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March 20, 2026

Honorable Aisha Wahab, Chair and Members,
Senate Business, Professions, and Economic Development Committee
State Capitol, Room 2053
Sacramento, CA 95814

Honorable Marc Berman, Chair, and Members
Assembly Business and Professions Committee
Legislative Office Building, Room 379
Sacramento, CA 95814

Re: Sunset Review, Board of Chiropractic Examiners

Dear Senator Wahab, Assemblymember Berman, and Members of the Committees:

The Consumer Protection Policy Center (CPPC) respectfully submits the following testimony relevant to the Committees' sunset review of the Board of Chiropractic Examiners (BCE). As set forth in detail below, we are concerned that **BCE's majority-licensee composition risks creating the impression that the chiropractic profession wields significant control over the Board and its decision-making.** BCE's composition not only presents antitrust issues, but also suggests that the public lacks adequate oversight over the Board's regulatory actions to the detriment of public protection, its paramount priority.

Accordingly, CPPC proposes retention of the Board but makes the following major recommendations (which are explained more fully below):

1) **Establish a Public Member Majority on the Board:** Add four public members to the composition of the Board—bringing the total number of board members to eleven—to ensure public protection remains its highest priority.
2) **Amend BPC Section 480, Subdivision (a)(2) to Include Chiropractic Doctors**: Chiropractic doctors should be included in BPC section 480, subdivision (a)(2), which allows denial of license to certain medical professionals based upon formal discipline for conduct involving sexual abuse or misconduct.
3) **Scrutinize BCE's Inability to Meet Performance Targets for its Enforcement Program**: Over the previous sunset cycle, BCE's Enforcement Program has been unable to meet its performance targets, consistently more than

doubling its target timeframes. Scrutinizing whether the Board conducts investigations and disciplinary actions in a timely manner is critical to protecting the public and ensuring public faith in the Board.

About the Consumer Protection Policy Center

CPPC is a nonprofit, nonpartisan academic and advocacy center based at the University of San Diego School of Law. Since 1980, CPPC has studied the state's regulation of business, professions, and trades, and monitors the activities of state occupational licensing agencies and regulatory boards within the DCA. CPPC publishes the *California Regulatory Law Reporter*, which chronicles the activities and decisions of California regulatory agencies. CPPC has participated in the sunset review of DCA boards and commissions since the onset of sunset review in 1996.

U.S. Supreme Court Precedent Demands Reform at BCE

CPPC has long argued that regulatory boards composed of a majority of licensee members — who can then control their own regulation and stand to benefit from anticompetitive decisions the board makes — violate federal antitrust law. In 2015, the U.S. Supreme Court validated CPPC's position in *North Carolina State Board of Dental Examiners v. FTC*, 574 U.S. 494 (2015) ("*North Carolina*"). In that case, the Court recognized the inherent conflict of interest that exists when a state licensing board is controlled by members of the profession regulated by that board, and unequivocally held that state regulatory boards are not immune from federal antitrust scrutiny unless they are controlled by public members (and not "active market participant" licensees) **or** the state has created a mechanism to actively supervise the acts and decisions of these boards to ensure they benefit the public, and not merely the professions themselves. Since the issuance of the *North Carolina* decision, CPPC has participated in public hearings, submitted numerous letters explaining the decision, and supported legislation that would properly implement the decision.[1]

BCE's 5/2 licensee majority composition not only presents fertile ground for anticompetitive conduct, but also places BCE in an especially vulnerable position with respect to antitrust liability in light of the *North Carolina* decision.

Accordingly, CPPC strongly recommends that the Legislature take the following action to strengthen public protection and decrease the influence of the profession over Board decision-making:

[1] *See*, *e.g.*, SB 1195 (Hill) in 2016, which was vehemently opposed by the California Nurses Association. CPPC also respectfully disagrees with those who argue that DCA boards are "actively supervised" by the state. Board members make final disciplinary and other policy decisions which are not subject to review or ratification by the Department or any other state agency. Although the DCA Director is authorized to review and reject BCE rulemaking under the Administrative Procedure Act (APA), the Board may — by a unanimous vote — override the Director's disapproval of regulations. *See* Bus. & Prof. Code § 313.1.

