



# Oregon

Theodore R. Kulongoski, Governor

## Oregon Board of Chiropractic Examiners

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## PUBLIC SESSION

Western States Chiropractic College  
Hampton Hall Conference Room  
2900 NE 132<sup>nd</sup> Ave.  
Portland, Oregon

**November 15, 2007**

### Members Present

Minga Guerrero, DC President  
Michael Vissers, DC Vice-President  
Joyce McClure, DC Secretary  
Steve Koc, DC  
Michael Megehee, DC  
Cookie Parker-Kent, Excused  
J. Kevin Shuba, Esq., Excused

### Staff Present

Dave McTeague, Executive Director  
Kelly Edmundson, Administrative Assistant  
Michael Summers, Investigator  
Lori Lindley, AAG  
Jane Billings, Administrative Assistant  
Donna Dougan, Office Specialist

**Others Present:** Drs. Judith Boothby, Vern Saboe, David Panzer, David Peterson and Mitch Haas.

**1:00 PM      CONVENE**

**ADOPTION OF THE AGENDA** – Dr. Steve Koc moved to adopt the agenda as presented; Dr. Joyce McClure seconded the motion. All in favor. Agenda adopted.

### PUBLIC COMMENTS

Dr. Judith Boothby appeared before the Board to ask for clarification of the ETSDP administrative rule. She would like the Board to ask the ETSDP Committee to come together to create a clearer interpretation of the rule, including use of investigational devices in an ethical manner. She provided a written statement to the Board members. She noted that she originally drafted the rule so that the rationale for the investigational part of the rule is that “if the device is low risk, that is the clinical rationale.” She does not feel the Board is interpreting the rule as it was meant to be interpreted when originally drafted.

Dr. Boothby asked Dave McTeague if he could recall any specific harm reported with regard to any ETSDP in the past ten years; he was not certain without checking into it further. Dr. Boothby closed by noting that she is *not* requesting a rewrite of the rule, but a work session to consider a clearer interpretation. Dr. McClure verified that she re-forwarded Dr. Jim Aungst’s email to Dave McTeague and other Board members regarding his recommended language “cleanup” which would perhaps address Boothby’s concerns (from June, 2007) and the Board will be reviewing it before the next meeting. The Board will consider this issue again at their January 17, 2008 meeting.

## **DISCUSSION ITEMS & RULE HEARING**

### **1. Strategic Plan draft and follow up to board retreat**

Dave McTeague provided a summary of the Strategic Planning Session's work. He also drafted a BackTalk article for the next newsletter addressing the proposed changes. He would like the Board's input on the outcomes to achieve. He is still working on drafting how we would measure the performance of the goals.

Dr. Guerrero appreciates the measure we have requiring new licensees to attend the New Licensee Orientation; we are able to compare violators against the list of those who attended or not. Dr. Vissers would also like the OBCE to consider a future change to the Ethics/Jurisprudence examination where applicants are completing an open-book examination. This is currently being used successfully in at least one other State.

The Board also agrees that putting the disciplinary actions onto the agency website is a priority. The Board would like to see this project completed by June 2008. There was some discussion about hiring a person to expedite the project.

In addition, Dave brought up the need to review consistency in the board's disciplinary actions, which is one of the strategic plan items.

### **1:30 PM ADMINISTRATIVE RULE HEARING**

Dr. Guerrero opened the rule hearing for comment. A number of rule amendments are proposed to be amended or adopted.

Discussion began regarding the **Clinical Justification Rule 811-015-0010**. Dr. David Panzer favors continuing the clinical justification rule as written (including one recent edit from the Rules Advisory Committee).

Dr. Vern Saboe, representing the CAO, supports keeping this rule and making it permanent. This rule is very important for the passage of Senate Bill 585 (regarding PIP care), for future legislation, for insurance parity, for return of full attending physician status to workers compensation. The rule will also benefit the development of the CAO's "Best Practices" document.

Drs. David Peterson and Mitch Haas also presented to support the permanent rulemaking of the clinical justification rule. Dr. Boothby asked if the policy clarification language (Adopted May 2006) was still in effect. Dr. Guerrero answered that it was. There was no further discussion on this rule.

