



## **NOTICE OF TELECONFERENCE BOARD MEETING**

December 11, 2020  
9:00 a.m. to 1 p.m.  
or until completion of business

Notice of Teleconference Meeting Held Under Executive Order N-29-20 (3/17/20)

FOR PUBLIC COMMENT, PLEASE LOG ON TO THIS WEBSITE:

<https://dca-meetings.webex.com/dca-meetings/onstage/g.php?MTID=e32545cc0c80a29cb3ce6fd0a90364ac5>

**The preferred audio connection is via mobile phone.** The phone number and access code will be provided as part of your connection to the meeting. When signing into the WebEx platform, participants may be asked for their name and email address. Participants who choose not to provide their names will be required to provide a unique identifier, such as their initials or another alternative, so that the meeting moderator can identify individuals who wish to make public comment. Public comments will be limited to 2 minutes per person unless, in the discretion of the Board or circumstances require a shorter period. Members of the public will not be permitted to "yield" their allotted time to other members of the public to make comments.

**Important Notices to the Public:** The Board of Chiropractic Examiners will hold this meeting via WebEx – access information is provided above. General instructions for using WebEx are attached to the agenda. 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](mailto: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**

- 1. Open Session – Call to Order & Establishment of a Quorum**  
David Paris, D.C., Chair  
Dionne McClain, D.C., Vice Chair  
Frank Ruffino, Secretary  
Laurence Adams, D.C.  
Sergio Azzolino, D.C.  
Heather Dehn, D.C.

**2. Update, Review, Discussion and Possible Action on Proposed Regulation for Delegation of Authority to the Assistant Executive Officer**

**3. Hearing Re: Petition for Reinstatement of Revoked License**

- A. Nosrat N. Ghodousi Case No. AC 2014-1005
- B. Robert J. Farrell Case No. AC 2018-1172

**4. Hearing Re: Petition for Early Termination of Probation**

- A. Douglas Wayne Smith Case No. AC 2017-1104

**5. Hearing Re: Appeal of Denial of Continuing Education Course**

- A. ChiroCECredits.com; Brian Cromblehome

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

**6. Closed Session**

The Board will meet in Closed Session to:

- 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 Paula J. Strauss, D.C. v. California Board of Chiropractic Examiners, Sacramento County Superior Court, Case No. 34-2020-80003406 and Hugh Lubkin, D.C. v. Board of Chiropractic Examiners, Workers' Compensation Case No. ADJ7361379

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

**8. 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.*

**9. 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.]*

## 10. Adjournment

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In accordance with Executive Order N-29-20, no physical location is available for observation and public comment, so please plan to attend the meeting telephonically. 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](http://www.chiro.ca.gov).

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## HOW TO – Join – DCA WebEx Event

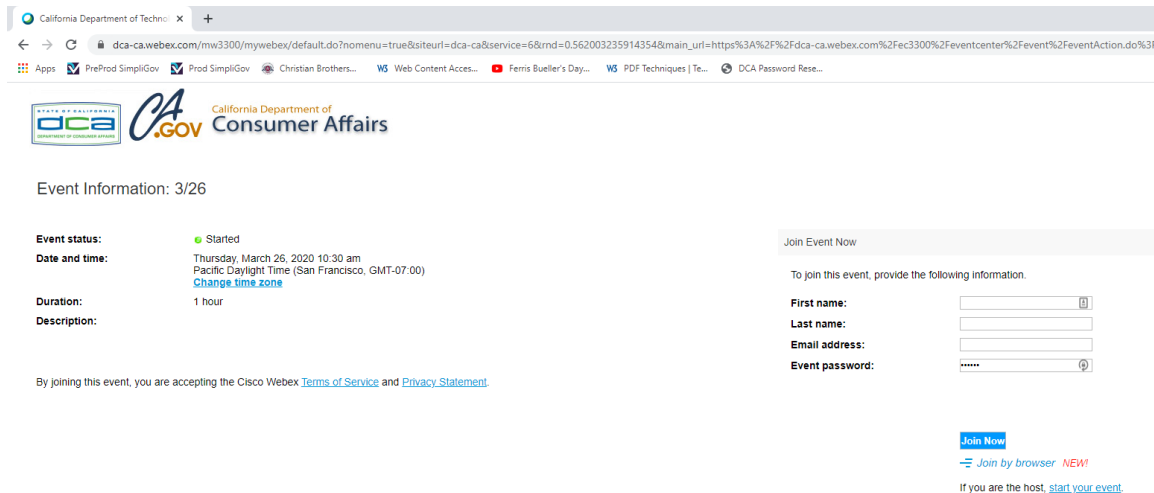
The following contains instructions to join a WebEx event hosted by the Department of Consumer Affairs (DCA).

