Oregon

Theodore R. Kulongoski, Governor

Oregon Board of Chiropractic Examiners
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PUBLIC SESSION

Red Lion Inn & Suites
Willamette Room, 2535 Cumulus Ave
McMinnville, OR

March 16, 2006

Board Members Present
Minga Guerrero, DC, President
George Siegfried, DC, Vice-President
Michael Vissers, DC, Secretary
Michael Megehee, DC
Joyce McClure, DC
Parker-Kent, Public Member
Jim Hendry, Esq, Public Member

Excused: Estelle Parker-Kent, Public Member

Staff Present
Dave McTeague, Executive Director
Michael Summers, Investigator
Kelly Bird, Administrative Assistant
Jane Billings, Administrative Assistant
Lori Lindley, AAG

Others Present
Representative Donna Nelson,
plus, attached roster of attendees

8:30 AM CONVENE Informal meet & talk with OBCE and area doctors/public.

9:00 AM Expanded Public Comment & Chiropractic Forum

Dr. Guerrero addressed the public and acknowledged that most present were here to testify at the 9:30 rule hearing. The board kept to the agenda, and spoke about other matters until 9:30. Dr. Guerrero briefly highlighted the Board's proposed 07-09 legislative concepts; one of those included a concept to allow the Board to assist victims (chiropractors) of natural disasters. Dr. Cafferty added that most other states' Governors have made a decree to allow agencies to assist in the natural disaster outcomes; Dr. Guerrero will check into this possibility. Other proposed concepts include changing the license status title of limited active to something more appropriate (i.e. Senior active), a change to the minimum number of years licensure to qualify as a board member or peer review member, and other language cleanup.

Jim Hendry's term expired at this meeting; the Board presented him with a plaque in appreciation and commended for his nine years of service.

9:30 AM ADMINISTRATIVE RULES PUBLIC HEARING on proposed administrative rules regarding: Clinical Justification/Rationale rule and the Guide to Policy & Practice Questions Guide

Dr. Guerrero opened the public rule hearing concerning the proposed clinical justification rule. She explained "the rules of the game" for those testifying.

Susan Dobrof is testifying in support of Drs. Cafferty and Boothby's proposed Clinical Rationale language. She is a patient of Dr. Boothby. After alternative treatment with Dr. Boothby her problem was resolved; she is concerned that the current rule is more restrictive than what the law allows. The current rule uses the mandatory term "shall" regarding necessity of treatment. Her understanding is that the rules are supposed to be within, not beyond, the law

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Verne Saboe, Jr., DC on the CAO Board and the association's lobbyist. He gave a bit of history about his original proposal (given years back) for clinical justification and the legislative work involved. After much work and process, the Board adopted the current rule. Dr. Saboe clarified that the existing rule does not address wellness care. It was designed for the instance when there is no out-of-pocket by the patient. Verne read the signed statement that CAO had distributed to the profession asking for their input about the proposed change to the clinical justification rule. 280 responses opposed to the proposed change were mailed to the OBCE.

Dr. Saboe proceeded to share Dr. **Kim Privitera's** testimony. She was the president for ODOC a few years ago. During that time, CAO had proposed language regarding clinical justification. With the Rules Advisory Committee's assistance a compromise was reached which resulted in the current rule language. Dr. Privitera is in support of the current Clinical Justification rule. Too, she supports the change to Clinical "Rationale."

Dean Heiling, attorney. He has a vital interest in chiropractic, and a significant amount of his practice involves PIP cases. As a lawyer he is looking for proof; so regarding chiropractic care if treatment works, it is hard to say it wasn't worth while. He would like to have a rule that says all doctors, not just chiropractors, have to have a good strong scientific basis. The outcomes requirement is crucial to that. (OAR 811-) 15-0010 provides exactly what we need. Ongoing treatment without subjective or objective progress is no different than unfounded nonscientific opinion of a "highly credentialed expert." The rule is good, and should stay.

Judith Boothby, DC presented both written and oral testimony. She is in favor of the proposed Clinical <u>Rationale</u> rule language. She is concerned about the use of the term "evidence-based care" in that it may define the care narrowly. It is Dr. Boothby's main concern that the rule is unclear about documentation for patients with complex health problems.

