



Oregon

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Oregon Board of Chiropractic Examiners

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PUBLIC SESSION MEETING

Silver Falls Conference Center - Upper Smith Meeting Hall.

20022 Silver Falls Hwy SE

Sublimity Oregon

March 16, 2012

<u>Members Present</u>	<u>Staff Present</u>
Ann Goldeen DC, President	Dave McTeague, Executive Director
Daniel Cote DC, Vice-President	Kelly Beringer, Admin Asst
Douglas Dick, Secretary, Public Member	Donna Dougan, Admin Asst
Huma Pierce DC	Tom Rozinski, Investigator
Christine Robinson DC	Lori Lindley, Assistant AG
Todd Bilby DC	Shari Barrett, Office Specialist
Cookie Parker-Kent, Public Member	
Others Present: Dr. Don Ferrante, Jan Ferrante, Ivonne Feinauer, and Mike Cline, LMT	

CONVENE 11:15 AM

ADOPTION OF THE AGENDA

PUBLIC COMMENTS (The public present spoke to discussion items #s 6, 7, 8, and 10)

Dr. Goldeen accommodated Dr. Ferrante and Jan Ferrante and addressed the discussions in which they were interested.

DISCUSSION ITEMS (order revised from Agenda)

6. Policy Issue: CA applicants, low level arrest/conviction history

Board staff has requested to have some delegated authority to process CA applicants with low level conviction history. Typically the board licenses these applicants with stipulations – The most common is that applicant/licensee must disclose the conviction history to the current doctor (and future DC employers). The Board would be able to license these applicants sooner. Board members will review the draft policy further, make suggestions and possibly adopt at the May 2012 meeting.

7. NBCE CA examination

Dr. Coté led this discussion. The Board is considering using our CA applicants as beta testers for the new national examination; NBCE is trying to create a national standard for chiropractic assistants. Dr. Don Ferrante asked whether the national exam is going to change the criteria for who can come in as a CA (in other words, will they need to have a minimum educational requirement/degree?). And, he asked about the cost to the profession and about the loss of income to the OBCE. Dr. Coté added that the decrease in funds to the OBCE is not a problem; and there will actually be a cost saving for the board.



Also, the consideration to try this is about patient safety. Jan Ferrante added that she supports a tiered program for the CAs that might result from the national testing. (The OBCE would lose about \$14,000 a year in revenues if it no longer assessed the CA examination fee. The NBCE's exam fee for the CA examination is estimated to be \$100.)

In relation to a tiered license, Dr. Ferrante asked whether Medical Assistants will be allowed into chiropractic (*they are not currently regulated in the State of Oregon*); he noted their scope is broader than the CAs. The Board is interested, and will research the possibilities. Lori Lindley was asked to confirm whether the statute is flexible enough to make these changes. Jan Ferrante will send a copy of the medical assistant training and detail to the board.

8. NBCE Ethics & Boundaries Examination

Dr. Goldeen recently assisted the NBCE with test development; testers write essays related to their violations. She further explained how the tests are structured. In answer to Dr. Ferrante's question, she noted that this exam is only for designated licensees, those doctors with serious ethics or boundary violations (and disciplined by the Board) or possibly, new DC applicants with prior boundary violation issues.

10. Policy Issue: Can CAs be approved to train, or co-train, with a DC?

The Board began discussion on this topic. Dr. Ferrante added that he finds one of the applicants very qualified and her addition to the training would be very valuable. The Board will return to this discussion after lunch.

12:10 PM Break for Lunch

1:15 PM Re-Convene Continue Discussion Items

Continue Discussion #10 – Can CAs be approved to train, or co-train, with a DC?

After some discussion, the Board determined that a person will be considered qualified to provide a portion, or all of the CA Initial Training on an individual basis; not merely whether they are/are not a CA, or other licensed professional. Three applicants requested vendor approval status; two were approved. The third had qualifications that were outside the CA Initial Training requirements; the Board recommended she provide training in addition to the ITC, but not as a Board-approved trainer.

Those approved to train the 8 hours didactic are: Ariel Zimmer LMT and Tracy Holland.

