation department may, no later than 90 calendar days before the date of a person's eligibility for relief pursuant to this section, file a petition to prohibit the department from granting automatic relief pursuant to this section, based on a showing that granting such relief would pose a substantial threat to the public safety.

(2) The court shall give notice to the defendant and conduct a hearing on the petition within 45 days after the petition is filed.

(3) At a hearing on the petition pursuant to this subdivision, the defendant, the probation department, the prosecuting attorney, and the arresting agency, through the prosecuting attorney, may present evidence to the court. Notwithstanding Sections 1538.5 and 1539, the hearing may be heard and determined upon declarations, affidavits, police investigative reports, copies of state summary criminal history information and local summary criminal history information, or any other evidence submitted by the parties that is material, reliable, and relevant.

(4) The prosecutor or probation department has the initial burden of proof to show that granting conviction relief would pose a substantial threat to the public safety. In determining whether granting such relief would pose a substantial threat to the public safety, the court may consider any relevant factors including, but not limited to, either of the following:

(A) Declarations or evidence regarding the offense for which a grant of relief is being contested.

(B) The defendant's record of arrests and convictions.

(5) If the court finds that the prosecutor or probation department has satisfied the burden of proof, the burden shifts to the defendant to show that the hardship of not obtaining relief outweighs the threat to the public safety of providing such relief. In determining whether the defendant's hardship outweighs the threat to the public safety, the court may consider any relevant factors including, but not limited to, either of the following:

(A) The hardship to the defendant that has been caused by the conviction and that would be caused if relief is not granted.

(B) Declarations or evidence regarding the defendant's good character.

(6) If the court grants a petition pursuant to this subdivision, the court shall furnish a disposition report to the Department of Justice pursuant to Section 13151, stating that relief pursuant to this section was denied, and the department shall not grant relief pursuant to this section.

(7) A person denied relief pursuant to this section may continue to be eligible for relief pursuant to Section 1203.4 or 1203.4a. If the court subsequently grants relief pursuant to one of those sections, the court shall furnish a disposition report to the Department of Justice pursuant to Section 13151, stating that relief was granted pursuant to the applicable section, and the department shall grant relief pursuant to that section.

(i) At the time of sentencing, the court shall advise a defendant, either orally or in writing, of the provisions of this section and of the defendant's right, if any, to petition for a certificate of rehabilitation and pardon.

SEC. 9. Section 11105 of the Penal Code is amended to read:

11105. (a) (1) The Department of Justice shall maintain state summary criminal history information.

(2) As used in this section:

(A) "State summary criminal history information" means the master record of information compiled by the Attorney General pertaining to the identification and criminal history of a person, such as name, date of birth, physical description, fingerprints, photographs, dates of arrests, arresting agencies and booking

numbers, charges, dispositions, sentencing information, and similar data about the person.

(B) "State summary criminal history information" does not refer to records and data compiled by criminal justice agencies other than the Attorney General, nor does it refer to records of complaints to or investigations conducted by, or records of intelligence information or security procedures of, the office of the Attorney General and the Department of Justice.

(b) The Attorney General shall furnish state summary criminal history information to the following, if needed in the course of their duties, provided that when information is furnished to assist an agency, officer, or official of state or local government, a public utility, or any other entity, in fulfilling employment, certification, or licensing duties, Chapter 1321 of the Statutes of 1974 and Section 432.7 of the Labor Code shall apply:

(1) The courts of the state.

(2) Peace officers of the state, as defined in Section 830.1, subdivisions (a) and (e) of Section 830.2, subdivision (a) of Section 830.3, subdivision (a) of Section 830.31, and subdivisions (a) and (b) of Section 830.5.

(3) District attorneys of the state.

(4) Prosecuting city attorneys or city prosecutors of a city within the state.

(5) City attorneys pursuing civil gang injunctions pursuant to Section 186.22a, or drug abatement actions pursuant to Section 3479 or 3480 of the Civil Code, or Section 11571 of the Health and Safety Code.

(6) Probation officers of the state.

(7) Parole officers of the state.

(8) A public defender or attorney of record when representing a person in proceedings upon a petition for a certificate of rehabilitation and pardon pursuant to Section 4852.08.

(9) A public defender or attorney of record when representing a person in a criminal case or a juvenile delinquency proceeding, including all appeals and postconviction motions, or a parole, mandatory supervision pursuant to paragraph (5) of subdivision (h) of Section 1170, or postrelease community supervision revocation or revocation extension proceeding, if the information is requested in the course of representation.

(10) An agency, officer, or official of the state if the state summary criminal history information is required to implement a statute or regulation that expressly refers to specific criminal conduct applicable to the subject person of the state summary criminal history information, and contains requirements or exclusions, or both, expressly based upon that specified criminal conduct. The agency, officer, or official of the state authorized by this paragraph to receive state summary criminal history information may also transmit fingerprint images and related information to the Department of Justice to be transmitted to the Federal Bureau of Investigation.

(11) A city or county, city and county, district, or an officer or official thereof if access is needed in order to assist that agency, officer, or official in fulfilling employment, certification, or licensing duties, and if the access is specifically authorized by the city council, board of supervisors, or governing board of the city, county, or district if the state summary criminal history information is required to implement a statute, ordinance, or regulation that expressly refers to specific criminal conduct applicable to the subject person of the state summary criminal history information, and contains requirements or exclusions, or both, expressly based upon that specified criminal conduct. The city or county, city and county, district, or the officer or official thereof authorized by this paragraph may also transmit fingerprint images and related information to the Department of Justice to be transmitted to the Federal Bureau of Investigation.

(12) The subject of the state summary criminal history information under procedures established under Article 5 (commencing with Section 11120).

(13) A person or entity when access is expressly authorized by statute if the criminal history information is required to implement a statute or regulation that expressly refers to specific criminal conduct applicable to the subject person of the state summary criminal history information, and contains requirements or exclusions, or both, expressly based upon that specified criminal conduct.

(14) Health officers of a city, county, city and county, or district when in the performance of their official duties enforcing Section 120175 of the Health and Safety Code.

(15) A managing or supervising correctional officer of a county jail or other county correctional facility.

(16) A humane society, or society for the prevention of cruelty to animals, for the specific purpose of complying with Section 14502 of the Corporations Code for the appointment of humane officers.