Sharron Fuchs, DC focuses her career in medical consultation with a law firm. She currently is on the Rules Advisory Committee and prefers that the Board forward this issue back to the Advisory Committee. In her role as a medical/legal consultant she has worked hard to bring credibility to the profession.

David Corll, DC read his letter of testimony. He is opposed to the proposed change to the clinical justification rule. One of the biggest underlying concepts in the proposed change is accountability; the clinical rationale rule is written in such a way that it undermines the board's authority, and enforcement powers. It would make it impossible to discipline a chiropractor for anything other than sexual misconduct. Evidence-based health care is practiced on implementing clinically valid and useful studies that impact the delivery of healthcare and increase the positive outcomes for our patients. You can't manage what you can't measure. Medicare is the largest managed healthcare provider in the nation; they set policy for all healthcare fields. They use the PARTS system because it is valid, reproducible and easy to implement. We cannot afford to see a repeat of the workers compensation situation.

Ron Grice, DC. Dr. Corll expressed Dr. Grice's same sentiments. In addition, this proposed rule needs to go through the standard rulemaking process, including review by the Advisory Committee. Dr. Grice is in support of the current rule.

Sunny Kierstyn, DC. She uses a technique that is not considered standard by some - the sacral occipital technique. She admits that defining her own results has been difficult, but she does it. The science for what she does is available. She doesn't find any difficulty in that, and is not threatened by the existing clinical justification rule; keep the current rule as it is.

Kevin Holzapfel, DC Briefly he stated that he is in support of the current justification rule; if any change needs to be made, then refer it to the Rules Advisory Committee. There should be more discussion.

John Cafferty, DC began by "correcting" some misstatements made today (about rule process). It is his opinion that the current Clinical Justification rule is based on fear, and the clinical rationale rule is based on science. He handed out flyers to the Board titled, "The Role of Chiropractic in Managing Injuries;" he read from this flyer. In brief you can repair, or remodel. Repair means restoration (bringing it back to its original state); remodeling means changing an appearance (scar tissue in the body). Dr. Cafferty ended by saying that the CAD guidelines are the best out there. He is "talking science, not opinion."

Anthony Saboe, DC - If you are going to treat past the point of pain, you must have justification for doing it. He believes in subluxation, innate intelligence, etc. but when it comes to the care of his patients, he still needs to show rational for what he is doing. He is in favor of keeping the existing justification rule; it legitimizes what we are doing. When a third party payer is involved they have to have a clue as to why you are treating the patient. In closing, the associations need to come together.

Dr. Cafferty read **Dr. John Schmidt's** comments. *(Dr. Cafferty did not provide staff with a copy of Dr. Schmidt's comment.)* He stated that ODOC sent a survey to the entire profession. Done by a certified public account *(who had nothing to gain by the results)* 83% responded in favor of the Clinical Rationale proposed language. "76 were in favor, one against." He *(CPA?)* has all the ballots. Dr. Beeson asked if the survey was sent by mail, or email? Several licensees present had questions about the survey because they did not receive a copy. Dr. Guerrero maintained that questions could be asked after everyone else had a chance to testify.

Lee Cowan, DC related his experience on the Board's Exam Committee; at one point the board said we needed to use the services of a psychometrician. We didn't know what it was, but we needed to have one because society said this was the way it is supposed to be; it was demanded of us to do that. Dr. Cowan compared this example to today's requirements – society is demanding an outcome-based practice. If chiropractors don't stand up and say "you are out of line, someone else is going to." Dr. Cowan did receive Dr. John Schmidt's letter, however, seven other Gresham DCs that he recently met with did not receive that survey letter.

Dr. Cowan briefly added that **John Strauss, DC** could not be here today, but he supports the clinical justification rule as it is.