1. Proposed Rules discussion: Any Trained Person issues; billing identifiers, supervision

Carry forward to May 2012 meeting

3. Policy Issue: Licensee Lookup and proposed board actions

As a matter of patient protection, staff recommended disclosing the proposed actions (which are public record) on the Board's website Licensee Lookup. Currently, the names of proposed actions are listed on the public minutes and in a public protection report, when it gets updated. The Board will consider placing the proposed orders for the "high risk" (more egregious) cases to the Licensee Lookup on a case by case basis. Carry forward to May 2012 meeting for further discussion.

4. a) Budget issues update

Dave previously addressed budget issues with the Board.

b) Legislative Concepts discussion

Draft legislative concepts include semi-independent status; taking fees out of statute, or else raising the fee limits; we're waiting on the outcome of the Tran appellate case – it's a test of our jurisdiction and our civil penalty authority; if that is not favorable, we may have to address the matter legislatively. Lori Lindley added that the Naturopathic Board is dealing with similar issues of unlicensed practice by Mr. Tran.

c) Board appearances by respondent licensees

The Board is willing to consider more in-person interviews on an as needed basis. The Board does not feel that all licensees need to make an appearance prior to any board decision on every case. Dave surveyed the other health boards and found that our practices are in line with the others.

5. Foreign Chiropractic college: Murdoch University (Australia)

The Board has volumes of information about Murdoch Chiropractic University, they meet the criteria, and the board has gone through its' adopted process. Dr. Cote mentioned the 4200 hour requirement, but the education program has been assessed at over 4300 hours. Dr. Daniel Cote moved to approve Murdoch Chiropractic University (Australia) under OAR 811-020-0006 regarding approval of schools; Dr. Huma Pierce seconded the motion. All in favor. Cookie Parker-Kent, aye; Doug Dick, aye; Todd Bilby, aye; Christine Robinson, aye; Daniel Cote, aye; Ann Goldeen, aye; and Huma Pierce, aye.

9. Groupon/Sprig Health/Fee Splitting Issues

The Board discussed the Sprig Health arrangement with their \$15 processing fee for patient referral/scheduling. Dave quoted Sprig Health's executive as saying this is currently below their costs, and noted this could increase in the future. Board members noted that Groupon could term their share of coupon sales as a "processing fee" too. The Board discussed again the purpose of the rule on fee-splitting. Dr. Pierce stated it is antiquated (as regards internet advertising). Dr. Cote said the purpose is to prohibit very unethical behavior from happening. He noted the OBCE's recent DC survey showed over 60% support of the Board's position.

Dave noted that Sprig Health does more than sell a coupon. He said Sprig Health is an online booking appointment service with a list of nine chiropractic clinics. They don't request the clinics to discount their services. He noted the 50% cancellation fee, not clear how this works.

Dr. Goldeen polled the board. Most board members said that Sprig Health fee was fee splitting. Dr. Cote noted that Sprig Health had many health professions. They noted the Dentistry Board was also reviewing these issues.

Dave noted that he has received calls from doctors who have run Groupon type ads, then realize they are in violation of the Board's ruling and want to know what to do. He said he makes some suggestions, but mostly leaves it to them to somehow make it right. He hasn't received those for a while.

He noted the Washington State rule on rebates may apply to this in their state. (This is currently being discussed by the Washington State Chiropractic Quality Assurance Commission.) He noted that we do not have jurisdiction over Washington State DCs who advertise in the Portland metro market.

He noted other hypothetical scenarios.) Is it fee splitting if the doctor's portion of the split is donated to a non-profit charity? Groupon still gets their 50%, so it probably is a fee split.

Is it fee splitting if Groupon were to charge a flat rate, but collect that flat rate from the proceeds of the coupon sales and remit the balance to the clinic? Board members said that was fine, as long as Groupon charges the difference if the amount of coupon sales doesn't exceed the agreed upon flat rate.

Can a DC/L.Ac. advertise on Groupon as an L.Ac. (Answer: yes as long as chiropractic & "DC" are not advertised. This is then the Medical Board's issue.)

