

DEPARTMENT OF CONSUMER AFFAIRS
TITLE 16. BOARD OF CHIROPRACTIC EXAMINERS

PROPOSED REGULATORY LANGUAGE
Appeal Process for Contested Citations and Licensee Compliance with
Assessed Fines

Legend: Added text is indicated with an <u>underline</u> . Deleted text is indicated by strikeout .
--

Amend Sections 390.4 and 390.5 of Article 9 of Division 4 of Title 16 of the California Code of Regulations to read as follows:

§ 390.4. Contested Citations.

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

(b) In addition to requesting a hearing provided for in subdivision (a) of this section, the cited person may, within ~~44~~ 30 calendar days ~~after service of~~ the date of issuance on the citation, submit a written request for an informal conference with the Executive Officer.

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

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

(e) If the citation is dismissed, the request for a hearing shall be deemed withdrawn.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

NOTE: Authority cited: Sections 125.9 and 148, ~~1000 4(b) and 1000 10~~, of the Business and Professions Code; and Sections 4(b) and 4(e) of the Chiropractic Initiative Act of

California, Stats. 1923, p. 4xxxviii. Reference: Sections ~~1000-4(b) and 1000-10,~~ 125.9 and 148 of the Business and Professions Code; and ~~Chiropractic Initiative Act of~~ California, Stats. 1923, p. 1xxxviii.

§ 390.5. Compliance with Citation/Order of Abatement.

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

(b) Failure of a licensee to pay a fine or comply with an order of abatement, or both, within 30 calendar days of the date of assessment or order, unless the citation is being appealed, shall constitute unprofessional conduct and cause for the Board taking disciplinary action against the licensee. When a licensee does not contest the citation, or the licensee does not prevail on their appeal of the citation, and a fine is not paid, the Board shall add the full amount of the assessed fine to the fee for renewal of the license. The Board shall not renew a license without the licensee's payment of the renewal fee and fine. ~~When a citation or order of abatement is not contested or if the order is appealed and the person cited does not prevail, failure to abate the violation within the time allowed or pay the fine that is imposed, if one was, shall constitute a violation and a failure to comply with the citation or order of abatement.~~

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

NOTE: Authority cited: Sections 125.9 and 148, ~~1000-4(b) and 1000-10,~~ of the Business and Professions Code; and Sections 4(b), 4(e), and 10(a) of the Chiropractic Initiative Act of California, Stats. 1923, p. 4xxxviii. Reference: Sections ~~1000-4(b) and 1000-10,~~ 125.9 and 148 of the Business and Professions Code; and Section 10(a) of the Chiropractic Initiative Act of California, Stats. 1923, p. 4xxxviii.