



INDEPENDENTS

BOARD OF CHIROPRACTIC EXAMINERS

Executive Director:
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In 1922, California voters approved an initiative which created the Board of Chiropractic Examiners (BCE). Today, the Board's enabling legislation is codified at Business and Professions Code section 1000 *et seq.*; BCE's regulations are located in Division 4, Title 16 of the California Code of Regulations (CCR). The Board licenses chiropractors and enforces professional standards. It also approves chiropractic schools, colleges, and continuing education courses.

The Board consists of seven members—five chiropractors and two public members.

MAJOR PROJECTS

BCE Proposes Changes to Referral Service Regulations. On July 15, BCE published notice in the *California Regulatory Notice Register* of its intent to pursue changes to section 317.1, Title 16 of the CCR, dealing with the regulation and registration of chiropractic referral services. [14:2&3 CRLR 200; 14:1 CRLR 156; 13:4 CRLR 190] Referral services offer a centralized phone number which patients can call for referrals to local chiropractors. According to BCE, the proposed amendments to section 317.1 contain requirements which would protect the public by enabling BCE to ensure that patients are referred only to licensed chiropractors who are not currently on probation with the Board; audit and, if necessary, take action against services which are in violation of any laws or regulations; ensure that referrals are fairly distributed among participating practitioners; and increase the referral service registration fee for the purpose of financing referral service monitoring.

On September 8, BCE held a public hearing on the proposed amendments; among other things, hearing participants expressed concern about possible flaws in the current registration system which allow a referral service to consist of members located over a very broad geographical area. Currently, the creation of a refer-

ral service requires the participation of five licensed chiropractors regardless of their geographic proximity; this has apparently led to situations where some chiropractors in a given referral service never receive referrals because of their distance from the service's listed area. Callers who utilize the service in a particular location might, by default, be continuously referred to the same chiropractor, as other participating members are too distant to be practically accessible.

The Board discussed potential bases for determining the geographical parameters of a referral service; for example, Board members proposed limiting services by ZIP code, county, or phone directory. Following a detailed discussion, BCE directed Deputy Attorney General Joel Primes and staff analyst David Marty to draft a proposal addressing this matter for BCE's future review. At this writing, the amendments to section 317.1 await adoption by BCE and review and approval by the Office of Administrative Law (OAL).

Preceptor Program Standards. Also on July 15, BCE again published notice of its proposed adoption of section 313.1, Title 16 of the CCR, regarding preceptor programs, which are off-campus educational programs that allow chiropractic students to gain practical training and experience. The "preceptor" refers to the participating chiropractor; the student is the "preceptee." The Board has attempted to adopt section 313.1 on several prior occasions. [13:4 CRLR 189-90; 13:2&3 CRLR 199; 13:1 CRLR 127]

Proposed section 313.1 would contain specific regulations governing the operation of preceptor programs. For example, section 313.1 would require BCE to approve all preceptor programs, and provide that the program shall include office management as well as clinical training; it can last a maximum of twelve months with no more than 35 average weekly hours; monthly progress reports concerning the preceptee's performance are required; malpractice insurance must be included for the preceptee during the program; the preceptor must currently be a state-licensed chiropractor with at least five years' experience, and not have been subject to any disciplinary action under the Chiropractic Initiative Act or other regulation, and cannot have been convicted of a felony or misdemeanor related to the practice of chiropractic; a preceptor must

provide direct supervision of the preceptee, and must identify him/her as a preceptee to patients; a patient's written consent must be secured before being treated by a preceptee; the preceptor must ensure that the preceptee practices in accordance with all applicable statutes and regulations, and must ensure the filing of monthly progress reports with the appropriate college; a preceptor may supervise only two preceptees at a time, and must have a permit for on-the-job training in X-ray equipment; a preceptee shall satisfactorily complete the program, may not represent him/herself as a chiropractor, and may not administer treatment without the appropriate supervision; and the preceptee must verify the procurement of the signed consent form, comply with all applicable laws, and report to the college any termination, delay or, interruption in the program.

Under the proposed section, BCE would be authorized to deny, issue subject to terms and conditions, suspend, revoke, or place on probation either a preceptor or a preceptee for specified reasons. Section 313.1 would also provide that advertising by a preceptee is considered unprofessional conduct.

On September 8, BCE held a public hearing on the proposed new section; at that time, some hearing participants expressed concern about the minimum malpractice insurance requirement for a preceptee. Noting that the average award for malpractice against California chiropractors is \$35,000-\$40,000, witnesses stated that BCE should exercise care when setting this minimum so as to not force practitioners to over-insure. The record was left open for one week, during which BCE invited further testimony on this matter.

Hearing participants also requested clarification concerning proposed section 313.1(d)(4), which would require a preceptor to ensure that the informed consent of the patient is obtained before the preceptee renders any form of examination, physical therapy, or chiropractic treatment to the patient. Witnesses questioned whether such consent must be in written form in order to satisfy the requirement.

At this writing, BCE has not yet adopted proposed section 313.1.

BCE Proposes Amendments to Practical Exam Prerequisites. On July 22, BCE published notice of its intent to amend section 349, Title 16 of the CCR, to interpret section 1000-6(d) of the Business and Professions Code regarding prerequisites for taking the practical portion of the California chiropractic examination. The proposed changes would provide that, effective January 1, 1996, prior



to being scheduled for the practical portion of the California Board examination, an applicant must show proof of either National Board status or successful completion of the entire written portion of the California licensure examination. The amendments would also clarify that the term "National Board status" means successful completion of Parts I, II, III, and physiotherapy. [14:2&3 CRLR 200] According to BCE, requiring candidates to pass the national or state written examination before taking the California practical examination would allow the Board to establish the candidates' academic competence in ten areas of knowledge which are foundational to the practice of chiropractic before they appear before BCE's practical exam commissioners.

