



NOTICE OF TELECONFERENCE BOARD MEETING

Board Members

David Paris, D.C., Chair
Laurence Adams, D.C., Vice Chair
Rafael Sweet, Secretary
Janette N.V. Cruz
Pamela Daniels, D.C.

The Board of Chiropractic Examiners (Board) will meet via teleconference:

Friday, May 20, 2022
12:00 p.m. to 4:00 p.m.
(or until completion of business)

Teleconference Instructions: The Board will hold this public meeting via Webex Events. To access and participate in the meeting, please click on, or copy and paste into a URL field, the link below:

<https://dca-meetings.webex.com/dca-meetings/j.php?MTID=m616b37558276187cfa6c72efabff41bb>

If joining using the link above

Event number: 2481 148 6124
Event password: BCE05202022

If joining by phone

+1-415-655-0001 US Toll
Access code: 2481 148 6124
Passcode: 22305202

Instructions to connect to the teleconference meeting can be found at the end of this agenda.

Note: Members of the public may also submit written comments to the Board on any agenda item by Monday, May 16, 2022. Written comments should be directed to chiro.info@dca.ca.gov for Board consideration.

Teleconference Meeting Locations

David Paris, D.C., Chair
Department of Consumer Affairs
El Dorado Room
1625 N. Market Blvd., Ste N-220
Sacramento, CA 95834

Laurence Adams, D.C., Vice Chair
101 Andrieux Street
Sonoma, CA 95476

Rafael Sweet, Secretary
5250 Lankershim Blvd., Suite 500
North Hollywood, CA 91601

Janette N.V. Cruz
Sacramento Municipal Utility District
6201 S Street, Third Floor
Sacramento, CA 95817

Pamela Daniels, D.C.
1165 Park Avenue
San Jose, CA 95126

The Board may take action on any agenda item listed on this agenda, including information-only items.

AGENDA

- 1. Open Session – Call to Order / Roll Call / Establishment of a Quorum**
- 2. Review, Discussion, and Possible Action on Proposal to Amend the Board’s Fee Schedule (Business and Professions Code Section 1006.5)**
- 3. Update, Discussion, and Possible Action on Legislation**
 - A. [Assembly Bill \(AB\) 646](#) (Low) Department of Consumer Affairs: boards: expunged convictions.
 - B. [AB 1662](#) (Gipson) Licensing boards: disqualification from licensure: criminal conviction.
 - C. [AB 1733](#) (Quirk) State bodies: open meetings.
 - D. [Senate Bill \(SB\) 1031](#) (Ochoa Bogh) Healing arts boards: inactive license fees.
 - E. [SB 1237](#) (Newman) Licensees: military service.
 - F. [SB 1365](#) (Jones) Licensing boards: procedures.
 - G. [SB 1434](#) (Roth) State Board of Chiropractic Examiners: directory.
- 4. Discussion and Possible Action on Chair’s Proposal for the Board to Create Separate “Licensing” and “Continuing Education” Committees**
- 5. Public Comment for Items Not on the Agenda**

Note: Members of the public may offer public comment for items not on the agenda. However, the Board may not discuss or take action on any matter raised during this public comment section that is not included on this agenda, except to decide whether to place the matter on the agenda of a future meeting. [Government Code Sections 11125, 11125.7(a).]
- 6. Future Agenda Items**

Note: Members of the Board and the public may submit proposed agenda items for a future Board meeting. However, the Board may not discuss or take action on any proposed matter except to decide whether to place the matter on the agenda of a future meeting. [Government Code Section 11125.]
- 7. Closed Session – The Board Will Meet in Closed Session to:**
 - A. Interview Candidates for the Executive Officer Position Pursuant to Government Code Section 11126, subd. (a)(1)
 - B. Discuss and Possibly Take Action to Select and Appoint a Permanent Executive Officer Pursuant to Government Code Section 11126, subd. (a)(1)
- 8. Adjournment**

This agenda can be found on the Board’s website at www.chiro.ca.gov. The time and order of agenda items are subject to change at the discretion of the Board Chair and may be taken

out of order. In accordance with the Bagley-Keene Open Meeting Act, all meetings of the Board are open to the public.

Government Code section 11125.7 provides the opportunity for the public to address each agenda item during discussion or consideration by the Board prior to it taking any action on said item. Members of the public will be provided appropriate opportunities to comment on any issue before the Board, but the Board Chair may, at their discretion, apportion available time among those who wish to speak. Members of the public will not be permitted to yield their allotted time to other members of the public to make comments. Individuals may appear before the Board to discuss items not on the agenda; however, the Board can neither discuss nor take official action on these items at the time of the same meeting (Government Code sections 11125 and 11125.7(a)).

The meeting is accessible to individuals with disabilities. A person who needs a disability-related accommodation or modification to participate in the meeting may make a request by contacting the Board at:

Telephone: (916) 263-5355

Email: chiro.info@dca.ca.gov

Telecommunications Relay Service: Dial 711

Mailing Address:

Board of Chiropractic Examiners

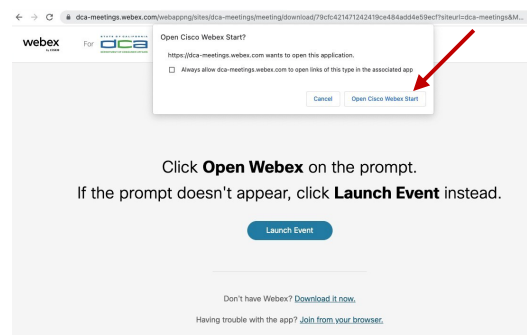
1625 N. Market Blvd., Suite N-327

Sacramento, CA 95834

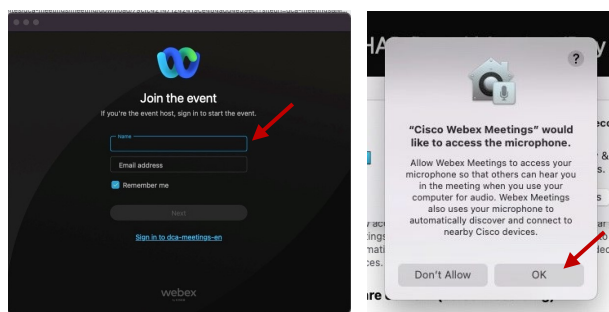
Providing your request at least five (5) business days before the meeting will help to ensure availability of the requested accommodation.

If joining using the meeting link

- 1 Click on the meeting link. This can be found in the meeting notice you received.
- 2 If you have not previously used Webex on your device, your web browser may ask if you want to open Webex. Click “Open Cisco Webex Start” or “Open Webex”, whichever option is presented. DO NOT click “Join from your browser”, as you will not be able to participate during the meeting.



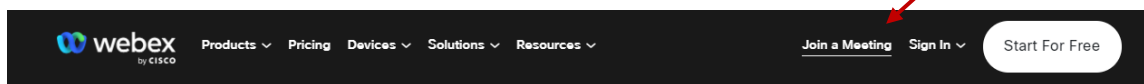
- 3 Enter your name and email address. Click “Join as a guest”. Accept any request for permission to use your microphone and/or camera.



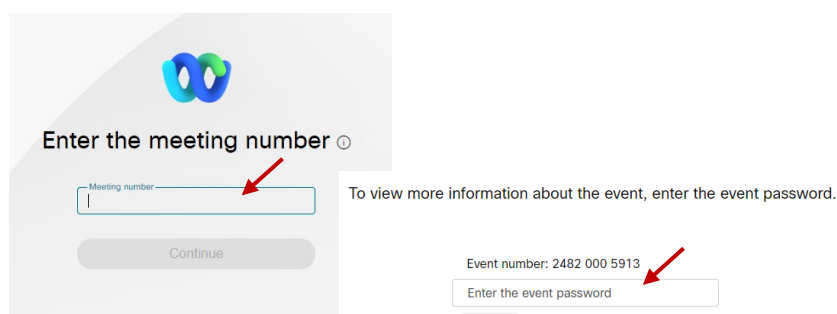
OR

If joining from Webex.com

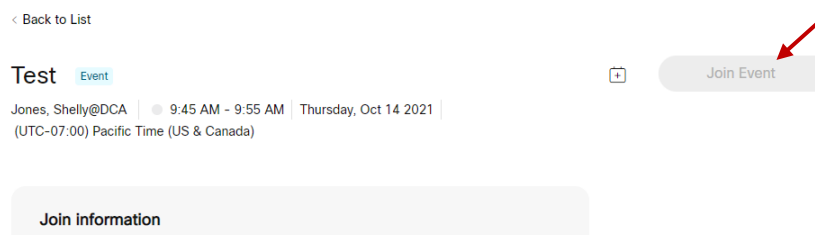
- 1 Click on “Join a Meeting” at the top of the Webex window.



- 2 Enter the meeting/event number and click “Continue”. Enter the event password and click “OK”. This can be found in the meeting notice you received.



- 3 The meeting information will be displayed. Click “Join Event”.



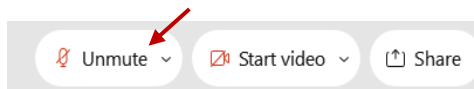
OR

Connect via telephone:

You may also join the meeting by calling in using the phone number, access code, and passcode provided in the meeting notice.

Microphone

Microphone control (mute/unmute button) is located on the command row.

