



# Oregon

Theodore R. Kulongoski, Governor

## Oregon Board of Chiropractic Examiners

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## **PUBLIC SESSION MINUTES** Holiday Inn Express Hotel and Suites 204 West Marine Drive, Astoria, Oregon

July 15, 2010 8:00 a.m.

### **Members Present**

Joyce McClure DC President  
Michael Vissers DC Vice-President  
Ann Goldeen DC  
Daniel Cote DC  
Huma Pierce DC  
Douglas Dick, Public Member  
Cookie Parker-Kent, absent

### **Staff Present**

Dave McTeague, Executive Director  
Kelly Beringer, Administrative Assistant  
Tom Rozinski, Investigator  
Donna Dougan, Administrative Assistant  
Lori Lindley, Assistant AG

**Others Present:** Drs. Theo Woods, Barry Sears, Susan Lanker, and Seth Goldstein; Dr. David Corll called in.

### **8:00 to 8:45 A.M. Chiropractic Forum & meeting with area doctors & others**

Attendees: Drs. Barry Sears, Theo Woods, Susan Lanker, and Seth Goldstein

Dr. Joyce McClure introduced Board members and staff and asked the guests to introduce themselves. She gave a brief description of the Board's duties and mission, and a description of the board's subcommittees. Further discussion touched on devices and procedures, and the professional association and its job. Board members invited the doctors to consider volunteering on board committees. Seth Goldstein was interested in serving on the Peer Review committee.

**ADOPTION OF THE AGENDA** Add mention of dry needling as proposed by Sharron Fuchs DC

**8:50 AM CONVENE**

**PUBLIC COMMENTS** No comments were offered regarding the agenda discussions.

### **DISCUSSION ITEMS**

#### **1. 2011-13 Agency Request Budget (ARB)**

Dave McTeague had previously discussed a possible policy package to charge "convenience fees" for credit card charges in connection with online license renewal; however he does not want to propose this at this time. He suggested we try another system which is much more affordable; the E-Check system. He said that our revenue projections for the current biennium are improved and now running above the projections. He noted again that the ARB revenue projections include a fee increase beginning in 2012, but that the final makeup of any fee increase would be up to the Board in light of the fiscal situation as a future date. This is dependent on the success of legislation to remove the statutory caps from ORS 684 giving the Board the flexibility to adjust fees by administrative rule. This proposed legislation has been approved for introduction and would bring the chiropractic and pharmacy boards into line with all the other health licensing boards in this regard.

On the expenditure side, the Agency Proposed Budget now includes a policy option package (POP) for \$50,000 additional attorney general funds and several other smaller packages and adjustments. He noted that our current projection for legal (AG) costs is running \$60,000 over budget for the current 2009-2011 budget. As contested cases have been settling, he's hoping this will come down and we won't have to go to the Legislature for a supplemental appropriation. He noted two unknowns are the cost of the federal court case and a pending appeal of a disciplinary order. Other contested cases could also have an effect. The Board discussed whether a fee increase was really needed with Dr. Vissers expressing that a no increase option should be presented. He noted the current economic situation and the impact of increased fees on some struggling practices. Dave said that part of the Agency Request Budget includes a 10% reduction scenario; which could mean the loss of one position and a reduction in legal resources; both of which would greatly impact our programs. The Board discussed whether CA license and renewal fees should be increased in particular as they haven't been changed since the CA program's inception in 1991. The Board requested staff to track their time in CA licensing to determine whether an increase is supported.

## **2. Strategic Plan review**

Dave suggested the Board would benefit from a strategic planning meeting – possibly a short 2-3 hours session one evening prior to a regular board meeting. The purpose is to review the long term picture, the bigger challenges, which we don't get to discuss in a regular board meeting. (There are three board members' terms ending in 2011.) Dr. Michael Vissers would like instead to focus on one or two major topics, such as a discipline matrix in this planning session. There is a matrix that was developed by the Nursing Board which board members prefer over the Washington State matrix. The board discussed a possible special meeting in October to focus on this issue.

## **3. 9:30 AM ETSDP: Zerona Laser Review**

Dr. David Corll called in to participate in this discussion. "Marketing is the key issue." He wants the Board to approve the Zerona laser for the health benefits and the cosmetic factor. Dr. Corll says there are over 30 DCs on the West Coast using this treatment and a number of medical doctors in Oregon. Dr. McClure asked Dr. Corll his ideas for advertising the Zerona laser treatment – "stressing health, the disadvantages to fat deposits, reducing lipid counts, reducing fat in combination of lifestyle changes (diet and nutrition)."