(17) Local child support agencies established by Section 17304 of the Family Code. When a local child support agency closes a support enforcement case containing state summary criminal history information, the agency shall delete or purge from the file and destroy any documents or information concerning or arising from offenses for or of which the parent has been arrested, charged, or convicted, other than for offenses related to the parent's having failed to provide support for minor children, consistent with the requirements of Section 17531 of the Family Code.

(18) County child welfare agency personnel who have been delegated the authority of county probation officers to access state summary criminal history information pursuant to Section 272 of the Welfare and Institutions Code for the purposes specified in Section 16504.5 of the Welfare and Institutions Code. Information from criminal history records provided pursuant to this subdivision shall not be used for a purpose other than those specified in this section and Section 16504.5 of the Welfare and Institutions Code. When an agency obtains records both on the basis of name checks and fingerprint checks, final placement decisions shall be based only on the records obtained pursuant to the fingerprint check.

(19) The court of a tribe, or court of a consortium of tribes, that has entered into an agreement with the state pursuant to Section 10553.1 of the Welfare and Institutions Code. This information may be used only for the purposes specified in Section 16504.5 of the Welfare and Institutions Code and for tribal approval or tribal licensing of foster care or adoptive homes. Article 6 (commencing with Section 11140) shall apply to officers, members, and employees of a tribal court receiving state summary criminal history information pursuant to this section.

(20) Child welfare agency personnel of a tribe or consortium of tribes that has entered into an agreement with the state pursuant to Section 10553.1 of the Welfare and Institutions Code and to whom the state has delegated duties under paragraph (2) of subdivision (a) of Section 272 of the Welfare and Institutions Code.

The purposes for use of the information shall be for the purposes specified in Section 16504.5 of the Welfare and Institutions Code and for tribal approval or tribal licensing of foster care or adoptive homes. When an agency obtains records on the basis of name checks and fingerprint checks, final placement decisions shall be based only on the records obtained pursuant to the fingerprint check. Article 6 (commencing with Section 11140) shall apply to child welfare agency personnel receiving criminal record offender information pursuant to this section.

(21) An officer providing conservatorship investigations pursuant to Sections 5351, 5354, and 5356 of the Welfare and Institutions Code.

(22) A court investigator providing investigations or reviews in conservatorships pursuant to Section 1826, 1850, 1851, or 2250.6 of the Probate Code.

(23) A person authorized to conduct a guardianship investigation pursuant to Section 1513 of the Probate Code.

(24) A humane officer pursuant to Section 14502 of the Corporations Code for the purposes of performing the officer's duties.

(25) A public agency described in subdivision (b) of Section 15975 of the Government Code, for the purpose of oversight and enforcement policies with respect to its contracted providers.

(26) (A) A state entity, or its designee, that receives federal tax information. A state entity or its designee that is authorized by this paragraph to receive state summary criminal history information also may transmit fingerprint images and related information to the Department of Justice to be transmitted to the Federal Bureau of Investigation for the purpose of the state entity or its designee obtaining federal level criminal offender record information from the Department of Justice. This information shall be used only for the purposes set forth in Section 1044 of the Government Code.

(B) For purposes of this paragraph, "federal tax information," "state entity" and "designee" are as defined in paragraphs (1), (2), and (3), respectively, of subdivision (f) of Section 1044 of the Government Code.

(c) The Attorney General may furnish state summary criminal history information and, when specifically authorized by this subdivision, federal level criminal history information upon a showing of a compelling need to any of the following, provided

that when information is furnished to assist an agency, officer, or official of state or local government, a public utility, or any other entity in fulfilling employment, certification, or licensing duties, Chapter 1321 of the Statutes of 1974 and Section 432.7 of the Labor Code shall apply:

(1) A public utility, as defined in Section 216 of the Public Utilities Code, that operates a nuclear energy facility when access is needed in order to assist in employing persons to work at the facility, provided that, if the Attorney General supplies the data, the Attorney General shall furnish a copy of the data to the person to whom the data relates.

(2) To a peace officer of the state other than those included in subdivision (b).

(3) To an illegal dumping enforcement officer as defined in subdivision (j) of Section 830.7.

(4) To a peace officer of another country.

(5) To public officers, other than peace officers, of the United States, other states, or possessions or territories of the United States, provided that access to records similar to state summary criminal history information is expressly authorized by a statute of the United States, other states, or possessions or territories of the United States if the information is needed for the performance of their official duties.

(6) To a person when disclosure is requested by a probation, parole, or peace officer with the consent of the subject of the state summary criminal history information and for purposes of furthering the rehabilitation of the subject.

(7) The courts of the United States, other states, or territories or possessions of the United States.

(8) Peace officers of the United States, other states, or territories or possessions of the United States.

(9) To an individual who is the subject of the record requested if needed in conjunction with an application to enter the United States or a foreign nation.

(10) (A) (i) A public utility, as defined in Section 216 of the Public Utilities Code, or a cable corporation as defined in subparagraph (B), if receipt of criminal history information is needed in order to assist in employing current or prospective employees, contract employees, or subcontract employees who, in the course of their employment, may be seeking entrance to

private residences or adjacent grounds. The information provided shall be limited to the record of convictions and arrests for which the person is released on bail or on their own recognizance pending trial.

(ii) If the Attorney General supplies the data pursuant to this paragraph, the Attorney General shall furnish a copy of the data to the current or prospective employee to whom the data relates.

(iii) State summary criminal history information is confidential and the receiving public utility or cable corporation shall not disclose its contents, other than for the purpose for which it was acquired. The state summary criminal history information in the possession of the public utility or cable corporation and all copies made from it shall be destroyed not more than 30 days after employment or promotion or transfer is denied or granted, except for those cases where a current or prospective employee is out on bail or on their own recognizance pending trial, in which case the state summary criminal history information and all copies shall be destroyed not more than 30 days after the case is resolved.

(iv) A violation of this paragraph is a misdemeanor, and shall give the current or prospective employee who is injured by the violation a cause of action against the public utility or cable corporation to recover damages proximately caused by the violations. A public utility's or cable corporation's request for state summary criminal history information for purposes of employing current or prospective employees who may be seeking entrance to private residences or adjacent grounds in the course of their employment shall be deemed a "compelling need" as required to be shown in this subdivision.

(v) This section shall not be construed as imposing a duty upon public utilities or cable corporations to request state summary criminal history information on current or prospective employees.

