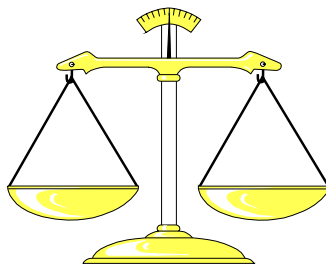


# **Board of Chiropractic Examiners**

## **Disciplinary Guidelines and Model Disciplinary Orders**



Adopted by the Board January 28, 1999  
Revised September 23, 1999  
Revised October 21, 2004

# Table of Contents

	Page No.
Introduction .....	1
Factors to be Considered in Determining Penalties .....	2
Terms of Probation .....	3
Standard Conditions .....	3
Optional Conditions .....	4
Categories of Violation and Recommended Penalties	
<b>Category I - Penalty</b> .....	5
Chiropractic Initiative Act .....	5
California Code of Regulations .....	6
Business and Professions Code .....	6
Health and Safety Code .....	6
<b>Category II - Penalty</b> .....	7
Chiropractic Initiative Act .....	7
California Code of Regulations .....	7
Business and Professions Code .....	8
<b>Category III - Penalty</b> .....	8
Chiropractic Initiative Act .....	9
California Code of Regulations .....	9
Business and Professions Code .....	10
<b>Category IV - Penalty</b> .....	10
California Code of Regulations .....	10
Business and Professions Code .....	10
Model Disciplinary Language .....	11
Optional Conditions of Probation .....	15
Standard Conditions of Probation .....	24

# Introduction

The Board of Chiropractic Examiners (hereinafter “the Board”) is a consumer protection agency with the primary mission of protecting consumers of chiropractic services from potentially harmful licensees. In keeping with its mandate to protect the affected population of consumers, the Board has adopted the following recommended guidelines for disciplinary orders and conditions of probation for violations of the Chiropractic Act and/or California Code of Regulations.

The Board recognizes that these conditions are merely guidelines and the mitigating or aggravating circumstances in a particular case may necessitate variations. In such cases, the mitigating circumstances shall be detailed in any proposed decision or any transmittal memorandum accompanying a stipulation.

The Board has found that accusations are rarely filed except in serious cases. In general, the position of the Board is that revocation should always be an option whenever grounds for discipline are found to exist. Board policy is that revocation is always an appropriate order where a respondent is in default, such as when he or she fails to file a notice of defense or fails to appear at a disciplinary hearing.

The Board seeks recovery of all investigative and prosecution costs up to the hearing in all disciplinary cases, including all charges of the Office of the Attorney General including, but not limited to legal services and opinions of expert consultants, because the burden for paying for disciplinary cases should fall on those whose conduct requires investigation and enforcement, not upon the profession as a whole.

## **BOARD INFORMATION**

Board of Chiropractic Examiners  
901 P Street, Suite 142A  
Sacramento, CA 95814  
Phone: (916) 263-5355  
Fax: (916) 327-0039

# Disciplinary Guidelines

## Factors to Be Considered in Determining Penalties

Section 10(b) of the Chiropractic Initiative Act provides that the Board may discipline the holder of, or suspend or revoke, any license issued by the Board.

In determining whether the minimum, or an intermediate penalty is to be imposed in a given case, factors such as the following should be considered:

1. Actual or potential harm to the public.
2. Actual or potential harm to any consumer.
3. Prior disciplinary record, including level of compliance with disciplinary orders.
4. Prior warnings of record.
5. Number and/or variety of current violations.
6. Nature and severity of the act(s), offense(s) or crime(s) under consideration.
7. Mitigating evidence.
8. Rehabilitation evidence.
9. Compliance with terms of any criminal sentence.
10. Overall criminal record.
11. Time passed since the act(s) or offense(s).
12. Whether the conduct was intentional or negligent, demonstrated incompetence, or, if respondent is being held to account for conduct committed by another, the respondent had knowledge of or knowingly participated in such conduct.
13. The financial benefit to the respondent from the misconduct.

No one of the above factors is required to justify the minimum and maximum penalty as opposed to an intermediate one.

## Terms of Probation

Probation conditions are divided into two categories: 1) standard conditions that shall appear in **all** probation cases, and 2) optional conditions that depend on the nature and circumstances of a particular case. The Board prefers that the optional conditions be placed before the standard conditions in sequence in the proposed disciplinary order.

The Board may also impose other conditions appropriate to the case as long as the condition is not contrary to public policy.

**Standard Conditions** - To be included in all probation decisions/orders.

1. Obey all laws
2. Quarterly reports
3. Probation monitoring
4. Interview with Board
5. Continuing education
6. Reimbursement of Board costs
7. Tolling of probation
8. No Preceptorships or Supervision of Interns
9. Violation of probation
10. Notification of employment
11. Notice to employers
12. Notice to employees
13. License surrender
14. Completion of probation

**Optional Conditions**

1. Actual suspension
2. Drugs - Abstain from use
3. Drug abuse counseling/detoxification
4. Alcohol - Abstain from use
5. Alcohol abuse counseling/detoxification
6. Blood and/or urine testing
7. Law Examination
8. SPEC Examination
9. Monitoring
10. Auditing of billing practices
11. Restitution for consumers
12. Psychiatric or Psychological evaluation
13. Psychotherapy
14. Medical evaluation
15. Ethics Course
16. Education Course
17. Community service
18. Restricted practice
19. Third party presence - sexual transgressors
20. Notification to patients
21. Criminal Probation/Parole Reports

## **Categories of Violations and Recommended Penalties**

The Chiropractic Initiative Act and the California Code of Regulations specify the offenses for which the Board may take disciplinary action. The following are categories of violations used by the Board in determining appropriate disciplinary penalties.

