

**NOTICE OF TELECONFERENCE**  
**GOVERNMENT & PUBLIC AFFAIRS COMMITTEE MEETING**

April 13, 2021  
2 p.m. until 4 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=ede32c5c9370ca311bb0df565f7aec3cc>

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

**2. Public Comment for 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.*

**3. Approval of Meeting Minutes**

May 21, 2018  
March 26, 2019  
August 27, 2019

**4. Review, Discussion and Possible Action Regarding the Board Member Administrative Procedure Manual**

**5. Review, Discussion and Possible Action Regarding the Legislative Bill Tracking Manual**

**6. Review, Discussion and Possible Action Regarding AB 29 (Cooper) State Agencies: Meetings**

**7. Review, Discussion and Possible Action Regarding AB 339 (Lee) State and Local Government: Open Meetings**

**8. Review, Discussion and Possible Action Regarding AB 646 (Low) Department of Consumer Affairs: Boards: Expunged Convictions**

**9. Review, Discussion and Possible Action Regarding AB 1236 (Ting) Healing Arts: Data Collection**

**10. Review, Discussion and Possible Action Regarding AB 1386 (Cunningham) License Fees: Military Partners and Spouses**

**11. Review, Discussion and Possible Action Regarding AB 1468 (Cunningham) Prior Authorization**

**12. Review, Discussion and Possible Action Regarding SB 772 (Ochoa-Bogh) Professions and Vocations: Citations: Minor Violations**

**13. 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.]*

**14. 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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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.

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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.

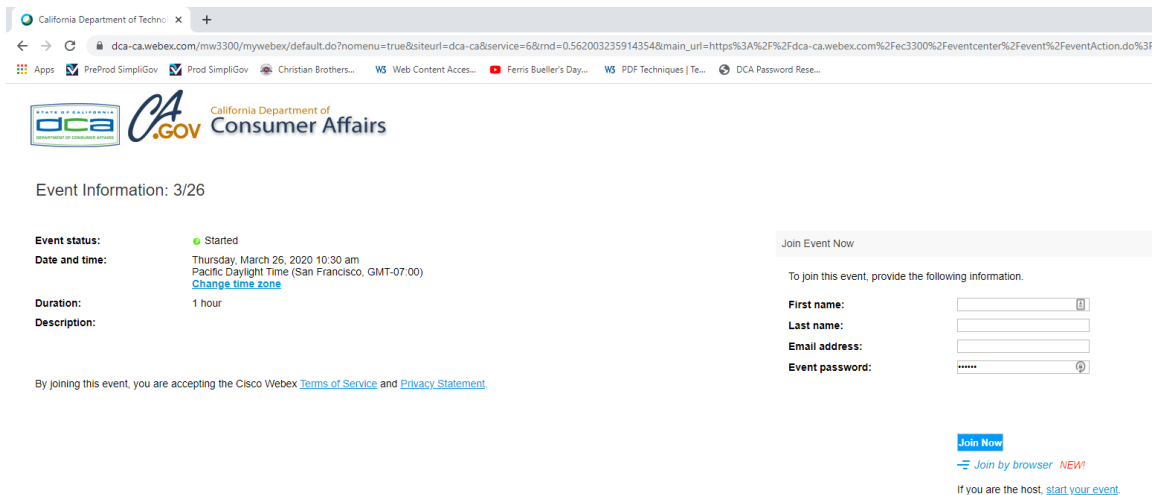
Meeting link:

<https://dca-meetings.webex.com/dca-meetings/onstage/g.php?MTID=ede32c5c9370ca311bb0df565f7aec3cc>

**Event number: 187 910 1043**

**Event password: BCE04132021**

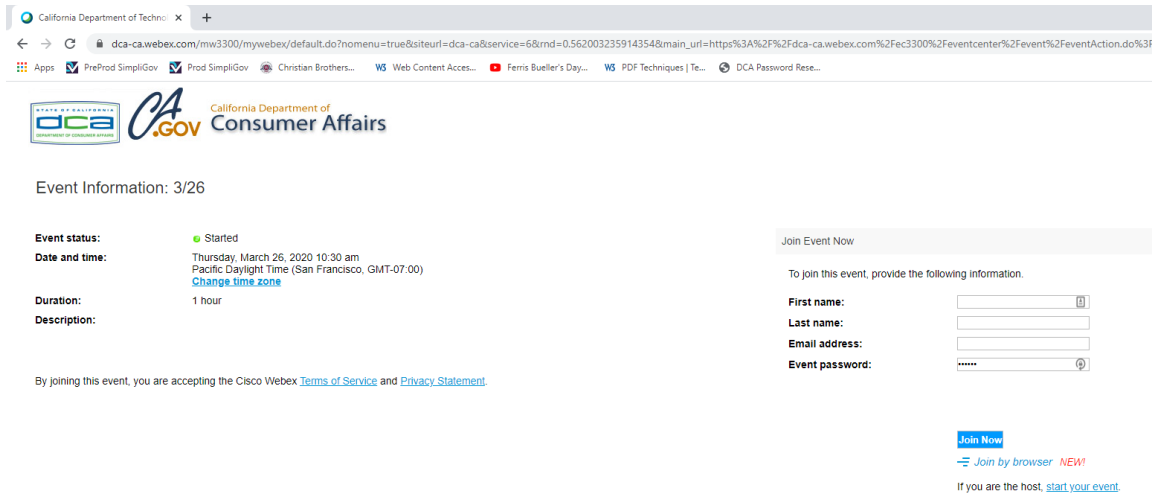
**Audio conference: +1-415-655-0001 (Access code: 187 910 1043)**



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.

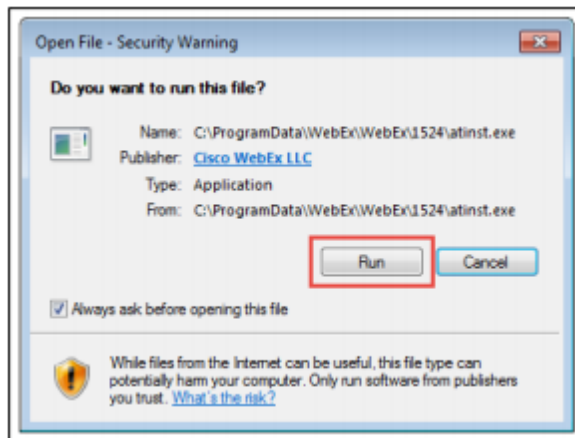
# HOW TO – Join – DCA WebEx Event



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.

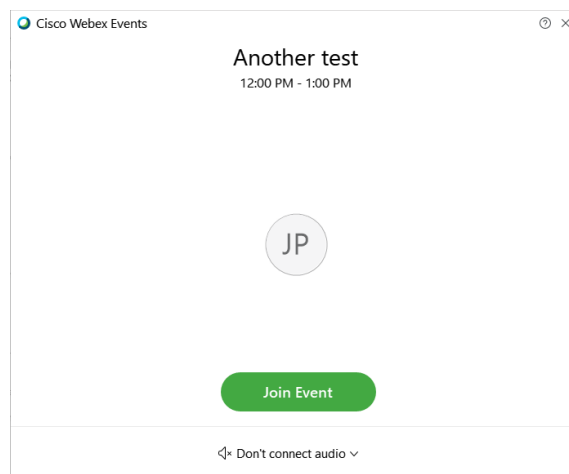
5. To bypass step 4, click 'Run a temporary application'.

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.

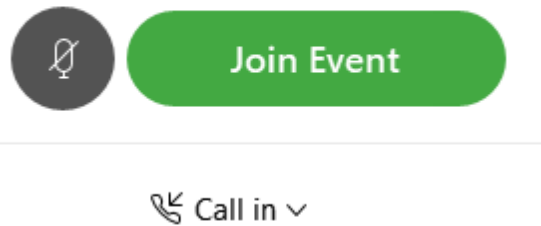
7. Click the audio menu below the green 'Join Event' button.



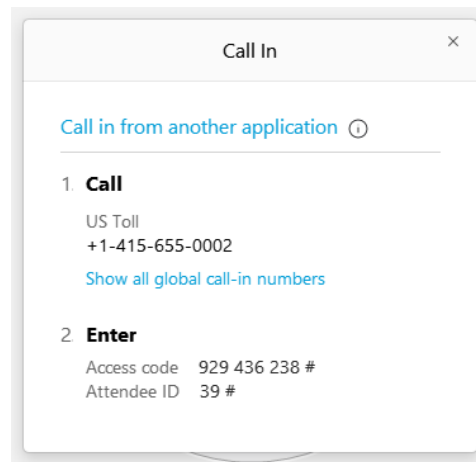
8. When the audio menu appears click 'Call in'.

## 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.

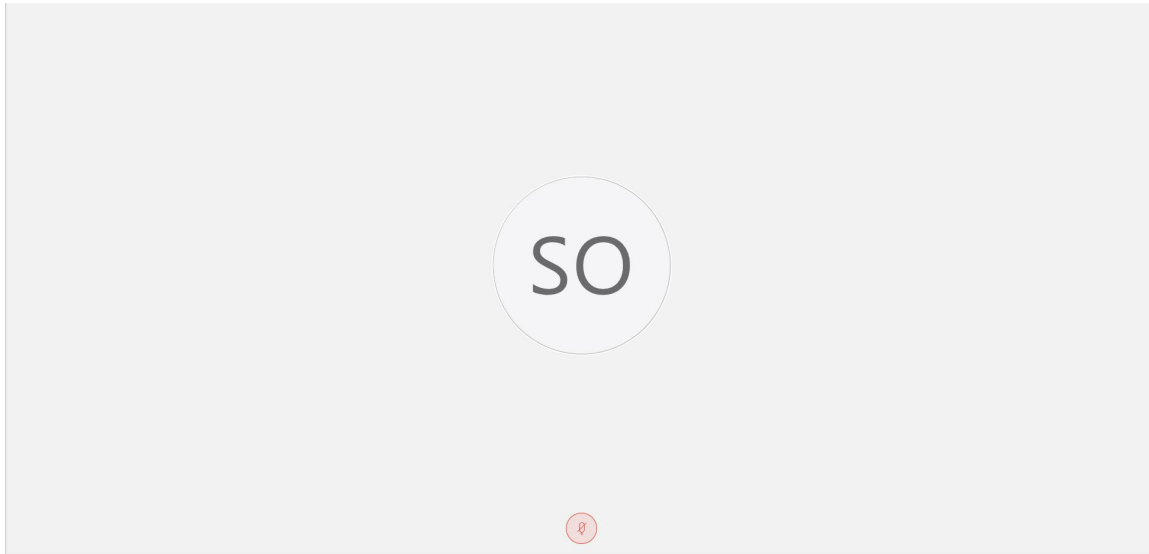


**NOTE:** The audio conference is the preferred method. Using your computer's microphone and speakers is not recommended.

## 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!

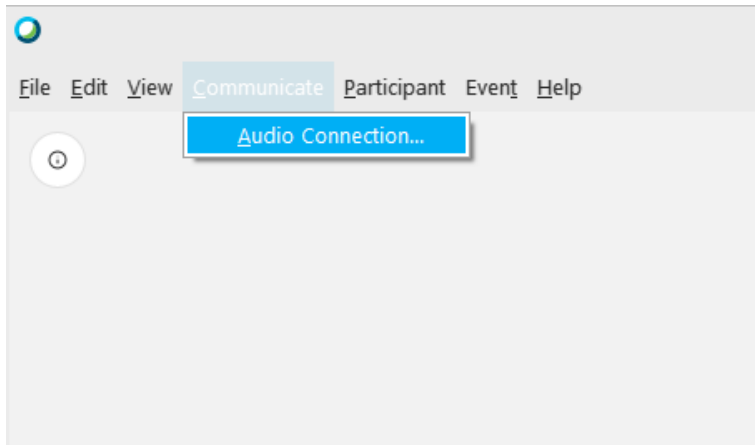


**NOTE:** Your audio line is muted and can only be unmuted by the event host.

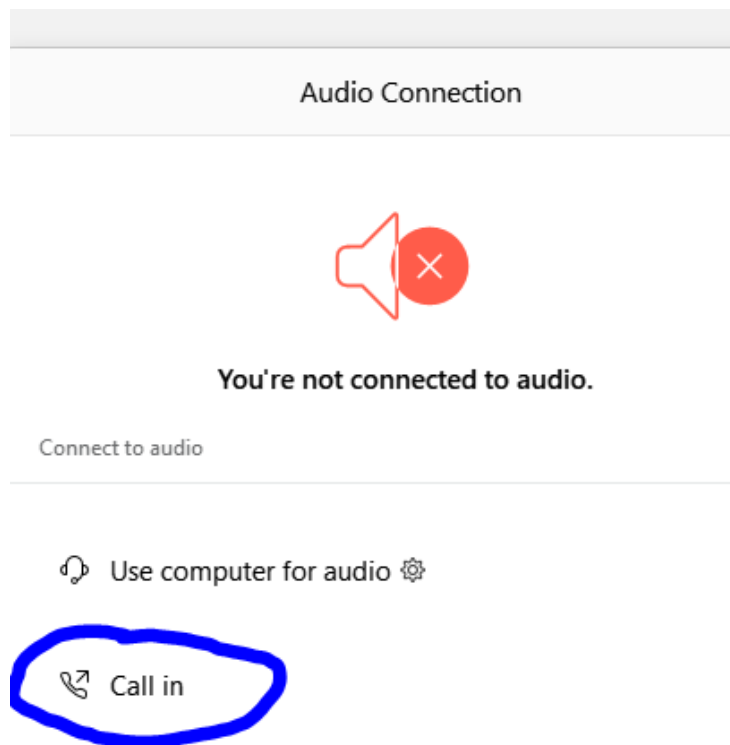
If you join the meeting using your computer's microphone and audio, or you didn't connect audio at all, you can still set that up while you are in the meeting.

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'

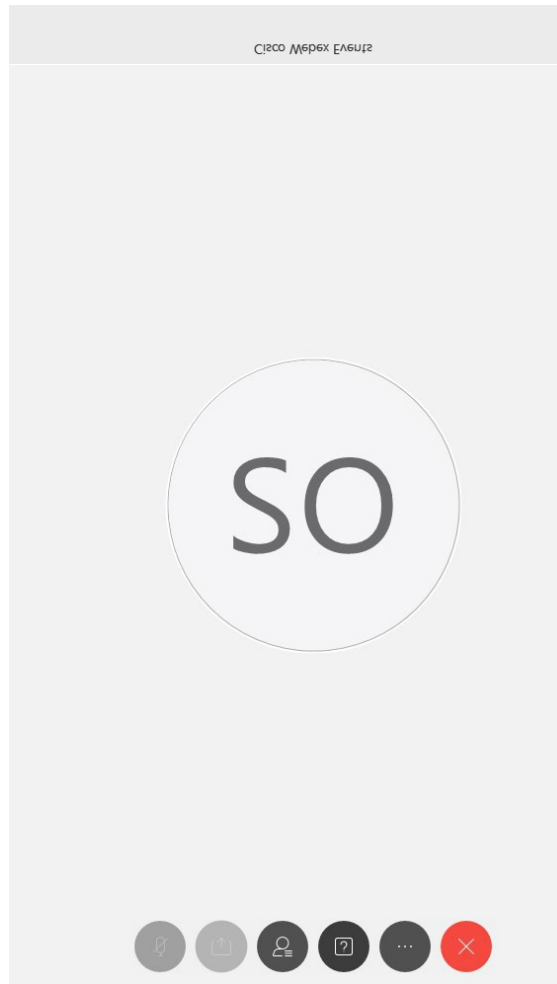


You will then be presented the dial in information for you to call in from any phone.



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

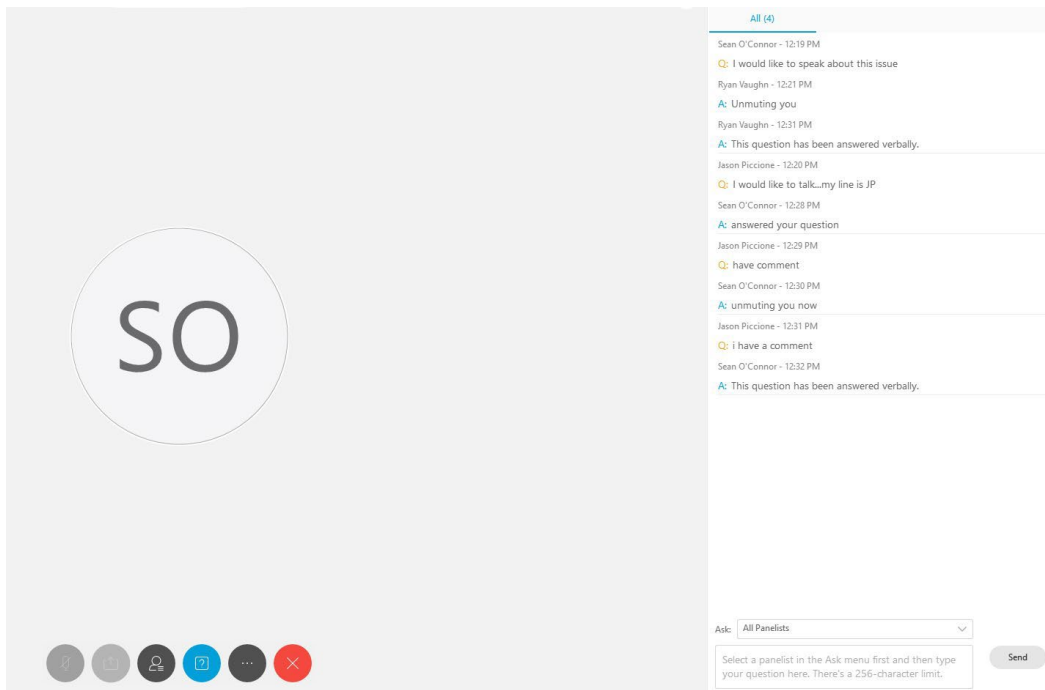
At certain times during the event, the facilitator may call for public comment. If you would like to make a public comment, click on the 'Q and A' button near the bottom, center of your WebEx session.



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 3**  
**April 13, 2021**

**Approval of Meeting Minutes**

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**Purpose of the item**

The Committee will review and approve the minutes of previous Committee meetings.

**Action(s) requested**

The Committee will be asked to make a motion to approve the following meeting minutes:

- May 21, 2018
- March 26, 2019
- August 27, 2019

**Background**

N/A

**Recommendation(s)**

N/A

**Next Step**

N/A

**Attachment(s)**

- May 21, 2018 minutes
- March 26, 2019 minutes
- August 27, 2019 minutes

**Board of Chiropractic Examiners  
TELECONFERENCE MEETING MINUTES  
Government Affairs & Public Relations Committee Meeting  
May 21, 2018**

**Teleconference Meeting Locations**

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

Corey Lichtman, D.C.  
Solana Beach Family  
& Sports Chiropractic  
538 Stevens Ave.  
Solana Beach, CA 9207  
(858) 876-6300

Heather Dehn, D.C.  
Dehn Chiropractic  
4616 El Camino Ave. #B  
Sacramento, CA 95821  
(916) 488-0242

**Committee Members Present**

Heather Dehn, D.C.  
Corey Lichtman, D.C.

**Staff Present**

Robert Puleo, Executive Officer  
Marcus McCarther, Policy Analyst  
Kenneth Swenson, Attorney III  
Valerie James, Management Services Technician

**Call to Order**

Dr. Dehn called the meeting to order at 1:01 p.m.

**Roll Call**

Dr. Lichtman called roll. All members were present at the locations listed on the agenda.

**Review, Discussion and Possible Action on 2017-2019 BCE Strategic Plan Goals**

Mr. McCarther referred to Strategic Plan Goal 4.2. *Explore the feasibility of promulgating a regulation that requires licensees to provide their current e-mail address to the Board to facilitate better outreach and communication.* He informed the Committee that the Board has requested a legal opinion on this matter, thereby completing action item 4.2.1.

Mr. Swenson shared that the Board's request for the legal opinion will be completed soon.

Mr. Puleo asked if other programs within the Department of Consumer Affairs (DCA) require licensees to provide their current e-mail address.

Mr. Swenson responded that various DCA programs ask for an e-mail address but it is not a requirement.

Mr. Puleo inquired whether the legal opinion being drafted is DCA-wide or specific to the Board.

Mr. Swenson explained the opinion will only be addressed to the Board.

Mr. McCarther noted the Committee will receive an update on the remaining actions items under Strategic Plan Goal 4.2 once the legal opinion is reviewed by the Board.

### **Review, Discussion and Possible Action on changes to the Board Member Administrative Procedure Manual**

Mr. McCarther led the discussion on recent changes to the Board Member Administrative Procedure Manual (BMAPM).

Mr. McCarther referred to the proposed list of roles for board officers on page 8, and explained the list enumerates duties of members elected to serve as Board Chair, Vice Chair and Secretary.

Dr. Dehn and Dr. Lichtman agreed to incorporate the roles of board officers into to the BMAPM.

Mr. McCarther referred to the proposed section regarding the Bagley-Keene Open Meeting Act on page eleven. He stated this inclusion will inform Board members of terms and provisions of the Open Meeting Act.

Public Comment: Ms. Dawn Benton, the Executive Director of California's Chiropractic Association (CalChiro) clarified that no more than two Board members can actively discuss or take any action on any board business outside of a public meeting of the Board.

Mr. McCarther referred to page 24, subheading "Strategic Planning" and proposed replacing the following language " The Board must develop a strategic plan once every three years beginning 2013" with: " The Board must develop a strategic plan in the year of the Joint Sunset Oversight Hearings."

Mr. McCarther explained it would be advantageous to engage in strategic planning in the year of sunset hearings. He added that any recommendations provided by the Legislature would be included in the Board's Strategic Planning.

Dr. Dehn inquired if the Sunset review takes place in January of each year.

Mr. McCarther clarified that Sunset hearings are typically held in the spring (every 4 years).

Dr. Dehn asked for clarification regarding the process to incorporate the Sunset review into the Board's strategic planning.

Mr. Puleo provided a brief overview of the Sunset review process. He stated that addressing issues brought forward by the Legislature in the Strategic Plan is an effective way to identify goals the Board would like to prioritize. He added that drafting the Strategic Plan prior to Sunset review would create unnecessary workload.

Mr. McCarther referenced the periodic fee audits section on page 25. He noted the language was suggested by former Board member, Dr. Julie Elginer, at the October 2017 Board meeting. The proposed section would require the Board to complete a fee audit every 3-5 years.

Dr. Dehn and Dr. Lichtman had no objections.

Mr. Puleo inquired if it would be appropriate to include a policy on meals and breaks.

Dr. Dehn advised that this topic should remain within the Board's discretion. She suggested maintaining the current process to include meals and break periods on Board meeting agendas.

**MOTION: DR. DEHN MOVED TO RECOMMEND TO THE FULL BOARD THE ADOPTION OF THE REVISED BOARD MEMBER ADMINISTRATIVE MANUAL PROCEDURE.  
SECOND: DR. LITCHMAN SECONDED THE MOTION.**

Discussion: None

**VOTE: 2-0 (DR. DEHN – AYE, DR. LICHTMAN – AYE)  
MOTION CARRIED.**

### **Review, Discussion and Possible Action to Amend Board Election Procedures**

Mr. Puleo informed the Committee that a number of Board members expressed concerns over the current process to elect Board officers. He shared staff researched election processes adopted by other DCA boards and identified alternatives to the Board's existing election process.

Mr. Puleo provided a brief overview of other election procedures recommended by staff.

Ms. Benton asked if the election process would be revised every year.

Mr. Puleo responded the Board would adopt the preferred election procedure going forward. This information will be included in the procedure manual.

Dr. Dehn offered suggestions regarding the election process. Following a Board member self-nomination, Board members should have the opportunity to provide a statement of qualifications for the position they are interested in. She added the statement should not be longer than five minutes.

Dr. Dehn stressed the importance of adopting a procedure to resolve any potential deadlocks. She proposed having three rounds of votes. In the event there is not a majority of votes, the vote would default to the incumbent who held the position prior to the election (status quo remains).

Mr. Swenson reminded the Committee of the requirement for board offices to be filled in the month January of each year. Therefore, balloting would need to continue until an office is selected.

Dr. Dehn asked for clarification regarding limitations to balloting when a quorum is not established.

Mr. Swenson responded that the Board would need to establish a quorum (four board members would be the minimum number of voting members) to hold an election of board officers and have a majority vote to elect board member officers.

Dr. Dehn inquired if there is a limitation to balloting when there is not a majority of votes.

Mr. Swenson advised leaving it up to a motion at the time of the election instead of documenting in the procedure manual.

Mr. Puleo posed a question regarding a process to address any potential deadlocks, and if it would be appropriate to document it.

Mr. Swenson had no objections.

Dr. Dehn inquired if there is a legal reason for not allowing a certain round of votes to take place when a deadlock has been reached.

Mr. Swenson advised that documenting a specific round of votes to address a deadlock can become problematic in the future. He proposed reminding the Board of the voting procedures ahead of a nomination period.

Mr. Swenson clarified that he is simply making a recommendation and it would be up to the Board to make a policy decision.

Dr. Dehn proceeded with her initial recommendation to include three rounds of voting. In the event there is not a majority of votes or if there is a tie, the vote would default to the current incumbent in that position.

Dr. Denh suggested adding her suggestions to the staff recommendation, which will be presented to the Board at the upcoming meeting.

Mr. Puleo and Mr. McCarther had no objections.

### **Review, Discussion, and Possible Action on SB 1480 (Hill) Professions and Vocations**

Mr. Puleo provided the Committee with a brief summary of SB 1480. To address the findings of the recent fee audit, the Board updated its fees based on actual costs to provide licensing, enforcement and administrative services. This bill will codify the new fee schedule into section 1006.5 of the Business and Professions Code (BPC), thereby maintaining the Board's solvency into the near future.

Dr. Dehn inquired about the difference between an application fee and the fee for initial license to practice.

Mr. Puleo clarified that an applicant is required to pay for an application fee in the amount of \$371 to have the Board determine if they meet all licensing requirements. Once the applicant is eligible for a license, they would be granted licensure upon paying for the initial license fee in the amount of \$186.

**MOTION: DR. DEHN MOVED TO RECOMMEND A SUPPORT POSITION ON SB 1480.  
SECOND: DR. LITCHMAN SECONDED THE MOTION.**

Discussion: None

**VOTE: 2-0 (DR. DEHN – AYE, DR. LICHTMAN – AYE)  
MOTION CARRIED.**

### **Review, Discussion, and Possible Action on SB 1448 (Hill) Probation Status: Disclosure**

Mr. Puleo provided the Committee with a brief summary of SB 1448. This bill would require various healing arts licensees, including chiropractors, to disclose their probationary status to a patients. Additionally, the Board would be required to disclose a licensee's probationary status on its website.

Mr. McCarther reminded the Committee that this bill will take effect on July 1, 2019. He added that interested parties will be made aware of this requirement going forward.

Dr. Lichtman inquired whether this bill requires chiropractors to have a discussion with patients about the violations resulting in a probationary order.

Mr. Puleo clarified that the bill requires licensees to, prior a patient's visit, verbally inform patients they have been placed on probation, provide a written disclosure to the patient of their probationary status and obtain a signed copy of the disclosure.

**MOTION: DR. DEHN MOVED TO RECOMMEND A SUPPORT POSITION ON SB 1448.  
SECOND: DR. LITCHMAN SECONDED THE MOTION.**

Discussion: None

**VOTE: 2-0 (DR. DEHN – AYE, DR. LICHTMAN – AYE)**



**MOTION CARRIED.**

**Review, Discussion, and Possible Action on AB 2138 (Chiu) Denial of Application: Revocation or Suspension of Licensure: Criminal Conviction**

Mr. Puleo provided the Committee with a summary of AB 2138. This bill would limit the Board's ability to deny, suspend or revoke a license based on criminal convictions. He informed the Committee that the current language in the bill raises policy issues.

Mr. Puleo reviewed highlights from a recent meeting with the Business and Professions (B&P) Assembly Committee and other licensing boards to discuss various concerns regarding this bill.

Mr. Puleo explained the B&P Committee believes that qualified people are denied occupational licenses or have their licenses revoked or suspended on the basis of prior arrests or convictions, many of which are old, unrelated to the job, or have been judicially dismissed. Mr. Puleo noted the Legislature's goal is to alleviate barriers to occupational licensing and reduce recidivism.

Mr. Puleo shared his concerns regarding AB 2138, including the limitation on information the Board usually receives to determine whether an applicant or licensee is fit to practice. This can ultimately mitigate the Board's ability to fulfill its consumer protection mandate.

He recommended a watch position on this bill and suggested communicating with the author's office to further discuss the Board's concerns.

Dr. Dehn asked Ms. Benton if she had any comments regarding AB 2138.

Ms. Benton announced that CalChiro took a support position on this bill.

Mr. Puleo reiterated the Board's concerns from a consumer protection standpoint. The current language in the bill would prevent the Board from denying, suspending or revoking a license based on registerable offences such as sexual related convictions, felony financial crime such as insurance fraud. Additionally, we would not be able to see if there is a pattern of non-serious violations, which is very problematic. Ultimately, the Board would be forced to grant an unrestrictive license to an individual who may not be fit to practice.

Mr. McCarther stated the author is aware of the problematic provisions of this bill and will address those concerns. He noted that the author's intent is to be consistent with the Legislature's push for criminal justice reform, thereby reducing barriers for licensure.

**MOTION: DR. DEHN MOVED TO RECOMMEND A WATCH POSITION ON AB 2138.  
SECOND: DR. LITCHMAN SECONDED THE MOTION.**

Discussion: None

**VOTE: 2-0 (DR. DEHN – AYE, DR. LICHTMAN – AYE)  
MOTION CARRIED.**

## **Public Comment**

Ms. Benton inquired if there is a specific timeframe to make Committee meeting minutes available to the public.

Mr. Puleo explained that, once the meeting minutes are approved by the Committee, they are made available to the public when materials for an upcoming meeting are posted to the Board's website.

Ms. Benton posed a question on behalf of a CalChiro member, if it would be appropriate to upload pictures of the chiropractor's staff and patients on social media networking sites. She expressed concern over a possible violation of the Health Insurance Portability and Accountability Act (HIPPA).

Mr. Puleo suggested seeking legal advice to determine the best course of action.

## **Future Agenda Items**

None.

## **Adjournment**

Dr. Dehn adjourned the meeting at 2:18 p.m.



**Board of Chiropractic Examiners  
TELECONFERENCE MEETING MINUTES  
Government Affairs & Public Affairs Committee Meeting  
March 26, 2019**

**Teleconference Meeting Locations**

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

Corey Lichtman, D.C.  
Solana Beach Family  
& Sports Chiropractic  
538 Stevens Ave.  
Solana Beach, CA 9207  
(858) 876-6300

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

**Committee Members Present**

Corey Lichtman, D.C.  
Frank Ruffino, Public Member

**Staff Present**

Robert Puleo, Executive Officer  
Marcus McCarther, Assistant Executive Officer  
Dixie Van Allen, Staff Services Manager  
Andreia McMillen, Policy Analyst  
Natalie Boyer, Continuing Education Analyst

**Call to Order**

Mr. Ruffino called the meeting to order at 9:32 a.m.

**Roll Call**

Dr. Lichtman called roll. All members were present at the locations listed on the agenda.

**Review, Discussion and Possible Action on 2017-2019 BCE Strategic Plan Goals**

Ms. McMillen introduced Strategic Plan Goal 3.2., *Foster relationships with legislators to educate them about the role of the Board in regulating the chiropractic profession.* She informed the Committee that action item 3.2.2 was no longer an item the Enforcement Committee will move forward with.

Ms. McMillen referred to action item 3.3.1, *Establish a calendar of events sponsored by applicable entities*, and noted this item is in progress.

Mr. McCarther shared the calendar has not been maintained and questioned whether there is an interest to increase participation at events outside of Board meetings. If so, staff will continue to populate the events into the calendar.

Dr. Lichtman suggested moving forward with this item. He stated this information allows for flexibility to coordinate board member schedules.

Mr. Puleo highlighted some events scheduled for 2019/20 and encouraged the Committee to add any other chiropractic related events to the list of events.

Dr. Lichtman requested a status update on action item 3.3.3, *Send a letter from Board Chair to appropriate entities offering to send a Board member representative to address meetings at schools and associations and provide information about Board activities, resources permitting*.

Mr. Puleo responded that schools are aware of Board's presence and willingness to assist with any questions or concerns they may have.

Mr. Puleo added that due to limited resources, the Board is monitoring travel arrangements closely to prioritize certain trips as a way to reduce Board expenses.

Mr. McCarther clarified that, instead of sending a letter, the Board uses other methods of communication to proactively foster stakeholder engagement. As a result, action item 3.3.3 has been completed.

Mr. Ruffino asked for clarification on the status of action item 3.2.1, *Continue to Schedule annual Meet & Greets with legislative offices and provide relevant information*. He stated the Committee had agreed to place this item on hold. However, the current status states "completion date to be determined".

Mr. Puleo stated the status will be changed to "ongoing" as these meetings are scheduled on an as needed basis.

### **Review, Discussion and Possible Action Regarding Approved Revisions to the Board Member Administrative Procedure Manual (BMAPM)**

Mr. McCarther identified recent changes to the Administrative Procedure Manual. He referred to the section on Roles for Board Officers on page 8 and noted the list of duties has been updated, including the Executive Officer evaluation.

Mr. McCarther shared the section on Nomination and Election of Officers has been updated to reflect the election procedure that took place at the 2019 January Board meeting.

Mr. Ruffino requested an update on the process to issue BCE identification cards.

Mr. McCarther stated this has been ongoing topic of discussion and staff has been working with the Department of Consumer Affairs (DCA) to facilitate this process. He questioned the necessity to issue identification cards as Board members are not required to use them DCA headquarters.

Mr. Ruffino suggested it may helpful to have a BCE card when a Board member needs to access the Board's office and is asked to present an identification card at the security desk.

Mr. McCarther explained that a visitor is required to present a form of identification regardless of whether it is the Board's identification card.

Mr. Puleo pointed out that a benefit of using BCE identification cards for traveling purposes.

Mr. McCarther stated staff will follow up with DCA to obtain clarification on travel requirements.

### **Review, Discussion and Possible Action Regarding the Development of a Social Media Content Bank for the BCE**

Mr. McCarther shared that Board staff had recently met with the DCA's Office of Publication to discuss ways to increase the Board's presence on social media. He suggested creating a social media content bank to encourage the public, licensees and stakeholders to engage with the Board on social media platforms.

Mr. McCarther proposed developing 60 items and releasing one a week over the course of 3-4 months. This would ensure a constant flow of topics that can be shared on social media and it would help drive engagement.

