

State of Alaska
Board of Chiropractic
Examiners






August 23, 2019

Board Packet

State Office Building
333 Willoughby Avenue,
9th Floor
Conference Room A
Juneau, Alaska

Roll Call

Alaska Board of Chiropractic Examiners
Board Roster (As of 03/01/2018)

Board Member	Appointed	Reappointed	Term Expires
Brian Larson, <i>Chiropractor</i> <i>Chair</i> 	03/01/2017		03/01/2021
Jeffrey Reinhardt, <i>Chiropractor</i> <i>Vice Chair</i> 	03/01/2016		03/01/2020
Jonathan Vito, <i>Chiropractor</i> <i>Secretary</i> 	03/01/2017		03/01/2021
James Morris, <i>Chiropractor</i> 	03/01/2018		03/01/2022
John Aderhold, <i>Public Member</i> 	03/01/2016		03/01/2020

Review of Agenda

Meeting Name: Alaska Board of Chiropractic Examiners
Meeting Start Time: 10:00 AM Alaskan Daylight Time
Meeting Start Date: 08/23/2019
Meeting End Time: 5:00 PM Alaskan Daylight Time
Meeting End Date: 08/23/2019
Meeting Location: Video Conference Originating from Juneau

State Office Building
333 Willoughby Avenue
9th Floor
Conference Room A

Agenda:

1. 10:00 a.m. - Call to Order/Roll Call
2. 10:05 a.m. - Review/Approve Agenda
3. 10:10 a.m. - Review/Approve Meeting Minutes
 - A. Board Meeting: April 26, 2019
 - B. Board Meeting (teleconference): May 23, 2019
4. 10:15 a.m. - Board Business
 - A. Ethics Reporting
 - B. Review Goals & Objectives
 - C. Ratify New Licenses
 - i. Alexander Ginzburg
 - ii. Leah Humphries
 - iii. Matthew Reilly
 - iv. Joseph Sullivan
 - D. Position Statements
 - i. Injectable Nutrients
5. 11:00 a.m. - Old Business
 - A. Scope of Practice
 - i. Definitions in Regulation
 - B. SB 69 Regulations Project Update
 - C. Seat on Professional Panel for Drug Addiction
6. 11:30 a.m. - Investigative Report
7. 11:45 a.m. - Public Comment/Correspondence
 - A. Rich Woolley - Prolotherapy
 - B. Jason Nardi - Acupuncture

- C. Carolyn Heyman - Restriction on Referrals
- 8. 12:00 p.m. - Lunch
- 9. 1:00 p.m. - New Business
 - A. Postgraduate Preceptorships While Waiting for Board Exam Scores
- 10. 1:30 p.m. - ACS Update
- 11. 2:00 p.m. - Paralegal Report
- 12. 2:15 p.m. - FCLB/NBCE/CCE Updates
- 13. 2:30 p.m. - Budget Report/Division Updates
 - A. FY19 3rd Quarter Fiscal Review
 - B. Regulatory Reform
- 14. 3:30 p.m. - Administrative Business
 - A. Set Next Meeting Date/Board Travel
 - B. Task List
- 15. 3:45 p.m. - Adjourn

Review of Meeting Minutes

State of Alaska
Department of Commerce, Community and Economic Development
Division of Corporations, Business and Professional Licensing

BOARD OF CHIROPRACTIC EXAMINERS

MINUTES OF THE MEETING

Friday, April 26th, 2019

These are DRAFT minutes prepared by the staff of the Division of Corporations, Business and Professional Licensing. These minutes have not been reviewed or approved by the Board.

By authority of AS 08.01.070(2), and in compliance with the provisions of AS 44.62, Article 6, a scheduled meeting of the Board of Chiropractic Examiners was held in Conference Room A in the State Office Building, 333 Willoughby Avenue, 9th Floor, Juneau, Alaska.

Friday, April 26th, 2019

Agenda Item 1

Call to Order/Roll Call

Time: 10:00 a.m.

The meeting was called to order by Chairman, Brian Larson at 10:00 a.m. Jonathan Vito was not present at the board meeting; however, the rest of the board was present, constituting a quorum.

Board Members present, constituting a quorum:

Brian Larson, Doctor of Chiropractic (*Via Videoconference*)
Jeffrey Reinhardt, Doctor of Chiropractic (*Via Videoconference*)
James Morris, Doctor of Chiropractic (*Via Videoconference*)
John Wayne Aderhold, Public Member (*Via Videoconference*)

Division Staff present were:

Thomas Bay, Licensing Examiner
Renee Hoffard, Records and Licensing Supervisor
Jasmin Bautista, Investigator (*Via Videoconference*)
Marylene Wales, Accountant

Present from the Public:

Sheri Ryan, Chief Operating Officer, Alaska Chiropractic Society (*Via Videoconference*)

Agenda Item 2

Review Agenda

Time: 10:02 a.m.

After the Roll Call, Chair, Dr. Larson asked the board to review the agenda.

On a motion duly made by John Wayne Aderhold, seconded by Jeffrey Reinhardt, and approved unanimously without any objections, it was

RESOLVED to approve the agenda as written.

Agenda Item 3**Review/Approve Meeting Minutes****Time: 10:04 a.m.**

The board reviewed the meeting minutes from February 1st, 2019.

On a motion duly made by John Wayne Aderhold, requesting unanimous consent, and approved unanimously without any objections, it was

RESOLVED to approve the meeting minutes for February 1st, 2019, as written.

Mr. Bay asked the Chair, Dr. Larson, to sign a copy of the minutes and send it in the mail to the Division of Corporations, Business and Professional Licensing, so they could finalize the meeting minutes.

Agenda Item 4**Board Business****Time: 10:06 a.m.****Ethics Report**

Dr. Larson addressed ethics reporting. There were no ethical violations to report.

Review Goals and Objectives

With no ethical issues to report, Dr. Larson began conversation with the board on their goals and objectives. Mr. Bay reminded the board that their objective #1, under Goal #7, was to pursue inclusion into AS 08.01.050(d), for the purpose of providing licensed chiropractors the resources needed to address abuse of alcohol, drugs, or other substances. Dr. Larson provided an overview of the goal, citing that many professions are included in the statute, but not the chiropractic profession, and that he believed there was an oversight when the statute was created. The board decided to keep that objective for Fiscal Year 2020 (FY20). Having been updated on objective #1, Mr. Bay reminded the board that objective #2 had already been ruled on at the last board meeting, and resulted in the board no longer pursuing inclusion into AS 12.62.400, for national criminal history record checks. Mr. Bay read the board's last objective, objective #3, which is to pursue authority under AS 08.20 to create an advanced practitioner status for chiropractic physicians who pursue advanced training and certifications to utilize limited drugs, minor surgery, and other therapies and procedures commonly used by other Alaska health care professionals of physician status. The board discussed the objective. Mr. Bay reminded the board that at the last board meeting Harriet Milks, from the Department of Law, suggested that the board speak with the division's legislative liaison, Fred Parady, to change their current statutes, which might in the future allow for an advanced practitioner status for chiropractors. Having nothing left to discuss, the board moved to the next agenda item.

Ideas for Legislation

The board moved into discussion on ideas for possible legislation during FY20. Dr. Larson explained a situation where he had a conversation with a nurse practitioner who said she did not have to listen to him or consider his opinion. She explained that in the nursing statutes chiropractors are not a recognized healthcare profession. The board discussed the possibility of being added to the list of recognized healthcare professions in the nursing statutes. Mr. Bay explained that the board would need the specific statute in order to make a motion, which at the time they did not have. Dr. Larson said he would have it at a later time during the board meeting.

Dr. Larson began discussion on the definition of chiropractic, specifically the definition in statute, pertaining to how chiropractic does not use prescription drugs, and how the chiropractic regulation's

definition of prescription drugs may cause a problem for the profession. He went on to read the regulation, which states the following:

12 AAC 16.990. DEFINITIONS. (b) In AS 08.20.900,

(1) "prescription drug" means a drug that

(A) under federal law, before being dispensed or delivered, is required to be labeled with either of the following statements:

(i) "Caution: Federal law prohibits dispensing without prescription";

(ii) "Caution: Federal law restricts this drug to use by, or on the order of, a licensed veterinarian"; or

(B) is required by an applicable federal or state law or regulation to be dispensed only under a prescription drug order or is restricted to use by practitioners only

He explained that his worry is that certain nutritional substances may constitute an issue because they have labels that say, "for professional use only," and that many chiropractors have them in their clinics. Dr. Morris explained that he did not believe the nutritional substances with those labels were government regulated, and that he thought they were instead a policy, for marketing purposes, that companies put out so the only access anybody would have to the nutritional substances was through a professional. Dr. Reinhardt and Mr. Aderhold agreed with Dr. Morris. Dr. Larson mentioned that although that may be true, he could see someone getting in trouble if it were challenged. He said that he wanted to bring the topic up to be proactive, and to possibly review and change the regulation to specifically state that certain nutritional substances are not considered prescription drugs. Mr. Bay reminded the board that they were discussing a topic that most likely was not going to be addressed anytime soon because the topic of discussion had gone in the direction of a regulations project, which also required additional information. Mr. Bay suggested that the board have him find the appropriate route to take regarding the conflict between statute and regulation concerning prescription drugs.

On a motion duly made by Jeffrey Reinhardt, seconded by James Morris, and approved unanimously by a roll call, it was

RESOLVED to have Mr. Bay explore the process of resolving the conflict between statute and definition regarding prescription drugs and practitioner use.

Dr. Larson called for a break at 11:09 a.m.

Off Record at 11:09 a.m.

On Record at 11:16 a.m.

On a motion duly made by Brian Larson, seconded by Jeffrey Reinhardt, and approved unanimously by a roll call, it was

RESOLVED to temporarily table discussion of legislative and regulation projects to a later time in the day, specifically the discussion on attaining recognition as a health care provider in nurse practitioner statutes, and other topics as discussed.

TASK:

Mr. Bay will explore the process of resolving the conflict between statute and definition regarding prescription drugs and practitioner use.

Annual Report

Dr. Larson asked Mr. Bay to begin discussion on the annual report. Mr. Bay provided a brief overview of the process, explaining that a board member needed to complete the annual report and have it ready to be voted on at the upcoming teleconference.

On a motion duly made by John Wayne Aderhold, requesting unanimous consent, and approved unanimously without any objections, it was

RESOLVED to have Dr. Morris and Dr. Larson complete the annual report and that the board will vote at the upcoming teleconference to approve it.

TASK:

Dr. Morris and Dr. Larson will complete the annual report and have it ready to be voted on at the upcoming teleconference.

Renee Hoffard, Records and Licensing Supervisor, joined the meeting at 11:23 a.m.

Ratify New Licenses

Hearing nothing further on the annual report, John Wayne Aderhold moved to address the ratification of licenses for applicants who sat for the February 1st, 2019, examination.

On a motion duly made by John Wayne Aderhold, seconded by James Morris, and approved unanimously by a roll call, it was

RESOLVED to ratify the licenses for Monica Allen, Tapiwa Chiwawa, Anton Keller, Michael Martin, Anthony Odney-Pacheco, Jordan Oslan, Karlee Simkowski, William Voges, Jake Walden, and Brent Wise.

Position Statements

Dr. Larson began discussion on a possible position statement regarding the definition of surgery in regulation, specifically the removal of foreign objects from living tissue. He asked if the board would like to address the topic as a position statement.

Jasmin Bautista, Investigator, joined the meeting at 11:30 a.m.

Dr. Morris suggested that there is a difference between basic first aid and the removal of objects, such as suturing, and that he did not condone moving towards the next step of removing foreign objects from the body. Dr. Reinhardt suggested that the board make a motion to table the current discussion so that investigator Jasmin Bautista could provide the board with the investigative report.

On a motion duly made by Jeffrey Reinhardt, seconded by James Morris, and approved unanimously by a roll call, it was

RESOLVED to table the current discussion on position statements until such a time that the investigative report is finished.

The board had nothing to address for the FCLB/NBCE/CCE update and will wait to hear about the highlights from the FCLB/NBCE conference.

Agenda Item 6

Investigative Report

Time: 11:33 a.m.

Chairman Larson began discussion on the board's investigative report by giving the floor to the board's investigator, Jasmin Bautista. Ms. Bautista presented to the board their investigative report, which is dated from January 26th, 2019, through April 17th, 2019. She informed the board that she opened two matters, closed two matters, and that two matters remained ongoing. Dr. Larson asked if the board was allowed to hear about open cases. Ms. Bautista reminded the board that she could not speak about open cases, but that there was one case that they could talk about in executive session. The board decided to go into executive session to discuss the matter.

On a motion duly made by John Wayne Aderhold, requesting unanimous consent, and approved unanimously without any objections, it was

RESOLVED to enter into executive session in accordance with the provisions of Alaska Statute 44.62.310(c), for the purpose of discussing, "subjects that tend to prejudice the reputation and character of any person, provided the person may request a public discussion." Board staff members Thomas Bay, Renee Hoffard, and Jasmin Bautista remained during the session.

The board entered executive session at 11:36 a.m.

The board left executive session at 12:14 p.m.

Renee Hoffard, Records and Licensing Supervisor, left the meeting at 12:14 p.m.

The board's chair, Brian Larson, entertained a motion regarding matters discussed in executive session.

On a motion duly made by James Morris, seconded Jeffrey Reinhardt, and approved unanimously by a roll call, it was

RESOLVED to accept the voluntary suspension of case #2019-000180.

Mr. Bay asked Ms. Bautista if there was anything else she wanted to discuss with the board, to which she responded no. With nothing left to discuss, Ms. Bautista left the meeting.

Jasmin Bautista, Investigator, left the meeting at 12:16 p.m.

Dr. Larson called recess for lunch at 12:18 p.m.

Off Record at 12:18 p.m.

On Record at 1:04 p.m.

Scope of Practice

Dr. Larson asked Mr. Bay to update the board on where they were at on the agenda. Mr. Bay informed the board that they were currently on agenda item #8, which was old business, and that the first topic of discussion was scope of practice. He reminded the board that he had reached out to the Department of Law to get a determination on whether or not injectable nutrients are within the scope of practice of chiropractic. The Department of Law, through Senior Assistant Attorney General, Harriet Milks, responded that injectable nutrients are not within the scope of practice of chiropractic if those injectable nutrients require a prescription. In her response, Harriet went on to say that if the board knew of any nutrients formulated for injection that did not require a prescription then the Department of Law's analysis would be different. She suggested the board provide factual documentation for any such nutrients, and that the Department of Law would look at the issue again if there was any. The board discussed possible nutrients that were known to be injectable, but that did not require a prescription. After a thorough discussion the board decided to have Dr. Reinhardt contact another practitioner regarding non-prescription injectable nutrients and to get that information to Mr. Bay so he could send it to the Department of Law.

On a motion duly made by James Morris, seconded by John Wayne Aderhold, and approved unanimously by a roll call, it was

RESOLVED to allow for Dr. Reinhardt to investigate further the language behind injectable nutrients and approach another practitioner regarding scope of practice for non-prescription injectable nutrients.

TASK:

Dr. Reinhardt will gather information regarding non-prescription injectable nutrients and get it to Mr. Bay so he can provide it to the Department of Law.

SB 69 Regulations Project

Mr. Bay explained that the subcommittee for the regulations project had a publicly noticed meeting for Tuesday, April 30th, 2019, and that the board needed to set a date for an emergency teleconference/videoconference following that date where they could discuss the subcommittee's version of the regulations project.

On a motion duly made by Jeffrey Reinhardt, requesting unanimous consent, and approved unanimously without any objections, it was

RESOLVED to have a special meeting of the board take place on Thursday, May 16th, 2019, through teleconference for finalizing the SB 69 Regulations Project.

TASK:

Mr. Bay will get the teleconference publicly noticed for Thursday, May 16th, 2019.

Seat on Professional Panel for Drug Addiction

Dr. Larson asked Mr. Bay to continue on to the next agenda item. Mr. Bay provided the board with an update on his findings in regard to a possible seat for chiropractors on the State of Alaska's opioid task force. He informed them that the opioid task force had been put on hold indefinitely, but that he had found something similar that the board may be interested in. Mr. Bay explained that there was a board called the Controlled Substances Advisory Committee, and that it consisted of nine members, one of

which is a physician and two that are individually appointed by the governor. The board was indeed interested in getting a chiropractor on the board. Mr. Bay, citing lack of information, told the board that he would gather more information and have something for them at the next board meeting. Mr. Bay acknowledged that Sheri Ryan was not present for the ACS Update and asked the board if they wanted to go back to board business on the agenda, specifically reviewing their ideas for future legislation, which had been tabled to a later time in the day. The board agreed to continue their conversation on ideas for future legislation.

TASK:

Mr. Bay will gather more information regarding seats on the Controlled Substances Advisory Committee and have something for the board at their next meeting.

Agenda Item 4

Board Business

Time: 1:43 p.m.

Ideas for Legislation

Dr. Larson continued discussion on the issue regarding the exclusion of chiropractic as a recognized healthcare provider in the nursing profession's statutes. He shared the following statute with the board:

12 AAC 44.945. ADMINISTRATION OF A NON-HERBAL NUTRITIONAL SUPPLEMENT. (e) As used in this section,

- (1) "administer" means to provide a nutritional supplement to a patient for ingestion by the patient;
- (2) "compounded" means the preparation, mixing, assembling, packaging, or labeling of a nutritional supplement;
- (3) "health care provider" includes a licensed
 - (A) advanced practice registered nurse;
 - (B) doctor of medicine;
 - (C) doctor of osteopathy;
 - (D) physician assistant; and
 - (E) dentist;

Dr. Larson again mentioned that he believed it was an oversight not to include chiropractic in the above regulation, and that he believed it should be the board's goal to be included, as chiropractors are very well versed in non-herbal nutritional supplements. Mr. Bay explained that the board could make a motion to include it in their annual report, or they could add it in their annual report when it is created. The board could then have it approved at the same time the annual report is voted on. The board decided to include it in their annual report and have it approved at the same time as the annual report. The board moved into discussion on their position statements, which also had been tabled to a later time in the day.

Position Statements

Dr. Larson continued discussion on the possibility of having a position statement regarding the definition of surgery in regulation, specifically the removal of foreign objects from living tissue. Mr. Bay acknowledged that it sounded like this discussion was heading in the direction of a regulations project and not a position statement. Mr. Bay suggested that the board take care of this issue at the same time they deal with the definition of prescription drugs, as they are in the same regulation and it would make sense to get them done at the same time, to which the board agreed. Dr. Larson said that the American Academy of Orthopedic Surgeons had a great definition of surgery and that he will find

it and present it to the board at the next board meeting. Having nothing left to discuss on position statements the board moved their budget report.

TASK:

Dr. Larson will find the definition of “surgery” as defined by the American Academy of Orthopedic Surgeons, and present it to the board at the next board meeting.

Marylene Wales, Accountant, joined the meeting at 2:00 p.m.

Agenda Item 10 **Budget Report/Division Updates** **Time: 1:59 p.m.**

The board welcomed Marylene Wales for being present at the meeting and asked her to proceed with the budget report. Ms. Wales began with the board’s budget report from the 3rd quarter of FY19. She broke down total revenue and total expenditures, which ultimately came to a surplus. She assured the board that they were right at where they were supposed to be, financially. Mr. Bay reminded the board that travel costs have gone way down as a result of being able to conduct board meetings by videoconference. He noted that their financial status was better than a few years ago, to which Ms. Wales explained that it was because of a fee increase for the program. Ms. Wales asked the board if they had any questions, to which they did not. Having nothing left to discuss, Ms. Wales left the meeting.

Marylene Wales, Accountant, left the meeting at 2:06 p.m.

Agenda Item 4 **Board Business** **Time: 2:06 p.m.**

Position Statements

Mr. Bay informed the board that they actually needed to make a motion for Dr. Larson to get the definition of surgery from the American Academy of Orthopedic Surgeons.

On a motion duly made by James Morris, seconded by John Wayne Aderhold, and approved unanimously by a roll call, it was

RESOLVED to have Dr. Larson find the definition of surgery as defined by the American Academy of Orthopedic Surgeons, and present it at the next board meeting.

Task:

Dr. Larson will find the definition of “surgery” as defined by the American Academy of Orthopedic Surgeons, and present it to the board at the next board meeting.