Steven DeShaw, DC spoke in favor of the current justification rule. Through his many court experiences (WC, PI, appellate, etc.). he has found you better be able to justify what you did. He practices a technique that science supports. In his court testimony, he has learned about his weaknesses, and lacks in record keeping. These have helped him to improve his record keeping. He is in favor of the justification rule because of all these years experience. He speaks to the students in the room, "Justify in your records, and be prepared"

Steven Lumsden, DC was one of the original plaintiff in Wilk vs. Wilk. One of the things in Wilk that we had to overcome was a lack of clinical evidence in chiropractic. We needed to justify some of the extremes in our profession even though that wasn't the main issue in the case. The main issue of course was anti-trust law and the stifling of a market by competitor. We had to justify our existence; it was very difficult at that time because of the lack of research, the lack of clinical measures that now exist. It serves our profession extremely well in communicating to allied professions that need our service, the efficacy of what we do. He is strongly in favor of the current clinical justification. To water it down, or trivialize it, sets our profession back.

Michael Burke, DC practices in Tigard and is a Peer Review Committee member for the Board. He first spoke in response to other testimony. He pointed out that the first two words of the existing rule are "clinical rationale." He was originally opposed to the existing rule when it was proposed. His opposition was that it didn't make things clear enough. What we have seen here is an example of that. There is a lot of

misunderstanding about the rule. Dr. Boothby objected to the term "evidence-based care" being in the rule; it is not in the rule. The rule reads, "evidence-based outcomes measures shall determine the frequency and duration of care" – of curative care. In other words, let us show that people are getting better and let us do it in a way that is measurable and valid. I think that is scientific. Dr. Burke also spoke to Dr. Cafferty's comment about the Board's need to review the clinical justification rule. Dr. Burke read the (sunset) clause – "Prior to the expiration, the OBCE shall review the outcomes of these amendments and take action to further amend, continue or remove these provisions (by February 1, 2008)." Dr. Burke asked if enough time has passed to consider review of this rule. In closing, Dr. Burke challenged Dr. Cafferty's statement that the CAD guidelines are "the most respected guidelines" in the profession.

Eric LeMay, DC hadn't prepared to speak, but decided to speak in reference to other testimony. He spoke to Dr. Boothby's use of the terms first and second class citizens. We are all striving to be first class citizens. The way we are going to achieve that goal is by speaking a language that is common among all healthcare professionals, and being able to justify is part of the responsibility one has when we are professional. If someone wishes to treat beyond the point of justification, then they will do that outside the purview of a third party payer. Also, it is important that we be able to sit down and discuss things amongst ourselves as professionals and adults, as people who consider the other person's opinion and taking into consideration what exists in literature. We need cohesiveness. Anything that we do to raise the bar of professionalism is something for which we should strive. Do no change the current rule.

Richard Layman, DC As a senior in chiropractic school he decided he wanted to be successful, so he visited successful chiropractors in the area. When observing one licensee, Dr. Layman questioned his justification for care. The doctor was offended that a senior should challenge him and asked Dr. Layman, "What's wrong, don't you believe in chiropractic?" He has seen a number of things over time but he has not said anything in opposition. But it is time to speak up. We have practices based on evidence-based medicine. He supports the clinical justification rule as it exists.

Michael Miller, DC He sees both sides here; communication is key. Drs. Boothby and Cafferty and other authors of the rule need to get together; both rules have rationale. Rationale is a significant and necessary part of our practice. Clinical rationale comes from a number of sources. Whose evidence, and what standards are we all held to? Whether you use SOAP or PARTS you still need to have rationale.

Kathy Vargovich, DC is hearing that some do not want the Board to be regulating. What happens is between the doctor and the patient. We are acting as if the patient and doctor have equal knowledge. If we are treating outside the mainstream, we ought to be letting the patient know that.

Dodi Simons, DC recognizes the dissention among us. We should hold to the existing law. We need to come together to become a strong force to be as acceptable (as other healthcare providers).

Franchesca Harper, WSCC student. Representing the voice of the students. The clinical justification rule as it is, is what we are taught. We are going to go out in practice knowing that that is what is acceptable and that is what we're going to do. Some of the students thought the current language confusing. Otherwise, looking at the Board's mission to protect the public and promote the quality of chiropractic, we should support the rule that promotes the quality of chiropractic the best. Some students also feel that the current rule in no way restrains DCs from treating their patients in any way or technique for any length of time. All it does is require the DC to be responsible for making these decisions by measuring the patient's progress. The current rule does not address palliative maintenance care; it only addresses curative care. That is the issue here. Most of the students support the current rule.