Mr. McCarther asked the Committee to consider and share any topics of interest to the Board and social media followers to ensure social media posts are relevant.

Mr. Puleo encouraged the Committee to send those ideas directly to staff.

Ms. Boyer suggested sharing a "Did You Know" section with social media followers to highlight items related to the Board's role and functions as well as information about our local community.

Mr. Puleo stressed the importance of using a variety of topics since there is a broad audience, including consumers, licensees, stakeholders and other health care professionals.

Dr. Lichtman asked if this agenda item will be brought forward to the full Board.

Mr. Puleo explained Board members will have an opportunity to discuss this agenda item at a future Board meeting and decide on compelling content.

Mr. McCarther stated the ultimate goal is to drive licensees to our website and make them aware of our laws and regulations.

Mr. Ruffino asked staff to follow up with DCA on social media training for Board members who may need some assistance in understanding the scope and magnitude of social media platforms.

Mr. McCarther stated he would contact DCA Office of Public Information to determine if that is an option.

Mr. Puleo suggested discussing social media training with a DCA Public Affairs representative at a future Board meeting.

### **Review, Discussion and Possible Action Regarding AB 888 (Low) Controlled Substances**

Mr. Puleo informed the Committee this bill was sponsored by the California Association of Chiropractors (CalChiro). He added that AB 888 was initially a spot bill but had recently been amended substantially. AB 888 would expand existing requirements for prescribers to discuss risks associated with opioids and obtain informed consent from the patient in writing and discuss the availability of alternative treatments for pain.

Mr. Ruffino wished to take a support position on the bill and asked Dr. Lichtman for his opinion.

Dr. Lichtman had no objections.

Mr. Puleo recommended a support position on this bill.

**MOTION: MR. RUFFINO MOVED TO RECOMMEND A SUPPORT POSITION ON AB 888.  
SECOND: DR. LITCHMAN SECONDED THE MOTION.**

No Discussion

**VOTE: 2-0 (MR. RUFFINO – AYE, DR. LICHTMAN – AYE)  
MOTION CARRIED.**

### **Review, Discussion and Possible Action Regarding AB 613 (Low) Professions and Vocations: Regulatory Fees**

Ms. McMillen provided the Committee with a summary of AB 613.

Mr. Puleo explained that adjusting fees can be a lengthy and resource-intensive process. AB 613 would streamline the process to adjust fees commensurate with inflation.

Mr. Puleo recommended a neutral position on this bill because it is early in the legislative session and the Board does not have enough information to make an informed decision. He added that other organizations have not had the opportunity to address any potential concerns that may arise from this bill.

Mr. Ruffino asked Ms. Benton if CalChiro had the opportunity to discuss this bill.

Ms. Benton stated CalChiro took a watch position on the bill. The association would like to obtain more information on this bill.

Mr. Puleo clarified the bill imposes limitations on fee adjustments as they would be solely based on inflation and not on any decisions the Board makes to expand resources.

Mr. Ruffino asked if this bill was sponsored by DCA.

Mr. Puleo noted the author is identified as the sponsor.

Dr. Lichtman inquired about a hypothetical situation in which the Board had to increase fees due to an emergency.

Mr. Puleo stated this bill would not preclude the Board from pursuing a fee increase. It would greatly minimize the need to do an emergency fee increase because the increases would keep pace with inflation, the Board would be able to maintain a healthy fund.

**MOTION: DR. LICHTMAN MOVED TO RECOMMEND A WATCH POSITION ON AB 613.  
SECOND: MR. RUFFINO SECONDED THE MOTION.**

No Discussion.

**VOTE: 2-0 (MR. RUFFINO – AYE, DR. LICHTMAN – AYE)  
MOTION CARRIED.**

#### **Future Agenda Items**

None.

#### **Adjournment**

Mr. Ruffino adjourned the meeting at 10:26 a.m.

**Board of Chiropractic Examiners  
TELECONFERENCE MEETING MINUTES  
Government & Public Affairs Committee Meeting  
August 27, 2019**

**Teleconference Meeting Locations**

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

Corey Lichtman, D.C.  
Solana Beach Family  
& Sports Chiropractic  
538 Stevens Ave.  
Solana Beach, CA 9207  
(858) 876-6300

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

**Committee Members Present**

Corey Lichtman, D.C.  
Frank Ruffino, Public Member

**Staff Present**

Robert Puleo, Executive Officer  
Marcus McCarther, Assistant Executive Officer  
Michael Kanotz, Senior Attorney  
Dixie Van Allen, Staff Services Manager  
Andreia McMillen, Policy Analyst

**Call to Order**

Mr. Ruffino called the meeting to order at 12:05 p.m.

**Roll Call**

Dr. Lichtman called roll. All members were present at the locations listed on the agenda.

**Review, Discussion and Possible Action Regarding AB 5 (Gonzalez) Worker Status:  
Employees and Independent Contractors**

Ms. McMillen provided the Committee with a summary of AB 5.

Mr. Puleo clarified that this bill would impact chiropractors who employ independent contractors.



Mr. Ruffino asked Dr. Lichtman if it is typical for a chiropractic to recruit workers who are classified as independent contractors.

Dr. Lichtman stated that an independent contractor is considered an outside service as they set their own hours and wages.

Mr. Puleo inquired if a chiropractor working for another chiropractor on an occasional basis would be considered an employee or an independent contractor.

Dr. Lichtman responded that if the hiring chiropractor has direct control over the chiropractor providing labor, they would be classified as an employee. However, if the chiropractor providing labor is setting their own hours and pay, then that chiropractor is most likely working independently and is not receiving wages from the hiring chiropractor. In this case, the chiropractors would just share office space and pay rent.

Mr. Kanotz clarified that chiropractors sharing office space do not have an independent contractor relationship.

Mr. Ruffino inquired whether the California Chiropractic Association (CalChiro) or other organizations took a position on this bill.

Ms. McMillen responded that Calchiro does not have a registered position on the bill.

Mr. Puleo added that there was support from labor organizations and opposition mainly from professional associations.

Mr. Ruffino agreed with staff recommendation to watch the bill.

Mr. Puleo inquired whether this bill would have an additional impact on businesses since they already are subject to the ABC test.

Mr. Kanotz responded that this bill is being used to partially overrule the Dynamex Decision by carving out particular industries from its coverage and reverting those industries to the Borello test.

The Committee decided to watch the bill.

**Review, Discussion and Possible Action Regarding AB 1076 (Ting) Criminal Records: Automatic Relief**

Ms. McMillen provided the Committee with a summary of AB 1076.

Mr. Puleo added that this bill would prohibit the Department of Justice from disclosing to the Board less egregious arrests or convictions based on minor violations and non-serious convictions. He noted this type of information is currently available to the Board.

Mr. Ruffino noted the Board of Accountancy and the Contractors State License Board were both in opposition and inquired about a possible reason.

Ms. McMillen stated the Board of Accountancy is concerned the bill would undermine the authority to take disciplinary action against inactive licensees who are not required to have a background check.

Ms. McMillen added the Contractors State License Board expressed concern that it would be precluded from receiving notice of arrest of a licensee or applicant who was not prosecuted and convicted in a timely manner.

Mr. Puleo shared the most concerning aspect of this bill is that an individual may present a pattern of minor or non-serious violations and the Board would not be notified because those violations would be dismissed pursuant to AB 1076. These patterns can be a strong indication of an individual being unfit to practice.

Mr. Ruffino stated that staff's recommendation is to take a neutral position on this bill. He asked if Dr. Lichtman had any reservations.

Dr. Lichtman accepted staff's recommendation.

The Committee decided to take a neutral position on the bill.

### **Review, Discussion and Possible Action Regarding SB 53 (Wilk) Open Meetings**

Ms. McMillen provided the Committee with an update on SB 53, a bill the Committee had taken a position to oppose.

### **Review, Discussion and Possible Action Regarding SB 425 (Hill) Health Care Practitioners: Licensee's File: Probationary Physician's and Surgeon's Certificate: Unprofessional Conduct**

Ms. McMillen provided the Committee with an update on SB 425, a bill the Committee had taken a position to support.

### **Public Comment**

Mr. Gary Wasson, a public member, inquired whether the Board will promulgate a regulation regarding SB 1448 (Hill) Probation Status: Disclosure. SB 1448 requires chiropractors, among other healthcare professionals, to disclose their probationary status prior to the patient's first visit following a probationary order.

Mr. Puleo responded the Board already requires licensees to comply with the recently enacted bill. However, we are moving forward with a regulatory proposal.

Mr. Wasson asked about a timeframe to promulgate the regulation.

Mr. Puleo stated the Board will start the formal rulemaking process before the end of this year or in January. He added the process can take anywhere from six months to a year.

Mr. Ruffino suggested discussing the status of SB 1448 at a future meeting.

Mr. Puleo clarified that any discussion and updates on all pending rulemaking files take place at Board meetings. He added that when the formal rulemaking process starts, the rulemaking file will be available to the public and comments can be submitted to the Board.

He encouraged Mr. Wasson to join the Board's mailing list for alerts on the status of the rulemaking file.

**Future Agenda Items**

None.

**Adjournment**

Mr. Ruffino adjourned the meeting at 12:39 p.m.

**Agenda Item 4  
April 13, 2021**

**Review, Discussion and Possible Action the Regarding the Board Member  
Administrative Procedure Manual**

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**Purpose of the item**

This agenda item will provide Committee Members with an opportunity to conduct the annual review of the Board Member Administrative Manual. This Administrative Manual review is a helpful exercise to deepen Board Members understanding of their roles and responsibilities as Board Members.

**Action(s) Requested**

Committee members will review the Board Member Administrative Manual, and if necessary, offer edits, and direct staff to make changes as discussed.

**Background**

Annually, the Board completes a comprehensive review of its Board Member Administrative Manual. This review provides Committee Members with an opportunity to review the Administrative Manual in order to ensure Board policies and procedures are relevant and reflect the current practices of the Board and staff.

The BCE Administrative Manual was created to serve as a reference guide regarding the functions of the Board and its committees, roles of Board Members, BCE leadership and Committee Members, and procedures for BCE and Committee Meetings. The Administrative Manual also provides general information regarding Board operations procedures, Board administration and staff, and other policies and procedures.

**Recommendation(s)**

Staff has no recommendations at this time.

**Next Step**

The amended Administrative Manual will be provided to the full Board for review at the next Board Meeting.

**Attachment(s)**

- BCE Board Member Administrative Procedure Manual
- Department of Consumer Affairs Travel Guide

# State of California

## BOARD OF CHIROPRACTIC EXAMINERS BOARD MEMBER ADMINISTRATIVE PROCEDURE MANUAL

Adopted October 2007  
Revised March 2019



Gavin Newsom, Governor  
*State of California*

### MISSION STATEMENT

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

# **BOARD MEMBER ADMINISTRATIVE PROCEDURE MANUAL**

## **Members of the Board**

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

## **Executive Officer**

Robert C. Puleo

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

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

**BOARD MEMBER ADMINISTRATIVE PROCEDURE MANUAL**

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# BOARD MEMBER ADMINISTRATIVE PROCEDURE MANUAL

## CHAPTER 1. Introduction

### Overview

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

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

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

### State of California Acronyms

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

# BOARD MEMBER ADMINISTRATIVE PROCEDURE MANUAL

## General Rules of Conduct

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

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

## **BOARD MEMBER ADMINISTRATIVE PROCEDURE MANUAL**

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

# BOARD MEMBER ADMINISTRATIVE PROCEDURE MANUAL

## CHAPTER 2. Board Members & Meeting Procedures

### **Membership** (§1 Initiative Act)

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

### **Role of Board Officers** (Board Policy)

#### Board Chair

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

#### Vice Chair

- Is back-up for the above-referenced duties in the Chair's absence.
- Coordinates the EO annual evaluation process including requesting staff to obtain a copy of the EO's Performance Evaluation Form and distribute the evaluation form to Members. Additionally, the Vice Chair shall request that legal counsel collates the ratings and comments for discussion.

## **BOARD MEMBER ADMINISTRATIVE PROCEDURE MANUAL**

- In consultation with the Chair and EO, establishes committees, including, but not limited to, two-person committees/subcommittees and/or task forces to research policy questions when necessary.
- In consultation with the Chair, oversees assignment of Board Members to serve as liaison to the organizations listed in Ch. 7. Other Policies & Procedures.

### Secretary

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

### Committee Chair

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

## **Board Meetings and Offices** (§6 Initiative Act)

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

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

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

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

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

Whenever practical and appropriate, the Board should utilize available technology to conduct meetings so as to minimize the time and expenditures associated with staff and Board Member travel as well as the cost of renting meeting space.

## **BOARD MEMBER ADMINISTRATIVE PROCEDURE MANUAL**

### **Quorum (§3 Initiative Act)**

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

### **Board Member Attendance at Board and Committee Meetings (Board Policy)**

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

### **Public Attendance at Board Meetings (Government Code Section 11120 et seq.)**

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

### **Agenda Items (Board Policy)**

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

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

In the event of a conflict in scheduling an agenda topic, the Board Secretary will discuss the proposed agenda item with the Board Chair, and the Board Chair shall make the final decision to schedule the item at the upcoming or following Board Meeting. The Board Secretary will work with the EO Executive Officer to finalize the agenda.

## **BOARD MEMBER ADMINISTRATIVE PROCEDURE MANUAL**

### **Notice of Meetings**

(Government Code Section 11120 et seq.)

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

### **Notice of Meetings Posted on the Internet**

(Government Code Section 11125 et seq.)

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

### **Board Meeting Locations**

(Board Policy – 2013 Strategic Plan)

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

### **Bagley-Keene Open Meeting Act**

(Board Policy)

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

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

### **E-Mail Ballots**

(Government Code Section 11526 and Board Policy)

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

Proposed stipulations and decisions are e-mailed to each Board Member for his or her vote. For stipulations, a background memorandum from the assigned deputy attorney general accompanies the e-mail ballot. A two-week deadline generally is given for the e-mail ballots for stipulations and proposed decisions to be completed and returned to the Board's office.

## **BOARD MEMBER ADMINISTRATIVE PROCEDURE MANUAL**

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

### **Holding Disciplinary Cases for Board Meetings (Board Policy)**

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

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

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

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

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

### **Record of Meetings (Board Policy)**

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

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



# **BOARD MEMBER ADMINISTRATIVE PROCEDURE MANUAL**

## **Recording**

**(Government Code Section 11124.1(b))**

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

The Board may place audio and video recorded public board meetings on its web site at [www.chiro.ca.gov](http://www.chiro.ca.gov).

## **Meeting Rules**

**(Board Policy)**

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

## **Public Comment**

**(Board Policy)**

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

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

## **BOARD MEMBER ADMINISTRATIVE PROCEDURE MANUAL**

employee to review whether the proper procedure or protocol was followed and to report back to the Board.

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

# **BOARD MEMBER ADMINISTRATIVE PROCEDURE MANUAL**

## **CHAPTER 3. Travel & Salary Policies & Procedures**

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

### **Travel Approval (Board Policy)**

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

### **Travel Arrangements (Board Policy)**

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

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

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

### **Travel Claims (SAM Section 700 et seq.)**

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

The EO travel and per diem reimbursement claims shall be submitted to the Board Chair for approval.

## **BOARD MEMBER ADMINISTRATIVE PROCEDURE MANUAL**

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

### **Salary Per Diem**

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

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

### **Salary Per Diem**

**(Board Policy)**

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

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

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

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

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

## **BOARD MEMBER ADMINISTRATIVE PROCEDURE MANUAL**

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

# **BOARD MEMBER ADMINISTRATIVE PROCEDURE MANUAL**

## **CHAPTER 4. Board Officers & Committees**

### **Officers of the Board**

(§3 Initiative Act)

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

### **Nomination of Officers**

(Board Policy)

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

### **Election of Officers**

(Board Policy)

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

### **Officer Vacancies**

(Board Policy)

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

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

### **Communication Between Officers**

(Board Policy)

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

## **BOARD MEMBER ADMINISTRATIVE PROCEDURE MANUAL**

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

### **Committee Appointments** (Board Policy)

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

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

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

### **Standing Committees** (Board Policy)

The Board has three standing committees:

#### **1. Licensing, Continuing Education Committee**

The Committee proposes policies and standards regarding chiropractic colleges, doctors of chiropractic, satellite offices, corporation registration, and continuing education providers and courses.

#### **2. Enforcement and Scope of Practice Committee**

The Committee proposes regulations, policies, and standards to ensure compliance with chiropractic law and regulations. The Committee continuously seeks ways to improve the Board's enforcement activities.

#### **3. Government and Public Affairs Committee**

The Committee proposes and reviews policies, procedures, to address audit and sunset review deficiencies.

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

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

## **BOARD MEMBER ADMINISTRATIVE PROCEDURE MANUAL**

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

The Committee oversees all administrative issues regarding Board operations.

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

### **Committee Meetings (Board Policy)**

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

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

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

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

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

### **Attendance at Committee Meetings (Board Policy and Government Code Section 11122.5 et seq.)**

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



## **BOARD MEMBER ADMINISTRATIVE PROCEDURE MANUAL**

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

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

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

# **BOARD MEMBER ADMINISTRATIVE PROCEDURE MANUAL**

## **CHAPTER 5. General Operating Procedures**

### **Board Member Addresses**

**(Board Policy)**

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

### **Board Member Written Correspondence and Mailings**

**(Board Policy)**

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

### **Request to Access Licensee or Applicant Records**

**(Board Policy)**

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

### **Communications with Other Organizations & Individuals**

**(Board Policy)**

All communications relating to any Board action or policy to any individual or organization shall be made only by the Chair of the Board, the Vice Chair, or the EO.

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

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

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

## **BOARD MEMBER ADMINISTRATIVE PROCEDURE MANUAL**

### **Press Statements and Contacts** (Board Policy)

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

### **Business Cards** (Board Policy)

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

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

### **BCE Identification Cards** (Board Policy)

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

# **BOARD MEMBER ADMINISTRATIVE PROCEDURE MANUAL**

## **CHAPTER 6. Board Administration & Staff**

### **Executive Officer (§3 Initiative Act)**

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

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

### **Executive Officer Evaluation (Board Policy)**

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

### **Board Administration (Board Policy)**

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

### **Board Staff (§4 Initiative Act)**

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

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

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

# **BOARD MEMBER ADMINISTRATIVE PROCEDURE MANUAL**

## **Board Budget** (Board Policy)

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

## **Strategic Planning** (Board Policy)

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

## **Periodic Fee Audit** (Board Policy)

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

# **BOARD MEMBER ADMINISTRATIVE PROCEDURE MANUAL**

## **CHAPTER 7. Other Policies & Procedures**

### **Various Other Tasks and Responsibilities**

**(Board Policy)**

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

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

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

### **Board Member Disciplinary Actions**

**(Board Policy)**

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

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

### **Terms and Removal of Board Members**

**(§2 Initiative Act)**

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

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

## **BOARD MEMBER ADMINISTRATIVE PROCEDURE MANUAL**

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

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

### **Resignation of Board Members** (Board Policy)

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

### **Conflict of Interest** (Government Code Section 87100)

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

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

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

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

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

### **Contact with Licensees and Applicants** (Board Policy)

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

### **Contact with Respondents** (Board Policy)

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

## **BOARD MEMBER ADMINISTRATIVE PROCEDURE MANUAL**

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

### **Service of Legal Documents** (Board Policy)

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

### **Serving as an Expert Witness** (Executive Order 66.2)

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

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

### **Request for Grants** (Board Policy)

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

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



## **BOARD MEMBER ADMINISTRATIVE PROCEDURE MANUAL**

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

### **Gifts from Licensees and Applicants** (Board Policy)

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

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

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

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

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

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

If a Board Member receives a telephone call from an applicant under any circumstances or licensee against whom an action is pending, he or she shall immediately inform the caller that communication on this matter is prohibited by law and notify the EO and the Board’s legal counsel.

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

## **BOARD MEMBER ADMINISTRATIVE PROCEDURE MANUAL**

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

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

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

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

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

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

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

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

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

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

## **BOARD MEMBER ADMINISTRATIVE PROCEDURE MANUAL**

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

### **Ethics Training**

**(Government Code Section 11146)**

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

### **Sexual Harassment Prevention Training**

**(Government Code Section 12950.1)**

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

### **Board Member Onboarding and Orientation**

**(Board Policy - 2013 BCE Strategic Plan)**

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

### **Injury to a Board Member**

**(Labor Code Section 4600)**

If you are or believe you may have been injured, notify the EO. Injuries are required to be reported and this assists the EO in remaining compliant with the Labor Code Rules and Regulations. The reported injury will be reviewed by State Compensation Insurance Fund. They have the option to either accept or deny that claim. If the claim is denied, and you believe you have a legitimate claim, you should consult with an attorney. If the claim of injury is accepted by the insurance carrier, then treatment is provided in accordance with the California Labor Code (L.C.). Specifically:  
L.C. 4600(a) Medical, surgical, chiropractic, acupuncture, and hospital treatment, including nursing, medicines, medical and surgical supplies, crutches, and apparatuses, including orthotic and prosthetic devices and services, that is reasonably required to cure or relieve the injured worker from the effects of his or her injury shall be provided by the employer.

## **BOARD MEMBER ADMINISTRATIVE PROCEDURE MANUAL**

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

### **Addendums**

Applicable provisions of the following:

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

# Department of Consumer Affairs Travel Guide

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## Office of Administrative Services Accounts Payable Travel Unit



November 2020

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**Disclaimer:** *Bargaining Contracts, California Department of Human Resources (CalHR), Departmental Policy and the State Administrative Manual (SAM) sets forth the information contained in this Travel Guide. If any of the information within conflicts with the most recent provisions set forth by the said mentioned above, then those provisions will supersede this Travel Guide. Information provided in this Travel Guide is routinely updated by various control agencies. The traveler or user of this Travel Guide must always make sure they have the most current information. Click on the web links to view the most current information.*

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# Chapter 1: Introduction and Definitions

## Introduction

The purpose of the Department of Consumer Affairs Travel Guide (Guide) is to provide and define the basic travel reimbursement rules for employees who are required to travel on official State business, methods of travel that are available, and how to use them, in accordance with the State Bargaining Contracts, California Department of Human Resources (CalHR) travel rules for state officers and employees pursuant to Sections 599.615 through 599.638.1 of Article 2 of Subchapter 1 of Chapter 3 of Division 1 of Title 2 of the California Code of Regulations, and the *State Administrative Manual (SAM)*, Chapter 700. If any of the information herein conflicts with the most recent provisions set forth by the bargaining contracts or legal provisions cited above, then those provisions will supersede this Guide. In addition, information provided in this Guide is routinely updated by various control agencies. The traveler or user of this Guide must always make sure they have the most current information.

Note: The travel reimbursement program is subject to Internal Revenue Service (IRS) requirements. There are no flat reimbursement rates. All items claimed must be for the actual amount of the expense, up to the maximum rates allowed for all State officers, employees, and agents of the State traveling on official State business.

### Who can file a claim?

All Department of Consumer Affairs (DCA and/or Department) employees and any agent of the State (listed below) may request a travel advance and/or travel reimbursement using the appropriate Department forms and the CalATERS Global System. Certain restrictions may apply (see reference-related section for specific requirements).

Statutory Board Members are individuals appointed to serve on boards or commissions established by law. Members are appointed by the Governor, Legislature, or Department Head. Reimbursement for necessary travel expenses is based on the rates for non-represented employees.

Non-statutory Board Members are individuals appointed to serve on boards, commissions, committees, or task forces that are created by agency secretaries, department directors, executive officers, or board members on an as-needed basis to fulfill the Department's mission. Reimbursement for necessary travel expenses is based on the rates for non-represented employees.

Proctors are intermittent hires through the State Personnel Board. Proctors administer written or physical agility exams for civil service classification. Reimbursement for necessary travel expenses is based on the rates for non-represented employees.

Volunteers are individuals who voluntarily perform services for the State without pay. The volunteer must sign an Oath of Allegiance, which is kept on file at the Department with the Volunteer Service Agreement. Volunteers will be reimbursed for necessary travel expenses at the rate negotiated for State employees performing comparable duties.

## **Terms**

Short-Term Travel: Expenses incurred at least 50 miles (one-way) from headquarters and/or residence when applicable and is fewer than 31 consecutive days.

Long-Term Travel: Travel that is in excess of 30 consecutive days becomes long-term travel. Specific reimbursement rates and reporting requirements apply; contact your Travel Liaison.

Per Diem Expenses: Meals, lodging, and all appropriate incidental expenses incurred may be claimed when conducting State business while on travel status.

Transportation Expenses: Various modes of transportation used while on official State business; for example, airfare, vehicle, taxi, and shuttle expenses.

Business Expenses: Charges necessary to the completion of official State business, such as business phone calls, emergency clothing, and emergency supplies. All purchases shall be justified, and if the total business expense is more than \$25, the claim must be approved by the DCA Accounting Administrator II.

Conference or Convention: A meeting with a formal agenda of persons to discuss or consult on specific work-related subjects with the purpose of exchanging views, providing lectures or dialogue, or providing or gaining skills and/or information for the good of the State. Requires an approved conference attendance request prior to attending and must be attached to the [Travel Expense Claim \(TEC\) \(STD 262 A\)](#).

Non-State Sponsored Conference: Planned, arranged, and funded by an outside entity.

State-Sponsored Conference: Planned, arranged, and funded by State agencies for the benefit of the State and/or outside parties for the purpose of conducting State business.

## **Policies**

Official Established Headquarters: Shall be designated for each State officer and employee and defined as the place where the officer or employee spends the largest portion of their regular workdays or working time, or the place to which they return upon completion of special assignments. In some instances, however, it may be in the best interest of the Department to designate either an employee's residence address or an assigned geographic area as their headquarters. Home-as-headquarters and

geographic area designations will be based upon a determination of “economic merit” for geographic and logistical circumstances where the State benefits from such a determination, either in increased efficiencies or reduced costs.

Signature Authority: The signature of the approving officer certifies that the traveler is authorized to travel, the expenses incurred were to conduct official State business, and that the items claimed are appropriate and keeping within the rules that govern State business travel. Typically, the approving officer would be the traveling employee’s immediate supervisor.

### Travel Approvals (Updated May 2020)

Type of Travel	Who Must Approve?	Date to DCA	Forms Required	Submittal Recipient/ Questions
Conference Attendance	<ul style="list-style-type: none"> <li>• EOs, Bureau Chiefs or Deputy Directors</li> <li>• DCA Deputy Director of Administrative Services</li> </ul>	One month prior to travel	<ul style="list-style-type: none"> <li>• <a href="#">Conference Attendance Request</a></li> <li>• Conference Agenda</li> <li>• Bulleted Memo</li> <li>• All documents supporting the necessity &amp; mission criticality of the travel</li> <li>• EO or AEO signature required</li> </ul>	<p><b>Natalie Daniel</b> Deputy Director Administrative Services (916) 574-8301 <a href="mailto:Natalie.Daniel@dca.ca.gov">Natalie.Daniel@dca.ca.gov</a></p>
Mission Critical In-State Travel	<ul style="list-style-type: none"> <li>• EOs, Bureau Chiefs or Deputy Directors</li> </ul>	<p style="text-align: center;">N/A</p> <p style="text-align: center;"><i>Delegated Authority; Not Submitted to DCA for Approval</i></p>	<ul style="list-style-type: none"> <li>• Approvers retain:               <ul style="list-style-type: none"> <li>- Bulleted Memo</li> <li>- Agendas and all documents supporting the necessity and mission criticality of the travel</li> <li>- EO, Bureau Chief or Deputy Director approval signatures</li> </ul> </li> </ul> <p style="text-align: center;"><i>NOTE: If the travel is in-state and to a conference, the conference attendance process is to be followed.</i></p>	<p><b>Questions to Kam Khatra</b> Accounting Administrator (916) 574-7170 <a href="mailto:Kam.Khatra@dca.ca.gov">Kam.Khatra@dca.ca.gov</a></p>

Out-of-Country	<ul style="list-style-type: none"> <li>• EOs, Bureau Chiefs or Deputy Directors</li> <li>• DCA Budget Office</li> <li>• DCA Director</li> <li>• Agency Secretary</li> <li>• Governor's Office</li> </ul>	Three months prior to travel	<ul style="list-style-type: none"> <li>• Out-of-State Travel Memo Template</li> <li>• <a href="#">STD. 257 Approval Request Form</a></li> <li>• Cost Breakdown Document</li> <li>• Agendas and all documents supporting the necessity and mission criticality of the travel</li> <li>• EO signature required</li> </ul>	<p><b>Janice Shintaku-Enkoji</b> DCA Fiscal Officer (916) 574-7173 <a href="mailto:Janice.Shintaku-Enkoji@dca.ca.gov">Janice.Shintaku-Enkoji@dca.ca.gov</a></p> <p><b>Carrie Holmes</b> Deputy Director Board &amp; Bureau Services (916) 574-8214 <a href="mailto:Carrie.Holmes@dca.ca.gov">Carrie.Holmes@dca.ca.gov</a></p>
Out-of-State	<ul style="list-style-type: none"> <li>• EOs, Bureau Chiefs or Deputy Directors</li> <li>• DCA Budget Office</li> <li>• DCA Director</li> <li>• Agency Secretary</li> <li>• Governor's Office</li> </ul>	Two months prior to travel	<ul style="list-style-type: none"> <li>• Out-of-State Travel Memo Template</li> <li>• <a href="#">STD. 257 Approval Request Form</a></li> <li>• Cost Breakdown Document</li> <li>• Agendas and all documents supporting the necessity and mission criticality of the travel</li> <li>• EO signature required</li> </ul>	<p><b>Janice Shintaku-Enkoji</b> DCA Fiscal Officer</p> <p><b>Carrie Holmes</b> Deputy Director Board &amp; Bureau Services</p>
Travel Advance Exception Request	<ul style="list-style-type: none"> <li>• EOs, Bureau Chiefs or Deputy Directors</li> <li>• DCA Deputy Director Board &amp; Bureau Services</li> <li>• DCA Accounting Office</li> </ul>	10-days prior to travel	<ul style="list-style-type: none"> <li>• Advance approval in the CALATERS System (<b>Carrie Holmes</b>)</li> <li>• <a href="#">Travel Advance Exception Approval Request Form</a> (Kam Khatra)</li> </ul>	<p><b>Carrie Holmes</b> Deputy Director Board &amp; Bureau Services</p> <p><b>Kam Khatra</b> Accounting Administrator</p>
50-Mile Exemption Request	<ul style="list-style-type: none"> <li>• EOs, Bureau Chiefs or Deputy Directors</li> <li>• DCA Accounting Office</li> </ul>	10-days prior to travel	<ul style="list-style-type: none"> <li>• Bulleted Memo</li> <li>• Additional Detail: <ul style="list-style-type: none"> <li>- Start and end time of the meeting(s)</li> <li>- Mileage from traveler's house to the meeting site</li> <li>- Estimated Commute Time</li> </ul> </li> <li>• EO or AEO signature required</li> </ul>	<p><b>Kam Khatra</b> Accounting Administrator</p>

Excess Lodging Request	<ul style="list-style-type: none"> <li>• EOs, Bureau Chiefs or Deputy Directors</li> <li>• DCA Accounting Office</li> <li>• California Department of Human Resources (CalHR)</li> </ul>	10-days prior to travel	<ul style="list-style-type: none"> <li>• <a href="#">Excess Lodging Form</a></li> <li>• Three lodging quotes</li> <li>• Justification as to why the proposed lodging is needed</li> <li>• Traveler or manager's signature required</li> </ul> <p>Note: CalHR approval required for lodging over \$250.</p>	<b>Kam Khatra</b> Accounting Administrator
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The Deputy Director of Board Relations approves Board Presidents' [TECs](#). Once they have been reviewed and initialed by the Executive Officer, the Board President shall approve the Executive Officer's and the Board Members' travel claims. In the absence of the Board President, the Board Vice President shall approve the Executive Officer's and the Board Members' travel claims.

The Deputy Director of the Office of Administrative Services approves Bureau and Board Presidents', Bureau Chiefs', Division Chiefs', and Deputy Directors' travel advances, expense claims, conference requests, and authorized signature forms. The Deputy Director of the Office of Administrative Services also approves all exception- to-travel status for board and bureau and Travel Advance Requests for non-salaried employees. In the absence of the Board President, the Board Vice President shall approve the Executive Officers' and the Board Members' travel claims.

In the extended absence of either the Deputy Director of Board and Bureau Services or the Deputy Director of the Office of Administrative Services, either can approve the above for boards and bureaus.

All approving officers must have a signature card on file with the Accounting Office before approving a claim.

Note: See DCA policy, form, and procedures posted on the ["Accounting" page of the DCA Intranet](#) regarding authorized signatures.

## Chapter 2. Per Diem Allowances

### Introduction

The State provides for reimbursement of actual and necessary out-of-pocket expenses while traveling on State business. When determining the appropriate amount of reimbursement allowed for meals, lodging, and incidentals, two criteria need to be

considered: distance and time. Employees on travel status must be at least 50 miles from home and/or headquarters. The most direct route determines this distance.

For short-term travel status per diem (meals, lodging, and incidentals), several factors need to be considered, such as:

- The bargaining unit of the employee (represented or excluded).
- Geographical location of travel must be at least 50 miles (one -way) from where the trip begins at headquarters and/or home. Factors include: Which is the closest distance? Is travel during normal working hours or not? Is it a second worksite?
- The timeframe in which the trip started and stopped.
- The type and location of facilities used for lodging.

### Lodging Rates

Short-term reimbursement rates for lodging expenses are as follows. Please review your Bargaining Unit Contract on [CalHR](#) website for current rates.

<b>For Excluded/Exempt, BU 1 through BU 21</b>	
<b>Lodging</b>	<b>Reimbursement</b>
Statewide (except for those listed below)	\$90.00 plus taxes/resort fees on the entire cost of the lodging rate.
Napa, Riverside, and Sacramento Counties	\$95.00 plus taxes/resort fees on the entire cost of the lodging rate.
Marin County	\$110.00 plus taxes/resort fees on the entire cost of the lodging rate.
Los Angeles, Orange, Ventura Counties, and Edwards AFB, excluding the City of Santa Monica	\$120.00 plus taxes/resort fees on the entire cost of the lodging rate.
Monterey, San Diego	\$125.00 plus taxes/resort fees on the entire cost of the lodging rate.
Alameda, San Mateo, and Santa Clara Counties	\$140.00 plus taxes/resort fees on the entire cost of the lodging rate.
City of Santa Monica	\$150.00 plus taxes/resort fees on the entire cost of the lodging rate.
San Francisco County	\$250.00 plus taxes/resort fees on the entire cost of the lodging rate.

Lodging facilities include commercial hotels and motels and residential property—short term rental, that are reserved for fewer than 30 days. (See [CalHR PML-2015-039](#), Assembly Bill 229 (Stats. 2015, ch. 770), effective January 1, 2016 through December 31, 2018.) All rates for reimbursement are limited to State-contracted lodging rates. (See [CalHR Travel Reimbursements](#).)