The Board also has the authority, pursuant to California Code of Regulations section 304, to impose discipline based on disciplinary action taken by another jurisdiction. The discipline imposed by the Board will typically correspond with the discipline imposed by the other jurisdiction for similar offenses.

---

---

### **CATEGORY I**

Minimum: Revocation stayed; 1-2 years probation  
Maximum: Revocation

All standard terms and conditions.  
Optional terms and conditions, as applicable

1. Actual suspension
2. Drugs - Abstain from use
3. Drug abuse counseling/detoxification
4. Alcohol - Abstain from use
5. Alcohol abuse counseling/detoxification
6. Blood and/or urine testing
7. Law Examination
8. SPEC Examination
9. Monitoring
10. Auditing of billing practices
11. Restitution for consumers
12. Psychiatric or Psychological evaluation
13. Psychotherapy
14. Medical evaluation
15. Ethics Course
16. Education Course
17. Community service
18. Restricted practice
19. Third party presence - sexual transgressors
20. Notification to patients
21. Criminal Probation/Parole Reports

Recommended for the following violations which are relatively minor, but are potentially harmful, or for repeated violations of a relatively minor nature:

Chiropractic Initiative Act

- 5 Practicing without a valid license
- 10(b) Improper use of fictitious names

California Code of Regulations

- 303 Practicing without notifying Board of business address
- 308 Practicing without properly posting license; failure to obtain and post satellite office certificate
- 310 Change of name
- 310.2 Use of the title “Chiropractor” by unlicensed persons
- 312 Unlicensed practice (*for use in less egregious cases or for applicants*)
- 317(v) Waiving co-payments or deductibles
- 317(x) Substitution of a spinal manipulation for vaccination
- 367.5 Application for chiropractic corporation
- 367.7 Name of corporation
- 367.9 Shares: ownership and transfer

Business and Professions Code

- 1051 Application for registration as a chiropractic corporation

Health and Safety Code

- 123110 Failure to provide treatment records

---

---

## CATEGORY II

Minimum: Revocation stayed, 3 years probation

Maximum: Revocation

All standard terms and conditions of probation

Optional terms and conditions, as applicable

1. Actual suspension
2. Drugs - Abstain from use
3. Drug abuse counseling/detoxification
4. Alcohol - Abstain from use
5. Alcohol abuse counseling/detoxification
6. Blood and/or urine testing
7. Law Examination
8. SPEC Examination
9. Monitoring
10. Auditing of billing practices
11. Restitution for consumers
12. Psychiatric or Psychological evaluation
13. Psychotherapy
14. Medical evaluation
15. Ethics Course
16. Education Course
17. Community service
18. Restricted practice
19. Third party presence - sexual transgressors
20. Notification to patients
21. Criminal Probation/Parole Reports

Recommended for violations with a more serious potential for harm, for violations which involve greater disregard for chiropractic law and public safety, or for violations which reflect on ethics, care exercised or competence.

### Chiropractic Initiative Act

10(b) Advertising treatment of sexual disorders

15 Misleading use of title

### California Code of Regulations

306.1(c) Failure to appear for hearing

311 Advertising

312 Unlicensed practice (*for use in **more** egregious cases*)

317(l) Making or signing false documents



317(n)	Making false statement on the license application
317(p)	False, misleading, or deceptive advertising
317(r)	Unauthorized disclosure of patient information; failure to maintain confidentiality
317.1	Failure to register referral service
318(a)	Chiropractic patient records
318(b)	Accountable billings
319	Inappropriate billing for services advertised as free or discounted
355	Renewal and Restoration

Business and Professions Code

650.3	Group advertising and referral services
651	False, misleading, or deceptive advertising

---



---

**CATEGORY III**

Minimum: Revocation stayed, minimum 30 days suspension, 5 years probation  
Maximum: Revocation

All standard terms and conditions of probation  
Optional terms and conditions, as applicable

1. Actual suspension
2. Drugs - Abstain from use
3. Drug abuse counseling/detoxification
4. Alcohol - Abstain from use
5. Alcohol abuse counseling/detoxification
6. Blood and/or urine testing
7. Law Examination
8. SPEC Examination
9. Monitoring
10. Auditing of billing practices
11. Restitution for consumers
12. Psychiatric or Psychological evaluation
13. Psychotherapy
14. Medical evaluation
15. Ethics Course
16. Education Course
17. Community service
18. Restricted practice
19. Third party presence - sexual transgressors
20. Notification to patients
21. Criminal Probation/Parole Reports

Recommended for less egregious criminal convictions involving moral turpitude, sexual misconduct or fraudulent acts committed in connection with the licensee's practice. Also to be used in cases involving gross negligence/incompetence, capping, steering, accepting fees for patient referrals, excessive treatment or for failure to refer a patient to another licensed care provider.

