



Oregon

Theodore R. Kulongoski, Governor

Oregon Board of Chiropractic Examiners

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Public Session

Morrow-Crane Building
2nd Floor Large Conference Room
3218 Pringle Rd SE
Salem, OR 97302

March 19th, 2009

Members Present

Michael Megehee, DC Secretary (chaired meeting)

Steve Koc, DC

Minga Guerrero, DC

Cookie Parker-Kent, Public Member

Douglas Dick, Public Member

Joyce McClure DC, by telephone

Michael Vissers DC, by telephone

Staff Present

Dave McTeague, Executive Director

Donna Dougan, Admin Assistant

Katie Hambelton, Office Specialist

Michael Summers, Investigator

Tom Rozinski, Investigator

Lori Lindley, Assistant AG

Public Present: Judith Boothby DC

CONVENE 12:50 pm

ADOPTION OF THE AGENDA No changes.

PUBLIC COMMENTS

Dr. Megehee noted that OBCE staff earned one of the State Controller's "gold star certificate" (for fiscal responsibility). Secondly, Dr. Megehee noted that there is an American Chiropractic (Clinical?) Board of Clinical Nutrition that offers a diplomate program. We should add that information to the BackTalk in case doctors want to apply for that program; there will be a grandfather clause for those that have training already.

1:15 PM ADJOURN TO EXECUTIVE SESSION

1:55 PM RECONVENE TO PUBLIC

DISCUSSION ITEMS

1. **Policy Issue: 2009 Legislation**

Dave provided testimony to the Senate Judiciary Committee regarding Senate Bill 274 amendments which gives the office of administrative hearings power to adopt all the hearing procedural rules. He said those changes might allow witness depositions that would cause cases to be extended by three to nine months. Dave appeared in front of the Ways and Means Education subcommittee yesterday which passed out the OBCE's budget, however without the board member per diem at this time. The good news is that HB 2058 just passed the House which allows increased board per diem; there's a better than 50% chance that our budget will be updated this session in this regard. SB 521 will be up and it adds a paragraph to ORS 684 Definitions of chiropractic about subluxations. This provides a better definition of what is chiropractic, but doesn't limit the scope of practice in any way. The full

Board supports SB 521. HB 2059 is likely to be passed and it has to do with cross-profession “duty to report.” HB 2610 had a hearing and will likely move forward (amends the Doctor’s Title Act). This would allow PT’s that have a doctorate degree to call themselves doctors.

2. ETSDP Committee Report: Contact Reflex Analysis

Dr. Judith Boothby started by sharing a letter from Dr. Robert Taylor, Co-President of the Oregon Chiropractic Association. They are very concerned about contact reflex analysis and would like more time for CRA supporters to address the issues. What about the public that has been helped by CRA? Dr. Megehee suggested that the board give their opinion about CRA. Dr. Vissers agrees that we should give Dr. Taylor a few more months. Dr. Guerrero was discussing the CRA manual which says, “The CRA is adjunct to standard.” CRA can be confusing and used incorrectly. Dr. Guerrero says that the board is just clarifying for the profession so they understand what CRA is. Dr. Koc doesn’t think there needs to be a change because the doctor that caused the complaint was the problem, not the actual procedure. In favor of postponing this decision for two months - Drs. Megehee, Koc, Vissers, McClure, and Guerrero. Cookie and Doug Dick agree. In addition, Dr. Vissers requested that a definition of an “adjunctive technique” be added to this public record... that any “adjunctive” technique needs to be used with another physical examination...so the technique is not misused. Carry forward to the next (May) board meeting.

3. Ethics & Jurisprudence Exam Update Report.

Dave reported limited progress and said a workshop on this could be held in July.

4. Policy Issue: IME Policy question for Cities that border state lines

Two Oregon doctors contacted Dr. Guerrero about the insurance company requesting IMEs be done on their Oregon patients in Washington. Note, Washington DCs do not have PT in their scope, and in one of these cases the Washington IME gave an opinion which recommended a referral to a physical therapist, even though the Oregon DC is able to do that same procedure in *his* office.

Mark Sutton, the current Washington State Board chair said they are aware of this, but not yet doing anything about it; they are allowing the WA DCs to do it because they are “trained” in PT. Dr. Guerrero also called Bud Smith, President of the FCLB and he said there is growing sentiment that chiropractors performing IMEs should have to be licensed in the same state that the patient is treated in. Many states are creating policy language in this regard (treated in Oregon, IME DC needs to have an Oregon license). Dr. Megehee agreed to discuss this issue with others at the FCLB annual meeting in May.

5. Policy Issue: CA Initial Training Requirements

Should the initial training be hands on/practical? Can LMT’s train since electrotherapy is not in their scope? Dr. Guerrero drafted policy language could say something like the board recognizes that some training sessions are lecture, and some are training and hands on. We now require certificates to state which the training is. The reason being that it is important for the employing DC to know. Although the board requires only lecture training, the board strongly suggests that each doctor should specifically train their CAs to use procedure and machinery in their individual offices. Document the number of hours training, content, and date. File it in the employee’s personnel file.

Dr. McClure thinks that people who are training CAs should have at least a strong CA background, or is a licensed Dc. She doesn’t think it is appropriate for the LMT to be training the CAs. We want the CAs to have hands-on training – especially basic muscle stimulation, laser and ultrasound.

These are the main three modalities that everyone uses. By doing so, they can understand what the patient is feeling. Our CAs need to have higher quality instructors who actually use these machines on a regular basis.