On September 8, BCE held a public hearing on the proposed changes to section 349; at this writing, the amendments await adoption by BCE and review and approval by OAL.

RECENT MEETINGS

At its July 7 meeting, BCE discussed proposed legislation which would enable it to increase its licensure, corporation, satellite clinic, and examination fees; the Board is currently seeking a legislator willing to introduce such a proposal. BCE also discussed its authority to raise fees. BCE's current fee limitations are set in section 5 of the Chiropractic Initiative Act; altering the language of the Act generally requires approval of a ballot measure by the electorate. However, Executive Director Vivian Davis suggested that section 12.5 of the Chiropractic Initiative Act might authorize the legislature to increase BCE's fees without a ballot initiative; Deputy Attorney General Joel Primes, who agreed with Davis, was asked to research this matter. In the interim, BCE directed staff to draft legislation which would increase fees; among other things, this increase would be used to finance the addition of a third licensing exam each year. [14:2&3 CRLR 200]

Following up on this issue at its September 8 meeting, BCE discussed the extent of its possible fee increases; the Board considered an increase from \$100 to \$300 for licensure fees and an increase from \$150 to \$350 for renewal fees. BCE also considered imposing a fee for retaking exams, which is currently offered for free, at half the licensure fee. Currently, the Board's fees do not cover its cost of administering exams, and the addition of a third exam would require an additional \$39,000 in revenues. BCE is expected to address this issue again at a future meeting.

At its July 7 meeting, the Board discussed concerns about chiropractors' identification of child abuse; BCE noted that New York gives courses to chiropractors concerning the identification of child abuse, and reviewed information provided by the Chair of the New York Chiropractic College. Board member Louis Newman, DC, commented that the Board should pay closer attention to child abuse; the Board also noted that chiropractors, like medical doctors and other professionals, are in a position to both recognize the problem and intervene on the child's behalf. No decisive action was taken.

FUTURE MEETINGS

October 20 in Los Angeles.

December 15 in Sacramento.

CALIFORNIA HORSE RACING BOARD

Executive Secretary:

Roy Wood

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The California Horse Racing Board (CHRB) is an independent regulatory board consisting of seven members. The Board is established pursuant to the Horse Racing Law, Business and Professions Code section 19400 *et seq.* Its regulations appear in Division 4, Title 4 of the California Code of Regulations (CCR).

The Board has jurisdiction and power to supervise all things and people having to do with horse racing upon which wagering takes place. The Board licenses horse racing tracks and allocates racing dates. It also has regulatory power over wagering and horse care. The purpose of the Board is to allow parimutuel wagering on horse races while assuring protection of the public, encouraging agriculture and the breeding of horses in this state, generating public revenue, providing for maximum expansion of horse racing opportunities in the public interest, and providing for uniformity of regulation for each type of horse racing. (In parimutuel betting, all the bets for a race are pooled and paid out on that race based on the horses' finishing position, absent the state's percentage and the track's percentage.)

Each Board member serves a four-year term and receives no compensation other than expenses incurred for Board activities. If an individual, his/her spouse, or dependent holds a financial interest or management position in a horse racing

track, he/she cannot qualify for Board membership. An individual is also excluded if he/she has an interest in a business which conducts parimutuel horse racing or a management or concession contract with any business entity which conducts parimutuel horse racing. Horse owners and breeders are not barred from Board membership. In fact, the legislature has declared that Board representation by these groups is in the public interest.

MAJOR PROJECTS

CHBPA Complies With CHRB Directives on Bylaws. Pursuant to SB 118 (Maddy) (Chapter 575, Statutes of 1993), CHRB is required to approve the bylaws of all horsemen's associations, as well as any changes to those bylaws. Over the past year, the Board's Bylaws Committee has been reviewing the bylaws of the existing thoroughbred horsemen's organization, the California Horsemen's Benevolent and Protective Association (CHBPA). The Committee determined that CHBPA's bylaws were inequitable in numerous respects, and suggested that the Association make significant changes in its bylaws and hold an election for an entirely new board of directors. Initially, CHBPA balked at CHRB's suggestions, but the Board unanimously reaffirmed its directives at its January 1994 meeting. Thereafter, CHBPA decided to accede to all of CHRB's wishes, including the election of a new board of directors. [14:2&3 CRLR 201; 14:1 CRLR 157-58; 13:4 CRLR 197]

At CHRB's May 20 meeting, CHRB staff member John Reagan and Commissioner Robert Tourtelot reported that CHBPA's bylaws had been amended to comply with every suggestion made by CHRB. CHBPA representative Bob McAnally reported that CHBPA would have an election completed by June 22; the new board will be composed of twelve owners and six trainers; and the qualification criteria for owners seeking membership on the board are being enforced. CHRB Executive Secretary Roy Wood indicated that a member of the Board staff would be present to observe the counting of the ballots on June 21 and 22. In light of CHBPA's actions, CHRB unanimously approved CHBPA's amended bylaws, and CHRB Chair Ralph Scurfield announced that the Board need take no further action on this item.

CHRB Continues to Review CHBPA's Finances. At its October and November 1993 meetings, CHRB discussed the CHBPA board of directors' October 1993 authorization of the expenditure of approximately \$400,000 for political activities at the State Capitol during the next