Chiropractic Initiative Act

7 Unauthorized practice of medicine

California Code of Regulations

- 302(a) Practice exceeding the scope of practice
- 302(a)(5) Use of drug or medicine in materia medica
- 312(c) Failure to properly supervise
- 313 Inducing student to practice chiropractic
- 316(a) Responsibility for conduct on premises (*for use in less egregious cases*)
- 316(b) License used in connection with sexual acts (*for use in less egregious cases*)
- 316(c) Sexual relations with a patient (*for use in less egregious cases*)
- 317(a) Gross negligence (*for use in less egregious cases*)
- 317(b) Repeated negligent acts (*for use in less egregious cases*)
- 317(d) Excessive treatment (*for use in less egregious cases*)
- 317(e) Intentionally or recklessly causing harm to the public
- 317(f) Administering or use of drugs or alcohol
- 317(g) Conviction of a crime (*for use in less egregious cases, including fraud*)
- 317(h) Conviction involving moral turpitude, dishonesty, or corruption (*for use in less egregious cases, excluding fraud*)
- 317(i) Conviction involving dangerous drugs or alcohol
- 317(j) Dispensing or administration of drugs
- 317(k) Commission of dishonest or fraudulent act related to duties or functions of license
- 317(m) Aiding and abetting unlicensed activity
- 317(q) Obtaining fee by fraud or deceit
- 317(s) Use of cappers or steerers
- 317(t) Fee for referrals
- 317(w) Failure to refer a patient to other licensed health care provider

Business and Professions Code

- 1054 Name of a chiropractic corporation
- 1055 Officers of chiropractic corporation not licensed as required in Professional Corporation Act
- 725 Excessive prescribing or treatment (*for use in less egregious cases*)
- 726 Sexual relations with patients (*for use in less egregious cases*)
- 810 False or fraudulent claims (*for use in less egregious cases*)

---

---

## CATEGORY IV

Penalty:       Revocation

Recommended for **more egregious** cases including, but not limited to, fraudulent activity, physical violence, sexual misconduct, excessive treatment, or improper use of license in connection with sexual acts. Revocation is also recommended when: 1) respondent fails to file a notice of defense or to appear at a disciplinary hearing where the Board has requested revocation in the accusation; 2) respondent violates the terms and conditions of probation from a previous disciplinary order; and 3) where prior discipline has been imposed, as progressive discipline unless respondent can demonstrate satisfactory evidence of rehabilitation.

### California Code of Regulations

- 316(a)       Responsibility for conduct on premises
- 316(b)       License used in connection with sexual acts
- 316(c)       Sexual relations with a patient
- 317(a)       Gross negligence
- 317(b)       Repeated negligent acts
- 317(d)       Excessive treatment
- 317(g)       Conviction of a crime
- 317(h)       Conviction involving moral turpitude, dishonesty, or corruption

### Business and Professions Code

- 725       Excessive prescribing or treatment
- 726       Sexual relations with patients
- 810       False or fraudulent claims

# Model Disciplinary Orders

## Model Number

### 1. Revocation - Single Cause

License No.  (Ex:DC-12345)  issued to respondent  (Ex: John Smith, D.C.)  is revoked. Respondent shall relinquish his/her wall license and pocket renewal license to the Board or its designee within 10 days of the effective date of this decision. Respondent may not petition the Board for reinstatement of his/her revoked license for 2 years from the effective date of this decision. Respondent shall pay to the Board its costs of investigation and enforcement in the amount of \$   within 15 days of the effective date of this decision.

**(Optional)** License No.  (Ex:DC-12345)  issued to respondent  (Ex: John Smith, D.C.)  is revoked. Respondent shall relinquish his/her wall license and pocket renewal license to the Board or its designee within 10 days of the effective date of this decision. Respondent may not petition the Board for reinstatement of his/her revoked license for 2 years from the effective date of this decision. If respondent petitions the Board is he/she shall pay to the Board its costs associated with the investigation and enforcement in the amount of \$  . Payment of the costs is no guarantee the petition will be granted. If respondent fails to pay the amount specified, the petition shall be denied and the license shall remain revoked.

### 2. Revocation - Multiple Causes

License No.  (Ex.: DC-12345)  issued to respondent  (Ex.: Jane Doe, D.C.)  is revoked pursuant to Determination of Issues  (Ex: I, II, and III)  separately and together. Respondent shall relinquish his/her wall license and pocket renewal license to the Board or its designee within 10 days of the effective date of this decision. Respondent may not petition the Board for reinstatement of his/her revoked license for 2 years from the effective date of this decision. Respondent shall pay to the Board its costs of investigation and prosecution in the amount of \$   within 15 days of the effective date of this decision.

