To:

Board of Chiropractic
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The following comments reflect some of the misgivings and concerns of over 1200 undersigned DCs who disagree or have issues with some of the new Proposed CE regulations. We feel that a number of the Proposed new regulations regarding chiropractic continuing education represent a radical and extreme departure from traditional regulations. In this first draft form that appears on the Board's website it seems clear they are not quite ready to be voted into law, due to the following inconsistencies and contradictions:

Comment #1:

In Section 356, CE Requirements subsection (a) MANDATORY, there seem to be some obvious omissions. Replacing the traditional 4 hour technique requirement with this short list of 3 subjects seems far too restrictive and specialized to comprise 4 hours of every single CE seminar. The 3 topics suggested

1. VSC/Viscerosomatic reflex
2. physical exam
3. testing interpretation

are certainly valuable, but the list needs to be extended to include all chiropractic adjusting technique. What happened to technique? The new proposals incomprehensibly would reduce the knowledge base offered in the traditional 4 hour technique section by 95%. Such extreme proposals eliminate an entire list of valuable chiropractic techniques which have been a quintessential part of chiropractic CE in this state for almost 90 years.

Under these new proposals it is entirely possible to get all one's hours without any technique at all. Very difficult to understand how such a program would protect the people of California from harm if DCs are not even required to maintain their skills in adjust ing within the CE program.

We therefore propose that chiropractic technique continue to be a part of this 4 hour MANDATORY list. This will protect the citizens of CA by ensuring them that the chiropractor has the clinical competency to deliver the safest possible care.

Comment #2:

In the new section 356 (b) CATEGORY I, 10 hours, the list contains many important and vital topics. But again there are some glaring omissions, including but not limited to clinical nutrition, immunology, and even practice management and insurance procedures. It is surprising that such newcomer techniques as MUA are now to be included in this CATEGORY I and yet traditional subjects which have been CE accredited for years have been left out.

We propose the standard subjects that have appeared for years on the CE course application sheet should be returned to this CATEGORY I list, including:

Principles of Practice, Examination Procedures, Physical Therapy, Nutrition, and Diagnosis, Adjustive Technique.

The same can be said for CATEGORY II: again the proposed items listed are important and valuable topics, but it seems unreasonable to include something like pharmacology and exclude traditionally accredited topics such as clinical nutrition and immunology. Also there is no space for OTHER, as has always been included in the past.

Section 356.5 does not make it clear whether current providers will automatically retain their status. It should clearly state that the proposed amendments pertain to new applicants, not to current Providers.

In the verbose paragraphs of Section 356.5 (a) about appealing a denial for new provider application, where it goes on and on about hearings and rights of appeal, etc. there appears to emerge some evidence of a brand new attitude about the scope of CE topics never before seen in our profession. The new proposal is another radical departure from the traditional range of acceptable topics primarily in that it would place the power to accept or reject a seminar proposal in the hands of just one individual. Not only would such a new policy invite obvious abuses, favoritism and even quid pro quo toward granting the agendas of certain organizations or providers, but worse could be the death knell to the type of academic freedom that has traditionally been the strength of CE education in this state. If a seminar has no merit, if a provider has no teaching skill, the market will sort that out. DCs will vote with their feet. This suggestion of one "designee" being able to qualify and evaluate according to these narrow new restrictions will certainly work to the academic detriment of us all in the long run.

The way it is written, Section 356.5(a) may well put the Board in harm's way from a legal aspect, exposing them to an enormous number of lawsuits.

We therefore propose that Section 356.5 should end after line 5 and the rest of subsection (a) be stricken and expunged.

Comment #3

Beginning now with subsection 356.5(b)

"Providers shall ...ensure that the instructors teaching the Mandatory and Category I courses... have taught for the previous 5 consecutive years in the subject matter being taught."

This is a very poorly defined idea to be proposed as a part of a permanent new Regulation and as it is written, begs misunderstanding and argument from the outset. Here they propose to replace the current system where the novice lecturer has always served a 5 year apprenticeship under a Provider.

The first obvious unanswered question that arises is - what happens if the Providers themselves wish to prepare a seminar in an area outside the one they have been accredited for? For example, what if a Provider has been teaching a course about the neurology of trauma for 20 years and then prepares a very well researched seminar on nutrition? Does that Provider now have to get a job somewhere teaching nutrition for 5 years before being able to get the new seminar approved? Maybe not, but the point is, such a provision is NOT CLEAR the way subsection b(2) is now written. The proposal must state exactly to whom such a provision would apply.

An experienced Provider should be able to introduce any new subject that is well enough researched and documented to be valuable to the attendees.