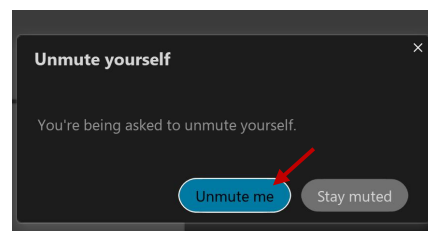


Green microphone = Unmuted: People in the meeting can hear you.



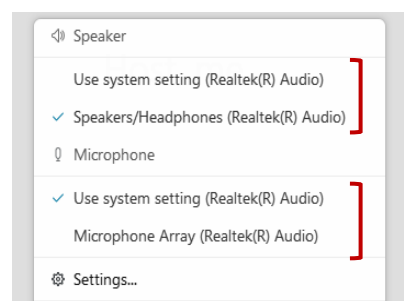
Red microphone = Muted: No one in the meeting can hear you.

Note: Only panelists can mute/unmute their own microphones. Attendees will remain muted unless the moderator enables their microphone at which time the attendee will be provided the ability to unmute their microphone by clicking on “Unmute Me”.



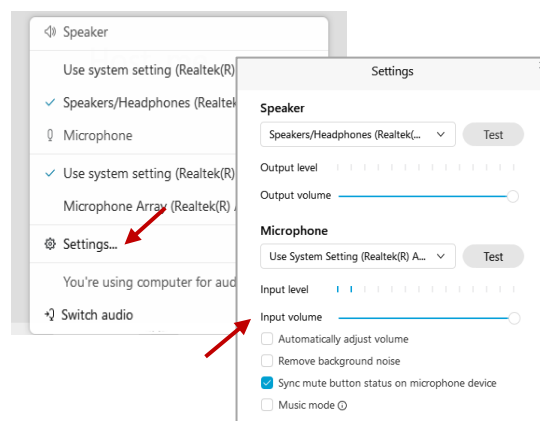
If you cannot hear or be heard

- 1 Click on the bottom facing arrow located on the Mute/Unmute button.
- 2 From the pop-up window, select a different:
 - Microphone option if participants can't hear you.
 - Speaker option if you can't hear participants.



If your microphone volume is too low or too high

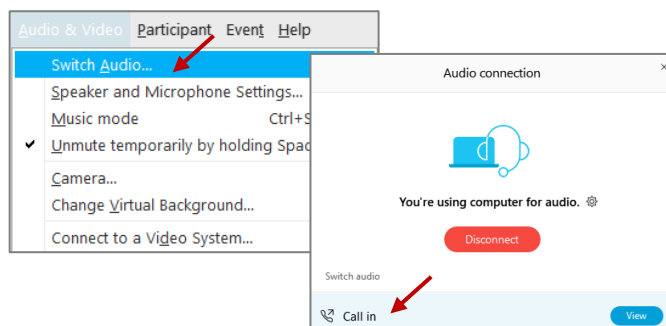
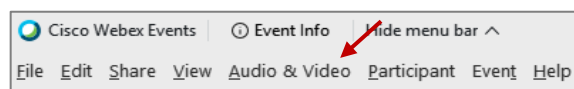
- 1 Locate the command row – click on the bottom facing arrow located on the Mute/Unmute button.
- 2 From the pop-up window:
 - Click on “Settings...”:
 - Drag the “Input Volume” located under microphone settings to adjust your volume.



Audio Connectivity Issues

If you are connected by computer or tablet and you have audio issues or no microphone/speakers, you can link your phone through webex. Your phone will then become your audio source during the meeting.

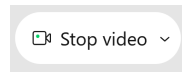
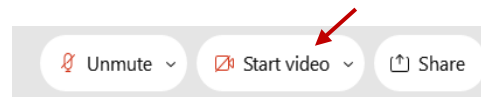
- 1 Click on “Audio & Video” from the menu bar.
- 2 Select “Switch Audio” from the drop-down menu.
- 3 Select the “Call In” option and following the directions.



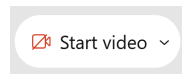
Web Camera

Only panelists (e.g. staff, board members, presenters) can access the web camera feature.

Camera control (Start Video/Stop Video button) is located on the command row.



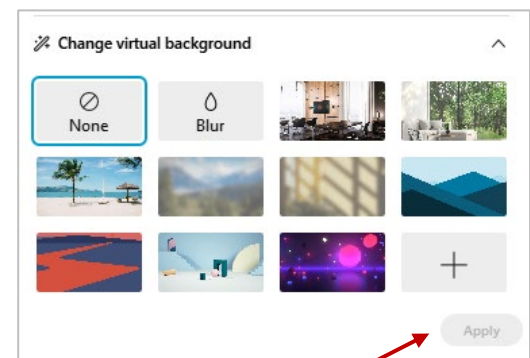
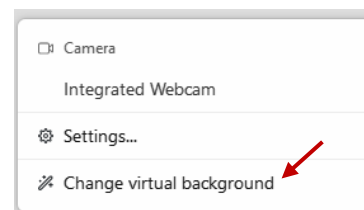
Green dot in camera = Camera is on: People in the meeting can see you.



Red dot in camera = Camera is off: No one in the meeting can see you.

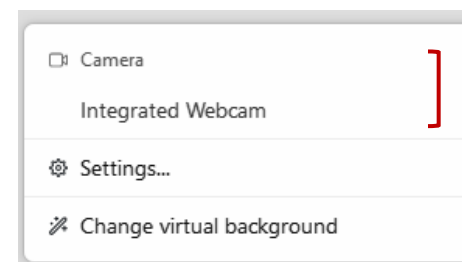
Virtual Background

- 1 To access virtual backgrounds, click on the bottom facing arrow located on the video button.
- 2 Click on "Change Virtual Background".
- 3 From the pop-up window, click on any of the available images to display that image as your virtual background and click "Apply".



If you cannot be seen

- 1 Locate the command row – click on the bottom facing arrow located on the video button.
- 2 From the pop-up window, select a different camera from the list.





**Agenda Item 2
May 20, 2022**

Review, Discussion, and Possible Action on Proposal to Amend the Board’s Fee Schedule (Business and Professions Code Section 1006.5)

Purpose of the Item

Board staff and the Department of Consumer Affairs’ (DCA) Budget Office will provide a presentation outlining the proposed fee schedule based on the analysis by Matrix Consulting Group, as well as potential alternative solutions for the Board to consider.

Action Requested

The Board will be asked to review, discuss, and vote on a final proposed fee schedule at this meeting.

Background

As a special fund entity, BCE’s annual budget is funded exclusively by the chiropractic profession through the licensing and other regulatory fees codified in [Business and Professions Code section 1006.5](#).

Despite ongoing efforts to closely monitor and limit BCE’s expenses, BCE’s current budget is structurally imbalanced, as increasing operating and enforcement costs continue to outpace the annual revenue received through these licensing and regulatory fees. Without an increase in revenue, BCE’s fund is at risk of insolvency in FY 2023/24.

In order to determine the level to set its fees, BCE contracted with Matrix Consulting Group to conduct a fee analysis, assess the current fees charged, and determine what the fees should be based on actual workload and expenditures. As a result of this analysis, Matrix Consulting Group concluded BCE is under-recovering its costs by approximately \$1.4 million and the majority of these costs relate to BCE’s Continuing Education (CE) Program.

The proposed fee schedule based on this analysis is outlined below:

Fee Name	Current Fee	Total Cost Per Unit	Surplus / (Deficit) per Unit
Biennial continuing education provider fee	\$56	\$118	(\$62)
Continuing education provider application fee	\$84	\$291	(\$207)

BCE's Fee Schedule
May 20, 2022
Page 2

Fee Name	Current Fee	Total Cost Per Unit	Surplus / (Deficit) per Unit
Continuing education course application fee	\$56	\$558	(\$502)
Corporation registration application fee	\$186	\$171	\$15
Corporation special report filing fee	\$31	\$98	(\$67)
Corporation renewal filing fee	\$31	\$62	(\$31)
Corporation duplicate certificate fee	\$50	\$70	(\$20)
Duplicate license fee	\$50	\$71	(\$21)
Initial license fee	\$186	\$137	\$49
License application fee	\$371	\$345	\$26
License certification / Out-of-state license verification	\$124	\$83	\$41
License renewal fee	\$313	\$336	(\$23)
Petition for early termination of probation or reduction of penalty fee	\$371	\$3,195	(\$2,824)
Petition for reinstatement of a revoked license fee	\$371	\$4,185	(\$3,814)
Preceptor fee	\$31	\$72	(\$41)
Reciprocal license application fee	\$371	\$283	\$88
Referral service application fee	\$557	\$279	\$278
Satellite certificate application fee	\$62	\$69	(\$7)
Satellite certificate renewal fee	\$31	\$50	(\$19)
Satellite certificate replacement fee	\$50	\$71	(\$21)

In addition, Section 6 of the report by Matrix Consulting Group contains a discussion of a per-hour fee for continuing education (CE) course applications compared to BCE's current practice of charging a flat-rate fee per course. Matrix concluded a fee of \$116 per hour of course instruction would be sufficient to recover BCE's current costs of processing an application.

At this meeting, Board staff and the DCA Budget Office will provide a presentation on BCE's current fund condition and projections, the proposed fee schedule based on the

fee analysis by Matrix Consulting Group, and potential alternative solutions to address the structural imbalance of BCE's fund.