(B) For purposes of this paragraph, "cable corporation" means a corporation or firm that transmits or provides television, computer, or telephone services by cable, digital, fiber optic, satellite, or comparable technology to subscribers for a fee.

(C) Requests for federal level criminal history information received by the Department of Justice from entities authorized pursuant to subparagraph (A) shall be forwarded to the Federal Bureau of Investigation by the Department of Justice. Federal level criminal history information received or compiled by the

Department of Justice may then be disseminated to the entities referenced in subparagraph (A), as authorized by law.

(11) To a campus of the California State University or the University of California, or a four-year college or university accredited by a regional accreditation organization approved by the United States Department of Education, if needed in conjunction with an application for admission by a convicted felon to a special education program for convicted felons, including, but not limited to, university alternatives and halfway houses. Only conviction information shall be furnished. The college or university may require the convicted felon to be fingerprinted, and any inquiry to the department under this section shall include the convicted felon's fingerprints and any other information specified by the department.

(12) To a foreign government, if requested by the individual who is the subject of the record requested, if needed in conjunction with the individual's application to adopt a minor child who is a citizen of that foreign nation. Requests for information pursuant to this paragraph shall be in accordance with the process described in Sections 11122 to 11124, inclusive. The response shall be provided to the foreign government or its designee and to the individual who requested the information.

(d) Whenever an authorized request for state summary criminal history information pertains to a person whose fingerprints are on file with the Department of Justice and the department has no criminal history of that person, and the information is to be used for employment, licensing, or certification purposes, the fingerprint card accompanying the request for information, if any, may be stamped "no criminal record" and returned to the person or entity making the request.

(e) Whenever state summary criminal history information is furnished as the result of an application and is to be used for employment, licensing, or certification purposes, the Department of Justice may charge the person or entity making the request a fee that it determines to be sufficient to reimburse the department for the cost of furnishing the information. In addition, the Department of Justice may add a surcharge to the fee to fund maintenance and improvements to the systems from which the information is obtained. Notwithstanding any other law, a person or entity required to pay a fee to the department for information

received under this section may charge the applicant a fee sufficient to reimburse the person or entity for this expense. All moneys received by the department pursuant to this section, Sections 11105.3 and 26190, and former Section 13588 of the Education Code shall be deposited in a special account in the General Fund to be available for expenditure by the department to offset costs incurred pursuant to those sections and for maintenance and improvements to the systems from which the information is obtained upon appropriation by the Legislature.

(f) Whenever there is a conflict, the processing of criminal fingerprints and fingerprints of applicants for security guard or alarm agent registrations or firearms qualification permits submitted pursuant to Section 7583.9, 7583.23, 7596.3, or 7598.4 of the Business and Professions Code shall take priority over the processing of other applicant fingerprints.

(g) It is not a violation of this section to disseminate statistical or research information obtained from a record, provided that the identity of the subject of the record is not disclosed.

(h) It is not a violation of this section to include information obtained from a record in (1) a transcript or record of a judicial or administrative proceeding or (2) any other public record if the inclusion of the information in the public record is authorized by a court, statute, or decisional law.

(i) Notwithstanding any other law, the Department of Justice or a state or local law enforcement agency may require the submission of fingerprints for the purpose of conducting state summary criminal history information checks that are authorized by law.

(j) The state summary criminal history information shall include any finding of mental incompetence pursuant to Chapter 6 (commencing with Section 1367) of Title 10 of Part 2 arising out of a complaint charging a felony offense specified in Section 290.

(k) (1) This subdivision shall apply whenever state or federal summary criminal history information is furnished by the Department of Justice as the result of an application by an authorized agency or organization and the information is to be used for peace officer employment or certification purposes. As used in this subdivision, a peace officer is defined in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2.

(2) Notwithstanding any other law, whenever state summary criminal history information is initially furnished pursuant to paragraph (1), the Department of Justice shall disseminate the following information:

(A) Every conviction rendered against the applicant.

(B) Every arrest for an offense for which the applicant is presently awaiting trial, whether the applicant is incarcerated or has been released on bail or on their own recognizance pending trial.

(C) Every arrest or detention, except for an arrest or detention resulting in an exoneration, provided, however, that where the records of the Department of Justice do not contain a disposition for the arrest, the Department of Justice first makes a genuine effort to determine the disposition of the arrest.

(D) Every successful diversion.

(E) Every date and agency name associated with all retained peace officer or nonsworn law enforcement agency employee preemployment criminal offender record information search requests.

(F) Sex offender registration status of the applicant.

(G) Sentencing information, if present in the department's records at the time of the response.

(l) (1) This subdivision shall apply whenever state or federal summary criminal history information is furnished by the Department of Justice as the result of an application by a criminal justice agency or organization as defined in Section 13101, and the information is to be used for criminal justice employment, licensing, or certification purposes.

(2) Notwithstanding any other law, whenever state summary criminal history information is initially furnished pursuant to paragraph (1), the Department of Justice shall disseminate the following information:

(A) Every conviction rendered against the applicant.

(B) Every arrest for an offense for which the applicant is presently awaiting trial, whether the applicant is incarcerated or has been released on bail or on their own recognizance pending trial.

(C) Every arrest for an offense for which the records of the Department of Justice do not contain a disposition or which did not result in a conviction, provided that the Department of Justice

first makes a genuine effort to determine the disposition of the arrest. However, information concerning an arrest shall not be disclosed if the records of the Department of Justice indicate or if the genuine effort reveals that the subject was exonerated, successfully completed a diversion or deferred entry of judgment program, or the arrest was deemed a detention, or the subject was granted relief pursuant to Section 851.91.

(D) Every date and agency name associated with all retained peace officer or nonsworn law enforcement agency employee preemployment criminal offender record information search requests.

(E) Sex offender registration status of the applicant.

(F) Sentencing information, if present in the department's records at the time of the response.

(m) (1) This subdivision shall apply whenever state or federal summary criminal history information is furnished by the Department of Justice as the result of an application by an authorized agency or organization pursuant to Section 1522, 1568.09, 1569.17, or 1596.871 of the Health and Safety Code, or a statute that incorporates the criteria of any of those sections or this subdivision by reference, and the information is to be used for employment, licensing, or certification purposes.

(2) Notwithstanding any other law, whenever state summary criminal history information is initially furnished pursuant to paragraph (1), the Department of Justice shall disseminate the following information:

(A) Every conviction of an offense rendered against the applicant, except a conviction for which relief has been granted pursuant to Section 1203.49.