Agenda Item 11 **New Business** **Time: 2:08 p.m.**

Postgraduate Preceptorships While Waiting for Board Exam Scores

Dr. Larson brought up the topic of postgraduate preceptorships while waiting for board exam scores because individuals who have graduated may not work until they receive their board exam scores. He also stated that there is nothing in statute or regulation that pertains to this, and that even the definition of chiropractic intern is vague, and allows for anyone, at any age, to become an intern. The board was worried about this and had a brief discussion on the matter. Mr. Bay reminded the board that this topic was most likely going to be addressed in the SB 69 regulations project, and that they should wait until after the upcoming subcommittee meeting to address it. The board agreed with Mr. Bay and tabled the discussion.

On a motion duly made by Jeffrey Reinhardt, seconded by James Morris, and approved unanimously by a roll call, it was

RESOLVED to table the discussion on interns until the subcommittee furnishes their updated version of the SB 69 Regulations Project.

Sheri Ryan, COO, Alaska Chiropractic Society, joined the meeting at 2:25 p.m.

The board moved to go back on the agenda, to the ACS Update, when Sheri Ryan joined the meeting.

On a motion duly made by John Wayne Aderhold, requesting unanimous consent, and approved unanimously without any objections, it was

RESOLVED to amend the agenda by moving agenda item #9 in front of agenda item #12.

Agenda Item 9

ACS Update

Time: 2:25 p.m.

The board welcomed Ms. Ryan and asked her to provide them with the ACS update. She began by letting the board know that there has been a problem with an Aetna algorithm that has been creating computer problems and has resulted in a lot of denials. She informed them that Aetna is working closely with ACS to fix the problem, so they are headed in a positive direction. Ms. Ryan informed the board that they have been talking with the State of Alaska regarding claim issues and that things are working very well between them.

Ms. Ryan mentioned that ACS has been following nationwide legislation, specifically legislation towards the opioid epidemic. They are likely going to mirror the legislation regarding conservative care, and plan to get something similar passed in Alaska at a later time.

Ms. Ryan asked if there was anything ACS could do for the board. While Mr. Bay was pulling up the board's goals and objectives to the monitor, Ms. Ryan asked if the board still had the topic of supporting animal chiropractic in their goals and objectives, as it was something that had never really gone anywhere, and that she did not think it would in the future. The board informed her that it was still in their goals and objectives. After a brief discussion, the board asked Ms. Ryan to speak with the ACS board to see if they wanted to remove it, which they could do at a later time. Having brought up the board's goals and objectives to the monitor, Mr. Bay reiterated Ms. Ryan's question and asked the board if there was anything that ACS could do for them, specifically legislature wise. Dr. Larson asked Ms. Ryan if ACS was interested in putting forth and promoting an advanced practitioner status that would allow for certain injectable nutrients, or possibly even doing what the State of Idaho has done and create a statutory designation of a clinical chiropractic nutritionist that specifically gives permission for certain chiropractors to administer specific legend drugs for injection that are nutritional. Ms. Ryan informed the board that this topic had not been discussed at great lengths with the ACS board and its membership, but that she could bring it before the board.

Ms. Ryan informed the board that ACS has been working on a bridge program with the University of Alaska Anchorage to help chiropractors who might be interested in becoming a physician assistant, which would eliminate a lot of the required education. She reminded the board that this would not be under the chiropractic scope of practice, but create an avenue for a chiropractor to administer full

scope prescription. Mr. Bay asked Ms. Ryan if there was anything else she wanted to address with the board, to which she did not.

Brian Larson, Doctor of Chiropractic, left the meeting at 2:57 p.m.

Sheri Ryan, COO, Alaska Chiropractic Society, left the meeting at 2:58 p.m.

Mr. Bay acknowledged that Dr. Larson had dropped from the videoconference, but that there was still a quorum. Dr. Reinhardt, the board's vice chairman, ran the board meeting in Dr. Larson's absence.

Mr. Bay informed the board that there were some cleanup items that the board had to address, and told them that they would need to move back to agenda item #8B.

On a motion duly made by John Wayne Aderhold, requesting unanimous consent, and approved unanimously without any objections, it was

RESOLVED to amend the agenda by moving agenda item #8B in front of #12.

Agenda Item 8 **Old Business** **Time: 2:59 p.m.**

SB 69 Regulations Project Update

The board was about to start conversation on the SB 69 regulations project but had to pause because of public comment.

Agenda Item 12 **Public Comment/Correspondence** **Time: 3:00 p.m.**

Brian Larson, Doctor of Chiropractic, joined the meeting at 3:00 p.m.

Public Comment

Dr. Larson joined the meeting at the very start of public comment. There was no one present for public comment. Dr. Larson closed public comment at 3:01 p.m. Having nobody present for public comment, the board continued with their conversation regarding the SB 69 regulations project.

Agenda Item 8 **Old Business** **Time: 3:02 p.m.**

Mr. Bay reminded the board that they had already approved the removal of the oral part of the state chiropractic examination, and that they needed to make a motion to add to it the SB 69 regulations project, so it could be removed from regulation.

On a motion duly made by John Wayne Aderhold, seconded by James Morris, and approved unanimously by a roll call, it was

RESOLVED to add to the SB 69 regulations project the removal of the words "and oral" from 12 AAC 16.130(a).

With nothing left to discuss concerning old business the board began discussion on correspondence from the public.

State of Alaska
Department of Commerce, Community and Economic Development
Division of Corporations, Business and Professional Licensing

BOARD OF CHIROPRACTIC EXAMINERS

MINUTES OF THE MEETING

Thursday, May 23rd, 2019

These are DRAFT minutes prepared by the staff of the Division of Corporations, Business and Professional Licensing. These minutes have not been reviewed or approved by the Board.

By authority of AS 08.01.070(2), and in compliance with the provisions of AS 44.62, Article 6, a scheduled meeting of the Board of Chiropractic Examiners was held via teleconference on May 23rd, 2019.

Thursday, May 23rd, 2019

Agenda Item 1

Call to Order/Roll Call

Time: 10:30 a.m.

The meeting was called to order by Chairman, Brian Larson at 10:30 a.m. Jonathan Vito and Jeffrey Reinhardt were not present at the board meeting; however, the rest of the board was present, constituting a quorum.

Board members present, constituting a quorum:

Brian Larson, Doctor of Chiropractic
James Morris, Doctor of Chiropractic
John Wayne Aderhold, Public Member

Division staff present were:

Thomas Bay, Licensing Examiner
Renee Hoffard, Records and Licensing Supervisor

Present from the Public:

Sheri Ryan, Chief Operating Officer, Alaska Chiropractic Society
Edward Barrington, Doctor of Chiropractic, Alaska Chiropractic Society

Agenda Item 3

Board Business

Time: 10:33 a.m.

Ethics Report

Dr. Larson addressed ethics reporting. There were no ethical violations to report.

Agenda Item 4

Old Business

Time: 10:34 a.m.

SB 69 Regulations Project

Dr. Larson had Mr. Bay begin discussion on the SB 69 Regulations Project. Mr. Bay asked if the board had read through an email he had sent them the previous day, to which they had. Mr. Bay explained to

everybody in attendance that he had updated the last version of the regulations project that had been submitted by the subcommittee, and those updates were recommendations by the division so that all of the changes were in line with what the board was trying to accomplish. Mr. Bay explained that he had made the following changes to the board's regulation changes of 12 AAC 16.030(a)(6):

(Words in **boldface and underlined** indicate language being added; words [CAPITALIZED AND BRACKETED] indicate language being deleted. Complete new sections are not in boldface or underlined. Anything in green was changed and approved by the subcommittee prior to this teleconference. Anything in red was changed by the division as a recommendation. Red brackets indicate recommended language being deleted.)

12 AAC 16.030(a)(6) is amended to read:

(6) if the applicant holds or has ever held a license to practice chiropractic, verification of the present status of the applicant's license from each jurisdiction where the applicant holds or has ever held a license to practice chiropractic, sent directly to the department from the licensing jurisdiction; **and documentation of 64 32 credit hours of [approved] continuing education as provided in 12 AAC 16.030(a)(6)(A) - (G) approved by the board or an equivalent licensing jurisdiction taken within two years preceding the date of the application [taken within the two years of the date of application as listed]:**

(A) 16 eight hours in radiographic safety, radiographic techniques, and interpretation, or diagnostic imaging;

(B) eight two hours in coding and documentation;

(C) eight two hours in ethics and boundaries;

(D) four two hours in cardiopulmonary resuscitation

(E) 28 eighteen additional hours in ~~clinical~~ education not to include business management;

(F) No more than four hours may be in the following subject areas:

(i) cardiopulmonary resuscitation (CPR) training;

(ii) automated external defibrillator (AED) training;

(iii) basic life support (BLS) training;

(G) No more than 16 hours may be obtained over the internet or by

distance learning; and

The board discussed the recommended changes and decided to keep them because they were in line with the biennial license requirements for renewing chiropractors, which was their objective.

Mr. Bay went on to explain the following changes that he had made to 12 AAC 16.052(d), (e), and (f), which were part of a new section that the subcommittee added:

12 AAC 16 is amended by adding a new section to read:

12 AAC 16.052. Chiropractic clinical assistant scope of practice. (a) A chiropractic clinical assistant may, under the general supervision of a licensed ~~chiropractor~~ **chiropractic physician**, perform the following procedures:

- (1) diagnostic imaging studies;
- (2) examination procedures;
- (3) use ancillary methodologies as defined in AS 08.20.900(1).

(b) A chiropractic clinical assistant may not provide chiropractic diagnosis, chiropractic adjustment as in AS 08.20.900(6), and formulation or alteration of treatment plans.

(c) **A chiropractic clinical assistant must maintain current CPR certification from a nationally recognized provider.**

(d) **In order to meet the initial certification requirements of AS 08.20.168 and practice as a chiropractic clinical assistant in this state, a currently employed chiropractic clinical assistant with 2000 hours or more experience is required to complete the requirements as set forth by the Certified Chiropractic Clinical Assistant Program (CCCA) administered by the Federation of Chiropractic Licensing Boards (FCLB), or the CTA Program administered by the Tennessee Chiropractic Association or an equivalent nationally recognized program as determined by the board in accordance with AS 08.20.055(4) within six months of effective date of these regulations.**

(e) **In order to meet the initial certification requirements of AS 08.20.168 and practice as a chiropractic clinical assistant in this state, a currently employed chiropractic clinical assistant with less**

than 2000 hours of experience is required to take 24 hours of approved education and complete the requirements as set forth by the Certified Chiropractic Clinical Assistant Program (CCCA) administered by the Federation of Chiropractic Licensing Boards (FCLB), or the CTA Program administered by the Tennessee Chiropractic Association or an equivalent nationally recognized program as determined by the board in accordance with AS 08.20.055(4) within twelve months of effective date of these regulations.

(f) In order to meet the certification requirements of AS 08.20.168 and practice as a chiropractic clinical assistant in this state, a newly hired chiropractic clinical assistant is required to complete the requirements as set forth by the Certified Chiropractic Clinical Assistant Program (CCCA) administered by the Federation of Chiropractic Licensing Boards (FCLB), or the CTA Program administered by the Tennessee Chiropractic Association or an equivalent nationally recognized program as determined by the board in accordance with AS 08.20.055(4) within twelve months of hire date.

(g) A person enrolled in an educational program recognized by the board that leads to certification as a Chiropractic Clinical Assistant shall be allowed to lawfully provide clinical services under the general supervision of a chiropractic physician to gain the necessary practical clinical experience.

(h) No person shall use the title “Certified Chiropractic Clinical Assistant” or [another] other designation indicating status, including abbreviations, or hold themselves out directly or indirectly as a Certified Chiropractic Clinical Assistant, unless having completed the requirements [of] under (d), (e), or (f) of this section [above].

(i) After completing the initial certification requirements [of] under (d), (e), or (f) of this section [above], Chiropractic Clinical Assistants must maintain current certification per the requirements set forth by the Certified Chiropractic Clinical Assistant Program (CCCA) administered by the Federation of Chiropractic Licensing Boards (FCLB), or the CTA Program

administered by the Tennessee Chiropractic Association or an equivalent nationally recognized program as determined by the board in accordance with AS 08.20.055(4).

Mr. Bay asked if the changes were accurate to what the subcommittee and board were trying to accomplish. They agreed that the changes, which were really just a cleanup, were done correctly. Mr. Bay also explained that the highlighted portions of the regulations were not changes, but that they would need to be talked about during the teleconference, and that Renee Hoffard, Records and Licensing Supervisor, would be joining the teleconference to discuss it.

Mr. Bay explained to the subcommittee that he had added in a section that the Alaska Board of Chiropractic Examiners had motioned, at the last board meeting, to include in the regulations project, and it reads as follows:

12 AAC 16.130(a) is amended to read:

12 AAC 16.130. State Chiropractic Examination. (a) The state chiropractic examination consists of a written [AND ORAL] examination, administered by the board or the board's agent, covering AS 08.01 – AS 08.03, AS 08.20, 12 AAC 02, 12 AAC 16, and 18 AAC 85, and any other subjects that the board determines are necessary to demonstrate knowledge of chiropractic as defined in AS 08.20.

The change removes the oral examination from the state chiropractic examination. The reason for this is that the oral examination is basically a meet and greet where the examinees meet the board and answer questions that are of a general nature. The oral examination is also required to be administered by the board or the board's agent, meaning that there is a face to face conversation that is much harder to accomplish now that the board only has one face to face board meeting each fiscal year. Even if the board had an agent do the oral examination the board would still need to answer the examinee's questions, which would delay them getting licensed.

Mr. Bay began conversation regarding the FAQ worksheet. He explained that an FAQ worksheet was required to be filled out for each regulation change, but that similar changes to regulations could be consolidated. He informed the board that, if they felt comfortable, he could do them outside the board meeting, to which they agreed. Mr. Bay explained that he could do most of them outside the board meeting but that there were a few regulation changes that he did not feel comfortable filling out an FAQ worksheet for on his own and wanted to get finished during the board meeting.

Renee Hoffard, Records and Licensing Supervisor, joined the meeting at 10:48 a.m.

Mr. Bay updated Ms. Hoffard on what had been discussed so far at the board meeting. Ms. Hoffard began discussion on the highlighted portions of the regulations as listed above in 12 AAC 16.052. She explained that the board would need to replace the highlighted portions at the end of sections (d) and (e) with actual dates because the way they were written had effective dates of the regulations being put into effect. The problem with this is that regulations change and are updated in the future, meaning that the effective dates would change in the future. After deliberation, and citing when the regulations would likely be put into effect, the board decided to make the effective date for section (d) May 15th,

2020, and the effective date for section (e) November 15th, 2020. Ms. Hoffard continued with her discussion on the highlighted portions of the regulations by referring to the middle of section (e), which refers to a requirement for a chiropractic clinical assistant with less than 2,000 hours of experience to take 24 hours of approved education in addition to other requirements as set out by their nationally recognized program. She explained that all chiropractic clinical assistants must be treated the same and that the way the regulations project reads makes it so that is not the case. Sheri Ryan explained that this requirement comes from the Federation of Chiropractic Licensing Boards (FCLB) and that the subcommittee wanted to make sure that it was followed in the state of Alaska. After deliberation the board decided to amend 12 AAC 16.052(e) by replacing the words, “required to take 24 hours of approved education and,” with, “required to,” as to read, “with less than 2,000 hours of experience is required to complete the requirements as set forth.” This change makes sure a chiropractic clinical assistant follows the requirements of the FCLB, but also treats all chiropractic clinical assistants the same in the board’s regulations.

Dr. Larson asked if 12 AAC 16.052(a) required a person to become a chiropractic clinical assistant in order to perform diagnostic imaging studies, examination procedures, and use ancillary methodologies as listed in AS 08.20.900(1). He pointed out that the way the regulation reads makes it so that chiropractic clinical assistants may perform these procedures, but that anybody else can too. Ms. Ryan pointed out that it was the subcommittee’s goal to make this regulation specific to chiropractic clinical assistants only. The board decided to amend 12 AAC 16.052(a) by adding the word, “Only,” to the beginning of the section as to read, “Only a chiropractic clinical assistant may.”

Ms. Ryan pointed out that 12 AAC 16.042(b) was missing a requirement that was meant to be in them. She referred to the following regulations:

12 AAC 16 is amended by adding a new section to read:

- 12 AAC 16.042. Intern scope of practice.** (a) A chiropractic intern may, under the personal supervision of a chiropractic preceptor,
- (1) use chiropractic core methodologies as defined in AS 08.20.900(6), except that chiropractic diagnosis must be provided by the chiropractic preceptor; and
 - (b) A chiropractic intern may, under the general supervision of a chiropractic preceptor,
 - (1) perform diagnostic imaging studies;
 - (2) use ancillary methodologies as defined in AS 08.20.900(1).
 - (c) A chiropractic preceptor is subject to disciplinary action if an intern is in violation of AS 08.20.170, 12 AAC 16.920 – .980.
 - (d) An intern must be of graduate level enrollment at a chiropractic institution accredited by the Council on Chiropractic Education (CCE) and be accepted into and approved to participate

in an internship program by their accredited chiropractic college in this state. Internship placement in this state will be made by and overseen by the accredited chiropractic college program.

(e) An intern may practice under a chiropractic preceptor for a period of no more than six months or the approved time period by their accredited chiropractic college, whichever comes first. Written extensions of an internship may be granted by the board.

Ms. Ryan explained that 12 AAC 16.042(b) should include three subsections and not two. She informed the board that it should be changed to the following:

12 AAC 16.042(b) is amended to read:

- (b) A chiropractic intern may, under the general supervision of a chiropractic preceptor,
- (1) perform diagnostic imaging studies;
 - (2) examination procedures;
 - (3) use ancillary methodologies as defined in AS 08.20.900(1).

The board agreed that this was just an oversight and approved the amendment.

Dr. Larson asked what the next section was that needed to be talked about, to which Mr. Bay responded that he wanted to talk about the following regulation:

12 AAC 16 is amended by adding a new section to read:

12 AAC 16.051. Patient examinations for school and sports activities. A **chiropractor** **chiropractic physician** may perform physical examinations under AS 08.20.100(b)(5) within the scope of their professional licensing, training, and education.

Mr. Bay explained that this regulation mirrored AS 08.20.100(b)(5), but that the only difference was that the statute allowed a chiropractic physician to perform the physical examinations, “within the scope of chiropractic practice,” and the regulation allowed a chiropractic physician to perform the physical examination, “within the scope of their professional licensing, training, and education.” Mr. Bay asked the board if there was a difference between the language in statute vs. regulation, and if the regulation was in there for a reason. The board stated that the language may have been added at the early stages of the regulations project and that it would allow for regulation changes in the future. Ms. Ryan suggested making the language in regulation the same as in statute because all chiropractic physicians have the same scope of professional licensing, training, and education when it comes to

being able to administer physical examinations of children for school physical examinations and preparticipation physical examinations for sports and school activities. After a brief conversation the board decided to amend 12 AAC 16.051 by replacing the words, “their professional licensing, training, and education,” with, “chiropractic practice,” as to read, “within the scope of chiropractic practice.”

Dr. Larson asked if there was a provision that allowed an intern to stay working as an intern until they were able to get licensed, citing that a lot of newly graduated chiropractors get licensed in other states because Alaska does not allow them to get licensed until they receive their board scores from the NBCE, and that Part IV is only offered twice a year which results in a delay of licensing. Ms. Ryan explained that the State of Alaska is not allowing the board to directly oversee an intern program or charge a fee to do any type of screening of an intern, so the board has to rely on colleges to administer the program, which means that there is no avenue for a graduated chiropractor to work as a chiropractor until he/she has fulfilled all licensing requirements. Mr. Bay reiterated Ms. Ryan’s explanation and that he currently had one applicant that is in the same unfortunate case where he will not be allowed to work until his board scores are on file. He suggested that the board add this to the annual report as proposed legislation for Fiscal Year 2020. The board agreed that this would be a good thing to add to the annual report, which they will be finalizing shortly after the teleconference.

Mr. Bay mentioned that he had planned on working on a few of the FAQ worksheets with the board, but that the computer he was on did not have Adobe Acrobat, and was wondering if he could work on them with a board member outside of the board meeting to get them finished. Ms. Ryan asked if she was allowed to work with Mr. Bay, citing that she was only a subcommittee member. After receiving approval from division staff, Dr. Larson assigned Ms. Ryan to speak on behalf of the board and help Mr. Bay fill out the FAQ worksheets.