The Board will be asked to discuss the following policy issues:

- 1. Should BCE continue to charge a flat-rate fee for CE course applications, or should the fee be assessed per hour of instruction (with or without a fee cap)?**
- 2. Should BCE continue to charge the same fee to renew a license as active or inactive, or should the inactive licensee fee be set at a reduced amount?**
- 3. Should the Board pursue another fee schedule with fixed fees set in statute, or should the Board request a fee schedule with the initial fee rate set in statute and the authority to further adjust the fees, if necessary, through the regulatory process?**

Following the discussion, the Board will be asked to vote on a final proposed fee schedule that will equitably distribute BCE's operational costs between applicants, licensees, and continuing education providers and provide long-term stability for BCE's fund.

Attachments

1. Board of Chiropractic Examiners Fee Study by Matrix Consulting Group, December 2021
2. Board of Chiropractic Examiners' Current Fee Schedule – Business and Professions Code Section 1006.5
3. California Acupuncture Board's Current Fee Schedule – Business and Professions Code Section 4970

Board of Chiropractic Examiners (BCE) Fee Study

CALIFORNIA DEPARTMENT OF CONSUMER
AFFAIRS

FINAL REPORT

December 2021

Table of Contents

1.	Introduction and Executive Summary	1
2.	Legal Framework	3
3.	Staffing and Budget Assumptions	5
4.	User Fee Methodology	9
5.	BCE Fee Study Results	15
6.	Future Schedule Modifications	17
7.	Results and Findings	18

1. Introduction and Executive Summary

The Matrix Consulting Group was retained by the Board of Chiropractic Examiners (BCE) to evaluate its fees for service. The following report summarizes the findings and conclusions associated with BCE's current and full cost recovery.

1 Project Background and Overview

The Board of Chiropractic Examiners was established via the Chiropractic Initiative Act in 1922, with a legal framework dictating that fees charged should cover all costs of operations, including licensing and enforcement. Given current staffing and operational costs, as well as current fee amounts, the BCE could be facing imminent insolvency. As the BCE's sole source of funding is fees charged for licensing, continuing education, and other regulatory services, the need for increased fees is paramount.

Therefore, the focus of this analysis was to evaluate the full cost associated with processing licenses associated with practicing, continuing education, reinstatement of licenses, and other similar services. The results of this study provide a tool for understanding current service levels, the cost and demand for those services, and what fees for service can be charged.

2 General Project Approach and Methodology

The methodology employed by the Matrix Consulting Group is a widely accepted "bottom up" approach to cost analysis, where time spent per unit of fee activity is determined for each position within a Program. Once time spent for a fee activity is determined, all applicable organizational costs are then considered in the calculation of the "full" cost of providing each service. The following table provides an overview of types of costs applied in establishing the "full" cost of services provided by the Board:

Table 1: Overview of Cost Components

Cost Component	Description
Direct	Fiscal Year 2021-22 Budgeted salaries, benefits and allowable expenditures.
Indirect	Administration / management, clerical, enforcement, special investigations support, and reserve requirements.

Together, the cost components in the table above comprise the calculation of the total "full" cost of providing any particular service, regardless of whether a fee for that service is charged.

The work accomplished by the Matrix Consulting Group in the analysis of the fees for service involved the following steps:

- **Staff Interviews:** The project team interviewed BCE Licensing and Enforcement staff to obtain a better understanding of how licensing services are provided.
- **Data Collection:** Data was collected for staffing, budget, and workload information and entered into the analytical fee model. Along with budgeted expenditures, the project team also worked with staff to identify the costs associated with enforcement and reserve requirements.
- **Cost Analysis:** The full cost of providing each service included in the analysis was established.
- **Review and Approval of Results with Staff:** Management has reviewed and approved these documented results.

A more detailed description of the legal considerations and fee methodology used to calculate the BCE fees is provided in subsequent chapters of this report.

3 Summary of Fee Study

The primary focus of this study is to determine the full cost associated with licensing-related services. The following table compares the current revenue to the full cost revenue calculated, the resulting surplus / (deficit), and cost recovery level:

Table 2: Annual Cost Recovery Analysis

Total Annual Revenue ¹	\$4,611,988
Total Annual Cost ²	\$6,024,382
Annual Surplus / (Deficit)	(\$1,412,394)
Cost Recovery %	77%

Based upon the results of this analysis, the BCE is under-recovering by approximately \$1.4 million for its fee-related services. This \$1.4 million under-recovery represents a 77% cost recovery level. The cost figures in this report are meant to provide guidance to decision-makers: Management and the Board regarding the maximum allowable fees that can be charged. The following chapters provide greater detail regarding the full cost calculations for licensing services.

¹ Based on FY2020-21 workload and current fees.

² Includes FY2021-22 Budget Act, as well as cost obligations such as the Bureau of Automotive Repair (BAR) loan payback, supplemental pension payments, statewide prorata, general salary increases, ongoing expenditure reductions, and reserve buildup.

2. Legal Framework

The California Board of Chiropractic Examiners has specific legal framework, which dictates that its fees should cover all costs of operations including licensing and any enforcement costs. In 1922 California electors approved the Chiropractic Initiative Act, which created the State Board of Chiropractic Examiners, and prescribed the terms upon which licenses could be issued to practitioners of chiropractic, as well as penalties for violation. There are three sections that are pertinent to the fee study: §4, §12.5, and §14. The following subsections provide an overview of these three sections:

1 §4: Powers of the Board

This section gives the Board the authority to adopt rules and regulations regarding educational requirements; establish minimum requirements for teachers at chiropractic schools and colleges; approve chiropractic schools and colleges; and employ investigators, clerical assistants, and commissioners to carry out these duties. Additional sections of the Chiropractic Initiative Act outline the Board's authority regarding issuance, revocation, and reinstatement of licenses, including:

- § 7 Certificate to practice; issuance; practice authorized
- § 9 Issuance of licenses to licensees of other states
- § 10 Rules of professional conduct; denial, suspension or revocation of license; reissuance
- § 12 Renewal Fee
- § 15 Noncompliance with and violations of act
- § 17 Enforcement of act

As it can be seen from the points above, the BCE's current fees cover all of these areas of services.

2 §12.5: Authority of Legislature to Fix Fees

This section provides the legislature the authority to fix fees payable by applicants and licensees and per diem compensation for the Board, and gives the legislature the authority to "... *fix the amounts of the fees payable by applicants and licensees...*". The

goal of this analysis is to provide the legislature with information regarding the full cost to determine where and how to fix the amount of the fees.

3 §14: Use of State Board of Chiropractic Examiners' Fund

This section dictates that “...*all money received by the board from all sources..*” is to be deposited into the State Board of Chiropractic Examiners' Fund (a special fund), “..*and shall be expended in accordance with law for all necessary and proper expenses in carrying out the provisions of this act, upon proper claims approved by said board or a finance committee thereof.*” With its special fund designation, the Board of Chiropractic Examiners does not receive funding from taxes, grants, or the State's general fund. Therefore, it must charge license and registration fees and fines in an amount sufficient to sustain regulatory practices.

3. Staffing and Budget Assumptions

In order to determine the full cost of providing BCE services, staffing and budget information was collected for Fiscal Year 2020-21. This information outlined the staff available to process licensing, continuing education, and other services, as well as the budget and non-budget costs incurred by BCE. The following sections detail the staffing and budget assumptions included in this cost of service study.

1 Fiscal Year 2020-21 Staffing Assumptions

In Fiscal Year 2020-21 the BCE budgeted for 19 Full Time staff positions, as well as two (2) Seasonal Clerks. Full time staff have a standard assumption of 2,080 hours, and are eligible for full vacation, holiday, and sick leave. Seasonal Clerks can work a maximum of 1,500 hours annually, and do not accrue any vacation or sick leave. The following table outlines the titles and number of budgeted positions for BCE staff.

Table 3: Fiscal Year 2020-21 Budgeted Staff

Position Title	FT Positions
Office Tech (Typing)	2.00
Staff Services Manager II/Sup	1.00
Staff Services Manager I	2.00
Staff Services Analyst	4.00
Management Services Tech	1.00
Assoc Gov Prog Analyst	5.00
Special Investigator	3.00
Executive Officer	1.00
Seasonal Clerk	
Total Staff	19.00

BCE staff support falls into four basic categories: direct fee-related services, enforcement activities, special investigations, or administrative support. The following points provide an overview of these categories, as well as the associated staff.

- **Fee-Related:** Staff who work directly in support of licensing, continuing education, and other fee-related services include: Office Tech (Typing), Staff Services Manager I, Staff Services Analyst Associate Government Program Analyst, and Seasonal Clerk.
- **Enforcement:** Staff who work to process complaints, and research applicable laws relating to possible violations include: Staff Services Manager I, Staff Services Analyst, Associate Government Program Analyst, and Seasonal Clerk.

- **Special Investigations:** Special Investigators are responsible for conducting field investigations.
- **Administrative Support:** Staff who manage, oversee, or support all staff include: Office Tech (Typing), Staff Services Manager II / Supervisor, Management Services Tech, Associate Government Program Analyst, Executive Officer, and Seasonal Clerk.

The project team worked with BCE staff to identify various daily, weekly, monthly, and annual activities carried out by staff that fall into each of the above categories in order to develop appropriate time estimates and cost assumptions.

2 Fiscal Year 2020-21 Budget Assumptions and Budget Adjustments

In order to determine appropriate costs for inclusion in the fee analysis, the project team first started with the Fiscal Year 2020-21 Budget for BCE. Expenditure line items were reviewed for appropriateness, as well as any mid-year adjustments, such as updating BCE's 2020-21 Budget to its recently enacted 2021-22 Budget (Budget Act). Finally, non-budget items were also identified for inclusion in the full cost of providing BCE services.