Dr. Guerrero asked for any additional comment from board members regarding the remaining proposed rules. There was none, so the hearing was closed at **1:45 PM**.

Michael Vissers moved to adopt permanently the Clinical Justification rule as recommended by Rules Advisory Committee; MM seconds. All in favor. Joyce McClure, aye; Steve Koc, aye; Michael Megehee, aye; Michael Vissers, aye; and Minga Guerrero, aye.

New Language for **Emergency Use of Oxygen 811-010-0090(3)** The Rules Committee recommended the rule be very broad. Joyce McClure moved to adopt permanently the rule; Michael Vissers seconded the motion. All in favor. Joyce McClure, aye; Steve Koc, aye; Michael Megehee, aye; Michael Vissers, aye; and Minga Guerrero, aye.

**811-015-0025** changes the license status title from Limited Active to Senior Active and removes use of Continuing Education Course Evaluation form. Joyce McClure moved to amend the rule as proposed; Minga Guerrero seconded the motion. All in favor. Joyce McClure, aye; Steve Koc, aye; Michael Megehee, aye; Michael Vissers, aye; and Minga Guerrero, aye.

**811-010-0093** updates the date reference to Guide to Policy and Practice Questions and the CCE Standards. Michael Vissers moved to accept the amendment; Joyce McClure seconded the motion. All in favor. Joyce McClure, aye; Steve Koc, aye; Michael Megehee, aye; Michael Vissers, aye; and Minga Guerrero, aye.

Regarding **811-010-0086 Annual Registration** General clean up of license renewal language to match actual process, birth month transition period language removed, and the time periods to process renewals changed. Michael Vissers moved to accept the amendment; Michael Megehee seconded the motion. (Dr. McClure stepped out; no vote). Steve Koc, aye; Michael Megehee, aye; Michael Vissers, aye; and Minga Guerrero, aye.

The amendment updates the date reference in the rule to the **Attorney General Model Rules of Procedure** to January 2008. Michael Megehee moved to amend the rule; Steve Koc seconded the motion. (McClure still absent.) Steve Koc, aye; Michael Megehee, aye; Michael Vissers, aye; and Minga Guerrero, aye.

This amendment updates the **811-021-0005 Educational Standards** to the latest CCE standards. Michael Megehee moved to amend the rule. Steve Koc seconded the motion. (McClure still absent.) Steve Koc, aye; Michael Megehee, aye; Michael Vissers, aye; and Minga Guerrero, aye.

**811-010-0085 Application of Applicants.** This amendment decreases the dollar amount required to process background checks and it adjusts the number of days to release exam results, which matches the actual workflow. Michael Vissers moved to amend the rule; Steve Koc seconded the motion. (McClure still absent.) Steve Koc, aye; Michael Megehee, aye; Michael Vissers, aye; and Minga Guerrero, aye.

#### **Discussion #4 Citizen Advocacy Center annual meeting report**

Dave attended this conference in Seattle in late October. There was a lot of discussion about continued competency issues. The public expectation is that health regulatory boards are responsible to ensure that licensees are competent. There are few working examples as to how this plays out in practice. Continuing Education is not enough to guarantee continued competency. It seems that the issue may need to be taken to the legislature to see some change in this regard.

#### **Discussion #5 Staff Report**

Dave is actively working on the next issue of the BackTalk newsletter. There are still other topics he may add regarding advertising, AAG opinions, etc. In addition, Dave may add two other Workers Compensation issues to educate the field – the new law disallowing impairment rating, and the change to the 18 “visits” which are cumulative including care by Nurse Practitioners, Physician Assistants, and Chiropractic Physicians.

**Continuing Education for Workers Compensation “certification”** – The board determined that licensees may log one hour of continuing education for the certification.

**New Discussion Item – Clarification of 2 hours Outcomes Assessment requirement policy**

Update the policy to require new licensees to complete these two hours at their first license renewal (in addition to the current requirement for four hours of over-the-counter medications). Proofs of completion need not be submitted, but confirmed on their first license Renewal Notice/Affidavit.