Ms. Hoffard began conversation on the possibility of adding a new article in their regulations specific to scope of practice. She mentioned that with these regulation changes the updated regulations will have multiple scope of practice sections and that they may want to be combined into their own article so they are all in one place. Dr. Morris explained that he needed to step out of the meeting but that he would be back momentarily.

James Morris, Doctor of Chiropractic, left the meeting at 11:56 a.m.

Ms. Hoffard continued the conversation by suggesting that the new article be inserted into the current articles between Article 2, “Licensing,” and Article 3, “Continuing Education,” as to create a new Article 3 titled, “Scope of Practice,” and would move each subsequent article down by one number. The board and subcommittee agreed that this would be a good idea. Having nothing left to address, Ms. Hoffard left the meeting.

Renee Hoffard, Records and Licensing Supervisor, left the meeting at 11:58 a.m.

Mr. Bay explained the process of either sending the regulations out for public comment via oral testimony or written comment. Dr. Larson suggested that written comment would work fine because the regulations should not be a big issue for the general public or other boards, and that most of it is clarification and additional regulation within their own scope of practice.

James Morris, Doctor of Chiropractic, joined the meeting at 12:05 a.m.

Board Business

- A. Ethics Reporting
- B. Review Goals & Objectives
- C. Ratify New Licenses
- D. Position Statements

A. Ethics

State of Alaska
DEPARTMENT OF LAW

ETHICS ACT PROCEDURES FOR BOARDS & COMMISSIONS

All board and commission members and staff should be familiar with the Executive Branch Ethics Act procedures outlined below.

Who Is My Designated Ethics Supervisor (DES)?

Every board or commission subject to the Ethics Act¹ has several ethics supervisors designated by statute.

- The chair serves as DES for board or commission members.
- The chair serves as DES for the executive director.
- The executive director serves as DES for the staff.
- The governor is the DES for a chair.²

What Do I Have To Disclose?

The Ethics Act requires members of boards and commissions to disclose:

- Any matter that is a potential conflict of interest with actions that the member may take when serving on the board or commission.
- Any circumstance that may result in a violation of the Ethics Act.
- Any personal or financial interest (or that of an immediate family member) in a state grant, contract, lease or loan that is awarded or administered by the member's board or commission.
- The receipt of certain gifts.

The executive director of the board or commission and its staff, as state employees, must also disclose:

- Compensated outside employment or services.
- Volunteer service, if any compensation, including travel and meals, is paid or there is a potential conflict with state duties.

- For more information regarding the types of matters that may result in violations of the Ethics Act, board or commission members should refer to the guide, *"Ethics Information for Members of Boards and Commissions."* The executive director and staff should refer to the guide, *Ethics Information for Public Employees.* Both guides and disclosure forms may be found on the [Department of Law's ethics website](#).

How Do I Avoid Violations of the Ethics Act?

- Make timely disclosures!
- Follow required procedures!
- Provide all information necessary to a correct evaluation of the matter!³
- When in doubt, disclose and seek advice!
- Follow the advice of your DES!

What Are The Disclosure Procedures for Board and Commission Members?

The procedural requirements for disclosures by members are set out in AS 39.52.220 and 9 AAC 52.120. One goal of these provisions is to help members avoid violations of the Ethics Act. The procedures provide the opportunity for members to seek review of matters in advance of taking action to ensure that actions taken will be consistent with the Act.

Procedure for declaring actual or potential conflicts.

Members must declare potential conflicts and other matters that may violate the Ethics Act **on the public record and in writing to the chair**.

Disclosure on the public record. Members must identify actual and potential conflicts orally at the board or commission's public meeting **in advance** of participating in deliberations or taking any official action on the matter.

- A member must always declare a conflict and may choose to refrain from voting, deliberations or other participation regarding a matter.⁴
- If a member is uncertain whether participation would result in a violation of the Act, the member should disclose the circumstances and seek a determination from the chair.

Disclosure in writing at a public meeting. In addition to an oral disclosure at a board or commission meeting, members' disclosures must be made in writing.

- If the meeting is recorded, a tape or transcript of the meeting is preserved **and** there is a method for identifying the declaration in the record, an oral disclosure may serve as the written disclosure.
- Alternatively, the member must note the disclosure on the Notice of Potential Violation disclosure form and the chair must record the determination.

Confidential disclosure in advance of public meeting. Potential conflicts may be partially addressed in advance of a board or commission's public meeting based on the published meeting agenda or other board or commission activity.

- A member identifying a conflict or potential conflict submits a Notice of Potential Violation to the chair, as DES, in advance of the public meeting.
- This written disclosure is considered confidential.
- The chair may seek advice from the Attorney General.
- The chair makes a written determination, also confidential, whether the disclosed matter represents a conflict that will result in a violation of the Ethics Act if the member participates in official action addressing the matter.⁵
- If so, the chair directs the member to refrain from participating in the matter that is the subject of the disclosure.
- An oral report of the notice of potential violation and the determination that the member must refrain from participating is put on the record at a public meeting.⁶

Determinations at the public meeting. When a potential conflict is declared by a member for the public record, the following procedure must be followed:

- The chair states his or her determination regarding whether the member may participate.
- Any member may then object to the chair's determination.
- If an objection is made, the members present, excluding the member who made the disclosure, vote on the matter.
- *Exception:* A chair's determination that is made consistent with advice provided by the Attorney General may not be overruled.
- If the chair, or the members by majority vote, determines that a violation will exist if the disclosing member continues to participate, the member must refrain from voting, deliberating or participating in the matter.⁷

If the chair identifies a potential conflict, the same procedures are followed. If possible, the chair should forward a confidential written notice of potential violation to the Office of the Governor for a determination in advance of the board or commission meeting. If the declaration is first

made at the public meeting during which the matter will be addressed, the members present, except for the chair, vote on the matter. If a majority determines that a violation of the Ethics Act will occur if the chair continues to participate, the chair shall refrain from voting, deliberating or participating in the matter. A written disclosure or copy of the public record regarding the oral disclosure should be forwarded to the Office of the Governor for review by the chair's DES.

Procedures for Other Member Disclosures

A member's interest in a state grant, contract, lease or loan and receipt of gifts are disclosed by filling out the appropriate disclosure form and submitting the form to the chair for approval. The disclosure forms are found on the [Department of Law's ethics website](#).

What Are The Disclosure Procedures for Executive Directors and Staff?

Ethics disclosures of the executive director or staff are made in writing to the appropriate DES (chair for the executive director and the executive director for staff).

- Disclosure forms are found on the ethics website, noted above.

Notices of Potential Violations. Following receipt of a written notice of potential violation, the DES investigates, if necessary, and makes a written determination whether a violation of the Ethics Act could exist or will occur. A DES may seek advice from the Attorney General. If feasible, the DES shall reassign duties to cure a potential violation or direct divestiture or removal by the employee of the personal or financial interests giving rise to the potential violation.

- These disclosures are not required to be made part of the public record.
- A copy of a determination is provided to the employee.
- Both the notice and determination are confidential.

Other Disclosures. The DES also reviews other ethics disclosures and either approves them or determines what action must be taken to avoid a violation of the Act. In addition to the disclosures of certain gifts and interests in the listed state matters, state employees must disclose all outside employment or services for compensation.

- The DES must provide a copy of an approved disclosure or other determination the employee.

How Are Third Party Reports of Potential Violations or Complaints Handled?

Any person may report a potential violation of the Ethics Act by a board or commission member or its staff to the appropriate DES or file a complaint alleging actual violations with the Attorney General.

- Notices of potential violations and complaints must be submitted **in writing** and **under oath**.
- Notices of potential violations are investigated by the appropriate DES who makes a written determination whether a violation may exist.⁸
- Complaints are addressed by the Attorney General under separate procedures outlined in the Ethics Act.
- **These matters are confidential**, unless the subject waives confidentiality or the matter results in a public accusation.

What Are The Procedures for Quarterly Reports?

Designated ethics supervisors must submit copies of notices of potential violations received and the corresponding determinations to the Attorney General for review by the state ethics attorney as part of the quarterly report required by the Ethics Act.

- Reports are due in April, July, October and January for the preceding quarter.
- A sample report may be found on the Department of Law's ethics website.
- An executive director may file a quarterly report on behalf of the chair and combine it with his or her own report.
- If a board or commission does not meet during a quarter and there is no other reportable activity, the DES advises the Department of Law Ethics Attorney by e-mail at ethicsreporting@alaska.gov and no other report is required.

If the state ethics attorney disagrees with a reported determination, the attorney will advise the DES of that finding. If the ethics attorney finds that there was a violation, the member who committed the violation is not liable if he or she fully disclosed all relevant facts reasonably necessary to the ethics supervisor's or commission's determination and acted consistent with the determination.

How Does A DES or Board or Commission Get Ethics Advice?

A DES or board or commission may make a **written request** to the Attorney General for an opinion regarding the application of the Ethics Act. In practice, the Attorney General, through the state ethics attorney, also provides **advice by phone or e-mail** to designated ethics supervisors, especially when time constraints prevent the preparation of timely written opinions.

- A request for advice and the advisory opinion are confidential.
- The ethics attorney endeavors to provide prompt assistance, although that may not always be possible.
- The DES must make his or her determination addressing the potential violation based on the opinion provided.

It is the obligation of each board or commission member, as well as the staff, to ensure that the public's business is conducted in a manner that is consistent with the standards set out in the Ethics Act. We hope this summary assists you in ensuring that your obligations are met.

¹ The Act covers a board, commission, authority, or board of directors of a public or quasi-public corporation, established by statute in the executive branch of state government.

² The governor has delegated the DES responsibility to Guy Bell, Administrative Director of the Office of the Governor.

³ You may supplement the disclosure form with other written explanation as necessary. Your signature on a disclosure certifies that, to the best of your knowledge, the statements made are true, correct and complete. False statements are punishable.

⁴ In most, but not all, situations, refraining from participation ensures that a violation of the Ethics Act does not occur. Abstention does not cure a conflict with respect to a significant direct personal or financial interest in a state grant, contract, lease or loan because the Ethics Act prohibition applies whether or not the public officer actually takes official action.

⁵ The chair must give a copy of the written determination to the disclosing member. There is a determination form available on the Department of Law's ethics web page. The ethics supervisor may also write a separate memorandum.

⁶ In this manner, a member's detailed personal and financial information may be protected from public disclosure.

⁷ When a matter of particular sensitivity is raised and the ramifications of continuing without an advisory opinion from the Attorney General may affect the validity of the board or commission's action, the members should consider tabling the matter so that an opinion may be obtained.

⁸ The DES provides a copy of the notice to the employee who is the subject of the notice and may seek input from the employee, his or her supervisor and others. The DES may seek advice from the Attorney General. A copy of the DES' written determination is provided to the subject employee and the complaining party. The DES submits a copy of both the notice and the determination to the Attorney General for review as part of the DES' quarterly report. If feasible,

the DES shall reassign duties to cure a potential violation or direct divestiture or removal by the employee of the personal or financial interests giving rise to the potential violation.

6/14

The Attorney General and Department of Law staff may not provide legal advice to private citizens or organizations. Please contact an attorney if you need legal advice. The [Alaska Lawyer Referral Service](#) or your local bar association may be able to assist you in locating a lawyer.

Alaska Department of Law

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Ethics Disclosure Form

<p style="text-align: center;">CONFIDENTIAL REQUEST FOR ETHICS DETERMINATION</p>
--

TO: _____, Designated Ethics Supervisor

(Identify Your Department, Agency, Public Corporation, Board, Commission)

I request advice regarding the application of the Executive Branch Ethics Act (AS 39.52.010 - .960) to my situation. The situation involves the following:

I have provided additional information in the attached document(s).

I believe the following provisions of the Ethics Act may apply to my situation:

- AS 39.52.120, Misuse of Official Position
- AS 39.52.130, Improper Gifts
- AS 39.52.140, Improper Use or Disclosure of Information
- AS 39.52.150, Improper Influence in State Grants, Contracts, Leases or Loans
- AS 39.52.160, Improper Representation
- AS 39.52.170, Outside Employment Restricted
- AS 39.52.180, Restrictions on Employment after Leaving State Service
- AS 39.52.190, Aiding a Violation Prohibited

I understand that I should refrain from taking any official action relating to this matter until I receive your advice. If the circumstances I described above may result in a violation of AS 39.52.110 - .190, I intend that this request serve as my disclosure of the matter in accordance with AS 39.52.210 or AS 39.52.220.

I certify to the best of my knowledge that my statement is true, correct, and complete. In addition to any other penalty or punishment that may apply, the submission of a false statement is punishable under AS 11.56.200 - AS 11.56.240.

(Signature)

(Date)

(Printed Name)

(Division, Board, Commission)

(Position Title)

(Location)

Designated Ethics Supervisor: Provide a copy of your written determination to the employee advising whether action is necessary under AS 39.52.210 or AS 39.52.220, and send a copy of the determination and disclosure to the attorney general with your quarterly report.

Ethics Disclosure Form

Receipt of Gift

TO: _____, Designated Ethics Supervisor, _____
(Agency, Public Corporation, Board,
Commission or Council)

This disclosure reports receipt of a gift with value in excess of \$150.00 by me or my immediate family member, as required by AS 39.52.130(b) or (f).

1. Is the gift connected to my position as a state officer, employee or member of a state board or commission?

Yes No

2. Can I take or withhold official action that may affect the person or entity that gave me the gift?

Yes No

(If you answer "No" to both questions, you do not need to report this gift. If the answer to either question is "Yes," or if you are not sure, you must complete this form and provide it to your designated ethics supervisor.)

The gift is _____

Identify gift giver by full name, title, and organization or relationship, if any:

Describe event or occasion when gift was received or other circumstance explaining the reason for the gift:

My estimate of its value is \$ _____ The date of receipt was _____

The gift was received by a member of my family. Who? _____

If you checked "Yes" to question 2 above, explain the official action you may take that affects the giver (attach additional page, if necessary):

I certify to the best of my knowledge that my statement is true, correct, and complete. In addition to any other penalty or punishment that may apply, the submission of a false statement is punishable under AS 11.56.200 - AS 11.56.240.

(Signature)

(Date)

(Printed Name)

(Division)

(Position Title)

(Location)

Ethics Supervisor Determination: Approve Disapproved

Designated Ethics Supervisor*

(Date)

**Designated Ethics Supervisor: Provide a copy of the approval or disapproval to the employee. If action is necessary under AS 39.52.210 or AS 39.52.220, attach a determination stating the reasons and send a copy of the determination and disclosure to the attorney general with your quarterly report.*

B. Goals & Objectives

BOARD OF CHIROPRACTIC EXAMINERS

Fiscal Year 2019 Annual Report

Goals and Objectives

Part I

FY 2019's goals and objectives, and how they were met:

Goal 1: Carry out assigned duties of the board: The board met three times in FY 2019. The board met once by videoconference, with the board license examiner and Dr. Reinhardt in Juneau, and Drs. Larson, Vito and Morris in Anchorage. The other two meetings were by videoconference from the home locations of the board members, due to travel restrictions. The board administered jurisprudence exams, but did not conduct personal interviews with candidates, and conducted board business. The staff and board were able to review and approve applications in a generally timely manner, but distance between Alaska and chiropractic schools where most applicants are applying from always poses a logistics challenge. There was a significant uptick in investigations this year, which continue to be monitored by the board as investigations progress.

Goal 2: Provide information regarding board activities to the profession and the public: The board made time available in every meeting for public input and encourages its licensees and the public to attend scheduled meetings and provide comment. All meeting agendas and minutes were posted on the board's website to make available to the public the topics discussed, and actions taken by the board.

Goal 3: Continue affiliation with the Alaska Chiropractic Society (ACS) to work cooperatively in the best interest of the profession and the public: Regulation wording for SB69 defining practice for Certified Chiropractic Clinical Assistants, Interns and Preceptors was finalized and sent on for legal review and publication.

Goal 4: Assess and evaluate regulations: The board completed regulation work on SB69. There was an error in converting the final draft from the board into printed regulation, so the entire project was sent back to the subcommittee for complete revision/rewrite. This has been completed and will be forwarded on to the Department of Commerce for formal recognition and printing.

Goal 5: Assess and evaluate the review process available through the Utilization Review Committee: The formal name of this committee was changed from Peer Review Committee to the above. It is fully staffed and available should the need arise.

Goal 6: Continue affiliation with the Federation of Chiropractic Licensing Boards (FCLB), The National Board of Chiropractic Examiners (NBCE), the Association of Chiropractic Board Administrators (ACBA), and the Council on Chiropractic Education (CCE) as well as the Council on Licensure, Enforcement and Regulation (CLEAR) and the Federation of Association of Regulatory Boards (FARB): This board had no presence at the FCLB/NBCE Annual meeting or the NBCE Part 4 board examinations due to travel restriction. Dr. Larson did attend the FCLB District 1 meetings in Palm Springs, CA in October, where the focus was on sharing how the boards from different states in the region are dealing with issues such as interdisciplinary practice, opioid addiction, regulation projects and scope of practice, etc. This board has a strong budget. For the sake of training, continuity and efficiency, we need to have a board member and our examiner attending these meetings.

**BOARD OF CHIROPRACTIC EXAMINERS
Fiscal Year 2019 Annual Report**

Goals and Objectives (continued)

Part I (continued)

FY 2019's goals and objectives, and how they were met:

Goal 7: The board will endeavor, through the legislative process, to add the Board of Chiropractic Examiners to relevant centralized and non-centralized statutes that enhance the profession and administrative efficiency. The completion of the SB69 project has been a huge education for all involved and will hopefully be finalized shortly. A number of statutory and regulatory changes/additions have been recommended by this board, with the objective of successfully completing those projects within the next fiscal year. With the increased knowledge and skill base in writing statute and regulation, this should improve the ability of the board to efficiently draft new statute and regulations to meet the needs of the public for improved and broadened access to primary care, and further the goals of the chiropractic profession to increase access to care, especially as primary care physicians.

BOARD OF CHIROPRACTIC EXAMINERS
Fiscal Year 2019 Annual Report

Goals and Objectives

Part II

FY 2020's goals and objectives, and proposed methods to achieve them.

Describe any strengths, weaknesses, opportunities, threats and required resources:

1. Goal 1: Carry out assigned duties of the board:

Objective 1: Conduct a minimum of three board meetings this year with different regional locations in the State to allow for public attendance and meeting transparency. We will hold four regularly scheduled board meetings, three which will be telephonic, and one in person. Ideally, this "live" meeting will be in Juneau while the legislature is in session so this board may be available to elected leadership, but may be limited to Anchorage to minimize total travel. While public input sessions/times are published in advance for attendance at these telephonic meetings, the very nature of no physical presence severely impairs the transparency of this board and the overall public access to these meetings.

Objective 2: Continue timely processing of applications and licensing of chiropractic physicians.

Objective 3: Continue to monitor investigative reports, monitor disciplinary actions, and provide professional direction to Division Investigative staff regarding disciplinary actions, probation matters, criminal history record information, and chiropractic practice.

Objective 4: Utilize the National Board of Chiropractic Examiners (NBCE) Special Purposes Examination for Chiropractic (SPEC) and Ethics & Boundaries examination (E&B) in memorandum of agreements.

Objective 5: Continue to review and process continuing education credit approval in a timely manner.

Objective 6: Continue to administer the jurisprudence examination as part of licensure. Especially with the loss of the direct board interview with applicants, consider utilizing NBCE services to administer the jurisprudence examination at certified testing centers in Alaska and across the lower 48, saving time and expense for applicants, and relieving the Department of Commerce of the responsibility of hosting those tests at a state office four time per year.

2. Goal 2: Provide information regarding board activities to the profession and the public:

Objective 1: Inform licensees of any pending regulation changes in the customary manner.

Objective 2: Provide a public comment period during each meeting. This is scheduled per public meeting law for each board meeting, but difficult without face-to-face interaction required under telephonic meeting requirements.

Objective 3: Address concerns presented by licensees and the public at each meeting.

Objective 4: Provide copies of agendas and/or minutes of the meetings to all who request them.