Lori (who also represents the Dentistry Board) noted that Living Social is changing their contracts to a flat fee advertising fee and that Groupon may be doing that as well. Dave noted we have haven't seen that yet.

The Board will carry forward the Sprig Health issue to the May 2012 meeting and review that once again. He noted comments on this issue from Drs. Priess, Pierce, Raeburn, Alley, Fetter, Taylor, Dougal, and Dr. Pham.

Dave said that we have communicated several times to the profession the Board's ruling, and then some still run Groupon type ads. He said it is unfair to doctors who do refrain from this kind of advertising. The Board directed staff to add another article to the BackTalk regarding these issues.

2. Continuing Education outline for 2013 record keeping requirement

Dr. J Michael Burke sent material to the Board; the challenge is to address all the issues. Dr. Burke recommended more hours. The Board wants courses that will reduce the number of complaints that we receive involving poor chart notes. Dr. Tom Necela was mentioned as a prominent DC who already provides this type of training. The Board will ask him if he can create a guideline for this course (SOAP - history, exam, soap notes, narrative, etc.). Dr. Goldeen supports a practical portion in the class. Dr. Cote recommends drafting a letter to Tom Necela – what should be included in a minimal competency class – history, exam, SOAP notes, basic narrative report; and possibly something on electronic records. Tell him we're designing a course for all DCs; we want to ensure that everyone knows what minimal competency is. Should the class be two, four, or six hours in length? Make his response our foundation. Dr. Bilby added that he trains on documentation and coding. Carry forward to the May 2012 meeting.

2:05 PM ADJOURN to Exec Session

3:45 PM RE-CONVENE

IN THE MATTERS OF

Case #2011-3028 Daniel Beebe DC

The Board proposed to issue a Letter of Reprimand with two years of file pulls; 12 hours CE in coding, billing and documentation to be completed within 60 days; failure to comply will cause automatic suspension. Dr. Todd Bilby moved to accept; Cookie Parker-Kent seconded the motion. All in favor. Huma Pierce, aye; Christine Robinson, aye; Daniel Cote, aye; Ann Goldeen, aye; Cookie Parker-Kent, aye; Todd Bilby, aye and Doug Dick, aye.

Case #2011-3035

The Board proposed insufficient evidence to find a violation. Drs. Huma Pierce moved to accept; Todd

Bilby seconded the motion. All in favor. Robinson, aye; Cote, aye; Goldeen, aye; Parker-Kent, aye; Bilby, aye; Dick, aye and Pierce, aye.

Case #2012-1000

The Board proposed no statutory violation with a Letter of Concern. Dr. Daniel Cote moved to accept; Huma Pierce seconded the motion. All in favor. Robinson, aye; Goldeen, aye; Parker-Kent, aye; Bilby, aye; Dick, aye; Pierce, aye and Cote, aye.

Case #2012-3006

The Board proposed Case Closed with a Letter of Concern (“strongly worded”) to the doctor. Cookie Parker-Kent moved to accept; Daniel Coté seconded the motion. All in favor. Robinson, aye; Goldeen, aye; Parker-Kent, aye; Bilby, aye; Dick, aye; Pierce, aye and Cote, aye.

Case #2012-5004

The Board proposed Case Closed with a letter of concern. Dr. Todd Bilby moved to accept; Doug Dick seconded the motion. All in favor. Robinson, aye; Goldeen, aye; Parker-Kent, aye; Bilby, aye; Dick, aye; Pierce, aye and Cote, aye.

Case #2012-1010

The Board proposed no statutory violation. Dr. Christine Robinson moved to accept; Cookie Parker-Kent seconded the motion. All in favor. Goldeen, aye; Parker-Kent, aye; Bilby, aye; Dick, aye; Pierce, aye; Cote, aye and Robinson, aye.

Case #2011-1047

The Board determined to issue a Notice to Cease and Desist letter regarding the sale of HCG. Dr. Daniel Cote moved to accept the determination; Cookie Parker-Kent seconded the motion. Goldeen, aye; Parker-Kent, aye; Bilby, aye; Dick, aye; Cote, aye and Robinson, aye. Huma Pierce was recused.