**CORRESPONDENCE**

**Joseph Graffeo DC - Requests CE for workers compensation certification**

In discussion about workers compensation, the board determined that licensees may report one hour CE credit for completion of the WC certification. (Note: This one hour does not meet the evidence-based outcomes measures requirement.)

**2:40 PM**      **ADJOURN PUBLIC SESSION** (to conclude Executive Session)

**4:05 PM**      **RECONVENE** to conclude the In the Matters of

**IN THE MATTERS OF**

**Michael Pinkus, DC applicant**

The Board proposed to accept the application and with licensure, proposes to issue a notice of probation for two years with one 16<sup>th</sup> month file review (retrieve five files) within the two years. Minga Guerrero moved to accept the Board’s determination; Steve Koc seconded the motion. All in favor. Joyce McClure, aye; Steve Koc, aye; Michael Megehee, aye; Michael Vissers, aye; and Minga Guerrero, aye.

**2007-1028**

The Board determined case closed. Minga Guerrero moved to accept the Board’s determination; Michael Vissers seconded the motion. Koc is recused. Joyce McClure, aye; Michael Megehee, aye; Michael Vissers, aye; and Minga Guerrero, aye.

**2005-1043 & 2006-1028 Eric Hansen**

The Board proposes to issue a notice for violations in chart noting, clinical justification, lack of informed consent, and sexual boundaries. Licensee must complete 20 hours CE on boundary, sexual issues and informed consent, submit a summary book report to the Board, and be on a three-year probation. Steve Koc moved to accept the Board’s determination; Minga Guerrero seconded the motion. All in favor. Joyce McClure, aye; Steve Koc, aye; Michael Megehee, aye; Michael Vissers, aye; and Minga Guerrero, aye.

**2007-1027**

The Board determined case closed. Michael Vissers moved to accept the Board’s determination; Minga Guerrero seconded the motion. All in favor. Joyce McClure, aye; Steve Koc, aye; Michael Megehee, aye; Michael Vissers, aye; and Minga Guerrero, aye.

**2007-1037 Thomas Finch**

The Board proposed to issue a Letter of Reprimand for failure to release records. Joyce McClure moved to accept the board's determination; Michael Vissers seconded the motion. Minga Guerrero is recused. Joyce McClure, aye; Steve Koc, aye; Michael Megehee, aye; and Michael Vissers, aye.

**2007-1038**

The Board found no statutory violation. Minga Guerrero moved to accept the board's determination; Joyce McClure seconded the motion. All in favor. Joyce McClure, aye; Steve Koc, aye; Michael Megehee, aye; Michael Vissers, aye; and Minga Guerrero, aye.

**2007-1039**

The Board found no statutory violation. Michael Megehee moved to accept the determination; Michael Vissers seconded the motion. All in favor. Joyce McClure, aye; Steve Koc, aye; Michael Megehee, aye; Michael Vissers, aye; and Minga Guerrero, aye.

**2007-2008**

The Board found no statutory violation. Steve Koc moved to accept the determination; Michael Vissers seconded the motion. All in favor. Joyce McClure, aye; Steve Koc, aye; Michael Megehee, aye; Michael Vissers, aye; and Minga Guerrero, aye.

**2007-3007 Kris Pollack, DC**

The Board proposed to assess a \$500 civil penalty for advertising violations. Michael Vissers moved to accept the determination; Steve Koc seconded the motion. All in favor. Joyce McClure, aye; Steve Koc, aye; Michael Megehee, aye; Michael Vissers, aye; and Minga Guerrero, aye.

**2007-5017**

The Board determined case closed, pending receipt of the licensee's written agreement. Steve Koc moved to accept the board's determination; Joyce McClure seconded the motion. All in favor. Joyce McClure, aye; Steve Koc, aye; Michael Megehee, aye; Michael Vissers, aye; and Minga Guerrero, aye.

**2007-1029**

The Board determined case closed with a letter to be sent to the licensee. Joyce McClure moved to accept the Board's determination; Michael Vissers seconded the motion. All in favor. Joyce McClure, aye; Steve Koc, aye; Michael Megehee, aye; Michael Vissers, aye; and Minga Guerrero, aye.

**ADJOURN 4:30 PM**