Dr. Guerrero did have a recommendation for initial training – it must be done by those licensed in use of same equipment (or a similar statement to that...). Continuing education may be done by other appropriate providers. Dr. Megehee needs to think about these proposals before any decision is made. Members agreed to take more time to review these issues. Carry forward to the next board meeting.

6. Staff Report

For the May 2009 meeting Dave McTeague will be in New York for his daughter's graduation.

CORRESPONDENCE

Dennis Nowack DC, re: American Chiropractic Network (Re-review)

This issue is carried forward to the May 2009 board meeting.

(Dr. Vissers ended his teleconference call before the In the Matters of were read into the record.)

IN THE MATTER OF

Gideon Tarnasky, DC Applicant (previously licensed [expired 7/31/95])

The board determined to accept his application for licensure provided he take and pass NBCE's Physiotherapy, Part III (possibly), and Part IV examinations. He must take and pass all three written Oregon examinations. In addition the board requires completion of 8 hours education in billing, coding and chart noting. Dr. Michael Megehee moved to accept the board's determination. Dr. Minga Guerrero seconded the motion. All in favor. Dr. Steve Koc, aye; Dr. Michael Megehee, aye; Dr. Minga Guerrero, aye; Dr. Joyce McClure, aye; Cookie Parker-Kent, aye; and Doug Dick, aye.

Bryan Scott, DC

The Board proposed to extend his probationary period for two more years with a slight modification in the probation that he see his treating psychologist three times a year instead of four times a year. He will continue the one time per year polygraph. Dr. Guerrero moved to accept the board's determination; Steve Koc seconded the motion. All in favor. Dick, aye; Parker-Kent, aye; McClure, aye; Guerrero, aye; Koc, aye; and Megehee, aye.

Lance Hatch, DC Applicant re-applying since revoked (Feb 2007).

The board determined to accept his application to practice chiropractic in Oregon with the following conditions and stipulations: he may not participate in pre-pay plans, in fee-splitting plans; he may not participate in any illegal trust program, he must pass the three Oregon State written examinations, and he must take and pass the NBCE's SPEC examination. The Board will offer him a Consent Order for his agreement. Dr. Koc moved to accept the board's determination; Dr. Guerrero seconded the motion. Dick, aye; Parker-Kent, aye; McClure, aye; Guerrero, aye; and Koc, aye. Megehee recused.

Case #2009-1002 No Statutory Violation. Dr. Guerrero moved to accept the determination. Doug Dick seconded the motion. All in favor. Megehee, aye; Dick, aye; Parker-Kent, aye; Koc, aye; Guerrero, aye; and McClure, aye.

Case #2009-1007 No Statutory Violation. Dr. Guerrero again moved to accept the determination. Dr. Koc seconded the motion. All in favor. Megehee, aye; Dick, aye; Parker-Kent, aye; Koc, aye; Guerrero, aye; and McClure, aye.

Case #2009-2000 Case Closed with a letter of concern. Dr. Koc moved to accept the determination; Dick seconded the motion. All in favor. Megehee, aye; Dick, aye; Parker-Kent, aye; Guerrero, aye; Koc, aye; and McClure, aye.

Case #2009-2001 Case Closed. Cookie Parker-Kent moved to accept the Board's determination. Dr. Guerrero seconded the motion. All in favor. Megehee, aye; Dick, aye; Koc, aye; Parker-Kent, aye; and Guerrero, aye. McClure abstained.

Case #2009-3000 The Board determined a "contingent" Case Closed. If the doctor agrees to take six (6) hours in charting and record keeping the Board will close the case with no further action. Megehee moved to accept the board's determination. Dr. Guerrero seconded the motion. All in favor. Koc, aye; Dick, aye; Parker-Kent, aye; McClure, aye; Megehee, aye; and Guerrero, aye.

Case #2009-3001 The Board determined Case Closed with a letter of concern. Cookie Parker-Kent moved to accept the board's determination. Dr. Guerrero seconded the motion. All in favor. Megehee, aye; Koc, aye; Dick, aye; Parker-Kent, aye; Guerrero, aye; and McClure, aye.

Case #2009-3003 The Board determined insufficient evidence to find a violation. Doug Dick moved to accept the board's determination. Dr. Guerrero seconded the motion. All in favor. Megehee, aye; Koc, aye; Guerrero, aye; Dick, aye; Parker-Kent, aye; and McClure, aye.

Case #2009-3008 **Jason Lutz, CCA**
The Board proposed to issue a notice of revocation. Steve Koc moved to accept the board's determination. Cookie Parker-Kent seconded the motion. All in favor. Megehee, aye; Guerrero, aye; Koc, aye; Dick, aye; Parker-Kent, aye; and McClure, aye.

Case #2009-3009 The Board determined Case Closed based upon the licensee's response. Doug Dick moved to accept the board's determination. Dr. Guerrero seconded the motion. All in favor. Megehee, aye; Koc, aye; Guerrero, aye; Dick, aye; and Parker-Kent, aye; McClure abstained.

Case #2008-5012 **John Donovan, DC**
The board determined to issue a Final Order for a \$250 civil penalty (for submitting a false CE affidavit). Dr. Megehee moved to accept the Board's determination; Cookie Parker-Kent seconded the motion. Koc, aye; Dick, aye; Guerrero, aye; Megehee, aye; Parker-Kent, aye; and McClure, aye.

Case #2009-5001 **Jerry Evans, DC**
The board determined to withdraw the proposed civil penalty order. Parker-Kent moved to accept the Board's determination. Guerrero seconded the motion. All in favor. McClure, aye; Koc, aye; Dick, aye; Parker-Kent, aye; Guerrero, aye; and Megehee, aye.

2:45 PM **ADJOURN for the day.**