(B) Every arrest for an offense for which the applicant is presently awaiting trial, whether the applicant is incarcerated or has been released on bail or on their own recognizance pending trial.

(C) Every arrest for an offense for which the Department of Social Services is required by paragraph (1) of subdivision (a) of Section 1522 of the Health and Safety Code to determine if an applicant has been arrested. However, if the records of the Department of Justice do not contain a disposition for an arrest, the Department of Justice shall first make a genuine effort to determine the disposition of the arrest.

(D) Sex offender registration status of the applicant.

(E) Sentencing information, if present in the department's records at the time of the response.

(3) Notwithstanding the requirements of the sections referenced in paragraph (1) of this subdivision, the Department of Justice shall not disseminate information about an arrest subsequently deemed a detention or an arrest that resulted in the successful completion of a diversion program, exoneration, or a grant of relief pursuant to Section 851.91.

(n) (1) This subdivision shall apply whenever state or federal summary criminal history information, to be used for employment, licensing, or certification purposes, is furnished by the Department of Justice as the result of an application by an authorized agency, organization, or individual pursuant to any of the following:

(A) Paragraph (10) of subdivision (c), when the information is to be used by a cable corporation.

(B) Section 11105.3 or 11105.4.

(C) Section 15660 of the Welfare and Institutions Code.

(D) A statute that incorporates the criteria of any of the statutory provisions listed in subparagraph (A), (B), or (C), or of this subdivision, by reference.

(2) With the exception of applications submitted by transportation companies authorized pursuant to Section 11105.3, and notwithstanding any other law, whenever state summary criminal history information is initially furnished pursuant to paragraph (1), the Department of Justice shall disseminate the following information:

(A) Every conviction, except a conviction for which relief has been granted pursuant to Section 1203.49, rendered against the applicant for a violation or attempted violation of an offense specified in subdivision (a) of Section 15660 of the Welfare and Institutions Code. However, with the exception of those offenses for which registration is required pursuant to Section 290, the Department of Justice shall not disseminate information pursuant to this subdivision unless the conviction occurred within 10 years of the date of the agency's request for information or the conviction is over 10 years old but the subject of the request was incarcerated within 10 years of the agency's request for information.

(B) Every arrest for a violation or attempted violation of an offense specified in subdivision (a) of Section 15660 of the Welfare

and Institutions Code for which the applicant is presently awaiting trial, whether the applicant is incarcerated or has been released on bail or on their own recognizance pending trial.

(C) Sex offender registration status of the applicant.

(D) Sentencing information, if present in the department's records at the time of the response.

(o) (1) This subdivision shall apply whenever state or federal summary criminal history information is furnished by the Department of Justice as the result of an application by an authorized agency or organization pursuant to Section 379 or 550 of the Financial Code, or a statute that incorporates the criteria of either of those sections or this subdivision by reference, and the information is to be used for employment, licensing, or certification purposes.

(2) Notwithstanding any other law, whenever state summary criminal history information is initially furnished pursuant to paragraph (1), the Department of Justice shall disseminate the following information:

(A) Every conviction rendered against the applicant for a violation or attempted violation of an offense specified in Section 550 of the Financial Code, except a conviction for which relief has been granted pursuant to Section 1203.49.

(B) Every arrest for a violation or attempted violation of an offense specified in Section 550 of the Financial Code for which the applicant is presently awaiting trial, whether the applicant is incarcerated or has been released on bail or on their own recognizance pending trial.

(C) Sentencing information, if present in the department's records at the time of the response.

(p) (1) This subdivision shall apply whenever state or federal criminal history information is furnished by the Department of Justice as the result of an application by an agency, organization, or individual not defined in subdivision (k), (*l*), (m), (n), or (o), or by a transportation company authorized pursuant to Section 11105.3, or a statute that incorporates the criteria of that section or this subdivision by reference, and the information is to be used for employment, licensing, or certification purposes.

(2) Notwithstanding any other law, whenever state summary criminal history information is initially furnished pursuant to

paragraph (1), the Department of Justice shall disseminate the following information:

(A) Every conviction rendered against the applicant, except a conviction for which relief has been granted pursuant to Section 1203.4, 1203.4a, 1203.41, 1203.42, 1203.425, or 1203.49.

(B) Every arrest for an offense for which the applicant is presently awaiting trial, whether the applicant is incarcerated or has been released on bail or on their own recognizance pending trial.

(C) Sex offender registration status of the applicant.

(D) Sentencing information, if present in the department's records at the time of the response.

(q) All agencies, organizations, or individuals defined in subdivisions (k), (*l*), (m), (n), (o), and (p) may contract with the Department of Justice for subsequent notification pursuant to Section 11105.2. This subdivision shall not supersede sections that mandate an agency, organization, or individual to contract with the Department of Justice for subsequent notification pursuant to Section 11105.2.

(r) This section does not require the Department of Justice to cease compliance with any other statutory notification requirements.

(s) The provisions of Section 50.12 of Title 28 of the Code of Federal Regulations are to be followed in processing federal criminal history information.

(t) Whenever state or federal summary criminal history information is furnished by the Department of Justice as the result of an application by an authorized agency, organization, or individual defined in subdivisions (k) to (p), inclusive, and the information is to be used for employment, licensing, or certification purposes, the authorized agency, organization, or individual shall expeditiously furnish a copy of the information to the person to whom the information relates if the information is a basis for an adverse employment, licensing, or certification decision. When furnished other than in person, the copy shall be delivered to the last contact information provided by the applicant.

SEC. 10. Section 13555 of the Vehicle Code is amended to read:

13555. A termination of probation and dismissal of charges pursuant to Section 1203.4 of, or a dismissal of charges pursuant

to Section 1203.4a of, or relief granted pursuant to Section 1203.425 of, the Penal Code does not affect any revocation or suspension of the privilege of the person convicted to drive a motor vehicle under this chapter. Such person's prior conviction shall be considered a conviction for the purpose of revoking or suspending or otherwise limiting such privilege on the ground of two or more convictions.

SEC. 11. Section 2.5 of this bill incorporates amendments to Section 480 of the Business and Professions Code, as added by Section 4 of Chapter 995 of the Statutes of 2018, proposed by both this bill and Assembly Bill 1521. That section shall only become operative if (1) both bills are enacted and become effective on or before January 1, 2020, (2) each bill amends Section 480 of the Business and Professions Code, as added by Section 4 of Chapter 995 of the Statutes of 2018, and (3) this bill is enacted after Assembly Bill 1521, in which case Section 2 of this bill shall not become operative.