## Hotel Tax Waiver

The [Hotel/Motel Transient Occupancy Tax Waiver, STD 236 \(New 9 -91\)](#), is available on the [DCA Intranet](#) Travel Home Page and should be used whenever possible. This form must be completed in advance and given to the hotel for its records. In most cases, employees must ask for the exemption at time of reservation. Some hotels will not honor the tax waiver.

## Acceptable Receipts

Lodging receipt must indicate the establishment's name, address, and check-in/check-out dates and times, number of occupancies, room rate, taxes, and method of payment.

In the rare event where an employee chooses to use a third-party vendor (such as Priceline.com, Expedia.com, Travelocity.com, Hotels.com, etc.) to make travel arrangements, the following instructions must be strictly adhered to:

- Employees who request reimbursement for receipts from third-party vendors for lodging expenses related to a State-approved relocation or for lodging expenses incurred while traveling on State business, must provide a valid receipt from the third-party vendor and the commercial lodging establishment where the employee stayed.

Both receipts are required to properly substantiate a valid business expense.

## Sharing a Room

When sharing a room with another State employee, each person can claim half the room rate, or one employee can claim the entire amount and reference the other person in the comment section. Both employees should file their travel expense claims ([TECs](#)) at the same time and a copy of the other's claim should be attached to their own.

## Meal Rates

There are no flat reimbursement rates. All items claimed are to be for the actual amount of the expense, up to the following maximum reimbursement amounts listed below. The employee (or agent of the State) shall not claim reimbursement for any meals provided by or included in the cost of the hotel stay, airfare, and conference or convention registration fee and/or provided by the terms stated in a State contract. Please review your Bargaining Unit Contract on [CalHR, Travel Reimbursements](#) website for current rates.

Excluded and/or exempt employees and represented employees in Bargaining Units (BU) 1 through 21, please review your existing MOU for current rates (see following table).

<b>Expense</b>	<b>Maximum Reimbursement For Actual Expense</b>
Breakfast	Up to \$7
Lunch	Up to \$11
Dinner	Up to \$23
Incidental	Up to \$5

### **Fewer Than 24 Hours**

The following table shows conditions under which a represented or non-represented employee may be reimbursed for meals while on travel status, if the trip is fewer than 24 hours:

<b>Starts Trip on OR Before</b>	<b>Returns from Trip on OR After</b>	<b>Entitled To</b>
6 a.m.	9 a.m.	Breakfast
4 p.m.	7 p.m.	Dinner

Note: Board and committee members are entitled to meals, including lunch, on a one-day trip only when attending official scheduled board or committee meetings. These meal expenses are excused from the travel status mileage requirement, but all-time requirements are applicable; for example, start trip at or before 11:00 a.m. and end at or after 2 p.m. to claim lunch. In addition, meals on trips of fewer than 24 hours will be reported as a taxable fringe benefit as required by the IRS.

### **More Than 24 Hours**

If a trip is more than 24 hours, but fewer than 31 consecutive days, a represented or non-represented employee is entitled to breakfast, lunch, and dinner for every full 24 - hour period while on travel status. The following table shows the meal entitlements for the last fractional period:

<b>Starts Trip on OR Before</b>	<b>Returns from Trip on OR After</b>	<b>Entitled To</b>
6 a.m.	8 a.m.	Breakfast
11 a.m.	2 p.m.	Lunch
5 p.m.	7 p.m.	Dinner



## **Incidentals**

Incidental reimbursement is allowed for every full 24 hours of travel up to the maximum amount allowed per Bargaining Unit Contract for actual necessary expenses. Incidentals include expenses for fees and tips for services such as porters, baggage carriers, and hotel staff. No other items may be claimed as an incidental cost. (See [CalHR PML 2015-003](#) and [IRS Publication 463](#).)

## **Business-Related Meals**

In rare instances, the cost of business-related meal expenses may be allowed. It must be clearly shown that it was impractical to conduct the State's business during working hours and that the meal took place in conditions beyond the employee's control. Justification should be provided on the [TEC](#).

The statement must include the purpose or goal of each business -related meal and the unusual conditions that justify payment. The employee may claim expenses not to exceed the breakfast, lunch, or dinner allowance, whichever meal was consumed. The amount must be supported by a voucher or receipt for represented employees. Claims must include the establishment, the persons in attendance, and the business conducted during the meal period. No reimbursement is allowed for the meal if the employee claims per diem for that day.

Allowable meals may include: Participants from different cities hold a luncheon to allow one or more of them to make connections on a scheduled flight; an employee is required to go to lunch as a member of a group, such as a board or commission where official business is conducted; the meeting does not adjourn during the lunch and the employee has no choice of place to eat.

Non-allowable meals include: Two or more employees go to lunch together and continue their business as an incidental to the meal; the meal is strictly for public relations purposes; departments call meetings with their own and/or other department employees to conduct State business; the meeting could have taken place during regular working hours.

## **Receipts**

Although the Department does not require receipts for most meals or incidentals, except as noted above, the traveler must retain all their meal and incidental receipts for IRS purposes.

## **Overtime Meals and Rates**

Overtime meal reimbursement is allowed when the employee works two excess hours, either consecutive or contiguous to regular scheduled work hours. Rates and terms are defined by each bargaining unit contract as stated below. In determining the overtime hours worked for meal compensation, do not include any breaks for meals. Only one

meal allowance may be claimed each day unless the employee has worked a minimum of 16 hours. For every six additional hours worked in excess of ten hours, another meal allowance may be claimed, not to exceed three overtime meals within 24 hours.

<b>Bargaining Unit</b>	<b>Rate</b>	<b>Consecutive*</b>	<b>Contiguous*</b>
10	\$7.50	X	
1, 4, 11 & 14	\$8.00		X
2, 7, 9, 12, 16 & 19	\$8.00	X	
Excluded & 21 (exempt FLSA)	\$8.00	X	

### **Definitions**

Consecutive: Works either two hours before or two hours after normal work hours on a regular scheduled workday; works two hours in excess of normal work hours on weekends, holidays, or regular scheduled day off (RDO).

Contiguous: Works two or more hours in excess of the number of hours worked on regular scheduled workday.

Excluded: Work Week Group Exempt (WWGE) and Represented Employees Exempt from Fair Labor Standards Act (FLSA) are only entitled to overtime meals for extended arduous work.

### **Arduous Work OT Meal**

Meals for Extended Arduous Work: On those rare occasions when an employee who is in a Work Week Group other than Work Week Group 2 would be required to physically or mentally work ten hours or more (not including any breaks for meals) for an extended period. The employee, with approval of the appointing authority, may claim the actual cost of an arduous work meal up to \$8. Such meals should only be approved when the work schedule is consistently in excess of a normal full-time schedule. Occasional extra hours worked, consistent with the nature of other than a Work Week Group 2 schedule, do not meet the criteria for Extended Arduous Work Meals.

### **Excess Lodging Policy and Procedure**

Request for reimbursement of lodging expenses in excess of the State-specified rates, excluding taxes, must be received ten days prior to the trip. Approval is required from the DCA Accounting Administrator II up to \$250 and CalHR if more than \$250. Please note that although DCA has been delegated authority to make determinations regarding Excess Lodging Rate Requests up to \$250 per night, the Excess Lodging Rate Form (STD 255C) has been updated to reflect the increased amount. The [Excess Lodging Rate Request \(STD 255C\)](#) form located on [DCA Intranet](#) should be completed and contain the following:

- A list of at least three hotels contacted using the [Concur CalTravel Store](#) website to obtain State rate lodging. Contact additional hotels if no State rate hotels are found within the work area.
- Supporting documentation that a reasonable effort was made to locate lodging at State-specified rates. Using only higher-rate hotels in the documentation cannot be considered reasonable efforts.
- Explain any applicable reasons for the State business need for an exception to the State's standard lodging rate.
- Obtain all required signatures and submit the request to the DCA Travel Unit at least ten working days prior to the trip, when possible.
- Employees who incur expenses in excess of standard reimbursement will be responsible for the difference if the excess lodging request is denied.
- Attach agendas for any approved conference or convention that would assist in the travel justification.

### **Reasonable Accommodation**

A reasonable accommodation can be obtained with supporting documentation through DCA Office of Human Resources Health & Safety Unit when travel requirements are a hardship to the employee for medical reasons. Please obtain the reasonable accommodation approval prior to the trip. (See [Health & Safety Unit, Reasonable Accommodation, DCA Intranet.](#))

### **Exception to Travel Status Policy**

It is the policy of the DCA to adhere to the rules and regulations as defined by the CalHR regarding the approval of requests for reimbursement within 50 miles of the employee's home or headquarters when conducting official State business. Extreme acts of God and nature that place the employee in harm's way are automatic and will be approved after the fact, when fully documented ([SAM section 0715](#), [CalHR PML 93-28.](#))

Note: All exceptions to travel status reimbursements will be reported as a taxable fringe benefit as required by the IRS.

### **Exception Authority, Limits, and Criteria**

The CalHR delegated the exception to travel status authority to the Director of the DCA, who delegated the authority to the Chief Accounting Officer. There is no other allowable signature authority for this delegation. This delegation is extended with the provision that it will be administered according to the criteria, considerations, and

record-keeping requirements as stated below. All exceptions are subject to audit by CalHR. Exceptions are to be granted in advance of the occurrence by the appointing power.

This delegation does not extend to the approval of meals or lodging at either the home or headquarters location. There is no allowance for any increase in the standard short-term travel reimbursement rates for meals and lodging or partial exceptions, such as lodging allowance without meals. When exceptions meet all the requirements and are granted by the Chief Accounting Officer, the employee is entitled to full short-term travel reimbursement rates. This exception is not to be used in lieu of overtime for one-day travel.

Exception requests will be considered under a limited number of circumstances when the employee is required to be away from their home and headquarters locations for more than a single day, but fewer than 50 miles. These include the nature of the work performed, the hours of work, or the apparent road and/or weather conditions make it impractical for the employee to return home or to the headquarters location at night.

The CalHR has guidelines for an exception approval criterion that includes reasonable commute mileage. State departments are expected to demonstrate that every consideration has been given to minimize the cost to the State through responsible planning and scheduling.

### **Exception Process**

A written request must be submitted in advance of the occurrence to the Accounting Office for review and approval by the Chief Accounting Officer. The Executive Officer or the Division/Bureau/Program Chief must approve all exception requests. Requests must contain the following information for each attendee:

- Name and classification of employee(s) requesting exception. If the time period and reason for expense are the same, submit a group request listing each employee's name, classification, the time period, and reason.
- Home and Headquarters address with distance to location of the event.
- Name and address of the location where expenses will be incurred.
- Name of the sponsor of the event.
- Reason(s) for the exception request; attempts made to reduce the costs.
- Amount of the anticipated expenses, including tax.

- For a conference or convention with more than one attendee, explain why one employee could not achieve the goal and attach a training and development request with approval.

Note: Provide copies of the agenda, conference/convention announcements, and map/mileage printouts. Once the exception request has been processed, a copy will be forwarded to the requesting office by the DCA Accounting Office. The requesting office must maintain a record of each request for the standard five-year record retention schedule.

## **Chapter 3. Transportation.**

### **Introduction**

The cost of transportation while on official State business should be accomplished by using the most economical means for the State, according to the [SAM section 0700 \(General Policy\)](#).

All transportation costs related to State business travel should be entered on all [TECs](#).

Transportation expenses consist of:

- Commercial airfares;
- Private vehicle use;
- Commercial rental car use;
- Gasoline for State or rental cars;
- Taxis, shuttles, or streetcar fares;
- Transportation Network Companies (TNT) – Uber and Lyft;
- Parking of State, rental, or privately-owned vehicles;
- Bridge and road tolls;
- Emergency repairs (State cars only); and
- Commuting transit/vanpool (employee benefit) use.

### **Supervisor's Responsibility**

It is the supervisor's responsibility to ensure the method chosen for travel on State business is in the best interest of the State and not for the employee's convenience.

## Determining the Most Economical Mode of Travel

When determining the most economical mode of transportation, the following costs should be considered:

- Employee's time;
- Expenses for transportation (airline, bus, train, parking, shuttle, tolls, etc.);
- Expenses for meals, incidentals, lodging, and any other State business expense;
- Urgency of the situation;
- If the employee must carry specialized equipment;
- Number of stops and amount of equipment;
- Number of people to be transported (is it more economical?);
- Driving time one-way (is it more than two hours?);
- Availability of transportation to and from the destination; and
- Overtime wages.

### Cost Comparison

Reimbursement will be made for the mode of transportation which is in the best interest of the State, considering direct expenses as well as the employee's time. If the employee chooses a more expensive mode of transportation, reimbursement will be for the least expensive mode of travel. Expenses incurred at the travel destination will be reimbursed based on the actual business expenses incurred while at that location.

A [cost comparison](#) must:

- Be completed and attached to the [TEC](#), showing both methods of travel.
- Include the least costly methods of travel for those expenses being substituted.
- Include only the expenses of traveling from one location to another. Do not include any worksite expenses. Expenses incurred onsite are to be claimed separately.

- An employee choosing to use a more expensive mode of transportation will only be reimbursed for the amount it would have cost for the most economical mode of travel.
- A [cost comparison](#) showing actual cost incurred versus the most economical mode and cost must be submitted with an employee's [TEC](#). The [cost comparison form](#) is provided in Appendix A for your convenience.

### Example of Cost Comparison

The most common cost comparison is when the employee chooses to drive their personal vehicle versus using normal air transportation. For example, when an employee drives (having obtained supervisor's prior approval) to Los Angeles from Sacramento, the comparison is computed from the point the employee would normally have left on travel status in Sacramento to the point of landing in Los Angeles. Please note all cost comparisons should be calculated using the current mileage rate and State rates for airfare if applicable.

Air Costs		Vehicle Costs
Ticket roundtrip	\$216.00	Mileage: City-to-city roundtrip:
Mileage to/from airport		
30 miles x 58.0 cents per mile=	\$17.40	720 miles x 58.0 cents per mile = <b><u>\$417.60</u></b>
Parking	<u>\$10.00</u>	

### Reimbursement

The least expensive method of transportation will be reimbursed on the [TEC](#). The time requirement for meals and lodging would be allowed for the time the employee would have left and returned had they flown. Additional meal and lodging expenses incurred as a result of using an alternative method of transportation is at the employee's own expense.

### Exception

An exception to the least-expensive requirement would be if an employee has a reasonable accommodation approval through the Department [Health & Safety Unit](#), which prevents the employee from specific modes of travel, such as air travel.

Request guidance from the Accounting Office Travel Unit ([calaters@dca.ca.gov](mailto:calaters@dca.ca.gov)) when special circumstances arise prior to commencing the trip.

### Direct and Indirect Travel Arrangements

All travel arrangements for air, auto rental, and lodging for official State business must be made through the Department's approved travel agency, Concur CalTravelStore.

## Air Travel

Before making airline reservations, be aware of the contract rates and where to book your flights. The State contracted rate includes airfare for origination and destination points known as city pairs for within California, out-of-State, and international destinations. The contract rates are unrestricted one-way fares and are not subject to limited seating.

When booking on Southwest Airlines, you should only select “Want to Get Away” and “Anytime” flights. You should never select Business Class-type flights; if selected, you will be responsible for the difference in cost.

The 2019–20 contract fares are with Alaska Airlines, Delta Air Lines, JetBlue, Southwest Airlines and Virgin America. You must purchase your airline tickets through the CalTravelStore, the certified State travel agency, using your Department’s centralized Citibank Business Travel Account (BTA). The CalTravelStore website contains the online booking tool Concur Travel (formerly Cliqbook), the online booking tool for all airline travel.

All travel arrangements for official State business must be made through the Department’s approved travel agency, CalTravelStore ([www.caltravelstore.com](http://www.caltravelstore.com)).

Current Airfare Contract: [TB1902 extensioncontractairfare.pdf](#)

Air Travel: [SAM section 741](#).

Airline Itinerary Requirements: [SAM section 8422.114](#).

## Airport Parking

Employees parking at the airport must use the most economical parking available. However, if the board, bureau, or division determines that additional parking costs above the lowest-cost option are in the best interest of the State, a justification explaining the necessity for the additional cost shall be submitted with the employee’s [TEC](#). Without a receipt, reimbursement is limited to \$10. Please note, [TECs](#) submitted without the required justification may be cut by the State Controller’s Office. (See [CalHR PML 2007-024](#).)

Agencies/departments may consider the following items when determining if additional parking costs are in the best interest of the State:

- The direct expense; and
- The officer’s or employee’s time.



Please contact your Department's Travel Liaison to initiate the start of your CalTravelStore profile. You must complete your registration before booking your travel.

Please use the links below for training and more information:

- After the initial profile setup, you'll access the reservation system at [www.caltravelstore.com](http://www.caltravelstore.com). Click on "Concur Login" to complete your profile.
- [Concur Travel Demo](#) (video) and [Concur Interactive Training](#).
- Concur Travel FAQs: [Concur Travel Booking Tool Training, Guides](#)

For security reasons, every traveler will need to contact their board or bureau Travel Liaison to initiate their CalTravelStore profile. Your user ID is your Department e-mail address. You must use your Department e-mail address as your user ID to have access to our Department's company ID. This e-mail address will be your user ID for future access to the reservation system. After you receive your temporary password, you can complete your profile and book your trips. In addition, you'll need to change the temporary password to ensure your account is secure. Once you've established a user ID and password, the system will request that you complete the profile. After you've completed the profile, you must save the information before you attempt to book a trip. The CalTravelStore has a travel reservation guide and video to help; they are provided on the website and link above.

### **Non-Employee Reservations (Airfare and Lodging)**

You can make reservations for non-State employees conducting State business for your program, such as subject matter experts, volunteers, witnesses, or contractors, and receive State rates when using the DCA State-contracted travel service agency. One-time travelers should be booked as a guest traveler; no profile should or needs to be established.

### **Frequent Flyer Programs**

Employees who earn travel premiums (frequent flier miles/points) while on official State business may use these travel premiums for their personal use. The value of these premiums will not be reimbursed to the employee if used for State business. (See [PML 2005-051](#).)

### **Receipts**

Airline itinerary or passenger receipts should include the traveler's name, dates and times of travel, destination, and amount of airfare. This document must be submitted with the employee's [TEC](#). The cost should always be entered on the claim as "Commercial Airfare," and "Department Paid" should be selected for payment type.

## **Privately Owned Aircraft Usage [SAM 0743](#) and [0746](#)**

Travel on official State business may be by privately owned, rented, or leased aircraft whenever this is the least costly means or is in the best interest of the State.

Employees must first obtain supervisor and agency approval. Employee pilots shall certify at least yearly to their employing agency that they have the required liability insurance during the period of official travel. These required limits are shown on [STD 265 \(New 2-91\)](#). Use [STD 265](#) for certification and insurance. (See [SAM section 0746](#).)

In all cases, the aircraft must be certified in accordance with Federal Aviation Administration regulations and properly equipped for the type of flying to be performed.

State employees who pilot aircraft on official State business must meet the requirements of CalHR Rule 599.628 and [SAM section 0747](#).

Reimbursement for use of privately-owned aircraft: [SAM section 0744](#)

The reimbursement rate for employee privately owned aircraft is \$1.27 per statute mile effective Jan. 1, 2020 [Private Aircraft Mileage](#). Mileage is computed on the shortest air route from origin to destination, using airways whenever possible. Enter "Air Miles" and mileage on the [TEC](#). For expenses other than mileage, substantiate the expense with a voucher. Landing and parking fees are paid except at the site where the aircraft is normally stored.

## **State-Owned, Privately Owned, and Commercially Owned Rental Vehicle Use**

Agencies determine who will drive on official State business and the vehicle type to be used: State-owned, privately owned, or commercially owned vehicles. The definition of "use of a State vehicle in the conduct of State business" includes the use of State vehicles "when driven in the performance of, or necessary to, or in the course of, the duties of State employment and shall include the operation of State-owned or leased vehicles as commute vehicles in a carpool or vanpool program authorized by a State agency." ([SAM section 0750](#).)

State vehicles may be authorized when two or more employees are traveling together; the trip includes intermediate stops not feasible for public transportation; the schedule of public carriers does not fit the itinerary; transportation is not available at the destination; or an employee must carry specialized tools, books, etc.

Privately owned vehicles may be used by employees on official State business if this is approved by the DCA. If the use is not less costly, the supervisor may authorize the use, but the payment will be for the less-costly alternative. No agency will require an employee to use their privately-owned vehicle unless this is a formal condition for employment.

The following circumstances are prohibited uses of State vehicles:

- Using the State vehicle for anything other than conducting State business.
- Carrying in the vehicle non-Departmental employees, friends, or family members.
- Using the vehicle for private or recreational use.

**Commercially owned rental vehicles** may be rented when a State vehicle is not available and automobile travel is essential. The employee must return the rental car at the end of each work week State business is concluded. Refer to the [Department of General Services \(DGS\) website](#) to view the rental car contract and ensure adherence to State policy. (See Appendix.)

### **Commercial Rental Cars**

Transportation Services: [SAM Section 4100](#)

CalHR Policies for Method of Travel: [Travel Reimbursements - CalHR](#)

[DGS State Fleet Handbook \(revised May 2008\), at Page 5.](#)

DGS Rental Car Policies and Procedures: [Car Rental Resources for State Travel](#)

The State contract vendor for rental vehicles is Enterprise Rent a Car. The [current contract](#) is effective March 2019. Click on [www.dgs.ca.gov/travel/Programs/RentingaVehicle.aspx](http://www.dgs.ca.gov/travel/Programs/RentingaVehicle.aspx) for more information.

[Commercial Car Rental Car Rates](#) as of March 1, 2019:  
[http://inside.dca.ca.gov/documents/travel\\_rental\\_19-01.pdf](http://inside.dca.ca.gov/documents/travel_rental_19-01.pdf)[RentingaVehicle.aspx](#) for more information.

The rental of alternative fuel vehicles is encouraged, and their rental rate should be the same.

Here's a link to the complete [rental car contract](#).

### **Car Rental Reservation Information**

Rental Car reservation must be made on [Concur CalTravelStore \(www.caltravelstore.com\)](#).

To receive the contract rate, employees are required to provide a current driver license and a second form of identification (ID) to ensure a smooth delivery of service when

renting a vehicle. Acceptable second forms of ID can be an employee issued ID badge, a business card, a copy of a travel itinerary booked through CalTravelStore or Concur (the online reservation tool), or an authorization letter on Department letterhead. Reservations are required to be made in advance on Concur.

Employees must NOT:

- Extend rental agreements for personal business and pay the difference. When extending business trips for personal reasons, the employee must stop the State rental agreement and initiate a new personal rental agreement.
- Agree to purchase insurance. Insurance is included in the State contracted rates.
- Agree to purchase the fuel service option or prepaid fuel (i.e., a flat refueling rate).
- Agree to purchase higher rate, non-economy cars.
- Carry unauthorized, non-State employees in a rental or State vehicle. If travel plans change, please cancel the reservation.

## **Insurance**

The State contract includes insurance and employees should not accept additional insurance. Employees using a noncontracted vendor may not have insurance included in their rental rate. The employee will be personally responsible for the insurance costs when choosing to use a noncontracted vendor.

In the event an at-fault accident occurs when renting a noncontract vehicle, the employee and the Department may be legally responsible for all damages sustained by others as well as property damage to the rental vehicle. More information on SAM Insurance and Surety Bonds is available at [SAM section 2400](#).

## **Receipts**

DCA policy requires the final rental car receipt be attached to the expense reimbursement claim (STD 262 or CalATERS), whether charged to the Department or paid by the employee. The receipt must indicate the amount charged and payment method. Pre-calculations or reservation agreements are not acceptable. (See [SAM section 8422.115](#); [https://www.dgsapps.dgs.ca.gov/documents/sam/SamPrint/new/sam\\_master/sam\\_master\\_file/chap8400/8422.115.pdf](https://www.dgsapps.dgs.ca.gov/documents/sam/SamPrint/new/sam_master/sam_master_file/chap8400/8422.115.pdf).)

## **Forms of Payment**

The contract requires use of the Corporate Rental Business Traveler Account (CRBTA). Use of cash or the traveler’s personal credit card will not guarantee the State contract rate or the State’s insurance coverage.

A [Short-Term Vehicle Justification Form](#), signed by the employee's supervisor will be required for the following “exceptions” for State departments to submit to the State Controller’s Office (SCO):

- Renting a vehicle larger than compact/intermediate size;
- Renting a vehicle from a noncontracted vendor;
- Needing physical or medical accommodations; and
- Refueling charges incurred at rental branches.

All employees **are not** required to refuel the rental car vehicle prior to returning. When refueling the rental car, the employee must submit a detailed gasoline receipt for reimbursement. Gasoline receipts must show the date of purchase, method of payment, and an expense breakdown: number of gallons, price per gallon, and extended total purchased amount. Prepaid fuel receipts are not acceptable for reimbursement.

The SCO approval form should be attached to the invoice and travel expense claim associated with the justification. State departments are no longer required to receive approval from the DGS Statewide Travel Program. The Short-Term Vehicle Justification Form is available on the DGS website.

Rates include unlimited mileage and are not subject to blackout dates. Contracted vehicle rates information is available on the [DCA Intranet, Travel Bulletin](#). Examples of vehicles are listed in parentheses shown on the list below. The Maximum Cap Rate (MCR) includes the base rate, all fees, all charges, in addition to airport fees, vehicle license fees and, State, city and county, or local surcharges that apply to the commercial car rental industry as a whole and identified by airport. Sales tax and refueling charges are not included in the contract rate.

**Short-Term Commercial Car Rental Cost Table**  
**Base Rate with \$300,000 Insurance for Short-Term Rentals**  
 (Effective March 1, 2020 February 2021)

<b>Vehicle Class Type</b>	<b>Daily</b>	<b>Weekly</b>	<b>Max Cap Daily</b>
<b>Compact</b> (Nissan Versa, Toyota Yaris)	\$36.06	\$144.24	\$54.64
<b>Mid-Size/Intermediate</b> (Toyota Corolla, Nissan Sentra)	\$36.06	\$144.24	\$54.64

<b>Full-Size</b> (Chevy Impala, Nissan Altima)	\$38.25	\$152.98	\$57.91
<b>FWD/Sport Utility Vehicle</b> (Ford Escape, Jeep Liberty)	\$61.19	\$244.77	\$85.23
<b>Minivan</b> (Chrysler Town and Country, Dodge Grand Caravan)	\$61.19	\$244.77	\$85.23
<b>Pick-Up Trucks</b> (Chevy Silverado, Ford F150)	\$76.49	\$305.96	\$102.72
<b>Plug-In Hybrid Electric Vehicle/Zero Emission Vehicle</b> (Nissan Leaf, Chevy Volt)	\$45.89	\$183.58	\$67.75
<b>Hybrid Electric Vehicle</b>	\$45.89	\$183.58	\$67.75

Note: The State of New York is exempt from the Base Rate listed above. Such rates are subject to open market rates quoted at time of actual car rental.

### Private Vehicle Authorization and Use

The SAM requires that before any employee, including a board member, uses a privately owned vehicle to conduct State business, that employee must obtain authorization in writing from his or her supervisor and certify that the vehicle will be operated in compliance with [SAM section 0753](#). An Authorization to Use Privately Owned Vehicles on State Business form ([STD 261](#)) should be completed and on file with the immediate supervisor. The [STD 261](#) form must be updated and re-signed annually.

Employees should be aware that the insurance maintained by the State is for the liability above the amount of the employees' policies. All employees driving on State business must carry evidence of liability insurance coverage. Mileage rates paid to employees include an amount that reimburses employees for maintaining minimum insurance coverage.

### Mileage Rate Reimbursement

The following table shows the mileage reimbursement rates for privately owned vehicles: [Mileage Rate](#)

#### Mileage Reimbursement Rates for Privately Owned Vehicles

1/1/2016–12/31/2016	54.0 cents per mile
1/1/2017–12/31/2017	53.5 cents per mile
1/1/2018–12/31/2018	54.5 cents per mile

1/1/2019–12/31/2019	58.0 cents per mile
<b>1/1/2020 – current</b>	<b>57.5 cents per mile</b>

### **Alternate Worksite Mileage**

When an employee’s regular work assignment requires reporting to a second location other than headquarters (e.g., a training site), mileage reimbursement is limited to the actual mileage incurred less their normal commute distance.

### **Airport Dropoff**

When an employee is driven to a common carrier and no parking expenses are incurred during the employee’s absence, they may claim mileage reimbursement at double the number of miles from headquarters or residence, whichever is fewer, while the employee rides in the vehicle.

If travel commences or terminates one hour before or after normal work hours, or on a regularly scheduled day off, mileage may be computed from the residence.

Minimal parking expenses for pickup will be allowed, with justification and/or notation on the [TEC](#).

### **Motor Vehicle Accident Reporting**

All accidents involving a State-owned vehicle, or any vehicle being used on State business ([SAM section 0757](#)), must be reported. Report all accidents immediately to your manager and to the DCA Business Services Office. Accidents must be reported within 48 hours to the Office of Risk and Insurance Management on a Vehicle Accident Report [STD 270](#) form. State reporting requirements are in addition to a regular police report as required by law.

Accident reimbursement claims require special approval and processing. Therefore, contact the DCA Travel Unit for guidance.

### **Overtime and Callback Mileage**

Callback or scheduled overtime mileage incurred on a normal day off, from your home to established headquarters, is reimbursable for Non-represented employees and the reimbursement is a reportable fringe benefit. **Note: Overtime mileage for represented employees is not allowed for pre-scheduled overtime.**

### **State Vehicle Emergency Repairs**

Emergency State vehicle repairs can be reimbursed on a [TEC](#) with the appropriate receipt and written justification or explanation of the event. Repairs require Fleet

Administration approval. For non-emergency car repairs, the employee should have the vendor bill the program directly.

### **Taxis and Shuttles**

Taxis and shuttles should be used for trips within a reasonable distance (10 to 15 miles). Reimbursement can be made on a [TEC](#) for the actual cost of the expense with a receipt, or for no more than \$10 without a receipt. General Service charge cards are accepted for taxis and shuttle services within the Sacramento and Fresno areas. **Tips or gratuities to drivers are reimbursable up to \$2.00 or 20% whichever is greater.** Tips or gratuities for exceptional services, such as loading and/or unloading substantial luggage or multiple exam material, is allowable with written justification and receipt.

### **Uber and Lyft**

Per [CalHR PML2015-039, Assembly Bill 229 \(Stats. 2015, ch. 770\)](#), effective January 1, 2016 through December 31, 2018, Uber and Lyft are acceptable State travel modes of transportation. An original detailed receipt is required to be attached to the claim for reimbursement. (See [PML 2015-039](#).) **See above for changes on Tips.**

Zipcars are not authorized for use as State travel transportation.

### **Parking and Tolls ([SAM section 0755](#))**

Parking and tolls in excess of \$10 require a receipt and may be paid for:

- Day parking when the trip is away from the headquarters office and residence.
- Overnight public parking when the traveler is on travel status.
- Callback or scheduled overtime on a normal day off.

### **Commuting Transit and Vanpool**

Employees who commute to and from work via public transportation or qualifying vanpools may be eligible for up to a 75-percent discount or reimbursement on public transit passes up to a maximum reimbursement of \$100 per month for SEIU bargaining units 1, 3, 4, 9, 11, 14, 15, 17, 20, 21, effective November 1, 2019. For Excluded employees effective date is February 1, 2020. Reimbursement is based on actual cost supported by a receipt or proof of purchase. For more information, visit the CalHR webpage for [Miscellaneous Programs](#) related to State Employees, Benefits, and Compensation Plus.



Part-time employees' reimbursement may be prorated to correspond to their appropriate work schedule. Daily passes may be utilized for part-time employee reimbursement.

The State will pay \$135 per month to the primary driver of a qualifying vanpool consisting of 7 to 15 people in lieu of the vanpool/transit rider incentive for the bargaining units listed above. A qualifying vanpool must meet both IRS section 132 and CalHR 599.936 criteria. (See CalHR webpage for [Miscellaneous Programs](#).)

## **CHAPTER 4. BUSINESS EXPENSES AND RECEIPTS.**

### **Business Expenses**

Business expenses are costs that are necessary for the completion of State business.

Examples:

- Phone calls more than \$1 or calls totaling more than \$5. The Department phone log can be used for logging calls when there is no official receipt provided (See "Justification for Reimbursement for Telephone Charges" in the Appendix).
- Approved training request for all courses provided by outside vendors/entities and in-State conferences and conventions. Reimbursement for training classes will be processed after completion of the training class.
- When physical examinations are required for pre-employment or as a condition of employment, the State will provide or pay for them. The applicant must pay for any services beyond the approved level for such services. For information on the current rate, see Employee Physical Exams, [SAM section 0191](#).
- Excessive porter or baggage handling, such as for several boxes of exam materials, will be reimbursed with a receipt and justification.
- Professional licenses in occupational fields that may be required by the functions of a specific position or is beneficial to the performance of an employee's duties, for actual cost of the application or renewal fee.
- Each department, commission, board, or agency may reimburse an employee for up to the maximum allowed per BU Contract for membership dues in job-related professional societies or associations of the employee's choice or for a job-related professional license fee, in recognition of the professional nature of employees. Both parties agree and understand that a different amount of reimbursement, if any, may be provided to employees in the same or similar situation.
- State Bar Dues – [CalHR Rule 599.921](#)

- Employee designation: Manager, supervisor, confidential, and excluded.
- References: [2020 State Bar Membership Dues](#) memo dated December 31, 2019. Upon certification by the appointing power that the actual practice of law is required for the performance of duties of a specific position, employees shall be reimbursed for up to \$497 of the State Bar membership fee of \$544 for the cost of annual membership fees and specialty fees of the State Bar Association.
- The State does not pay:
  - The \$5 contribution for the Legislative Activity option, line 21 of the State Bar coupon.
  - The \$40 contribution for the Legal Services Assistance option, line 23 of the State Bar coupon.
  - The \$2 contribution for the Elimination of Bias option, line 22 of the State Bar coupon.
  - Optional Donations for Access to Justice, California Bar Foundation, Conference for California Bar Associations, or California Supreme Court Historical Society; or
  - Penalties resulting from late payment of dues, unless the State is responsible for the late payment.

### **Valid Receipts**

A valid receipt consists of the establishment's name, address, itemized expenses, including the total amount due and method of payment. When submitting a [TEC](#), the claimant is required to include original, itemized receipts for all State business expenses, unless specifically noted and accepted in another section of this Guide.