Objective 5: Continue to work with other licensing boards, at both the district and national level. Without the ability to travel for national and district meetings, this becomes a non-reality. This board, which operates well within its budget must have the opportunity for the volunteers who serve on the board to interact with district and national level boards to best serve the needs of the board in keeping current, obtaining training, and being alert and attentive to the commission to protect the public.

Objective 6: Continue to address the reporting requirements for domestic violence and sexual assault. This would be a great seminar sponsored by the State at the next ACS convention???

Objective 7: Seek and support efforts to educate the governor, state legislators, and the public regarding the benefit of chiropractic care as a health care option, and the particular opportunities to efficiently recover from work injuries (Workers Comp), and deal with pain without opiate prescriptions.

Objective 8: Raise awareness regarding public health, emergency training, hazardous material, and OSHA requirements.

Objective 9: Ensure current information is available on the board website through regular updates by staff and regular monitoring by board members.

BOARD OF CHIROPRACTIC EXAMINERS
Fiscal Year 2019 Annual Report

Goals and Objectives (continued)

Part II (continued)

FY 2020's goals and objectives, and proposed methods to achieve them.

Describe any strengths, weaknesses, opportunities, threats and required resources:

- 3. Goal 3: Continue affiliation with the Alaska Chiropractic Society (ACS) to work cooperatively in the best interest of the public and the profession:**

 - Objective 1:** Encourage regular Alaska Chiropractic Society participation at board meetings.
 - Objective 2:** Support the Alaska Chiropractic Society in its efforts to provide information to the profession and the public.
 - Objective 3:** Support the Alaska Chiropractic Society in pursuit statutory changes or additions that expand the scope of chiropractic practice to provide better portal-of-entry service for the public, for those who wish to utilize their chiropractic physician efficiently their primary care physician.

- 4. Goal 4: Assess and evaluate regulations:**

 - Objective 1:** Continue to assess and evaluate continuing education requirements for quality, relevance, and application of scientific chiropractic research and practice.
 - Objective 2:** Continue to assess and evaluate radiological safety, professional ethics and boundaries, public health, and emergency training.
 - Objective 3:** Proactively make recommendations through regulation and recommend changes to statute to anticipate changes in the health industry.

- 5. Goal 5: Assess and evaluate the review process available through the Utilization Review Committee:**

 - Objective 1:** Direct appropriate inquiries to the committee for review and recommendations.
 - Objective 2:** Keep the committee roster fully staffed with three chiropractic physicians and one public member at all times. This committee is fully staffed and ready to serve as may be required.
 - Objective 3:** Maintain a list of alternate committee members to fill vacancies or recusals as needed.

- 6. Goal 6: Continue affiliation and improve interaction with the Federation of Chiropractic Licensing board (FCLB), The National Board of Chiropractic Examiners (NBCE), the Association of Chiropractic Board Administrators (ACBA), and the Council on Chiropractic Education (CCE) as well as the Council on Licensure, Enforcement, and Regulation (CLEAR) and the Federation of Association of Regulatory Boards (FARB:)**

 - Objective 1:** Provide attendance of a board member and the examiner to the district and annual meetings of the FCLB and NBCE, to provide input and obtain information at both national and state levels regarding the practice of chiropractic in Alaska. This was not accomplished due to the travel ban this year.
 - Objective 2:** Continue working with the FCLB on maintaining a listing of Alaskan chiropractic physicians on the National Database (CIN-BAD).
 - Objective 3:** Promote attendance of board members to the semi-annual NBCE Part IV Examinations and Part IV Examination Review Committee meetings of the NBCE to provide input and obtain information on the Exams required for chiropractic licensure in Alaska and other states. The prior governor banned the receipt of the professional honorarium offered by the NBCE to cover the personal travel and time these doctors invest without compensation from the State to participate in this testing process. We formally request the ban on personal gifts or gratuities, specifically in relation to professional honorariums for travel and time spent by volunteer professional members of boards be lifted. This represents no cost for the State of Alaska, increases the interaction of Alaska professional board members with the NBCE board and license testing process. All other states allow their professionals to receive this financial remuneration for

time and expenses directly related to the board and national testing process.

Objective 4: Promote the attendance of the licensing examiner at the annual meetings of the ACBA and the FCLB to provide input and obtain information at both national and state levels, regarding matters impacting regulation and licensure of Alaskan chiropractic physicians.

7. Goal 7: The board will endeavor, through the legislative process, to add the Board of Chiropractic Examiners to relevant centralized and non-centralized statutes that enhance the profession and its administrative efficiency:

Objective 1: The board will pursue inclusion in AS 08.01.050(d) for the purpose of providing licensed chiropractic physicians the resources needed to address abuse of alcohol, drugs or other substances. This request has been placed on the Recommendations for Proposed Legislation list, 2020.

Objective 2: The board will pursue authority under AS 08.20 to create an Advanced Practitioner status for chiropractic physicians who pursue advanced training and certifications to utilize non-narcotic drugs, ancillary therapies and procedures beyond chiropractic core methodology and commonly used by other Alaskan health care professionals and specialists. This request has been placed on the Recommendations for Proposed Legislation list 2020.

Objective 3: The board is pursuing authority under AS 08.20 to create a Clinical Chiropractic Nutritionist practitioner status for chiropractic physicians to specifically resolve the question of injectable nutrients as part of chiropractic practice. Additionally, and Advanced Practitioner status for chiropractic physicians who pursue post-graduate specialist status in specific areas of chiropractic. Three requests have been placed on the Recommendations for Proposed Legislation list 2020.

Objective 4: The board is requesting regulation changes to clarify definitions of chiropractic practice under 12 AAC 16.990 to modify the definitions of surgery, prescription drugs, and add a definition of nutrition or nutritional substance.

C. Ratify New Licenses

**STATE OF ALASKA
BOARD OF CHIROPRACTIC EXAMINERS**

**State Chiropractic Examination
Candidate List**

**August 23rd, 2019
Juneau, Alaska**

- Chair may entertain a motion to ratify the newly licensed chiropractors in Alaska

“Upon a motion duly made by _____, seconded by _____ and approved unanimously, it was:

RESOLVED to ratify new licenses.”

Licensee Name (From April 26 th , 2019 Examination)
Alexander Ginzburg
Leah Humphries
Matthew Reilly
Joseph Sullivan

D. Position Statements

ALASKA BOARD OF CHIROPRACTIC EXAMINERS POSITION STATEMENT: INJECTABLE NUTRIENTS

Date: January 20, 2017

Status: New

Organized by: Board of Chiropractic Examiners

Adopted by: Board of Chiropractic Examiners

PURPOSE:

The purpose of this statement is to support the use of injectable nutrients by qualified Chiropractic Physicians.

STATEMENT:

The ABOCE supports the use of injectable nutrients by Chiropractic Physicians with appropriate training. Although the Alaska Chiropractic Statutes and Regulations do not specifically mention injectable nutrients, the chiropractic profession has historically been an authority on nutrition for Alaskans to rely upon when consulting for health care needs and issues, and nutrition science is part of the core curriculum training of Chiropractic Physicians. As the science of nutrition evolves, the method of application of vitamins, minerals and homeopathic solutions may change, and the ABOCE supports new methods with appropriate training.

HISTORY:

The issue of chiropractic use of injectable nutrients has been discussed by the Board since 2006 when Dr. John Shannon, Chiropractic Physician licensed in Alaska, first came to the Board for approval of this treatment method. Since that time, there has been at least one Board letter allowing the procedure and an opinion from the State Ombudsman's office stating that the law is vague enough to allow the treatment.

The definition of Chiropractic describes a healing method which does not use "prescription drugs or surgery". Since those regulations were established, vitamins have been labeled a drug by certain governmental agencies, and in 2010, the State of Alaska added to the Chiropractic Regulations that any substance which had the label "Warning, Federal law prohibits the use without prescription", could not be prescribed by a chiropractor. The ABOCE believes that the Statutes and Regulations regarding Chiropractic should be modernized to specifically allow certain substances and devices with this label to be used by Chiropractic Physicians in Alaska, and had not anticipated these changes in a timely manner

in order to prevent this situation. Also, a testimony in front of the Board (telephonically) on July 12, 2013 by Todd Araujo, Esq. from the Attorney General's office, urged the Board to condemn the use of injectable nutrients because it was not part of Chiropractic "core curriculum", and when sterile water is added to a vitamin, it becomes a "prescription drug". The Board, however, maintains that the science of nutrition is part of the core curriculum training of Chiropractic Physicians, and the method of application: oral, parenteral or injectable, is something a Chiropractic Physician may study and learn to provide safely to patients.

SUPPORTIVE MATERIAL:

Statute Sec. 08.20.900(1) "ancillary methodology"; methods, procedures, modalities, devices, and measures commonly used by trained and licensed health care providers"; "counseling on dietary regimen".

SUMMARY:

Chiropractic Physicians are trained in nutrition as part of their core education and have historically been a professional source for nutritional advice and treatment by Alaskans. Current Statutes and Regulations for the Chiropractic profession in Alaska should be modernized to specifically allow chiropractors to continue to provide quality service and in the manner and form that patient's health condition may require. The ABOCE will work with the Alaska Chiropractic Society to introduce appropriate legislative changes to bring the profession of Chiropractic to the level demanded by changes in the profession itself as well as regulatory bodies. At present, the ABOCE supports the use of injectable nutrients by Chiropractic Physicians with appropriate training and support, as implied by current regulation.

Old Business

- A. Scope of Practice
 - i. Definitions in Regulation
- B. SB69 Regulations Project Update
- C. Seat on Professional Panel for Drug Addiction

A. Scope of Practice

i. Definitions in Regulation

- (ii) sexualized or sexually demeaning comment to a patient;
- (iii) demeaning or degrading comments to the patient about the patient's sexual orientation, regardless of whether the patient is homosexual, heterosexual, or bisexual;
- (iv) comments about potential sexual performance of the patient during an examination or consultation, except when the examination or consultation is pertinent to the issue of sexual function or dysfunction;
- (v) requesting details of sexual history or sexual likes or dislikes of the patient if the details are not clinically indicated for the type of examination or consultation;

(E) initiation by the licensee of conversation with a patient regarding the sexual problems, preferences, or fantasies of the licensee;

(F) using the doctor-patient professional relationship with the patient to solicit sexual contact or a romantic relationship with the patient or another;

(G) kissing a patient in a romantic or sexual manner;

(4) "sexual penetration"

(A) means genital intercourse, cunnilingus, fellatio, anal intercourse, or an intrusion, however slight, of an object or any part of a person's body into the genitals or anus of another person's body; each party to any of the acts defined as "sexual penetration" is considered to be engaged in sexual penetration;

(B) does not include acts performed for the purpose of administering a recognized and lawful form of chiropractic examination or treatment that is reasonably adapted to promoting the physical health of the person being treated.

Authority: AS 08.20.055 AS 08.20.170

12 AAC 16.980. "MISREPRESENTATION" DEFINED. In AS 08.20.170, "misrepresentation" means

- (1) the use of any advertising in which untruthful, exaggerated, improper, misleading or deceptive statements are made;
- (2) impersonation of another practitioner;
- (3) advertising or holding oneself out to have the ability to treat diseases or other abnormal conditions of the human body by any secret formula, method, or procedure;
- (4) knowingly permitting or allowing another person to use a licensee's license or certificate in the practice of any system or mode of treating the sick or afflicted.

Authority: AS 08.20.055 AS 08.20.170(d)

12 AAC 16.990. DEFINITIONS. (a) In this chapter, unless the context requires otherwise,

- (1) "appropriate treatment or services" means treatment or services performed, because of a substantiated and properly diagnosed condition, that is consistent with that diagnosis as reviewed by the peer review committee appointed under 12 AAC 16.400;
- (2) "board" means the Board of Chiropractic Examiners;
- (3) "department" means the Department of Commerce, Community, and Economic Development;
- (4) "licensee" means a chiropractic physician licensed under AS 08.20;
- (5) "reasonable and appropriate cost of treatment" means that charges submitted for services performed are necessary and reasonable charges in the judgment of the peer review committee appointed under 12 AAC 16.400;
- (6) "criminal history record information" has the meaning given in AS 12.62.900.

(b) In AS 08.20.900,

(1) "prescription drug" means a drug that

(A) under federal law, before being dispensed or delivered, is required to be labeled with either of the following statements:

(i) "Caution: Federal law prohibits dispensing without prescription";

(ii) "Caution: Federal law restricts this drug to use by, or on the order of, a licensed veterinarian"; or

(B) is required by an applicable federal or state law or regulation to be dispensed only under a prescription drug order or is restricted to use by practitioners only;

(2) "surgery"

(A) means the use of a scalpel, sharp cutting instrument, laser, electrical current, or other device to incise or remove living tissue;

(B) does not include venipuncture or the removal of foreign objects from external tissue.

Authority: AS 08.20.055 AS 08.20.900

B. SB69 Regulations Project Update

Chapter 16. Board of Chiropractic Examiners.

(Words in **boldface and underlined** indicate language being added; words [CAPITALIZED AND BRACKETED] indicate language being deleted. Complete new sections are not in boldface or underlined.)

12 AAC 16.030(a)(6) is amended to read:

(6) if the applicant holds or has ever held a license to practice chiropractic, verification of the present status of the applicant's license from each jurisdiction where the applicant holds or has ever held a license to practice chiropractic, sent directly to the department from the licensing jurisdiction; and **documentation of 32 credit hours of continuing education as provided under this paragraph, approved by the board or an equivalent licensing jurisdiction taken within two years preceding the date of the application, including at least:**

(A) eight hours in radiographic safety, radiographic techniques and interpretation, or diagnostic imaging;

(B) two hours in coding and documentation;

(C) two hours in ethics and boundaries;

(D) two hours in cardiopulmonary resuscitation;

(E) 18 additional hours in education not to include business management;

(F) no more than four hours may be in the following subject areas:

(i) cardiopulmonary resuscitation (CPR) training;

(ii) automated external defibrillator (AED) training;

(iii) basic life support (BLS) training;

(G) no more than 16 hours may be obtained over the internet or by distance learning; and

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(Eff. 3/8/71, Register 37; am 9/30/81, Register 79; am 6/29/84, Register 90; am 5/10/90, Register 114; am 8/21/91, Register 119; am 4/7/96, Register 138; am 2/21/97, Register 141; am 5/27/2006, Register 178; am 1/29/2009, Register 189; am 8/14/2010, Register 195; am ____/____/____, Register _____)

Authority: AS 08.20.055 AS 08.20.120 AS 08.20.170
AS 08.20.110 AS 08.20.130

12 AAC 16.033(7) is amended to read:

(7) an official grade transcript sent directly to the department from the National Board of Chiropractic Examiners showing that the applicant has successfully passed [EITHER] the Special Purposes Examination of Chiropractic (SPEC) or [BOTH] parts one, [AND] two, **three, and four** of the national examination;

(Eff. 5/23/2003, Register 166; am 5/27/2006, Register 178; am 1/29/2009, Register 189; am 8/14/2010, Register 195; am ____/____/____, Register _____)

Authority: AS 08.20.055 AS 08.20.130 AS 08.20.170
AS 08.20.110 AS 08.20.141

12 AAC 16.037(b) is amended to read:

(b) An applicant who has been in the active practice of chiropractic for five continuous years before the date of application for a license in **this** [THE] state may substitute successful passage of the Special Purposes Examination of Chiropractic (SPEC) of the National Board of Chiropractic Examiners for **parts** [PART] three **and four** of the **national** examination [OF THE

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NATIONAL BOARD OF CHIROPRACTIC EXAMINERS].

(Eff. 2/21/97, Register 141; am 12/7/97, Register 144; am 5/10/98, Register 146; am
____/____/____, Register _____)

Authority: AS 08.20.055 AS 08.20.120 AS 08.20.130

12 AAC 16 is amended by adding a new section to Article 2 to read:

12 AAC 16.041. Preceptor scope of practice. A chiropractic preceptor must

(1) be physically present to provide personal supervision of a chiropractic intern during the preceptorship;

(2) supervise no more than one chiropractic intern at a time;

(3) ~~only~~ permit a chiropractic intern, ~~under personal supervision~~, to perform the practice of chiropractic as set out in 12 AAC 16.042 only under personal supervision;

(4) prior to any chiropractic manipulative therapy performed by the intern, provide a patient with an informed consent document that states that the chiropractic intern is a chiropractic student and not a licensed chiropractic physician in this state ~~prior to any chiropractic manipulative therapy performed by the intern~~;

(5) maintain a malpractice insurance policy with coverage limits of at least \$1,000,000 per claim, and a minimum aggregate limit of \$3,000,000 per policy period; and

(6) have been licensed under this chapter in this state for no less than five years preceding the acceptance of a chiropractic intern. (Eff. ____/____/____, Register _____)

Authority: AS 08.20.055 AS 08.20.170

12 AAC 16 is amended by adding a new section to Article 2 to read:

12 AAC 16.042. Intern scope of practice. (a) A chiropractic intern may, under the personal supervision of a chiropractic preceptor, use chiropractic core methodologies as defined in AS 08.20.900(6), except that chiropractic diagnosis must be provided by the chiropractic preceptor.

(b) A chiropractic intern may, under the general supervision of a chiropractic preceptor,

- (1) perform diagnostic imaging studies;
- (2) perform examination procedures;
- (3) use ancillary methodologies as defined in AS 08.20.900(1).

(c) A chiropractic preceptor is subject to disciplinary action if an intern is in violation of AS 08.20.170, 12 AAC 16.920 – .980.

(d) An intern must ~~be of graduate level enrollment~~ be enrolled in a graduate-level course of study at a chiropractic institution located in this state and accredited by the Council on Chiropractic Education (CCE), and be accepted into and approved to participate in an internship program by that their accredited chiropractic college in this state educational institution. Internship placement in this state will be made by and overseen by the accredited chiropractic college program.

(e) An intern may practice under a chiropractic preceptor for a period of no more than six months or the ~~approved~~ time period approved by their accredited chiropractic college, whichever comes first. Written extensions of an internship may be granted by the board. (Eff.

____ / ____ / _____, Register _____)

Authority: AS 08.20.055 AS 08.20.170 AS 08.20.900
AS 08.20.100 AS 08.20.195

Commented [HDM1]: What does the board want, here? This level of supervision is inconsistent with direct personal supervision. Need to clarify board's intent. See comment on last page.

Commented [HDM2]: It looks like this was the intent of the board.

Commented [HDM3]: What do you mean, "comes"? Commences or ends or what?

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12 AAC 16.048(a)(6) is amended by adding a new subparagraph to read:

(D) International Board of Chiropractic Neurology (IBCN);

(Eff. 1/6/2002, Register 161; am 8/20/2004, Register 171; am 8/14/2010, Register 195; am
____/____/____, Register _____)

Authority: AS 08.20.055 AS 08.20.155

12 AAC 16 is amended by adding a new section to Article 2 to read:

12 AAC 16.051. Patient examinations for school and sports activities. A chiropractic physician may perform physical examinations under AS 08.20.100(b)(5) within the scope of chiropractic practice. (Eff. ____/____/____, Register _____)

Authority: AS 08.20.055 AS 08.20.100

12 AAC 16 is amended by adding a new section to Article 2 to read:

12 AAC 16.052. Chiropractic clinical assistant scope of practice. (a) Only a chiropractic clinical assistant may, under the **general** supervision of a licensed chiropractic physician, perform the following procedures:

- (1) diagnostic imaging studies;
- (2) examination procedures;
- (3) ~~use~~ ancillary methodologies as defined in AS 08.20.900(1).

(b) A chiropractic clinical assistant may not provide chiropractic diagnosis, chiropractic adjustment as in AS 08.20.900(6), and formulation or alteration of treatment plans.

(c) A chiropractic clinical assistant must maintain current CPR certification from a

Commented [HDM4]: Need to confirm board intent here.

nationally recognized provider.

(d) In order to meet the initial certification requirements of AS 08.20.168 and practice as a chiropractic clinical assistant in this state, a currently employed chiropractic clinical assistant with 2,000 hours or more experience ~~is required to~~must complete the requirements as set forth by the Certified Chiropractic Clinical Assistant Program (CCCA) administered by the Federation of Chiropractic Licensing Boards (FCLB), or the CTA Program administered by the Tennessee Chiropractic Association or an equivalent nationally recognized program as determined by the board in accordance with AS 08.20.055(4) by May 15, 2020.