Dave MacFadden, DC simply states, "The answer is unity." If we could unify, we wouldn't have these problems.

Wesley Kuns, DC does not belong to either organization, but feels that he must make a decision now to act. We need to adopt parts of both rule proposals. This particular piece of literature that has gotten him "out of his hole" He does not see that the rule restricts his practice in any manner. As long as I have the evidence, etc. for his patient's improvement, he sees no problem with the existing rule.

Dr. Kierstyn made a final comment to bring this discussion "full circle." One of the reasons this got started, is that the perception of outsiders was that we over-treated, over-utilized. This rule was adopted as a means to show that we are taking responsibility in measuring outcomes and looking at what is happening as far as results are concerned.

Dr. Guerrero closed the Rule Hearing for comment.

10:50 AM BREAK
11:10 AM RECONVENE

Dr. Guerrero now opened the floor for board discussion. Jim Hendry stated that the Board should not dictate to the profession how they should treat their patients. He is not in favor of the clinical justification rule. He doesn't think this rule will be used much as we (the board) do not spend a lot of time with over utilization. If you don't like this rule, it should be referred back to the Rules Advisory Committee. This is a malpractice issue, not one for the board.

Michael Megehee recalled what Hendry said in the January board meeting, that no other profession has a rule like the justification rule. Megehee's response to that is that no other profession is "painted" like the chiropractic profession. If you want "rights" then you have to have rules. If you show that your treatment is justified, it is going to be more difficult for insurance companies to stop your payments. He welcomes the current justification rule. He does not object to the change from "justification" to "rationale." We are supposed to be protecting the patient from over-treatment.

Joyce McClure, DC is pleased at the input of today's meeting; the tenor is hopeful. The current rule as written is unclear. Dr. McClure agrees with Dr. Burke in that the rule is not about evidence-based care, it is addressing what we do and the progress – outcomes management. This rule still needs work. Hopefully everyone makes an effort to communicate and have patience with each other. It is reasonable to send this rule back to the Rules Advisory Committee.

George Siegfried, DC asks, "What is the problem and what is the solution?" The problem is we have a political agenda. He has a problem with the clinical justification rule because he feels his practice is restricted. The patients have been left out of this process because of the political nature. Part of the problem with the rule is that the EMEBC is a Guideline; "It will become a law." It is his opinion this board has not been following statutes (684.155 and 684.100). He is the only one voting against this; this is an insurance-based rule. The solution is that we must 1) unify 2) <u>use</u> the statute and 3) endorse guidelines that are out there. Dr. Siegfried is also opposed to the Oregon Chiropractic Practice and Utilization Guidelines.

Michael Vissers, DC thanked the public for appearing to testify. A year ago he appeared before the board to testify in favor of this rule. He wanted to see a rule that would define us. The types of cases that he was seeing while on the Peer Review Committee frustrated him. The clinical justification rule went through a lot of due

process and he is hesitant to “gut” the rule based on a lot of fear. He supports referring it back to the Rules Advisory Committee. We should follow the same due process.

Minga Guerrero, DC is in favor of sending the *current* Clinical Justification rule to the Advisory Committee for some minor “tweaking.” She feels that it is the minority that does not want the clinical justification rule, it’s important to listen. She does not support the Cafferty/Boothby draft as it omits too much. We received by mail over 282 mailers in favor of keeping the CJ rule, and in favor of sending it to the Rules Advisory Committee. We received an additional 50 letters of support from Western States Chiropractic College students. We will address the fears that the rule will restrict beneficial treatment; the term evidence based “outcomes” is very important to leave in. She understands Hendry’s advice on not creating rules, which regulate a DCs practice. However, she supports rules, which improve quality of care and the profession.

Dr. Guerrero opened the floor for a motion. Vissers moved to refer the current clinical justification rule to the Rules Advisory Committee (RAC) for further review and rewording. Dr. Megehee seconded the motion.

