

December 27, 2019

Alexis Podesta, Secretary
California Business, Consumer Services and Housing Agency
915 Capitol Mall, Suite 350-A
Sacramento, CA 95814

Dear Ms. Alexis Podesta,

In accordance with the State Leadership Accountability Act (Leadership Accountability), the Board of Chiropractic Examiners submits this report on the review of our internal control and monitoring systems for the biennial period ending December 31, 2019.

Should you have any questions please contact Marcus McCarther, Assistant Executive Officer, at (916) 263-5340, Marcus.mccarther@dca.ca.gov.

GOVERNANCE

Mission and Strategic Plan

The Board of Chiropractic Examiners (Board) regulates the chiropractic profession in California and oversees approximately 13,000 licensees. The Board was created on December 21, 1922, as the result of an initiative measure approved by the people on November 7, 1922. Governed by a seven-member board appointed by the Governor, the Board is comprised of five licensed doctors of chiropractic and two members who represent the public. Board members serve four-year terms. The Board employs an executive officer to lead a professional staff responsible for licensing, continuing education, enforcement, administrative, and other regulatory responsibilities. The executive officer serves at the pleasure of the Board. The Board's staff consists of an assistant executive officer, two managers, and several civil service staff.

The Board's mission is to protect the health, welfare, and safety of the public through licensure, education, and enforcement in chiropractic care. The Board's vision is excellence in chiropractic care for all Californians and its values include consumer protection, service, innovation, quality, transparency, efficiency, and integrity. The Board's strategic goals are to:

1. Ensure the continuous competency of all doctors of chiropractic by promoting licensing standards, professional conduct, and requirements for continuing education.
2. Enforce laws and regulations to ensure consumer protection.
3. Communicate with consumers, licensees, governmental entities, and stakeholders about the current and evolving practice of chiropractic and the regulation of the profession.
4. Ensure that statutes and regulations strengthen and support the Board's mandate and mission.
5. Effectively utilize resources to meet goals and objectives.

Control Environment

The Board's management has established a culture of integrity and ethics that is consistent with the

Board's mission to protect the health, welfare, and safety of the public and its core values of consumer protection, transparency, and integrity. Oversight is provided by a seven-member board consisting of doctors of chiropractic and public members appointed to four-year terms by the Governor.

The Board's organizational structure includes an executive officer, an assistant executive officer, two staff services managers, and civil service staff who perform the Board's administrative, licensing, and enforcement functions. Through an organizational chart, descriptions of staff functions, and detailed duty statements, the Board ensures that appropriate levels of responsibility, authority, and oversight are allocated to each staff position.

Internal control systems for the Board's key business functions are documented through procedure manuals and comprehensive process mapping. Board management is responsible for establishing and maintaining a competent workforce by: continuously monitoring staff workload, productivity, and key performance indicators; evaluating staff performance and enforcing accountability; and addressing issues through guidance, training, performance management, and the discipline process.

Information and Communication

Internal

- The Board collects and communicates relevant and reliable information by communicating with established Department representatives and subject matter experts. The data and statistics used are collected from the Board's licensing and enforcement database.
- The Board uses various forms of communication to gather and communicate this information to staff. These forms of communication include but are not limited to face-to-face, electronic, written, and telephone communication.

External

- The Board collects and disseminates relevant and reliable information by communicating with consumers, subject matter experts, chiropractic colleges, trusted state and national professional associations, and other stakeholders.
- The Board uses various forms of communication to gather and communicate this information to external stakeholders. These forms of communication include but are not limited to newsletters, mass mailings, subscription mailing lists, social media, websites, telephone communications, outreach events, conferences, and educational publications for consumers and licensees.
- Management communicates quality information throughout the Board using established reporting lines. Quality information is communicated up, down, across, and around reporting lines to all levels of the organization. Communication is consistent with Department guidelines. The Board communicates to external stakeholders with the appropriate mode of communication as listed above.
- The Board has an established process for staff to report inefficiencies and inappropriate actions to management and other decision makers through one-on-one meetings with management, regular staff meetings, and open door policies. The Board adheres to and makes staff aware of all state policies regarding harassment prevention, whistleblowing, and health and safety concerns.

MONITORING

The information included here discusses the entity-wide, continuous process to ensure internal control systems are working as intended. The role of the executive monitoring sponsor includes facilitating and verifying that the Board of Chiropractic Examiners monitoring practices are implemented and functioning. The responsibilities as the executive monitoring sponsor(s) have been given to: Marcus McCarther, Assistant Executive Officer.