(e) In order to meet the initial certification requirements of AS 08.20.168 and practice as a chiropractic clinical assistant in this state, a currently employed chiropractic clinical assistant with less than 2,000 hours of experience ~~is required to~~must complete the requirements as set forth by the Certified Chiropractic Clinical Assistant Program (CCCA) administered by the Federation of Chiropractic Licensing Boards (FCLB), or the CTA Program administered by the Tennessee Chiropractic Association or an equivalent nationally recognized program as determined by the board in accordance with AS 08.20.055(4) by November 15, 2020.

(f) In order to meet the certification requirements of AS 08.20.168 and practice as a chiropractic clinical assistant in this state, a newly hired chiropractic clinical assistant ~~is required to~~must complete the requirements as set forth by the Certified Chiropractic Clinical Assistant Program (CCCA) administered by the Federation of Chiropractic Licensing Boards (FCLB), or the CTA Program administered by the Tennessee Chiropractic Association or an equivalent nationally recognized program as determined by the board in accordance with AS 08.20.055(4) within twelve months of hire date.

(g) A person enrolled in an educational program recognized by the board that leads to

certification as a chiropractic clinical assistant ~~shall will~~ be allowed to ~~lawfully~~ provide clinical services under the general supervision of a chiropractic physician to gain the necessary practical clinical experience.

Commented [HDM5]: Check this. Really seems like it should be "direct personal supervision."

(h) No person ~~shall may~~ use the title "Certified Chiropractic Clinical Assistant" or another designation indicating status, including abbreviations, or hold themselves out directly or indirectly as a certified chiropractic clinical assistant, unless ~~having that person has completed~~ met the requirements under (d), (e), or (f) of this section.

(i) After completing the initial certification requirements under (d), (e), or (f) of this section, a chiropractic clinical assistants must maintain current certification per the requirements ~~set forth by of~~ the Certified Chiropractic Clinical Assistant Program (CCCA) administered by the Federation of Chiropractic Licensing Boards (FCLB), or the CTA Program administered by the Tennessee Chiropractic Association or an equivalent nationally recognized program as determined by the board in accordance with AS 08.20.055(4). (Eff. ____/____/____, Register ____)

Authority: AS 08.20.055 AS 08.20.168 AS 08.20.195
 AS 08.20.100 AS 08.20.170 AS 08.20.900

12 AAC 16.130(a) is amended to read:

(a) The state chiropractic examination consists of a written [AND ORAL] examination, administered by the board or the board's agent, covering AS 08.01 – AS 08.03, AS 08.20, 12 AAC 02, 12 AAC 16, and 18 AAC 85, and any other subjects that the board determines are necessary to demonstrate knowledge of chiropractic as defined in AS 08.20.

(Eff. 3/8/71, Register 37; am 9/30/81, Register 79; am 10/21/82, Register 84; am 4/22/83,

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Register 86; am 6/3/89, Register 110; am 5/10/90, Register 114; am 5/10/98, Register 146; am 1/6/2002, Register 161; am 8/20/2004, Register 171; am 8/14/2010, Register 195; am ____ / ____ / _____, Register _____)

Authority: AS 08.20.055 AS 08.20.120 AS 08.20.130

12 AAC 16.205(j) is amended to read:

(j) In this section, "special event" means an athletic, **educational**, cultural, or performing arts event held in this state. (Eff. 11/21/2004, Register 172; am 8/14/2010, Register 195; am ____ / ____ / _____, Register _____)

Authority: AS 08.01.062 AS 08.20.055 AS 08.20.170

12 AAC 16.290 is amended to read:

12 AAC 16.290. Hours of continuing education required. (a) **An** [EXCEPT AS PROVIDED IN (b) OF THIS SECTION, AN] applicant for renewal of a chiropractic license **who has been licensed at least two years** must **complete** [OBTAIN AND DOCUMENT SUCCESSFUL COMPLETION OF THE FOLLOWING:

(1) FOR AN APPLICANT WHO FILES A COMPLETE RENEWAL APPLICATION WITH THE DEPARTMENT FOR A LICENSE PERIOD THAT CONCLUDES ON OR BEFORE DECEMBER 31, 2012, 24 CREDIT HOURS OF APPROVED CONTINUING EDUCATION DURING THE CONCLUDING LICENSING PERIOD; AT LEAST ONE-THIRD AND NO MORE THAN ONE-HALF OF THE TOTAL HOURS REQUIRED UNDER THIS PARAGRAPH MUST BE DEVOTED TO

(A) RADIOGRAPHIC SAFETY;

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(B) RADIOGRAPHIC TECHNIQUES AND INTERPRETATION; OR

(C) DIAGNOSTIC IMAGING;

(2) FOR AN APPLICANT WHO FILES A COMPLETE RENEWAL APPLICATION WITH THE DEPARTMENT FOR A LICENSE PERIOD THAT CONCLUDES AFTER JANUARY 1, 2013,] 32 credit hours of approved continuing education **that was earned** during the concluding licensing period **including at least** [, AS FOLLOWS:]

(1) [(A)] eight hours of the total hours required under this **subsection**

[PARAGRAPH] ~~must be~~ devoted to

(A) [(i)] radiographic safety;

(B) [(ii)] radiographic techniques and interpretation; or

(C) [(iii)] diagnostic imaging;

(2) [(B)] two hours of the total hours required under this **subsection**

[PARAGRAPH] must be devoted to coding and documentation;

(3) [(C)] two hours of the total hours required under this **subsection**

[PARAGRAPH] must be devoted to ethics and boundaries; **and**

(4) [(D)] two hours of the total hours required under this **subsection**

[PARAGRAPH] must be devoted to cardiopulmonary resuscitation (CPR) training.

(b) An applicant for renewal of a chiropractic license **who has been licensed at least one year but less than two years of the concluding license period** [FOR THE FIRST TIME] must **complete** [OBTAIN AND DOCUMENT SUCCESSFUL COMPLETION OF THE FOLLOWING:

(1) FOR A LICENSE PERIOD THAT CONCLUDED ON OR BEFORE DECEMBER 31, 2012, 12 CREDIT HOURS OF APPROVED CONTINUING EDUCATION

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FOR EACH COMPLETE CALENDAR YEAR THE APPLICANT WAS LICENSED DURING THE CONCLUDING LICENSING PERIOD;

(2) FOR A LICENSE PERIOD THAT CONCLUDES AFTER JANUARY 1, 2013,] 16 credit hours of approved continuing education [FOR EACH COMPLETE CALENDAR YEAR THE APPLICANT WAS LICENSED] ~~that was earned~~ during the concluding licensing period **including at least**

(1) eight hours of the total hours required under this subsection must be devoted to

(A) radiographic safety;

(B) radiographic techniques and interpretation; or

(C) diagnostic imaging;

(2) two hours of the total hours required under this subsection must be devoted to coding and documentation;

(3) two hours of the total hours required under this subsection must be devoted to ethics and boundaries; and

(4) two hours of the total hours required under this subsection must be devoted to cardiopulmonary resuscitation (CPR) training.

(c) Two of the hours required under (a) of this section will be credited **as clinical hours** to each applicant for renewal for completing the jurisprudence review prepared by the board, covering the provisions of AS 08.20 and this chapter. An applicant for renewal must verify, in an affidavit, that the applicant has complied with this subsection before the applicant's license renewal will be processed.

(d) An applicant for renewal of a license to practice chiropractic must submit, on a form

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provided by the department, a sworn statement of the continuing education that the applicant completed during the concluding licensing period. [THE STATEMENT MUST INCLUDE THE FOLLOWING INFORMATION:

- (1) THE SPONSORING ORGANIZATION;
- (2) THE TITLE AND DESCRIPTION OF THE COURSE;
- (3) THE DATES OF ATTENDANCE OR PERIOD OF CORRESPONDENCE;
- (4) THE NUMBER OF CONTINUING EDUCATION HOURS CLAIMED;
- (5) THE COURSE APPROVAL NUMBER ISSUED BY THE DEPARTMENT.]

(e) An applicant for renewal of a chiropractic license may receive up to four hours of the credit

[(1)] required under **(a)** [(a)(1)] of this section from one or more of the following subject areas:

- (1)** [(A)] cardiopulmonary resuscitation (CPR) training;
- (2)** [(B)] automated external defibrillator (AED) training;
- (3)** [(C)] basic life support (BLS) training [;

(2) REQUIRED UNDER (A)(2) OF THIS SECTION FROM ONE OR MORE

OF THE FOLLOWING SUBJECT AREAS:

- (A) AUTOMATED EXTERNAL DEFIBRILLATOR (AED) TRAINING;
- (B) BASIC LIFE SUPPORT (BLS) TRAINING].

(f) No more than 16 credit hours of the credit hours required under **(a)** [(a)(2)] of this section for a renewal of a chiropractic license may be obtained over the Internet or by distance learning.

(g) An applicant applying for renewal who has been licensed more than 90 days but

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less than one year of the concluding biennial license period is not required to submit proof of completion of continuing education. Eff. 6/29/84, Register 90; am 5/10/90, Register 114; am 12/7/97, Register 144; am 5/8/99, Register 150; am 1/29/2009, Register 189; am 11/28/2009, Register 192; am 8/14/2010, Register 195; am 9/7/2012, Register 203; am ____/____/_____, Register _____)

Authority: AS 08.20.055 AS 08.20.170

The article heading of 12 AAC 16, Article 4 is changed to read:

Article 4. Utilization [PEER] Review.

12 AAC 16.400 is amended to read:

12 AAC 16.400. Utilization [PEER] review committee. (a) For the purposes of AS 08.20.185, the board will, in its discretion, appoint a **utilization** [PEER] review committee that is advisory to the board.

(b) A **utilization** [PEER] review committee appointed by the board will consist of four individuals. Three members of the **utilization** [PEER] review committee must be chiropractic physicians licensed under AS 08.20, and one member must be a public member who meets the requirements of AS 08.01.025.

(c) A member of a **utilization** [PEER] review committee may not review a case if the member is in a direct business relationship with the chiropractic physician, insurer, or patient in the case being reviewed.

(d) In this section, a "direct business relationship" includes an employer-employee relationship, doctor-patient relationship, and a legal contractual relationship. (Eff. 2/21/97,

Register _____, _____ 2019 **PROFESSIONAL REGULATIONS**

Register 141; am ___/___/_____, Register _____)

Authority: AS 08.20.055 AS 08.20.185

12 AAC 16.410 is amended to read:

12 AAC 16.410. Term of appointments to utilization [PEER] review committee. (a)

Members of the utilization [PEER] review committee are appointed for staggered terms of two years.

(b) Repealed 1/29/2009.

(c) A member of the utilization [PEER] review committee may be removed by the board for cause.

(d) A member of the utilization [PEER] review committee may not serve on the committee for more than four consecutive years. The member may not be reappointed until two years have elapsed since the member last served on the committee. (Eff. 2/21/97, Register 141; am 1/29/2009, Register 189; am ___/___/_____, Register _____)

Authority: AS 08.20.055 AS 08.20.185

12 AAC 16.420 is amended to read:

12 AAC 16.420. Conduct of utilization [PEER] review. (a) A patient, patient's representative, insurer, or the patient's chiropractic physician may file a request for utilization [PEER] review with the board by submitting to the department

(1) a written request for review of the care provided, fees charged, or services rendered by a licensee to a patient;

(2) the utilization [PEER] review fee established in 12 AAC 02.150; and

(3) if the **utilization** [PEER] review committee requires a patient's treatment records for review, a completed release, on a form provided by the department, signed by the patient.

(b) A licensee's acceptance of or request for payment for treatment given to a patient constitutes the licensee's consent to submit to the **utilization** [PEER] review committee the information required in (c) of this section.

(c) A licensee involved in a case submitted to the **utilization** [PEER] review committee shall submit to the **utilization** [PEER] review committee all necessary records and other information concerning the patient's treatment.

(d) The **utilization** [PEER] review committee shall conduct a **utilization** [PEER] review for each request for **utilization** [PEER] review submitted to it in accordance with guidelines established by the board. Except as provided in (f) of this section, the **utilization** [PEER] review committee shall report its findings to the board and furnish a copy of its findings to the patient, licensee, and third-party payor involved in the case.

(e) The findings of the **utilization** [PEER] review committee must include a determination of whether the

(1) licensee provided or ordered appropriate treatment or services; and

(2) fees charged are a reasonable and appropriate cost of treatment; in determining the reasonableness and appropriateness of costs, the committee may consider, among other appropriate factors, charges by health care providers other than [CHIROPRACTORS] **chiropractic physicians** for the same or similar services.

(f) If the **utilization** [PEER] review committee determines that reasonable cause exists to believe the licensee has violated a provision of AS 08.20 or this chapter for which a licensee may

Register _____, _____ 2019 **PROFESSIONAL REGULATIONS**

be disciplined, the **utilization** [PEER] review committee may not report its finding to the board, but instead shall refer the matter to the department's investigative section. The **utilization** [PEER] review committee shall provide all information gathered in connection with the **utilization** [PEER] review to the department's investigative section.

(g) Repealed 1/6/2002. (Eff. 2/21/97, Register 141; am 1/6/2002, Register 161; am 8/20/2004, Register 171; am 5/27/2006, Register 178; am ___/___/_____, Register _____)

Authority: AS 08.20.055 AS 08.20.185

The introductory language of 12 AAC 16.430(a) is amended to read:

(a) When making a determination as to whether a licensee provided reasonable and appropriate treatment or services or charged reasonable and appropriate costs of treatment to a patient, the **utilization** [PEER] review committee appointed under 12 AAC 16.400 may rely on the guidelines, standards, or recommendations of the following organizations accepted by the board:

12 AAC 16.430(b) is amended to read:

(b) The **utilization** [PEER] review committee shall take into consideration the differences between the standards and guidelines of the organizations listed in (a) of this section when making a determination as to whether the care provided by the licensee was provided in a manner required of a reasonably competent practitioner acting under the same or similar circumstances. (Eff. 1/6/2002, Register 161; am 11/28/2009, Register 192; am 9/7/2012, Register 203; am ___/___/_____, Register _____)

Authority: AS 08.20.055 AS 08.20.185

Register _____, _____ 2019 **PROFESSIONAL REGULATIONS**

12 AAC 16.990(a) is amended by adding new paragraphs to read:

(7) "general supervision" means the directing of the authorized activities by a licensed chiropractic physician and shall not be construed to require the physical presence of the supervisor when directing such activities;

(8) "personal supervision" means that the licensed chiropractic physician must be physically present at the same office location where the services are being furnished.

(Eff. 6/29/84, Register 90; am 8/31/86, Register 99; am 6/3/89, Register 110; am 1/6/2002, Register 161; am 8/14/2010, Register 195; am 3/16/2011, Register 197; am ____ / ____ / _____, Register _____)

Authority: AS 08.20.055 AS 08.20.900

Commented [HDM6]: OK, but is this really what the board is OK with? This means that the supervising chiropractor could be way down the hall and not directly observing or even within earshot.

C. Seat on Professional Panel for Drug Addiction



Office of Governor
MICHAEL J. DUNLEAVY

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Fact Sheet

Board: Controlled Substances Advisory Committee

Board identification number: 272

Department: LAW

Authority: AS 11.71.100

Status: Active

Sunset date:

Requirements: No Legislative Confirmation or Financial Disclosure required

Prohibitions: None

Term: 4 years

Chair: The president of the Board of Pharmacy or the president's designee is the chair of the committee

Description: The committee consists of 9 members: the Attorney General or the Attorney General's designee; the Commissioner of Health and Social Services or the Commissioner's designee; the Commissioner of Public Safety or the Commissioner's designee; the President of the Board of Pharmacy or the designee of the President who shall also be a member of the Board of Pharmacy; a peace officer appointed by the Governor after consultation with the Alaska Association of Chiefs of Police; a physician appointed by the

OFFICE OF BOARDS AND COMMISSIONS

550 West 7th Avenue, Suite 1700
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Fax: (907) 269-7461
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Governor; a psychiatrist appointed by the Governor; and two individuals appointed by the Governor.

Function: To evaluate the effectiveness of current programs, budget and appropriations, enforcement policies and procedures, treatment, counseling, and regulations regarding controlled substances and to further make recommendations to the Governor, Alaska Court System and Legislature based upon their findings.

Special facts: Five members of the committee constitute a quorum, except that a smaller number may adjourn a meeting in the absence of a quorum.

Compensation: Standard Travel and Per Diem

Meetings: To be held at the call of the chairman, and are required to meet at least twice a year.

For further information and to reach individual members, contact:

[John Skidmore](#)

Deputy Attorney General
310 K Street, Suite 601

Anchorage, AK 99501

Phone: 907-269-6250

Fax:

[Board Roster](#)

Office of Governor Michael J. Dunleavy

3rd Floor, State Capitol

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Juneau, AK 99811

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Fax: (907) 465-3532

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Public Comment/ Correspondence

- A. Rich Woolley - Prolotherapy
- B. Jason Nardi - Acupuncture
- C. Carolyn Heyman -
Restriction on Referrals

A. Rich Woolley - Prolotherapy

From: [Rich Woolley](#)
To: [Bay, Thomas L \(CED\)](#)
Subject: Prolotherapy
Date: Thursday, May 23, 2019 4:06:17 PM

Good afternoon Thomas,

Do you know if the board has a stance on chiropractors using prolotherapy?

Also, in case it is helpful... I was reading through some of the minutes of the February board meeting and saw some discussion about dry needling courses ideally being over 24 hours. I guess the board doesn't know of any courses over 24 hours. The Myopain certification is about 98 hours of coursework.

Thanks Thomas!

--

Rich Woolley, DC, MS, ATC

B. Jason Nardi

- Acupuncture

Valley Chiropractic Clinic

Jason R. Nardi, DC DABCI
Thomas R. Gundelfinger, DC


www.ValleyChiropracticClinic.com

Alaska State Board of Chiropractic Examiners
PO Box 110806
Juneau, AK 99811-0806

Dear Sirs,

I am writing to inquire about adding acupuncture into our scope of practice. Our profession is positioned well to deliver acupuncture with required training and would be able to provide a clinically beneficial service that is well researched to our patient-base.

To become a Licensed Acupuncturist (LAc) in Alaska requires graduation from an accredited acupuncture program and the successful completion of the NCCAOM board exam. The World Health Organization feels that physicians should be able to add acupuncture into their clinical practice with 200 hours of formal training, this includes chiropractors¹. Currently, the State of Alaska allows physicians an exemption from their educational requirements needed for an LAc. The requirements are 100 hours of formal training, but we are excluded from this exemption due to our own regulations excluding it from our scope of practice.

Acupuncture has only been regulated since the 1970's in the United States. The ubiquity of acupuncture in our profession is growing and is offered at six chiropractic colleges. The practice of acupuncture in our profession had led to an ACA accredited Diplomate program and council, and NBCE boards specific to acupuncture. It also helps that the philosophy of acupuncture is akin to our own; Treating the cause of the problem while at the same time providing palliative measures. Acupuncture, like chiropractic, is more than just a musculoskeletal modality but has excellent results with MSK complaints. Acupuncture also has good cultural authority as a health care system for many different conditions. The WHO, in their publication **ACUPUNCTURE: REVIEW AND ANALYSIS OF REPORTS ON CONTROLLED CLINICAL TRIALS**, state numerous conditions that can be helped with the use of acupuncture².

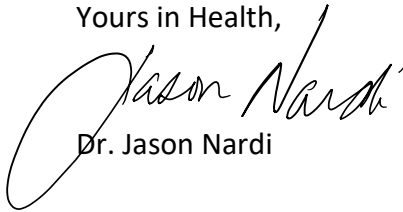
¹ World Health Organization, Guidelines on Basic Training and Safety in Acupuncture (1999) Retrieved from <https://apps.who.int/medicinedocs/pdf/whozip56e/whozip56e.pdf>

² World Health Organization, Acupuncture: Review and Analysis of Reports on Controlled Clinical Trails (1996) Retrieved from <https://www.acupuncture.org.uk/public-content/public-traditional-acupuncture/4026-who-list-of-conditions.html>

The addition of acupuncture to our scope would allow our profession to provide a valuable, evidence-based model of care that works well with our existing model of diagnosis and treatment. We already have a guideline on minimal requirements set forth by the State on education, and those requirements can be learned through accredited chiropractic schools. And, most importantly, we as a profession can deliver better care that is natural and minimally invasive to help people live a better, more healthful life.