NOTE: The preferred audio connection to our event is via telephone conference and not the microphone and speakers on your computer. Further guidance relevant to the audio connection will be outlined below.

1. Navigate to the WebEx event link provided by the DCA entity (an example link is provided below for reference) via an internet browser.

Meeting link: <https://dca-meetings.webex.com/dca-meetings/onstage/g.php?MTID=e32545cc0c80a29cb3ce6fd0a90364ac5>

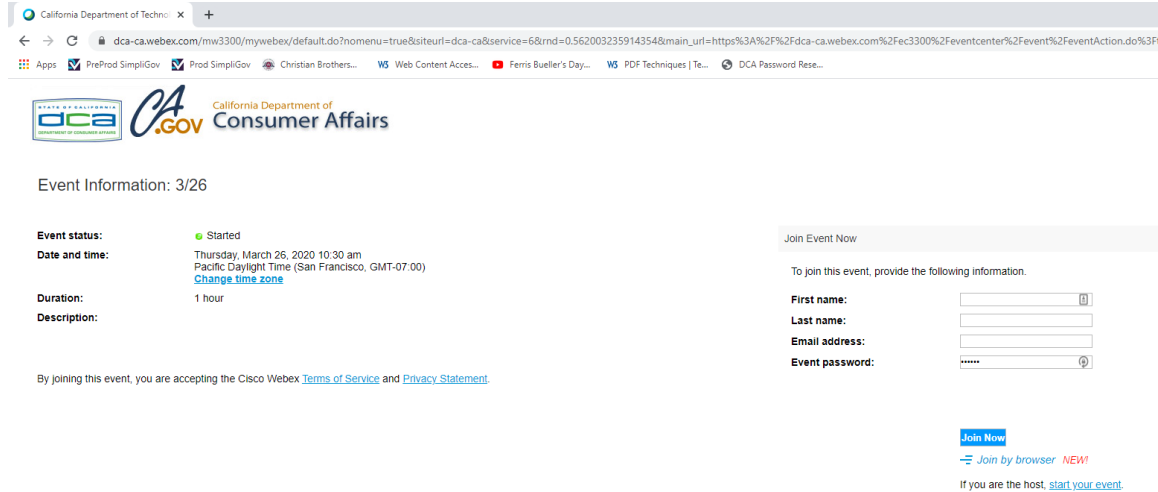
**Event number: 146 206 0702**  
**Event password: BCE12112020**  
**Audio conference: +1-415-655-0001 (Access code: 146 206 0702)**



2. The details of the event are presented on the left of the screen and the required information for you to complete is on the right.

NOTE: If there is a potential that you will participate in this event during a Public Comment period, you must identify yourself in a manner that the event Host can then identify your line and unmute it so the event participants can hear your public comment. The 'First name', 'Last name' and 'Email address' fields do not need to reflect your identity. The department will use the name or moniker you provide here to identify your communication line should you participate during public comment.

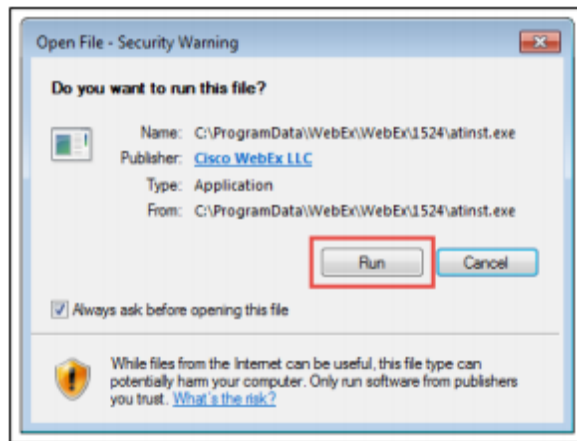
# HOW TO – Join – DCA WebEx Event



3. Click the 'Join Now' button.

**NOTE:** The event password will be entered automatically. If you alter the password by accident, close the browser and click the event link provided again.

4. If you do not have the WebEx applet installed for your browser, a new window may open, so make sure your pop-up blocker is disabled. You may see a window asking you to open or run new software. Click 'Run'.