The Board established a baseline to monitor its business functions through position duty statements, procedure manuals, and process mapping. To ensure the effectiveness of internal control systems and respond to vulnerabilities as they are identified, management monitors employee work product, communicates deficiencies to staff, one-on-one meetings with individual staff, conducts detailed reviews, provides feedback and training, and uses statistical reports to determine compliance with established performance expectations.

RISK ASSESSMENT PROCESS

The following personnel were involved in the Board of Chiropractic Examiners risk assessment process: executive management, middle management, and staff.

The following methods were used to identify risks: brainstorming meetings, employee engagement surveys, ongoing monitoring activities, audit/review results, other/prior risk assessments, external stakeholders, questionnaires, consideration of potential fraud, and performance metrics.

The following criteria were used to rank risks: likelihood of occurrence, potential impact to mission/goals/objectives, timing of potential event, potential impact of remediation efforts, and tolerance level for the type of risk.

RISKS AND CONTROLS

Risk: Impact of Funding Limitations on Board's Budget

The Board's annual budget is funded exclusively by the profession through licensing and other regulatory fees. The Board's operating expenses (i.e., employee benefits, statewide and departmental pro rata, enforcement costs, etc.) continue to outpace the annual revenue received by licensing fees. The Board's restricted budget has already limited its ability to fill all vacant staff positions which may lead to increased processing times, key person dependency, reduced staff morale, and incompleteness of key business functions. A declining licensee population and the Board's limited ability to raise licensing fees could lead to the insolvency of the Board's fund.

Control: Continue Working Collaboratively with the DCA Budget Office to Monitor Expenditures

The Board has worked closely with the Department's Budget Office to carefully monitor expenditures and some staff positions have been left vacant to obtain budget relief in the current fiscal year.

Control: Maintain Staff Vacancies and Oversight Over Staff

The Board plans to leave some staff positions vacant if necessary and management will provide additional oversight over field staff to minimize unnecessary travel expenses.

Control: Identify Inefficiencies and Utilize New IT System to Modernize Business Functions

The Board will continue to identify inefficiencies in its current business processes and build necessary efficiencies into the new IT system to improve and modernize its essential business functions.

Risk: Limited Staff Leads to Key Person Dependency

The nature of the Board's small office and limited staff positions leads to key person dependency for the Board's essential functions. As a result, losing any staff member unexpectedly or for a long period of time could lead to an inability to perform key business functions.

For example, the Board has one staff position designated to cashier items received and one other staff position to process those items after they are cashiered. State policy requires a separation of duties that prohibits the person who cashiers from also processing those items. Delays and inefficiencies in cashiering and processing can result in delays in issuing licenses, non-compliance with filing requirements, insurance coverage issues for licensees due to lapses in licensure, and loss of income for licensees.

Control: Cross Training of Staff and Increased Management Oversight

The Board has implemented cross-training for the Board's key business functions. In addition, there has been increased oversight by management to review work flow and intervene when necessary to ensure the timely completion and accuracy of work.

Control: Update Staff Procedure Manuals

The Board's licensing and enforcement managers will ensure that the Board's procedure manuals are updated to include processing timelines and deadlines for its essential business functions. These updated procedure manuals will ensure current or new staff members can be redirected to perform vacated functions when necessary.

Risk: Outdated Business Processes

Many of the Board's business processes must be conducted manually due to the limitations of our existing IT System. Automating transactions, such as license applications and renewals, consumer complaints, and continuing education compliance, to name a few, would significantly reduce processing times and potential for errors. The impact to staff is compounded by the inability of licensees and the public to conduct routine transactions online, which means all forms, payments and responses must be submitted via mail. Therefore, the Board receives large volumes of mail, which must be manually sorted, opened, logged and disseminated by a staff person. Staff is also diverted from other priorities by phone calls from constituents hampered by the Board's lack of an interactive IT system that would

allow for online transactions. Once disseminated to the appropriate staff person, data submitted on paper forms must be manually keyed into the existing system and checks must be manually cashiered and forwarded to the Department of Consumer Affairs. Documents and payments submitted via mail not only create additional workload; they increase the risk of confidential and time-sensitive information being lost, mishandled, and mis-keyed.