Reimbursement requires proof of payment by the employee. If the receipt does not show the employee paid for the expense, attach other viable information such as the canceled check, bank, or credit card statement. For security purposes, blacken out all nonrelated charges and only retain the employee's name, bank name, and the specific charge you are claiming.

### **Required Receipts**

Receipts shall be submitted for every item of expense of \$1 or more, except as noted in this chapter.

DCA policy is for all receipts to be attached to the [TEC](#), whether paid directly to the vendor or establishment by the State or paid by the employee. Examples are airline itineraries, final rental car expense receipts, etc.

### **Receipts Not Required**

The employee must retain copies of all receipts, including those original receipts not required for reimbursement by the Department, for IRS purposes.

Receipts are NOT required for reimbursement of actual expenses as a result of conducting State business for the following expenses:

- Per diem meals and incidentals,
- Overtime meals,
- Up to the published railroad and bus fares of less than \$10 when travel is within the State, and
- Street car, ferry fares, bridge and road tolls, local rapid transit system, taxi shuttle or hotel bus fares, and parking fees of \$10 or less for each continuous period of parking or each separate transportation expense.

### **Lost Receipts**

In the absence of a receipt, reimbursement will be limited to the nonreceipted amount or the published expense, when lower than the nonreceipted amount.

### **Odd-Size Receipts**

If receipts are small, tape them to an 8 ½-inch x 11-inch sheet of paper so they will be the same size as the travel claim. More than one receipt can be on a sheet of paper if they do not overlap. Do not tape the receipts to both sides of the paper.

## **Chapter 5. Reportable Tax Items.**

### **Introduction**

Various reimbursements of State business expenses and fringe benefits are subject to Federal and State income taxes and applicable Social Security and Medicare taxes. The Department is required to report qualifying business expense reimbursements as income to the State Controller's Office each month.

Note: It is the State and Department's policy to adhere to all IRS reporting requirements.

## Reportable Items

The following items are the most common reportable employer-provided benefits

- Overtime meals;
- Callback mileage, including overtime mileage;
- Bicycle Commuter Program
- Meals on a one-day trip where there is no sleep period;
- Department-approved exceptions to the 50 miles travel status radius rule;
- Long-term assignments that exceed 30 consecutive days at one location for a period of more than one year. Contact the DCA Travel Unit for details when appropriate;
- The personal use of State vehicles for commute miles;
- Personal use of a State-provided electronic device;
- Travel advances that are not cleared within 30 days of the travel date; and
- Relocation: Contact the DCA Travel Unit ([calaters@dca.ca.gov](mailto:calaters@dca.ca.gov)) for details when appropriate.

Note: Any nonreceipted expense, such as meals and incidentals, becomes reportable *if* the IRS conducts an audit and finds no receipts in the employee's file.

## Reportable Withholdings

Below is a grid showing the percentages of taxes withheld from each agency, along with an example of the withholdings based on a \$66 reporting item. The actual total amount withheld from the \$66 item is \$24.60 for a represented employee. This amount would be deducted from the employee's next available pay warrant.

**Percentages of Taxes Withheld by Agency**  
(includes example withholdings based on a \$66 reporting item)

Type of Tax (W-2s)	Withholding Rate	Monthly Value	Actual Withholding
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Federal	22.0%	\$66	\$14.52
State	6.6%	\$66	\$4.36
* SSI	6.2 %	\$66	\$4.10
Medicare	1.45 %	\$66	\$0.96
** SDI	1.0%	\$66	\$0.66

\*Supplemental Security Income: Not applicable to Safety or Peace Officer Retirement.

\*\*State Disability Insurance: Applicable to Service Employees International Union (SEIU)-represented employees only. (See [Payroll Procedure Manual \(PPM\) Withholding Requirements section N171](#) for most recent rates.)

The reportable reimbursements will be listed under “Other Income,” or will be noted as “Included in Box 1” on the employee’s W-2 form.

It is the employee’s responsibility to maintain all reportable receipts with their records for IRS audit purposes.

### **Capturing Reportable Items**

There are many ways of capturing and reporting reportable items each month.

Examples:

- Overtime meals, callback mileage, and meals on a one-day trip are captured at the time of the [TEC](#) audit, and reimbursement is made.
- Department-approved exemptions to the “50 miles travel status radius” rule and long-term assignments that exceed 30 consecutive days are captured at the time that paperwork is submitted for approval to the Executive Office and the reimbursement of the [TEC](#) is made.
- Reporting personal mileage and/or use of a State vehicle is the responsibility of the employee. The IRS has determined that normal commute miles to and from work in a State vehicle are to be considered personal use. Only employees whose primary responsibilities are investigative law enforcement activities while they are performing law enforcement duties fit the IRS guidelines for exemption from reporting personal use of State vehicles. However, when these employees commute to and from the office for their office days or do not perform qualifying law enforcement activities on the way to or from work, the commute is reportable. All other employees who are permanently or temporarily assigned State vehicles must report personal use and/or their normal commute use. Each employee who drives a State vehicle is required to submit a monthly Employee Certification, Personal Use of State Provided Vehicles Form, [Personal Use of State-Provided Vehicle](#) to the DCA Accounting Office by the fifth day of the following month in which the personal use was incurred. Please note, this

requirement applies to all employees who drive a State vehicle; it is not limited to those employees whose assigned cars are stored at home or in off -site parking.

- Reporting personal use of a State-provided electronic device is the responsibility of the employee. Each employee who uses State-provided equipment for any personal use should prepare a memo stating the type of usage and the actual or estimated cost of the usage to be reported. To avoid the reporting of this type of fringe benefit, the employee can submit a personal check with the memo to reimburse the Department for their personal use.
- All travel advances are to be temporary. Any outstanding travel advances over 90 days are considered long-term and should be treated as wages or compensation; therefore, reported as taxable income.
- Reporting “relocation” taxable items varies depending on the type of expenses that occur; i.e., moving of household goods, sale of residence, etc. For actual reporting requirements, contact the DCA Accounting Office’s Travel Unit ([calaters@dca.ca.gov](mailto:calaters@dca.ca.gov)) for details.
- Continuing Medical Education (CME) expense reimbursement is a taxable fringe benefit for part time, full time, and intermittent BU 16 represented employees. CME expense reimbursement has been considered a taxable fringe benefit by the IRS since the program was established by the CalHR and BU 16 representatives. This program does not meet the criteria to be non-taxable business expenses under Internal Revenue Code section 127. All reimbursements made under this program will be issued in advance as payroll checks near the beginning of each fiscal year.

## **Chapter 6. Out-of-State, Out-of-Country, and Amended Claims.**

### **Introduction**

There are additional requirements and/or approvals when filing out-of-State, out-of-country, or amended [TECs](#).

### **Out-of-State Travel (OST)**

Before any State employee may travel out-of-State on official State business, specific written approval must be given by the Director, the Agency Secretary, the Department of Finance, and the Governor’s Office. (See [SAM section 0710](#).)

Approval must be obtained if either one of the following conditions exist:

1. The employee is on State time, or

2. The employee is representing the State in an official capacity or is acting in such a capacity that it will be perceived that he or she is representing the State.

If either of these two criteria exist, approval is necessary regardless of whether the State is paying for the employee's travel expenses. The trips are limited to the approved number of persons, days, and funds as specified for each blanket request. Expenses exceeding the blanket limits will require an approved blanket substitution request to cover the overages prior to travel. Any cost incurred prior to the blanket approval will be at the employee's own expense.

OST expenses must be submitted separately from in-State travel and note the approved blanket number on the claim. Actual lodging expense, supported by a receipt and the standard meal and incidental reimbursement, may be claimed for travel outside of California. Contact the DCA Budget Office (go to [DCA home page](#), under Office of Administrative Services) or Accounting Office ([calaters@dca.ca.gov](mailto:calaters@dca.ca.gov)) if you do not know the blanket number or require additional information. Refer to [SAM 0760-0765](#).

### **Out-of-Country Travel**

Employees will be reimbursed for actual lodging expenses, supported by a receipt, and will be reimbursed for actual meal and incidental expenses subject to maximum rates in accordance with the published government rates for foreign travel for the dates of travel. Failure to furnish lodging receipts will limit reimbursement to meals only. The government rates change monthly. (See CalHR webpage for [Travel Reimbursements](#) for current reimbursement rates.)

There is no allowance for blanket substitution of funds or authority for out-of-country trips. Any expenses that exceed the individual trip authority or funds will be at the traveler's expense. Claims must be submitted separately with the approved individual out-of-country trip request number written on the claim. Contact the DCA Budget Office if you do not know the trip number or require additional information.

### **Amended Claims**

When filing an amended claim, the following steps should be taken:

1. Submit a new claim.
2. Write "AMENDED CLAIM" in uppercase letters at the top of the claim.
3. Claim only the amount not submitted on the original claim.
4. Attach a copy of the original claim to the new claim.
5. Attach any required information, receipts, or justification not submitted with the original claim.

6. Obtain all required approval signatures and submit the claim to Accounting Office Travel Unit for payment.

## Chapter 7. Travel and Evidence Advances.

### Travel Advances

Short-term advances may be issued prior to the time travel is performed, to employees who must travel on State business. (See [SAM 8116](#).)

- Submit the travel advance request on CalATERS Global. In the event of non-access to CalATERS Global, please complete the [Request for Travel Advance \(AISD-008\)](#) form and send it to the DCA Accounting Office within 10 to 15 working days prior to the date of travel. Original signatures are required.
- Per the Governor's order, all departments are to keep outstanding travel advance balances (accounts receivables) to a minimum. Because of this order, DCA has limited travel advance amounts to lodging, meals, and airport parking that are fixed expenses to keep the outstanding receivables amount at a minimum. The employee will receive reimbursement for other expenses after the processing of their [TEC](#).
- If the trip is canceled, the advance must be returned immediately to the Accounting Office. If the travel advance check is cashed, a personal check or cashiers must be submitted as payment.
- For employees who are not required to travel on more than one trip per month, additional advances will not be issued for future travel unless the outstanding advances have been cleared. Departments may issue additional travel advances for employees who are required to travel on multiple trips within a month. Additional advances will not be allowed if the employee does not submit a [TEC](#) or return the excess advance amount within ten days of each trip.
- All advances must be cleared by submitting a [TEC](#) within 10 days after the date of travel. If the advance exceeds the expense claim, to clear the advance, the employee must submit a check with the claim, money order payable to DCA, or cash for the difference. If the claim exceeds the advance, the employee will receive the balance due to them by check within 10 to 15 working days.
- Add a notation regarding the advance information in section 11 or in the Note Section on CalATERS Global of the [TEC](#). (Example: March travel advance



\$200.) Do not deduct the advance amount from your claim total; the auditor will make the adjustment when the claim is processed for payment.

- Any outstanding advances of more than 15 days may be deducted from your next month's pay warrant per [SAM 8116.1](#). The DCA Accounting Office will notify the employee before this process occurs. The notification letter will allow the employee time to clear the advance balance. Failure to clear advances may preclude future advances being issued until the outstanding advances are cleared. Direct deposit will be canceled for those employees with uncleared balances to collect any advance balances not cleared within a reasonable time.
- Travel advances that are not cleared within 15 days must be reported as taxable income. (See [SAM 8116.3](#).) Taxes due will be withheld from the next available payroll warrant and reported as taxable income on the employee's W-2. When the advance is cleared, there is no method to refund the withheld taxes to the employee.
- Some restrictions apply to seasonal or part-time employees, including board and committee members, who may not be issued travel advances. Exception requests are granted by approval of the Chief Accounting Officer on a limited basis.

## Chapter 8. Filing Requirements.

### Claim Form and Correction Instructions

All Travel Expense Claims must be submitted on the CalATERS Global System. A [CalATERS Global Training Request](#) form should be completed and sent as an attachment to [CalATERS@dca.ca.gov](mailto:CalATERS@dca.ca.gov) to establish a CalATERS Global User ID and temporary password. There are two types of claims that can be submitted on the CalATERS Global System.

1. Regular TEC—Only one trip per claim should be entered on a Regular TEC. These claims consist of per diem, lodging, and mode of transportation cost to and from destinations. Expense reimbursements are determined by the date and time the trip started and/or ended. Therefore, this information must be entered for each trip. If a traveler traveled on more than one trip, each trip must be entered on a separate claim. The claim will be returned to the traveler or travel liaison for correction if more than one trip is entered on this type of claim.
2. Non-Travel Expense Claim—Consists of multiple days and months, up to a full fiscal year (July 1, 2018 through June 30, 2019). These claims consist of only parking, mileage, airfare, rental car, gas for rental car, business expenses, training, etc. This claim would not include meals, incidentals, or lodging. Please make sure when submitting this type of claim the amount is \$10 or more for budget and department cost efficiency.

The CalATERS Global TEC Transmittal should have the proper report name, index number, month and year of travel, original signature of the approver, dates, times, amounts, mode of transportation, purpose, normal work hours, etc. Original detailed receipts showing proof of payment and justifications, when necessary, are required documentation for the claim. The original CalATERS Global TEC and required receipts should be sent to the Accounts Payable, Travel Unit for processing.

In the event the employee is new to the Department and does not have a CalATERS Global User ID established, a [TEC](#) can be completed to submit their first request for reimbursement of State-related travel expenses. The original and one legible copy should be submitted to the Accounts Payable, Travel Unit for processing. Keep a third copy for your records with any non-required original receipts. All TEC forms should be completed in ink or typewritten. The original signature of the claimant and the approving officer are required to be completed in ink in the appropriate area of the form. For minor corrections, line-out the incorrect information and write in the corrected information. The claimant must initial all corrections. Travel claims with correction fluid or correction tape in critical areas of the form affecting the reimbursement amount will not be accepted. Travel claims may be returned as auditable if submitted with numerous changes or if it is difficult to read.

### **When to Submit Travel Expense Claims**

TECs should be filed at least once a month, but not more than twice in one month. If the amount claimed for any one month does not exceed \$10, filing can be deferred until the next month's travel or until June 30, whichever comes first. Several trips may be entered on one TEC. Only one Regular Trip at a time can be submitted on CalATERS Global. When more than one trip is being listed on the TEC, a blank line should be left between each trip. Trips that start at the end of one month and extend into the next month should be submitted after the trip has concluded. Although it is acceptable to put several trips on one claim, the following expenses must be submitted on a separate TEC: Out of State, out of country, long-term assignment, evidence and relocation expenses. Please label the TEC header when filing reimbursement claims for other than short-term travel.

All claims for the current fiscal year must be submitted by the published year-end deadline. Do not combine fiscal years. If a trip overlaps June and July, two separate TEC or CalATERS Global claims must be completed and submitted, one for each month. However, they should be submitted together for audit purposes.

### **Required Information**

The TEC must be completed in its entirety, including heading, dates, time, amounts, mode of transportation, purpose, normal work hours, etc., and have the claimant's and the authorized approving officer's original signatures. Itemized expenses and original receipts showing proof of payment and justifications, when necessary, are required documentation for the claim. The original TEC and required receipts should be sent to the Accounts Payable/Travel Unit for processing.

## Chapter 9. Completing a Travel Expense Claim.

### Introduction

The [TEC](#) requires various information, including employee information, trip information, reimbursement amounts, authorizations, and justifications be provided. This chapter provides a step-by-step description of what is required to complete a [TEC](#).

### Employee Information

This information describes to whom, classification, bargaining unit, and where expenses should be charged.

Field	Enter Into Field
<b>Claimant's Name</b>	First name, middle initial, last name
<b>Social Security Number or Employee Number*</b>	13-digit position number or write "on file"
<b>Department</b>	Department of Consumer Affairs
<b>Position</b>	Civil service classification (title)
<b>CB/ID Number</b>	Bargaining unit number for represented employees OR Confidential, exempt, board/committee member, volunteer, or other specific title
<b>Division or Bureau</b>	Board, committee, program, division, or unit name
<b>Index Number</b>	Index/PCA number (contact the DCA Accounting Office for assistance if you do not know your Index/PCA number)
<b>Residence Address* (including city, state, and ZIP code)</b>	Home address (do not use P.O. Box) <i>If confidential, contact the DCA Accounting Office for guidance.</i>
<b>Headquarters Address (city, state, and ZIP code)</b>	Complete headquarters (work) address
<b>Phone Number</b>	Office phone number (include area code)

\* Refers to the Privacy Statement provided on the reverse side of the form.

## Trip Information, Miscellaneous Information and Justifications, and Authorized Signatures

This section requests information regarding the when, where, and why the expenses occurred.

Field	Enter into Field																		
1	<b>Normal Work Hours:</b> Use the 24-hour clock																		
2	<b>Private Vehicle License Number:</b> Enter the license number of the private vehicle used on State business																		
3	<b>Mileage Rate Claimed:</b> Enter the rate claimed for private vehicle use																		
4	<b>Month/Year:</b> Month number (January = 1, December = 12) and four-digit																		
5	<b>Date:</b> Day of the month (one day per line) <b>Time:</b> Departure and return (using the 24-hour clock)																		
6	<b>Location Where Expenses Were Incurred:</b> (A brief statement describing the purpose may be entered immediately below the last entry for each trip.)																		
7	<b>Lodging:</b> Enter actual cost of lodging, plus tax (up to the maximum																		
8	<b>Meals:</b> Enter actual cost of meals (up to the maximum reimbursement)																		
9	<b>Incidentals:</b> Enter actual cost of incidentals (up to the maximum																		
10 (A)	<b>Transportation:</b> Enter the cost of transportation, if paid by employee																		
10 (B)	<b>Transportation:</b> Enter the method of transportation, using the following codes: <table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th style="text-align: left;">Type</th> <th style="text-align: left;">Code</th> </tr> </thead> <tbody> <tr> <td>Railway</td> <td>R</td> </tr> <tr> <td>Bus, air porter, light rail, Bay Area Rapid Transit (BART)</td> <td>B</td> </tr> <tr> <td>Commercial airline</td> <td>A</td> </tr> <tr> <td>Privately owned vehicle (motorcycles not allowed)</td> <td>PC</td> </tr> <tr> <td>Private air</td> <td>PA</td> </tr> <tr> <td>State car</td> <td>SC</td> </tr> <tr> <td>Rental car</td> <td>RC</td> </tr> <tr> <td>Taxi</td> <td>T</td> </tr> </tbody> </table>	Type	Code	Railway	R	Bus, air porter, light rail, Bay Area Rapid Transit (BART)	B	Commercial airline	A	Privately owned vehicle (motorcycles not allowed)	PC	Private air	PA	State car	SC	Rental car	RC	Taxi	T
Type	Code																		
Railway	R																		
Bus, air porter, light rail, Bay Area Rapid Transit (BART)	B																		
Commercial airline	A																		
Privately owned vehicle (motorcycles not allowed)	PC																		
Private air	PA																		
State car	SC																		
Rental car	RC																		
Taxi	T																		
10 (C)	<b>Transportation:</b> Enter carfare, bridge road tolls, or parking expenses																		
10 (D)	<b>Transportation:</b> Enter the number of miles driven with private and State vehicles, and then enter the amount due for private vehicles																		
11	<b>Business Expense:</b> Enter any other expenses necessary for completion of State business, with justification as required. <u>Note:</u> Expenses more than \$25 require Office of Administrative Services authorization. The DCA Accounting Office will obtain signatures.																		
12	<b>Total Expenses for Day:</b> Enter the total expenses for that day																		
13	<b>Subtotals:</b> Enter the total expenses for each column																		

14	<p><b>Purpose of Trip, Remarks, and Details:</b> Enter the justification and miscellaneous information, such as:</p> <ul style="list-style-type: none"> <li>Explanation of business expenses</li> <li>Phone expenses, including place, party, and number called</li> <li>Receipt justification, if needed</li> <li>Justification for obtaining rental cars, other than a compact, or use of a noncontract vendor</li> <li>Travel advances received</li> </ul>
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## Appendix

### Resource Materials

Subject	Issue Date	Ex	Num
Short-Term Lodging Reimbursement Rates—Maximum Rates for All Represented and Excluded Employees	10/20/2016		<a href="#">Short-Term Lodging Reimbursement Rates</a>
Approval of Excess Lodging Rates	12/19/2013		<a href="#">PML 2013-044</a>  <a href="#">4.pdf</a>
FLSA Guidelines	04/16/2004		DCA DPM-PERS 02-06 <a href="http://inside.dca.ca.gov/documents/dpm_hr_02_06.pdf">http://inside.dca.ca.gov/documents/dpm_hr_02_06.pdf</a>
Travel and Relocation—Lodging Receipts	07/01/2014		<a href="http://www.calhr.ca.gov/employees/pages/travel-reimbursements.aspx">www.calhr.ca.gov/employees/pages/travel-reimbursements.aspx</a> CalHR PML 2013-022 <a href="http://www.calhr.ca.gov/travel-reimbursements/Library/2013026.pdf">www.calhr.ca.gov/travel-reimbursements/Library/2013026.pdf</a>

Vanpool Incentives	7/23/2019		CalHR <a href="#">Commute Programs</a>
	09/27/2002		CalHR PML 2002-064 <a href="http://www.dot.ca.gov/hq/asc/travel/pdf/PML2002-064.pdf">http://www.dot.ca.gov/hq/asc/travel/pdf/PML2002-064.pdf</a>
			CalHR PML 2002-021

The list below includes memos, policies, procedures, and websites with information regarding travel reimbursement rules and regulations.

### Useful Websites and Addresses

Useful Websites	Internet Addresses
<a href="#">Department of General Services State Administrative Manual Forms</a>	<a href="http://www.dgs.ca.gov">www.dgs.ca.gov</a> <a href="http://sam.dgs.ca.gov/TOC/700.aspx">http://sam.dgs.ca.gov/TOC/700.aspx</a> <a href="http://www.dgs.ca.gov/osp/Forms.aspx">www.dgs.ca.gov/osp/Forms.aspx</a>
<a href="#">California Department of Human Resources Bargaining Unit Contracts Personnel Management Letters (PMLs)</a>	<a href="https://www.calhr.ca.gov/state-hr-professionals/Pages/bargaining-contracts.aspx">https://www.calhr.ca.gov/state-hr-professionals/Pages/bargaining-contracts.aspx</a> <a href="http://www.calhr.ca.gov/Pages/home.aspx">www.calhr.ca.gov/Pages/home.aspx</a>
<a href="#">Travel Agency</a>	<a href="#">Caltravelstore</a>

### List of Related Forms

The travel forms mentioned in this Travel Guide are available on the [Department of Consumer Affairs\(DCA\) Intranet](#) at <http://inside.dca.ca.gov/offices/accounting/travel.shtml> and in this Appendix.

Form	Number	<a href="#">DCA Intranet</a> and/or Internet Links
Authorization to Use Privately Owned Vehicles on State Business	STD 261	<a href="http://www.documents.dgs.ca.gov/dgs/fmc/pdf/std261.pdf">www.documents.dgs.ca.gov/dgs/fmc/pdf/std261.pdf</a>
Cost Comparison Page	N/A	<a href="http://inside.dca.ca.gov/documents/cost_comparison.pdf">http://inside.dca.ca.gov/documents/cost_comparison.pdf</a>

Excess Lodging Rate Request/Approval	STD 255C	<a href="https://www.documents.dgs.ca.gov/dgs/fmc/pdf/std255c.pdf">https://www.documents.dgs.ca.gov/dgs/fmc/pdf/std255c.pdf</a>
Conference Attendance Request	N/A	<a href="http://inside.dca.ca.gov/documents/conf_attend.pdf">http://inside.dca.ca.gov/documents/conf_attend.pdf</a>
Hotel/Motel Transient Occupancy Tax Waiver	STD 236	<a href="http://www.documents.dgs.ca.gov/dgs/fmc/pdf/std236.pdf">www.documents.dgs.ca.gov/dgs/fmc/pdf/std236.pdf</a>
Justification for Reimbursement for Postage Charges	AISD 12	<a href="http://inside.dca.ca.gov/documents/postal_charges.pdf">http://inside.dca.ca.gov/documents/postal_charges.pdf</a>
Justification for Reimbursement for Telephone Charges	AISD 11	<a href="http://inside.dca.ca.gov/documents/phone_charges.pdf">http://inside.dca.ca.gov/documents/phone_charges.pdf</a>
Request for Travel Advance	AISD 008	<a href="http://inside.dca.ca.gov/documents/travel_advance.pdf">http://inside.dca.ca.gov/documents/travel_advance.pdf</a>
Travel Advances and Travel Expenses Policy	SAM Ch. 8100	<a href="#">SAM Section 8116 Travel Advances and Travel Expenses</a>
Travel Expense Claim	STD 262a	<a href="http://inside.dca.ca.gov/documents/std262a.pdf">http://inside.dca.ca.gov/documents/std262a.pdf</a>

**Agenda Item 5  
April 13, 2021**

**Review, Discussion and Possible Action the Regarding the Legislative Bill  
Tracking Manual**

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**Purpose of the item**

Committee members will review the Legislative Bill Tracking Manual. In order to prepare for the 2021-2022 legislative session, this agenda item will provide Committee Members with an opportunity to review the updated manual.

**Action(s) Requested**

Committee Members will review the Legislative Bill Tracking Manual, and if necessary, offer edits, and direct staff to make changes as discussed.

**Background**

The purpose of this manual is to provide Board Members with a comprehensive framework to understand the legislative process and their part in it. The manual will provide Board Members with the tools necessary to understand a BCE bill analysis.

**Recommendation(s)**

Staff has no recommendations at this time.

**Next Step**

The amended Administrative Manual will be provided to the full Board for review at the next Board Meeting.

**Attachment(s)**

- BCE Legislative Bill Tracking Manual



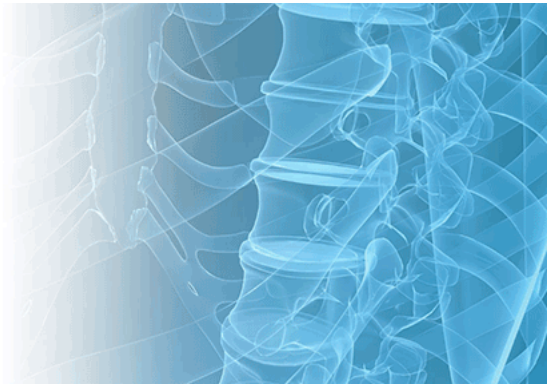
# Legislative Bill Tracking Manual



**Board of Chiropractic Examiners**  
**January 2016**  
**Revised April 2021**

**Purpose of this Manual:**

The purpose of this manual is to provide Board Members with a comprehensive framework to understand the legislative process and their part in it. The manual will provide Board Members with the tools necessary to understand a BCE bill analysis.



## **Section 1: Overview Of Legislative Process<sup>1</sup>**

The process of government by which bills are considered and laws enacted is commonly referred to as the Legislative Process. The California State Legislature is made up of two houses: the Senate and the Assembly. There are 40 Senators and 80 Assembly Members representing the people of the State of California. The Legislature has a legislative calendar containing important dates of activities during its two-year session.

### **Idea**

All legislation begins as an idea or concept. Ideas and concepts can come from a variety of sources. The process begins when a Senator or Assembly Member decides to author a bill.

### **The Author**

A Legislator sends the idea for the bill to the Legislative Counsel where it is drafted into the actual bill. The draft of the bill is returned to the Legislator for introduction. If the author is a Senator, the bill is introduced in the Senate. If the author is an Assembly Member, the bill is introduced in the Assembly.

### **First Reading/Introduction**

A bill is introduced or read the first time when the bill number, the name of the author, and the descriptive title of the bill is read on the floor of the house. The bill is then sent to the Office of State Printing. No bill may be acted upon until 30 days has passed from the date of its introduction.

### **Committee Hearings**

The bill then goes to the Rules Committee of the house of origin where it is assigned to the appropriate policy committee for its first hearing. Bills are assigned to policy committees according to subject area of the bill. For example, a Senate bill dealing with health care facilities would first be assigned to the Senate Health and Human Services Committee for policy review. Bills that require the expenditure of funds must also be heard in the fiscal committees: Senate Appropriations or Assembly Appropriations. Each house has a number of policy committees and a fiscal committee. Each committee is made up of a specified number of Senators or Assembly Members.

During the committee hearing the author presents the bill to the committee and testimony can be heard in support of or opposition to the bill. The committee then votes by passing the bill, passing the bill as amended, or defeating the bill. Bills can be amended several times. Letters of support or opposition are important and should be mailed to the author and committee members before the bill is scheduled to be heard in committee. It takes a majority vote of the full committee membership for a bill to be passed by the committee.

Each house maintains a schedule of legislative committee hearings. Prior to a bill's hearing, a bill analysis is prepared that explains current law, what the bill is intended to do, and some background information. Typically the analysis also lists organizations that support or oppose the bill.

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<sup>1</sup> <http://www.leginfo.ca.gov/bil2lawx.html>

## **Second and Third Reading**

Bills passed by committees are read a second time on the floor in the house of origin and then assigned to third reading. Bill analyses are also prepared prior to third reading. When a bill is read the third time it is explained by the author, discussed by the Members and voted on by a roll call vote. Bills that require an appropriation or that take effect immediately, generally require 27 votes in the Senate and 54 votes in the Assembly to be passed. Other bills generally require 21 votes in the Senate and 41 votes in the Assembly. If a bill is defeated, the Member may seek reconsideration and another vote.

## **Repeat Process in other House**

Once the bill has been approved by the house of origin it proceeds to the other house where the procedure is repeated.

## **Resolution of Differences**

If a bill is amended in the second house, it must go back to the house of origin for concurrence, which is agreement on the amendments. If agreement cannot be reached, the bill is referred to a two house conference committee to resolve differences. Three members of the committee are from the Senate and three are from the Assembly. If a compromise is reached, the bill is returned to both houses for a vote.

## **Governor**

If both houses approve a bill, it then goes to the Governor. The Governor has three choices. The Governor can sign the bill into law, allow it to become law without his or her signature, or veto it. A governor's veto can be overridden by a two thirds vote in both houses. Most bills go into effect on the first day of January of the next year. Urgency measures take effect immediately after they are signed or allowed to become law without signature.

## **California Law**

Bills that are passed by the Legislature and approved by the Governor are assigned a chapter number by the Secretary of State. These Chaptered Bills (also referred to as Statutes of the year they were enacted) then become part of the California Codes. The California Codes are a comprehensive collection of laws grouped by subject matter.

The California Constitution sets forth the fundamental laws by which the State of California is governed. All amendments to the Constitution come about as a result of constitutional amendments presented to the people for their approval.

## **Section 2 – Understanding a Legislative Bill:**

This section illustrates the various components of a Legislative Bill. Understanding the components of a bill will help to identify key information quickly. The first page of a bill, as shown on the Anatomy of a Bill attachment, contains the amendment date of the bill, the bills house of origin, bill number, bill author/s, and the bill's date of introduction. The first page will usually identify the date the bill was introduced, code section being added or amended, Legislative Counsel written bill summary, the vote requirement, the bill's fiscal implications, and whether there is any State-mandated local cost. Finally, the bill text is included at the end.

**2.1 Anatomy of a Bill:**

**THE ANATOMY OF A BILL**

Date noted each time Bill is amended. →

Indicates house of origin. →

Author(s) →  
Co-authors listed here.

Code Section being added or amended. →

Most bills require a majority vote. An urgency or fiscal measure requires a 2/3rds vote. →  
State mandated local cost. →

AMENDED IN SENATE APRIL 20, 2005

**SENATE BILL** **No. 861**

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**Introduced by Senator Speier**

February 22, 2005

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An act to amend Section 14105.7 of the Welfare and Institutions Code, relating to Medi-Cal.

LEGISLATIVE COUNSEL'S DIGEST

SB861, as amended, Speier. Medi-Cal: allowable drug product prices: updates.

Existing law provides for the Medi-Cal program, which is administered by the State Department of Health Services and under which qualified low-income persons receive health care benefits. Existing law requires the director to update allowable drug product prices no less often than every 30 days, with these updates to include any prior change in drug product price of which the director has received notice.

This bill would, instead, require the director to update allowable drug product prices within ~~48 hours~~ 7 days of receiving notice of a drug product price change.

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

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

- 1 SECTION 1. Section 14105.7 of the Welfare and Institutions
- 2 Code is amended to read:
- 3 14105.7. (a) In order to fairly reimburse pharmacies for the
- 4 furnishing of prescription drugs to Medi-Cal beneficiaries, the
- 5 director shall update allowable drug product prices within 48

← Bills are introduced in sequential order

← Date introduced

Legislative Counsel drafts legislation and writes a summary.

←

*Italics indicate amending language. Strikeouts show deletion.*

Bills which affect State spending are "appropriation" measures and require 2/3rds vote.



This is actual language which would have become part of the Welfare and Institutions Code had the bill not been amended several more times before being enacted. The rest of the bill language continued on subsequent pages. The text of the bill could contain "intent" or "statutory" language.

### **2.3 Identifying Bills that Impact BCE**

Staff gathers information from various places in order to identify bills that may impact BCE. First, staff searches a variety of sources such as the internet and legislative databases using keywords related to chiropractic and the healing arts professions. Next, staff periodically meet with and discuss current and possible legislation with staff from the Chiropractic Associations.

Further, staff communicates with DCA about pending and possible legislation. Throughout the legislative session, the Department provides Board's with updated lists of bills they are tracking. The Department also provides monthly legislative alters to the Boards and hosts legislative roundtables with the Board and Bureaus to provide an open forum to discuss legislation, including fiscal, legal, and information technology impacts bills may have on the various programs.

Finally, staff monitors other resources such as local and statewide newspapers and other multi-media publications for information regarding current, pending, or future legislation.

#### **Examples of Keywords to search**

- Adjustment(s)
- Chiropractic
- Chiropractor
- Healing arts
- Manipulation
- Medical
- Physical therapy
- Physical therapist
- Physiotherapy
- Physiotherapist
- Subluxation(s)
- Business and Professions
- Professions and Vocations
- Department of Consumer Affairs
- State Body
- State Agency

### **Section 3: Legislative Bill Analyses Process:**

This section includes a brief description of the various sections of a bill analysis, descriptions of the different positions Board members may take on legislation and other considerations for inclusion in the bill analysis. (An analysis checklist and sample bill analysis has been included for review)

BCE staff produce bill analyses in order to evaluate the impact proposed legislation might have on the chiropractic profession, the public, and Board operations and staff. The analyses are necessary to identify the necessity of the bill or why the change in law is useful, to assess the fiscal impact a bill could have on the Board, and may provide suggestions to improve current or pending legislation. Additionally, a bill analysis may contain key components which assist the Board members in deciding the appropriate action to take on a bill.