(1) Fiscal Year 2020-21 Budget

The project team worked with BCE staff to review the Fiscal Year 2020-21 Budget, and incorporated adjustments associated with several expenditure line items. While the starting budget was \$5 million, based on adjustments made, the total budgeted cost included in the analysis was \$4.6 million. The following table details the Fiscal Year 2020-21 Budget, proposed Cost Adjustments, and the total Adjusted Cost, which ties to BCE's 2021-22 Enacted Budget.

Table 4: Fiscal Year 2020-21 Budget and Adjustments

Cost Type	FY20-21 Budget	Cost Adjustments	Total Adjusted Cost
Salary & Wages	\$1,255,000	\$133,000	\$1,388,000
Temp Help	\$8,000		\$8,000
Statutory Exempt (EO)	\$116,000		\$116,000
Overtime/Retirement Payout	\$1,000		\$1,000
Staff Benefits	\$695,000	\$47,000	\$742,000
Board Member Per Diem	\$16,000		\$16,000
General Expense	\$30,000		\$30,000
Printing	\$3,000		\$3,000
Communication	\$19,000		\$19,000
Postage	\$7,000		\$7,000
Travel In State	\$22,000		\$22,000

Cost Type	FY20-21 Budget	Cost Adjustments	Total Adjusted Cost
Training	\$9,000		\$9,000
Facilities Operations	\$141,000		\$141,000
Attorney General	\$933,000		\$933,000
Office of Administrative Hearings	\$159,000		\$159,000
Evidence/Witness Fees	\$75,000	(\$17,000)	\$58,000
C & P Services - External	\$448,000	(\$438,000)	\$10,000
DCA Pro Rata	\$1,011,000	(\$240,000)	\$771,000
Consolidated Data Center	\$27,000		\$27,000
Information Technology	\$60,000	(\$7,000)	\$53,000
Equipment	\$13,000	(\$2,000)	\$11,000
Vehicle Operations	\$42,000		\$42,000
Total Budgeted Costs	\$5,090,000	(\$524,000)	\$4,566,000

Upon review of the budgeted line items included in the budget, BCE identified approximately \$5 million in cost adjustments. Costs associated with Salary and Wages and Staff Benefits were increased by \$180,000, while costs associated with Evidence / Witness Fees, C&P Services – External, DCA Pro Rata, Information Technology, and Equipment were reduced by \$700,000.

(2) Non-Budget Items

The BCE develops an annual budget every year to reflect known cost types such as salaries, benefits, and operating costs. However, the BCE has several non-budget expense obligations that it is required to pay, which total \$1.5 million this year. The following table outlines the non-budget expenses the BCE should incur by cost type.

Table 5: Fiscal Year 2021-22 Non-Budget Expenses

Non-Budget Item	Annual Cost
Office Relocation	\$29,920
Credit Card Fees	\$84,591
Direct Fund Transfer - BAR Loan Payback (\$1.448 million outstanding)	\$250,000
Direct Fund Assessment - Supplemental Pension Payments (Ends 2024-25)	\$85,000
Direct Fund Assessment - Statewide Prorata	\$297,000
General Salary Increases (eff. 7/1/2021)	\$130,000
Ongoing Expenditure Reduction	(\$16,000)
Annual Reserve	\$597,870
Total Non-Budget Expenses	\$1,458,382

Over the next several years the BCE should make payments to offset its BAR Loan, as well as Supplemental Pension Payments. It will also need to pay for Statewide Prorata, cover general salary increases, account for an ongoing expenditure reductions, account for credit card fees associated with taking online payments, and account for amortized costs associated with office relocations. Finally, the BCE needs to build back its fund reserve in order to offset any unforeseen future economic uncertainties.

(3) Total Annual Cost

When looking at the budgeted and non-budgeted expenditures for BCE, costs total approximately \$6 million.

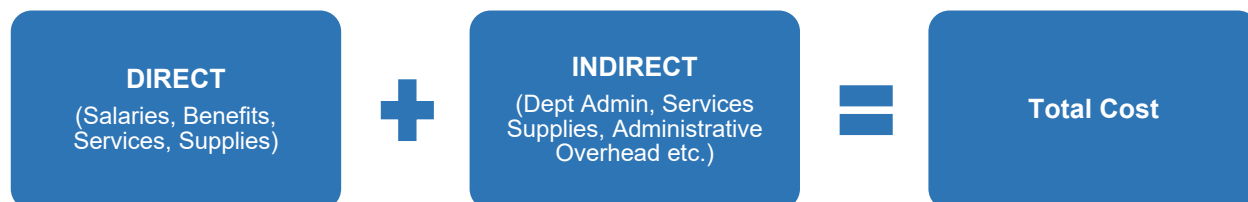
Table 6: Fiscal Year 2021-22 Budget Assumptions

Cost Type	FY20-21 Budget	Cost Adjustments	Total Adjusted Cost
Governor's Budget and Cost Adjustments	\$5,090,000	(\$524,000)	\$4,566,000
Non-Budget Items		\$1,458,382	\$1,458,382
Total Budgeted Costs	\$5,090,000	\$934,382	\$6,024,382

The costs identified in the previous two subsections were used as the basis for the annual costs associated with BCE services.

4. User Fee Methodology

The Matrix Consulting Group utilizes a cost allocation methodology commonly known and accepted as the “bottom-up” approach to establishing User Fees. The term means that several cost components are calculated for each fee or service. These components then build upon each other to comprise the total cost for providing the service. The following chart describes the components of a full cost calculation:



The general steps utilized by the project team to determine allocations of cost components to a particular fee or service are:

- Calculate fully burdened hourly rates by position, including direct & indirect costs;
- Develop time estimates for each service included in the study;
- Distribute the appropriate amount of the other cost components to each fee or service based on the staff time allocation basis, or another reasonable basis.

The results of these allocations provide detailed documentation for the reasonable estimate of the actual cost of providing each service. The following subsections discuss the fully burdened hourly rates calculated and the time estimates utilized.

1 Fully Burdened Hourly Rates

The fully burdened hourly rates are one of the two key factors of the full cost calculated. The fully burdened hourly rates calculated through this study are comprised of the following key components:

- **Direct Cost:** This consists of the salaries, benefits, and productive hours associated with each position. The salaries and benefits are the actual salaries and benefits budgeted for each position at the BCE. The productive hours are a calculation to reduce the billable hours from 2,080 (standard full-time hours) to the hours which are available to be billed for. This includes reduction for items such as sick leave, vacation, holidays, meetings, breaks, and trainings. Based upon review of standardized vacation and holiday, the total productive hours calculated for staff are 1702.5 hours. The 1,702.5 hours represents a billable percentage of 81%, which is within the range typically seen for state agencies at 75-85%.

- **Supplies and Services Overhead:** This overhead refers to the non-personnel budgeted items for each program or division that are necessary for the employees to be productive. This includes costs such as general expenses, printing, communication, postage, training, facilities overhead, equipment, vehicle operations, etc. These costs are divided by the total productive hours for BCE to calculate the supplies and services overhead per hour.
- **Administrative Staff Support:** This consists of the costs associated with all personnel that support the billable staff. This includes the costs associated with managerial and clerical staff, as well as the non-billable time associated with fee-related staff. The BCE has a mandate that all costs are recovered through fees, as such these costs should be considered as overhead to fees. For purposes of the BCE the administrative staff allocated over fee-related activities include Staff Services Manager II, Management Services Technician, the Executive Officer, and portions of the Office Technician, Associate Government Program Analyst, and Seasonal Clerk.

Together these cost components result in fully burdened hourly rates, which are reflective of the total cost to the BCE for each position. It is important to note that this rate is NOT meant to be reflective of actual pay to Board staff, but rather reflects the cost associated with that employee, which includes salaries, benefits, supervisory support, services and supplies, and overall agencywide support. The fully burdened hourly rate is utilized in conjunction with time estimates to calculate the full cost of service.

2 Time Estimates

One of the key study assumptions utilized in the “bottom up” approach is the use of time estimates for the provision of each fee related service. Utilization of time estimates is a reasonable and defensible approach, especially since experienced staff members who understand service levels and processes unique to the City developed these estimates.

The project team worked closely with BCE staff in developing time estimates with the following criteria:

- Estimates are representative of average times for providing services. Estimates for extremely difficult or abnormally simple projects are not factored into this analysis.
- Estimates reflect the time associated with the position or positions that typically perform a service.
- Estimates provided by staff are reviewed and approved by line staff and management, and often involve multiple iterations before a Study is finalized.
- Estimates are reviewed by the project team for “reasonableness” against their experience with other agencies.

- Estimates were not based on time in motion studies, as they are not practical for the scope of services and time frame for this project.
- Estimates match the current or proposed staffing levels to ensure there is no over-allocation of staff resources to fee and non-fee related activities.

The Matrix Consulting Group agrees that while the use of time estimates is not perfect, it is the best alternative available for setting a standard level of service for which to base a jurisdiction's fees for service and meets the requirements of California law.

