

## **Board of Chiropractic Examiners**

### **WRITTEN STATEMENT**

#### **SECTION 100 – CHANGES WITHOUT REGULATORY EFFECT**

##### **California Code of Regulations, Title 16, Division 4**

Pursuant to section 100, subdivision (b)(3) of Title 1, Division 1, Chapter 1, Article 2 of the California Code of Regulations (CCR), the Board of Chiropractic Examiners (Board) hereby submits this written statement explaining why the amendments of Sections 310.1, 317.1, 323, 360, 367.5, 367.10, and 370 of Articles 2, 3, 6, 7, and 7.5 of Division 4 of Title 16 of the CCR do not materially alter any requirement, right, responsibility, condition, prescription, or other regulatory element of any CCR provision.

Subject to the approval of the Office of Administrative Law, the Board proposes to make non-substantive amendments to the fee amounts specified in these sections due to required changes in the Board's fixed fee schedule enacted by Senate Bill (SB) 1434 (Roth, Chapter 623, Statutes of 2022) causing current fee regulations to be superseded by the changed statutes and no discretion to adopt a change which differs in substance from the one chosen, and to make minor, non-substantive grammatical revisions and update the authority and reference citations of these regulations as permissible by CCR, title 1, section 100, subdivision (a)(4), (5), and (6).

The Board's 2022 sunset bill, SB 1434, became effective January 1, 2023, and adjusted the Board's fee schedule to provide an immediate increase in revenue and ensure the Board's fiscal solvency. SB 1434 fixed the amounts of the Board's regulatory fees in a codified schedule listed in Business and Professions Code (BPC) section 1006.5 that supersedes the fee amounts the Board previously specified through regulation in Sections 310.1, 317.1, 323, 360, 367.5, 367.10, and 370. As a result, the amendments to these sections, noted below, are changes without regulatory effect as permissible by CCR, title 1, section 100, subdivision (a)(6) because they make the regulations consistent with a changed California statute, as the current regulatory provisions are inconsistent with and superseded by the changed statute and the Board has no discretion to adopt a change which differs in substance from the one chosen.

## Proposed Regulatory Amendments:

1. Amend the Fee Amounts Specified in Sections 310.1, 317.1, 323, 360, 367.5, 367.10, and 370 for Consistency with the Non-Discretionary, Initial Fixed Fee Amounts Enacted by SB 1434

The Board proposes to:

- Amend Section 310.1 to increase the fee for a replacement license from \$25 to \$71 for consistency with the fixed fee amount specified in BPC section 1006.5, subdivision (o), which became effective January 1, 2023. (16 CCR § 100, subd. (a)(6).)
- Amend Section 317.1 to increase the fee to apply for approval as a referral service from \$25 to \$279 for consistency with the fixed fee amount specified in BPC section 1006.5, subdivision (m), which became effective January 1, 2023. (16 CCR § 100, subd. (a)(6).)
- Amend Section 323 to increase the fee to apply for a license to practice chiropractic through reciprocity in accordance with Section 9 of the Chiropractic Initiative Act from \$25 to \$283 for consistency with the fixed fee amount specified in BPC section 1006.5, subdivision (i), which became effective January 1, 2023. (16 CCR § 100, subd. (a)(6).)
- Amend Section 360 to increase the fee to apply for approval as a continuing education provider from \$75 to \$291, the biennial continuing education provider renewal fee from \$50 to \$118, and the fee to apply for approval of a continuing education course from \$50 per course to \$116 per hour of instruction for consistency with the fixed fee amounts specified in BPC section 1006.5, subdivisions (d), (e), and (f), which became effective January 1, 2023. (16 CCR § 100, subd. (a)(6).)
- Amend Section 367.5 to increase the fee to apply for a certificate of registration of a chiropractic corporation from \$100 to \$171 for consistency with the fixed fee amount specified in BPC section 1006.5, subdivision (j), which became effective January 1, 2023. (16 CCR § 100, subd. (a)(6).)
- Amend Section 367.10 to increase the fee to file a chiropractic corporation special report from \$5 to \$98 for consistency with the fixed fee amount specified in BPC section 1006.5, subdivision (l), which became effective January 1, 2023. (16 CCR § 100, subd. (a)(6).)
- Amend Section 370 to increase the fee to renew an active or inactive license to practice chiropractic from \$250 to \$336 and the fee to restore a forfeited or