If there is anything I can do to further help the Board in its decision or provide additional information to you, please let me know.

Yours in Health,

A handwritten signature in black ink that reads "Jason Nardi". The signature is fluid and cursive, with a large loop at the beginning of the word "Jason".

Dr. Jason Nardi

C. Carolyn Heyman

- Restriction on Referrals

From: [Carolyn Heyman](#)
To: [Bay, Thomas L \(CED\)](#)
Subject: Question re: 12 AAC 16.920 restriction on referrals
Date: Wednesday, July 24, 2019 4:31:45 PM

Dear Mr. Bay,

I am a healthcare attorney that works with several chiropractors. During a recent review of the statutes and regulations governing chiropractors, I noted that 12 AAC 16.920 prohibits “offering, giving, soliciting or receiving fees for referral of a patient”. However, I was unsure exactly how this would be applied and was unable to find any opinions on the topic. Specifically, I am wondering if this refers only to referral fees for direct referrals between unrelated entities, or all referrals.

Do you know if the Board has ever reviewed this particular subsection of the regulations, and if so, where I may be able to find that analysis? If not, do you know if this restriction would prohibit referrals within an organization? I would assume not, as many companies will have patients who call for chiropractic services and those patients are referred to whichever chiropractor may be available at the time, despite the fact that a chiropractor may pay a percentage of his or her billings to the company. However, I do not want to advise my clients to do anything that would be a violation of the regulations.

If you could please provide guidance on this matter, I would greatly appreciate it. If you have any questions or need further clarification, don't hesitate to email or call me.

Sincerely,

Carolyn Heyman
SEDOR WENDLANDT EVANS & FILIPPI, LLC

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

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New Business

A. Postgraduate
Preceptorships
While Waiting for
Board Exam Scores

ACS Update

Alaska Chiropractic Society Staff

Executive Director

Debbie Ryan

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Executive Administrator



Sheri Ryan

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Alaska Chiropractic Society Officers/Board Members 2014 - 2016

<p>Dr. Todd Curzie, President</p> <p>Phone: (907) 569-9355</p> <p>email President</p>	<p>Some of you know me and of course, some may not. I have practicing in Anchorage, Alaska for over 17 years. I have been a member of the ACS since that year. I am a huge advocate of chiropractors being a member of a unified group. I totally support the ACS and its mission to support Chiropractic and its progress.</p> <p>I have been treasurer of the ACS from 2006-2010. I have raised funds by directing a golf tournament for 5 years. I currently sit on the legislative committee for the ACS. I am a strong supporter of my alma mater. I hosted a radio show for a few years to benefit all chiropractors in the community.</p> <p>There is no doubt that I truly support the chiropractic community.</p> <p>There are many reasons that I wish to be president of the ACS, but my primary motivation is to keep Chiropractic moving forward without compromising our founding principles. I believe we need a president with a good foundation and understanding of our core principles in order to move forward. Yes, I am strong in the philosophy of chiropractic, but I'm not naive.</p> <p>We have a bright future ahead of us as chiropractors. We don't need to be afraid of the government or other health care providers. We need to be strong and unite as a group and move forward.</p> <p>Join me in my mission to provide CHIROPRACTIC services to our great state and let us be the example other states follow.</p>	
	<p>Kelly Ryan is a 2008 Palmer College of Chiropractic graduate who currently practices in Anchorage, Alaska. Some of his hobbies include public speaking, skiing, snowboarding, reading, playing music, cooking, and engaging the arts. He holds membership and actively participates in various organizations including the Alaska Chiropractic Society, Toastmasters International, the Loyal Order of the Moose, and he serves as a current board member for the International Gallery of Contemporary Art. He also served two terms as a board member for the Chugach Power Talkers Toastmasters group. As a chiropractor he focuses on evidence based procedures and strives to deliver the best care to his patients. His future goals within the profession include improving chiropractic efficacy through the promotion of best practices, promoting chiropractic to the public through various local and national organizations, and working intimately with local, state, and federal entities to preserve and expand chiropractic influence in modern healthcare.</p>	<p>Dr. Kelly Ryan, Vice President</p> <p>Phone: (907) 222-2100</p> <p>email Vice-President</p>
<p>Dr. John Pairemore, Treasurer</p> <p>Phone: (907) 677-6953</p> <p>email Treasurer</p>	<p>Dr. John Pairemore has lived in Alaska since 1982 and practices in Anchorage. He is a 2002 graduate of Palmer College of Chiropractic and received his CCSP in 2006. Dr. Pairemore is a Gonstead practitioner and is certified in the Gaston technique. He is married to his beautiful wife Sengthiene and they have three awesome kids.</p>	
		<p>Dr. Joel Adkins, Secretary</p> <p>Phone: (907) 333-3535</p> <p>email Secretary</p>

From: sryan@akchiro.org
To: [Bay, Thomas L \(CED\)](#)
Cc: [Dr. Adkins](#); [Debbie Ryan](#); [Kelly Ryan](#); [John Pairmore](#); [Todd Curzie](#)
Subject: ABOCE 04/26/19 Board mtg request of ACS
Date: Thursday, June 13, 2019 9:05:53 AM

Morning Tom,

Can you please relay the following to the Alaska Board of Chiropractic Examiners?

The ACS Executive Board met on 5/14/2019 to discuss the ABOCE's request made at their 04/26/19 Board meeting about the Society's interest in taking up legislative efforts to establish advanced chiropractic designations for Chiropractic Physician certified Clinical Nutritionists (similar to Idaho) and an Advanced Practice Chiropractic Certification (diplomate program similar to New Mexico).

Given the current insurance climate and limited resources available to the association, the Society is not interested at this time in the intensive legislative efforts that would be required for those particular advanced chiropractic designations. The ACS Executive Board's primary focus at this time for ACS resources is resolving the major insurance situations impacting all chiropractic offices across the state.

Best regards,

Sheri Ryan | Chief Operating Officer
Alaska Chiropractic Society | 



From: sryan@akchiro.org
To: [Bay, Thomas L \(CED\)](#)
Subject: Request from Alaska Chiropractic Society regarding Groupons
Date: Thursday, June 13, 2019 9:16:42 AM
Attachments: [BOCE Groupon Letter 06 11 2019.doc](#)

To the Board of Chiropractic Examiners:

The members of the Alaska Chiropractic Society are concerned with the number of Chiropractic Groupons available just in the Anchorage area alone (currently 12). These listings drop prices by as much as **96% off** and devalue our services as a profession. While the Alaska Chiropractic Society doesn't seek to restrict the rights of its members to market their practices, we do strive to ensure members are compliant with Medicare/Medicaid regulations and provider contracts.

We strongly urge the Board of Examiners to have the Department of Law look at discount services (ie: Groupon, Facebook, and other "deal of the day" discounts) for healthcare providers. We would like clarification on anti-kickback laws and inducement in the state of Alaska. This will enable us to ensure we are giving our chiropractic membership the legal regulations and help with any misinformation regarding insurance fraud and compensation for referrals. This will also allow us to move forward with any marketing statutes from both an ethical and legal perspective.

There have been numerous Licensing Boards in the US that have taken a strong stance on discount services. Please look at:

California: Business & Professions Code Section 650 -
https://leginfo.ca.gov/faces/codes_displayText.xhtml?lawCode=BPC&division=2.&title=&part=&chapter=1.&article=6.

Minnesota: <https://mn.gov/boards/chiropractic-examiners/currentissues/>

Oregon: https://www.oregon.gov/OBCE/pdfs/OBCE_stmt_Groupon_and_Fee_Splitting_May_2012.pdf

ChiroEconomics: <https://www.chiroeco.com/new-chiropractic-patients-avoid-risky-moves/>

Yours in Health,

Todd Curzie

Todd Curzie, DC
President, Alaska Chiropractic Society

Sheri Ryan | Chief Operating Officer
Alaska Chiropractic Society



From: sryan@akchiro.org
To: [Bay, Thomas L \(CED\)](#)
Subject: Billing of OMT vs CMT CPT Codes
Date: Thursday, June 13, 2019 1:03:41 PM

Afternoon Thomas,

I have a request of the ABOCE - is there anything within the Alaska chiropractic scope of practice that would preclude a Doctor of Chiropractic from using a OMT CPT code vs. a CMT CPT code? It was a question that came up through an ACS Board meeting that I was asked to get clarification on.

I reached out to a national billing/coding expert on the topic who sent me the information below that states the CPT codes are not limited to provider type but could be limited by state scope or payer policy.

I am now taking the next step in my quest - does state scope limit the use of 98925-98929 by a DC?

I will attempt to research the multiple payer policies on the topic in the state.

Thank you for your time on this matter.

Best regards,

Sheri Ryan | Chief Operating Officer
Alaska Chiropractic Society

----- Original Message -----

Subject: Re: OMT vs CMT CPT codes

From: "Evan Gwilliam"

Date: 6/13/19 10:51 am

To: "Sheri Ryan"

Though this *CPT Assistant* article is more than 20 years old now, it makes it clear that coding guidelines do not prohibit chiros from billing OMT. It can be limited by state scope or payer policy though.

Coding Consultation

Medicine, 98925-98929, 98940-98943 (Q&A)

Question

Who can report the Osteopathic Manipulative Treatment codes (98925-98929) and the Chiropractic Manipulative Treatment codes (98940-98943)? Are the OMT codes restricted for use by osteopathic physicians and the CMT codes restricted for use by chiropractic physicians?

AMA Comment

It is important to recognize that the listing of a service or procedure and its code number in a specific section of the CPT code book does not restrict its use to a specific specialty group. Any procedure or service in any section of the CPT coding manual may be used to designate the services rendered by any qualified physician. Therefore, the osteopathic manipulative treatment codes and the chiropractic manipulative treatment codes can be reported by any physician who is qualified to perform these types of manipulation. No distinction is made concerning the physician's licensure or professional credential. Licensure and credentialing vary on a state-by-state and institutional basis.

Medicine, 98925-98929, 98940-98943 (Q&A). CPT® Assistant. 1997; January 1997 page 11

In other words, if the state scope allows it, and the payer contract doesn't prohibit it, it can be done. It just needs to be documented and billed properly. The difference between CMT and OMT is in the outcome, not the licensure of the provider as the code title suggests. It is a bit like all the codes with physical therapy in the title (97010-97039). Chiro's can still bill them even though we are not licensed as physical therapists.

It just needs to be documented distinctly to show that it is not CMT.

To establish necessity for OMT, the provider must document "somatic dysfunction". This is "diagnosed by history and palpatory assessment of tenderness, asymmetry of motion and relative position, restriction of motion, and tissue texture change." (see <https://jaoa.org/article.aspx?articleid=2093843>) "Somatic dysfunction" is coded with the M99.0- family of codes (which also include "segmental dysfunction" used to justify CMT).

Google tells me that, using OMT, a provider moves a patient's muscles and joints using techniques that include stretching, gentle pressure and resistance. I'm no expert, so there could be many things that qualify as OMT, but I found examples of specific techniques such as counterstrain or facilitated positional release. Frankly, I don't even know what these are, but the provider needs to make it clear that he or she is not just performing a chiropractic manipulative treatment.

So, there you have it. Want me to re-write this as an article? Or would that just open a can of worms?

Evan M. Gwilliam, DC MBA BS CPC CCPC CPC-I QCC MCS-P CPMA CMHP AAPC Fellow



On Thu, Jun 13, 2019 at 11:20 AM [REDACTED] wrote:
Morning Dr. Gwilliam -

At the ACS Executive Board mtg on Tuesday, discussion was had around a DC in town reported to be billing OMT CPT codes vs CMT codes. I've been asked to get an expert opinion on why that is wrong. The DC billing the OMT is convinced that it doesn't say anywhere in the CPT codes that you have to be a DO to bill OMT codes. I remember reading somewhere that it's the taxonomy codes that identify what provider type you are and the area of specialization for health care providers but I'm no expert. Would it be possible to get a write up of some type that I can use in a newsletter as to why you can't bill OMT codes if you are a chiro?

Thanks!

Sheri Ryan | Chief Operating Officer
Alaska Chiropractic Society [REDACTED]

[REDACTED]

FCLB/NBCE/CCE Updates

Breakthrough Regulation

Districts I & IV Regional Meeting ~ The Coeur d' Alene Resort

Please note: Travel days are Thursday and Sunday. Meetings will take place on Friday and Saturday from 8:00 a.m. until approximately 2:00 p.m.

On Saturday afternoon, Drs. Buchanan and Campion will conduct a question and answer session for attendees, as well as a review of FCLB Committees and an overview of FCLB initiatives.

Agenda subject to change
Updated 6/06/2019

Friday, October 4, 2019 - 7:30 AM Breakfast - 8:00 AM Meeting Begins Meeting Room: To be determined

8:00 AM

GREETINGS AND OPENING REMARKS - *Dr. James Buchanan and Dr. Karen Campion*

INTRODUCTIONS

PowerPoint

FCLB BOARD REPORT

OVERVIEW OF YOUR FEDERATION

FCLB Update, Current Projects, Financial Report

Upcoming Meeting: FCLB Annual Conference - Denver, CO – 2020

REPORTS FROM OTHER ORGANIZATIONS

PowerPoint

- Presentation - NBCE Directors
- ICRS Update

Discussion: Hot Issues in Chiropractic Regulation & Professional Governance

ROUNDTABLE DISCUSSIONS - BY TOPIC

1. DISCIPLINARY TOPICS

1. What type of complaints have been issued by insurance companies regarding licensees, and how does your jurisdiction handle these complaints?
2. How does your jurisdiction handle physicians with impairment?
3. What is your jurisdiction's process for handling CA disciplinary issues?
4. What proactive rules could be in place to address frequent issues that come before your jurisdiction? (i.e. records requirements, CE audits, etc.)
5. Does your jurisdiction disclose pending charges against a licensee?

Lunch on your own

Saturday, October 5, 2019 - 7:30 AM Breakfast 8:00 AM Meeting Begins

Discussion Continues: Hot Issues in Chiropractic Regulation & Professional Governance

2. GENERAL REGULATORY ISSUES

1. CBD - what is your jurisdiction's position?
2. How will your jurisdiction handle complaints against physicians who are traveling to treat?
3. What is your jurisdiction doing to help mitigate the opioid crisis?
4. How does your jurisdiction handle multi-disciplinary clinics?
5. Open Forum

3. BOARD OPERATIONS

1. What is the scope of authority for your board members?
2. What is your jurisdiction's communication protocol between board members and board administrators?
3. Is your jurisdiction able to promulgate endorsement of guidelines or regulations?
4. Deregulation and board operations
5. Open Forum

FCLB COMMITTEE REPORTS

1. CHIROPRACTIC BOARD ADMINISTRATORS

- Update - Overview of meetings and reminder of scholarships available for 2020

2. RESOLUTIONS AND BYLAWS COMMITTEE

-

3. PACE COMMITTEE

- Update - Overview of committee meetings and future actions

REPORTS FROM OTHER ORGANIZATIONS

1. FEDERATION OF ASSOCIATIONS OF REGULATORY BOARDS (FARB)

- Update - Leadership Forum and Regulatory Law Seminar review

REGULATION IN THE NEWS

- Interesting articles - read these at your leisure

NEW BUSINESS

FUTURE FCLB EDUCATIONAL MEETINGS

- ANNUAL CONFERENCE:
Spring 2020 - April 22 - 26, 2020 - Denver, Colorado

- DISTRICT REGIONAL MEETINGS:
Fall 2020 -
Fall 2021 -

UPCOMING MEETINGS / AFFILIATED ASSOCIATIONS & ORGANIZATIONS

Refer to
last pages

- Alphabet Soup - our popular reference of other organizations and their scheduled meetings

Budget Report/Division Update

A. FY19 3rd Quarter

B. Regulatory Reform

A. FY19 3rd Quarter

Board of Chiropractic Examiners
Schedule of Revenues and Expenditures

	FY 12		FY 13		FY 14		FY 15		FY16		FY17		FY18		FY19 1st - 3rd Qtr	
Licensing Revenue	\$	34,529	\$	144,686	\$	24,503	\$	146,375	\$	22,505	\$	216,640	\$	36,390	\$	203,665
Allowable Third Party Reimbursement		-		-		537		557		-		1,373		505		-
Total Revenue		<u>34,529</u>		<u>144,686</u>		<u>25,040</u>		<u>146,932</u>		<u>22,505</u>		<u>218,013</u>		<u>36,895</u>		<u>203,665</u>
Direct Expenditures																
Personal Services		58,635		33,003		49,928		54,744		61,341		34,295		58,977		44,460
Travel		18,169		11,866		17,350		15,990		14,510		11,005		15,220		6,413
Contractual		4,526		3,747		13,399		12,687		22,674		15,062		13,173		2,900
Supplies		255		233		325		80		32		81		123		108
Equipment		-		-		-		-		-		-		-		-
Total Direct Expenditures		<u>81,585</u>		<u>48,849</u>		<u>81,002</u>		<u>83,501</u>		<u>98,557</u>		<u>60,443</u>		<u>87,493</u>		<u>53,881</u>
Indirect Expenditures*		17,238		21,128		23,695		31,212		25,792		22,693		33,707		25,280
Total Expenses		<u>98,823</u>		<u>69,977</u>		<u>104,697</u>		<u>114,713</u>		<u>124,349</u>		<u>83,136</u>		<u>121,200</u>		<u>79,161</u>
Annual Surplus (Deficit)		<u>(64,294)</u>		<u>74,709</u>		<u>(79,657)</u>		<u>32,219</u>		<u>(101,844)</u>		<u>134,877</u>		<u>(84,305)</u>		<u>124,504</u>
Beginning Cumulative Surplus (Deficit)		69,930		5,636		80,345		688		32,907		(68,937)		65,940		(18,365)
Ending Cumulative Surplus (Deficit)	\$	<u>5,636</u>	\$	<u>80,345</u>	\$	<u>688</u>	\$	<u>32,907</u>	\$	<u>(68,937)</u>	\$	<u>65,940</u>	\$	<u>(18,365)</u>	\$	<u>106,139</u>

** For the first three quarters, indirect costs are based on the prior fiscal year's total indirect amount on a percent of year completed basis.
The 4th quarter board reports reflect the current year's actual indirect expenses allocated to the boards.

Appropriation	(All)
AL Sub Unit	(All)
PL Task Code	CHI1

Sum of Expenditures		Object Type Code				Grand Total
Object Code	Object Name	1000	2000	3000	4000	
1011	Regular Compensation	22,868.60				22,868.60
1023	Leave Taken	3,531.30				3,531.30
1028	Alaska Supplemental Benefit	1,621.41				1,621.41
1029	Public Employee's Retirement System Defined Benefits	875.34				875.34
1030	Public Employee's Retirement System Defined Contribution	1,169.07				1,169.07
1034	Public Employee's Retirement System Defined Cont Health Reim	983.65				983.65
1035	Public Employee's Retirement Sys Defined Cont Retiree Medical	209.00				209.00
1037	Public Employee's Retirement Sys Defined Benefit Unfnd Liab	2,528.21				2,528.21
1039	Unemployment Insurance	61.57				61.57
1040	Group Health Insurance	8,744.32				8,744.32
1041	Basic Life and Travel	13.19				13.19
1042	Worker's Compensation Insurance	247.95				247.95
1047	Leave Cash In Employer Charge	605.69				605.69
1048	Terminal Leave Employer Charge	344.87				344.87
1053	Medicare Tax	369.99				369.99
1069	SU Business Leave Bank Contributions	2.81				2.81
1077	ASEA Legal Trust	45.86				45.86
1079	ASEA Injury Leave Usage	3.55				3.55
1080	SU Legal Trst	7.86				7.86
1970	Personal Services Transfer	225.73				225.73
2000	In-State Employee Airfare			268.65		268.65
2001	In-State Employee Surface Transportation			38.35		38.35
2002	In-State Employee Lodging			387.00		387.00
2003	In-State Employee Meals and Incidentals			180.00		180.00
2005	In-State Non-Employee Airfare			1,362.79		1,362.79
2006	In-State Non-Employee Surface Transportation			7.30		7.30
2007	In-State Non-Employee Lodging			703.00		703.00
2008	In-State Non-Employee Meals and Incidentals			570.00		570.00
2009	In-State Non-Employee Taxable Per Diem			77.00		77.00
2010	In-State Non-Employee Non-Taxable Reimbursement			770.38		770.38
2020	Out-State Non-Employee Meals and Incidentals			224.00		224.00
2022	Out-State Non-Employee Non-Taxable Reimbursement			1,824.58		1,824.58
3000	Training/Conferences				295.00	295.00
3002	Memberships				1,124.00	1,124.00
3035	Long Distance				98.35	98.35
3036	Local/Equipment Charges				303.86	303.86
3044	Courier				10.55	10.55
3045	Postage				7.62	7.62
3046	Advertising				175.10	175.10
3057	Structure, Infrastructure and Land - Rentals/Leases				42.06	42.06
3069	Commission Sales				57.00	57.00
3088	Inter-Agency Legal				786.55	786.55
4002	Business Supplies					108.41
Grand Total		44,459.97		6,413.05	2,900.09	108.41
						53,881.52

B. Regulatory Reform

Is it government's responsibility?