Depending on your computer's settings, you may be blocked from running the necessary software. If this is the case, click 'Cancel' and return to the browser tab that looks like the window below. You can bypass the above process.

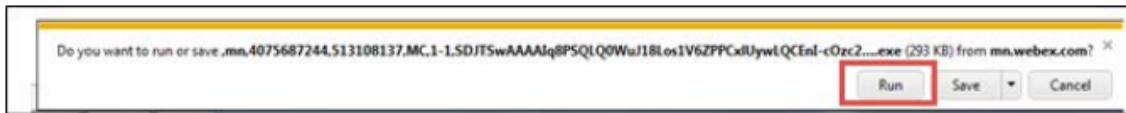
## HOW TO – Join – DCA WebEx Event

### Starting Webex...



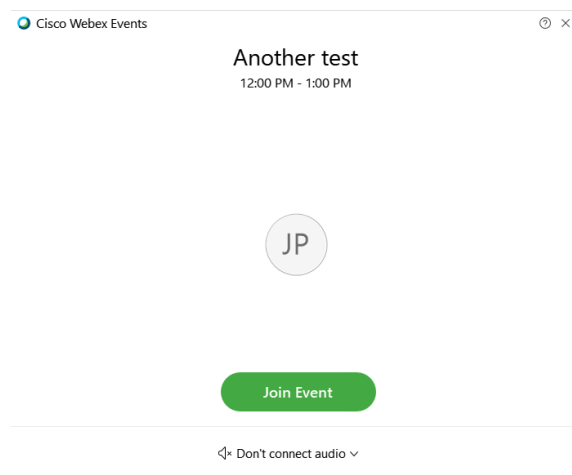
Still having trouble? [Run a temporary application](#) to join this meeting immediately.

5. To bypass step 4, click 'Run a temporary application'.
6. A dialog box will appear at the bottom of the page, click 'Run'.



The temporary software will run, and the meeting window will open.

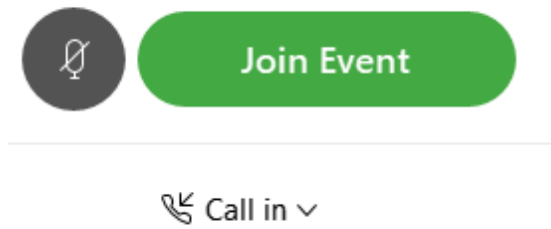
7. Click the audio menu below the green 'Join Event' button.



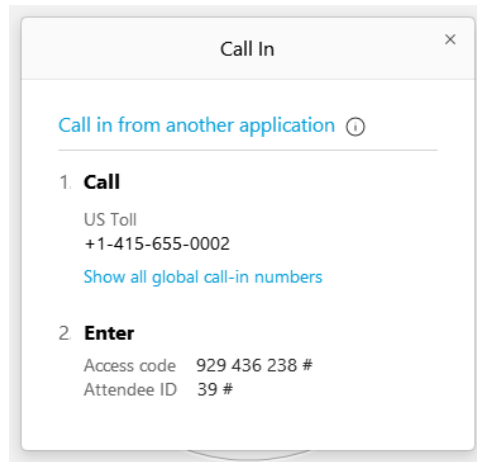
8. When the audio menu appears click 'Call in'.