Control: Full Implementation of a New IT System to Address Outdated Business Processes

The Board has completed a business modernization plan and is currently in the fourth stage of the Department of Technology's Project Approval Lifecycle (PAL) process. We anticipate implementing the new IT system in early 2020 that would address many of these outdated business processes.

Risk: Dated Practice Act With Problematic Provisions

The Chiropractic Initiative Act (Act) was enacted by initiative, which means it can only be amended by a vote of the people of California on a subsequent ballot initiative. Getting a measure on the ballot is time consuming and costly. As a result, the Act has only been amended a few times since 1922. Many provisions of the Act are no longer practical and, in some cases, obsolete. The Board must conduct business in accordance with the Act even though the requirements are becoming increasingly inefficient, unnecessary and inconsistent with modern regulatory practices. Because the Board is unable to effect change through legislation, otherwise straightforward amendments to our laws must be accomplished through the more time-consuming rulemaking process, further exacerbating the regulation backlog identified below. Of greater concern, is the Board's inability to address obsolete provision of the Act in a timely manner, which results in Board staff and constituents needing to comply with unnecessary and sometimes burdensome requirements.

Control: Established Special Committee of the Board to Discuss the Topic

The Board recently established a special committee to discuss the possibility of amending the Act. The special committee will identify appropriate amendments and the steps necessary to place the proposed amendments on the ballot.

Risk: Backlog of Pending Regulation Packages

The Board has a backlog of pending regulation packages due to multiple factors, including, cumbersome requirements of the formal rulemaking process, thorough reviews conducted by the Office of Administrative Law, DCA, Business Consumer Services and Housing Agency, and Department of Finance, limited staff resources, complications caused by a practice act enacted by a 1922 ballot initiative, which cannot be amended through legislation, and a dynamic Legislature that consistently enacts legislative mandates the Board must implement through regulation. As a result, the Board's effectiveness is limited by outdated or obsolete regulations.

Control: Redirect Staff and Management to Address the Regulations Backlog

The Board has redirected additional staff and management to address the regulations backlog. Specific regulations packages have been assigned to management to provide additional oversight.

Risk: Obsolete Regulations and Procedure Manuals

Automating existing processes through a new IT system, will render various regulatory provisions and multiple procedures obsolete. This will likely cause confusion for licensees and staff and may result in disruption of service, processing errors, and resulting delays.

Control: Management Emphasis on Modernizing Business Functions Based on Business Modernization Plan

Board management is working with staff to update procedure manuals based on the “could be” process maps resulting from the Board’s Business Modernization Plan. Management is also reviewing existing regulations to identify provisions likely to be impacted by the transition to online forms and new business practices. The Board can move forward with the regulatory process as soon as details and timelines are finalized with DCA and the IT service provider.

Risk: Implementation of New IT System

Over the next 18 months, key staff and management must spend a significant amount of their time dedicated to the development and implementation of a new IT system. As a result, processing times for the Board’s key business functions may increase, staff productivity may decrease, and timeframes for review and approval of documents and work product by management may increase.

Control: Management Team Will Establish Office Hours and Review Times for Staff

The Board’s management team will establish office hours and review times to ensure consistent availability for staff to openly communicate with management.

Risk: Website Compliance with Accessibility Requirements

The Board could be subject to litigation due to its inability to afford to comply with the Americans with Disabilities Act (ADA). California Government Code sections 7405, 11135, and 11546.7 require state agencies to make websites accessible to people with disabilities. The Board cannot afford the necessary updates to its web content, primarily historical enforcement documents, to ensure compliance with current web accessibility standards. The Board could be sued due to non-compliance and the resulting litigation could lead to fund insolvency.

Control: Work with DCA OIS to Ensure Website Complies with Applicable State and Federal Laws

The Board has communicated and worked with the Department’s Office of Information Services to ensure that all future web content complies with current accessibility standards.

Control: Staff Training on the Creation and Maintenance of Accessible Web Documents

The Board will require managers and key staff to obtain training on the creation of accessible documents, materials, presentations, and other web content.

CONCLUSION

The Board of Chiropractic Examiners strives to reduce the risks inherent in our work and accepts the responsibility to continuously improve by addressing newly recognized risks and revising risk mitigation strategies as appropriate. I certify our internal control and monitoring systems are adequate to identify and address current and potential risks facing the organization.

Robert Puleo, Executive Officer

CC: California Legislature [Senate (2), Assembly (1)]
California State Auditor
California State Library
California State Controller
Director of California Department of Finance
Secretary of California Government Operations Agency