Approved_____, 2019

_____

Governor

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: ⅔. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

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

SECTION 1. Section 11121 of the Government Code is amended to read:

11121. As used in this article, "state body" means each of the following:

(a) Every state board, or commission, or similar multimember body of the state that is created by statute or required by law to conduct official meetings and every commission created by executive order.

(b) A board, commission, committee, or similar multimember body that exercises any authority of a state body delegated to it by that state body.

(c) An advisory board, advisory commission, advisory committee, advisory subcommittee, or similar multimember advisory body of a state body, if created by formal action of the state body or of any member of the state body, and if the advisory body so created consists of three or more persons, except as provided in subdivision (d).

(d) A board, commission, committee, or similar multimember body on which a member of a body that is a state body pursuant to this section 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.

(e) Notwithstanding subdivision (a) of Section 11121.1, the State Bar of California, as described in Section 6001 of the Business and Professions Code. This subdivision shall become operative on April 1, 2016.

SEC. 2. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the California Constitution and shall 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

Senate Bill No. 425

Passed the Senate September 11, 2019

_____

Secretary of the Senate

Passed the Assembly September 10, 2019

_____

Chief Clerk of the Assembly

This bill was received by the Governor this_____day of_____, 2019, at_____o'clock____m.

_____

Private Secretary of the Governor

CHAPTER _____

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

legislative counsel's digest

SB 425, 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 care facility, as defined, 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, as defined, made against a healing arts licensee by a patient, if the patient or the patient's representative makes the allegation in writing, to the relevant state licensing agency within 15 days of receiving the written allegation and would require the relevant agency to investigate the circumstances underlying a received report. The bill would require such a report to be kept confidential and, with certain exceptions, such a report would not be subject to discovery or disclosure in a disciplinary hearing. The bill would make a willful failure to file the report by a health care facility 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 care facility, or other entity from incurring civil or criminal liability as a result of making a report.

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.

This bill would incorporate additional changes to Section 2234 of the Business and Professions Code proposed by SB 786 to be operative only if this bill and SB 786 are enacted and this bill is enacted last.

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

SECTION 1. Section 800 of the Business and Professions Code is amended to read:

800. (a) The Medical Board of California, the Podiatric Medical Board of California, the Board of Psychology, the Dental Board of California, the Dental Hygiene Board of California, the Osteopathic Medical Board of California, the State Board of Chiropractic Examiners, the Board of Registered Nursing, the Board of Vocational Nursing and Psychiatric Technicians of the State of California, the State Board of Optometry, the Veterinary Medical Board, the Board of Behavioral Sciences, the Physical Therapy Board of California, the California State Board of Pharmacy, the Speech-Language Pathology and Audiology and Hearing Aid Dispensers Board, the California Board of Occupational Therapy, the Acupuncture Board, and the Physician Assistant Board shall each separately create and maintain a central file of the names of all persons who hold a license, certificate, or similar authority from that board. Each central file shall be created and maintained to provide an individual historical record for each licensee with respect to the following information:

(1) Any conviction of a crime in this or any other state that constitutes unprofessional conduct pursuant to the reporting requirements of Section 803.

(2) Any judgment or settlement requiring the licensee or the licensee's insurer to pay any amount of damages in excess of three thousand dollars ($3,000) for any claim that injury or death was proximately caused by the licensee's negligence, error or omission in practice, or by rendering unauthorized professional services, pursuant to the reporting requirements of Section 801 or 802.

(3) Any public complaints for which provision is made pursuant to subdivision (b).

(4) Disciplinary information reported pursuant to Section 805, including any additional exculpatory or explanatory statements submitted by the licentiate pursuant to subdivision (f) of Section 805. If a court finds, in a final judgment, that the peer review resulting in the 805 report was conducted in bad faith and the licensee who is the subject of the report notifies the board of that finding, the board shall include that finding in the central file. For purposes of this paragraph, "peer review" has the same meaning as defined in Section 805.

(5) Information reported pursuant to Section 805.01, including any explanatory or exculpatory information submitted by the licensee pursuant to subdivision (b) of that section.

(b) (1) Each board shall prescribe and promulgate forms on which members of the public and other licensees or certificate holders may file written complaints to the board alleging any act of misconduct in, or connected with, the performance of professional services by the licensee.

(2) If a board, or division thereof, a committee, or a panel has failed to act upon a complaint or report within five years, or has found that the complaint or report is without merit, the central file shall be purged of information relating to the complaint or report.

(3) Notwithstanding this subdivision, the Board of Psychology, the Board of Behavioral Sciences, and the Respiratory Care Board of California shall maintain complaints or reports as long as each board deems necessary.

(c) (1) The contents of any central file that are not public records under any other provision of law shall be confidential except that the licensee involved, or the licensee's counsel or representative, may inspect and have copies made of the licensee's complete file except for the provision that may disclose the identity of an information source. For the purposes of this section, a board may 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 summary of the substance of the material. Whichever method is used, the board shall ensure that full disclosure is made to the subject of any personal information that could reasonably in any way reflect or convey anything detrimental, disparaging, or threatening to a licensee's reputation, rights, benefits, privileges, or qualifications, or be used by a board to make a determination that would affect a licensee's rights,

benefits, privileges, or qualifications. The information required to be disclosed pursuant to Section 803.1 shall not be considered among the contents of a central file for the purposes of this subdivision.

(2) The licensee may, but is not required to, submit any additional exculpatory or explanatory statement or other information that the board shall include in the central file.

(3) Each board may permit any law enforcement or regulatory agency when required for an investigation of unlawful activity or for licensing, certification, or regulatory purposes to inspect and have copies made of that licensee's file, unless the disclosure is otherwise prohibited by law.

(4) These disclosures shall effect no change in the confidential status of these records.

SEC. 2. Section 805.8 is added to the Business and Professions Code, to read:

805.8. (a) As used in this section, the following terms shall have the following meanings:

(1) "Agency" means the relevant state licensing agency with regulatory jurisdiction over a healing arts licensee listed in paragraph (2).

(2) "Healing arts licensee" or "licensee" means a licensee licensed under Division 2 (commencing with Section 500) or any initiative act referred to in that division. "Healing arts licensee" or "licensee" also includes a person authorized to practice medicine pursuant to Sections 2064.5, 2113, and 2168.