## HOW TO – Join – DCA WebEx Event

9. Click 'Join Event'. The audio conference call in information will be available after you join the Event.



10. Call into the audio conference with the details provided.

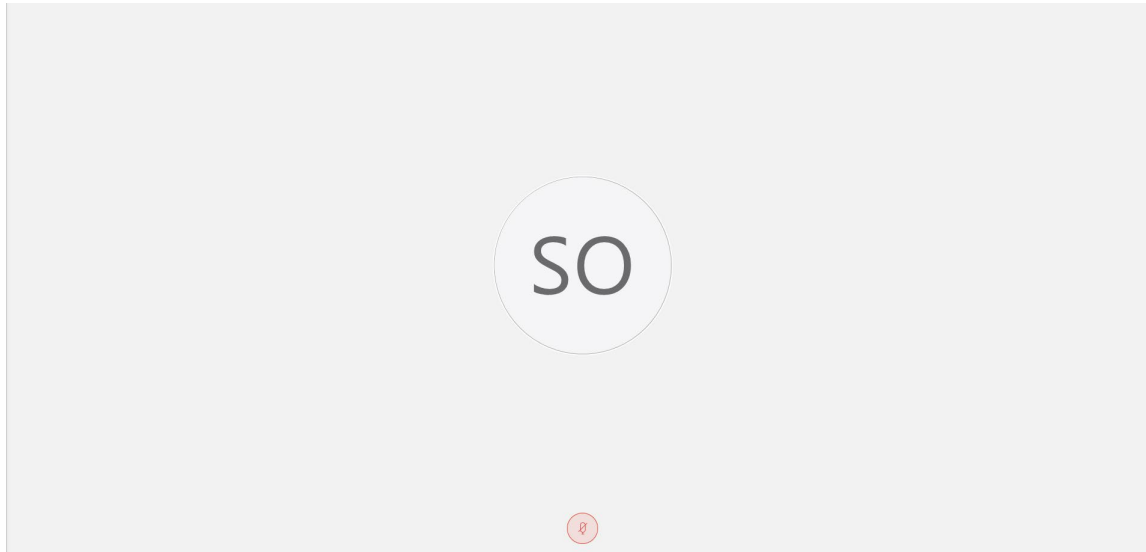


**NOTE:** The audio conference is the preferred method. Using your computer's microphone and speakers is not recommended.

## HOW TO – Join – DCA WebEx Event

Once you successfully call into the audio conference with the information provided, your screen will look like the screen below and you have joined the event.

Congratulations!



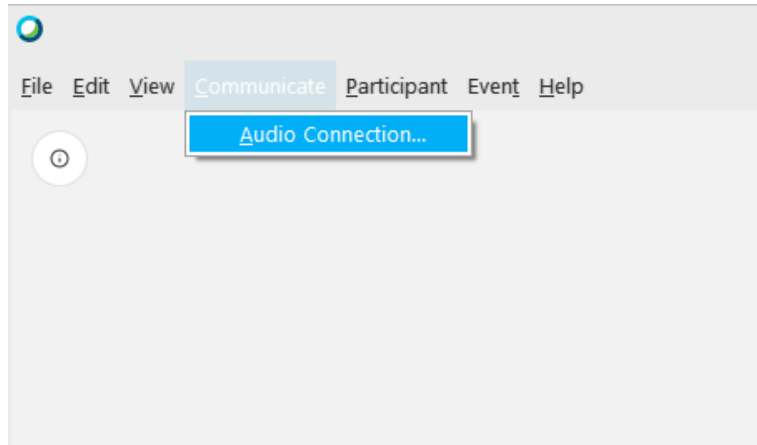
**NOTE:** Your audio line is muted and can only be unmuted by the event host.

If you join the meeting using your computer's microphone and audio, or you didn't connect audio at all, you can still set that up while you are in the meeting.

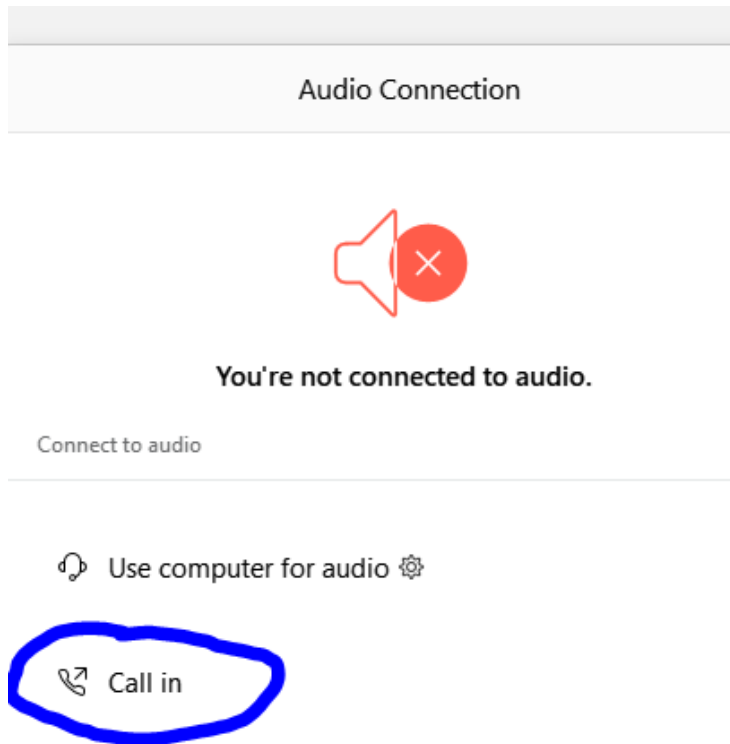
Select 'Communicate' and 'Audio Connection' from top left of your screen.