Case #2012-1008 and Case #2012-3002

The Board proposed insufficient evidence to find a violation. However, it will issue a Letter of Concern in that the licensee must submit proof of current medical marijuana card and a referral from his physician. In addition, the Board will recommend the doctor maintain a professional atmosphere in the clinic. Dr. Ann Goldeen moved to accept the determination; Cookie Parker-Kent seconded the motion. All in favor. Bilby, aye; Dick, aye; Pierce, aye; Cote, aye; Robinson, aye; Goldeen, aye and Parker-Kent, aye.

Case #2011-1046

The Board determined no statutory violation. Dr. Todd Bilby moved to accept the determination; Ann Goldeen seconded the motion. All in favor. Bilby, aye; Dick, aye; Pierce, aye; Cote, aye; Robinson, aye; Goldeen, aye and Parker-Kent, aye.

Case #2011-1048 Todd Hansen DC

The Board proposed to amend the previously issued Notice of Disciplinary Action (case # 2010-1019 et al) against Dr. Hansen with the addition of this case (#2011-1048) and the following new cases: 2012-1007, 2012-1005, 2012-1004, 2012-1003, 2012-1011, 2012-3001 and 2012-1001. Drs. Todd Bilby moved to accept the Board’s determination; Ann Goldeen seconded the motion. All in favor. Dick, aye; Pierce, aye; Cote, aye; Robinson, aye; Goldeen, aye; Bilby, aye and Parker-Kent, aye.

Case #2012-3004

The Board determined insufficient evidence to find a violation with a Letter of Concern. A letter will be sent to the complainant regarding some billing issues. Dr. Christine Robinson moved to accept the determination; Cookie Parker-Kent seconded the motion. All in favor. Bilby, aye; Dick, aye; Pierce, aye; Cote, aye; Robinson, aye; Goldeen, aye and Parker-Kent, aye.

Case #2011-1044

The Board determined insufficient evidence to find a violation with a letter of concern. Dr. Huma Pierce moved to accept the determination; Doug Dick seconded the motion. All in favor. Bilby, aye; Dick, aye; Pierce, aye; Cote, aye; Robinson, aye; Goldeen, aye and Parker-Kent, aye.

Richard Crokin DC

Based on his full compliance with the Final Stipulated Order, the Board agreed to remove Dr. Crokin's probation with stipulation that he first pay off his civil penalty obligation. Dr. Todd Bilby moved to accept the Board's determination; Cookie Parker-Kent seconded the motion. All in favor. Dick, aye; Pierce, aye; Cote, aye; Robinson, aye; Goldeen, aye; Bilby, aye; and Parker-Kent, aye.

Chiropractic Assistant Applicant (case #2012-5006)

The Board determined to issue a Notice to Deny License. Dr. Daniel Coté moved to accept the Board's determination; Huma Pierce seconded the motion. All in favor. Dick, aye; Robinson, aye; Goldeen, aye; Bilby, aye; Pierce, aye; Cote, aye; and Parker-Kent, aye.

Marisol Quirino, CA Applicant

The Board proposed to license the CA applicant with stipulations to disclose her conviction history to current and all future supervising DCs. Dr. Daniel Cote moved to accept the Board's determination; Huma Pierce seconded the motion. All in favor. Dick, aye; Robinson, aye; Goldeen, aye; Bilby, aye; Parker-Kent, aye; Pierce, aye; and Cote, aye.

Continuing Education

January 25 2012 CE Audit Report – for failure to submit CE in a timely manner in response to the Board's request, two licensees will be auto-audited the next round.

CE Course reviews

1. A doctor requested CE credit for their time working in Mexico under a local physician, and being tutored in the Medical Terminology of the region. The Board determined that the activity does not qualify as CE.
2. Another licensee, required to complete the four hours Over-the-Counter Substances course for his first year license renewal, requested approval of the Nurse Pharmacology program in lieu of the Board's approved programs. The Board denied the request; it does not meet the OTC requirement.

4:00 PM ADJOURN