Before voting, Dr. Megehee asked for discussion. He invited those who have concerns to attend the RAC meeting. Dr. Guerrero broadened the invitation to anyone interested in becoming a Committee member to apply. Dr. Hendry added that he would like to see members from both associations on the committee. Dr. McClure asked if the Board will give the RAC some points of concern to address. In other words, to discuss language which does/does not address scope; to retain evidence-based outcome; to legitimize what we are doing; to better defined terminology; to maintain a language common to all health professionals; to look at other sources for standards in addition to OCPUG; and to contact State of WA for a list of the guidelines they endorse.

Dr. Guerrero closed the discussion and asked for a vote from the Board regarding the motion on the floor. Vissers, aye; McClure, aye; Megehee, aye; Hendry, aye; and Guerrero, aye. George Siegfried opposed; and Cookie Parker-Kent is excused.

Dr. Guerrero opened the floor for discussion regarding the amendment to 811-010-0093 Guide to Policy and Practice Guide rule amendment. Dave McTeague explained that the amendment merely updates the rule reference to the January 2006 version of the Guide. The Board briefly reviewed each board policy adopted between July 31, 2003 and October 2005. Minga Guerrero moved to adopt the amendment to the rule, excluding the Clinical justification Rule policy from the current version (the CJ policy will be reviewed by the Rules Advisory Committee at the same time they review the rule). All in favor. Vissers, aye; McClure, aye; Megehee, aye; Hendry, aye; Guerrero, aye; and Siegfried aye. Cookie Parker-Kent is absent.

11:45 AM BREAK (five minutes)

DISCUSSION ITEMS

1. Administrative Rules, consideration for adoption or further rulemaking process

In summary, the Board reviewed the Clinical Justification rule proposal and moved to send the existing rule language to the Rules Advisory Committee for further review. In addition, the Board adopted the rule to update the date reference in OAR 811-010-0093 Guide to Policy and Practice Guide. While the Clinical Justification rule is under review, remove the CJ policy from the P&P Guide.

2. Board Governance Policy review, parliamentary procedure

Director McTeague said in the Governance policy (the Board’s “job description”, the Executive Director’s job description, and the Board/Director relationship description), there is a suggested change on the third page. We

never did adopt a parliamentary procedure, in other words, Roberts Rules of Order. It would not hurt to adopt this or another guide as a formal gesture. Hendry moved to adopt "Roberts Rules of Order" as the Board's guide for meeting protocol. Siegfried seconded the motion. All in favor. Vissers, aye; McClure, aye; Megehee, aye; Hendry, aye; Guerrero, aye; and Siegfried aye. Cookie Parker-Kent is absent. Insert the Parliamentary procedure into the Strategic Plan Board Governance.

On another matter, Dave McTeague stated that Dr. Siegfried asked for the background material on Board Governance. Staff continually provides additional information from the Carver newsletters and previous guides. Dr. Siegfried began by stating that he is concerned with the power of the Executive Director. Dr. Guerrero asked Siegfried to be more specific. There has been a significant amount of lobbying for board members. This is a political board. Obviously we can't monitor someone's every step. Dave responded that he answers the Governor's inquiries as far as background or committee experience of any board member applicants. Dave explained that Carver's policy allows him to carry out the Board's directives; if needed, he asks for the Board's expertise especially regarding chiropractic issues. The Board can set greater limits for the Executive Director if they wish. Hendry added that the Board sets policy and the Executive Director is supposed to apply the policy. Dave McTeague added that when the Board addresses its Strategic Plan (e.g. today's Governance discussion); they should take that opportunity to focus more on Executive Director and agency performance.

12:30 PM WORKING LUNCH

3. OBCE Legislative Concepts for 2007

Dave asked Lori Lindley if there are any Executive Orders by the Governor to waive licensee fees for victims of Katrina and other natural disasters. After discussion, Megehee moved to submit a the concept for "natural disasters" as proposed by Dave McTeague. The Board opted not to broaden the concept to include other "emergencies." Vissers seconded the motion. All in favor. Vissers, aye; McClure, aye; Megehee, aye; Hendry, aye; Guerrero, aye; and Siegfried, aye. Cookie Parker-Kent is absent.