EVALUATING OCCUPATIONAL LICENSING REGULATION

Department: _____ Division _____

Rater: _____ Role: _____ Date: _____

Sector/activity/program under review: _____

This evaluation tool is based on the principles of **right-touch regulation**, which does not prescribe an outcome but leads the thoughtful regulator to explore what characteristics of oversight will properly limit or address any problems with the activity in question.

The principles state that regulation should aim to be:

Proportionate	Regulators should only intervene when necessary . Remedies should be appropriate to the risk posed, and costs identified and minimized
Consistent	Rules and standards must be aligned and implemented fairly
Targeted	Regulation should be focused on the problem, and minimize side effects
Transparent	Regulators should be open, and keep regulations simple and user friendly
Accountable	Regulators must be able to justify decisions, and be subject to public scrutiny
Agile	Regulation must look forward and be able to adapt to anticipate change

These principles provide the foundation for thinking on policy in all sectors of society. The concept of right-touch regulation emerges naturally from these six principles: bringing together commonly agreed-upon principles of good regulation with understanding of a sector and a quantified and qualified assessment of risk of harm. It is intended for those making decisions about the design of a regulatory framework.

What this exercise WILL do:

- prompt you to consider new ideas to solve problems
- encourage deep dives into alternatives to regulation
- provide justification and reinforcement of management decisions
- expose you to fresh perspectives
- provide a framework for further discussion

What this exercise WILL NOT do:

- tell you how to solve the problem
- make you feel comfortable
- force you to change

This workbook is intended to accompany an explanatory presentation with the same title. If you have received the workbook without access to the presentation or materials, please contact Sara Chambers at sara.chambers@alaska.gov.

Identify the Problems

We need to identify the problem before we can determine whether any policy is the right one. Often in policy development the need for regulatory change, as a solution, is identified before the problem is properly described and understood. This can lead to inefficiencies as resources are spent developing a regulatory solution when the problem may be better dealt with in other ways.



Examples from various professions:

- An improperly built structure could collapse.
- A person could overdose on prescribed medication.
- Wildlife could be wantonly wasted.

A. Describe the problems with this profession. List each problem on a separate line.

Quantify and Qualify the Risks

Once the problem has been identified, we need to understand it fully and quantify and qualify the risks associated with it. Quantifying risks means gauging the likelihood of harm occurring and its severity. Qualifying risks means looking closely at the nature of the harm, and understanding how and why it occurs. Without this two-fold evaluation, which must be based on evidence, it is impossible to judge whether regulatory action is necessary, what type of regulatory response might be needed, or whether it would be better to use other means of managing the issues. Regulation should only be chosen when it clearly provides the best solution. Simply identifying a real or potential risk is not sufficient.

B. Create a *hazard profile* for each problem

Intrinsic Hazards		Extrinsic Hazards	
<p>Complexity</p> <p>Potential for harm caused by essential features of practice; for example: prescribing, surgical and psychological interventions</p> <p>The complexity and inherent hazards of the activity</p>		<p>Scale</p> <ul style="list-style-type: none"> • Size of service user group • Size of practitioner or licensee group 	<p>This criterion helps to ascertain the dimensions of harm. If the number of practitioners or service users is small, then this may suggest an alternative method of assurance would be appropriate. Conversely, support workers might pose a small risk volume in terms of complexity but are high in numbers.</p>
<p>Context</p> <p>Environments with varying levels of oversight (hospitals, private practice, homes) may indicate greater or lesser opportunity for hazards—or the ability to proactively or reactively manage hazards.</p> <p>The environments in which the intervention takes place</p>		<p>Perception</p> <p>Need for:</p> <ul style="list-style-type: none"> • Public confidence in the occupation • Assurance for employers or other stakeholders 	<p>This criterion enables consideration of probable effects on public confidence in the occupation or needs of employers or other agencies using the services of the occupational group.</p> <p>Take care not to allow false perceptions influence your answers.</p>
<p>Agency</p> <p>Contact with service users who may have less ability to exercise control over their care and circumstances may indicate a greater opportunity for hazards.</p> <p>Service user vulnerability or autonomy</p>		<p>Impact of regulation</p> <ul style="list-style-type: none"> • Market • Workforce • Quality • Cost • Innovation 	<p>This criterion considers the impact of assurance mechanisms on the cost and supply of the occupation.</p> <p>Market impact might include market size, prices, trading conditions, labor supply, employer needs, cost to licensee.</p>
		<p>Unintended Consequences</p>	<p>Any identifiable unintended consequences of the proposed forms of assurance are considered so that any implications can be addressed.</p>
Problem	Intrinsic Hazards	Extrinsic Hazards	

	<ol style="list-style-type: none">1.2.3.	<ol style="list-style-type: none">1.2.3.
	<ol style="list-style-type: none">1.2.3.	<ol style="list-style-type: none">1.2.3.
	<ol style="list-style-type: none">1.2.3.	<ol style="list-style-type: none">1.2.3.
	<ol style="list-style-type: none">1.2.3.	<ol style="list-style-type: none">1.2.3.
	<ol style="list-style-type: none">1.2.3.	<ol style="list-style-type: none">1.2.3.

C. What is the possibility for the hazard(s) to lead to creation of a harm?

1-2	No harm to person or property is associated with this profession.
3-4	Minimal possibility of harm: Unlikely to occur because conditions for hazards are unusual or infrequent.
5-6	Moderate possibility of harm: Possible to occur because conditions for hazards may be present.
7-8	Significant possibility of harm: Likely to occur because hazards are frequently present.
9-10	Significant possibility of harm: Certain to occur because hazards are always present.

Hazard	Possibility Rating	Explanation of the possibility of harm: What is the likelihood for something to go wrong? What conditions must be triggered?
1.		
2.		
3.		
4.		

5.		
6.		
7.		
8.		
9.		
10.		

D. What is the significance of the harm?

1-2	No harm to person or property is associated with this profession.		
3-4	Minimal harm to property: Items of low dollar value or low quantity could be damaged or destroyed.		
5-6	Moderate harm to property Multiple structural systems or components or a single system/component of moderate value or investment could be damaged or destroyed.	OR	Minimal harm to life, health, or safety <ul style="list-style-type: none"> Physical/emotional/mental harm to a person could be limited and minor, no treatment required Small number of people possibly affected
7-8	Significant harm to property Total loss of significant structure or investment	OR	Moderate harm to life, health, or safety to a person <ul style="list-style-type: none"> Temporary, treatable physical/emotional/mental injury could occur Larger number of people possibly affected
9-10	Significant harm to life, health, or safety: Permanent physical/emotional/mental injury or death could occur. Wide audience of potential victims.		

Hazard	Significance Rating	Explanation of the significance of the harm
1.		
2.		
3.		
4.		
5.		
6.		
7.		

8.		
9.		
10.		

Total your ratings regarding *harm*:

Hazard	Harm Possibility Rating	Harm Significance Rating	TOTAL
1.			
2.			
3.			
4.			
5.			
6.			
7.			
8.			
9.			
10.			

Write down any observations regarding your rating totals:

Get as Close to the Problem as Possible

Once we have identified the problem and fully understood the risks, we must look for a solution that is as close to the problem as possible. Regulation is distant and removed from the point of care and problems are best solved near to where they occur. Targeted regulation needs to understand both the range of hazards and the factors that increase or decrease the risk of them resulting in harm. This means understanding the context in which the problem arises and the different tools that may be available to tackle the issues. We may need to work with organizations and individuals that are closer to the problem to bring about change. Some problems may be best tackled by regulatory measures applying to a whole profession, while others may require more targeted regulation or a non-regulatory approach.

Focus on the Outcome

Adopting a “right-touch” approach means staying focused on the outcome that we are looking to achieve, rather than being concerned about process, or prioritizing interests other than public safety. The outcome should be both tangible and measurable, and it must be directed towards the reduction of harm. Staying focused on the outcome helps identify the most appropriate solution. Having a clearly defined and measurable outcome also makes it easier to measure effectiveness.

Use Regulation Only When Necessary

Once the problem has been considered, we may begin to examine whether a regulatory change is the right proposal, evaluating this against the options of doing nothing and the risks and benefits of intervening. Making changes to regulation, especially statutory regulation, can be a slow process, so regulation should only be used as a solution when other actions are unable to deliver the desired results. A right-touch regulatory solution must keep to the six principles of good regulation and should build on existing approaches where possible. This will often involve looking for solutions other than regulation and may require regulators to work with other organizations and people to bring about change.

E. How can the hazards be managed without state regulation? Total harm ratings under 14 *may best be managed through non-governmental strategies*. If they can't, explain why.

0	Market competition	Yelp, Angie's List, Facebook, word of mouth
0	Quality service self-disclosure	Written specific warranty or money-back guarantee
0	Voluntary third-party certification	Better Business Bureau, national accreditation
1	Partnership with stakeholders	Employer/facility oversight, such as training, qualifications, codes of conduct, supervision, and evaluation
1	Voluntary bonding/insurance	Proof of insurance or bond is available
2	Local/municipal ordinance	Regulated or managed at the local level
Assign numbers	Other ideas:	

Hazard	Non-State Management Rating	Explanation of your suggested management <i>solution</i> in section E
1.		
2.		
3.		
4.		
5.		
6.		
7.		
8.		
9.		
10.		

For regulation to work, it must be clear to those who are regulated, clear to the public, clear to employers, and clear to the regulator. If each cannot explain to the other what the purpose of a regulation is and why it will work, it is not simple. This is as true in health and social care, with such a wide variety of agencies and individuals involved, as it is in other sectors. Avoiding complexity will lead to a greater impact. A regulatory response should be as simple as it can be while achieving the desired outcome.

Check for Unintended Consequences

Assessing the probable impact of a particular solution is an essential step to help us avoid unintended consequences. In a system as interconnected and complex as health and social care, for example, it is inevitable that proposing a change in policy and practice will have consequences for other parts of the system. If regulations are not workable, people will work around them and in doing so create new risks. Regulating to remove one risk without a proper analysis of the consequences may create new risks or merely move the risk to a different place.

F. How can the risk of hazards be managed through government regulation? List the potential unintended consequences or new risks created by government intervention.

Do these consequences outweigh the benefits of regulation? Why is state intervention the only solution? Validate your answer; you may find that you change your mind.

2	Legal recourse/consumer protection acts	Legal grounds for court action, may enjoin the state
3	Mandatory bonding/insurance	Law requires proof of insurance or bonding
5	State Inspection	Periodic safety or compliance reviews by state agency
6	State Registration	Must be on an approved state list; minimal entry criteria required
8	State Certification	Must meet state criteria, no discipline is applicable
10	State Licensure	Must meet state criteria, may be disciplined for violations
Hazard	State Management Rating	Explanation of your suggested management <i>solution</i> in section F
1.		
2.		

3.		
4.		
5.		
6.		
7.		
8.		
9.		
10.		

G. Rate the level of restriction on market participants or restriction of access to services created by the management of each hazard.

1-2	Not restrictive: No solution is necessary.
3-4	Minimally restrictive: A voluntary market solution like self-certification or bonding was selected. Most people can easily meet these criteria, and the service is widely available.

5-6	Moderately restrictive: A low-impact regulatory solution like registration, bonding, or insurance was selected. Most people seeking to enter the profession can meet these criteria, and the service is available in most markets.
7-8	Very restrictive: National certification/examination or another universal industry standard was selected. Many people seeking to enter the profession can meet these criteria, and the service is usually available in medium-to-large markets.
9-10	Extremely restrictive: Full licensure with criteria like restricted education, supervision, and examination was selected. Some people seeking to enter the profession can meet these criteria, and the service is usually only available in large markets.

Hazard	Restrictiveness Rating	Explanation of the restrictions created by your suggested <i>management</i> solutions in sections E and F.
1.		
2.		
3.		
4.		

5.		
6.		
7.		
8.		
9.		
10.		

Review and Respond to Change

We should build flexibility into regulatory strategy to enable regulation to respond to change. All sectors evolve over time, as a result of a range of different influences. Regulators must not be left managing the crises of the past, while ignoring or being unable to react to new evidence that calls for change. This is what we mean by agility. A program of regular reviews, evaluation, and sunset audits can all help here.

H. Rate the level of flexibility of the management strategy as determined above.

1	Extremely flexible: No solution is necessary.
3	Moderately flexible: Solution is managed by the participant or employer.
7	Minimally flexible: Management of the problem requires state regulation change.
10	Not flexible: Management of the problem requires state statute change.

Hazard	Flexibility Rating	Provide method and frequency of evaluation to determine whether the solution is relevant and effective and—if not—how changes can be made
1.		
2.		
3.		
4.		
5.		
6.		

7.		
8.		
9.		
10.		

I. Total all your *management* ratings:

Below your ratings, write down your observations. Are you surprised that a particular hazard has a higher number—and therefore a more regulatory management response—than others? Reconsider any changes. If you are doing this exercise in a small group, discuss your ratings and answers with colleagues.

Hazard	Non-State Management Rating	State Management Rating	Restrictiveness Rating	Flexibility Rating	TOTAL
1.					

--	--	--	--	--	--

2.					
----	--	--	--	--	--

--	--	--	--	--	--

3.					
----	--	--	--	--	--

--	--	--	--	--	--

4.					
----	--	--	--	--	--

--	--	--	--	--	--

5.					
----	--	--	--	--	--

--	--	--	--	--	--

6.					
----	--	--	--	--	--

--	--	--	--	--	--

7.					
----	--	--	--	--	--

8.					
9.					
10.					

J. Determining next steps

What must happen to adjust the climate of regulation of the profession you are reviewing? Review the documentation you have created in the previous exercises.

Hazard	Changes needed to implement new management strategies	Current inhibitors to improvement in management of relevant hazards
--------	---	---

1.		
2.		
3.		
4.		
5.		
6.		

7.		
8.		
9.		
10.		

Deadlines and due-outs to accomplish next steps:

Next Step	Person Responsible	Target Date of Draft	Target Date Final

This workbook was developed by the Alaska Department of Commerce, Community, and Economic Development; Division of Corporations, Business and Professional Licensing (www.commerce.alaska.gov/web/cbpl) in 2019.

Primary credit for the narrative and concepts used in this tool are to the Professional Standards Authority (www.professionalstandards.org.uk). The concept of right-touch regulation emerges from the application of the principles of good regulation identified by the [Better Regulation Executive](#) in 2000, to which the [Professional Standards Authority](#) added agility as a sixth principle. All rights are reserved by the PSA.

Questions about this workbook can be directed to Sara Chambers, Director, Alaska Division of Corporations, Business and Professional Licensing, at sara.chambers@alaska.gov.

IS IT GOVERNMENT'S RESPONSIBILITY?

RETHINKING REGULATION, RISK, AND
RESPONSIBILITY
IN STATE GOVERNMENT

The best government is that which governs least.

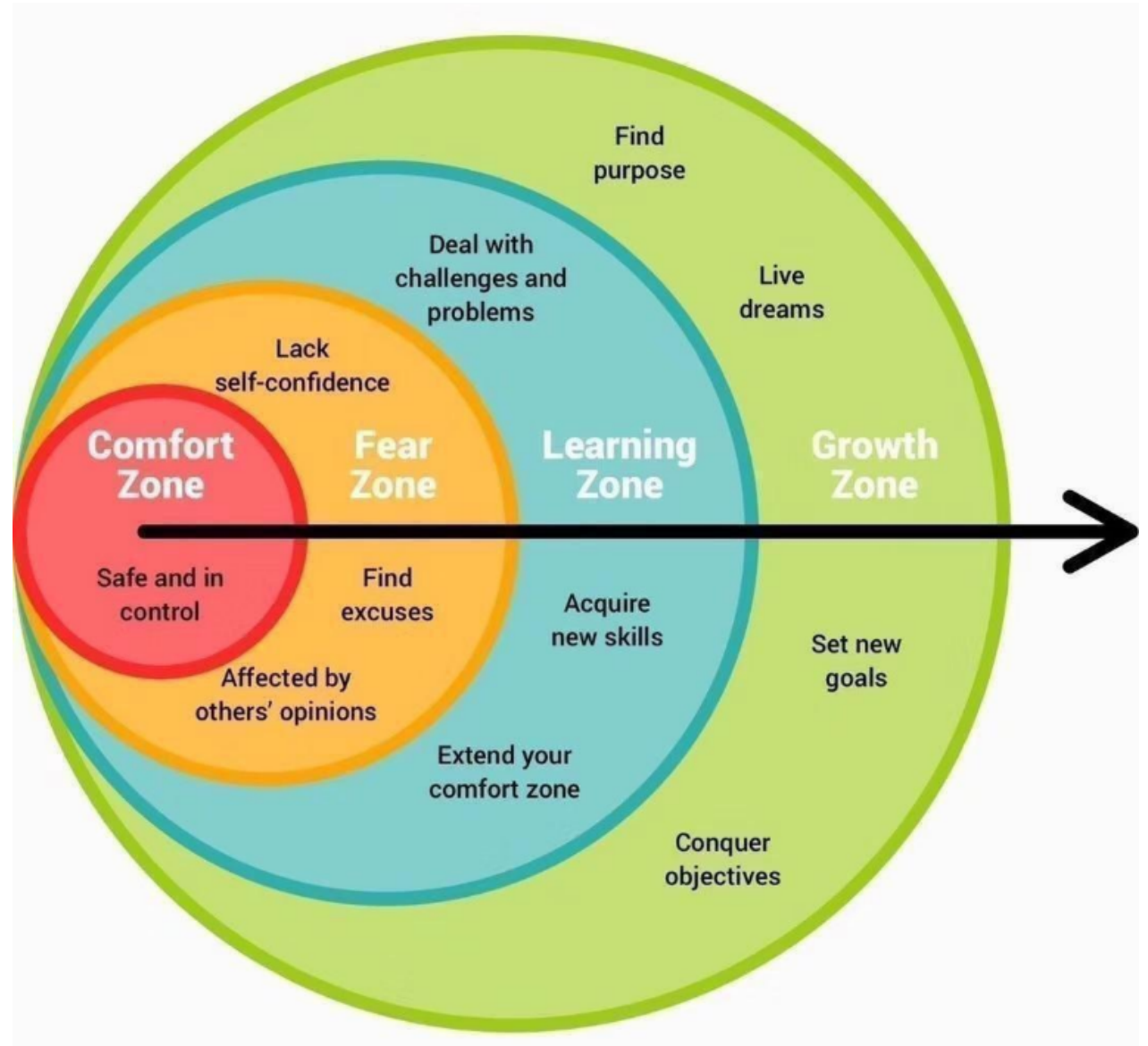
John L. O'Sullivan, The United States Magazine and Democratic Review, Vol. 1 (1837)

LEARNING OBJECTIVES

- Rethink options to manage risk
- Break out of comfort zone
- Hear different perspectives
- Enable you to:
 - Evaluate current and proposed management strategies
 - Propose statute, regulation, or administrative changes to the existing regulatory landscape