3 Cost Assumptions

Along with Fully Burdened Hourly Rates and Time Estimates, the total cost calculated for the licenses issued by the Board of BCE consists of three other cost components:

1. **Special Investigations:** The BCE has three (3) Special Investigators who provide field investigations and enforcement regarding any license holder violations. These are in-depth investigations and can result in court cases and licenses being revoked.
2. **Enforcement:** The BCE has approximately six (6) Full-time staff dedicated to Enforcement activities. These staff review and process complaints and research applicable laws to determine whether a violation was committed.
3. **Reserve:** It is a best management practice that an agency have a policy regarding reserves to ensure continuity of operations in the event of an unprecedented financial situation. The BCE has a policy of accumulating a reserve equal to 6 months of the operating budget. This reserve is intended to be accumulated over a period of 5 years.

These three cost components have been included as additional costs on top of the different license and permit categories to capture the full operating costs of the BCE. The following subsections show the cost calculation assumptions that have been utilized for these three categories.

(1) Special Investigations

As discussed, the BCE has three (3) full-time special investigator positions. The project team calculated the full cost of special investigations by taking the fully burdened hourly rate for Special Investigations (based upon the cost components discussed in Section 1 of this Chapter) and multiplying it by the total annual available hours for the Special Investigations staff. The following table shows this calculation:

Table 7: Calculation of Annual Special Investigations Cost

Position Title	# of FTE	Productive Hours Per FTE ³	Annual Available Hours per FTE	Fully Burdened Hourly Rate	Annual Cost
Special Investigator	3.0	1,702.5	5,107.50	\$180.425	\$920,649

Based upon the number of FTE, the annual available hours, and the fully burdened hourly rate, the annual cost for Special Investigations is approximately \$921,000. The cost for Special Investigations was allocated to permits based upon the type of activity that is being investigated. Approximately 95% of this activity is related to general license holders, as such, 95% of this cost should be borne by annual license fees, with the remaining 5% spread over the remaining license types to account for investigative actions stemming from continuing education, corporation filings, and satellite certificates. The following table shows the total cost allocated to the different types of permits:

Table 8: Allocation of Special Investigations Costs

Annual Special Inv. Cost	Type of Activity	% of Support	Total Allocable Cost
\$920,649	All License Types	5%	\$46,032
	Renewals Only	95%	\$874,616

Based upon the proposed percentage of support, approximately \$875,000 of the costs are allocated to License Renewals. The costs associated with licenses were then calculated into a per license cost based upon the prior fiscal year's (FY21) workload. The following table shows the per license cost:

Table 9: Allocation of Special Investigations Costs

Type	Allocable Cost	Annual Workload	Cost / Permit
All License Types	\$38,920	9,433	\$5
Renewals Only	\$739,478	12,759	\$69

Based upon the calculation, \$5 is added to each license type and \$69 to the license renewal fee to help recover the costs associated with Special Investigations.

(2) Enforcement

The BCE has several different staff positions dedicated to the Enforcement function. The project team calculated the full cost of Enforcement by taking the fully burdened hourly rate for Enforcement Staff (based upon the cost components discussed in Section 1 of this Chapter) and multiplying it by the total annual available hours for the Enforcement staff. The following table shows this calculation:

³ As discussed in the fully burdened hourly rates section, the project team calculated the hours that staff can bill and be productive, which takes the 2,080 (40 hrs per week for 52 weeks) and reduces them by sick, vacation, and breaks.

Table 10: Calculation of Annual Enforcement Staff Cost

Position Title	# of FTE	Productive Hours Per FTE ⁴	Annual Available Hours per FTE	Fully Burdened Hourly Rate	Annual Cost
Staff Services Manager	1.0	1,702.50	1,702.50	\$182	\$309,130
Associate Govt Program Analyst	3.0	1,702.50	4,396.50	\$165	\$814,578
Staff Services Analyst	1.0	1,702.50	1,702.50	\$154	\$262,304
Seasonal Clerk ⁵	1.0	1,478.00	1,478.00	\$122	\$179,852
TOTAL STAFF COST					\$1,565,864

Based upon the number of FTE, the annual available hours, and the fully burdened hourly rate, the annual staff cost for Enforcement is approximately \$1.6 million. In addition to staff costs for enforcement there are other fixed costs such as Attorney General, Office of Administrative Hearings, and Evidence / Witness Fees. The following table shows these additional costs incorporated with the staff costs to calculate the total annual costs for enforcement:

Table 11: Total Annual Enforcement Costs

Cost Category	Amount
Enforcement Staff Cost	\$1,565,864
Attorney General	\$933,000
Office of Administrative Hearings	\$159,000
Evidence / Witness Fees	\$58,000
C&P Services – External	\$10,000
DCA Pro-Rata Enforcement	\$322,000
TOTAL COSTS	\$3,047,864

The total costs associated with Enforcement related activities are approximately \$3 million, with \$1.5 million associated with external enforcement activities. This cost for Enforcement was allocated to permits based upon the type of activity that is being enforced. Approximately 95% of this activity is related to general license holders, as such, approximately 95% of this cost should be borne by annual license fees. The remaining 5% accounts for enforcement issues borne out of actions relating to continuing education, corporation filings, and satellite certifications, and is spread over these license types. The following table then shows the total cost allocated to the different types of permits:

Table 12: Allocation of Enforcement Costs by Permit Type

Annual Enforcement Cost	Type of Activity	% of Support	Total Allocable Cost
\$3,047,864	All License Types	5%	\$152,393
	Renewals Only	95%	\$2,895,471

⁴ As discussed in the fully burdened hourly rates section, the project team calculated the hours that staff can bill and be productive, which takes the 2,080 (40 hrs per week for 52 weeks) and reduces them by sick, vacation, and breaks.

⁵ The Seasonal Clerk position works a maximum of 1,500 hours and it is assumed they receive approximately half of the holidays that agency staff receive in order to calculate their billable / productive hours.

Based upon the allocation of costs, approximately \$2.9 million of the costs relate to License Renewals. The costs associated with licenses were then calculated into a per license cost based upon the prior fiscal year's (FY 2020-21) workload. The following table shows the per license cost:

Table 13: Allocation of Enforcement Costs per Permit

Type	Allocable Cost	Annual Workload	Cost / Permit
All License Types	\$152,393	9,433	\$16
Renewals Only	\$2,895,471	12,759	\$227

Based upon the calculation, \$16 is added to each license type and \$227 to the license renewal fee to help recover the costs associated with Enforcement.

(3) Reserve

The BCE has a policy that there should be a reserve based on 6 months of operating annual costs for the agency. However, it is not expected that this reserve would be accumulated in a singular year. As such, the reserve and its associated costs are calculated over a 5-year time frame. Similar to Special Investigations and Enforcement, the cost for reserve accumulation was based upon a per permit cost. However, as the reserve would be applicable to all permit types, there was no difference in allocation between the permit types. The following table shows the per permit calculation for the reserve:

Table 14: Calculation of Reserve Cost Per Permit

Category	Annual Cost	Annual Workload	Cost Per Permit
Annual Reserve Cost	\$597,870 ⁶	22,192	\$27

Based upon the calculation, \$27 is added to each license type to help the agency accumulate a reserve that is equal to 6 months of operating costs over a 5-year period.

⁶ The 5 year annual operating cost is \$6 million based upon a 2% inflation factor, and the 6 month reserve is \$3 million, which spread over 5 years results in an annual cost of \$597,870.

5. BCE Fee Study Results

The BCE is the regulatory agency that monitors and licenses chiropractic practitioners. The fees included in this analysis include application fees, renewal fees, continuing education, corporate registration, reciprocal licenses, and satellite licenses. The following subsections discuss modifications made to the fee schedule, the detailed per unit analysis, and the annual revenue impacts for fee-related services provided by the agency.

1 Fee Schedule Modifications

During discussions with BCE staff, it was determined that the current fee structure reflects services being provided, and complies with regulations regarding how fees can be applied and charged. Therefore, no modifications were made to the current fee structure.

2 Detailed Per Unit Results

The BCE collects flat fees for items such as continuing education providers, annual license applications, corporation licenses, restoration of licenses, reciprocal licenses, and satellite licenses. The total cost calculated for each service includes direct staff cost, services and supplies, administrative overhead, special investigations, enforcement, and reserve costs. The following table details the fee title / name, the current fee amount, the total cost, and surplus and / or deficit associated with each service:

Table 15: BCE Cost Per Unit Results

Fee Name	Current Fee	Total Cost Per Unit	Surplus / (Deficit) per Unit
Biennial continuing education provider renewal fee	\$56	\$118	(\$62)
Continuing education provider application fee	\$84	\$291	(\$207)
Continuing education course application fee	\$56	\$558	(\$502)
Corporation registration application fee	\$186	\$171	\$15
Corporation special report filing fee	\$31	\$98	(\$67)
Corporation renewal filing fee	\$31	\$62	(\$31)
Corporation duplicate certificate fee	\$50	\$70	(\$20)
Duplicate license fee	\$50	\$71	(\$21)
Initial license fee	\$186	\$137	\$49
License application fee	\$371	\$345	\$26
License certification / Out of state license verification	\$124	\$83	\$41
License renewal fee	\$313	\$336	(\$23)
Petition for early termination of probation or reduction of penalty fee	\$371	\$3,195	(\$2,824)

Fee Name	Current Fee	Total Cost Per Unit	Surplus / (Deficit) per Unit
Petition for reinstatement of a revoked license fee	\$371	\$4,185	(\$3,814)
Preceptor fee	\$31	\$72	(\$41)
Reciprocal license application fee	\$371	\$283	\$88
Referral service application fee	\$557	\$279	\$278
Satellite certificate application fee	\$62	\$69	(\$7)
Satellite certificate renewal fee	\$31	\$50	(\$19)
Satellite certificate replacement fee	\$50	\$71	(\$21)

As the table indicates, the majority of fees charged by BCE are under-recovering. The under-recovery ranges from a low of \$7 for the Satellite Certificate Application to a high of \$3,814 for the Petition for Reinstatement of a Revoked License. The over-recovery ranges from a low of \$15 for Corporation Registration Application to a high of \$278 for Referral Service Application. The average per unit cost recovery for BCE fees is approximately 75%.

