



Oregon

Theodore R. Kulongoski, Governor

Oregon Board of Chiropractic Examiners

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PUBLIC MEETING

Kahneeta – Council Room

6823 Highway 8

Warm Springs, Oregon

September 28, 2007 11:00 a.m.

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: Kevin Shuba, Esq.

Others Present: Joseph Brimhall, DC

Staff Present

Dave McTeague, Executive Director

Kelly Bird, Administrative Assistant

Michael Summers, Investigator

Lori Lindley, AAG

Jane Billings, Administrative Assistant

Donna Dougan, Office Specialist

12:00 PM CONVENE

ADOPTION OF THE AGENDA The Board adopted the agenda as presented.

IN THE MATTERS OF

Kim Macquarrie Certified Chiropractic Assistant

The Board proposed to place a condition on the chiropractic assistant certificate for violations performed as a licensed Oregon physical therapist. CCA will be required to notice her current and future employers of the violations. Joyce McClure moved to accept the Board's determination. Steve Koc seconded the motion. All in favor. Michael Vissers, aye; Joyce McClure, aye; Michael Megehee, aye; Steve Koc, aye; Cookie Parker-Kent, aye; and Minga Guerrero, aye.

Celia Hartung, Applicant for Chiropractic Assistant Certification

The Board proposed to deny issuance of the chiropractic assistant certificate. Michael Vissers moved to accept the Board's determination; Cookie Parker-Kent seconded the motion. All in favor. Michael Vissers, aye; Joyce McClure, aye; Michael Megehee, aye; Steve Koc, aye; Cookie Parker-Kent, aye; and Minga Guerrero, aye.

Case #s 07-1022 and 07-1033

The Board proposed insufficient evidence to find violations in both matters with a letter of concern to be issued regarding the doctor's need for better communication. Mike Megehee moved to accept the Board's determination; Cookie Parker-Kent seconded the motion. All in favor. Michael Vissers, aye; Joyce McClure, aye; Michael Megehee, aye; Steve Koc, aye; Cookie Parker-Kent, aye; and Minga Guerrero, aye.

Case # 07-1030

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

Case # 07-5010

The Board made a determination of case closed in this matter. Minga Guerrero moved to accept the Board's determination. Steve Koc seconded the motion. All in favor. Michael Vissers, aye; Joyce McClure, aye; Michael Megehee, aye; Steve Koc, aye; Cookie Parker-Kent, aye; and Minga Guerrero, aye.

Case # 07-4000

The Board made a determination of case closed with a letter of concern to be sent to the chiropractor. Minga Guerrero moved to accept the Board's determination; Cookie Parker-Kent seconded the motion. All in favor. Michael Vissers, aye; Joyce McClure, aye; Michael Megehee, aye; Steve Koc, aye; Cookie Parker-Kent, aye; and Minga Guerrero, aye.

Case # 07-3004

The Board made a determination of case closed with a letter of concern to be sent to the chiropractor. Cookie Parker-Kent moved to accept the Board's determination; Michael Vissers seconded the motion. All in favor. Michael Vissers, aye; Joyce McClure, aye; Michael Megehee, aye; Steve Koc, aye; Cookie Parker-Kent, aye; and Minga Guerrero, aye.

Case # 07-5014 Thomas Bolera, DC

The Board proposed to issue a Notice of Revocation for federal fraud conviction, violations of and authority in ORS 684.100 (1)(d), ORS 684.100((1)(s) and OAR 811-035-0015. Joyce McClure moved to accept the Board's determination; Steve Koc seconded the motion. All in favor. Joyce McClure, aye; Michael Megehee, aye; Steve Koc, aye; Cookie Parker-Kent, aye; and Minga Guerrero, aye.

Case # 07 -2005

The Board made a determination of case closed conditional upon the licensee's completion of 12 hours continuing education, which addresses insurance billing, coding and apportionment, within 90 days of notification. These hours are in addition to the regular annual requirement. Michael Vissers moved to accept the Board's determination; Mike Megehee seconded the motion. All in favor. Michael Vissers, aye; Joyce McClure, aye; Michael Megehee, aye; Steve Koc, aye; Cookie Parker-Kent, aye; and Minga Guerrero, aye.

11:45 a.m. Working Lunch

DISCUSSION ITEMS

1. FCLB Regional Meeting Report (Drs. Minga Guerrero and Joyce McClure reported)

Dr. Guerrero first pointed out that Oregon is far ahead of the other boards in policy setting and strategic planning. She thanked Dr. Joyce McClure for initiating this weekend's strategic planning session. One topic discussed at the district meeting was manipulation under anesthesia (MUA). California has a huge legal problem with their MUA policy language; where is Oregon with any policy or rule? Dave noted that the OBCE has its MUA policy already in the Policy and Practices Guide as allowable. The FCLB recommended that MUA be written into each state's statutes or administrative rules since policies are more subject to change. Dr. Brimhall stated that MUA is not part of WSCC's core curriculum, however, it may be offered as post-graduate education.

A second topic discussed was chiropractic assistant initial training. Two or three states were having difficulties because AETNA required 20 hours education or they would not pay. With those two states, there was no training. Clearly, Oregon's six hours of initial training is minimal. Boards were asked to consider increasing the hours. Dr. Megehee suggested the stakeholders be contacted about the situation and let them determine if they would like to present to the board a request for change. Dr. Guerrero agreed to contact Don Ferrante, DC (CAO); Steve Koc will contact Robert Taylor, DC (ODOC), and Michael Vissers will contact Verne Saboe, DC. Encourage communication among themselves and ask them to communicate to include Dr. Brimhall in their conversation.