That brings us to another dangerous departure here - the real key issue. This section 356.5 b(2) is throwing out the old mentor/apprentice system that has worked so well for decades and replacing it with ... what? From what pool will our new seminar presenters now be drawn? The way it is written here it seems as though one would have to teach a course in a chiropractic school for 5 years before being allowed to be considered as a provider. So now the schools are going to take the place of the Provider / Mentor system? Let's think about what is being proposed here very carefully. Is that really what we want? Let each of us here consider the overall quality of teachers in general during their school years. Do we really want to make that the new standard for a CE provider, a standard which is to replace the tried and true mentor/apprentice system? Don't the standards for postgraduate education have to be much higher than those for school professors? These new proposals are locking us into the introductory novice level of education we all got in school to be all we should expect out of postgrad CE. Is it reasonable to equate the educational level of a tenured school teacher who may teach one course for 20 years, with that of a Provider specialist who can only survive in the world of postgrad CE if the seminar material is good enough to keep attracting doctors to attend year after year? It is the marketplace that will maintain the standards of CE education, not some group of 1 or 2 appointees. This is the way the system works in every other state, and has worked in this state since the beginning of CE. High academic standards, academic freedom itself demand that the survival as an apprentice, or the survival as a Provider, depends on one thing: the marketplace.

What we should propose instead is to delete the proposed 356.5 a(2) and maintain the current Mentor /Apprentice system whereby a new applicant has to do a 5 year trial period sponsored by a Provider. Any applicant's survival will depend on the ability of the seminar material to attract doctors to attend, and not merely on the temptation to hire one's own graduates for the best possible price. Anything less will be a giant step backward in education standards, putting too much power in the hands of too few persons. Once enacted such a radical new proposal would be a very difficult thing to correct.

Comment # 4

Section 356.5 b(6) about time spent in the bathroom should be deleted as quickly as possible and never brought up again. Attendees are not in grade school. This is postgraduate relicensing of doctors. Such a regulation is unnecessary, demeaning, and degrading and also shows an utter disregard for doctors who are handicapped or pregnant. No other state or profession has such an inappropriate rule.

Comment # 5

In regards 356.5 b(8) about selling, displaying, or advertising anything in a seminar, the new proposal is far too absolute to be reasonable. Many providers are recognized experts in their fields and are authors of books or educational materials that are valuable educational resources, which should be ma de available to attendees. Prepared by experts, a seminar is merely an introduction to an entire field of inquiry. Any legitimate educational venue will provide an opportunity for doctors to derive the benefit of years of research.

The same concept holds true for professional equipment. As improved technology offers new equipment to enhance the quality and safety of chiropractic care, again, the doctors should be allowed to learn such information. This is not to recommend that a CE seminar be turned into an 8 hour sales show, of course. As long as materials are not being sold during actual seminar hours, they should be allowed to be displayed provided that they relate to course material.

The way the new section b(8) is now proposed it directly contradicts the previous part b(7) about making educational materials available at all.

This section b(8) should either be deleted or rewritten to clarify such advantages to the attendees.

Comment #6

The new proposed Section 357 (a) where it goes on and on about denials and appeals for a seminar application again is a serious red flag indicating the probable consequences foreseen by the drafters of this radical new proposal. The way 357 is written, it's as though they're expecting a whole flood of appeals from a large number of applications

they are preparing to reject, and the drafters seem to want to have these statutory safeguards in place to protect any new decisions, no matter how unreasonable.

The imprudent pathway upon which they would now have the profession embark is a radical detour in policy that would make CE course approval a very subjective affair indeed, inviting a whole new world of prejudicial decisions based on the whims and values of a very few people. It is a fundamental shift from the current traditional approval policy, where approval is basically an administrative clerical matter: as long as the course work falls within general parameters of common sense and academic value to the attendees, it meets the requirements. This simple policy has served the profession well for decades in providing doctors with a wide range of course material from which to choose. Courses that are badly presented or ill-researched are soon eliminated very naturally, by the vote of a large number of DCs who either deem the subject material valuable or not. They either show up or they do not, and a seminar rises or falls based on that attendance.

What change do we see? Under the new proposals, the suggestion is made that a couple of people should now have that power to choose exactly what courses will ever see the light of day. And this decision is going to be made by a 5 minute review of a course syllabus in which one or two sentences summarizes an hour of material? With the wide range of course material that is currently approved, much of it very technical and detailed and meticulously researched by years of study, are we really going to pretend that one individual of unspecified credentials has the intelligence and wisdom to make yes or no decisions in all these fields, without ever actually attending the seminar itself to learn what it was truly about? This is precisely what we are being asked to buy here. And again, once this new provision is passed into law, it will be almost impossible to root out.

We propose instead that Section 357 (a) should end after the third line, and the balance of it be deleted.

Comment #7

With regard to Section 357 b(1) a new proposal never before seen in California in the past 60 years is introduced with a single line: to limit the number of hours to 8 in one day.

There are only a handful of states which hold to this 8 hour limitation. The vast majority of states hold 12 hour seminars.

We do not see where such a decision is even within the scope of the Board or any of its committees. It has been traditionally held that if attendees are willing to stay the entire day for all 12 hours, this violates no law or statute. The vast majority of other states adhere to the same interpretation. After all these decades, such a proposal would be change for the sake of change, which idea is supported by the complete lack of discussion by the drafters. They suggest no reason whatsoever. Without a reason, why make any change?