3 Annual Results

In order to understand how the per unit results presented in the previous section impact the BCE revenue on an annual basis, workload for FY 2020-21 was collected. The project team compared annual revenue based on current fees to projected revenue based on BCE's full cost of providing services. This analysis indicates that BCE is under-recovering by approximately \$1.4 million. The following table shows by major category, the revenue at current fee, the annual cost, and the associated annual surplus / deficit:

Table 16: Annual Cost Recovery Analysis - BCE

Fee Category	Revenue at Current Fee	Total Annual Cost	Annual Surplus / (Deficit)
Continuing Education	\$113,820	\$1,109,988	(\$996,168)
Corporation	\$67,756	\$112,343	(\$44,587)
Licensing Fees	\$4,248,174	\$4,505,041	(\$256,867)
Petition Fees	\$3,339	\$28,757	(\$25,418)
Preceptor Fees	\$20,088	\$46,744	(\$26,656)
Reciprocal Fees	\$742	\$566	\$176
Satellite Fees	\$158,069	\$220,943	(\$62,874)
TOTAL	\$4,611,988	\$6,024,382	(\$1,412,394)

The largest source of subsidy at \$996,000 relates to continuing education. This subsidy relates to the current fee for continuing educating course application fee, which has a \$500 per unit subsidy. The next largest source of subsidy stems from the license renewal fee, which only has a per unit subsidy of \$23, but due to the sheer volume (12,759), generates approximately \$300,000 in subsidies.

6. Future Schedule Modifications

During review of the BCE fee structure, discussion of converting the Continuing Education Course Application fee from a flat rate to a per course hour rate occurred. The current flat fee associated with Continuing Education Course Applications is applied regardless of the length of a course. However, staff must conduct a thorough and intensive review of each proposed course hour. Therefore, those who submit applications for a 2 hour course pay the same fee as those who submit an application for a 10 hour course.

Due to current regulations regarding how BCE can charge fees for Continuing Education Course Application, a modification was not incorporated into the current fee analysis. However, the project team did calculate a per hour fee, should the Board decide to revise current regulations. The following table details the conversion of the flat course application fee to a per course hour fee.

Table 17: Conversion of per Course Application Flat Fee to per Course Hour Fee

Component	Amount
Calculated Full Cost – Per Application	\$558
Total Applications Processed	1,973
Total Course Hours	9,522
Average Course Hours per Application	4.83
Full Cost Per Course Hour	\$116

The full cost of processing a Continuing Education Course Application was calculated to be \$558. In FY 2020-21, the BCE processed 1,973 applications, reflecting 9,522 course hours, resulting in an average of 4.83 course hours per application. Therefore, the project team took the full cost of processing an application (\$558), and divided it by the average number of hours per course (4.83) to arrive at a per course hour fee of \$116.

Should the Board revise current regulations regarding how Course Application fees can be assessed, and choose to implement a per course hour fee, a fee of \$116 per hour would be sufficient to recover current costs.

7. Results and Findings

The results of this study found that the BCE is under-recovering its costs by approximately \$1.4 million. The majority of this under-recovery relates to Continuing Education applications and permits. The information presented in this report, as well as provided to staff under separate cover, is meant to document current costs and services, and serve as a tool to be used by the BCE and its Board to adjust its fees.

The Board should use the findings of this report to adjust current fees to a level that is appropriate for its members, while also ensuring that enough revenue is generated to offset costs. Furthermore, the Board should also consider revising the current fee structure for Course Applications to be more equitable for the fee payer.

Board of Chiropractic Examiners' Current Fee Schedule

Business and Professions Code Section 1006.5

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

- (a) Fee to apply for a license to practice chiropractic: three hundred seventy-one dollars (\$371).
- (b) Fee for initial license to practice chiropractic: one hundred eighty-six dollars (\$186).
- (c) Fee to renew an active or inactive license to practice chiropractic: three hundred thirteen dollars (\$313).
- (d) Fee to apply for approval as a continuing education provider: eighty-four dollars (\$84).
- (e) Biennial continuing education provider renewal fee: fifty-six dollars (\$56).
- (f) Fee to apply for approval of a continuing education course: fifty-six dollars (\$56) per course.
- (g) Fee to apply for a satellite office certificate: sixty-two dollars (\$62).
- (h) Fee to renew a satellite office certificate: thirty-one dollars (\$31).
- (i) Fee to apply for a license to practice chiropractic pursuant to Section 9 of the Chiropractic Initiative Act: three hundred seventy-one dollars (\$371).
- (j) Fee to apply for a certificate of registration of a chiropractic corporation: one hundred eighty-six dollars (\$186).
- (k) Fee to renew a certificate of registration of a chiropractic corporation: thirty-one dollars (\$31).
- (l) Fee to file a chiropractic corporation special report: thirty-one dollars (\$31).
- (m) Fee to apply for approval as a referral service: five hundred fifty-seven dollars (\$557).
- (n) Fee for an endorsed verification of licensure: one hundred twenty-four dollars (\$124).

- (o) Fee for replacement of a lost or destroyed license: fifty dollars (\$50).
- (p) Fee for replacement of a satellite office certificate: fifty dollars (\$50).
- (q) Fee for replacement of a certificate of registration of a chiropractic corporation: fifty dollars (\$50).
- (r) Fee to restore a forfeited or canceled license to practice chiropractic: double the annual renewal fee specified in subdivision (c).
- (s) Fee to apply for approval to serve as a preceptor: thirty-one dollars (\$31).
- (t) Fee to petition for reinstatement of a revoked license: three hundred seventy-one dollars (\$371).
- (u) Fee to petition for early termination of probation: three hundred seventy-one dollars (\$371).
- (v) Fee to petition for reduction of penalty: three hundred seventy-one dollars (\$371).

(Added by Stats. 2018, Ch. 571, Sec. 3. (SB 1480) Effective January 1, 2019.)

California Acupuncture Board's Current Fee Schedule

Business and Professions Code Section 4970

The amount of fees prescribed for licensed acupuncturists shall be those set forth in this section unless a lower fee is fixed by the board in accordance with Section 4972:

(a) The application fee shall be two hundred fifty dollars (\$250) and may be increased to not more than three hundred fifty dollars (\$350).

(b) The application fee for foreign applicants shall be three hundred fifty dollars (\$350) and may be increased to not more than five hundred dollars (\$500).

(c) The examination and reexamination fees shall be eight hundred dollars (\$800).

(d) The initial license fee shall be five hundred dollars (\$500), except that if the license will expire less than one year after its issuance, then the initial license fee shall be an amount equal to 50 percent of the initial license fee. The initial license fee shall include one wall license registration if a place of practice is specified in the application.

(e) The renewal fee shall be five hundred dollars (\$500) and may be increased to not more than seven hundred seventy-five dollars (\$775) and, if a lower fee is fixed by the board, shall be an amount sufficient to support the functions of the board in the administration of this chapter. The board shall assess the renewal fee biennially.

(f) The delinquency fee shall be set in accordance with Section 163.5.

(g) The wall license fee shall be fifty dollars (\$50).

(h) The wall license renewal fee shall be fifty dollars (\$50).

(i) If a pocket license is lost or destroyed, the pocket license replacement fee is fifty dollars (\$50).

(j) The endorsement fee is one hundred dollars (\$100).

(k) If a wall license is lost or destroyed, the wall license replacement fee is fifty dollars (\$50).

(l) The approval fee for each provider of continuing education shall be five hundred dollars (\$500) and may be increased to not more than seven hundred dollars (\$700).

(m) The biennial renewal approval fee for each provider of continuing education shall be five hundred dollars (\$500) and may be increased to not more than seven hundred dollars (\$700).

(n) (1) Fees for continuing education course applications shall be assessed to the continuing education provider at a floor of ten dollars (\$10) per hour of continuing education requested to offer, and a cap of twenty dollars (\$20) per hour of continuing education requested to offer, allowing up to a maximum of 50 hours to be approved per course application.

(2) Fees for course hours shall be prorated in one-half hour increments.

(3) An approved course may be offered for a period of one year from the date of board course approval.

(o) This section shall become operative on January 1, 2021.

(Amended (as added by Stats. 2019, Ch. 308, Sec. 4) by Stats. 2020, Ch. 359, Sec. 5. (AB 3330) Effective January 1, 2021.)



**Agenda Item 3
May 20, 2022**

Review, Discussion, and Possible Action on Legislation

Purpose of the Item

Board staff will provide the Board with an update on current legislation and the Board will have an opportunity to take a position on the following bills:

- A. [Assembly Bill \(AB\) 646](#) (Low) Department of Consumer Affairs: boards: expunged convictions.
- B. [AB 1662](#) (Gipson) Licensing boards: disqualification from licensure: criminal conviction.
- C. [AB 1733](#) (Quirk) State bodies: open meetings.
- D. [Senate Bill \(SB\) 1031](#) (Ochoa Bogh) Healing arts boards: inactive license fees.
- E. [SB 1237](#) (Newman) Licenses: military service.
- F. [SB 1365](#) (Jones) Licensing boards: procedures.
- G. [SB 1434](#) (Roth) State Board of Chiropractic Examiners: directory.