**(Optional)** License No.   issued to respondent   is revoked pursuant to Determination of Issues  (Ex: I, II, and III)  separately and together. Respondent shall relinquish his/her wall license and pocket renewal license to the Board or its designee within 10 days of the effective date of this decision. Respondent may not petition the Board for reinstatement of his/her revoked license for 2 years from

the effective date of this decision. If respondent petitions the Board he/she shall pay to the Board its costs associated with the investigation and enforcement in the amount of \$\_\_\_\_\_. Payment of the costs is no guarantee the petition will be granted. If respondent fails to pay the amount specified, the petition shall be denied and the license shall remain revoked.

**3. Revocation - Business and Professions Code Section 1003**

License No. (Ex.: DC-12345) issued to respondent (Ex.: Jane Doe, D.C.) is revoked pursuant to Determination of Issues (Ex: I, II, and III) separately and together. Respondent shall relinquish his/her wall license and pocket renewal license to the Board or its designee within 10 days of the effective date of this decision. Respondent may not petition the Board for reinstatement of his/her revoked license for 10 years from the effective date of this decision. Respondent shall pay to the Board its costs of investigation and prosecution in the amount of \$ \_\_\_\_\_ within 15 days of the effective date of this decision.

**4. Exam applicants who are placed on probation**

The application of respondent \_\_\_\_\_ for licensure is hereby granted. Upon successful completion of the licensure examination and all other licensing requirements, a license shall be issued to respondent. Said license shall immediately be revoked, the order of revocation stayed and respondent placed on probation for a period of \_\_\_\_ years on the following terms and conditions.

**5. Endorsement applicants who are placed on probation**

The application of respondent \_\_\_\_\_ for licensure is hereby granted and a license shall be issued to respondent upon successful completion of all licensing requirements. Said license shall immediately be revoked, the order of revocation stayed and respondent placed on probation for a period of \_\_\_\_ years on the following terms and conditions.

**6. Reinstatement of license with conditions of probation**

The application of respondent (Ex.: John Doe, D.C.) for license reinstatement is hereby granted. A license shall be issued to respondent. Said license shall immediately be revoked, the order of revocation stayed and respondent placed on probation for a period of (Ex.: five) years on the following terms and conditions.

(Optional) Upon successful completion of the California law examination, a license shall be issued to respondent.

(Optional) The respondent shall enroll in and successfully complete (Ex.: 12, 24) hours of continuing education prior to issuance of the license. The respondent is suspended from practice until the required continuing education is successfully completed.

**NOTE:** If cost recovery was ordered in the revocation or surrender of a license and the cost recovery has not been paid in full by petitioner, a probation term requiring payment of original cost recovery must be included in the reinstatement decision.

7. **Standard Stay Order**

However,     (revocation)     is stayed and respondent is placed on probation for (Ex: five) years upon the following terms and conditions:

8. **Surrender of License**

Respondent surrenders license number     (Ex: DC-12345)     as of the effective date of this decision. Respondent shall relinquish his/her wall license and pocket renewal license to the Board or its designee within 10 days of the effective date of this decision.

Respondent may not petition the Board for reinstatement of his/her license for 2 years from the effective date of this decision. Respondent stipulates that should he/she the Board after the 2 year period has elapsed, all allegations contained in accusation number          will be deemed to be true. Respondent shall meet all requirements for licensure as of the date the petition is submitted to the Board, including, but not limited to taking and passing the California chiropractic law exam prior to reissuance or reinstatement of the license.

Respondent further stipulates that he/she shall reimburse the Board for investigation and enforcement costs in the amount of \$                                  within          days of the effective date of this decision.

**(Optional)** Respondent stipulates that should respondent apply for reinstatement of his/her license he/she shall pay to the Board costs associated with its investigation and enforcement in the amount of \$                  at the time of application.

# Optional Terms and Conditions

## Model Number

### 1. Actual Suspension

As part of probation, respondent is suspended from the practice of chiropractic for (Ex: 30 days) beginning the effective date of this decision. Respondent shall prominently post a suspension notice provided by the Board in a place conspicuous and readable to the public. The suspension notice shall remain posted during the entire period of actual suspension.

Respondent shall not, directly or indirectly, engage in any conduct or make any statement which is intended to mislead or is likely to have the effect of misleading any patient, member of the public, or other person as to the nature of and reason for the suspension. During suspension, respondent shall not enter any chiropractic practice. Respondent shall not direct or control any aspect of the practice of chiropractic.

Subject to the above restrictions, respondent may continue to own or hold an interest in the chiropractic practice in which he or she holds an interest at the time this decision becomes effective.

### 2. Drugs - Abstain From Use

Respondent shall abstain from the personal use or possession of controlled substances as defined in the California Uniform Controlled Substances Act, and dangerous drugs as defined by Section 4022 of the Business and Professions Code, unless prescribed by a medical practitioner for a bona fide illness.

### 3. Drug Abuse Counseling/Detoxification

Within 30 days from the effective date of this Decision, respondent shall propose to the Board, for prior approval, the name of one or more drug abuse rehabilitation programs and shall, within 30 days after notification of the Board's approval of such a program, enroll in that approved substance abuse rehabilitation program, and comply with all requirements of the program, including drug testing. Respondent shall submit proof satisfactory to the Board of compliance with this term of probation. Failure to comply with the program requirements shall be considered a violation of probation. The costs for participation in the program shall be borne by the respondent. Respondent shall sign a

Release of Information allowing the program to release to the Board all information the Board deems relevant. Probation shall be extended automatically until respondent successfully completes his/her rehabilitation program.