(3) "Health care facility" means a clinic or health facility licensed or exempt from licensure pursuant to Division 2 (commencing with Section 1200) of the Health and Safety Code.

(4) "Other entity" includes, but is not limited to, a postsecondary educational institution as defined in Section 66261.5 of the Education Code.

(5) "Sexual misconduct" means inappropriate contact or communication of a sexual nature.

(b) A health care facility or other entity that makes any arrangement under which a healing arts licensee is allowed to practice or provide care for patients shall file a report of any allegation of sexual abuse or sexual misconduct made against a healing arts licensee by a patient, if the patient or the patient's representative makes the allegation in writing, to the agency within

15 days of receiving the written allegation of sexual abuse or sexual misconduct. 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 professional services, including, but not limited to, arrangements to provide outpatient services.

(c) The report provided pursuant to subdivision (b) shall be kept confidential and shall not be subject to discovery, except that the information may be reviewed as provided in subdivision (c) of Section 800 and may be disclosed in any subsequent disciplinary hearing conducted pursuant to the Administrative Procedure Act (Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code).

(d) A willful failure to file the report described in subdivision (b) shall be punishable by a fine, not to exceed one hundred thousand dollars ($100,000) per violation, that shall be paid by the health care facility or other entity subject to subdivision (b). The fine may be imposed in any civil or administrative action or proceeding brought by or on behalf of any agency having regulatory jurisdiction over the licensee regarding whom the report was or should have been filed. If the person who is designated or otherwise required to file the report under this section is a licensed physician and surgeon, the action or proceeding shall be brought by the Medical Board of California. If the person who is designated or otherwise required to file the report required under this section is a licensed doctor of podiatric medicine, the action or proceeding shall be brought by the Podiatric Medical Board of California. The fine shall be paid to that agency, but not expended until appropriated by the Legislature. A violation of this subdivision may constitute unprofessional conduct by the licensee. A person who is alleged to have violated this subdivision may assert any defense available at law. As used in this subdivision, "willful" means a voluntary and intentional violation of a known legal duty.

(e) Except as provided in subdivision (c), any failure to file the report described in subdivision (b) shall be punishable by a fine, not to exceed fifty thousand dollars ($50,000) per violation, that shall be paid by the health care facility or other entity subject to

subdivision (b). The fine may be imposed in any civil or administrative action or proceeding brought by or on behalf of any agency having regulatory jurisdiction over the person regarding whom the report was or should have been filed. If the person who is designated or otherwise required to file the report required under this section is a licensed physician and surgeon, the action or proceeding shall be brought by the Medical Board of California. If the person who is designated or otherwise required to file the report required under this section is a licensed doctor of podiatric medicine, the action or proceeding shall be brought by the Podiatric Medical Board of California. The fine shall be paid to that agency, but not expended until appropriated by the Legislature. The amount of the fine imposed, not exceeding fifty thousand dollars ($50,000) per violation, shall be proportional to the severity of the failure to report and shall differ based upon written findings, including whether the failure to file caused harm to a patient or created a risk to patient safety; whether any person who is designated or otherwise required by law to file the report required under this section exercised due diligence despite the failure to file or whether the person knew or should have known that a report required under this section would not be filed; whether there has been a prior failure to file a report required under this section; and whether a report was filed with another state agency or law enforcement. The amount of the fine imposed may also differ based on whether a health care facility is a small or rural hospital, as defined in Section 124840 of the Health and Safety Code.

(f) A person, including an employee or individual contracted or subcontracted to provide health care services, a health care facility, or other entity shall not incur any civil or criminal liability as a result of making a report required by this section.

(g) The agency shall investigate the circumstances underlying a report received pursuant to this section.

SEC. 3. Section 2221 of the Business and Professions Code is amended to read:

2221. (a) The board may 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 board, in its sole discretion, may issue a probationary physician's and surgeon's certificate to an applicant

subject to terms and conditions, including, but not limited to, any of the following conditions of probation:

(1) Practice limited to a supervised, structured environment where the licensee's activities shall be supervised by another physician and surgeon.

(2) Total or partial restrictions on drug prescribing privileges for controlled substances.

(3) Continuing medical or psychiatric treatment.

(4) Ongoing participation in a specified rehabilitation program.

(5) Enrollment and successful completion of a clinical training program.

(6) Abstention from the use of alcohol or drugs.

(7) Restrictions against engaging in certain types of medical practice.

(8) Compliance with all provisions of this chapter.

(9) Payment of the cost of probation monitoring.

(b) The board may modify or terminate the terms and conditions imposed on the probationary certificate upon receipt of a petition from the licensee. The board may assign the petition to an administrative law judge designated in Section 11371 of the Government Code. After a hearing on the petition, the administrative law judge shall provide a proposed decision to the board.

(c) The board shall deny a physician's and surgeon's certificate to an applicant who is required to register pursuant to Section 290 of the Penal Code. This subdivision does not apply to an applicant who is required to register as a sex offender pursuant to Section 290 of the Penal Code solely because of a misdemeanor conviction under Section 314 of the Penal Code.

(d) An applicant shall not be eligible to reapply for a physician's and surgeon's certificate for a minimum of three years from the effective date of the denial of their application, except that the board, in its discretion and for good cause demonstrated, may permit reapplication after not less than one year has elapsed from the effective date of the denial.

(e) The board shall disclose a probationary physician's and surgeon's certificate issued pursuant to this section and the operative statement of issues to an inquiring member of the public and shall post the certificate and statement on the board's internet website for 10 years from issuance.

SEC. 4. Section 2234 of the Business and Professions Code is amended to read:

2234. The board shall take action against any licensee who is charged with unprofessional conduct. In addition to other provisions of this article, unprofessional conduct includes, but is not limited to, the following:

(a) Violating or attempting to violate, directly or indirectly, assisting in or abetting the violation of, or conspiring to violate any provision of this chapter.

(b) Gross negligence.

(c) Repeated negligent acts. To be repeated, there must be two or more negligent acts or omissions. An initial negligent act or omission followed by a separate and distinct departure from the applicable standard of care shall constitute repeated negligent acts.

(1) An initial negligent diagnosis followed by an act or omission medically appropriate for that negligent diagnosis of the patient shall constitute a single negligent act.