Action Requested

The Board will be asked to review and discuss pending legislation.

Overview of Pending Legislation

Bill	Author	Title	Status	Staff Recommendation
AB 646*	Low	Department of Consumer Affairs: boards: expunged convictions.	In Senate – Referred to Business, Professions and Economic Development and Public Safety Committees on 5/4/2022	Watch
AB 1662	Gipson	Licensing boards: disqualification from licensure: criminal conviction.	In Assembly – Referred to Appropriations Committee on 4/28/2022	Support If Amended
AB 1733	Quirk	State bodies: open meetings.	In Assembly – Hearing Postponed by Governmental Organization Committee on 4/20/2022	Support

Update on Legislation
May 20, 2022
Page 2

Bill	Author	Title	Status	Staff Recommendation
SB 1031	Ochoa Bogh	Healing arts boards: inactive license fees.	In Senate – Placed on Appropriations Committee Suspense File on 5/2/2022	Neutral
SB 1237	Newman	Licenses: military service.	In Senate – Read Second Time and Ordered to Consent Calendar on 5/10/2022	Watch
SB 1365	Jones	Licensing boards: procedures.	In Senate – Placed on Appropriations Committee Suspense File on 5/9/2022	Watch
SB 1434	Roth	State Board of Chiropractic Examiners: directory	In Senate – Placed on Appropriations Committee Suspense File on 5/9/2022	Support

*AB 646 is a two-year bill. The Board previously took a “Watch” position on this bill at the July 16, 2021 Board meeting.

Attachment

- Memo from BCE’s Policy Analyst



**Agenda Item 3
Attachment**

MEMORANDUM

DATE	May 12, 2022
TO	Members of the Board of Chiropractic Examiners
FROM	Andreia McMillen, Policy Analyst
SUBJECT	Analysis of 2022 Legislation

The purpose of this memorandum is to provide Board members with an update on the 2022 legislation that will be discussed during the May 20, 2022 Board meeting.

Hyperlinks to the legislation, status, and analyses are included in this document to ensure access to current information, as legislation is frequently amended.

A. [Assembly Bill \(AB\) 646 \(Low, 2021\)](#) Department of Consumer Affairs: boards: expunged convictions.

Status: Senate Business, Professions and Economic Development and Public Safety Committees

Bill Analyses: 01/25/2022 - Assembly Floor Analysis
04/19/2021 - Assembly Appropriations
04/06/2021 - Assembly Business and Professions

Next Hearing Date: TBA

Summary: This bill would require a board within the Department of Consumer Affairs (DCA) that has posted on its online license search system that a person's license was revoked because the person has been convicted of a crime to, within 90 days of receiving a certified copy of an expungement order from the person, either:

- 1) Post notification of the expungement order if the person reapplies for licensure or has been relicensed; or
- 2) Remove the initial posting that the person's license was revoked and information regarding arrests, charges, and convictions, if the person is not currently licensed and does not apply for licensure.

This bill would also require a board to charge a fee of \$25 to cover the reasonable regulatory cost of administering this section, unless there is no cost, and provide a board with authority to adopt regulations to implement this fee.

Analysis of 2022 Legislation

May 12, 2022

Page 2

Background: According to the author's office, "[w]hile 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." 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.

Staff Comments: Staff is supportive of the intent of this bill to reduce employment barriers but is concerned the bill could conflict with the Board's consumer protection mandate by limiting the disciplinary history information that can be publicly disclosed on the Board's online license search system. It is also not clear if the fee authorized by the bill will be sufficient to cover the additional workload and expenses that will be incurred by the Board.

At the July 16, 2021 Board meeting, the Board took a "watch" position on this bill. Staff recommends maintaining this position.

Staff Recommended Position: Maintain WATCH Position

B. [AB 1662 \(Gipson, 2022\)](#) Licensing boards: disqualification from licensure: criminal conviction.

Status: Assembly Appropriations Committee

Bill Analysis: 04/22/2022 - Assembly Business and Professions

Next Hearing Date: TBA

Summary: This bill would require a board to: 1) establish a process by which prospective applicants may request a preapplication determination as to whether their criminal history could be cause for denial of a completed application for licensure by the board; and 2) publish information regarding its process for requesting a preapplication determination on its internet website. This bill would also authorize a board designated in Business and Professions Code (BPC) section 144, subdivision (b), to require a prospective applicant to furnish a full set of fingerprints for purposes of conducting a criminal history record check as part of a preapplication determination. In addition, this bill would authorize a board to charge a fee of up to \$50 to administer this section.

Background: According to the author's office, "Californians with criminal records face regulatory barriers that can deter or exclude them from good-paying licensed professions. One of the main barriers that people with criminal records face when trying to apply for a licensed profession is the expensive tuition that comes with training and courses one needs to take, just to find out that they were denied due to their criminal record."

Analysis of 2022 Legislation

May 12, 2022

Page 3

Staff Comments: This bill would require the Board to review criminal conviction information and determine if the applicant's criminal history could be cause for denial of a license to practice chiropractic. Staff estimates this review and determination would cost the Board \$600 in staff compensation per request. Staff anticipates an increase in workload and operating costs associated with the implementation of this bill.

Staff believes this bill would benefit prospective applicants by allowing them to determine if their criminal background may prevent them from obtaining a license as a doctor of chiropractic prior to seeking a chiropractic education. However, staff notes the Board is not currently included in the list of boards and bureaus that are authorized by BPC section 144, subdivision (b), to obtain and receive criminal history information. This will prevent the Board from being able to conduct a thorough, objective background check on a prospective applicant through fingerprinting prior to issuing a determination to the applicant.

Therefore, staff recommends the Board support this bill if it is amended to authorize the Board to conduct a fingerprint background check for prospective applicants seeking a preapplication determination based on their criminal history information.

Staff Recommended Position: SUPPORT IF AMENDED

C. [AB 1733 \(Quirk, 2022\)](#) State bodies: open meetings.

Status: Assembly Governmental Organization Committee

Bill Analysis: N/A

Next Hearing Date: TBA

Summary: This bill would specify that a "meeting" held under the Bagley-Keene Open Meeting Act includes a meeting held entirely by teleconference, as defined. This bill would remove existing provisions that require each teleconference location to be identified in the notice and agenda and accessible to the public, and instead, require the state body to adhere to certain specified requirements, such as: holding all open meetings by teleconference; ensuring the public has the means to hear, observe, and address the state body during the meeting; providing the public with at least one physical location where they can participate; posting the meeting agendas online and at the physical meeting location with information indicating how the meeting can be accessed; and ensuring that if a means of remote participation fails, the meeting must adjourn. This bill would take effect immediately as an urgency statute.

Background: According to the author's office, "[t]he COVID-19 global pandemic has disrupted the way organizations function, just as it has disrupted daily life in general. In 2020, as California's infection rates began to climb, California implemented stay-at-home orders and businesses (both private and public) shut down physical work sites in

Analysis of 2022 Legislation

May 12, 2022

Page 4

an attempt to reduce the spread of infection caused by the virus. The lockdown prompted Governor Newsom to issue Executive Order N-29-20, which suspended Bagley-Keene requirements and authorized any local legislative body or state body to hold public meetings via teleconference. This suspension was extended until March 31, 2022. AB 1733 modernizes the teleconferencing statute of Bagley-Keene to encourage more participation and engagement in public service.”

Staff Comments: This bill would increase public access to board and committee meetings by requiring both a physical location and a means of remote participation and would allow members of the Board to remotely participate in a meeting from a non-public location, such as their homes or private offices. However, if the means of remote participation fails during a meeting and cannot be restored, the Board must end or adjourn the meeting and comply with various public notification requirements to reconvene the board meeting.

This bill would also eliminate the requirement for the Board to meet at least once per calendar year in northern California and southern California if the Board’s meetings are held entirely by teleconference.

Staff estimates this bill would result in cost savings to the Board of up to \$20,000 per year by reducing or eliminating the costs associated with Board member and staff travel for meetings. Staff recommends supporting this bill.

Staff Recommended Position: SUPPORT

D. [SB 1031 \(Ochoa Bogh, 2022\)](#) Healing arts boards: inactive license fees.

Status: Senate Appropriations Committee

Bill Analyses: 04/29/2022 - Senate Appropriations
04/14/2022 - Senate Business, Professions and Economic Development

Next Hearing Date: TBA

Summary: This bill would require the renewal fee for an inactive license issued by DCA healing arts boards to be half the amount of the fee for a renewal of an active license, unless the board establishes a lower fee.

Background: According to the author’s office, “[w]ith the worsening labor shortage among healthcare professionals, especially as a result of the COVID-19 pandemic, it is crucial that the state provides financial flexibility for workers who choose to take a temporary pause on their profession. An inactive license provides for long-term flexibility and allows workers to use the hiatus for a multitude of reasons, including recovering from burnout, starting a family, or caring for a family member with long-term health

Analysis of 2022 Legislation

May 12, 2022

Page 5

issues. Maintaining an inactive license makes for a much easier transition back to active license status as compared to a licensee transitioning their license from delinquent or retired. Although inactive status provides for flexibility logistically, if renewal fees are not reduced as compared to an active status license, it may hinder workers from being able to make the financial decision to go on inactive status if need be.”