## HOW TO – Join – DCA WebEx Event



The 'Call In' information can be displayed by selecting 'Call in' then 'View'



You will then be presented the dial in information for you to call in from any phone.

## HOW TO – Join – DCA WebEx Event Participating During a Public Comment Period

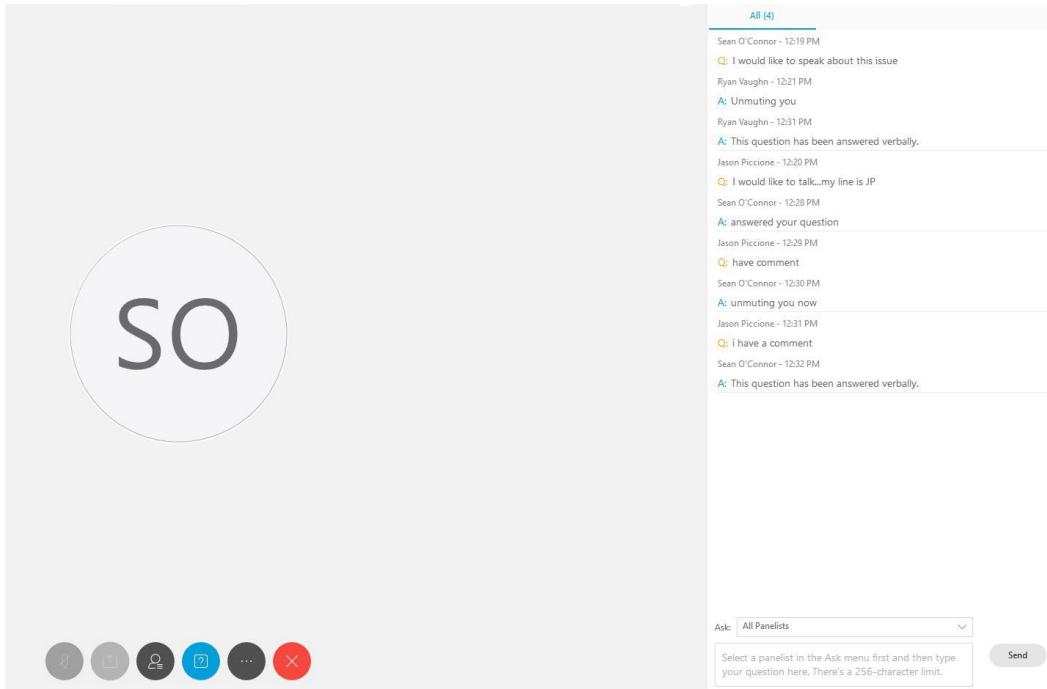
At certain times during the event, the facilitator may call for public comment. If you would like to make a public comment, click on the 'Q and A' button near the bottom, center of your WebEx session.



This will bring up the 'Q and A' chat box.

**NOTE:** The 'Q and A' button will only be available when the event host opens it during a public comment period.

## HOW TO – Join – DCA WebEx Event



To request time to speak during a public comment period, make sure the 'Ask' menu is set to 'All panelists' and type 'I would like to make a public comment'.

Attendee lines will be unmuted in the order the requests were received, and you will be allowed to present public comment.

**NOTE:** Your line will be muted at the end of the allotted public comment duration. You will be notified when you have 10 seconds remaining.

**Agenda Item 2  
December 11, 2020**

**Update, Discussion and Possible Action on Proposed Regulation for Delegation  
of Authority to the Assistant Executive Officer**

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**Purpose of the Item**

This proposal will amend an ongoing rulemaking action implementing additional changes to the text regarding the delegation of authority to the Assistant Executive Officer.

**Action(s) requested**

The Board will be asked to make a motion to approve the proposed regulatory text for Title 16, CCR sections 306, 389, 390, 390.3, 390.4 and 390.5, and direct staff to submit the text to the Director of Consumer Affairs and the Business, Consumer Services, and Housing Agency for review. If approved, the Board will authorize the Executive Officer to take all steps necessary to amend the preceding rulemaking package, initiate a rulemaking process, make any non-substantive technical or grammatical changes to the package, and set the matter for hearing if necessary.