Secondly Lindley drafted language addressing moral turpitude. Before the Board votes to adopt this legislative concept, they will discuss Lindley's legal advice in Executive session.

Also, language was proposed to allow chiropractors to obtain oxygen. After some discussion the Board agreed to communicate to licensees that the Board of Medical Examiner rules state that providing oxygen in an emergency situation is NOT practicing medicine; therefore it is allowable for a chiropractic physician to use in medical emergencies.

Staff proposed to change the license status of "limited active" to a name more appropriate. This status applies to licensees who are 60 years of age or older and have been in practice for 25 years or more. After polling the limited active portion of the profession, "Senior Active" was found to be most popular. Michael Vissers moved to adopt the legislative concept to change limited active status to "senior active." Joyce McClure seconded the motion. All in favor. Vissers, aye; McClure, aye; Megehee, aye; Hendry, aye; Guerrero, aye; and Siegfried aye. Cookie Parker-Kent is absent.

Staff proposed to change the use of "Ancillary Personnel" to "Certified Chiropractic Assistant." The Board does not want to pursue this change.

Staff proposed another matter to strike out the reference to the homeopathic pharmacopoeia. The thought being that the current rule classifies homeopathy as a "drug." By taking out the reference, you would be allowing the use of all homeopathic remedies. Three members are in favor of the proposal (Megehee; Siegfried and

Guerrero); two opposed (Vissers and McClure). Representative Donna Nelson sees the issue as what is best for the patient

The Board briefly discussed the following concepts and made the following motions:

Concept #6 – Exam #'s issued. Vissers moved to accept the concept; Hendry seconded the motion. All in favor. Vissers, aye; McClure, aye; Megehee, aye; Hendry, aye; Guerrero, aye; and Siegfried, aye. Cookie Parker-Kent is absent.

Concept #7 – More limited active terminology cleanup. Hendry moved to accept the concept; Vissers seconded the motion. All in favor. Vissers, aye; McClure, aye; Megehee, aye; Hendry, aye; Guerrero, aye; and Siegfried, aye. Cookie Parker-Kent is absent.

Concept #8 – Add the CE requirement for the limited active. Vissers moved to accept the concept; Hendry seconded the motion. All in favor. Vissers, aye; McClure, aye; Megehee, aye; Hendry, aye; Guerrero, aye; and Siegfried, aye. Cookie Parker-Kent is absent.

Concept #9 – minimum years to qualify for board and peer review committee (5/5 years). McClure moved to accept the concept; Vissers seconded the motion. All in favor. Vissers, aye; McClure, aye; Megehee, aye; Hendry, aye; Guerrero, aye; and Siegfried, aye. Cookie Parker-Kent is absent.

An added discussion: Expunge lower level disciplines. Jim Hendry asked to add this; he proposed to remove the lowest level of discipline from the Board's record after a period of time when there has been no other disciplinary action. The impact on the doctors that do have the lowest level of discipline is that they are excluded from managed care, and it is a subject for cross-examination in trial and the attorney may say that the doctor isn't quite as creditable. Megehee responded though, that Chiropractors, and all health professionals, are held to a higher standard. Dave McTeague added that ORS 678 would need to be amended (affecting health licensing boards generally). Representative Nelson added that the legislature would not support it, they are going in the opposite direction; for example, they would prefer keeping a discipline record for 50 years. In conclusion, Dr. Guerrero suggested the Board more frequently use the voluntary compliance and diversion programs in lieu of disciplinary action. The Board will consider this.

4. Educational Manual: Record Keeping Chapter

Board members need to review the draft chapter again. Table this item to the July 2006 board meeting.

5. Policy Issue: Advertising statistical assertions of predicted rates of success.

A doctor sent in a letter; he wants to use statistical assertions in research when he communicates with other professionals to garner mutual referrals. Currently, the advertising rule does not allow the use of statistical assertions. Dr. Guerrero moved to refer this issue to the Rules Advisory Committee for review. Vissers agrees that the rule be sent to RAC. Megehee seconded the motion. All in favor. Vissers, aye; Megehee, aye; Hendry, aye; Guerrero, aye; and Siegfried, aye. Joyce McClure abstained. Cookie Parker-Kent is absent.