Staff Comments: The Board currently licenses approximately 12,500 licensees with about 1,400 inactive licensees. The annual renewal fee for a doctor of chiropractic license is currently set at \$313 regardless of whether the licensee chooses to renew the license as “active” or “inactive.” This fee provides the main source of revenue for the Board’s annual budget.

This bill would reduce the fee for the renewal of an inactive license to 50% of the fee for an active license, thereby reducing the Board’s annual revenue by approximately \$219,000. This fiscal impact would not be absorbable, and the Board would need to increase the annual renewal fee for an active license to cover the loss of revenue from holders of inactive licenses. Staff recommends taking a neutral position on this bill and including the annual renewal fees for active and inactive licenses in the discussion of the Board’s fee proposal.

Staff Recommended Position: NEUTRAL

E. [SB 1237 \(Newman, 2022\)](#) Licenses: military service.

Status: In Senate – Read Second Time and Ordered to Consent Calendar

Bill Analyses: 05/11/2022 - Senate Floor Analyses
04/25/2022 - Senate Committee on Military and Veterans Affairs
03/31/2022 - Senate Business, Professions and Economic Development

Next Hearing Date: N/A

Summary: This bill would clarify the definition of “active duty” for purposes of an individual called to active duty as a member of the United States Armed Forces or the California National Guard to be eligible for a waiver of renewal fees, continuing education requirements, and other renewal requirements of DCA boards and bureaus.

Background: AB 1588 (Atkins, Chapter 742, Statutes of 2012) authorized DCA entities to provide waivers from professional license renewal fees and continuing education requirements for active duty members of the United States Armed Forces. The waivers do not apply to entities that have a similar statutorily authorized renewal waiver process for military personnel. A 2013 memo issued by DCA designed to assist programs in implementing AB 1588 noted, “Legislative notes indicate that Section 114.3

Analysis of 2022 Legislation

May 12, 2022

Page 6

presupposes a service member's temporary change in lifestyle and circumstance whereby the fulfillment of renewal requirements like continuing education and the submittal of fees would be near impossible. The waiver applies equally to those reservists called up to active duty, or to career active duty military personnel that are ordered to a change in circumstance. Not all career military licensees that fall under the broader definition of 'active' military by working full time, then, would be eligible for the waiver. Only career active-duty licensees that have a temporary change in assignment to a remote location in order to perform a military task would qualify for the waiver. Conversely, those military personnel that have orders to serve in a permanent, career position at a base are not 'called to active duty' within the meaning of the exemption... The granting of military renewal waivers, however, should be reserved for what is commonly referred to as a 'TOY' or temporary duty assignment." This narrow interpretation has caused confusion and resulted in unintended consequences whereby military personnel have been denied the opportunity to take advantage of waivers if their active duty is longer than a specified timeframe, even as they remain called to active duty.

Staff Comments: Amendments made to this bill on March 30, 2022, removed the provision to waive the renewal fees of a licensee called to active duty if the licensee is stationed outside of California. This bill would, instead, clarify that "called to active duty" has the same meaning as "active duty" and also include individuals who are on active duty in the California National Guard. This bill does not impact Board operations at this time. Staff recommends watching this bill.

Staff Recommended Position: WATCH

F. [SB 1365 \(Jones, 2022\)](#) Licensing boards: procedures.

Status: Senate Appropriations Committee

Bill Analyses: 05/06/2022 - Senate Appropriations
04/22/2022 - Senate Public Safety
03/31/2022 - Senate Business, Professions and Economic Development

Next Hearing Date: N/A

Summary: This bill would require each board within DCA to publicly post on its website a list of criteria used to evaluate applicants with criminal convictions so that potential applicants for licensure may be better informed about their possibilities for gaining licensure before investing time and resources into education, training, and application fees. This bill would also require DCA to develop a process for each board to use in verifying applicant information and performing background checks of applicants, and

Analysis of 2022 Legislation

May 12, 2022

Page 7

develop a procedure to provide for an informal appeals process that would occur between an initial license denial and an administrative hearing.

Background: According to the author's office, [t]here is an overall lack in consistency across DCA boards in how these particular applicants are handled. The current process lets boards have their own autonomy over how they award licensure. In the event these boards find an applicant has previous convictions, they proceed with their own procedures. This means there is not a consolidated way for applicants to understand all the requirements necessary for their applications. Majority of these boards do not include a step in the application process to provide court documents describing their criminal history. This provides a disadvantage to the applicants because according to the current Business and Professions Code, they must disclose their criminal history. However, if the previous convictions are unrelated to the licensed practice, this information is less likely to affect the review process."

The current laws for licensure make it difficult for the formerly incarcerated population to apply for licenses. There is limited information and few resources available to support these individuals as they apply. Therefore, there is a growing need for clearer instructions and better transparency of this process, so all applicants are aware of the existing rules of each license.

Staff Comments: Pursuant to AB 2138 (Chiu and Low, Chapter 995, Statutes of 2018), the Board has promulgated regulations that define the criteria that must be considered to determine if a crime is substantially related to the qualifications of the chiropractic profession and that define the evidence of rehabilitation the Board must consider before denying issuance of a license. These regulations are posted on the Board's website.

Staff supports efforts to increase transparency to prospective applicants about their possibilities for licensure before investing time and resources into pursuing a chiropractic education. The Board averages 13 license applications per year from applicants with criminal records. The costs associated with implementing this bill are currently unknown, but staff anticipates the informal appeals process could have a negative fiscal impact on the Board's budget. Staff recommends watching this bill.

Staff Recommended Position: WATCH

G. [SB 1434 \(Roth, 2022\)](#) State Board of Chiropractic Examiners: directory.

Status: Senate Appropriations Committee

Bill Analyses: 05/06/2022 - Senate Appropriations
04/14/2022 - Senate Business, Professions and Economic Development

Next Hearing Date: N/A

Analysis of 2022 Legislation

May 12, 2022

Page 8

Summary: This bill would require the Board to: 1) be subject to review by the appropriate policy committees of the Legislature as if the practice act was scheduled to be repealed on January 1, 2017; 2) include the telephone numbers and email addresses of licensees in the Board's directory and require licensees to immediately notify the Board of a change of contact information; and 3) submit a report to the appropriate policy and fiscal committees of the Legislature by July 1, 2023, that contains an update on the Board's plans for restructuring its license fees. In addition, this bill would remove specified exemptions from the probation status disclosure requirement for licensees placed on probation by the Board.

Background: On March 7, 2022, the Senate Committee on Business, Professions and Economic Development and the Assembly Committee on Business and Professions held a Joint Sunset Review Oversight Hearing on the Board's administration. Prior to the hearing, Committee staff prepared a background paper identifying issues and recommendations for the Board based on the information provided in the Board's Sunset Review Report.

This is the Board's sunset bill, and it is intended to improve oversight of chiropractic and chiropractic licensees stemming from the sunset review oversight of the Board and implement legislative changes as recommended by staff of the Committees.

Staff Comments: This bill extends the Board's oversight review date by four years, modernizes the Board's directory, requires the submission of an update on the Board's plans to restructure its license fees, and strengthens consumer protection by ensuring patients are properly notified of a licensee's probationary status and can make informed decisions prior to receiving chiropractic care. Staff recommends supporting this bill.

Staff Recommended Position: SUPPORT



Agenda Item 4 May 20, 2022

Discussion and Possible Action on Chair's Proposal for the Board to Create Separate "Licensing" and "Continuing Education" Committees

Purpose of the Item

The Board will review and discuss the proposal by Board Chair David Paris, D.C. to create separate standing committees for licensing and continuing education.

Action Requested

The Board will be asked to consider a motion to create a "Licensing Committee" and a "Continuing Education Committee."

Background

The Board currently has three standing committees:

- 1. Licensing and Continuing Education Committee:** This committee proposes regulations, 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:** This committee proposes regulations, policies, and standards to ensure compliance with chiropractic law and regulations, and continuously seeks ways to improve the Board's enforcement activities.
- 3. Government and Public Affairs Committee:** This committee proposes and reviews policies and procedures to address audit and sunset review deficiencies; works directly with the Executive Officer and staff to monitor budget expenditures, trends, and contingent fund levels; reviews and recommends positions on legislative bills that affect the Board; develops strategies to communicate with the public through various forms of media; oversees all administrative issues regarding Board operations; and develops draft strategic plans and monitors the Board's progress in achieving goals and objectives.

The existing Licensing and Continuing Education Committee has been focused on developing comprehensive changes to the Board's continuing education (CE) requirements to expand the background check and minimum requirements for CE providers and to align the course categories with the core competencies necessary for licensees to safely practice in California. In addition, under these proposed changes, the

Proposal to Create Separate “Licensing” and “CE” Committees

May 20, 2022

Page 2

Committee will hear appeals of denied CE provider and course applications and issue final decisions on those appeals on behalf of the Board.

Under Dr. Paris’ proposal, the functions of this Committee would be divided between two separate committees as follows:

- **Licensing Committee:** This committee would propose regulations, policies, and standards regarding chiropractic colleges, doctors of chiropractic, satellite offices, and corporation registrations.
- **Continuing Education Committee:** This committee would propose regulations, policies, and standards regarding continuing education providers and courses, provide oversight of staff’s auditing of continuing education, and serve as the review committee for appeals of denied continuing education and course applications.

Staff Recommendation: Staff supports Dr. Paris’ proposal and recommends the Board make a motion to create a “Licensing Committee” and a “Continuing Education Committee” with the functions outlined above.

Attachment(s)

N/A