**Background**

At its May 19, 2016 Board Meeting, the Board approved language regarding the delegation of authority to the Assistant Executive Officer to perform specific enforcement actions and office operations in the absence of the Executive Officer.

Following recent consultation with DCA regulatory counsel, staff made revisions to the regulation text to ensure the Assistant Executive Officer is also able to perform specific enforcement and administrative functions at the direction of the Executive Officer.

Because the revisions to the package are significant, it is requested that the Board vote to adopt the new and revised text. The revisions in the text have been highlighted for ease of reviewing during the Board Meeting.

**Recommendation**

**Staff recommend the Board makes a motion to approve the regulatory language as proposed (or with amendments) to amend the following CCR, title 16, sections:**

- **306. Delegation of Certain Functions.**
- **389. Letter of Admonishment.**

**Update, Discussion, and Possible Action on Proposed Regulation for Delegation of Authority to the Assistant Executive Officer**

**December 11, 2020**

**Page 2**

- **390. Issuance of Citations and Fines.**
- **390.3. Citations for Unlicensed Practice.**
- **390.4. Contested Citations.**
- **390.5 Compliance with Citation/Order of Abatement.**

**Staff also recommend the Board authorizes the Executive Officer to amend the preceding rulemaking package, commence the rulemaking process and make any non-substantive changes to the rulemaking packet.**

**Motion**

If the language is approved, as recommended, the motion will be as follows:

Move to Approve the proposed regulatory text for Title 16, CCR sections 306, 389, 390, 390.3, 390.4 and 390.5, and direct staff to submit the text to the Director of Consumer Affairs and the Business, Consumer Services, and Housing Agency for review, and, if no adverse comments are received, authorize the Executive Officer to take all steps necessary to amend the preceding rulemaking package, initiate a rulemaking process, make any non-substantive technical or grammatical changes to the package, and set the matter for hearing if necessary.

**Attachments:**

Proposed Regulatory Amendments

**TITLE 16. BOARD OF CHIROPRACTIC EXAMINERS  
DEPARTMENT OF CONSUMER AFFAIRS**

**PROPOSED LANGUAGE: DELEGATION OF AUTHORITY TO THE ASSISTANT  
EXECUTIVE OFFICER**

Amend Section 306 Division 4 of Title 16 of the Code of Regulations to read as follows:

**§ 306. Delegation of Certain Functions.**

(a) The power and discretion conferred by law upon the Board to initiate, review and prosecute accusations and statements of issues pursuant to Sections 11500 through 11529 of the Government Code and to approve settlement agreements for the revocation, surrender or interim suspension of a license and perform all other functions necessary to expedite the business of the Board, with the Board's legislative and other powers remaining with the Board, are hereby delegated to and conferred upon the Board's Executive Officer or by assignment to or in the absence thereof, the Assistant Executive Officer ~~of the board to receive and file accusations; issue notices of hearing, statements to respondent, statements of issues, subpoenas, and subpoenas duces tecum; receive and file notices of defense; set and calendar cases for hearing; certify and deliver or mail copies of decisions; and perform other functions necessary to expedite the business of the board in connection with the conduct of the proceedings mentioned in Section 305 hereof in accordance with the provisions of Chapter 5 of Part 4 of Division 3 of Title 2 of the Government Code, are hereby delegated to the Executive Officer.~~

(b) It shall be the duty of the Board's Executive Officer or by assignment to or in the absence thereof, the Assistant Executive Officer, to plan, direct and organize the work of the staff; attend Board meetings and hearings; consult with and make recommendations to the Board; notify applicants of their success or failure on examinations; and prepare reports and direct and supervise the Board staff concerning enforcement of the Act.

NOTE: Authority cited: Sections 1000-3, 1000-4(b), and 1000-4(e), and 1000-10, Business and Professions Code (Chiropractic Initiative Act of California, Stats. 1923, p. 4xxxviii). Reference: Section 1000-3, Business and Professions Code ~~of the Chiropractic Initiative Act of California, Stats. 1923, p. 4xxxviii~~.

**Commented [H1]:** Lowercase "l" – check the Act citation.  
Reference is page 88.

Amend Section 389 Division 4 of Title 16 of the Code of Regulations to read as follows:

**§ 389. Letter of Admonishment.**

(a) The Executive Officer, or ~~his or her designee,~~ the Assistant Executive Officer may issue a letter of admonishment to a licensee for failure to comply with any provision of the Act, statute or regulations governing the practice of chiropractic.