cancelled license from \$500 to \$672 for consistency with the fixed fee amounts specified in BPC section 1006.5, subdivisions (c) and (r), which became effective January 1, 2023. (16 CCR § 100, subd. (a)(6).)

These amendments are changes without regulatory effect because they make the Board's fee amounts specified in regulation consistent with a changed California statute, BPC section 1006.5, which superseded these regulations effective January 1, 2023.

During the Board's last sunset review in 2022, the Legislature recognized the need to avoid the pending insolvency of the Board's fund by revising the Board's fee schedule and updating the fixed fee amounts necessary for the Board to carry out the responsibilities required by the Chiropractic Initiative Act and Chapter 2, Division 2, of the BPC. While BPC section 1006.5 provides the Board with authority to adopt lower fee amounts by regulation and to increase the active or inactive license renewal fee by regulation, the Board cannot do so without first conducting an updated fee study, analyzing the results of the study, voting to select other proposed fee amounts, and completing the standard rulemaking process through the Administrative Procedure Act. Instead, through this proposal, the Board is simply seeking to implement the non-discretionary, statutorily-mandated initial fixed amounts for these regulatory fees as specified by the Legislature through SB 1434.

2. Correct the Authority and Reference Citations in Sections 310.1, 317.1, 323, 360, 367.5, 367.10, and 370
  - The Board proposes to update the authority and reference citations in Sections 310.1, 317.1, 323, 360, 367.5, 367.10, and 370 for accuracy and consistency. These updates are non-substantive changes without regulatory effect. (16 CCR § 100, subd. (a)(5).)
3. Capitalize the "B" in "Board" in Where It Appears in Sections 310.1, 317.1, 323, and 367.5
  - The Board proposes to amend Sections 310.1, 317.1, 323, and 367.5 to capitalize the "B" in "Board" for uniformity in its regulations. These are changes without regulatory effect because capitalizing the term "Board" is grammatical in nature. (16 CCR § 100, subd. (a)(4).)
4. Eliminate Gendered Pronouns in Sections 310.1 and 323
  - The Board proposes to replace the term "his" with "their" in Section 310.1 and the phrase "he is" with "they are" in Section 323 to ensure the use of gender-neutral language in the Board's regulations in accordance with Assembly Concurrent Resolution 260 (Low, Chapter 190, Statutes of 2018), which encourages state agencies to avoid the use of gendered pronouns when drafting policies,

regulations, and other guidance. These are changes without regulatory effect because incorporating gender neutral language is grammatical in nature. (16 CCR § 100, subd. (a)(4).)

5. Correct the Position Title of “executive secretary” to “executive officer” in Section 367.5

- The Board proposes to replace the term “executive secretary” with “executive officer” in Section 367.5 to ensure the correct title of this position is used uniformly in its regulations. As specified in Section 3 of the Chiropractic Initiative Act of California (Initiative Measure, Stats. 1923, § 3, p. lxxxix, as amended by Stats. 1976, ch. 263, § 2, p. 548), the Board employs an executive officer, not an executive secretary, to oversee and direct its daily operations. This is a non-substantive change without regulatory effect to appropriately cross-reference the official title of the Board’s executive officer position. (16 CCR § 100, subd. (a)(4).)

Accordingly, this action is authorized pursuant to Section 100, subdivision (a)(4), (5), and (6) of Title 1 of the CCR, as these amendments do not materially alter any requirement, right, responsibility, condition, prescription, or other regulatory element of any CCR provision.