4. **Alcohol - Abstain From Use**

Respondent shall abstain from the use of alcoholic beverages.

5. **Alcohol Abuse Counseling/Detoxification**

Within 30 days from the effective date of this Decision, respondent shall propose to the Board, for prior approval, the name of one or more alcohol abuse rehabilitation programs and shall, within 30 days after notification of the Board's approval of such a program, enroll in that approved alcohol abuse rehabilitation program, and cooperate with all requirements of the program, including drug testing. Respondent shall submit proof satisfactory to the Board of compliance with this term of probation. Failure to comply with the program requirements shall be considered a violation of probation. The costs for participation in the program shall be borne by the respondent. Respondent shall sign a Release of Information allowing the program to release to the Board all information the Board deems relevant. Probation shall be extended automatically until respondent successfully completes his/her rehabilitation program.

6. **Blood and/or Urine Testing**

Respondent shall immediately submit, with or without prior notice, to blood and/or urine testing, at respondent's expense, upon the request of the Board or its designee. The length and frequency of this testing requirement will be determined by the Board. Any confirmed positive finding will be considered a violation of probation.

7. **Take and Pass Law Examination**

Respondent shall take and pass a written or practical examination within the first two years of probation. If respondent is directed to take an examination currently required of new applicants for licensure as a chiropractor, the examination shall be taken on a regularly scheduled date. If respondent fails this examination, respondent must take and pass a re-examination. The respondent shall pay the cost of the examination and any subsequent re-examinations at the examination fee currently in place. Failure to pass a required examination prior to the termination date of probation shall constitute a violation of probation and automatically extend the period of probation.

**Option #1:** If respondent fails the first examination, respondent shall cease the practice of chiropractic until the examination has been passed, as evidenced by the written notice to respondent from the Board.

*NOTE: Particularly recommended in cases where the respondent has been found to be incompetent or repeatedly negligent.*



**Option #2:** Respondent shall not practice chiropractic until respondent has passed the required examination and has been so notified by the Board in writing.

*NOTE: Particularly recommended in cases where respondent has been found to be incompetent or grossly negligent and patient/client injury has resulted.*

8. **Special Purposes Examination for Chiropractic (SPEC)**

Respondent shall take and pass the SPEC examination administered by the National Board of Chiropractic Examiners (NBCE) within the first two years of probation. If respondent fails this examination, respondent must take and pass a re-examination. Respondent is responsible to provide proof to the Board of successful completion of this examination. Respondent shall pay the cost of the examination and any subsequent re-examinations at the examination fee set by the NBCE. Failure to pass the SPEC examination after two attempts constitutes a violation of probation.

9. **Monitoring**

Within 30 days of the effective date of this decision, respondent shall submit to the Board, for its prior approval, a plan of practice in which respondent's practice shall be monitored by another doctor of chiropractic who shall submit written reports to the Board on a quarterly basis. It shall be respondent's responsibility to assure that the required reports are filed in a timely fashion. The monitor shall be independent, with no prior professional or personal relationship with respondent. The monitoring shall be, as required by the Board, either: Continuous - 75% to 100% of a work week; Substantial - At least 50% of a work week; Partial - At least 25% of a work week; or Daily Review - Supervisor's review of probationer's daily activities within 24 hours.

If the monitor resigns or respondent changes employment respondent shall, within 15 days, submit the name of new monitor. If respondent changes employment, respondent shall have his or her new monitor, within 15 days after employment commences, submit notification to the Board in writing stating they have read the decision in case number \_\_\_\_\_ and is familiar with the level of supervision as determined by the Board. Any costs for such monitoring shall be paid by respondent.

**Option #1:** Respondent is prohibited from engaging in solo practice.

*NOTE: Particularly recommended in cases where respondent has been found to be incompetent or negligent and patient/client injury has resulted.*

**Option #2:** Respondent shall be prohibited from unilaterally signing insurance and worker's compensation insurance claim documents. All insurance and workers'

compensation insurance claim forms are to be co-signed by a licensed chiropractor approved by the Board.

*NOTE: Recommended in cases of insurance and worker's compensation insurance fraud.*

10. **Auditing of Billing Practices**

Within 60 days of the effective date of this decision, respondent shall submit to the Board, for its prior approval, the name and qualifications of a licensed certified public accountant (CPA) in this state, and a plan by which such CPA would monitor respondent's billing practices. The CPA shall be independent, with no present or prior business, professional, or personal financial relationship with respondent. The CPA approved by the Board shall submit written reports to the Board on a quarterly basis verifying that monitoring has taken place as required. It shall be respondent's responsibility to ensure that the required reports are filed in a timely fashion.

Respondent shall give the CPA access to respondent's fiscal records. Monitoring shall consist of at least 4 hours per quarter of review of respondent's fiscal records. After two quarters, if the CPA determines that less time is sufficient for compliance, the respondent may request Board approval of a reduction of the number of hours of review. If ever the CPA prepares a quarterly report to the Board which finds substantial errors or omissions in, or questionable billing practices, monitoring may be increased at the discretion of the Board and respondent shall comply therewith. All costs of monitoring shall be borne by respondent.