#### **3.1: Components of a Bill Analysis:**

The key components of a bill analysis are as follows:

- **Bill Number**
- **Author**
- **Bill Version (Date)**
- **Subject** – Title of Bill
- **Sponsor**
- **Status of Bill** – Did the bill pass from one committee to another? The date and results of the most recent vote and by whom and where the bill was referred following the vote is included.
- **Summary** – Brief summary of the purpose of bill.
- **Existing Law** – Specific provisions affected by the bill and their current purpose
- **This Bill Would:** – Summary of how the bill changes current law, the bill's intent and major provisions. (Does the bill impose reporting requirements, change existing programs, implement a new program, or require coordinated implementation with multiple agencies?)
- **Background** – Brief description of the need for the bill and how it proposes to address the issue(s).
- **Fiscal Impact** – Specifies the bill's operational and fiscal impact on the BCE (and other stakeholders). Defines whether the bill will increase revenue, change/impose fines or penalties, repeal/reduce/add fees, and identifies resources needed by affected parties and the BCE to implement and comply with the provisions in the bill.
- **Support/Opposition** – List of parties/interested persons/organizations who have taken a formal position on the bill.
- **Arguments (Pro/Con)** – This portion should contain arguments raised by both support and opposition the bill, as well as arguments made by the Board.
- **Staff Recommended Position** – The recommendation will be based on all the arguments discussed with the Executive Officer prior to distribution to the Board members for a vote.

#### **3.2: Purpose of an Analysis**

- A bill analysis should provide Board members with a deeper understanding of the bill and the author's intent.
- Reading through a bill analysis should allow Board members to determine the following:
  - The bill's intent
  - How the bill changes existing law
  - Estimated fiscal impact
  - Recommendations

# Board of Chiropractic Examiners Sample Bill Analysis

**Bill Number:** SB 541  
**Author:** Senator Curren Price  
**Bill Version:** Amended April 13, 2011  
**Subject:** Contractors' State License Regulatory boards: expert consultants  
**Sponsor:** Contractors State License Board  
Medical Board of California

**STATUS OF BILL:** Passed Senate Committee on B. P. & E.D (8-0), referred to Committee on Appropriations.

## **SUMMARY:**

This bill would allow boards and bureaus within the Department of Consumer Affairs, the State Board of Chiropractic Examiners and the Osteopathic Medical Board of California to utilize expert reviewers, without going through a formal contracting process.

## **EXISTING LAW:**

- Provides for the licensure and regulation of various professions and businesses within the Department of Consumer Affairs
- The Chiropractic Initiative Act of California provides for the licensure and regulation of the chiropractors.
- The Osteopathic Act provides for the licensure and regulation of osteopathic physicians and surgeons.
- Requires persons who apply for licensure under the various licensing acts to pass an examination approved by the board/bureau and investigate complaints and violations of the law, as well as take disciplinary action against licensees for violations of the law.
- Establishes standards relating to personal service contracts in state employment.

## **THIS BILL WOULD:**

- Authorize these boards and bureaus to enter into an agreement with an expert consultant, subject to the standards regarding personal service contracts, to provide enforcement and examination assistance.
- Require each board/bureau to establish policies and procedures for the selection of these consultants.
- Declare that it is an urgency statute and is to take effect immediately.

## **BACKGROUND:**

According to the sponsors, Public Contract Code requires state agencies to go through the formal contracting process for utilization of consultants. The boards and bureaus named in this bill utilize consultants for critical components of their regulatory authority including enforcement and examinations. Going through the formal contracting process would create a backlog for the boards and bureaus which would significantly impact the time required to complete the initial review and investigate complaints filed with boards/bureaus. This process would severely limit a board's/bureau's ability to take disciplinary actions against licensees and the delay imposed by this process could also result in losing cases due to expiration of the statute of limitations.



**FISCAL IMPACT:**

This bill will have a positive fiscal impact upon our Board, if any. The number of cases referred to experts and the amount paid to experts would not change as a result of this bill. However, if this bill does not take effect, the board will have to start entering into formal contracts with the 35 consultants it utilizes. Some of these consultants are only utilized on rare occasion due to their geographical location and/or area of expertise. Nonetheless, the board would have to spend significant time and resources preparing and executing a formal contract. If this bill is not enacted, the board will likely need additional funding and staff to absorb the increased workload.

**SUPPORT & OPPOSITION:**

Support:

Contractors State License Board  
Medical Board of California  
Court Reporters Board of California

Opposition:

None on record

**ARGUMENTS:**

Pro:

The proponents argue that:

- This bill will enable licensing and regulatory boards/bureaus to continue enlisting the expertise of their licensees to assist with evaluation of investigation documents, applications, educational and examination materials on an as-needed basis, primarily based on an hourly fee for services rendered.
- This bill will exempt specific boards and bureaus from formal contract requirements, which are laborious, cumbersome and time-consuming to execute.
- This bill will protect consumers by reducing the delays in enforcement cases by allowing these boards/bureaus to enter into an agreement directly with the consultant.
- Consultants are utilized for various purposes which depend greatly upon their area of expertise and the types of enforcement cases; therefore, it is difficult for a board/bureau to estimate a dollar amount for execution of a contract for each consultant.
- It is difficult to anticipate the extent to which the board will utilize an individual expert, and, therefore, the contract amount for each expert may not meet the board's needs. Under current law, the board will need to enter into a contract for a specified dollar amount with each expert without yet knowing the frequency with which we'll need the expert or the difficulty of the cases that will be referred to the expert. If the board underestimates the contract amount, we will have to cease utilizing an individual expert or go through the time-consuming process of amending the contract. If the board overestimates the contract, we will be encumbering funds that are needed for other essential board functions.

Con:

None

**STAFF RECOMMENDED POSITION:** SUPPORT (As Introduced/Amended on \_\_\_\_\_)

BCE Committee Recommended position of SUPPORT on \_\_\_\_\_  
Full Board Voted to Take Position of SUPPORT on \_\_\_\_\_

**Also include the text of the bill with the**

➤ **Bill Analysis**

## **Section 4 – Possible Board Action on Bills:**

This section includes a description of the positions Board members can take on legislation and other actions the Board may take in regard to legislation.

As part of the normal legislative cycle, the Board members take positions on specific bills that address issues within the BCE's purview or that would have a fiscal or programmatic impact on the BCE. Legislation affecting the chiropractic scope, consumer safety or BCE funding, resources and workload are of particular interest to the BCE. For time sensitive legislation, the Government Affairs Committee reserves the right to call an emergency meeting if action is required.

In order to ensure the positions and concerns of the Board are heard throughout the legislative session, the Board has a letter writing process to inform the Legislature and Governor's Office of positions the Board has taken.

### **4.1 Board Motions:**

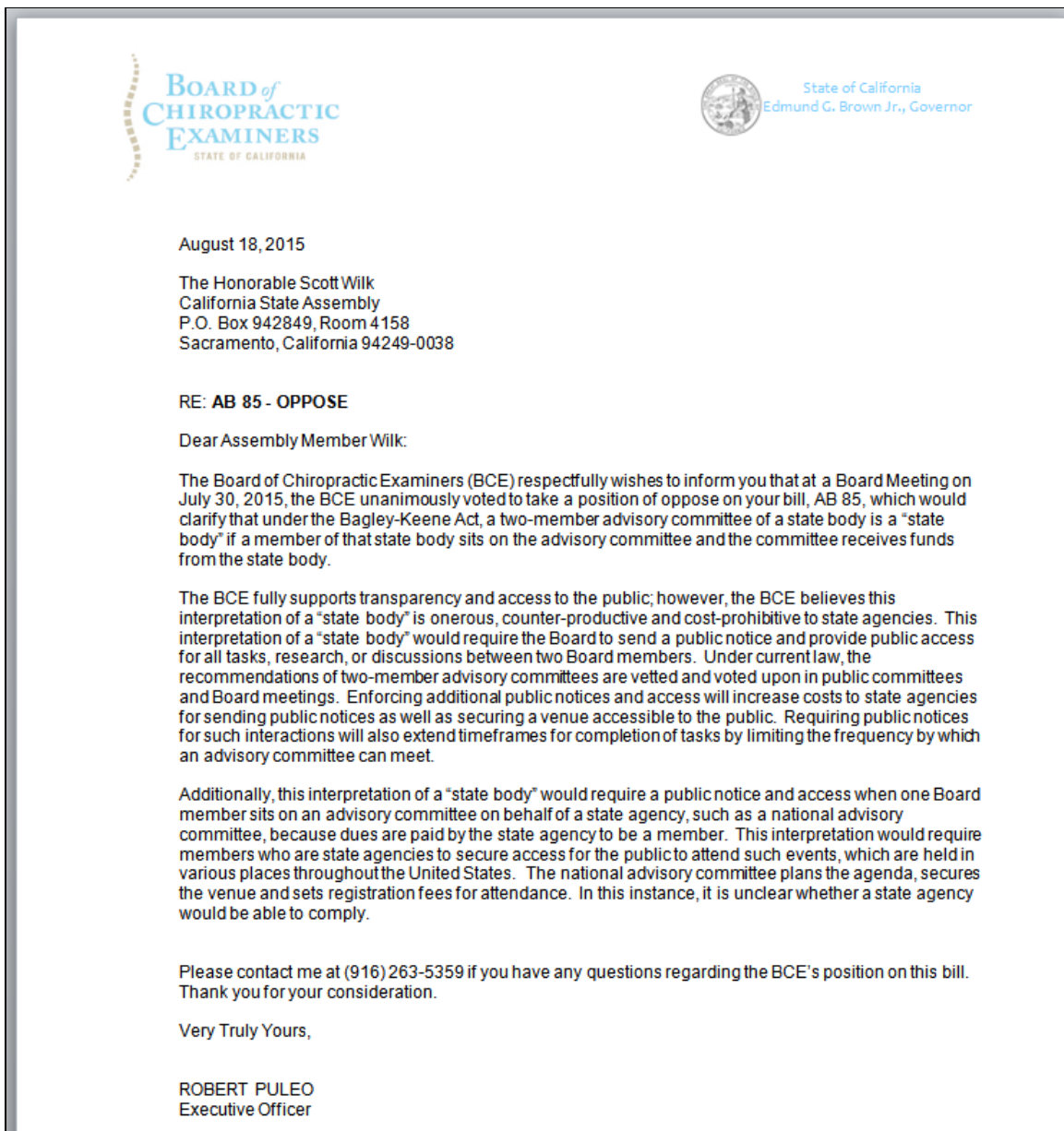
In order to make an informed decision on a legislative bill, staff should provide the Board with multiple pieces of information. An analysis, bill impact assessment checklist and complete text of a bill should be presented to the Board for consideration at a Government Affairs Committee meeting. The Committee will present their recommendations for a vote at a Board meeting to take one of the following positions:

- **Support** – This bill has favorable fiscal or operation impact upon the BCE and is consistent with the Board's laws, regulations or policies.
- **Support if Amended** – This bill is generally beneficial, but would be improved if amended. The bill analysis and letter to author should include recommended amendments.
- **Oppose** – The bill mandates unjustified costs, interferes with efficient administration or operation of the BCE, or is in conflict with the policies, laws or regulations of the BCE.
- **Oppose Unless Amended** – This bill is undesirable as written, but can be made palatable by amendment. The bill analysis and letter to author should included recommended amendments.
- **Neutral** – The bill has no significant effect on the BCE; however this bill may be of interest to the board members. A letter to the author is not needed in this case.
- **Watch** – The bill has no significant effect on the BCE; however, there may be components which are likely to change and may impact the BCE in the future. This is not a formal position; therefore, a letter to the author is not needed at this time.

## 4.2 Board Position Letters:

Once the full board has taken a formal position on a legislative bill, the Executive Officer or staff should draft a letter to the author of the bill for the Executive Officer or Board Chair's signature. The letter should identify the version of the bill and explain the BCE's position, including a summary of the reasons which led to the position and specific changes if amendments are recommended. A letter should also be sent to the Chair and Members of each legislative committee in which the bill will be subsequently heard.

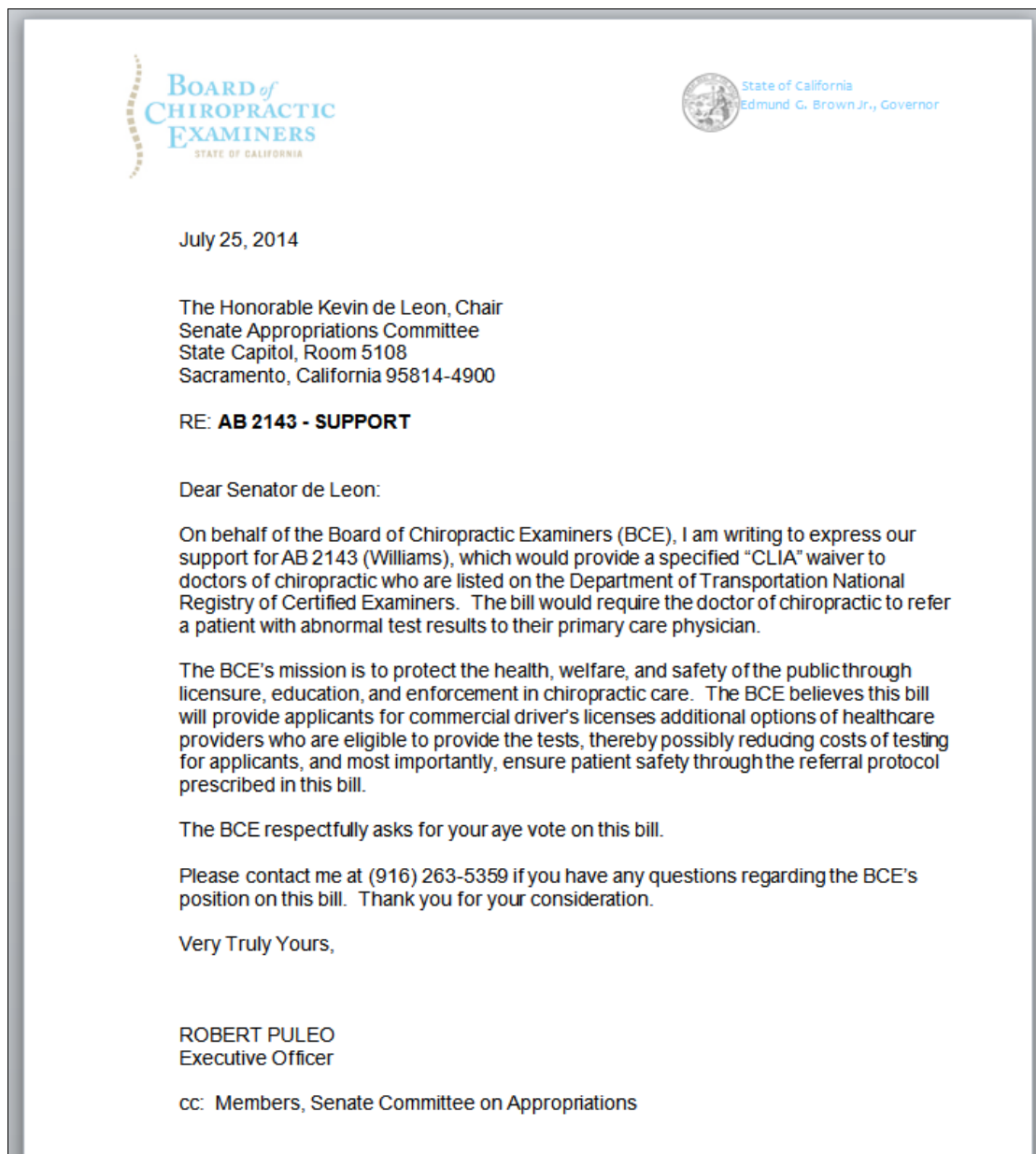
Example provided below:



### **4.3 Letters to the Floor**

Once a bill of interest has passed out of committee and has been placed one or both legislative floor calendars, the Executive Officer or staff should draft a letter to each member of the legislature for the Executive Officer or Board Chair's signature. Once on the floor, a bill can be passed, defeated, or amended. Timing is critical and any communications should arrive as close to the time of voting as possible. The letter should identify the version of the bill and explain the BCE's position, including a summary of the reasons which led to the position and specific changes if amendments are recommended.

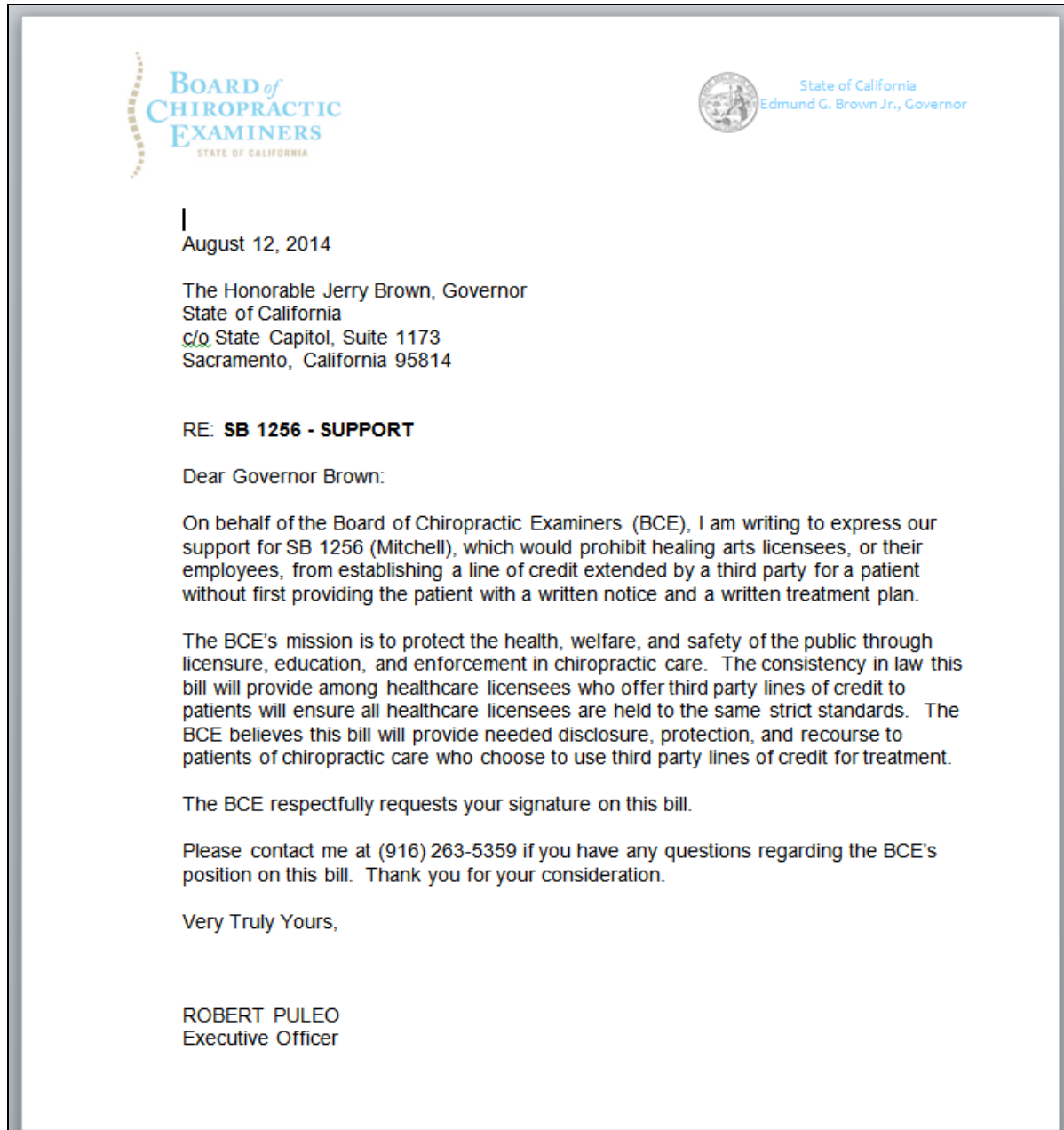
Example provided below:



#### **4.4 Sign/Veto letter to the Governor**

Once an enrolled bill is sent from the Legislature to the Governor for review, the Executive Officer or staff should draft a letter to the Governor for the Executive Officer or Board Chair's signature. The letter should include a recommendation to sign or veto the bill. Finally, the letter should explain the BCE's position on the bill and include a summary of the reasons which led to the position.

Example provided below:



## Section 5: Bill Impact Assessment Checklist

A bill impact assessment checklist has been included for review.



State of California  
Edmund G. Brown Jr., Governor

## BILL IMPACT ASSESSMENT CHECKLIST

Bill Number: \_\_\_\_\_ Author: \_\_\_\_\_ Version (Date): \_\_\_\_\_  
Recommended Position: \_\_\_\_\_

Analyst: \_\_\_\_\_

### BACKGROUND

- Previously introduced       Similar to other current bills       New Bill  
 Clean-up       Extends or repeals sunset       Has Urgency Clause  
 Amends Existing Law: Code and Section Reference \_\_\_\_\_

### IMPACT OF DEPARTMENT

- Consistent w/Department's mission       Acts on strategic issue  
 Changes or repeals existing programs       Implements new program  
 Enhances protection efforts       Weakens protection efforts

### FISCAL IMPACT

### UNFUNDED MANDATE

- Added Revenue       Cost savings       Additional costs       Neutral  
 Changes fines/penalties       Proposes new or increased fees to offset costs  
 Repeals or reduces fees       Includes appropriation  
 Funding source: \_\_\_\_\_

### REPORTING REQUIREMENTS

- Requires one-time report       Requires annual report  
 Requires new operating procedures       Requires new forms  
 Requires change to existing procedures       Requires amended forms  
 Requires new or amended contract       Requires new study

### LEGAL/ENFORCEMENT IMPLICATIONS

- Consistent w/Department's mission       Acts on strategic issue  
 Changes or repeals existing programs       Implements new program  
 Enhances protection efforts       Weakens protection efforts

### COORDINATING REQUIREMENTS

- Requires coordinated implementation with other boards and/or state agencies:

### RECOMMENDATIONS

- Amendments Proposed

## **Section 6: California Legislative Resources:**

- **The Official California Legislative Information (Leg Info) websites are:**
  - The two websites are maintained by the Office of Legislative Counsel. The website provides bill language, status, history, votes, analyses and a bill subscription service to help track specific bills. Additionally, the Legislature provides access to electronic links to its publications.
  - The California Legislative Information website allows the user to subscribe to bills of interest and receive e-mail notification whenever there is legislative action on a subscribed bill for the current session.
  - When searching the website, using keywords such as chiropractor, chiropractic, manipulation, healing arts, etc., will aid in locating bills specific to the chiropractic profession.
    - (<https://leginfo.legislature.ca.gov>) – Information on legislative sessions beginning 1999 to present
    - (<http://www.leginfo.ca.gov>) – Information on legislative sessions **prior to 1999 from 1993 to 2016**
    - (<http://www.leginfo.ca.gov/legpubs.html>) – Links to Legislative publications
- **California Legislative Committees**
  - These committees have jurisdiction over issues that impact the chiropractic profession. Also, these committees hear legislation relevant to the BCE.
    - The Senate Business and Professions Committee and Economic Development (<http://sbp.senate.ca.gov/> )
    - The Assembly Business and Professions and Consumer Protection Committee (<http://abp.assembly.ca.gov/> )
    - The Senate Health Committee (<http://shea.senate.ca.gov/> )
    - The Assembly Health Committee (<http://ahea.assembly.ca.gov/> )
    - The Senate Committee on Appropriations (<http://sapro.senate.ca.gov/>)
    - The Assembly Committee on Appropriations (<http://apro.assembly.ca.gov/>)
- **The Governor's website**
  - The website contains bill signing information and bill veto messages.
    - ([http://www.governor.ca.gov/state/govsite/gov\\_homepage.jsp](http://www.governor.ca.gov/state/govsite/gov_homepage.jsp))
- **DCA: Division of Legislative and Regulatory Review Affairs**
  - The Division provides a number of direct legislative **and regulatory** services to the Boards and Bureaus of the Department. Each board has an analyst assigned to them in the Division who can be contacted for assistance.
- **DCA: Budget Office**
  - The Budget Office frequently contacts the BCE to obtain information on the fiscal impact of bills upon the BCE. Oftentimes, these bills affect multiple regulatory boards such as those related to health care, healing arts, etc. It is important to note whether these bills pertain to the BCE and whether the bill conflicts with the BCE's Initiative Act. (i.e. legislation requires a temporary or special license)
- **Professional Associations**
  - Professional associations, such as the California Chiropractic Association (CCA) and the International Chiropractors Association of California (ICAC) track legislative bills that affect the profession and provide a list of bills and their position on their websites.
    - **CCA** – <http://capwiz.com/calchiroassn/issues/bills/>



- CAL CHIRO - <https://www.calchiro.org/advocacy>
- ICAC - <http://www.icacweb.com/>

**Agenda Item 6  
April 13, 2021**

**Review, Discussion and Possible Action Regarding the AB 29 (Cooper) State  
Bodies: Meetings**

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**Purpose of the item**

This agenda item has been included to provide the Committee with an update on AB 29.

**Action(s) requested**

The Committee will be asked to review and discuss AB 29. If necessary, the Committee will have an opportunity to take a position on this bill.

**Background**

Board staff is monitoring and tracking several bills introduced during the current two-year legislative session.

AB 29 (Cooper) requires the materials for a public meeting to be provided to the public at the same time they are provided to board members or at least 72 hours in advance of the meeting, whichever is earlier.

**Recommendation(s)**

N/A

**Next Step**

N/A

**Attachment(s)**

- AB 29 analysis / text

Board of Chiropractic Examiners  
Bill Analysis

**Bill Number:** AB 29

**Author:** Assembly member Jim Cooper

**Bill Version:** Introduced December 7, 2020

**Subject:** State bodies: meetings

**Sponsor:** Author

**Status of Bill:** in Assembly Committee on Governmental Organization – Hearing Date: April 8, 2021.

**Summary:**

This bill requires the materials for a public meeting to be provided to the public at the same time they are provided to board members or at least 72 hours in advance of the meeting, whichever is earlier.

**Existing Law:**

- Requires, under the Bagley-Keene Act, 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.
- Requires the state body to provide notice of its meeting, including specified information and a specific agenda of the meeting, as provided, to any person who requests that notice in writing and to make that notice available on the internet at least 10 days in advance of the meeting.
- Requires all bills in the California Legislature to be in print 72-hours before final passage by the body. (Article IV Legislative CONS §8 (b) (2)).

**This Bill Would:**

- Require the Board to provide notice of public meetings, including all writings or materials, to board member in connection with a matter subject to discussion or consideration at a meeting.
- Require the writings or materials to be made available on the Board’s website on the same day as the dissemination of the materials to board members, or at least 72 hours in advance of the meeting, whichever is earlier.
- Prohibit the Board from discussing meeting materials or taking action on an any agenda item associated with those materials unless the Board has complied with new posting requirements.

**Background:**

According to the author’s office:

In 2016 California voters overwhelmingly passed Proposition 54, the California Legislature Transparency Act, which established the 72-hour in print rule; requiring all bills in the California Legislature to be in print 72-hours before final passage by the body. The impetus behind Proposition 54 was to increase government transparency and provide the public with adequate time to review, analyze and voice their opinions on legislative proposals prior to receiving a final vote.

Currently, under the Bagley-Keene Open Meeting Act (Bagley-Keene), a state body must disclose their agenda ten days prior to holding a meeting. Additionally, the state body must make the agenda available on the internet ten days prior to the meeting.

While agendas are required to be produced and posted on the internet ten days in advance, the disclosure requirement does not extend to writings and materials associated with agenda items. Agenda items can range simple to complex and sometimes contain large amounts of information which are not always available in advance of a meeting. As a result, public participation can suffer and lead to important decisions being made lacking sufficient public input and transparency.

The author states that AB 29 would expand Bagley-Keene open meeting requirements to apply to agenda writings and materials and provides state entities the same timeframe provided to the Legislature by Proposition 54 - 72 hours.

**Fiscal Impact:**

This bill would not have a fiscal impact upon the Board.

**Support & Opposition:**

Support:       None on file

Opposition:   None on file

**Arguments:**

Pro:

- According to the author, this bill ensures the public has adequate access and sufficient time to review all information and agendas prior to a meeting of a state agency, board or commission. Increasing the public’s access to information in a timely manner will result in both greater public participation and transparency of all state decision making bodies.

Con:

- Currently, the Board posts meeting materials on its website on the same day they are provided to the Board members. If new or updated information becomes available after the meeting materials packet is distributed, the new information is distributed to the Board members and made available to the public, either by posting on the Board’s website if time allows or by having them available as handouts at the meeting.
  - AB 29 does not include language clarifying that the requirements to provide the materials to the public do not apply to materials to be discussed in closed session. It also does not include any exemptions for documents relating to petition hearings, legislative, regulatory, or budgetary matters that might become available in less than 72 hours prior to the meeting.
  - In the context of considering legislative proposals, this bill creates clear conflicts with legislative timelines. The legislative process can move quickly, and the status of any particular bill that is part of a noticed agenda can change dramatically within 72 hours of a meeting.

**Staff Recommended Position: NEUTRAL IF AMENDED**

This bill, as currently drafted, would create a number of logistical and practical problems and would prohibit the Board from discussing and providing the most recent information available at board meetings.

Staff recommends a Neutral position if the bill is amended to address the concerns raised in the “Con” arguments.

**Introduced by Assembly Member Cooper  
(Coauthor: Assembly Member Blanca Rubio)**

December 7, 2020

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An act to amend Section 11125 of the Government Code, relating to public meetings.

legislative counsel's digest

AB 29, as introduced, Cooper. State bodies: meetings.

Existing law, 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 any meeting of a state body, except as otherwise provided in that act. Existing law requires the state body to provide notice of its meeting, including specified information and a specific agenda of the meeting, as provided, to any person who requests that notice in writing and to make that notice available on the internet at least 10 days in advance of the meeting.

This bill would require that notice to include all writings or materials provided for the noticed meeting to a member of the state body by the staff of a state agency, board, or commission, or another member of the state body that are in connection with a matter subject to discussion or consideration at the meeting. The bill would require those writings or materials to be made available on the state body's internet website, and to any person who requests the writings or materials in writing, on the same day as the dissemination of the writings and materials to members of the state body or at least 72 hours in advance of the meeting, whichever is earlier. The bill would prohibit a state body from discussing those writings or materials, or from taking action on an item to which

those writings or materials pertain, at a meeting of the state body unless the state body has complied with these provisions.

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

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

- 1 SECTION 1. Section 11125 of the Government Code is  
2 amended to read:  
3 11125. (a) The state body shall provide notice of its meeting  
4 to any person who requests that notice in writing. Notice shall be  
5 given and also made available on the ~~Internet~~ *state body's internet*  
6 *website* at least 10 days in advance of the ~~meeting,~~ *meeting* and  
7 shall include the name, address, and telephone number of any  
8 person who can provide further information ~~prior to~~ *before* the  
9 ~~meeting,~~ *meeting* but need not include a list of witnesses expected  
10 to appear at the meeting. The written notice shall additionally  
11 include the address of the ~~Internet site~~ *internet website* where  
12 notices required by this article are made available.  
13 (b) The notice of a meeting of a body that is a state body shall  
14 include a specific agenda for the meeting, containing a brief  
15 description of the items of business to be transacted or discussed  
16 in either open or closed session. A brief general description of an  
17 item generally need not exceed 20 words. A description of an item  
18 to be transacted or discussed in closed session shall include a  
19 citation of the specific statutory authority under which a closed  
20 session is being held. No item shall be added to the agenda  
21 subsequent to the provision of this notice, unless otherwise  
22 permitted by this article.  
23 (c) (1) *A notice provided pursuant to subdivision (a) shall*  
24 *include all writings or materials provided for the noticed meeting*  
25 *to a member of the state body by the staff of a state agency, board,*  
26 *or commission, or another member of the state body that are in*  
27 *connection with a matter subject to discussion or consideration*  
28 *at the meeting.*  
29 (2) *The writings or materials described in paragraph (1) shall*  
30 *be made available on the state body's internet website, and to any*  
31 *person who requests the writings or materials in writing, on the*  
32 *same day as the dissemination of the writings and materials to*

1 *members of the state body or at least 72 hours in advance of the*  
2 *meeting, whichever is earlier.*

3 *(3) A state body may not distribute or discuss writings or*  
4 *materials described in paragraph (1), or take action on an item*  
5 *to which those writings or materials pertain, at a meeting of the*  
6 *state body unless the state body has complied with this subdivision.*

7 ~~(e)~~

8 *(d) Notice of a meeting of a state body that complies with this*  
9 *section shall also constitute notice of a meeting of an advisory*  
10 *body of that state body, provided that the business to be discussed*  
11 *by the advisory body is covered by the notice of the meeting of*  
12 *the state body, provided that the specific time and place of the*  
13 *advisory body's meeting is announced during the open and public*  
14 *state body's meeting, and provided that the advisory body's*  
15 *meeting is conducted within a reasonable time of, and nearby, the*  
16 *meeting of the state body.*

17 ~~(d)~~

18 *(e) A person may request, and shall be provided, notice pursuant*  
19 *to subdivision (a) for all meetings of a state body or for a specific*  
20 *meeting or meetings. In addition, at the state body's discretion, a*  
21 *person may request, and may be provided, notice of only those*  
22 *meetings of a state body at which a particular subject or subjects*  
23 *specified in the request will be discussed.*

24 ~~(e)~~

25 *(f) A request for notice of more than one meeting of a state body*  
26 *shall be subject to the provisions of Section 14911.*

27 ~~(f)~~

28 *(g) The notice shall be made available in appropriate alternative*  
29 *formats, as required by Section 202 of the Americans with*  
30 *Disabilities Act of 1990 (42 U.S.C. Sec. 12132), and the federal*  
31 *rules and regulations adopted in implementation thereof, upon*  
32 *request by any person with a disability. The notice shall include*  
33 *information regarding how, to whom, and by when a request for*  
34 *any disability-related modification or accommodation, including*  
35 *auxiliary aids or services may be made by a person with a disability*  
36 *who requires these aids or services in order to participate in the*  
37 *public meeting.*



**Agenda Item 7  
April 13, 2021**

**Review, Discussion and Possible Action Regarding the AB 339 (Lee) State and  
Local Government: Open Meetings**

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**Purpose of the item**

This agenda item has been included to provide the Committee with an update on AB 339.

**Action(s) requested**

The Committee will be asked to review and discuss AB 339. If necessary, the Committee will have an opportunity to take a position on this bill.

**Background**

Board staff is monitoring and tracking several bills introduced during the current two-year legislative session.

AB 339 (Lee) allows for continued remote participation in state meetings and expand language access, allowing for more people to participate in government meetings and decisions.

**Recommendation(s)**

N/A

**Next Step**

N/A

**Attachment(s)**

- AB 339 analysis / text

## **Board of Chiropractic Examiners Bill Analysis**

**Bill Number:** AB 339  
**Author:** Assembly member Alex Lee  
**Bill Version:** Introduced January 28, 2021  
**Subject:** State and Local Government: Open Meetings  
**Sponsor:** Leadership Counsel for Justice and Accountability  
**Status of Bill:** Introduced on January 28, 2021; pending referral to policy committee

### **Summary:**

This bill allows for continued remote participation in state meetings and expand language access, allowing for more people to participate in government meetings and decisions.