Dr. Corll said "there are no reported side effects or complications." In answer to the question, "Where does the fat go after its liquefied?" Dr. Corll answered, "There is no evidence of the fats redepositing themselves; the body uses it for fuel or breaks it down in oxidation. Supplements such as niacin help to break down the fat" for dispelling.

Use of the Zerona laser treatment (for fat reduction) is not taught at other chiropractic colleges; however, the cold laser use is taught in chiropractic colleges.

Dr. Daniel Cote is concerned about the advertising; and if allowed, it should be a treatment which is part of a complete weight management program (hydration, exercise, diet, etc.) Dr. Vissers maintains that he has never heard that this procedure is geared toward improving heart disease, or improved health. He sees this as purely cosmetic.

Doug Dick posed the idea of a controlled clinical study. The advertising has to fall under the guidelines; and it would clearly indicate that the treatment is part of a study. Current patients would be the test group. It was discussed that these doctors could recruit new patients specifically for the

purpose of conducting this study. Participating doctors must submit their findings. Dr. Vissers suggested inviting the chiropractic college to be involved in the research/study; Dr. Goldeen will contact the college. How long would the study go before this could be adopted as part of the scope? The Board noted that the research reviewed was of short term treatment periods, and there was a lack of evidence of long-term benefits.

Dr. Corll admits to having limited knowledge of research; however, he had previously been a research assistant working with Mitch Haas DC at UWS.

The licensees who were previously engaged in offering this treatment to their current patients will be notified of the Board's decision.

Dr. Goldeen will monitor the progress of the (longer term) study. Dr. Cote added that any policy needs to be clear that any *procedure* for fat reduction, not only this device, is regulated. The Board took no further action at this meeting.

- **ADDED Discussion: Dry Needling**

Dr. McClure opened this discussion. A day or so ago Dr. Sharron Fuchs sent by email and attachment a letter to the Board stating that University of Western States is teaching Dry Needling now as part of its core curriculum; Dr. McClure read the letter from Dr. Gary Schulz. Dr. Fuchs requested the Board to immediately determine that dry needling is now part of the scope.

Lori Lindley, AAG suggested that distributing some educational information, and creating a standard of training, would be a wise first step. The Board should get more information from University of Western States, such as how much training is taught? Get a copy of the curriculum. Ask at what point is it safe for a licensee to practice? Dr. Huma Pierce will ask the Oregon Chiropractic Association what their take is on dry needling as part of the scope. Dave noted our previous request to the OCA has gone unanswered. Continue this discussion.

- 4. **Policy Issue: DC applicants from Non-U.S. chiropractic colleges**

A European chiropractic college graduate wants to apply for licensure in Oregon, but is currently unable to license here based on the lack of reciprocity between CCE-U.S. and the European CCE. Dr. Vissers acknowledged that this applicant's background (education) looks great, but asks, "Do we want to ignore the U.S. CCE standards?" Dr. Cote feels that she needs to have graduated from a U.S. CCE college, plus the NBCE exams have their purpose.

Dave added that some Boards have a rule which states, "In extraordinary situations, the board can make an individual decision..." (The board did not respond to this suggestion). Dave has been asking "Is the European CCE- similar in its accreditation to the USA-CCE?" but he has not been successful in getting an answer from anyone. He noted Donna Liewer at FCLB has been posing this question for years. The Board reaffirmed that DC applicants must have graduated from a CCE-U.S. chiropractic college and if necessary they can transfer credits and complete their U.S. chiropractic education.

- 5. **OCA meeting report: Dr. Huma Pierce**

Briefly reviewed during Public Forum; to be continued.

## 6. Staff Report

He noted the BackTalk newsletter was distributed by email this past week; that we are in the midst of the CA licensing renewals, and he made a brief mention that competing applications for treating Lyme disease is going before the ETSDP Committee.

## CORRESPONDENCE

### 1. Practice Question: DCs billing for LMT massage services

Dr. Cote feels that the manner in which this billing is performed sounds like fraud – billing for services not actually rendered by the licensee. The Board’s policy is that an LMT needs to be “in the office” in order for the chiropractor to bill for their (massage) services.

### 2. Chiropractic Assistants Network (Marie Derrickson & Marcia Sims)

Dave sent the organizers of “CAN” a letter that the Board might be supportive, but they do not need our approval. Dr. McClure suggested to Dr. Suzanne Lady that it would be their responsibility to track the CA’s and the clinic in which they were working. CAN needs to hire a “supervising DC.” Ms. Marie Derrickson and Ms. Marcia Sims are licensed CAs.