There are however several reasons for maintaining the 12 hour seminar. If doctors have to come back a second day to get the other 4 hours, it will place an unnecessary burden on them in terms of time and effort. This will place especial hardship on the handicapped or pregnant doctors who will attend. The added financial burdens are obvious:

1. to stay all night at the hotel
2. the presenters will have to rent the seminar space an extra day, which will double their costs, which will then have to be carried back onto the attendees
3. double the transportation costs in returning a second day

We should ask ourselves - is this really the time to further increase financial stress on our already beleaguered profession?

We propose that Section 357 b(1) simply be deleted. There is no reason for it.

Comment #8

Section 357 b(2) regarding the 10 minute break is equally unprecedented and without merit. This proposal is written simply as a regal pronouncement, a fiat change in long standing policy with absolutely no reason or foundation even offered. Every doctor in this state received a license and an undergraduate degree based on the 50 minute academic hour. The 50 minute academic hour has been the standard not only within our profession since the time of BJ Palmer, but in every university and center of higher learning both in the US and abroad since the time of Chaucer. The way this proposal is written would effectively extend a 12 hour seminar to 14 hours! It is difficult to grasp the intent of such a new idea being introduced as law.

This section should be deleted and never mentioned again. It is an embarrassment to our profession that it was even suggested and it shows how far afield these proposed policies are separated from the academic regulations of any other legitimate profession, healing or otherwise, throughout all of Western civilization.

In a professional gathering such as a CE seminar, the topic of break times is not a subject requiring the drafting of any legislation, but rather one of common sense. Our profession has got along well for the past century without addressing it; it seems reasonable to continue with the present traditions regarding it.

Comment #9

Section 357 b (4) a bout practice management is unclear for one thing and also needs discussion whether or not it proposes an unnecessary and excessively restrictive departure from past policies regarding practice management. How is the profession to survive without new graduates receiving business advice? Another pronouncement with no discussion offered.

Comment # 10

Section 357 b(6) should be closely scrutinized. This proposal gives the Board's "designee" absolute power to invalidate any seminar without cause or due process, merely on a whim. Such a proposal is unworthy of the nature and spirit of these new regulations and should clearly be deleted. Such absolute power should never be placed in the hands of one individual.

This particular suggestion would subordinate the entire system of seminar approval to the subjective whims and feelings of one select "designee," in the absence of any system of oversight, or checks and balances. Nowhere are the qualifications or credentials of this "designee" spelled out.

What is to prevent some future Board from employing this unnamed, unidentifiable, and apparently unanswerable 'designee' in the role of Hatchet Man, emissary of whatever agenda occurs to them? It's a very dangerous notion indeed, and an egregious departure from anything any Board committee has ever suggested before in the history of this state.

This new "designee" idea is not wrong because it is not well defined-- it's wrong in essence because it REPLACES the entire apprenticeship system all current Providers went through.

The solution is to delete the entire idea of the designee from the new proposals.

This in turn raises a very serious question about whether or not we are ready at all to even vote on the entire package of new proposals. As it stands now, much of it is patently contrary to the US Constitution and would never stand up if challenged in any court of law. If passed, the new proposals may well expose the Board to barrages of adverse litigation and damage claims.

Much more significantly, this last proposal does indicate that a major re-thinking and re-writing of these entire proposed new regulations is in order. It seems clear that what we are looking at here with the entire new program is merely a rough draft of profound new changes that will require months or even years of more thorough discussion and evaluation before a supportable version is hammered out. Even from these few comments above it is very obvious that these proposals are certainly not ready to be permanently drafted in to the body of state law that governs our profession, let alone being voted upon at this time.

The other obvious legal question is: do the present statutes even permit any committee or Board to so drastically alter and extend the traditional laws on CE by merely drafting up a hasty list of proposals and then voting them in?

In granting such sweeping new powers to any Board, committee, or designee, we are admonished to look carefully at what we are handing down to the state Boards of the future. With regulations like these proposed in place, such a group could irrevocably harm the nature and character of the profession in this state for years to come.

There is nothing wrong with the current system of CE regulations. It has served the profession very well for years and years and is a credit to the Boards who have overseen it. Radical sweeping fundamental changes like these new proposals should only be introduced in the event some overriding need is demonstrated and proven. No such urgent needs have been shown in this case. It seems prudent to be vigilant of some other agenda afoot, like change for its own sake, or the concentration of broad new powers in the hands of a very few individuals.

We therefore suggest that it is in the best interests of the Board and the profession as a whole, as well as the people of California, that these new proposals should be shelved for the present, perhaps re-worked and discussed during the next year, addressing clearly all the issues cited hereinabove in an open and unrestricted forum, with a plan to incorporate a more defensible and legally supportable version of them only when any such changes have been clearly demonstrated to be absolutely necessary.

Complete list of signers will be presented directly.

I wish my signature be added to the list of signers of the above comments on the new proposed CE regulations.

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signature

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print name