If at any time during the period of probation, the CPA quits or is otherwise unavailable to perform his/her monitoring duties, within 30 days of the same, respondent shall submit to the Board, for its prior approval, the name and qualifications of a licensed CPA in this state and a plan by which such CPA would monitor respondent's billing practices.

(This option was moved from number 9 above, as option 3 to here)

**Option #1:** Within 45 days of the effective date of this decision and on a quarterly basis thereafter and at respondent's expense, respondent shall obtain a review of the books and records of respondent's chiropractic practice by a certified public accountant licensed in good standing in this state approved by the Board. Said certified public accountant shall review the books and records of respondent's chiropractic practice to determine whether respondent has delivered, received or accepted any rebate, refund, commission, preference, patronage, dividend, discount or other consideration, whether in the form of money or otherwise, as compensation or inducement for the referral of patients, clients or customers to him/her or his/her practice or by him/her. Within 10 days of the completion of each review, said certified public accountant shall complete and submit a written report of his/her review to the Board. Respondent shall be responsible for the completion and submission of each said report. Failure to comply with

this condition shall be considered a violation of probation.

*NOTE: Recommended in cases involving capping, steering, or fees for patient referrals.*

11. **Restitution for Consumers**

Within 1 year from the effective date of this decision, respondent shall pay to \_\_\_\_\_ the amount of \$ \_\_\_\_\_. Failure to pay the costs within the first year of probation is a violation of probation.

12. **Psychiatric or Psychological Evaluation**

Within 30 days of the effective date of this decision, and on a periodic basis as may be required by the Board or its designee, respondent shall undergo, at his/her own expense, psychiatric evaluation by a Board-appointed or Board-approved psychiatrist or psychotherapist. Respondent shall sign a release which authorizes the evaluator to furnish the Board a current diagnosis and written report regarding the respondent's judgment and ability to function independently as a chiropractor with safety to public and whatever other information the Board deems relevant to the case. The completed evaluation is the sole property of the Board.

If the psychiatrist or psychotherapist recommends and the Board or its designee directs respondent to undergo psychotherapy, respondent shall, within 30 days of written notice of the need for psychotherapy, submit to the Board or its designee for its prior approval, the recommended program for ongoing psychotherapeutic care. Respondent shall undergo and continue psychotherapy, at respondent's own expense, until further notice from the Board. Respondent shall have the treating psychotherapist submit quarterly reports to the Board, or its designee.

If recommended by the psychiatrist or psychotherapist and approved by the Board or its designee, respondent shall be barred from practicing chiropractic until the treating psychotherapist recommends, in writing and stating the basis thereof, that respondent can safely practice chiropractic, and the Board approves said recommendation.

During suspension, respondent shall not enter any chiropractic practice. Respondent shall not direct or control any aspect of the practice of chiropractic. Subject to the above restrictions, respondent may continue to own or hold an interest in any chiropractic practice in which he or she holds an interest during the period of suspension.

**(Optional)** Commencing on the effective date of this decision, respondent shall not engage in the practice of chiropractic until notified in writing by the Board or its designee that respondent is psychologically fit to practice chiropractic.

*NOTE: Strongly recommended for those cases where evidence demonstrates that mental illness or disability was a contributing cause of the violation.*

**13. Psychotherapy**

Within 60 days of the effective date of this decision, respondent shall submit to the Board, for its prior approval, the name and qualifications of a psychotherapist or licensed mental health practitioner of respondent's choice. Should respondent, for any reason, cease treatment with the approved psychotherapist or licensed mental health practitioner, respondent shall notify the Board immediately and, within 30 days of ceasing treatment, submit the name of a replacement psychotherapist or licensed mental health practitioner of respondent's choice to the Board for its prior approval.

Upon approval of the psychotherapist or licensed mental health practitioner, respondent shall undergo and continue treatment, with that therapist and at respondent's expense, until the Board deems that no further psychotherapy is necessary. Respondent shall have the treating psychotherapist submit quarterly status reports to the Board. The Board may require respondent to undergo psychiatric evaluations by a Board-appointed or Board-approved psychiatrist or psychotherapist.

If recommended by the psychotherapist or licensed mental health practitioner and approved by the Board or its designee, respondent shall be barred from practicing chiropractic until the treating psychotherapist or licensed mental health practitioner recommends, in writing and stating the basis thereof, that respondent can safely practice chiropractic, and the Board approves said recommendation.

During suspension, respondent shall not enter any chiropractic practice. Respondent shall not direct or control any aspect of the practice of chiropractic. Subject to the above restrictions, respondent may continue to own or hold an interest in any chiropractic practice in which he or she holds an interest during the period of suspension.

*NOTE: Appropriate for those cases where evidence demonstrates sexual misconduct or commission of an act punishable as a sexual crime.*

**14. Medical Evaluation**

Within 60 days of the effective date of this decision, and on a periodic basis thereafter as may be required by the Board or its designee, respondent shall undergo a medical evaluation, at respondent's expense, by a Board-appointed or Board-approved physician who shall furnish a medical report to the Board or its designee.