(b) The letter of admonishment shall be in writing and shall describe in detail the nature and facts of the violation, including a reference to the Act, statute or regulation violated and may contain an order of abatement.

(c) The letter of admonishment shall be served upon the licensee personally or by certified United States mail at the licensee's address of record with the board. If the licensee is served by certified United States mail, service shall be effective upon deposit in the United States mail.

(d) The letter of admonishment shall inform the licensee that within 30 days of the date of the letter the licensee may do either of the following:

(1) Submit a written request for an office conference to the Executive Officer of the board to contest the letter of admonishment.

(A) Upon a timely request, the Executive Officer, ~~or his or her designee,~~ the Assistant Executive Officer shall hold an office conference with the licensee or the licensee's legal counsel or authorized representative. Unless so authorized by the Executive Officer, ~~or his or her designee,~~ the Assistant Executive Officer, no individual other than the legal counsel or authorized representative of the licensee may accompany the licensee to the office conference. Upon request and approval by the Executive Officer ~~or his or her designee,~~ the Assistant Executive Officer, the licensee may participate in the office conference by telephone.

(B) Prior to or at the office conference, the licensee may submit to the Executive Officer declarations and documents pertinent to the subject matter of the letter of admonishment.

(C) The Executive Officer, ~~or his or her designee,~~ the Assistant Executive Officer may affirm, modify, or withdraw the letter of admonishment. Within 14 calendar days from the date of the office conference, the Executive Officer, ~~or his or her designee,~~ the Assistant Executive Officer shall **cause to be personally served or send sent** by certified United States mail to the licensee's address of record with the board a written decision. This decision shall be deemed the final administrative decision concerning the letter of admonishment.

(D) Within thirty days of service or mailing of the written decision, the licensee shall comply with the letter of admonishment and, if the letter of admonishment contains an order of abatement, the licensee shall submit documentation to the Executive Officer documenting compliance with the order.

(2) Comply with the letter of admonishment and, if the letter of admonishment contains an order of abatement, the licensee shall submit documentation to the Executive Officer documenting compliance with the order.

Note: Authority cited: Sections 125.9 of the Business and Professions Code, Sections ~~1000-3, 1000-4(b), and 1000-10, Business and Professions Code; and (of the~~ Chiropractic Initiative Act of California, Stat. 1923, p. ~~1xxxviii)~~. Reference: Sections ~~1000-3, 1000-4(b) and 1000-10, Business and Professions Code; and (of the~~ Chiropractic Initiative Act of California, Stat. 1923, p. ~~1xxxviii)~~.

Amend Section 390 Division 4 of Title 16 of the Code of Regulations to read as follows:

**§390. Issuance of Citations and Fines.**

(a) The Executive Officer ~~of the board or his or her designee~~ the Assistant Executive Officer may issue a citation containing an order to pay a fine between \$100 and \$5,000 and an order of abatement against a licensee for any violation of the Act or the California Code of Regulations or any laws governing the practice of chiropractors. A citation may be issued without the assessment of a fine, when determined by the Executive Officer or ~~his or her designee~~ the Assistant Executive Officer.

(b) Each citation shall be in writing and shall describe with particularity the nature and facts of each violation specified in the citation, including a reference to the law or regulation alleged to have been violated.

(c) The citation shall be served upon the cited person either personally or by certified United States mail.

Note: Authority cited: Sections 125.9 of the Business and Professions Code, ~~1000-4(b), and 1000-10, of the Business and Professions Code; and (~~Chiropractic Initiative Act of California, Stats. 1923, p.~~1xxxviii)~~. Reference: Sections ~~1000-4(b) and 1000-10, of the Business and Professions Code; and (~~Chiropractic Initiative Act of California, Stats. 1923, p.~~1xxxviii)~~.

Amend Section 390.3 Division 4 of Title 16 of the Code of Regulations to read as follows:

**§390.3. Citations for Unlicensed Practice.**

The Executive Officer or ~~his/her designee~~ the Assistant Executive Officer may issue a citation against any unlicensed person who is acting in the capacity of a licensee under the jurisdiction of the board and who is not otherwise exempt from licensure. Each citation may contain an order of abatement fixing a reasonable period of time for an abatement and an order to pay a fine not to exceed \$5,000 for each violation. Any sanction authorized for activity under this section shall be separate from and in addition to any other civil or criminal remedies.