**11:50 AM ADJOURN to EXECUTIVE SESSION**

**4:15 PM RECONVENE to PUBLIC SESSION**

## IN THE MATTERs OF

### **Jenna R. Sanders, CA Applicant**

The Board proposed to deny issuing the CA license for discipline issued by another licensing board. Ann Goldeen moved to accept the determination. Daniel Cote seconded the motion. All in favor. Michael Vissers, aye; Ann Goldeen, aye; Doug Dick, aye; Huma Pierce, aye; Joyce McClure, aye and Daniel Cote, aye.

### **Saul Garanzuay, CA applicant (Case 2010–5003)**

The Board proposed to withdraw the Notice to Deny; the chiropractic assistant withdrew their application. Michael Vissers moved to accept the Board’s determination. Joyce McClure seconded the motion. All in favor. Cote, aye; Dick, aye; Pierce, aye; McClure, aye; Vissers, aye; and Goldeen, aye.

### **Case #2009-5007 Gregory Moll DC**

The Board proposed to issue a Final Order for sexual misconduct, boundary violations, and various other violations -18 months suspension with other provisions. Michael Vissers moved to accept the Board’s determination; Huma Pierce seconded the motion. McClure, aye; Dick, aye; Pierce, aye; Vissers, aye and Goldeen, aye. Daniel Cote abstained.

**Case #2010-1010** The Board determined no statutory violation with a letter of concern. Ann Goldeen moved to accept the determination; Joyce McClure seconded the motion. All in favor. Dick, aye; Cote, aye; Vissers, aye; McClure, aye; Pierce, aye and Goldeen, aye.

**Case #2010-1011** The Board determined no statutory violation with a letter of concern. Doug Dick moved to accept the determination; Huma Pierce seconded the motion. All in favor. Cote, aye; Vissers, aye; McClure, aye; Dick, aye; Pierce, aye and Goldeen, aye.

**Case #2010-1012** The Board determined no statutory violation with a letter of concern. Daniel Cote moved to accept the determination; Huma Pierce seconded the motion. All in favor. Vissers, aye; McClure, aye; Cote, aye; Dick, aye; Pierce, aye and Goldeen, aye.

**Case #2010-1015** The Board determined no statutory violation with a letter of concern. Ann Goldeen moved to accept the determination; Michael Vissers seconded the motion. All in favor. Cote, aye; McClure, aye; Dick, aye; Pierce, aye; Vissers, aye; and Goldeen, aye.

**Case #2010-1016 Robert Tallman DC**

The Board proposed to issue a Notice for discipline for indefinite suspension coupled psyche and substance abuse and evaluation to determined if the licensee is safe to practice; Licensee must complete ethic/boundaries examination and PROBE. Huma Pierce moved to accept the Board's determination; Joyce McClure seconded the motion. All in favor. Dick, aye; Cote, aye; Vissers, aye; McClure, aye; Pierce, aye and Goldeen, aye.

**Case # 2010-5007 Frank Heresco DC**

Regarding the Duty to Report. Licensee failed to report to the board violations of which he was aware in another matter. The Board proposed to issue a \$4800 civil penalty. Daniel Cote moved to accept the Board's determination; Ann Goldeen seconded the motion. All in favor. McClure, aye; Dick, aye; Pierce, aye; Vissers, aye and Goldeen, aye.

**Case #2009-2003 Mark Burdell DC**

The Board proposed to amend the Notice of Discipline for revocation by adding findings for failure to cooperate. Ann Goldeen moved to accept the Board's determination; Doug Dick seconded the motion. Pierce, aye; Vissers, aye; McClure, aye; Dick, aye; Cote, aye; and Goldeen, aye;.

**Case #2010-5006 Allen Hutcheson DC**

The Board proposed to issue a \$500 civil penalty for allowing the unlicensed practice of a chiropractic assistant in his office. Michael Vissers moved to accept the Board's determination; Daniel Cote seconded the motion. All in favor. McClure, aye; Goldeen, aye; Cote, aye; Dick, aye; Pierce, aye; and Vissers, aye.

**Case #2009-1028**

The Board reviewed the Peer Review Committee's report and proposed a Conditional Case Closed provided the doctor agrees to complete 8 hours continuing education on clinical justification and chart notes and , and four hours on boundaries – two of the boundary issue hours can be completed by attending the University of Western States 7<sup>th</sup> quarter class. These are in addition to the 20 hours annual CE requirement. Joyce McClure moved to accept the Board's decision; Daniel Cote seconded the motion. All in favor. Doug Dick, aye; Ann Goldeen, aye; Michael Vissers, aye; Daniel Cote, aye; Huma Pierce, aye; and Joyce McClure, aye.

**ADJOURN 4:20 PM**