There may be an FCLB Power Poll on this issue. AETNA was requiring 20 hours didactic training (done at Palmer West, WSCC, etc.). There had to be a test of their competency skills related to PT modalities, a certificate of completion from an institution of higher education, and they had to be current with CPR.

Dr. Brimhall added that we are the only health profession that doesn't have a recognized assistant program that is consistent across the nation. He feels it is better that we initiate some minimum standards for chiropractic assisting; it raises the credibility. He would be happy to promote that with CCE, and establish a standardized program. We could also ask the National Board to create some type of standardized test.

Dr. McClure added that Physical Therapists performing spinal manipulation is definitely a topic all state boards are hearing about. She recommends we take the moral high ground, continue to be the best we are, and do not get into the turf wars. Dr. Brimhall added that it might be dangerous to define our profession by a modality; many others are licensed and qualified to do spinal manipulations – osteopaths, naturopaths, acupuncturists, and PTs in many states. He agrees with Joyce; and thinks the best way to address the issue of manipulation is by working with the other professions and establishing minimum competencies.

Dr. Brimhall noted two corrections for the FCLB report. Specifically, in point #1 it should read, "All CE is approved" (by PACE) not "CCE." Also, in point #6 of the report, it mistakenly says, "Mexico and South America are not accredited by CCE International." First, CCE International is not an accrediting agency. It is true, however, that "Mexico and South America are not yet accredited."

Dr. Brimhall also spoke to the issue of CCE standards – currently under revision. The US Department of Education has been extremely interested in seeing accreditation change from a prescriptive approach – numbers and specific requirements – to an outcomes/competencies approach. The shift is geared towards the outcome a licensing board wants to achieve. A task force is in the process of drafting new standards.

2. Policy Issue: Laser/phototherapy for cosmetic treatments (continued from July meeting)

Recently the OBCE determined that a variety of low-level laser and light therapy (LLLT a.k.a phototherapy) is available to Oregon chiropractic physicians as a standard treatment for NMS conditions. (Winter 2007 BackTalk) Following a survey of chiropractic colleges, the OBCE determined that some are teaching low-level laser and light therapy for a variety of skin conditions and pathologies (which also address cosmetic issues), then making this aspect of LLLT standard for chiropractic in Oregon.

However, the Board has received legal advice that LLLT for *purely cosmetic conditions*, such as hair removal, which do not address a skin condition or pathology ~~such as hair removal~~, is not within the current scope of chiropractic practice. To the best of our knowledge, this is not currently taught in any chiropractic college course. (However, this could change and if it does, the OBCE can revisit this issue.)

(More colleges responded that cosmetic treatments are not being taught in the chiropractic colleges. Accordingly, cosmetic laser therapy may NOT be used for cosmetic purposes even with minor surgery certification.)

Dr. Brimhall added that many colleges are teaching use of lasers for skin conditions, but not just for cosmetic application. He sees the latter as outside the scope of chiropractic practice.

Joyce McClure asked staff to find out what the educational requirements are for estheticians (for comparison to the DC education). Dave will also re-review the AAG's previous advice.

3. Policy Question: Can CCAs do colonics?

A chiropractic applicant asked if colonics are within the chiropractic assistant scope (i.e. hydrotherapy). The board answered that colonics do not fall under hydrotherapy, and therefore is not an allowable procedure for CCAs to perform. The Board felt there were inherent risks, such as causing septic shock by rupturing the bowels.

4. Committee appointments

Dr. Robert Taylor, the current ODOC president, is willing to serve on the Board's Rules Advisory Committee. Michael Vissers moved to accept the Board's appointment; Michael Megehee seconded the motion. All in favor. Michael Vissers, aye; Joyce McClure, aye; Michael Megehee, aye; Steve Koc, aye; Cookie Parker-Kent, aye; and Minga Guerrero, aye.

Dr. Marcelitte Failla declined the Board's previous appointment.

5. Staff Report

Dave McTeague briefly discussed his recent meeting (9/20/07) with other health regulatory boards; the meeting was a reaction to the Board of Nursing's recent problems. The Governor and others are taking a harder look at all of the health regulatory boards. It was pointed out that most agency directors are hired by their boards, but they should also keep in mind that they are also directly accountable to the Governor.

Other issues: Dave will be drafting a BackTalk newsletter outline of articles to be printed; he would like board members' input. Also, Dave provided the members documentation to complete the executive director's annual performance review. Lastly, he informed the board that it is time to start thinking of the OBCE's 09-11 budget requests. Dr. Vissers asked board members to fill out the director's performance evaluation this weekend so they can have a discussion in November.

1:10 pm ADJOURN Public Session (Friday)

OBCE STRATEGIC PLANNING RETREAT

Friday afternoon Sept. 28

1:00 pm Begin retreat meetings
5:00 pm Break for dinner
7:30 pm Reconvene & meet until 9:15 p.m.

Saturday morning and afternoon Sept 29

8:30 am until 2:00 p.m. includes a working lunch.

2:30 pm ADJOURN

See fall issue of the BackTalk for a summary of the planning retreat results.