Note: Authority cited: Sections 125.9 of the Business and Professions Code, ~~1000-4(b), 1000-4(e), and 1000-10, of the Business and Professions Code; and (~~Chiropractic



Initiative Act of California, Stats. 1923, p. 4;xxxviii). Reference: Sections ~~4000-4(b) and 4000-10, of the Business and Professions Code; and~~ (Chiropractic Initiative Act of California, Stats. 1923, p. 4;xxxviii).

Amend Section 390.4 Division 4 of Title 16 of the Code of Regulations to read as follows:

#### **§390.4. Contested Citations.**

(a) The citation shall inform the licensee that if ~~he/she the licensee~~ desires a hearing to contest the finding of a violation, that hearing shall be requested by written notice to the board within 30 calendar days of the date of issuance of the citation. ~~If a hearing is not requested pursuant to this section, payment of any fine shall not constitute an admission of the violation charged.~~ Hearings shall be held pursuant to the provisions of Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code.

(b) In addition to requesting a hearing provided for in subdivision (a) of this section, the cited person may, within ~~1430~~ calendar days ~~after service of the date of issuance~~ of the citation, submit a written request for an informal conference with the Executive Officer.

(c) The Executive Officer or ~~his/her designee~~ the Assistant Executive Officer shall, within 30 calendar days from receipt of the written request, hold an informal conference with the person cited and/or ~~his/her the cited person's~~ legal counsel or authorized representative, ~~if any.~~

(d) The Executive Officer or ~~his/her designee~~ the Assistant Executive Officer may affirm, modify or dismiss the citation, at the conclusion of the informal conference. A written decision stating the reasons for the decision shall be mailed to the cited person and ~~his/her the cited person's~~ legal counsel or authorized representative, if any, within 14 calendar days from the date of the informal conference. This decision shall be deemed to be a final order with regard to the citation issued.

(e) If the citation is dismissed, the request for a hearing shall be deemed withdrawn. If the citation is affirmed or modified, the cited person and/or the cited person's legal counsel or authorized representative may, in ~~his/her their~~ discretion, withdraw the request for a hearing or proceed with the administrative hearing process.

Note: Authority cited: Sections 125.9; ~~of the Business and Professions Code, 4000-4(b), 4000-4(e) and 4000-10, Business and Professions Code; and~~ of the Chiropractic Initiative Act of California, Stats. 1923, p. 4;xxxviii). Reference: Sections ~~4000-4(b) and 4000-10, Business and Professions Code; and~~ of the Chiropractic Initiative Act of California, Stats. 1923, p. 4;xxxviii).

Amend Section 390.5 Division 4 of Title 16 of the Code of Regulations to read as follows:

**§390.5. Compliance with Citation/Order of Abatement.**

(a) Orders of abatement may be extended for good cause. If a cited person who has been issued an order of abatement is unable to complete the correction within the time set forth in the citation, because of conditions beyond ~~his/her~~ **the cited person's** control after the exercise of reasonable diligence, the person cited may request an extension of time from the Executive Officer or ~~his/her designee~~ **the Assistant Executive Officer** in which to complete the correction. Such a request shall be in writing and shall be made within the time set forth for abatement.

(b) When a citation or order of abatement is not contested or if the order is appealed and the person cited does not prevail, failure to abate the violation within the time allowed ~~or pay the fine that is imposed, if one was,~~ shall constitute a violation and a failure to comply with the citation or order of abatement.

**(c) Failure of a licensee to pay a fine within 30 days of the date of assessment, unless the citation is being appealed, may result in disciplinary action being taken by the board. Where a citation is not contested and a fine is not paid, the full amount of the assessed fine shall be added to the fee for renewal of the license. A license shall not be renewed without payment of the renewal fee and fine.**

~~(e)~~ Failure to timely comply with an order of abatement or pay a fine that is imposed is unprofessional conduct and may result in disciplinary action being taken by the board.

Note: Authority cited: Sections 125.9 of the Business and Professions Code, ~~4000-4(b), 4000-4(e) and 4000-10, Business and Professions Code; and (of the~~ Chiropractic Initiative Act of California, Stats. 1923, p. ~~4~~xxxviii). Reference: Sections ~~4000-4(b) and 4000-10, Business and Professions Code; and ( of the~~ Chiropractic Initiative Act of California, Stats. 1923, p. ~~4~~xxxviii).