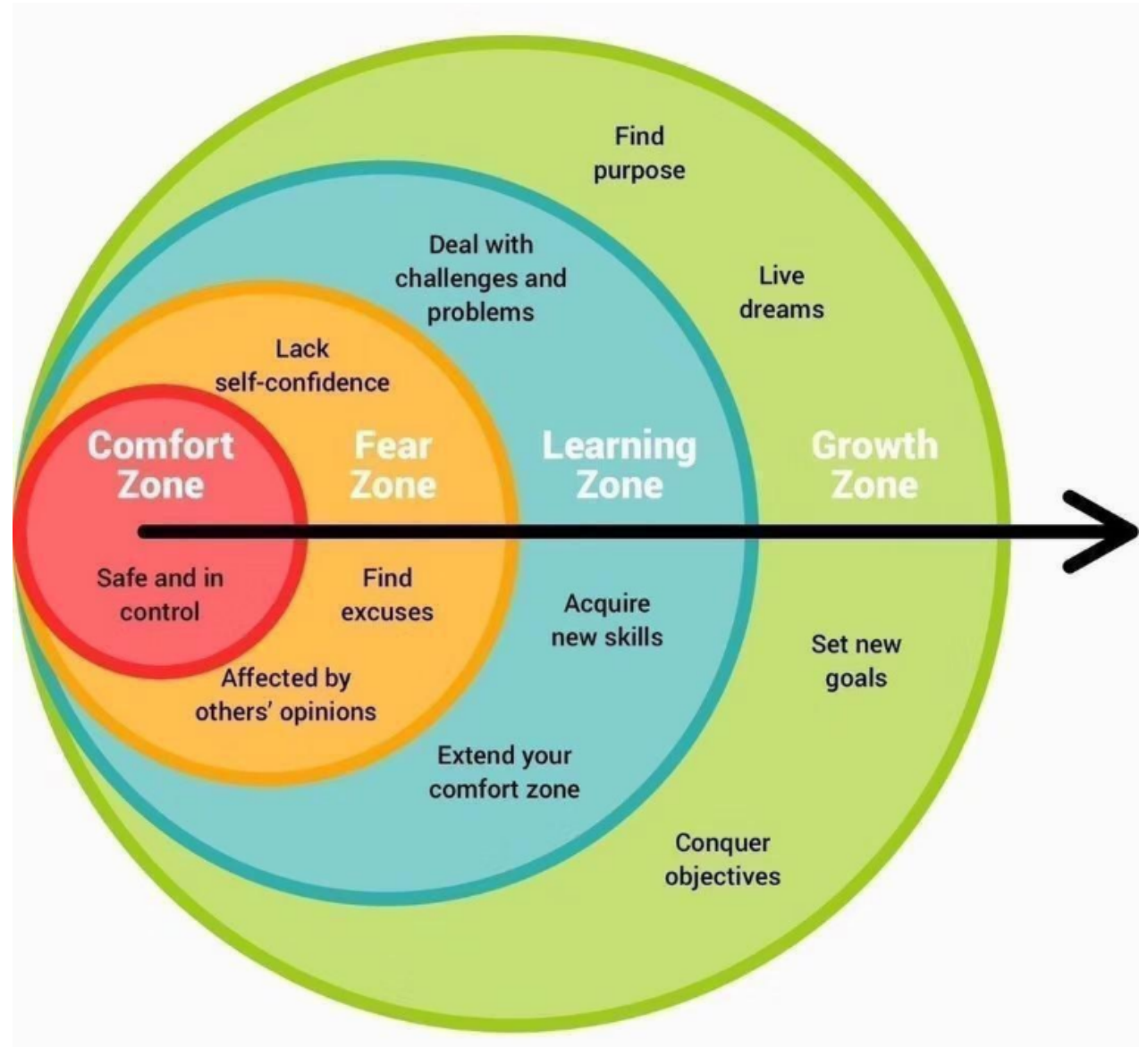
THIS EXERCISE WILL:

- prompt you to consider new ideas to solve problems
- expose you to fresh perspectives
- encourage deep dives into alternatives to regulation
- provide a framework for further discussion
- provide justification and reinforcement of management decisions



THIS EXERCISE WILL NOT:

- tell you how to solve the problem
- make you feel comfortable
- force you to change



WHAT IS THE ROLE OF GOVERNMENT?

- Form a more perfect union
- Establish justice
- Insure domestic tranquility
- Provide for the common defense
- Promote the general welfare
- Secure the blessings of liberty
- Secure and transmit to succeeding generations our heritage of political, civil, and religious liberty within the union of states

WHAT IS THE ROLE OF GOVERNMENT?

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**Preamble to the Constitution
of the United States of
America**

**Preamble to the Alaska
Constitution**

SO, WHY DO WE DO WHAT WE DO?

- Limit risk before it happens
- Provide remedy & redress of wrongs
- Gather, disseminate, and analyze data
- Ensure public process
- Create a revenue stream to pay for services
- Ensure transparency
- Provide public services
- Create stability and maintain order
- Set forth common boundaries, rights, and systems for governance
- Other reasons?

IS IT *REALLY* GOVERNMENT'S RESPONSIBILITY?

Is it a **proper activity** of government?

Does it **duplicate work** performed in the private sector?

Does it **require a monopoly**, or can multiple entities do it?

Is it **mandated by the federal government**?

For the purpose of this exercise, include any activity performed by your agency.

IS IT *REALLY* GOVERNMENT'S RESPONSIBILITY?

Or, do we ask government to perform our activity because:

We have always done it that way?

We can't think of another way to do it?

We feel ownership over the activity?

We don't have the resources to do explore options?

We don't have the resources to do manage the change?

Statutory change is too volatile and cumbersome?

Stakeholders want us to do it / no alternatives?

The public is complacent?

Other legitimate reasons, weak excuses, unexposed biases?

ARE WE DOING IT WELL?

Is the way we perform our activity:

The most { **effective**
cost-efficient
time-efficient
customer-friendly
inclusive } way to do it?

RIGHT-TOUCH REGULATION

**A RISK-MANAGEMENT APPROACH TO EVALUATING
REGULATORY ACTIVITY**

Time to use your workbook!

SECTION A: IDENTIFY THE PROBLEMS

The following bad things could happen when this activity is performed:

- 1.
- 2.
- 3.
- 4.
- 5.

SECTION B: CREATE A *HAZARD PROFILE*

What are the inherent (intrinsic) hazards present when the problem occurs?

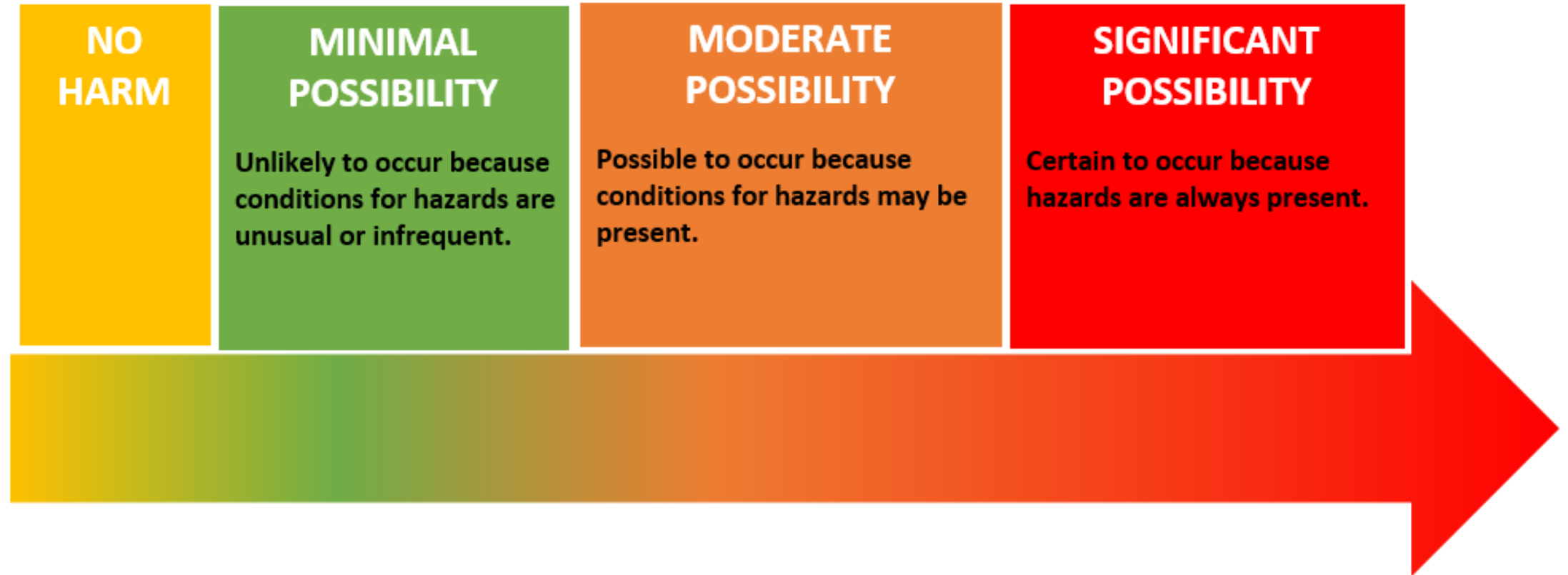
- Complexity
- Context
- Agency

What are the external (extrinsic) hazards present when the problem occurs?

- Scale
- Perception
- Impact of regulation
- Unintended consequences

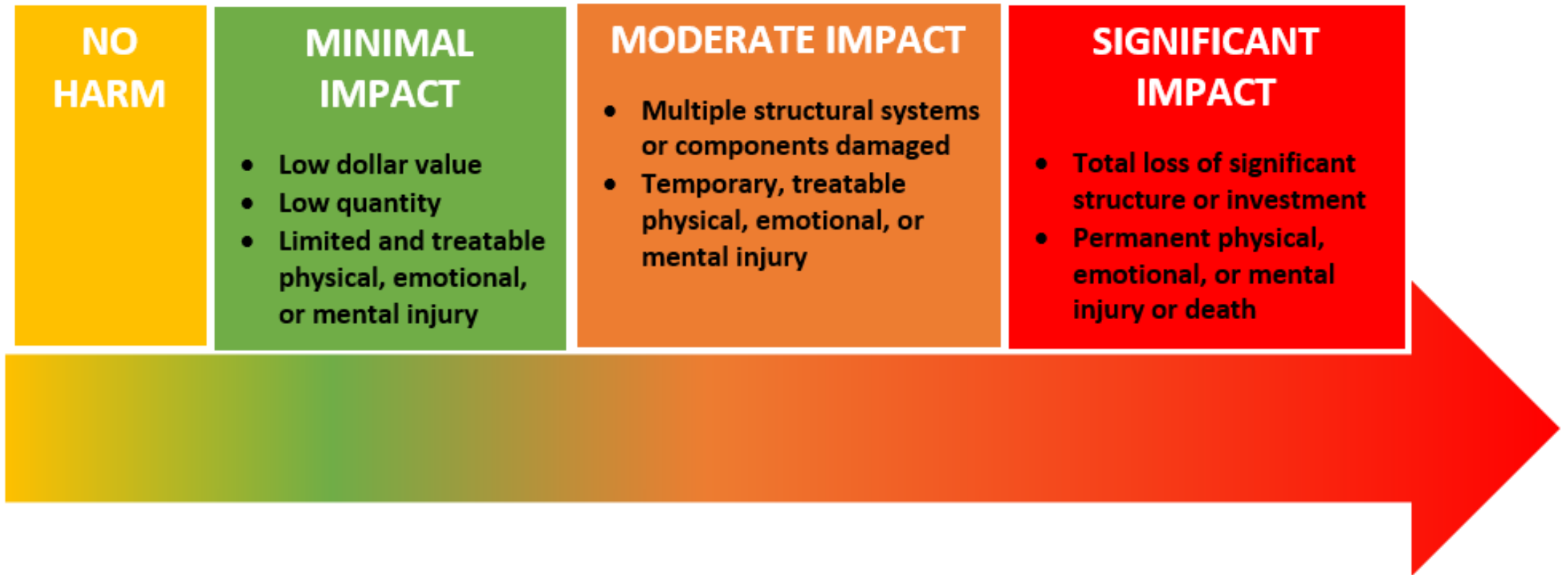
SECTION C: HARM POSSIBILITY

What is the *possibility* for the hazard to lead to creation of a harm?



SECTION D: HARM SIGNIFICANCE

If a harm occurs, what is its significance?



SECTION D: HARM RATINGS

Harm Possibility + Harm Significance = Total Harm Rating

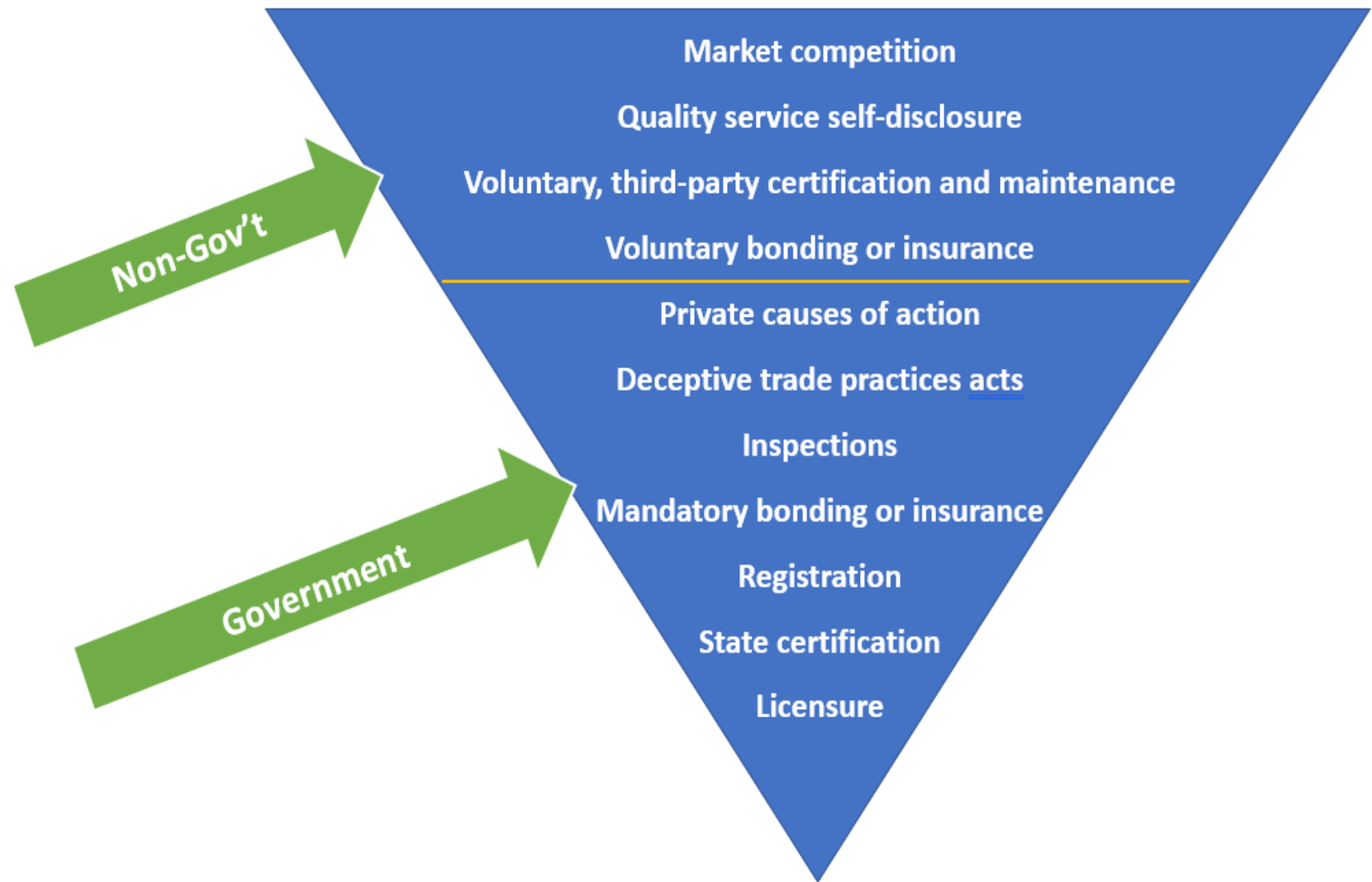
There is no scientific “high” or “low” harm rating for any particular regulated program or activity.

Compare your score with others:

- Did you have similar ratings?
- If not, what data is missing?
- What opinions or biases exist?
- Note any observations and make appropriate changes.

SECTIONS E & F: HAZARD MANAGEMENT

Examples from the world of professional licensure



SECTIONS E & F: HAZARD MANAGEMENT

The good, the bad, and the ugly: What is an acceptable level of risk? Oversight? Expense? Flexibility?

MARKET

- Yelp, Angie's List, Facebook
- Written warranty or money-back guarantee
- Better Business Bureau, Good Housekeeping Seal, national accreditation
- Employer/facility oversight
- Voluntary proof of insurance or bond

PALLIATIVE REGULATION

- Law requires proof of insurance or bonding
- Legal grounds for court action, may enjoin the state
- May be disciplined for violations

PREVENTATIVE REGULATION

- Must appear on an approved state list
- Periodic safety or compliance reviews by state agency
- Must meet state criteria



SECTIONS G & H: HAZARD MANAGEMENT

The good, the bad, and the ugly: What is an acceptable level of risk? Oversight? Expense? Flexibility?

Non-governmental regulation	Governmental regulation
Many options available	Fewer options available
Assumes an element of risk	Presumed safe
Less predictable, more agile	Predictable, slow to change
Less transparent, public process is optional	More transparent, public process is mandatory
Based on policy and practice	Based on statute and regulation
Accountable to the market/consumer	Accountable to state processes and agencies
Recourse through litigation, social media campaigns	Recourse through Administrative Procedures Act
May be unclear who is controlling quality, safety	Identity of the regulator is usually obvious
Cost depends on situation, funding can be fluid	Cost is set in state budget, statute, or regulation

SECTION I: MANAGEMENT RATINGS

Type of Management + Restrictiveness +
Flexibility

= Total Management Rating

There is no scientific “high” or “low” management rating for any particular regulated program or activity.

Compare your score with others:

- Below your ratings, write down your observations and opinions.
- Are you surprised that a particular hazard has a higher number—and therefore a more regulatory management response—than others?
- Reconsider any changes.

SECTION J: NEXT STEPS

What are the next steps to adjust the climate of regulation of the profession you are reviewing?

Compare your score with others:

- Review the documentation you have created in the previous exercises.
- What changes are needed to implement new management strategies?
- What are current inhibitors to improvement in management of relevant hazards?
- Reconsider any changes.
- Create a written, time-bound plan to accomplish next steps

THANK YOU!

THE REGULATORY REVIEW TEAM

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STATE OF ALASKA 2019

State Holidays

Date	Holiday
01/01	New Year's Day
01/21	MLK Jr.'s Birthday
02/18	Presidents' Day
03/25	Seward's Day
05/27	Memorial Day
07/04	Independence Day
09/02	Labor Day
10/18	Alaska Day
11/11	Veterans' Day
11/28	Thanksgiving Day
12/25	Christmas Day

Biweekly employees please refer to appropriate collective bargaining unit agreement for more information regarding holidays.

 Holiday
 Payday



State calendar maintained by the
Division of Finance,
Department of Administration
<http://doa.alaska.gov/calendars.html>
Revised 08/28/2018

STATE CALENDAR

JANUARY

S	M	T	W	R	F	S
		1	2	3	4	5
6	7	8	9	10	11	12
13	14	15	16	17	18	19
20	21	22	23	24	25	26
27	28	29	30	31		

FEBRUARY

S	M	T	W	R	F	S
					1	2
3	4	5	6	7	8	9
10	11	12	13	14	15	16
17	18	19	20	21	22	23
24	25	26	27	28		

MARCH

S	M	T	W	R	F	S
					1	2
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24	25	26	27	28	29	30
31						

APRIL

S	M	T	W	R	F	S
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MAY

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26	27	28	29	30	31	

JUNE

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23	24	25	26	27	28	29
30						

JULY

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AUGUST

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25	26	27	28	29	30	31

SEPTEMBER

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15	16	17	18	19	20	21
22	23	24	25	26	27	28
29	30					

OCTOBER

S	M	T	W	R	F	S
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20	21	22	23	24	25	26
27	28	29	30	31		

NOVEMBER

S	M	T	W	R	F	S
					1	2
3	4	5	6	7	8	9
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17	18	19	20	21	22	23
24	25	26	27	28	29	30

DECEMBER

S	M	T	W	R	F	S
1	2	3	4	5	6	7
8	9	10	11	12	13	14
15	16	17	18	19	20	21
22	23	24	25	26	27	28
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