(2) When the standard of care requires a change in the diagnosis, act, or omission that constitutes the negligent act described in paragraph (1), including, but not limited to, a reevaluation of the diagnosis or a change in treatment, and the licensee's conduct departs from the applicable standard of care, each departure constitutes a separate and distinct breach of the standard of care.

(d) Incompetence.

(e) The commission of any act involving dishonesty or corruption that is substantially related to the qualifications, functions, or duties of a physician and surgeon.

(f) Any action or conduct that would have warranted the denial of a certificate.

(g) The failure by a certificate holder, in the absence of good cause, to attend and participate in an interview by the board. This subdivision shall only apply to a certificate holder who is the subject of an investigation by the board.

SEC. 4.5. Section 2234 of the Business and Professions Code is amended to read:

2234. The board shall take action against any licensee who is charged with unprofessional conduct. In addition to other provisions of this article, unprofessional conduct includes, but is not limited to, the following:

(a) Violating or attempting to violate, directly or indirectly, assisting in or abetting the violation of, or conspiring to violate any provision of this chapter.

(b) Gross negligence.

(c) Repeated negligent acts. To be repeated, there must be two or more negligent acts or omissions. An initial negligent act or omission followed by a separate and distinct departure from the applicable standard of care shall constitute repeated negligent acts.

(1) An initial negligent diagnosis followed by an act or omission medically appropriate for that negligent diagnosis of the patient shall constitute a single negligent act.

(2) When the standard of care requires a change in the diagnosis, act, or omission that constitutes the negligent act described in paragraph (1), including, but not limited to, a reevaluation of the diagnosis or a change in treatment, and the licensee's conduct departs from the applicable standard of care, each departure constitutes a separate and distinct breach of the standard of care.

(d) Incompetence.

(e) The commission of any act involving dishonesty or corruption that is substantially related to the qualifications, functions, or duties of a physician and surgeon.

(f) Any action or conduct that would have warranted the denial of a certificate.

(g) The failure by a certificate holder, in the absence of good cause, to attend and participate in an interview by the board. This subdivision shall only apply to a certificate holder who is the subject of an investigation by the board.

SEC. 5. Section 4.5 of this bill incorporates amendments to Section 2234 of the Business and Professions Code proposed by both this bill and Senate Bill 786. That section of this bill shall only become operative if (1) both bills are enacted and become effective on or before January 1, 2020, (2) each bill amends Section 2234 of the Business and Professions Code, and (3) this bill is enacted after Senate Bill 786, in which case Section 4 of this bill shall not become operative.

Approved_____, 2019

_____

Governor

BOARD of CHIROPRACTIC EXAMINERS
STATE OF CALIFORNIA

State of California
Gavin Newsom, Governor

Agenda Item 18
October 24, 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 at this time.

Background

The Board currently has ten regulatory proposals in various stages of completion.

Staff are actively working on changes to the Continuing Education and the Uniform Standards & Disciplinary Guidelines regulations.

Additionally, the Denial of Application, Revocation or Suspension of Licensure regulation has been submitted to the Board's legal counsel for initial review of the rulemaking file.

Recommendation(s)

Staff does not have any recommendations at this time.

Next Step

N/A

Attachment(s)

1. BCE Regulation Tracking sheet
2. BCE Regulation Summary sheet
3. DCA & BCE Regulation Review Process sheet

Regulation Tracking Sheet

	Group A – Legislatively Mandated	DCA & BCE Review Process	Status
1	Denial of Application, Revocation or Suspension of Licensure (CCR Sections 316.5, 321, 326 and 327)	**Step 3 Initial Phase**	**Rulemaking file submitted to DCA legal for initial review on 07/22/19.**
2	Probation Status Disclosure (CCR Section 308.2)	**Step 2 Initial Phase**	**Draft rulemaking file under internal review.**
3	Consumer Protection Enforcement Initiative	**Step 3 Initial Phase**	Legal review completed. Rulemaking file submitted to DCA to commence the initial review process.
4	Revisions to BCE Disciplinary Guidelines & Uniform Standards for Substance Abusing Licensees	**Step 2 Initial Phase**	**Rulemaking file 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)	**Step 2 Initial Phase**	Rulemaking file under development at the Board.
2	Continuing Education Requirements (CE Provider and Course Approval) / Mandatory Cardiopulmonary Resuscitation (CPR) Certification for all licensees	**Step 2 Initial Phase**	**Rulemaking file 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	**Step 3 Initial Phase**	Legal review completed. Rulemaking file submitted to DCA to commence initial review process.
	Group C		**Status**
1	Chiropractic Records Retention/Disposition of Patient Records Upon Closure of Practice or Death/Incapacity of Licensee	**Step 2 Initial Phase**	Approved rulemaking process 4/16/15
2	Amend or Repeal CCR Section 354 - Successful Examination (Obsolete provision)		Not commenced

Regulation Summary Sheet

Proposed Regulation	Proposed Change(s)
Denial of Application, Revocation or Suspension of Licensure (CCR Sections 316.5, 321, 326 and 327)	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 2138 (Chiu, Licensing Boards: Denial of Application: Revocation or Suspension of Licensure: Criminal Conviction - Stats. 2018, Ch. 995), 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 308.2)	Effective July 1, 2019, a new law, SB 1448 (Hill, Healing Arts Licensees: Probation Status: Disclosure – Stats. 2018, Ch. 570), requires licensees who have been placed on probation on or after July 1, 2019 to notify all patients of their probationary status. The BCE's proposed regulation would add CCR section 308.2 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.
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 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, Sections 330 - 331.16	TBD
CE Requirements (CE Provider and Course Approval)	TBD
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 Licensee (Amendment to CCR Sections 312.2 and 318)	TBD
Amend or Repeal CCR Section 354 Successful Examination (Obsolete provision)	TBD

Department of Consumer Affairs & Board of Chiropractic Examiners
Regulation Review Process
INITIAL PHASE