### **Existing Law:**

- The Ralph M. Brown Act, requires, with specified exceptions, that all meetings of a legislative body, as those terms are defined, be open and public and that all persons be permitted to attend and participate.
- The Bagley-Keene Open Meeting Act, requires, with specified exceptions, that all meetings of a state body be open and public, and all persons be permitted to attend any meeting of a state body. The Act requires at least one member of the state body to be physically present at the location specified in the notice of the meeting.
- The Dymally-Alatorre Bilingual Services Act, requires any materials explaining services available to the public to be translated into any non-English language spoken by a substantial number of the public, as defined, served by the agency.

### **This Bill Would:**

- Require all meetings, as defined, to include an opportunity for all persons to attend via a call-in option or an internet-based service option that provides closed captioning services and requires both a call-in and an internet-based service option to be provided to the public.
- Require instructions on how to attend the meeting via call-in or internet-based service to be posted online along with the meeting agenda in an easily accessible location at least 72 hours before all regular meetings and at least 24 hours before all special meetings.
- Require all meetings to provide the public with an opportunity to address the legislative body remotely via call-in or internet-based service.
- Require those persons commenting in a language other than English to have double the amount of time as those giving a comment in English, if time restrictions on public comment are utilized, except as specified

- Require translation services to be provided for the 10 most-spoken languages, other than English, in California.
- Require agendas and instructions for accessing the meeting to be translated into all languages for which 5% of the population in the area governed by the state body's jurisdiction are speakers.
- Require similar changes to the laws that govern meetings of a house of the Legislature, and its committees, and to the laws that govern legislative bodies of local agencies.

**Background:**

According to the author's office:

Laws governing public participation for the state legislature, local agencies and state boards all require certain processes for members of the public to participate at open meetings. However, participation is often limited to those who are able to travel to meetings to speak in-person, and to those who speak and read English. These requirements, along with inconsistent language access standards, often preclude immigrants and low-income people from participating.

While COVID-19 precautions have increased usage of remote participation options, not all agencies allow for effective remote participation. Additionally, there is frequently confusion over how to access meetings through remote technology options. The lack of clear instructions reinforces obstacles.

The author notes that Covid-19 has exacerbated existing barriers that prevent people from participating in public meetings. Furthermore, linguistic and geographic isolation prevent constituents from exercising their civic duties, thereby limiting governing bodies from achieving their full potential.

**Fiscal Impact:**

The cost of providing increased access through technology and of providing translation services in multiple languages is currently unknown. However, it is likely that there will be an increase in workload and operating costs associated with the implementation of this bill.

**Support & Opposition:**

Support:

Over 25 professional organizations support this bill, including the following:

- Leadership Counsel for Justice and Accountability (Sponsor)
- American Civil Liberties Union (Co-Sponsor)
- Coalition of Humane Immigrant Rights (CHIRLA)

- Californian Teachers Association

Opposition: None on file

**Arguments:**

Pro:

- The author states this bill increases access to the public by expanding opportunities for the public to join meetings, during and after the COVID-19 pandemic, via telephonic or internet-based audio-visual platform and through the clarification of how existing interpretation requirements should be implemented. Ultimately, language access services would be provided for immigrant communities and meeting agendas and instructions would be posted in a timely and accessible manner.

Con:

- The cost of providing increased access through technology and of providing translation services in multiple languages is currently unknown and may not be possible within existing resources.

**Staff Recommended Position: WATCH**

The Author's office has indicated they plan to significantly amend this bill. Amendments will likely be made when the bill is heard in the next policy committee.

Staff recommends monitoring this bill and taking a position after it has been amended.

**Introduced by Assembly Members Lee and Cristina Garcia**

January 28, 2021

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An act to amend Sections 9027, 54953, 54954.2, 54954.3, 11122.5, 11123, 11125.7 of, and to add Sections 9027.1 and 9028.1 to, the Government Code, relating to state and local government.

legislative counsel's digest

AB 339, as introduced, Lee. State and local government: open meetings.

Existing law requires all meetings, as defined, of a house of the Legislature or a committee thereof to be open and public, and requires all persons to be permitted to attend the meetings, except as specified.

This bill would require all meetings, including gatherings using teleconference technology, to include an opportunity for all persons to attend via a call-in option or an internet-based service option that provides closed captioning services and requires both a call-in and an internet-based service option to be provided to the public. The bill would

require all meetings to provide the public with an opportunity to comment on proposed legislation, as provided, and requires translation services to be provided for the 10 most-spoken languages, other than English, in California, and would require those persons commenting in a language other than English to have double the amount of time as

those giving a comment in English, if time restrictions on public comment are utilized, except as specified. The bill would require instructions on how to attend the meeting to be posted at the time notice of the meeting is publicized, as specified.

Existing law, the Ralph M. Brown Act, requires, with specified exceptions, that all meetings of a legislative body of a local agency, as those terms are defined, be open and public and that all persons be permitted to attend and participate.

This bill would require all meetings to include an opportunity for all persons to attend via a call-in option or an internet-based service option that provides closed captioning services and requires both a call-in and an internet-based service option to be provided to the public. The bill would require, even in the case of a declared state or local emergency, teleconferenced meetings to include an in-person public comment opportunity. The bill would require all meetings to provide the public with an opportunity to address the legislative body remotely via call-in or internet-based service, as provided, and would require instructions on how to attend the meeting to be posted at the time notice of the meeting is publicized, as specified. The bill would also require the legislative bodies of the local agency to employ a sufficient amount of qualified bilingual persons to provide translation during the meeting in the language of a non-English-speaking person, in jurisdictions which govern a substantial number of non-English-speaking people, as defined.

Existing law, the Bagley-Keene Open Meeting Act, requires, with specified exceptions, that all meetings of a state body be open and public and all persons be permitted to attend any meeting of a state body. The Act requires at least one member of the state body to be physically present at the location specified in the notice of the meeting.

This bill would require all meetings, as defined, to include an opportunity for all persons to attend via a call-in option or an internet-based service option that provides closed captioning services and requires both a call-in and an internet-based service option to be provided to the public. The bill would require instructions on how to attend the meeting via call-in or internet-based service to be posted online along with the meeting agenda in an easily accessible location at least 72 hours before all regular meetings and at least 24 hours before all special meetings. The bill would require all meetings to provide the public with an opportunity to address the legislative body remotely via call-in or internet-based service, as provided, and would require those persons commenting in a language other than English to have double the amount of time as those giving a comment in English, if time restrictions on public comment are utilized, except as specified.

Existing law, the Dymally-Alatorre Bilingual Services Act, requires any materials explaining services available to the public to be translated

into any non-English language spoken by a substantial number of the public, as defined, served by the agency, and requires every state and local agency serving a substantial number of non-English-speaking people, as defined, to employ a sufficient number of qualified bilingual persons in public contact positions or as interpreters to ensure provision of information and services in the language of the non-English-speaking person.

This bill would require legislative bodies of local agencies, and state bodies, as defined, to translate agendas and instructions for accessing the meeting to be translated into all languages for which 5% of the population in the area governed by the local agency, or state body’s jurisdiction, are speakers.

By imposing new duties on local governments with respect to meetings, this bill would impose 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.

The California Constitution requires local agencies, for the purpose of ensuring public access to the meetings of public bodies and the writings of public officials and agencies, to comply with a statutory enactment that amends or enacts laws relating to public records or open meetings and contains findings demonstrating that the enactment furthers the constitutional requirements relating to this purpose.

This bill would make legislative findings to that effect.

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

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

- 1 SECTION 1. Section 9027 of the Government Code is amended
- 2 to read:
- 3 9027. Except as otherwise provided in this article, all meetings
- 4 of a house of the Legislature or a committee thereof shall be open
- 5 and public, and all persons shall be permitted to attend the
- 6 meetings. *Additionally, all meetings shall include an opportunity*
- 7 *for all persons to attend via a call-in option or an internet-based*
- 8 *service option that provides closed captioning services. Both a*
- 9 *call-in and an internet-based service option shall be provided to*

1 *the public.* As used in this article, “meeting” means a gathering of  
2 a quorum of the members of a house or committee in one ~~plac~~  
3 *place, including a gathering using teleconference technology,* for  
4 the purpose of discussing legislative or other official matters within  
5 the jurisdiction of the house or committee. As used in this article,  
6 “committee” includes a standing committee, joint committee,  
7 conference committee, subcommittee, select committee, special  
8 committee, research committee, or any similar body.

9 SEC. 2. Section 9027.1 is added to the Government Code, to  
10 read:

11 9027.1. All meetings shall provide the public with an  
12 opportunity to comment on proposed legislation, either in person  
13 or remotely via call-in or internet-based service, consistent with  
14 requirements in Section 9027. Persons commenting in person shall  
15 not have more time or in any other way be prioritized over persons  
16 commenting remotely via call-in or internet-based service.  
17 Translation services shall be provided for the 10 most-spoken  
18 languages, other than English, in California. If there are time  
19 restrictions on public comment, persons giving a public comment  
20 in a language other than English shall have double the amount of  
21 time as those giving a comment in English to allow for translation,  
22 unless simultaneous translation equipment is available.

23 SEC. 3. Section 9028.1 is added to the Government Code, to  
24 read:

25 9028.1. Instructions on how to attend the meeting via call-in  
26 or internet-based service shall be posted online in an easily  
27 accessible location at the time the meeting is scheduled and notice  
28 of the meeting is published. The posted instructions shall include  
29 translations into the 10 most-spoken languages, other than English,  
30 in California, and shall list a hotline that members of the public  
31 can call for assistance, with assistance in the 10 most-spoken  
32 languages provided.

33 SEC. 4. Section 54953 of the Government Code is amended  
34 to read:

35 54953. (a) All meetings of the legislative body of a local  
36 agency shall be open and public, and all persons shall be permitted  
37 to attend any meeting of the legislative body of a local agency,  
38 except as otherwise provided in this chapter. *Additionally, all*  
39 *meetings shall include an opportunity for all persons to attend via*  
40 *a call-in option or an internet-based service option that provides*



1 *closed-captioning services. Both a call-in and an internet-based*  
2 *service option shall be provided to the public.*

3 (b) (1) Notwithstanding any other provision of law, the  
4 legislative body of a local agency may use teleconferencing for  
5 the benefit of the public and the legislative body of a local agency  
6 in connection with any meeting or proceeding authorized by law.  
7 The teleconferenced meeting or proceeding shall comply with all  
8 requirements of this chapter and all otherwise applicable provisions  
9 of law relating to a specific type of meeting or proceeding.

10 (2) Teleconferencing, as authorized by this section, may be used  
11 *by members of the legislative body* for all purposes in connection  
12 with any meeting within the subject matter jurisdiction of the  
13 legislative body. All votes taken during a teleconferenced meeting  
14 shall be by rollcall.

15 (3) If the legislative body of a local agency elects to use  
16 teleconferencing, *other than what is required by subdivision (a)*,  
17 it shall post agendas at all teleconference locations and conduct  
18 teleconference meetings in a manner that protects the statutory  
19 and constitutional rights of the parties or the public appearing  
20 before the legislative body of a local agency. Each teleconference  
21 location shall be identified in the notice and agenda of the meeting  
22 or proceeding, and each teleconference location shall be accessible  
23 to the public. During the teleconference, at least a quorum of the  
24 members of the legislative body shall participate from locations  
25 within the boundaries of the territory over which the local agency  
26 exercises jurisdiction, except as provided in subdivision (d). The  
27 agenda shall provide an opportunity for members of the public to  
28 address the legislative body directly pursuant to Section 54954.3  
29 at each teleconference location.

30 (4) For the purposes of this section, “teleconference” means a  
31 meeting of a legislative body, the members of which are in different  
32 locations, connected by electronic means, through either audio or  
33 video, or both. Nothing in this section shall prohibit a local agency  
34 from providing the public with additional teleconference locations.

35 (5) *Notwithstanding any laws that prohibit in-person government*  
36 *meetings in the case of a declared state of emergency, including*  
37 *a public health emergency, teleconferenced meetings shall include*  
38 *an in-person public comment opportunity, wherein members of*  
39 *the public can report to a designated site to give public comment*  
40 *in person.*

1 (c) (1) No legislative body shall take action by secret ballot,  
2 whether preliminary or final.

3 (2) The legislative body of a local agency shall publicly report  
4 any action taken and the vote or abstention on that action of each  
5 member present for the action.

6 (3) Prior to taking final action, the legislative body shall orally  
7 report a summary of a recommendation for a final action on the  
8 salaries, salary schedules, or compensation paid in the form of  
9 fringe benefits of a local agency executive, as defined in  
10 subdivision (d) of Section 3511.1, during the open meeting in  
11 which the final action is to be taken. This paragraph shall not affect  
12 the public's right under the California Public Records Act (Chapter  
13 3.5 (commencing with Section 6250) of Division 7 of Title 1) to  
14 inspect or copy records created or received in the process of  
15 developing the recommendation.

16 (d) (1) Notwithstanding the provisions relating to a quorum in  
17 paragraph (3) of subdivision (b), if a health authority conducts a  
18 teleconference meeting, members who are outside the jurisdiction  
19 of the authority may be counted toward the establishment of a  
20 quorum when participating in the teleconference if at least 50  
21 percent of the number of members that would establish a quorum  
22 are present within the boundaries of the territory over which the  
23 authority exercises jurisdiction, and the health authority provides  
24 a teleconference number, and associated access codes, if any, that  
25 allows any person to call in to participate in the meeting and the  
26 number and access codes are identified in the notice and agenda  
27 of the meeting.

28 (2) Nothing in this subdivision shall be construed as  
29 discouraging health authority members from regularly meeting at  
30 a common physical site within the jurisdiction of the authority or  
31 from using teleconference locations within or near the jurisdiction  
32 of the authority. A teleconference meeting for which a quorum is  
33 established pursuant to this subdivision shall be subject to all other  
34 requirements of this section.

35 (3) For purposes of this subdivision, a health authority means  
36 any entity created pursuant to Sections 14018.7, 14087.31,  
37 14087.35, 14087.36, 14087.38, and 14087.9605 of the Welfare  
38 and Institutions Code, any joint powers authority created pursuant  
39 to Article 1 (commencing with Section 6500) of Chapter 5 of  
40 Division 7 for the purpose of contracting pursuant to Section

1 14087.3 of the Welfare and Institutions Code, and any advisory  
2 committee to a county sponsored health plan licensed pursuant to  
3 Chapter 2.2 (commencing with Section 1340) of Division 2 of the  
4 Health and Safety Code if the advisory committee has 12 or more  
5 members.

6 SEC. 5. Section 54954.2 of the Government Code is amended  
7 to read:

8 54954.2. (a) (1) At least 72 hours before a regular meeting,  
9 the legislative body of the local agency, or its designee, shall post  
10 an agenda containing a brief general description of each item of  
11 business to be transacted or discussed at the meeting, including  
12 items to be discussed in closed session. A brief general description  
13 of an item generally need not exceed 20 words. The agenda shall  
14 specify the time and location of the regular meeting and shall be  
15 posted in a location that is freely accessible to members of the  
16 public and on the local agency's ~~Internet Web site~~, *internet website*,  
17 if the local agency has one. If requested, the agenda shall be made  
18 available in appropriate alternative formats to persons with a  
19 disability, as required by Section 202 of the Americans with  
20 Disabilities Act of 1990 (42 U.S.C. Sec. 12132), and the federal  
21 rules and regulations adopted in implementation thereof. The  
22 agenda shall include information regarding how, to whom, and  
23 when a request for disability-related modification or  
24 accommodation, including auxiliary aids or services, may be made  
25 by a person with a disability who requires a modification or  
26 accommodation in order to participate in the public meeting. *In*  
27 *compliance with the Dymally-Alatorre Bilingual Services Act*  
28 *(Chapter 17.5 (commencing with Section 7290) of Division 7 of*  
29 *Title 1), agendas and instructions for accessing the meeting,*  
30 *whether teleconferenced or in person, shall be translated into all*  
31 *languages for which 5 percent of the population in the area*  
32 *governed by the local agency is a speaker.*

33 (2) For a meeting occurring on and after January 1, 2019, of a  
34 legislative body of a city, county, city and county, special district,  
35 school district, or political subdivision established by the state that  
36 has an ~~Internet Web site~~, *internet website*, the following provisions  
37 shall apply:

38 (A) An online posting of an agenda shall be posted on the  
39 primary ~~Internet Web site~~ *internet website* homepage of a city,  
40 county, city and county, special district, school district, or political

1 subdivision established by the state that is accessible through a  
2 prominent, direct link to the current agenda. The direct link to the  
3 agenda shall not be in a contextual menu; however, a link in  
4 addition to the direct link to the agenda may be accessible through  
5 a contextual menu.

6 (B) An online posting of an agenda including, but not limited  
7 to, an agenda posted in an integrated agenda management platform,  
8 shall be posted in an open format that meets all of the following  
9 requirements:

10 (i) Retrievable, downloadable, indexable, and electronically  
11 searchable by commonly used Internet search applications.

12 (ii) Platform independent and machine readable.

13 (iii) Available to the public free of charge and without any  
14 restriction that would impede the reuse or redistribution of the  
15 agenda.

16 (C) A legislative body of a city, county, city and county, special  
17 district, school district, or political subdivision established by the  
18 state that has an ~~Internet Web site~~ *internet website* and an integrated  
19 agenda management platform shall not be required to comply with  
20 subparagraph (A) if all of the following are met:

21 (i) A direct link to the integrated agenda management platform  
22 shall be posted on the primary ~~Internet Web site~~ *internet website*  
23 homepage of a city, county, city and county, special district, school  
24 district, or political subdivision established by the state. The direct  
25 link to the integrated agenda management platform shall not be in  
26 a contextual menu. When a person clicks on the direct link to the  
27 integrated agenda management platform, the direct link shall take  
28 the person directly to an ~~Internet Web site~~ *internet website* with  
29 the agendas of the legislative body of a city, county, city and  
30 county, special district, school district, or political subdivision  
31 established by the state.

32 (ii) The integrated agenda management platform may contain  
33 the prior agendas of a legislative body of a city, county, city and  
34 county, special district, school district, or political subdivision  
35 established by the state for all meetings occurring on or after  
36 January 1, 2019.

37 (iii) The current agenda of the legislative body of a city, county,  
38 city and county, special district, school district, or political  
39 subdivision established by the state shall be the first agenda  
40 available at the top of the integrated agenda management platform.

1 (iv) All agendas posted in the integrated agenda management  
2 platform shall comply with the requirements in clauses (i), (ii),  
3 and (iii) of subparagraph (B).

4 (D) For the purposes of this paragraph, both of the following  
5 definitions shall apply:

6 (i) “Integrated agenda management platform” means an ~~Internet~~  
7 ~~Web site~~ *internet website* of a city, county, city and county, special  
8 district, school district, or political subdivision established by the  
9 state dedicated to providing the entirety of the agenda information  
10 for the legislative body of the city, county, city and county, special  
11 district, school district, or political subdivision established by the  
12 state to the public.

13 (ii) “Legislative body” has the same meaning as that term is  
14 used in subdivision (a) of Section 54952.

15 (E) The provisions of this paragraph shall not apply to a political  
16 subdivision of a local agency that was established by the legislative  
17 body of the city, county, city and county, special district, school  
18 district, or political subdivision established by the state.

19 (3) No action or discussion shall be undertaken on any item not  
20 appearing on the posted agenda, except that members of a  
21 legislative body or its staff may briefly respond to statements made  
22 or questions posed by persons exercising their public testimony  
23 rights under Section 54954.3. In addition, on their own initiative  
24 or in response to questions posed by the public, a member of a  
25 legislative body or its staff may ask a question for clarification,  
26 make a brief announcement, or make a brief report ~~on his or her~~  
27 *the member’s* own activities. Furthermore, a member of a  
28 legislative body, or the body itself, subject to rules or procedures  
29 of the legislative body, may provide a reference to staff or other  
30 resources for factual information, request staff to report back to  
31 the body at a subsequent meeting concerning any matter, or take  
32 action to direct staff to place a matter of business on a future  
33 agenda.

34 (b) Notwithstanding subdivision (a), the legislative body may  
35 take action on items of business not appearing on the posted agenda  
36 under any of the conditions stated below. Prior to discussing any  
37 item pursuant to this subdivision, the legislative body shall publicly  
38 identify the item.

1 (1) Upon a determination by a majority vote of the legislative  
2 body that an emergency situation exists, as defined in Section  
3 54956.5.

4 (2) Upon a determination by a two-thirds vote of the members  
5 of the legislative body present at the meeting, or, if less than  
6 two-thirds of the members are present, a unanimous vote of those  
7 members present, that there is a need to take immediate action and  
8 that the need for action came to the attention of the local agency  
9 subsequent to the agenda being posted as specified in subdivision  
10 (a).

11 (3) The item was posted pursuant to subdivision (a) for a prior  
12 meeting of the legislative body occurring not more than five  
13 calendar days prior to the date action is taken on the item, and at  
14 the prior meeting the item was continued to the meeting at which  
15 action is being taken.

16 (c) This section is necessary to implement and reasonably within  
17 the scope of paragraph (1) of subdivision (b) of Section 3 of Article  
18 I of the California Constitution.

19 (d) For purposes of subdivision (a), the requirement that the  
20 agenda be posted on the local agency's ~~Internet Web site, internet~~  
21 *website*, if the local agency has one, shall only apply to a legislative  
22 body that meets either of the following standards:

23 (1) A legislative body as that term is defined by subdivision (a)  
24 of Section 54952.

25 (2) A legislative body as that term is defined by subdivision (b)  
26 of Section 54952, if the members of the legislative body are  
27 compensated for their appearance, and if one or more of the  
28 members of the legislative body are also members of a legislative  
29 body as that term is defined by subdivision (a) of Section 54952.

30 SEC. 6. Section 54954.3 of the Government Code is amended  
31 to read:

32 54954.3. (a) Every agenda for regular meetings shall provide  
33 an opportunity for members of the public to directly address the  
34 legislative body on any item of interest to the public, before or  
35 during the legislative body's consideration of the item, that is  
36 within the subject matter jurisdiction of the legislative body,  
37 provided that no action shall be taken on any item not appearing  
38 on the agenda unless the action is otherwise authorized by  
39 subdivision (b) of Section 54954.2. *All meetings must also provide*  
40 *the public with an opportunity to address the legislative body*

1 *remotely via call-in and internet-based service, consistent with*  
2 *requirements in Section 54953. Persons commenting in person*  
3 *shall not have more time or in any other way be prioritized over*  
4 *persons commenting remotely via call-in or internet-based service.*  
5 *Instructions on how to attend the meeting via call-in or*  
6 *internet-based service shall be posted online along with the meeting*  
7 *agenda in an easily accessible location.* However, the agenda need  
8 not provide an opportunity for members of the public to address  
9 the legislative body on any item that has already been considered  
10 by a committee, composed exclusively of members of the  
11 legislative body, at a public meeting wherein all interested members  
12 of the public were afforded the opportunity to address the  
13 committee on the item, before or during the committee's  
14 consideration of the item, unless the item has been substantially  
15 changed since the committee heard the item, as determined by the  
16 legislative body. Every notice for a special meeting shall provide  
17 an opportunity for members of the public to directly address the  
18 legislative body concerning any item that has been described in  
19 the notice for the meeting before or during consideration of that  
20 item.

21 (b) (1) The legislative body of a local agency may adopt  
22 reasonable regulations to ensure that the intent of subdivision (a)  
23 is carried out, including, but not limited to, regulations limiting  
24 the total amount of time allocated for public testimony on particular  
25 issues and for each individual speaker.

26 (2) Notwithstanding paragraph (1), when the legislative body  
27 of a local agency limits time for public comment, the legislative  
28 body of a local agency shall provide at least twice the allotted time  
29 to a member of the public who utilizes a translator to ensure that  
30 non-English speakers receive the same opportunity to directly  
31 address the legislative body of a local agency.

32 (3) Paragraph (2) shall not apply if the legislative body of a  
33 local agency utilizes simultaneous translation equipment in a  
34 manner that allows the legislative body of a local agency to hear  
35 the translated public testimony simultaneously.

36 (c) The legislative body of a local agency shall not prohibit  
37 public criticism of the policies, procedures, programs, or services  
38 of the agency, or of the acts or omissions of the legislative body.  
39 Nothing in this subdivision shall confer any privilege or protection  
40 for expression beyond that otherwise provided by law.

1 (d) Legislative bodies of local agencies shall employ a sufficient  
2 amount of qualified bilingual persons to provide translation during  
3 the meeting in the language of the non-English-speaking person,  
4 in jurisdictions which govern a substantial number of  
5 non-English-speaking people. “Non-English-speaking people” is  
6 defined as members of a group who either do not speak English,  
7 or who are unable to effectively communicate in English because  
8 it is not their native language, and who comprise 5 percent or  
9 more of the people served by the statewide or any local office or  
10 facility of a state agency.

11 SEC. 7. Section 11122.5 of the Government Code is amended  
12 to read:

13 11122.5. (a) As used in this article, “meeting” includes any  
14 congregation of a majority of the members of a state ~~body~~ body,  
15 including a virtual congregation using teleconference technology,  
16 at the same time and place to hear, discuss, or deliberate upon any  
17 item that is within the subject matter jurisdiction of the state body  
18 to which it pertains.

19 (b) (1) A majority of the members of a state body shall not,  
20 outside of a meeting authorized by this chapter, use a series of  
21 communications of any kind, directly or through intermediaries,  
22 to discuss, deliberate, or take action on any item of business that  
23 is within the subject matter of the state body.

24 (2) Paragraph (1) shall not be construed to prevent an employee  
25 or official of a state agency from engaging in separate  
26 conversations or communications outside of a meeting authorized  
27 by this chapter with members of a legislative body in order to  
28 answer questions or provide information regarding a matter that  
29 is within the subject matter jurisdiction of the state agency, if that  
30 person does not communicate to members of the legislative body  
31 the comments or position of any other member or members of the  
32 legislative body.

33 (c) The prohibitions of this article do not apply to any of the  
34 following:

35 (1) Individual contacts or conversations between a member of  
36 a state body and any other person that do not violate subdivision  
37 (b).

38 (2) (A) The attendance of a majority of the members of a state  
39 body at a conference or similar gathering open to the public that  
40 involves a discussion of issues of general interest to the public or



1 to public agencies of the type represented by the state body, if a  
2 majority of the members do not discuss among themselves, other  
3 than as part of the scheduled program, business of a specified  
4 nature that is within the subject matter jurisdiction of the state  
5 body.

6 (B) Subparagraph (A) does not allow members of the public  
7 free admission to a conference or similar gathering at which the  
8 organizers have required other participants or registrants to pay  
9 fees or charges as a condition of attendance.

10 (3) The attendance of a majority of the members of a state body  
11 at an open and publicized meeting organized to address a topic of  
12 state concern by a person or organization other than the state body,  
13 if a majority of the members do not discuss among themselves,  
14 other than as part of the scheduled program, business of a specific  
15 nature that is within the subject matter jurisdiction of the state  
16 body.

17 (4) The attendance of a majority of the members of a state body  
18 at an open and noticed meeting of another state body or of a  
19 legislative body of a local agency as defined by Section 54951, if  
20 a majority of the members do not discuss among themselves, other  
21 than as part of the scheduled meeting, business of a specific nature  
22 that is within the subject matter jurisdiction of the other state body.

23 (5) The attendance of a majority of the members of a state body  
24 at a purely social or ceremonial occasion, if a majority of the  
25 members do not discuss among themselves business of a specific  
26 nature that is within the subject matter jurisdiction of the state  
27 body.

28 (6) The attendance of a majority of the members of a state body  
29 at an open and noticed meeting of a standing committee of that  
30 body, if the members of the state body who are not members of  
31 the standing committee attend only as observers.

32 SEC. 8. Section 11123 of the Government Code is amended  
33 to read:

34 11123. (a) All meetings of a state body shall be open and  
35 public and all persons shall be permitted to attend any meeting of  
36 a state body except as otherwise provided in this article.  
37 *Additionally, all meetings shall include an opportunity for all*  
38 *persons to attend via a call-in option or an internet-based service*  
39 *option that provides closed captioning services. Both a call-in and*  
40 *an internet-based service option shall be provided to the public.*

1 (b) (1) This article does not prohibit a state body from holding  
2 an open or closed meeting by teleconference for the benefit of the  
3 public and state body. The meeting or proceeding held by  
4 teleconference shall otherwise comply with all applicable  
5 requirements or laws relating to a specific type of meeting or  
6 proceeding, including the following:

7 (A) The teleconferencing meeting shall comply with all  
8 requirements of this article applicable to other meetings.

9 (B) The portion of the teleconferenced meeting that is required  
10 to be open to the public shall be audible to the public at the location  
11 specified in the notice of the meeting.

12 (C) If the state body elects to conduct a meeting or proceeding  
13 by teleconference, *other than what is required by subdivision (a)*  
14 *and such that all members of the body that are present at the*  
15 *meeting are teleconferencing into the meeting*, it shall post agendas  
16 at all teleconference locations and conduct teleconference meetings  
17 in a manner that protects the rights of any party or member of the  
18 public appearing before the state body. Each teleconference  
19 location shall be identified in the notice and agenda of the meeting  
20 or proceeding, and each teleconference location shall be accessible  
21 to the public. The agenda shall provide an opportunity for members  
22 of the public to address the state body directly pursuant to Section  
23 11125.7 at each teleconference location.

24 (D) All votes taken during a teleconferenced meeting shall be  
25 by rollcall.

26 (E) The portion of the teleconferenced meeting that is closed  
27 to the public may not include the consideration of any agenda item  
28 being heard pursuant to Section 11125.5.

29 (F) At least one member of the state body shall be physically  
30 present at the location specified in the notice of the ~~meeting~~.  
31 *meeting to ensure that members of the public are able to give*  
32 *public comment in person. This location must be publicly accessible*  
33 *and able to accommodate a reasonable amount of people, given*  
34 *the circumstances.*

35 (2) For the purposes of this subdivision, “teleconference” means  
36 a meeting of a state body, the members of which are at different  
37 locations, connected by electronic means, through either audio or  
38 both audio and video. ~~This~~ *While this section requires that both*  
39 *an call-in and internet-based service are available to the public*  
40 *to join all open meetings that are held in-person, this section does*

1 not prohibit a state body from providing members of the public  
2 with additional locations in *or opportunities* by which the public  
3 may observe or address the state body by electronic means, through  
4 either audio or both audio and video.

5 *(c) Instructions on how to attend the meeting via call-in or*  
6 *internet-based service shall be posted online along with the meeting*  
7 *agenda in an easily accessible location at least 72 hours before*  
8 *all regular meetings and at least 24 hours before all special*  
9 *meetings. In compliance with the Dymally-Alatorre Bilingual*  
10 *Services Act(Chapter 17.5 (commencing with Section 7290) of*  
11 *Division 7 of Title 1), the posted instructions shall also be*  
12 *translated into all languages of which 5 percent of the population*  
13 *of the state body's jurisdiction speaks.*

14 ~~(e)~~

15 *(d) The state body shall publicly report any action taken and*  
16 *the vote or abstention on that action of each member present for*  
17 *the action.*

18 SEC. 9. Section 11125.7 of the Government Code is amended  
19 to read:

20 11125.7. (a) Except as otherwise provided in this section, the  
21 state body shall provide an opportunity for members of the public  
22 to directly address the state body on each agenda item before or  
23 during the state body's discussion or consideration of the item.  
24 This section is not applicable if the agenda item has already been  
25 considered by a committee composed exclusively of members of  
26 the state body at a public meeting where interested members of  
27 the public were afforded the opportunity to address the committee  
28 on the item, before or during the committee's consideration of the  
29 item, unless the item has been substantially changed since the  
30 committee heard the item, as determined by the state body. Every  
31 notice for a special meeting at which action is proposed to be taken  
32 on an item shall provide an opportunity for members of the public  
33 to directly address the state body concerning that item prior to  
34 action on the item. In addition, the notice requirement of Section  
35 11125 shall not preclude the acceptance of testimony at meetings,  
36 other than emergency meetings, from members of the public if no  
37 action is taken by the state body at the same meeting on matters  
38 brought before the body by members of the public.

39 *(b) In compliance with subdivision (a) of Section 11123, public*  
40 *comment shall be made available for those attending any meeting*

1 *via call-in or internet-based service option. Persons commenting*  
 2 *in person shall not have more time or in any other way be*  
 3 *prioritized over persons commenting remotely via call-in or*  
 4 *internet-based service.*

5 ~~(b)~~

6 (c) The state body may adopt reasonable regulations to ensure  
 7 that the intent of subdivision (a) is carried out, including, but not  
 8 limited to, regulations limiting the total amount of time allocated  
 9 for public comment on particular issues and for each individual  
 10 speaker.

11 ~~(c)~~

12 (d) (1) Notwithstanding subdivision (b), when a state body  
 13 limits time for public comment the state body shall provide at least  
 14 twice the allotted time to a member of the public who utilizes a  
 15 translator to ensure that non-English speakers receive the same  
 16 opportunity to directly address the state body. *In compliance with*  
 17 *the Dymally-Alatorre Bilingual Services Act (Chapter 17.5*  
 18 *(commencing with Section 7290) of Division 7 of Title 1),*  
 19 *translation services shall be provided for all languages of which*  
 20 *5 percent of the population of the state body's jurisdiction speaks.*  
 21 *Should there be a limit on speaking time, persons commenting in*  
 22 *another language shall be given twice as much time as those*  
 23 *commenting in English in order to accommodate time for*  
 24 *translation services. This is not required when simultaneous*  
 25 *translation services are available.*

26 (2) Paragraph (1) shall not apply if the state body utilizes  
 27 simultaneous translation equipment in a manner that allows the  
 28 state body to hear the translated public testimony simultaneously.

29 ~~(d)~~

30 (e) The state body shall not prohibit public criticism of the  
 31 policies, programs, or services of the state body, or of the acts or  
 32 omissions of the state body. Nothing in this subdivision shall confer  
 33 any privilege or protection for expression beyond that otherwise  
 34 provided by law.

35 ~~(e)~~

36 (f) This section is not applicable to closed sessions held pursuant  
 37 to Section 11126.

38 ~~(f)~~

39 (g) This section is not applicable to decisions regarding  
 40 proceedings held pursuant to Chapter 5 (commencing with Section

1 11500), relating to administrative adjudication, or to the conduct  
2 of those proceedings.

3 ~~(g)~~

4 (h) This section is not applicable to hearings conducted by the  
5 California Victim Compensation Board pursuant to Sections 13963  
6 and 13963.1.