1) **Submit a ballot measure to add four public members to the Board**: BCE was created by the Chiropractic Initiative Act of California, which was approved by voters in 1922 and established the Board's composition. In 1976, an amendment to the Act was approved by voters which added two public member seats to the Board, which it previously had none. The Legislature should submit a ballot initiative to amend the Chiropractic Initiative Act again to add four public members to decrease the risk of antitrust liability.

BPC Section 480, Subdivision (a)(2) Should Be Amended to Include Chiropractic Doctors

In Section 10, Issue #3 of the Sunset Review Report, BCE is requesting an amendment to BPC section 480, subdivision (a)(2) to include "chiropractors" in the seven-year limitation to deny licensure for formal discipline if the discipline was for conduct constituting sexual abuse, misconduct, or exploitation.[2] This would align chiropractors with other healthcare professionals like physicians and surgeons, who are currently subject to the code section. As the Board stated, this amendment would serve BCE's mandate of public protection because chiropractic is a hands-on profession that involves close physical contact—often near sensitive areas. Given the close physical proximity and direct contact between chiropractors and patients, any licensee with a history of sexual misconduct could potentially risk public safety, and BCE should be able to take this history into account, regardless of when sexual misconduct occurred, in determining whether to deny licensure. Therefore, extending the exception would help ensure that applicants with a history of sexual-related discipline can be more fully evaluated for their current fitness to practice. For these reasons, CPPC supports the proposed amendment.

BCE's Enforcement Program Should Be Scrutinized

Within this previous sunset cycle, BCE has routinely failed to meet its performance targets for completing investigations and imposing formal discipline. The Board's stated goal is to complete investigations within 120 days from receipt of a complaint and to impose formal disciplinary action within 540 days from receipt. However, the Board has far exceeded these timeframes, often more than doubling them. Since FY 2021-2022, BCE has taken an average of 381 days to close investigations from receipt of a complaint and has taken an average of 1106 days from receipt to impose formal discipline.[3] This far exceeds DCA's overall goal of completing consumer complaints within 12-18 months. The Board's failure to meet performance targets was flagged in the previous sunset report and enforcement timelines have only lengthened since then, since from FY 2018-2019 to FY 2020-2021, the Board took an average of 264 days to complete investigations from receipt of complaint and an average of 948 days to impose formal discipline upon receipt.[4]

Ensuring that the Board meets its performance targets is important for protecting the public. The extended time it takes to conduct investigations and impose discipline

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[2] Board of Chiropractic Examiners Sunset Review Report 2026 p. 77.

[3] BCE Sunset Report p. 41-42.

[4] Board of Chiropractic Examiners Sunset Review Report 2021 p. 43-44.

increases consumer risk by dangerous licensees. Additionally, timely enforcement strengthens public faith in the Board. Consumers may be discouraged from filing meritorious complaints against unsafe licensees if they believe the Board will fail to timely process and investigate their complaints. Scrutinizing the Board's failure to meet its performance targets would reassure the public that BCE conducts enforcement in a prompt and predictable timeframe. Accordingly, BCE's enforcement program warrants heightened legislative scrutiny to ensure the Board has the capacity to achieve its performance standards.

CPPC appreciates your consideration of this testimony and these recommendations.

Sincerely,

Marcus Friedman

Marcus Friedman
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Consumer Protection Policy Center
University of San Diego School of Law

cc Kristin Walker, Executive Officer, Board of Chiropractic Examiners
Christine Lally, Acting Director, Department of Consumer Affairs
Hon. Monique Limón, Senate President pro Tempore
Hon. Robert Rivas, Speaker of the Assembly