State of Arizona
Board of Chiropractic Examiners

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Chiropractic Board Funding, Budget Sweeps and Fees:

In 2007 and 2008, the State legislature and the Office of the Governor swept funds from the Board of Chiropractic Examiners Fund to be transferred to the State of Arizona General Fund. The budget sweep of $176,400 accounts for about 90% of the Chiropractic reserve fund. There have been many questions as to what this means, and what consequences may have occurred. This fact sheet has been produced to provide interested parties with the background, facts and possible consequences.

<u>Consequences:</u>

The greatest impact of the fund sweeps will be on the chiropractic profession. The fund sweeps have diminished the agency budget; however, the larger impact of the fund sweeps deleted the Board of Chiropractic Examiners Fund, and with it, the operating cash flow for upcoming years that is necessary for the profession to retain self regulation. Because the Board no longer has the set-aside or reserve funds described below to provide for an annual cash flow, the Board will not have sufficient funds to operate for the first quarter of the year beginning in July of 2009. If the Board can demonstrate that the reserve can be replaced to meet minimum cash flow in the future, the self-regulation of chiropractic can be preserved. If the Board cannot demonstrate that the profession is willing to provide sufficient funding for year round operation, it is probable that fees collected from chiropractors and applicants will be put into the general fund and regulation of chiropractic will fall under an existing State agency. As an example, legislation was introduced in 2008 intended to integrate regulation of nursing home care administrators into the Department of Health Services and regulation of veterinarians into the Department of Agriculture. Although that legislation was not successful last year, the more substantial funding issues in 2009 may influence whether or not professions retain independent regulation based on its ability to fund self-regulation

The reduction in budget noted above will have additional consequences. While the Board will absorb a budget cut of approximately $60,000, the Board's work load will not be reduced. Although the Board is still in the process of making decisions to minimize any impact on efficiency and effectiveness posed by budget cuts, it has already begun to cut some expenses. Some of those cuts include the expense of holding hearings through a third party rather than by the Board members, and access to technical expertise from chiropractic professionals who are not Board members for investigations.

Background:
<u>Self-Regulating Boards (aka 90/10 Boards)</u>

It is frequently in the best interest of a profession to be regulated by the State. Regulation provides the profession with credibility and stature that enhances public trust by ensuring that licensing and practice standards are in place and enforced to protect the health, welfare and safety of the public. In turn, this builds public trust, encourages the public to access the services of the profession and opens the door to financial benefits for the professional through such means as recognition by the legislature and third party payors.

However, in order to be regulated, the burden of the cost of regulation is placed on the regulated profession. The cost of regulation of a profession is covered through **fees** paid by applicants and members of the profession to a State regulatory board. To put it simply, if a profession wants the benefits of being regulated by the State, the profession must pay all costs for that honor, rather then the general public. The Chiropractic Board does not receive any tax dollars.

<u>Cash Flow, Funds and Budget</u>

General Fund vs. Board of Chiropractic Examiners Fund: The fees that are collected for the regulation of chiropractic go into two funds – the state General Fund and the Board of Chiropractic Examiners Fund. The General Fund is used to support many State agencies, and its uses are solely at the discretion of the legislature. However, self-regulating boards such as the Chiropractic Board <u>do not receive</u> any money from the General Fund.

Instead, the Chiropractic Board has the *Board of Chiropractic Examiners Fund (BCEF)*, which is built using the fees imposed on the profession, and is intended to be used solely for the expenses associated with regulation of the chiropractic profession. It is from this fund that the Board receives operating monies, and though the Legislature still determines <u>how much</u> money the Board is given each year from this fund, there is no discretion as to <u>where</u> the funds will go. However, it should be noted that only 90% of those fees collected go into the Board of Chiropractic Examiners Fund. The remaining 10% of the collected fees go into the state General Fund – hence the term "90/10 Board".

<u>Budget:</u> The Board of Chiropractic Examiners Fund money is not automatically available to the Chiropractic Board. Each budget cycle, the Board submits a budget request to the legislature. In that request, the Board must be able to demonstrate that the amount of funds requested from the Fund are no more than those required to carry out the licensing, enforcement and public service functions of enforcing the laws that govern the chiropractic profession. This "appropriation" from the Fund is used for the operation of the Board. Generally not all the money in the Fund is appropriated each year, leaving a "reserve" to cover the times when the cash from the collection of fees has not yet occurred. **These moneys are not "extra". They are already obligated as described below.**

***<u>Cash Flow</u>*:** The Board collects approximately 85% to 86% of its fees during the license renewal period of November through January of each year. However, the state fiscal year (which determines when the Board receives its appropriated monies), and the Board's licensing renewal time (which brings cash into the Fund for later distribution to the Board) do not match up. The State fiscal year runs from July through June of each year, creating one quarter every year – July through November – where the Board has not yet collected the fees, and does not have the cash on hand to operate. This requires the Board to "borrow" from the money remaining in the Fund – which the Board pays back into the fund when the fees are collected. This keeps the fund stable year round. Regardless of the date that the Board collects renewal fees, it must have a stable fund year round since it is funded solely by fees, and the collection of fees is always unpredictable.

<u>Think of the issue like this</u>: You have diligently prepared a personal monthly budget based on your expenses and your income. You live solely within your means, not spending more than you make. However, sometimes the first of the month doesn't directly coincide with your paycheck schedule. This month you don't get paid until Friday but your rent is due on Tuesday. You are $50 short, so you borrow from your food budget to pay the rent on Tuesday. The $50 is sitting unspent in the food budget because you hadn't gone to the grocery store yet, so it was not "extra" money – it was just not spent yet, so when you get paid on Friday, you put the $50 back into the food budget and go shopping.

Current Issues:

<u>Budget</u> :
The Board is not always in control of expenses or the budget. Between 2003 and the present, mandates from the legislature, the Office of the Governor and increased costs for supporting services such as postage, rent and contracts has increased Board expenses by approximately $100,000, which is $60,000 over the revenues that are currently collected from fees. Because the Board was able to draw money from the fund, it was able to meet mandated expenses without increasing fees. However, this has been shrinking the fund, and due to recent sweeps of the fund, the Board no longer has a reserve to draw from in order to meet necessary and mandatory expenses while providing the same level of service.

<u>Sweeps:</u> In 2007 and 2008, legislation was passed that **"swept" $176,400** from the Board fund. **That amount accounts for about 90% of the Chiropractic reserve fund**. As a result, the Board will need to raise fees to fund first quarter operations, recover a stable operating fund, meet mandated cost increases and reestablish services effected by budget reductions

Solution:

The Board will need to raise fees for two reasons. 1) to meet the increase in mandatory expenses since 2003 and into the future, and 2) in order for the profession to maintain self regulation. A fee increase would have been necessary eventually due to mandatory increases in expenses since 2003, most of which will continue into the future. The increase will now need to be higher than was originally expected in order to re-establish a stable fund. The Board is looking at spreading the increase over various sources rather then focusing on any one population within the chiropractic profession. However, there is still much that must be considered before any final proposal can be made.

<u>Closing:</u> It is the Board's hope that this fact sheet has provided some clarification about the fund sweeps, current impact and future impact. It is information that each licensed doctor of chiropractic will need to apply to decisions regarding self regulation as a profession, and that any member of the public will need to apply regarding expectations for chiropractic regulation.