If respondent is required by the Board or its designee to undergo medical treatment, respondent shall, within 30 days of written notice from the Board, submit to the Board

for its prior approval, the name and qualifications of a physician of respondent's choice. Upon Board approval of the treating physician, respondent shall undergo and continue medical treatment, with that physician and at respondent's expense, until further notice from the Board. Respondent shall have the treating physician submit quarterly reports to the Board. Should respondent, for any reason, cease treatment with the approved physician, respondent shall notify the Board immediately and, within 30 days of ceasing treatment, submit the name of a replacement physician of respondent's choice to the Board for its prior approval.

---

If recommended by the physician and approved by the Board or its designee, respondent shall be barred from practicing chiropractic until the treating physician recommends, in writing and stating the basis thereof, that respondent can safely practice chiropractic, and the Board approves said recommendation.

During suspension, respondent shall not enter any chiropractic practice. Respondent shall not direct or control any aspect of the practice of chiropractic. Subject to the above restrictions, respondent may continue to own or hold an interest in any chiropractic practice in which he or she holds an interest during the period of suspension.

**(Optional)** Upon the effective date of this decision, respondent shall not engage in the practice of chiropractic until notified in writing by the Board of its determination that respondent is medically fit to practice safely.

*NOTE: Appropriate for those cases where the evidence demonstrates that the respondent has had a physical problem/disability which was a contributing cause of the violation(s) and which may affect the respondent's ability to practice.*

15. **Ethics Course**

Within 60 days of the effective date of this decision, respondent shall enroll in a course in Ethics approved in advance by the Board, and shall successfully complete the course during the first year of probation. Class room attendance is specifically required. Probation shall be automatically extended for failure to complete the education as set out hereinabove.

16. **Education Course**

Within 90 days of the effective date of this decision, and on an annual basis thereafter, respondent shall submit to the Board for its prior approval, an educational program or course to be designated by the Board, which shall be aimed at correcting any areas of deficient practice or knowledge which shall not be less than 36 hours per year, for each year of probation. This program shall be in addition to the chiropractic continuing

education requirements for re-licensure, and shall be obtained with all costs being paid by respondent. Respondent shall provide written proof of attendance in such course or courses as are approved by the Board. Probation shall be automatically extended for failure to complete the education as set out hereinabove.

17. **Community Service**

Within 60 days of the effective date of this decision, respondent shall submit to the Board, for its prior approval, a community service program in which respondent shall provide volunteer services on a regular basis to a community or charitable facility or agency for at least \_\_\_\_\_ hours per \_\_\_\_\_ month for the first \_\_\_\_\_ months of probation. Such community service does not necessarily include chiropractic service. Respondent shall ensure that the Board receives documentation and/or certification of community service hours by the facility or agency on a monthly basis. Failure to complete the community service as set out hereinabove is grounds for filing a petition to revoke probation

18. **Restricted Practice**

Respondent's practice of chiropractic shall be restricted to [specify patient population and/or setting] for the first \_\_\_\_\_ years of probation. Within 30 days from the effective date of the decision, respondent shall submit to the Board, for prior approval, a plan to implement this restriction. Respondent shall submit proof, satisfactory to the Board, of compliance with this term of probation.

*NOTE: The restrictions shall be appropriate to the violation.*

19. **Third Party Presence - Sexual Transgressors**

During probation, respondent shall have a third party present while examining and/or treating \_\_\_\_\_ (female/male/minor) patients. Respondent shall, within 30 days of the effective date of the decision, submit to the Board or its designee for its approval the name(s) of persons who will be the third party present and a plan describing the third party's duties. The respondent shall execute a release authorizing the third party(ies) present to divulge any information that the Board or its designee may request on a periodic basis during the probation monitoring.

*NOTE: Sexual transgressors should be placed in a supervised environment.*

20. **Notification to Patients**

Respondent shall notify all current and potential patients of the probation, especially any term or condition of probation which will affect their treatment or the confidentiality of their records. Such notification shall be signed by each patient prior

to continuing or commencing treatment. Respondent shall submit, upon request by the Board, satisfactory evidence of compliance with this term of probation. Terms of probation which require such notification include, but are not limited to, suspension of practice, supervised practice, and restricted practice.

21. **Criminal Probation/Parole Reports**

Respondent shall provide a copy of the conditions of any criminal probation/parole to the Board, in writing, within 10 days of the issuance or modification of those conditions. Respondent shall provide the name of his or her probation/parole officer to the Board, in writing, within 10 days after that officer is designated or a replacement for that officer is designated. Respondent shall provide a copy of all criminal probation/parole reports to the Board within 10 days after respondent receives a copy of such a report.

# Standard Terms and Conditions

## Model Number

### 1. **Obey All Laws**

Respondent shall obey all federal, state and local laws, and all statutes and regulations governing the practice of chiropractic in California. A full and detailed account of any and all arrests and or convictions for any violations of law shall be reported by the respondent to the Board in writing within 72 hours of occurrence. To permit monitoring of compliance with this term, respondent shall submit completed fingerprint cards and fingerprint fees within 45 days of the effective date of this decision, unless previously submitted as part of the licensure application process. Respondent shall submit a recent 2" x 2" photograph of himself or herself within 45 days of the effective date of the final decision.