Step	Responsible Person/Entity	Required Action
1	**BCE Staff & DCA Legal Counsel**	Work together on proposed regulation text that is subject to EO's initial approval
2	**BCE Board Members**	Vote on proposed text and direct staff to begin regulation process.
3	**DCA Legal Counsel**	Reviews regulation documents and returns to BCE Staff with approval or suggested changes. Legal Affairs notifies the DCA Regulations Coordinator of the status.
4	**BCE Staff**	Compile four complete hard copy sets of the regulation package and submit to DCA Regulations Coordinator.
5	**DCA Regulations Coordinator**	Begins DCA initial review process
6	**DCA Legal Affairs Division, Legislative Affairs Division, and Budget Office**	Review regulation documents.
7	**DCA Legal Affairs Division**	Chief Counsel Reviews regulation documents
8	**DCA Legislative Affairs Division**	Deputy Director reviews regulation documents
9	**DCA Executive Office**	Director reviews regulation documents.
10	**Business, Consumer Services, & Housing Agency**	Agency Secretary reviews regulation documents.
11	**DCA Regulations Coordinator**	Logs return of proposed regulation documents from Agency and notifies BCE of approval or concerns & suggested changes
12	**BCE Staff**	Submits Rulemaking File to the Office of Administrative Law for Notice/PUBLICATION. (If any changes to language last approved by the Board are needed, a vote by the Board may be necessary). 45-Day Public Comment Period begins on date of PUBLICATION.
13	**BCE Staff**	Receives written comments submitted during the 45-Day Public Comment Period; schedules Public Hearing if requested.

Department of Consumer Affairs & Board of Chiropractic Examiners
Regulation Review Process
FINAL PHASE

Step	Responsible Person/Entity	Required Action
1	**BCE Staff & Board Members**	Staff review and summarize comments received during 45-day public comment period/hearing. Board Members discuss comments at a public Board Meeting and determine whether to 1) amend the language and issue 15-day public comment period ***or*** 2) adopt the proposed text.
2	**BCE Staff**	Upon adoption of language, staff completes final rulemaking binder and delivers to DCA Legal.
3	**DCA Legal Affairs Division**	Rulemaking binder is logged and forwarded to BCE's Assigned Legal Counsel
4	**DCA Regulations Coordinator**	Facilitates review by DCA's Budget Office and the Department of Finance
5	**DCA Legal Affairs Division**	Binder reviewed by Assistant Chief Legal Counsel
6	**DCA Legislative Affairs Division**	Binder reviewed by Deputy Director
7	**DCA Executive Office**	Binder reviewed by Director
8	**Business, Consumer Services, & Housing Agency**	Binder reviewed by Agency Secretary
9	**DCA Regulations Coordinator**	Completes closing paperwork and returns binder to BCE with final approval
10	**BCE Staff**	Submits final rulemaking file to the Office of Administrative Law for review.
11	**Office of Administrative Law**	Reviews rulemaking file for: 1) Necessity; 2) Authority; 3) Clarity; 4) Consistency; 5) Reference; and, 6) Nonduplication.
12	**BCE**	**If approved**: Rulemaking is complete; language takes effect on next effective date or date requested. **If disapproved**: Board Members decide whether to amend and resubmit or withdraw the regulatory package.

BOARD of CHIROPRACTIC EXAMINERS
STATE OF CALIFORNIA

State of California
Gavin Newsom., Governor

Agenda Item 19
October 24, 2019

Proposed Board Meeting Schedule
January – December 2020

Purpose of the item

The Board will review and approve meeting dates for 2020

Action(s) requested

Board approval of meeting dates for the 2020 calendar year.

Background

Annually, at the last meeting of the year, Board Members discuss and approve meeting dates for the following year.

Recommendation(s)

Staff recommends the Board approve meeting dates in January, May, July and October of 2020.

Next Step

N/A

Attachment(s)

- 2020 Proposed Board Meeting Schedule/Calendar

2020 Calendar*

January

Su	Mo	Tu	We	Th	Fr	Sa
29	30	31	1	2	3	4
5	6	7	8	9	10	11
12	13	14	15	16	17	18
19	20	21	22	23	24	25
26	27	28	29	30	31	1

February

Su	Mo	Tu	We	Th	Fr	Sa
26	27	28	29	30	31	1
2	3	4	5	6	7	8
9	10	11	12	13	14	15
16	17	18	19	20	21	22
23	24	25	26	27	28	29

March

Su	Mo	Tu	We	Th	Fr	Sa
1	2	3	4	5	6	7
8	9	10	11	12	13	14
15	16	17	18	19	20	21
22	23	24	25	26	27	28
29	30	31	1	2	3	4

April

Su	Mo	Tu	We	Th	Fr	Sa
29	30	31	1	2	3	4
5	6	7	8	9	10	11
12	13	14	15	16	17	18
19	20	21	22	23	24	25
26	27	28	29	30	1	2

May

Su	Mo	Tu	We	Th	Fr	Sa
26	27	28	29	30	1	2
3	4	5	6	7	8	9
10	11	12	13	14	15	16
17	18	19	20	21	22	23
24	25	26	27	28	29	30
31	1	2	3	4	5	6

June

Su	Mo	Tu	We	Th	Fr	Sa
31	1	2	3	4	5	6
7	8	9	10	11	12	13
14	15	16	17	18	19	20
21	22	23	24	25	26	27
28	29	30	1	2	3	4

July

Su	Mo	Tu	We	Th	Fr	Sa
28	29	30	1	2	3	4
5	6	7	8	9	10	11
12	13	14	15	16	17	18
19	20	21	22	23	24	25
26	27	28	29	30	31	1

August

Su	Mo	Tu	We	Th	Fr	Sa
26	27	28	29	30	31	1
2	3	4	5	6	7	8
9	10	11	12	13	14	15
16	17	18	19	20	21	22
23	24	25	26	27	28	29
30	31	1	2	3	4	5

September

Su	Mo	Tu	We	Th	Fr	Sa
30	31	1	2	3	4	5
6	7	8	9	10	11	12
13	14	15	16	17	18	19
20	21	22	23	24	25	26
27	28	29	30	1	2	3

October

Su	Mo	Tu	We	Th	Fr	Sa
27	28	29	30	1	2	3
4	5	6	7	8	9	10
11	12	13	14	15	16	17
18	19	20	21	22	23	24
25	26	27	28	29	30	31

November

Su	Mo	Tu	We	Th	Fr	Sa
1	2	3	4	5	6	7
8	9	10	11	12	13	14
15	16	17	18	19	20	21
22	23	24	25	26	27	28
29	30	1	2	3	4	5

December

Su	Mo	Tu	We	Th	Fr	Sa
29	30	1	2	3	4	5
6	7	8	9	10	11	12
13	14	15	16	17	18	19
20	21	22	23	24	25	26
27	28	29	30	31	1	2

*

Circle and/or red on the date indicates -Holidays, X -Conflicts, \ -staff conflicts