7 ~~(h)~~

8 (i) This section is not applicable to agenda items that involve  
9 decisions of the Public Utilities Commission regarding adjudicatory  
10 hearings held pursuant to Chapter 9 (commencing with Section  
11 1701) of Part 1 of Division 1 of the Public Utilities Code. For all  
12 other agenda items, the commission shall provide members of the  
13 public, other than those who have already participated in the  
14 proceedings underlying the agenda item, an opportunity to directly  
15 address the commission before or during the commission's  
16 consideration of the item.

17 SEC. 10. No reimbursement is required by this act pursuant to  
18 Section 6 of Article XIII B of the California Constitution because  
19 the only costs that may be incurred by a local agency or school  
20 district under this act would result from a legislative mandate that  
21 is within the scope of paragraph (7) of subdivision (b) of Section  
22 3 of Article I of the California Constitution.

23 SEC. 11. The Legislature finds and declares that Sections 4,  
24 5, and 6 of this act, which amend Section 54953, 54954.2, and  
25 54954.3 of the Government Code, further, within the meaning of  
26 paragraph (7) of subdivision (b) of Section 3 of Article I of the  
27 California Constitution, the purposes of that constitutional section  
28 as it relates to the right of public access to the meetings of local  
29 public bodies or the writings of local public officials and local  
30 agencies. Pursuant to paragraph (7) of subdivision (b) of Section  
31 3 of Article I of the California Constitution, the Legislature makes  
32 the following findings:

33 The provisions of the act allow for greater public access through  
34 requiring specified entities to provide a call-in and internet-based  
35 service and instructions on how to access these options to the public  
36 for specified meetings and allow for greater accommodations for  
37 non-English speakers attending the meetings.

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**Agenda Item 8  
April 13, 2021**

**Review, Discussion and Possible Action Regarding the AB 646 (Low) Department  
of Consumer Affairs: Boards: Expunged Convictions**

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**Purpose of the item**

This agenda item has been included to provide the Committee with an update on AB 646.

**Action(s) requested**

The Committee will be asked to review and discuss AB 646. If necessary, the Committee will have an opportunity to take a position on this bill.

**Background**

Board staff is monitoring and tracking several bills introduced during the current two-year legislative session.

AB 646 (Low) requires a board within the Department of Consumer Affairs (DCA) that posts information on its website about a revoked license due to a criminal to update or remove such information within 90 days of receipt of an expungement order related to the conviction.

**Recommendation(s)**

N/A

**Next Step**

N/A

**Attachment(s)**

- AB 646 analysis / text

## **Board of Chiropractic Examiners Bill Analysis**

**Bill Number:** AB 646

**Author:** Assembly member Evan Low

**Bill Version:** Introduced February 12, 2021

**Subject:** Department of Consumer Affairs: boards: expunged convictions

**Sponsor:** Author

**Status of Bill:** Passed Committee on Business and Professions on March 23, 2021 (17-0); Re-referred to the Committee on Appropriations.

### **Summary:**

This bill requires a board within the Department of Consumer Affairs (DCA) that posts information on its website about a revoked license due to a criminal to update or remove such information within 90 days of receipt of an expungement order related to the conviction.

### **Existing Law:**

- Authorizes a board to suspend or revoke a license on the grounds that a conviction of a crime is substantially related to the qualifications, functions or duties of the profession for which the license was issued. (BPC §490)
- Requires certain boards to publish on their website information on accusations, suspensions, revocations and related disciplinary actions taken by a board against a licensee under its jurisdiction. (BPC §27)
- Provides for a post-conviction expungement process for individuals convicted of a crime.
  - Authorizes a judicial court to dismiss a person's guilty verdict and release them from any penalty that was issued as a result of the conviction if certain requirements are met: (PEN § 1203.4)
    - a) The person has fulfilled their conditions of probation in its entirety;
    - b) The person is not serving a prison sentence and is not charged with a crime.

### **This Bill Would:**

Add Section 493.5 to the Business and Professions Code to:

- Require a board to update information on its website for individuals who had their license revoked upon receipt of an expungement order granted to a former licensee. Specifically, a board would be required to:
  - a) Post notification of the expungement order and the date it was granted, if the former licensee reapplies for licensure or has been relicensed.
  - b) Remove the original posted information on the license revocation and arrests, charges and convictions, if the former licensee is not currently licensed and does not apply for licensure.

- Require a person seeking to have their license revocation history updated or removed to pay \$50 fee to the Board, unless another amount is determined by the Board to be necessary to cover the cost of administering the bill's provision.

**Background:**

According to the author's office:

In 2018, the legislature enacted AB 2138, which, among other provisions to reduce barriers to licensure, enumerates what criteria the boards must consider to determine whether a crime is substantially related to the profession. Effective July 1, 2020, boards will need to examine factors such as the nature and gravity of the offense, the number of years elapsed since the offense, and evidence of rehabilitation.

This bill is designed to reduce employment barriers for people with previous criminal records who have been rehabilitated and whose convictions have been expunged through the judicial process.

While an expungement does not eliminate the person's records, it provides a potential opportunity for a rehabilitated individual to secure employment through state licensure. If the individual agrees to not seek to practice in the profession for which the license was revoked, it is fair, provided expungement, to give the individual a chance for a new start.

**Fiscal Impact:**

It is unclear whether there will be a significant increase in workload as a result of this bill. It is difficult to estimate the fiscal impact because costs may vary significantly on the need to validate expungement orders.

**Support & Opposition:**

Support:

- California Psychological Association
- Contractors State License Board

Opposition: None on file

**Arguments:**

Pro:



- According to the author, this bill is designed to reduce employment barriers for people with previous criminal records who have been rehabilitated and whose convictions have been expunged through the judicial process.
- The California Psychological Association, claims “[W]hile an expungement does not eliminate the person’s record, it provides a potential opportunity for a rehabilitated individual to secure employment through state licensure. Further, if the individual agrees to not seek to practice in the profession for which the license was revoked, it is fair, provided expungement, to give the individual a chance for a new start by removing the record of the license revocation.”
- The Contractor’s State License Board (CSLB) has adopted a Strategic Plan objective to review barriers to licensure regarding criminal background information and make changes where possible to encourage licensure. CSLB states it seems fair that the CSLB website note, when appropriate under the circumstances prescribed in the bill, that a licensee has been found rehabilitated by virtue of a crime being expunged.

Con:

- Current law ensures consumers have access to information concerning disciplinary action taken against a provider’s professional license, which is sometimes based on criminal convictions the Board determines to be substantially related to their professional practice. It’s not uncommon for a health care board, such as the BCE to discipline (including revocation) a licensee who was convicted of sexual assault or other violent crimes, insurance fraud, and certain drug- and/or alcohol-related crimes. The BCE doesn’t post information about a licensee’s criminal conviction unless and until, we have commenced formal disciplinary action, such as filing an accusation. Currently, disciplinary documents, such as accusations and disciplinary orders are considered public documents, which are accessible on our website and available to the public upon request. It’s not clear whether this bill would require the Board to remove all references to discipline stemming from a criminal conviction.

By limiting the disciplinary information available to the public, this bill might undermine consumer confidence in regulatory boards and the professions they regulate.

- It is unclear whether this bill would restrict a board’s ability to provide a complete disciplinary history in response to a Public Records Act request.

**Staff Recommended Position: WATCH**

Staff is supportive of removing employment barriers to licensed professionals. Further research is necessary to ensure this bill does not impede the Board’s ability to protect consumers by limiting our ability to provide a complete disciplinary history. Consumers who take the time to

research their health care providers need to have confidence in the information they receive from the Board.

In addition, it's not clear if this bill will result in additional workload and expenses for the Board and whether the fee authorized by the bill will be sufficient to cover those costs.

**ASSEMBLY BILL**

**No. 646**

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**Introduced by Assembly ~~Member Low~~ *Members Low, Cunningham,  
and Gipson***

(Coauthor: Senator Roth)

February 12, 2021

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An act to add Section 493.5 to the Business and Professions Code, relating to professions and vocations.

legislative counsel's digest

AB 646, as introduced, Low. Department of Consumer Affairs: boards: expunged convictions.

Existing law establishes the Department of Consumer Affairs, which is composed of various boards, and authorizes a board to suspend or revoke a license on the ground that the licensee has been convicted of a crime substantially related to the qualifications, functions, or duties of the business or profession for which the license was issued. Existing law, the Medical Practice Act, provides for the licensure and regulation of the practice of medicine by the Medical Board of California and requires the board to post certain historical information on current and former licensees, including felony and certain misdemeanor convictions. Existing law also requires the Medical Board of California, upon receipt of a certified copy of an expungement order from a current or former licensee, to post notification of the expungement order and the date thereof on its internet website.

This bill would require a board within the department that has posted on its internet website that a person's license was revoked because the person was convicted of a crime, within 90 days of receiving an expungement order for the underlying offense from the person, if the

person reapplies for licensure or is relicensed, to post notification of the expungement order and the date thereof on the board's internet website. The bill would require the board, on receiving an expungement order, if the person is not currently licensed and does not reapply for licensure, to remove within the same period the initial posting on its internet website that the person's license was revoked and information previously posted regarding arrests, charges, and convictions. The bill would require a person in either case to pay a \$50 fee to the board, unless another amount is determined by the board to be necessary to cover the cost of administering the bill's provisions.

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

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

1 SECTION 1. Section 493.5 is added to the Business and  
2 Professions Code, to read:  
3 493.5. (a) A board within the department that has posted on  
4 its internet website that a person's license was revoked because  
5 the person was convicted of a crime, upon receiving from the  
6 person a certified copy of an expungement order granted pursuant  
7 to Section 1203.4 of the Penal Code for the underlying offense,  
8 shall, within 90 days of receiving the expungement order, unless  
9 it is otherwise prohibited by law, or by other terms or conditions,  
10 do either of the following:  
11 (1) If the person reapplies for licensure or has been relicensed,  
12 post notification of the expungement order and the date thereof on  
13 its internet website.  
14 (2) If the person is not currently licensed and does not reapply  
15 for licensure, remove the initial posting on its internet website that  
16 the person's license was revoked and information previously posted  
17 regarding arrests, charges, and convictions.  
18 (b) A person described in subdivision (a) shall pay to the board  
19 a fee in the amount of fifty dollars (\$50), unless another amount  
20 is determined by the board to be necessary to cover the  
21 administrative cost, ensuring that the amount does not exceed the  
22 reasonable cost of administering this section. The fee shall be  
23 deposited by the board into the appropriate fund and shall be  
24 available only upon appropriation by the Legislature.

1 (c) For purposes of this section, “board” means an entity listed  
2 in Section 101.

3 (d) If any provision in this section conflicts with Section 2027,  
4 Section 2027 shall prevail.

5

6

7 **REVISIONS:**

8 **Heading—Line 1.**

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**Agenda Item 9  
April 13, 2021**

**Review, Discussion and Possible Action Regarding the AB 1236 (Ting) Healing  
Arts: Data Collection**

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**Purpose of the item**

This agenda item has been included to provide the Committee with an update on AB 1236.

**Action(s) requested**

The Committee will be asked to review and discuss AB 1236. If necessary, the Committee will have an opportunity to take a position on this bill.

**Background**

Board staff is monitoring and tracking several bills introduced during the current two-year legislative session.

AB 1236 (Ting) requires all healing arts boards within DCA to collect standardized licensee demographic data and post that information on their website. This bill also requires the aggregate information to be reported to the Office of Statewide Health Planning and Development (OSHPD) annually for future workforce planning.

**Recommendation(s)**

N/A

**Next Step**

N/A

**Attachment(s)**

- AB 1236 analysis / text

## **Board of Chiropractic Examiners Bill Analysis**

**Bill Number:** AB 1236  
**Author:** Assembly member Phil Ting  
**Bill Version:** Introduced February 19, 2021  
**Subject:** Healing arts: licensees: data collection  
**Sponsor:** SF Jewish Vocational Services (Sponsor)  
California Pan-Ethnic Health Network (Sponsor)  
**Status of Bill:** in Assembly Committee on Business and Professions. Hearing Date: April 27, 2021.

### **Summary:**

This bill requires all healing arts boards within DCA to collect standardized licensee demographic data and post that information on their website. This bill also requires the aggregate information to be reported to the Office of Statewide Health Planning and Development (OSHPD) annually for future workforce planning.

### **Existing Law:**

- Requires specified healing arts boards, including the Board of Registered Nursing, the Physician Assistant Board, and the Board of Vocational Nursing, to collect and report standardized licensee demographic data to the OSHPD.
- Requires these boards to collect workforce data at least biennially, at the times of both issuing an initial license and issuing a renewal license.
- Authorizes the Board of Registered Nursing to expend \$145,000 to implement these provisions.
- Requires that access to public meetings is restricted when discussing confidential information
- Exempts discussion or meeting materials prepared for a matter to be discussed in a closed session of a state body.

### **This Bill Would:**

Add Section 502 to the Business and Professions Code to:

- Repeal board-specific data collection requirements and would, instead, require all healing arts boards to collect at the time of electronic application for a license and license renewal, or at least biennially, specified licensee demographic information and to post the aggregated/deidentified information on their websites.
- Require that all healing arts programs report the information annually to the OSHPD.

**Background:**

According to the author’s office:

For millions of Californians, comprehensive access to healthcare depends on professionals who can provide culturally and linguistically appropriate medical services. The state collects data on some healthcare occupations, but the current data is insufficient for determining the state’s capacity to address the needs of our diverse population. California needs a workforce that has the skills, cultural competency, and linguistic expertise needed to properly reach and treat diverse communities.

Recent data has suggested that communities of color are more likely to use needed health care services and report better patient satisfaction when their provider speaks their language or shares the same cultural background. Although our state is growing more and more diverse, wide disparities in the quality of care and health outcomes persist across all racial and ethnic groups.

To make progress on this issue, we must expand demographic data collection on healthcare workers. By expanding demographic data collection, the state can better identify healthcare disparities in the workforce and craft solutions to ensure comprehensive coverage and greater healthcare access for all Californians.

**Fiscal Impact:**

Unknown at this time but likely significant and not absorbable within existing resources.

**Support & Opposition:**

Support:

- SF Jewish Vocational Services (Sponsor)
- California Pan-Ethnic Health Network (Sponsor)

Opposition: None on file

**Arguments:**

Pro:

- According to the author’s office, the demographic data collected will help identify and address disparities in the workforce so the state can have a greater sense of the workforce shortage needs across California and conduct more targeted outreach strategies.



- The Sponsor of this bill, SF Jewish Vocational Services, states this data would be critical in helping California build and support the robust and diverse health workforce required to meet California's changing demographics and growing demands for health care services.

Con:

- This bill would not only require an automated reporting process to collect the data annually, it would also increase the Board's workload as staff will be required to take additional steps to review paper applications and license renewals.

**Staff Recommended Position: WATCH**

Board Staff is supportive of efforts to provide demographic information to consumers so they will have additional resources to inform they're decision when selecting a health provider. However, the Board's budget is already strained, and this bill will likely result in additional workload and expenditures.

Currently, the fiscal and workload impact associated with this bill is unknown. Board staff will need more time to determine the actual impact and there are efficient and cost-effective methods of collecting and reporting the information identified in the bill.

**Introduced by Assembly Member Ting**

February 19, 2021

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An act to add Section 502 to, and to repeal Sections 2717, 2852.5, 3518.1, 3770.1, and 4506 of, the Business and Professions Code, relating to healing arts.

legislative counsel's digest

AB 1236, as introduced, Ting. Healing arts: licensees: data collection.

Existing law requires the Board of Registered Nursing, the Physician Assistant Board, the Respiratory Care Board of California, and the Board of Vocational Nursing and Psychiatric Technicians of the State of California to regulate and oversee the practice of healing arts within their respective jurisdictions and to, among other things, collect and report specific demographic data relating to their licensees, subject to a licensee's discretion to report their race or ethnicity, to the Office of Statewide Health Planning and Development. Existing law requires these boards to collect this data at least biennially, at the times of both issuing an initial license and issuing a renewal license. Existing law also authorizes the Board of Registered Nursing to expend \$145,000 to implement these provisions.

This bill would repeal those provisions and would, instead, require all boards that oversee healing arts licensees to collect at the time of electronic application for a license and license renewal, or at least biennially, specified demographic information and to post the information on the internet websites that they each maintain.

This bill would, commencing July 1, 2022, require each board, or the Department of Consumer Affairs on its behalf, to provide the

information annually to the Office of Statewide Health Planning and Development. The bill would require these boards to maintain the confidentiality of the information they receive from licensees and to only release information in aggregate form, as specified.

Existing constitutional provisions require that a statute that limits the right of access to the meetings of public bodies or the writings of public officials and agencies be adopted with findings demonstrating the interest protected by the limitation and the need for protecting that interest.

This bill would make legislative findings to that effect.

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

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

- 1 SECTION 1. Section 502 is added to the Business and
- 2 Professions Code, to read:
- 3 502. (a) A board that supervises healing arts licensees under
- 4 this division shall collect workforce data from its licensees as
- 5 specified in subdivision (b) for future workforce planning. The
- 6 data may be collected at the time of electronic application for a
- 7 license and license renewal, or at least biennially from a
- 8 scientifically selected random sample of licensees.
- 9 (b) (1) The workforce data collected by each board about its
- 10 licensees shall include, at a minimum, information concerning all
- 11 of the following:
- 12 (A) City, county, and ZIP Code of practice.
- 13 (B) Type of employer or classification of primary practice site
- 14 among the types of practice sites specified by the board, including,
- 15 but not limited to, clinic, hospital, managed care organization, or
- 16 private practice.
- 17 (C) Work hours.
- 18 (D) Titles of positions held.
- 19 (E) Time spent in direct patient care.
- 20 (F) Clinical practice area.
- 21 (G) Race or ethnicity, subject to paragraph (2).
- 22 (H) Gender or gender identity.
- 23 (I) Languages spoken.
- 24 (J) Educational background.
- 25 (K) Future work intentions.

1 (L) Job satisfaction ratings.

2 (2) A licensee may, but is not required to, report their race or  
3 ethnicity to the board.

4 (c) Each board shall maintain the confidentiality of the  
5 information it receives from licensees under this section and shall  
6 only release information in an aggregate form that cannot be used  
7 to identify an individual.

8 (d) Each board shall produce reports containing the workforce  
9 data it collects pursuant to this section, at a minimum, on a biennial  
10 basis. Aggregate information collected pursuant to this section  
11 shall be posted on each board's internet website.

12 (e) Each board, or the Department of Consumer Affairs on its  
13 behalf, shall, beginning on July 1, 2022, and annually thereafter,  
14 provide the data it collects pursuant to this section to the Office  
15 of Statewide Health Planning and Development in a manner  
16 directed by the office that allows for inclusion of the data into the  
17 annual report it produces pursuant to Section 128052 of the Health  
18 and Safety Code.

19 SEC. 2. Section 2717 of the Business and Professions Code is  
20 repealed.

21 SEC. 3. Section 2852.5 of the Business and Professions Code  
22 is repealed.

23 SEC. 4. Section 3518.1 of the Business and Professions Code  
24 is repealed.

25 SEC. 5. Section 3770.1 of the Business and Professions Code  
26 is repealed.

27 SEC. 6. Section 4506 of the Business and Professions Code is  
28 repealed.

29 SEC. 7. The Legislature finds and declares that Section 1 of  
30 this act, which adds Section 502 of the Business and Professions  
31 Code, imposes a limitation on the public's right of access to the  
32 meetings of public bodies or the writings of public officials and  
33 agencies within the meaning of Section 3 of Article I of the  
34 California Constitution. Pursuant to that constitutional provision,  
35 the Legislature makes the following findings to demonstrate the  
36 interest protected by this limitation and the need for protecting  
37 that interest:

- 1 In order to protect the privacy of licensees, while also gathering
- 2 useful workforce data, it is necessary that some information
- 3 collected from licensees only be released in aggregate form.

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**Agenda Item 10  
April 13, 2021**

**Review, Discussion and Possible Action Regarding the AB 1386 (Cunningham)  
License Fees: Military Partners and Spouses**

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**Purpose of the item**

This agenda item has been included to provide the Committee with an update on AB 1386.

**Action(s) requested**

The Committee will be asked to review and discuss AB 1386. If necessary, the Committee will have an opportunity to take a position on this bill.

**Background**

Board staff is monitoring and tracking several bills introduced during the current two-year legislative session.

AB 1386 (Cunningham) requires boards under the Department of Consumer Affairs (DCA) to waive license fees for partners and spouses of active military members if they (1) already hold a license in another state and (2) have been relocated due to their spouse's military duties.

**Recommendation(s)**

N/A

**Next Step**

N/A

**Attachment(s)**

- AB 1386 analysis / text

## **Board of Chiropractic Examiners Bill Analysis**

**Bill Number:** AB 1386  
**Author:** Assembly member Cunningham  
**Bill Version:** Introduced February 19, 2021  
**Subject:** License fees: military partners and spouses  
**Sponsor:** Author  
**Status of Bill:** in Assembly Committee on Business and Professions – Hearing Date: April 13, 2021.

### **Summary:**

This bill will require that boards under the Department of Consumer Affairs (DCA) waive license fees for partners and spouses of active military members if they (1) already hold a license in another state and (2) have been relocated due to their spouse's military duties.

### **Existing Law:**

- Requires a DCA board to expedite the licensure process for an applicant who holds a current license in another jurisdiction in the same profession or vocation and provides evidence that they are married to or in a domestic partnership or other legal union with an active duty member of the Armed Forces of the United States who is assigned to a duty station in this state under official active duty military orders.

### **This Bill Would:**

Amend Section 115.5 to the Business and Professions Code to:

- Prohibit a board from charging an initial or original license fee to an applicant who meets these expedited licensing requirements.

### **Background:**

According to the author, military families move significantly more often than their civilian counterparts; on average, they relocate every 2 to 3 years. Having to constantly relocate can have detrimental effects on the earnings of military spouses. In fact, a recent study found that spouses of active military members earned 14% less than their counterparts during the year of a move due to transitional job costs (Burke & Miller, 2016). This is particularly true when an individual has a profession that requires licensure and regulation by a board within DCA.

Currently, DCA expedites licenses for spouses of active military members that have been relocated. In order to receive this expedited license, however, these individuals are charged a

fee. This bill simply adds a provision to existing law that prohibits the Department from charging an original or initial licensing fee during that process.

**Fiscal Impact:**

This bill would have a negative impact on the Board’s strained budget. The Board receives approximately 5 applications from military partners and spouses each year. Currently, an applicant is required to pay \$371 for an application fee that covers the costs of processing the application. Once the applicant is eligible for a license, they are required to pay \$ 186 for the initial license fee to cover costs of issuing the license.

However, this bill would require the Board to waive initial license fees for those individuals, thereby resulting in a revenue loss of \$2,785 annually.

**Support & Opposition:**

Support: None on file

Opposition: None on file

**Arguments:**

Pro:

- The author states this bill seeks to ease some of the burden placed on military families following a service-related relocation.

Con:

- The Board charges applicants an application fee that covers the costs of processing the application and issuing the license once the applicant meets all of the qualifying requirements for licensure. However, it is unclear whether this bill would require the Board to waive all fees associated with obtaining a license.

In previous legislative sessions, there have been bills introduced that would have required boards to waive initial application fees and initial license fees for active duty military and military spouses. However, due to concerns with the wording in the bills versus the different application/licensure process and fees employed by various boards, the bills did not move forward.

**Staff Recommended Position: WATCH**

The Board’s main sources of revenue are fees charged to licensees. However, AB 1368 would prevent the Board from collecting license fees when expediting a license for spouses of active military members, thereby resulting in revenue loss for the Board.



**Introduced by Assembly Member Cunningham**

February 19, 2021

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An act to amend Section 115.5 of the Business and Professions Code, relating to professions and vocations.

legislative counsel's digest

AB 1386, as introduced, Cunningham. License fees: military partners and spouses.

Existing law provides for the licensure and regulation of various professions and vocations by boards within the Department of Consumer Affairs. Existing law requires a board to expedite the licensure process for an applicant who holds a current license in another jurisdiction in the same profession or vocation and provides evidence that they are married to or in a domestic partnership or other legal union with an active duty member of the Armed Forces of the United States who is assigned to a duty station in this state under official active duty military orders.

This bill would prohibit a board from charging an initial or original license fee to an applicant who meets these expedited licensing requirements.

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

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

- 1 SECTION 1. Section 115.5 of the Business and Professions
- 2 Code is amended to read:

1 115.5. (a) A board within the department shall expedite the  
2 licensure process for an applicant who meets both of the following  
3 requirements:  
4 (1) Supplies evidence satisfactory to the board that the applicant  
5 is married to, or in a domestic partnership or other legal union  
6 with, an active duty member of the Armed Forces of the United  
7 States who is assigned to a duty station in this state under official  
8 active duty military orders.  
9 (2) Holds a current license in another state, district, or territory  
10 of the United States in the profession or vocation for which the  
11 applicant seeks a license from the board.  
12 *(b) A board shall not charge an applicant who meets the*  
13 *requirements in subdivision (a) an initial or original license fee.*  
14 ~~(b)~~  
15 (c) A board may adopt regulations necessary to administer this  
16 section.

**Agenda Item 11  
April 13, 2021**

**Review, Discussion and Possible Action Regarding the AB 1468 (Cunningham)  
Prior Authorization**

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**Purpose of the item**

This agenda item has been included to provide the Committee with an update on AB 1468.

**Action(s) requested**

The Committee will be asked to review and discuss AB 1468. If necessary, the Committee will have an opportunity to take a position on this bill.

**Background**

Board staff is monitoring and tracking several bills introduced during the current two-year legislative session.

AB 1468 (Cunningham) prohibits a health care service plan contract or health insurance policy that provides coverage for a specified service, including chiropractic, from requiring prior authorization for the initial 12 treatment visits within a new episode of care.

**Recommendation(s)**

N/A

**Next Step**

N/A

**Attachment(s)**

- AB 1468 analysis / text

**Board of Chiropractic Examiners  
Bill Analysis**

**Bill Number:** AB 1468  
**Author:** Assembly member Cunningham  
**Bill Version:** Introduced February 19, 2021  
**Subject:** Prior Authorization  
**Sponsor:** California Physical Therapy Association  
**Status of Bill:** in Assembly Health Committee – Hearing Date: April 20, 2021.

**Summary:**

This bill prohibits a health care service plan contract or health insurance policy that provides coverage for a specified service, including chiropractic, from requiring prior authorization for the initial 12 treatment visits within a new episode of care.

**Existing Law:**

- Authorizes a health care service plan or health insurer to use prior authorization and utilization review, under which a licensed health care professional may approve, modify, delay, or deny requests for health care services based on medical necessity.
- Requires a health care service plan or health insurer to comply with specified requirements and limitations on their utilization review.

**This Bill Would:**

- Require a health care service plan or health insurer that implements an automated prior authorization system to use evidence-based clinical guidelines to program the systems and to make these guidelines transparent and accessible.
- Require a plan or insurer to ensure that a licensed physician or licensed health care professional makes the ultimate decision to deny or modify care by reviewing the case specific to the patient and not simply ratify an automated response.
- Prohibit a health care service plan contract that provides coverage for one of the following health care services from requiring prior authorization for the initial 12 treatment visits for a new episode of care:
  1. Chiropractic services.
  2. Physical therapy.
  3. Occupational therapy.
  4. Asian medicine.
  5. Speech language pathology.
  6. Auditory therapies.
- Permit a health care service plan to require a referral or prescription for the services described in the preceding bullet.

- Define “new episode of care” as treatment for a new or recurring condition for which the insured has not been treated by the provider within the previous 90 days and is not currently undergoing active treatment.

**Background:**

According to the sponsor, state law authorizes health care service plans and health insurers to use utilization review procedures to establish medical necessity for services. Such reviews are supposed to be done by a physician or other health care professional competent to evaluate clinical issues involved and must be: (1) based on sound clinical principals; (2) result in appropriate decisions; (3) be made in a timely fashion; and (4) fully communicated. However, health plans and insurers have been recently using automated systems to generate denials or modifications of treatment, without considering a patient’s specific authorization request.

From a patient’s perspective, they see delays in their care and may be faced with a decision to absorb the full payment to continue timely care, while the provider must complete a mountain of paperwork, fighting for a couple more visits – a cycle that often repeats over and over.

AB 1468 makes clear that plans using computer programs to make care decisions must at least make sure those programs are transparent, use evidence-based guidelines, and that decisions are reviewed by appropriate health care providers specific to the patient. It would also not allow the use of prior authorization barriers early in treatment.

**Fiscal Impact:**

This bill would not have a fiscal impact upon the BCE.

**Support & Opposition:**

Support:

- California Physical Therapy Association (Sponsor)
- No other support is currently on file. However, this bill will likely receive support from associations representing providers of chiropractic, occupational therapy, Asian medicine, speech language pathology, and audiology services.

Opposition:

- None on file. However, this bill might receive opposition from insurers, health care service plans, and associations representing physicians and surgeons.

## **Arguments:**

### **Pro:**

- CA Physical Therapy Association, the sponsor, states this bill establishes important and transparent guidelines on health plans in the ability of patients to access medically necessary physical therapy and other treatment. Delays in access to such care have been shown in research to lead to poor long-term outcomes for patients, increased reliance upon medication and the need for surgery, and, ultimately, higher costs.

### **Con:**

- Although this bill prohibits an insurer that covers specified services from requiring authorization for the first 12 visits, it permits the insurer to require a referral or prescription for those services, thereby requiring the primary doctor to justify denying the care. Doctors of Chiropractic are point of entry providers and chiropractic patients don't currently need a referral from their primary doctor to see a chiropractor. Many insurers already permit a limited number of chiropractic treatments each year without a referral. It's not clear if this bill would benefit chiropractic patients or have the opposite impact. Insurers who currently cover chiropractic treatment may choose to no longer do so or may start requiring a referral or prescription prior to covering these services.

## **Staff Recommended Position: WATCH**

Staff is supportive of the sponsor's intent to remove barriers to needed services, such as chiropractic care. However, until other stakeholders have weighed in and more information is available, it's difficult to know whether this bill will benefit chiropractic patients.

**Introduced by Assembly Member Cunningham**

February 19, 2021

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An act to amend Section 1367.01 of, and to add Section 1367.26 to, the Health and Safety Code, and to amend Section 10123.135 of, and to add Section 10123.75 to, the Insurance Code, relating to health care coverage.

legislative counsel's digest

AB 1468, as introduced, Cunningham. Prior authorization.

Existing law, the Knox-Keene Health Care Service Plan Act of 1975, provides for the licensure and regulation of health care service plans by the Department of Managed Health Care, and makes a willful violation of the act a crime. Existing law provides for the regulation of health insurers by the Department of Insurance. Existing law generally authorizes a health care service plan or health insurer to use prior authorization and other utilization review or utilization management functions, under which a licensed physician or a licensed health care professional who is competent to evaluate specific clinical issues may approve, modify, delay, or deny requests for health care services based on medical necessity. Existing law requires a health care service plan or health insurer, including those plans or insurers that delegate utilization review or utilization management functions to medical groups, independent practice associations, or other contracting providers, to comply with specified requirements and limitations on their utilization review or utilization management processes.

This bill would require a health care service plan or health insurer that implements an automated prior authorization system to use

evidence-based clinical guidelines to program the system and to make the algorithms used for the system available for download on the plan’s or insurer’s provider internet website. The bill would require a plan or insurer that implements an automated prior authorization system to ensure that a licensed physician or a licensed health care professional makes the decision to deny or modify a request by examining the request specific to the enrollee or insured and does not simply ratify an automated response.

This bill would prohibit a health care service plan contract or health insurance policy issued, amended, or renewed on or after January 1, 2022, that provides coverage for a specified service, including chiropractic services, physical or occupational therapy, and Asian medicine, from requiring prior authorization for the initial 12 treatment visits for that service within a new episode of care. Because a willful violation of the bill’s requirements relative to health care service plans would be a crime, the bill would impose 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.

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

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

- 1 SECTION 1. The Legislature finds and declares all of the
- 2 following:
- 3 (a) The Legislature remains committed to ensuring that health
- 4 care service plans and health insurers provide patients with the
- 5 right care at the right time, without requiring patients or the
- 6 clinicians who provide that care to have to navigate arduous,
- 7 opaque, or clinically inappropriate authorization processes.
- 8 (b) The Legislature continues to believe, as it declared in
- 9 legislation it passed over 20 years ago, that:
- 10 (1) Consumers have the right to receive quality medical care in
- 11 a timely and efficient manner.
- 12 (2) Decisions about medical care should be made by physicians
- 13 and other relevant health care professionals.



1 (3) Consumers have the right to know how and why a decision  
2 about their medical care is made.

3 (c) Recent practices by various health care service plans, health  
4 insurers, and their agents to limit the availability of chiropractic  
5 services, physical therapy, occupational therapy, Asian medicine,  
6 speech language pathology, or auditory therapies, including the  
7 use of computer-generated denials or modifications of treatment  
8 plans recommended by the patient's treating clinician, are  
9 interfering in this ongoing goal of timely, appropriate care.

10 (d) The above practices are further capping access to chiropractic  
11 services, physical therapy, occupational therapy, Asian medicine,  
12 speech language pathology, and auditory therapies at levels  
13 significantly below the number of visits authorized in patients'  
14 "Evidence of Coverage" disclosures, thereby defeating patients'  
15 reasonable expectations of coverage.

16 SEC. 2. Section 1367.01 of the Health and Safety Code is  
17 amended to read:

18 1367.01. (a) A health care service plan and ~~any~~ *an* entity with  
19 which it contracts for services that include utilization review or  
20 utilization management functions, that prospectively,  
21 retrospectively, or concurrently reviews and approves, modifies,  
22 delays, or denies, based in whole or in part on medical necessity,  
23 requests by providers ~~prior to, before,~~ retrospectively, or concurrent  
24 with the provision of health care services to enrollees, or that  
25 delegates these functions to medical groups or independent practice  
26 associations or to other contracting providers, shall comply with  
27 this section.

28 (b) A health care service plan that is subject to this section shall  
29 have written policies and procedures establishing the process by  
30 which the plan prospectively, retrospectively, or concurrently  
31 reviews and approves, modifies, delays, or denies, based in whole  
32 or in part on medical necessity, requests by providers of health  
33 care services for plan enrollees. These policies and procedures  
34 shall ensure that decisions based on the medical necessity of  
35 proposed health care services are consistent with criteria or  
36 guidelines that are supported by clinical principles and processes.  
37 These criteria and guidelines shall be developed pursuant to Section  
38 1363.5. These policies and procedures, and a description of the  
39 process by which the plan reviews and approves, modifies, delays,  
40 or denies requests by providers ~~prior to, before,~~ retrospectively,

1 or concurrent with the provision of health care services to enrollees,  
 2 shall be filed with the director for review and approval, and shall  
 3 be disclosed by the plan to providers and enrollees upon request,  
 4 and by the plan to the public upon request.