1:30 PM BREAK

6. Appointments: Rules Advisory Committee

Dr. Guerrero read the five names of people interested in serving on the Rules Advisory Committee. They include: Drs. Dean Clark, Robin Albert, Ron Grice, Kevin Holzapfel and Vern Saboe, Jr.
Dave recommended appointing five ODOC members as well. Dave clarified for the Board that they do not have to appoint any, but you have some willing, and you need to appoint a couple of ODOC folks.

Dr. Vissers is not in favor of appointing people that did not apply and leaving someone else out that did apply. Hendry suggested the Board encourage the other folks to apply to the Rules Advisory Committee. Michael Vissers moved to appoint the five interested applicants. There was some discussion about the appropriateness of appointing Vern Saboe since he is the lobbyist for the CAO, but there is no prohibition. Dr. Vissers moved to accept these five applicants for appointment to the Rules Advisory Committee. Hendry seconded the motion. McClure, aye; Vissers, aye; Hendry, aye; Guerrero, aye. Siegfried and Megehee were absent for the vote.

7. Staff Report

Dave McTeague provided a copy of Western States Chiropractic College's scope of practice questionnaire and asked board members to review it and bring to light any concerns they may have about the responses. He provided an update on the Management and Labor Advisory Committee regarding workers compensation. He brought to their attention the current copy of our Legislatively Approved Budget document, and financial reports. Lastly, the FCLB annual meeting is in Portland in May, and Drs. Megehee, Guerrero and Vissers are signed up to attend the meeting.

CORRESPONDENCE

Sunny Kierstyn DC submitted a letter to the Board proposing that an administrative rule be drafted on business ethics. Dr. Kierstyn shared her recent experience upon moving to a new clinic. The front office "collapsed. Things digressed." The owner of the clinic wasn't interested in getting the front office managed; and it appears that she wanted to get as much money as she could for her own financial use. There is nothing in our statute that addresses business ethics. Dr. Kierstyn drafted some language that "puts a multi-discipline clinic on notice that they are responsible for maintaining the business, to the point, that they can show the record that they can dispense funds to the practitioners as determined by whatever contract the practitioners have."

Dr. Guerrero is concerned about creating a rule, which develops contractual language between two people; that is between the two people that are doing business. Dr. Guerrero suggests drafting something that addresses professional conduct rather than contractual language. This problem should be mentioned in the new licensee orientation; always make sure to have a contract in force. Dr. Vissers would be comfortable with developing something that falls under unprofessional conduct, but not something on violating a contract. Dr. Megehee agrees; court is the means to take care of this. Dr. Siegfried and Hendry both agree this is not a rule we can adopt; there are laws in place.

1:40 PM ADJOURN and convene in Executive Session
3:05 PM RECONVENE Public Session

IN THE MATTER OF

Case #05-1044 Jack Fischer, DC

The Board voted to issue a Final Order by Default confirming the Notice's proposal of a $1000 civil penalty and a letter of reprimand. Jim Hendry moved to accept the Board's determination; George Siegfried seconded the motion. All in favor. Vissers, aye; Siegfried, aye; McClure, aye; Hendry, aye; Megehee, aye; and Guerrero, aye.

Case #05-3009 Robert Sainz

The Board proposed a $1000 civil penalty for the unlicensed practice of chiropractic. Jim Hendry moved to accept the Board's determination; George Siegfried seconded the motion. All in favor. Vissers, aye; Siegfried, aye; McClure, aye; Hendry, aye; Megehee, aye; and Guerrero, aye.

Case #05-1025 The Board determined no statutory violation. Jim Hendry moved to accept the Board's determination; Minga Guerrero seconded the motion. All in favor. Vissers, aye; Siegfried, aye; McClure, aye; Hendry, aye; Megehee, aye; and Guerrero, aye.

3:00 PM ADJOURN