### 2. **Quarterly Reports**

Respondent shall submit quarterly reports under penalty of perjury on a form entitled "Quarterly Probation Report" (No. QPR100 (Rev. 7/04)), certifying and documenting whether there has been compliance with all conditions of probation. If the final probation report is not made as directed, probation shall be extended automatically until such time as the final report is made.

### 3. **Probation Monitoring**

Respondent shall comply with the Board's probation compliance monitoring program. Failure to comply with probation monitoring shall be considered a violation of probation.

### 4. **Interview with Board**

Respondent shall appear in person for interviews with the Board's enforcement staff, the full Board, or its designee upon request at various intervals and with reasonable notice.

### 5. **Continuing Education**

Respondent shall provide evidence of continuing education, required for license renewal, if requested by the Board.



6. **Reimbursement of Board Costs**

Respondent shall reimburse to the Board its costs of investigation and enforcement in the amount of \$ \_\_\_\_\_. Respondent shall make said payments as follows:

\_\_\_\_\_.

If respondent fails to pay the costs as directed by the Board and on the date(s) determined by the Board, probation shall be automatically extended until such time that all costs are paid in full.

7. **Tolling of Probation**

If respondent leaves California to reside or practice outside this state, or for any reason should respondent stop practicing chiropractic in California, respondent must notify the Board in writing of the dates of departure and return or the dates of non-practice within 10 days of departure or return. Non-practice is defined as any period of time exceeding 30 days in which respondent is not engaging in the practice of chiropractic or any time the license is inactive or in forfeiture status. Periods of temporary residency or practice outside the state or of non-practice within the state shall not apply to reduction of the probationary period. It shall be a violation of probation for respondent's probation to remain tolled pursuant to the provisions of this condition for a period exceeding a total, consecutive period of [three] years.

8. **No Preceptorships or Supervision of Interns**

Respondent shall not supervise any chiropractic student (intern) participating in a preceptor program or any unlicensed chiropractic graduate and shall not perform any of the duties of a preceptor.

9. **Violation of Probation**

If respondent violates probation in any respect, the Board, after giving respondent notice and the opportunity to be heard, may revoke probation and carry out the disciplinary order that was stayed. If an Accusation or Petition to Revoke Probation is filed against respondent during probation, the Board shall have continuing jurisdiction until the matter is final, and the period of probation shall be extended until the matter is final.

If respondent has not complied with any term or condition of probation, the Board shall have continuing jurisdiction over respondent, and probation shall automatically be extended until all terms and conditions have been met or the Board has taken other action as deemed appropriate to treat the failure to comply as a violation of probation, to terminate probation, and to impose the penalty which was stayed.

10. **Notification of Employment**

Within 10 days of a change in employment -- either leaving or commencing employment -- respondent shall so notify the Board in writing, including the address of the new employer.

11. **Notice to Employers**

Respondent shall notify all present and prospective employers of the decision in case No. \_\_\_\_\_ and the terms, conditions and restrictions imposed on respondent by the decision.

Within 30 days of the effective date of this decision, and within 15 days of respondent undertaking new employment, respondent shall cause his/her employer to report to the Board in writing acknowledging the employer has read the decision in case No. \_\_\_\_\_.

"Employment" within the meaning of this provision shall include any full-time, part-time or temporary service as a chiropractor.

12. **Notice to Employees**

Respondent shall, upon or before the effective date of this decision, ensure that all employees involved in chiropractic operations are made aware of all the terms and conditions of probation, either by posting a notice of the conditions of the terms and conditions, circulating such notice, or both. If the notice required by this provision is posted, it shall be posted in a prominent place and shall remain posted throughout probation. Respondent shall ensure that any employees hired or used after the effective date of this decision are made aware of all the terms and conditions by posting a notice, circulating a notice, or both.

"Employees" as used in this provision includes all full-time, part-time, temporary and independent contractors employed or hired at any time during probation.

Respondent shall, if requested, provide proof to the Board or its designee that all employees are aware of the decision in case No. \_\_\_\_\_ since its effective date.

13. **License Surrender**

Following the effective date of this decision, if respondent ceases practicing due to retirement, health reasons or is otherwise unable to satisfy the terms and conditions of probation, respondent may voluntarily tender his/her license to the Board. The Board reserves the right to evaluate the respondent's request and to exercise its discretion whether to grant the request, or to take any other action deemed appropriate and

reasonable under the circumstances. Upon formal acceptance of the tendered license, respondent will no longer be subject to the terms and conditions of probation. Respondent shall relinquish his/her wall license and pocket renewal license to the Board or its designee within 10 days from the date of acceptance.

Respondent may not petition the Board for reinstatement of his/her surrendered license for 2 years from the acceptance date of surrender. If respondent owes any outstanding costs associated with the investigation and enforcement of this disciplinary action the outstanding amount shall be paid in full at the time the petition is submitted to the Board.

14. **Completion of Probation**

Upon successful completion of probation, respondent's license will be fully restored.