5 (c) A health care service plan subject to this section, except a  
 6 plan that meets the requirements of Section 1351.2, shall employ  
 7 or designate a medical director who holds an unrestricted license  
 8 to practice medicine in this state issued pursuant to Section 2050  
 9 of the Business and Professions Code or pursuant to the  
 10 Osteopathic Act, or, if the plan is a specialized health care service  
 11 plan, a clinical director with California licensure in a clinical area  
 12 appropriate to the type of care provided by the specialized health  
 13 care service plan. The medical director or clinical director shall  
 14 ensure that the process by which the plan reviews and approves,  
 15 modifies, or denies, based in whole or in part on medical necessity,  
 16 requests by providers ~~prior to~~, *before*, retrospectively, or concurrent  
 17 with the provision of health care services to enrollees, complies  
 18 with the requirements of this section.

19 (d) If health plan personnel, or individuals under contract to the  
 20 plan to review requests by providers, approve the provider’s  
 21 request, pursuant to subdivision (b), the decision shall be  
 22 communicated to the provider pursuant to subdivision (h).

23 (e) ~~No~~ *An* individual, other than a licensed physician or a  
 24 licensed health care professional who is competent to evaluate the  
 25 specific clinical issues involved in the health care services  
 26 requested by the provider, ~~may~~ *shall not* deny or modify requests  
 27 for authorization of health care services for an enrollee for reasons  
 28 of medical necessity. The decision of the physician or other health  
 29 care professional shall be communicated to the provider and the  
 30 enrollee pursuant to subdivision (h).

31 (f) The criteria or guidelines used by the health care service  
 32 plan to determine whether to approve, modify, or deny requests  
 33 by providers ~~prior to~~, *before*, retrospectively, or concurrent with,  
 34 the provision of health care services to enrollees shall be consistent  
 35 with clinical principles and processes. These criteria and guidelines  
 36 shall be developed pursuant to the requirements of Section 1363.5.

37 (g) If the health care service plan requests medical information  
 38 from providers in order to determine whether to approve, modify,  
 39 or deny requests for authorization, the plan shall request only the  
 40 information reasonably necessary to make the determination.

1 (h) In determining whether to approve, modify, or deny requests  
2 by providers ~~prior to~~, *before*, retrospectively, or concurrent with  
3 the provision of health care services to enrollees, based in whole  
4 or in part on medical necessity, a health care service plan subject  
5 to this section shall meet the following requirements:

6 (1) Decisions to approve, modify, or deny, based on medical  
7 necessity, requests by providers ~~prior to~~, *before* or concurrent with  
8 the provision of health care services to enrollees that do not meet  
9 the requirements for the time period for review required by  
10 paragraph (2), shall be made in a timely fashion appropriate for  
11 the nature of the enrollee's condition, not to exceed five business  
12 days from the plan's receipt of the information reasonably  
13 necessary and requested by the plan to make the determination. In  
14 cases where the review is retrospective, the decision shall be  
15 communicated to the individual who received services, or to the  
16 individual's designee, within 30 days of the receipt of information  
17 that is reasonably necessary to make this determination, and shall  
18 be communicated to the provider in a manner that is consistent  
19 with current law. For purposes of this section, retrospective reviews  
20 shall be for care rendered on or after January 1, 2000.

21 (2) When the enrollee's condition is such that the enrollee faces  
22 an imminent and serious threat to ~~his or her~~ *the enrollee's* health,  
23 including, but not limited to, the potential loss of life, limb, or  
24 other major bodily function, or the normal timeframe for the  
25 decisionmaking process, as described in paragraph (1), would be  
26 detrimental to the enrollee's life or health or could jeopardize the  
27 enrollee's ability to regain maximum function, decisions to  
28 approve, modify, or deny requests by providers ~~prior to~~, *before*,  
29 or concurrent with, the provision of health care services to  
30 enrollees, shall be made in a timely fashion appropriate for the  
31 nature of the enrollee's condition, not to exceed 72 hours or, if  
32 shorter, the period of time required under Section 2719 of the  
33 federal Public Health Service Act (42 U.S.C. Sec. 300gg-19) and  
34 any subsequent rules or regulations issued thereunder, after the  
35 plan's receipt of the information reasonably necessary and  
36 requested by the plan to make the determination. Nothing in this  
37 section shall be construed to alter the requirements of subdivision  
38 (b) of Section 1371.4. Notwithstanding Section 1371.4, the  
39 requirements of this division shall be applicable to all health plans

1 and other entities conducting utilization review or utilization  
2 management.

3 (3) Decisions to approve, modify, or deny requests by providers  
4 for authorization ~~prior to~~, *before*, or concurrent with, the provision  
5 of health care services to enrollees shall be communicated to the  
6 requesting provider within 24 hours of the decision. Except for  
7 concurrent review decisions pertaining to care that is underway,  
8 which shall be communicated to the enrollee's treating provider  
9 within 24 hours, decisions resulting in denial, delay, or  
10 modification of all or part of the requested health care service shall  
11 be communicated to the enrollee in writing within two business  
12 days of the decision. In the case of concurrent review, care shall  
13 not be discontinued until the enrollee's treating provider has been  
14 notified of the plan's decision and a care plan has been agreed  
15 upon by the treating provider that is appropriate for the medical  
16 needs of that patient.

17 (4) Communications regarding decisions to approve requests  
18 by providers ~~prior to~~, *before*, retrospectively, or concurrent with  
19 the provision of health care services to enrollees shall specify the  
20 specific health care service approved. Responses regarding  
21 decisions to deny, delay, or modify health care services requested  
22 by providers ~~prior to~~, *before*, retrospectively, or concurrent with  
23 the provision of health care services to enrollees shall be  
24 communicated to the enrollee in writing, and to providers initially  
25 by telephone or facsimile, except with regard to decisions rendered  
26 retrospectively, and then in writing, and shall include a clear and  
27 concise explanation of the reasons for the plan's decision, a  
28 description of the criteria or guidelines used, and the clinical  
29 reasons for the decisions regarding medical necessity. Any written  
30 communication to a physician or other health care provider of a  
31 denial, delay, or modification of a request shall include the name  
32 and telephone number of the health care professional responsible  
33 for the denial, delay, or modification. The telephone number  
34 provided shall be a direct number or an extension, to allow the  
35 physician or health care provider easily to contact the professional  
36 responsible for the denial, delay, or modification. Responses shall  
37 also include information as to how the enrollee may file a grievance  
38 with the plan pursuant to Section 1368, and in the case of Medi-Cal  
39 enrollees, shall explain how to request an administrative hearing

1 and aid paid pending under Sections 51014.1 and 51014.2 of Title  
2 22 of the California Code of Regulations.

3 (5) If the health care service plan cannot make a decision to  
4 approve, modify, or deny the request for authorization within the  
5 timeframes specified in paragraph (1) or (2) because the plan is  
6 not in receipt of all of the information reasonably necessary and  
7 requested, or because the plan requires consultation by an expert  
8 reviewer, or because the plan has asked that an additional  
9 examination or test be performed upon the enrollee, provided the  
10 examination or test is reasonable and consistent with good medical  
11 practice, the plan shall, immediately upon the expiration of the  
12 timeframe specified in paragraph (1) or (2) or as soon as the plan  
13 becomes aware that it will not meet the timeframe, whichever  
14 occurs first, notify the provider and the enrollee, in writing, that  
15 the plan cannot make a decision to approve, modify, or deny the  
16 request for authorization within the required timeframe, and specify  
17 the information requested but not received, or the expert reviewer  
18 to be consulted, or the additional examinations or tests required.  
19 The plan shall also notify the provider and enrollee of the  
20 anticipated date on which a decision may be rendered. Upon receipt  
21 of all information reasonably necessary and requested by the plan,  
22 the plan shall approve, modify, or deny the request for authorization  
23 within the timeframes specified in paragraph (1) or (2), whichever  
24 applies.

25 (6) If the director determines that a health care service plan has  
26 failed to meet any of the timeframes in this section, or has failed  
27 to meet any other requirement of this section, the director may  
28 assess, by order, administrative penalties for each failure. A  
29 proceeding for the issuance of an order assessing administrative  
30 penalties shall be subject to appropriate notice to, and an  
31 opportunity for a hearing with regard to, the person affected, in  
32 accordance with subdivision (a) of Section 1397. The  
33 administrative penalties shall not be deemed an exclusive remedy  
34 for the director. These penalties shall be paid to the Managed Care  
35 Administrative Fines and Penalties Fund and shall be used for the  
36 purposes specified in Section 1341.45.

37 (i) A health care service plan subject to this section shall  
38 maintain telephone access for providers to request authorization  
39 for health care services.

1 (j) A health care service plan subject to this section that reviews  
 2 requests by providers ~~prior to~~, *before*, retrospectively, or concurrent  
 3 with, the provision of health care services to enrollees shall  
 4 establish, as part of the quality assurance program required by  
 5 Section 1370, a process by which the plan’s compliance with this  
 6 section is assessed and evaluated. The process shall include  
 7 provisions for evaluation of complaints, assessment of trends,  
 8 implementation of actions to correct identified problems,  
 9 mechanisms to communicate actions and results to the appropriate  
 10 health plan employees and contracting providers, and provisions  
 11 for evaluation of any corrective action plan and measurements of  
 12 performance.

13 *(k) (1) A health care service plan that implements an automated*  
 14 *prior authorization system shall use evidence-based clinical*  
 15 *guidelines to program that system. The algorithms used, including*  
 16 *research citations and references with their provenance and most*  
 17 *recent revision date, shall be made available for download on the*  
 18 *health care service plan’s provider internet website.*

19 *(2) A health care service plan that implements an automated*  
 20 *prior authorization system shall ensure that a licensed physician*  
 21 *or a licensed health care professional who is competent to evaluate*  
 22 *the specific clinical issues involved in the health care services*  
 23 *requested by the provider makes the decision to deny or modify*  
 24 *requests for authorization of health care services for an enrollee*  
 25 *for reasons of medical necessity, pursuant to subdivision (e). The*  
 26 *licensed physician or licensed health care professional shall*  
 27 *consider the enrollee-specific authorization request and shall not*  
 28 *simply ratify an automated response that would result in the denial*  
 29 *or modification of the enrollee-specific authorization request.*

30 ~~(k)~~

31 *(l) The director shall review a health care service plan’s*  
 32 *compliance with this section as part of its periodic onsite medical*  
 33 *survey of each plan undertaken pursuant to Section 1380, and shall*  
 34 *include a discussion of compliance with this section as part of its*  
 35 *report issued pursuant to that section.*

36 ~~(l)~~

37 *(m) This section shall not apply to decisions made for the care*  
 38 *or treatment of the sick who depend upon prayer or spiritual means*  
 39 *for healing in the practice of religion as set forth in subdivision*  
 40 *(a) of Section 1270.*

1 ~~(m) Nothing in this~~

2 (n) This section shall not cause a health care service plan to be  
3 defined as a health care provider for purposes of any provision of  
4 law, including, but not limited to, Section 6146 of the Business  
5 and Professions Code, Sections 3333.1 and 3333.2 of the Civil  
6 Code, and Sections 340.5, 364, 425.13, 667.7, and 1295 of the  
7 Code of Civil Procedure.

8 SEC. 3. Section 1367.26 is added to the Health and Safety  
9 Code, to read:

10 1367.26. (a) A health care service plan contract issued,  
11 amended, or renewed on or after January 1, 2022, that provides  
12 coverage for one of the following health care services shall not,  
13 for a new episode of care, require prior authorization for the initial  
14 12 treatment visits for that service:

- 15 (1) Chiropractic services.
- 16 (2) Physical therapy.
- 17 (3) Occupational therapy.
- 18 (4) Asian medicine.
- 19 (5) Speech language pathology.
- 20 (6) Auditory therapies.

21 (b) This section does not limit the ability of a health care service  
22 plan to require a referral or prescription for the services described  
23 in subdivision (a).

24 (c) For purposes of this section, “new episode of care” means  
25 treatment for a new or recurring condition for which the enrollee  
26 has not been treated by the provider within the previous 90 days  
27 and is not currently undergoing active treatment.

28 SEC. 4. Section 10123.75 is added to the Insurance Code, to  
29 read:

30 10123.75. (a) A health insurance policy issued, amended, or  
31 renewed on or after January 1, 2022, that provides coverage for  
32 one of the following health care services shall not, for a new  
33 episode of care, require prior authorization for the initial 12  
34 treatment visits for that service:

- 35 (1) Chiropractic services.
- 36 (2) Physical therapy.
- 37 (3) Occupational therapy.
- 38 (4) Asian medicine.
- 39 (5) Speech language pathology.
- 40 (6) Auditory therapies.

1 (b) This section does not limit the ability of a health insurer to  
 2 require a referral or prescription for the services described in  
 3 subdivision (a).

4 (c) For purposes of this section, “new episode of care” means  
 5 treatment for a new or recurring condition for which the insured  
 6 has not been treated by the provider within the previous 90 days  
 7 and is not currently undergoing active treatment.

8 SEC. 5. Section 10123.135 of the Insurance Code is amended  
 9 to read:

10 10123.135. (a) Every disability insurer, or an entity with which  
 11 it contracts for services that include utilization review or utilization  
 12 management functions, that covers hospital, medical, or surgical  
 13 expenses and that prospectively, retrospectively, or concurrently  
 14 reviews and approves, modifies, delays, or denies, based in whole  
 15 or in part on medical necessity, requests by providers ~~prior to,~~  
 16 *before*, retrospectively, or concurrent with the provision of health  
 17 care services to insureds, or that delegates these functions to  
 18 medical groups or independent practice associations or to other  
 19 contracting providers, shall comply with this section.

20 (b) A disability insurer that is subject to this section, or any  
 21 entity with which an insurer contracts for services that include  
 22 utilization review or utilization management functions, shall have  
 23 written policies and procedures establishing the process by which  
 24 the insurer prospectively, retrospectively, or concurrently reviews  
 25 and approves, modifies, delays, or denies, based in whole or in  
 26 part on medical necessity, requests by providers of health care  
 27 services for insureds. These policies and procedures shall ensure  
 28 that decisions based on the medical necessity of proposed health  
 29 care services are consistent with criteria or guidelines that are  
 30 supported by clinical principles and processes. These criteria and  
 31 guidelines shall be developed pursuant to subdivision (f). These  
 32 policies and procedures, and a description of the process by which  
 33 an insurer, or an entity with which an insurer contracts for services  
 34 that include utilization review or utilization management functions,  
 35 reviews and approves, modifies, delays, or denies requests by  
 36 providers ~~prior to,~~ *before*, retrospectively, or concurrent with the  
 37 provision of health care services to insureds, shall be filed with  
 38 the commissioner, and shall be disclosed by the insurer to insureds  
 39 and providers upon request, and by the insurer to the public upon  
 40 request.



1 (c) If the number of insureds covered under health benefit plans  
2 in this state that are issued by an insurer subject to this section  
3 constitute at least 50 percent of the number of insureds covered  
4 under health benefit plans issued nationwide by that insurer, the  
5 insurer shall employ or designate a medical director who holds an  
6 unrestricted license to practice medicine in this state issued  
7 pursuant to Section 2050 of the Business and Professions Code or  
8 the Osteopathic Initiative Act, or the insurer may employ a clinical  
9 director licensed in California whose scope of practice under  
10 California law includes the right to independently perform all those  
11 services covered by the insurer. The medical director or clinical  
12 director shall ensure that the process by which the insurer reviews  
13 and approves, modifies, delays, or denies, based in whole or in  
14 part on medical necessity, requests by providers ~~prior to~~, *before*,  
15 retrospectively, or concurrent with the provision of health care  
16 services to insureds, complies with the requirements of this section.  
17 Nothing in this subdivision shall be construed as restricting the  
18 existing authority of the Medical Board of California.

19 (d) If an insurer subject to this section, or individuals under  
20 contract to the insurer to review requests by providers, approve  
21 the provider's request pursuant to subdivision (b), the decision  
22 shall be communicated to the provider pursuant to subdivision (h).

23 (e) An individual, other than a licensed physician or a licensed  
24 health care professional who is competent to evaluate the specific  
25 clinical issues involved in the health care services requested by  
26 the provider, ~~may~~ *shall* not deny or modify requests for  
27 authorization of health care services for an insured for reasons of  
28 medical necessity. The decision of the physician or other health  
29 care provider shall be communicated to the provider and the insured  
30 pursuant to subdivision (h).

31 (f) (1) An insurer shall disclose, or provide for the disclosure,  
32 to the commissioner and to network providers, the process the  
33 insurer, its contracting provider groups, or any entity with which  
34 it contracts for services that include utilization review or utilization  
35 management functions, uses to authorize, delay, modify, or deny  
36 health care services under the benefits provided by the insurance  
37 contract, including coverage for subacute care, transitional inpatient  
38 care, or care provided in skilled nursing facilities. An insurer shall  
39 also disclose those processes to policyholders or persons designated

1 by a policyholder, or to any other person or organization, upon  
2 request.

3 (2) The criteria or guidelines used by an insurer, or an entity  
4 with which an insurer contracts for utilization review or utilization  
5 management functions, to determine whether to authorize, modify,  
6 delay, or deny health care services, shall comply with all of the  
7 following:

8 (A) Be developed with involvement from actively practicing  
9 health care providers.

10 (B) Be consistent with sound clinical principles and processes.

11 (C) Be evaluated, and updated if necessary, at least annually.

12 (D) If used as the basis of a decision to modify, delay, or deny  
13 services in a specified case under review, be disclosed to the  
14 provider and the policyholder in that specified case.

15 (E) Be available to the public upon request. An insurer shall  
16 only be required to disclose the criteria or guidelines for the  
17 specific procedures or conditions requested. An insurer may charge  
18 reasonable fees to cover administrative expenses related to  
19 disclosing criteria or guidelines pursuant to this paragraph that are  
20 limited to copying and postage costs. The insurer may also make  
21 the criteria or guidelines available through electronic  
22 communication means.

23 (3) The disclosure required by subparagraph (E) of paragraph  
24 (2) shall be accompanied by the following notice: “The materials  
25 provided to you are guidelines used by this insurer to authorize,  
26 modify, or deny health care benefits for persons with similar  
27 illnesses or conditions. Specific care and treatment may vary  
28 depending on individual need and the benefits covered under your  
29 insurance contract.”

30 (g) If an insurer subject to this section requests medical  
31 information from providers in order to determine whether to  
32 approve, modify, or deny requests for authorization, the insurer  
33 shall request only the information reasonably necessary to make  
34 the determination.

35 (h) In determining whether to approve, modify, or deny requests  
36 by providers ~~prior to~~, *before*, retrospectively, or concurrent with  
37 the provision of health care services to insureds, based in whole  
38 or in part on medical necessity, every insurer subject to this section  
39 shall meet the following requirements:

1 (1) Decisions to approve, modify, or deny, based on medical  
2 necessity, requests by providers ~~prior to~~, *before*, or concurrent  
3 with, the provision of health care services to insureds that do not  
4 meet the requirements for the time period for review required by  
5 paragraph (2), shall be made in a timely fashion appropriate for  
6 the nature of the insured's condition, not to exceed five business  
7 days from the insurer's receipt of the information reasonably  
8 necessary and requested by the insurer to make the determination.  
9 In cases where the review is retrospective, the decision shall be  
10 communicated to the individual who received services, or to the  
11 individual's designee, within 30 days of the receipt of information  
12 that is reasonably necessary to make this determination, and shall  
13 be communicated to the provider in a manner that is consistent  
14 with current law. For purposes of this section, retrospective reviews  
15 shall be for care rendered on or after January 1, 2000.

16 (2) When the insured's condition is such that the insured faces  
17 an imminent and serious threat to ~~his or her~~ *the insured's* health,  
18 including, but not limited to, the potential loss of life, limb, or  
19 other major bodily function, or the normal timeframe for the  
20 decisionmaking process, as described in paragraph (1), would be  
21 detrimental to the insured's life or health or could jeopardize the  
22 insured's ability to regain maximum function, decisions to approve,  
23 modify, or deny requests by providers ~~prior to~~, *before*, or  
24 concurrent with, the provision of health care services to insureds  
25 shall be made in a timely fashion, appropriate for the nature of the  
26 insured's condition, but not to exceed 72 hours or, if shorter, the  
27 period of time required under Section 2719 of the federal Public  
28 Health Service Act (42 U.S.C. Sec. 300gg-19) and any subsequent  
29 rules or regulations issued thereunder, after the insurer's receipt  
30 of the information reasonably necessary and requested by the  
31 insurer to make the determination.

32 (3) Decisions to approve, modify, or deny requests by providers  
33 for authorization ~~prior to~~, *before*, or concurrent with, the provision  
34 of health care services to insureds shall be communicated to the  
35 requesting provider within 24 hours of the decision. Except for  
36 concurrent review decisions pertaining to care that is underway,  
37 which shall be communicated to the insured's treating provider  
38 within 24 hours, decisions resulting in denial, delay, or  
39 modification of all or part of the requested health care service shall  
40 be communicated to the insured in writing within two business

1 days of the decision. In the case of concurrent review, care shall  
2 not be discontinued until the insured's treating provider has been  
3 notified of the insurer's decision and a care plan has been agreed  
4 upon by the treating provider that is appropriate for the medical  
5 needs of that patient.

6 (4) Communications regarding decisions to approve requests  
7 by providers ~~prior to~~, *before*, retrospectively, or concurrent with  
8 the provision of health care services to insureds shall specify the  
9 specific health care service approved. Responses regarding  
10 decisions to deny, delay, or modify health care services requested  
11 by providers ~~prior to~~, *before*, retrospectively, or concurrent with  
12 the provision of health care services to insureds shall be  
13 communicated to insureds in writing, and to providers initially by  
14 telephone or facsimile, except with regard to decisions rendered  
15 retrospectively, and then in writing, and shall include a clear and  
16 concise explanation of the reasons for the insurer's decision, a  
17 description of the criteria or guidelines used, and the clinical  
18 reasons for the decisions regarding medical necessity. Any written  
19 communication to a physician or other health care provider of a  
20 denial, delay, or modification or a request shall include the name  
21 and telephone number of the health care professional responsible  
22 for the denial, delay, or modification. The telephone number  
23 provided shall be a direct number or an extension, to allow the  
24 physician or health care provider easily to contact the professional  
25 responsible for the denial, delay, or modification. Responses shall  
26 also include information as to how the provider or the insured may  
27 file an appeal with the insurer or seek department review under  
28 the unfair practices provisions of Article 6.5 (commencing with  
29 Section 790) of Chapter 1 of Part 2 of Division 1 and the  
30 regulations adopted thereunder.

31 (5) If the insurer cannot make a decision to approve, modify,  
32 or deny the request for authorization within the timeframes  
33 specified in paragraph (1) or (2) because the insurer is not in receipt  
34 of all of the information reasonably necessary and requested, or  
35 because the insurer requires consultation by an expert reviewer,  
36 or because the insurer has asked that an additional examination or  
37 test be performed upon the insured, provided that the examination  
38 or test is reasonable and consistent with good medical practice,  
39 the insurer shall, immediately upon the expiration of the timeframe  
40 specified in paragraph (1) or (2), or as soon as the insurer becomes

1 aware that it will not meet the timeframe, whichever occurs first,  
2 notify the provider and the insured, in writing, that the insurer  
3 cannot make a decision to approve, modify, or deny the request  
4 for authorization within the required timeframe, and specify the  
5 information requested but not received, or the expert reviewer to  
6 be consulted, or the additional examinations or tests required. The  
7 insurer shall also notify the provider and enrollee of the anticipated  
8 date on which a decision may be rendered. Upon receipt of all  
9 information reasonably necessary and requested by the insurer,  
10 the insurer shall approve, modify, or deny the request for  
11 authorization within the timeframes specified in paragraph (1) or  
12 (2), whichever applies.

13 (6) If the commissioner determines that an insurer has failed to  
14 meet any of the timeframes in this section, or has failed to meet  
15 any other requirement of this section, the commissioner may assess,  
16 by order, administrative penalties for each failure. A proceeding  
17 for the issuance of an order assessing administrative penalties shall  
18 be subject to appropriate notice to, and an opportunity for a hearing  
19 with regard to, the person affected. The administrative penalties  
20 shall not be deemed an exclusive remedy for the commissioner.  
21 These penalties shall be paid to the Insurance Fund.

22 (i) Every insurer subject to this section shall maintain telephone  
23 access for providers to request authorization for health care  
24 services.

25 ~~(j) Nothing in this~~

26 *(j) (1) An insurer that implements an automated prior*  
27 *authorization system shall use evidence-based clinical guidelines*  
28 *to program that system. The algorithms used, including research*  
29 *citations and references with their provenance and most recent*  
30 *revision date, shall be made available for download on the*  
31 *insurer's provider internet website.*

32 *(2) An insurer that implements an automated prior authorization*  
33 *system shall ensure that a licensed physician or a licensed health*  
34 *care professional who is competent to evaluate the specific clinical*  
35 *issues involved in the health care services requested by the provider*  
36 *makes the decision to deny or modify requests for authorization*  
37 *of health care services for an insured for reasons of medical*  
38 *necessity, pursuant to subdivision (e). The licensed physician or*  
39 *licensed health care professional shall consider the insured-specific*  
40 *authorization request and shall not simply ratify an automated*

1 *response that would result in the denial or modification of the*  
2 *insured-specific authorization request.*

3 (k) This section shall *not* cause a disability insurer to be defined  
4 as a health care provider for purposes of any provision of law,  
5 including, but not limited to, Section 6146 of the Business and  
6 Professions Code, Sections 3333.1 and 3333.2 of the Civil Code,  
7 and Sections 340.5, 364, 425.13, 667.7, and 1295 of the Code of  
8 Civil Procedure.

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

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**Agenda Item 12  
April 13, 2021**

**Review, Discussion and Possible Action Regarding the SB 772 (Ochoa-Bogh)  
Professions and Vocations: Citations: Minor Violations**

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**Purpose of the item**

This agenda item has been included to provide the Committee with an update on SB 772.

**Action(s) requested**

The Committee will be asked to review and discuss SB 772. If necessary, the Committee will have an opportunity to take a position on this bill.

**Background**

Board staff is monitoring and tracking several bills introduced during the current two-year legislative session.

SB 772 (Ochoa-Bogh) prohibits the assessment of a citation fine for a minor violation and specifies that a violation is minor if specified criteria are met, including that a violation did not pose a serious health or safety threat.

**Recommendation(s)**

N/A

**Next Step**

N/A

**Attachment(s)**

- SB 772 analysis / text

## **Board of Chiropractic Examiners Bill Analysis**

**Bill Number:** SB 772

**Author:** Senator Ochoa-Bogh

**Bill Version:** Introduced February 19, 2021

**Subject:** Professions and vocations: citations: minor violations.

**Sponsor:** Author

**Status of Bill:** in Senate Committee on Business and Professions & Economic Development –  
Hearing Date: April 19, 2021.

### **Summary:**

This bill prohibits the assessment of a citation fine for a minor violation and specifies that a violation is minor if specified criteria are met, including that a violation did not pose a serious health or safety threat.

### **Existing Law:**

- Authorizes any board and bureaus that fall under DCA to establish, by regulation, a system for the issuance of a citation to a licensee, which may contain an order of abatement or an order to pay an administrative fine assessed by a board for violations of the laws and regulations within the board's jurisdiction. (BPC §125.9)

### **This Bill Would:**

Amend Section 125.9 of the Business and Professions Code to prohibit a board from assessing a citation fine for a minor violation if it meets the following conditions:

- a) The violation did not pose a serious health or safety threat.
- b) There is no evidence that the violation was willful.
- c) The licensee was not on probation at the time of the violation.
- d) The licensee does not have a history of committing the violation.
- e) The licensee corrects the violation within 30 days from the date notice of the violation is sent to the licensee.

### **Background:**

According to the author's office:

Small businesses make up over 99 % of all businesses in California and they employ over 7 million employees. These businesses, however, are facing an increasingly difficult business environment in the state.



Without the legal resources of their corporate counterparts, many small businesses owners are left to navigate and interpret business laws and regulations on their own. This leaves many owners in the precarious position of making minor mistakes due to misinterpretation or lack of awareness, rather than outright disregard for the law, simply because they do not possess a law degree or legal team. These mistakes, although minor, result in costly penalties.

The author notes SB 772 will provide financial relief to businesses and licensed professionals by allowing them to correct minor violations without being subject to a monetary penalty.

**Fiscal Impact:**

The Board has limited ability to recover enforcement costs, which account for more than half its annual budget. The vast majority of citations are issued for minor violations that did not impose a serious health or safety threat. As such, this bill would effectively preclude the board from assessing a fine for any citation, thereby resulting in an estimated loss of \$25,000 annually.

**Support & Opposition:**

Support:       None on file

Opposition:   None on file

**Arguments:**

**Pro:**

- The author states this bill would create a business environment in the state that is conducive to growth, especially after the damaging effects the COVID-19 shutdowns have had on small businesses, will be integral to economic recovery. Providing financial relief, at a time when many business owners and licensed professionals are facing the decision of closing their door permanently, is inherent to restoring confidence for current and prospective businesses in California.

**Con:**

- This bill would limit the Board’s ability to recover programmatic costs without reducing workload, and investigative costs. Even if no fine is assessed, the licensee will likely still appeal the citation. The appeal process can be time consuming and costly. These unrecovered costs will be borne by all licensees through higher fees.
- This bill may create a disincentive for licensees to comply with a citation and correct minor violations, if they are not required to pay a fine, which could potentially result in subsequent violations.

**Staff recommended Position: OPPOSE**

Currently, the Board takes a progressive approach relative to minor violations, based on the specifics of each individual case. For a first-time minor offense, the Board informs a licensee of their violation and provides education to achieve long-term compliance. Any subsequent violations by the licensee may warrant the assessment of a citation. The Board rarely issues a citation and fine for a first-time, inconsequential violation.

This bill causes confusion and additional workload for Board Staff who will be burdened with the additional task of justifying not just the appropriateness of the citation but the imposition of a fine.

Law abiding licensees will be penalized with higher licensing fees to cover the cost of disciplining licensees who commit violations.

**Introduced by Senator Ochoa Bogh  
(Coauthor: Senator Borgeas)**

February 19, 2021

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An act to amend Section 125.9 of the Business and Professions Code, relating to professions and vocations.

legislative counsel's digest

SB 772, as introduced, Ochoa Bogh. Professions and vocations: citations: minor violations.

Existing law authorizes the State Board of Chiropractic Examiners, the Osteopathic Medical Board of California, and any board within the Department of Consumer Affairs to issue a citation to a licensee, which may contain an order of abatement or an order to pay an administrative fine assessed by the board.

This bill would prohibit the assessment of an administrative fine for a minor violation, and would specify that a violation shall be considered minor if it meets specified conditions, including that the violation did not pose a serious health or safety threat and there is no evidence that the violation was willful.

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

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

- 1 SECTION 1. Section 125.9 of the Business and Professions
- 2 Code is amended to read:
- 3 125.9. (a) Except with respect to persons regulated under
- 4 Chapter 11 (commencing with Section 7500), any board, bureau,
- 5 or commission within the department, the State Board of

1 Chiropractic Examiners, and the Osteopathic Medical Board of  
2 California, may establish, by regulation, a system for the issuance  
3 to a licensee of a citation which may contain an order of abatement  
4 or an order to pay an administrative fine assessed by the board,  
5 bureau, or commission where the licensee is in violation of the  
6 applicable licensing act or any regulation adopted pursuant thereto.

7 (b) The system shall contain the following provisions:

8 (1) Citations shall be in writing and shall describe with  
9 particularity the nature of the violation, including specific reference  
10 to the provision of law determined to have been violated.

11 (2) Whenever appropriate, the citation shall contain an order of  
12 abatement fixing a reasonable time for abatement of the violation.

13 (3) In no event shall the administrative fine assessed by the  
14 board, bureau, or commission exceed five thousand dollars (\$5,000)  
15 for each inspection or each investigation made with respect to the  
16 violation, or five thousand dollars (\$5,000) for each violation or  
17 count if the violation involves fraudulent billing submitted to an  
18 insurance company, the Medi-Cal program, or Medicare. In  
19 assessing a fine, the board, bureau, or commission shall give due  
20 consideration to the appropriateness of the amount of the fine with  
21 respect to factors such as the gravity of the violation, the good  
22 faith of the licensee, and the history of previous violations.

23 (4) A citation or fine assessment issued pursuant to a citation  
24 shall inform the licensee that if the licensee desires a hearing to  
25 contest the finding of a violation, that hearing shall be requested  
26 by written notice to the board, bureau, or commission within 30  
27 days of the date of issuance of the citation or assessment. If a  
28 hearing is not requested pursuant to this section, payment of any  
29 fine shall not constitute an admission of the violation charged.  
30 Hearings shall be held pursuant to Chapter 5 (commencing with  
31 Section 11500) of Part 1 of Division 3 of Title 2 of the Government  
32 Code.

33 (5) Failure of a licensee to pay a fine or comply with an order  
34 of abatement, or both, within 30 days of the date of assessment or  
35 order, unless the citation is being appealed, may result in  
36 disciplinary action being taken by the board, bureau, or  
37 commission. Where a citation is not contested and a fine is not  
38 paid, the full amount of the assessed fine shall be added to the fee  
39 for renewal of the license. A license shall not be renewed without  
40 payment of the renewal fee and fine.

1 (c) The system may contain the following provisions:

2 (1) A citation may be issued without the assessment of an  
3 administrative fine.

4 (2) Assessment of administrative fines may be limited to only  
5 particular violations of the applicable licensing act.

6 (d) Notwithstanding any other provision of law, if a fine is paid  
7 to satisfy an assessment based on the finding of a violation,  
8 payment of the fine and compliance with the order of abatement,  
9 if applicable, shall be represented as satisfactory resolution of the  
10 matter for purposes of public disclosure.

11 (e) Administrative fines collected pursuant to this section shall  
12 be deposited in the special fund of the particular board, bureau, or  
13 commission.

14 (f) *A licensee shall not be assessed an administrative fine for a*  
15 *violation of the applicable licensing act or any regulation adopted*  
16 *pursuant to the act if the violation is a minor violation. A violation*  
17 *shall be considered minor if all of the following conditions are*  
18 *satisfied:*

19 (1) *The violation did not pose a serious health or safety threat.*

20 (2) *There is no evidence that the violation was willful.*

21 (3) *The licensee was not on probation at the time of the*  
22 *violation.*

23 (4) *The licensee does not have a history of committing the*  
24 *violation.*

25 (5) *The licensee corrects the violation within 30 days from the*  
26 *date notice of the violation is sent to the licensee.*