



Oregon

Theodore R. Kulongoski, Governor

Oregon Board of Chiropractic Examiners

3218 Pringle Road SE, Suite 150

Salem, Oregon 97302-6311

(503) 378-5816

FAX (503) 362-1260

E-mail: Oregon.obce@state.or.us

Web: www.oregon.gov/OBCE

Public Session Meeting Minutes

Morrow-Crane Building

3218 Pringle Road SE, Large Conference Room

Salem, Oregon

September 21, 2006

Board Members Present

Minga Guerrero, DC, President

Michael Vissers, DC, Vice-President

Joyce McClure, DC, Secretary

Michael Megehee, DC

Kevin Shuba, Esq, Public Member

Excused: Cookie Parker-Kent, Public Member

Staff Present

Dave McTeague, Executive Director

Michael Summers, Investigator

Kelly Bird, Administrative Assistant

Lori Lindley, AAG

Public: Steve Koc, DC, Peer Review Chair

12:00 PM CONVENE

ADOPTION OF THE AGENDA

IN THE MATTERS OF

Case # 2006-5006 Debra Montour - CA applicant

The Board proposed to license the applicant on the condition to issue a Consent Order placing a condition on the certificate that she inform all present or future chiropractic employers of her previous conviction history. Dr. Michael Megehee moved to accept this motion. Joyce McClure seconded the motion. Michael Vissers, aye; Michael Megehee, aye; Joyce McClure, aye; Kevin Shuba, aye; and Minga Guerrero, aye.

Case # 2006-5007 Lori Lacy – CA applicant

Contingent upon the investigator interviewing the applicant, and obtaining additional information, the Board proposed to license the applicant with the same condition on the certificate to inform present and future employers of her conviction and/or arrest history. Kevin Shuba moved to accept the Board's determination; Michael Megehee seconded the motion. Michael Vissers, aye; Michael Megehee, aye; Joyce McClure, aye; Kevin Shuba, aye; and Minga Guerrero, aye.

Case # 2004-1003

The Board found no statutory violation. Michael Vissers moved to accept the Board's determination; Kevin Shuba seconded the motion. Michael Vissers, aye; Michael Megehee, aye; Joyce McClure, aye; Kevin Shuba, aye; and Minga Guerrero, aye.

Case # 2006-1008

The Board determined insufficient evidence to find a violation; along with a strongly-worded letter of concern to the licensee. Joyce McClure moved to accept the Board's determination; Kevin Shuba

seconded the motion. Michael Vissers, aye; Michael Megehee, aye; Joyce McClure, aye; Kevin Shuba, aye; and Minga Guerrero, aye.

Case # 2006-1038

The Board determined insufficient evidence to find a violation. A letter of concern will also be sent to this licensee. Minga Guerrero moved to accept the Board's determination; Kevin Shuba seconded the motion. Michael Vissers, aye; Michael Megehee, aye; Joyce McClure, aye; Kevin Shuba, aye; and Minga Guerrero, aye.

Case # 2006-1040

The Board found no statutory violation. Michael Megehee moved to accept the Board's determination; Kevin Shuba seconded the motion. Michael Vissers, aye; Michael Megehee, aye; Joyce McClure, aye; Kevin Shuba, aye; and Minga Guerrero, aye.

Case # 2006-1037

The Board found no statutory violation. Kevin Shuba moved to accept the Board's determination; Michael Vissers seconded the motion. Michael Vissers, aye; Michael Megehee, aye; Joyce McClure, aye; Kevin Shuba, aye; and Minga Guerrero, aye.

Case # 2006-1039 Thomas F. Miller, DC

The Board proposed a \$1500 civil penalty and a letter of reprimand with a requirement to complete eight (8) hours of continuing education in chart noting and record keeping for violations of OAR 811-015-0010 clinical justification, 811-015-0045 sections (1) through (3) for not providing services as advertised and misleading advertisements, ORS 676.110(2) violations of the Doctors' Title Act and OAR 811-030-0030(k) for failure to include an x-ray report in the file. Joyce McClure moved to accept the Board's determination; Michael Vissers seconded the motion. Michael Vissers, aye; Michael Megehee, aye; Joyce McClure, aye; Kevin Shuba, aye; and Minga Guerrero, aye.

Case # 2006-1007

The Board found no statutory violation. Kevin Shuba moved to accept the Board's determination; Michael Megehee seconded the motion. Michael Vissers, aye; Michael Megehee, aye; Joyce McClure, aye; Kevin Shuba, aye; and Minga Guerrero, aye.

Case # 2006-1048

The Board found no statutory violation. Michael Megehee moved to accept the Board's determination; Kevin Shuba seconded the motion. Michael Vissers, aye; Michael Megehee, aye; Joyce McClure, aye; Kevin Shuba, aye; and Minga Guerrero, aye.

Case # 2005-3010

The Board found no statutory violation. Minga Guerrero moved to accept the Board's determination; Kevin Shuba seconded the motion. Michael Vissers seconded the motion. Michael Vissers, aye; Michael Megehee, aye; Joyce McClure, aye; Kevin Shuba, aye; and Minga Guerrero, aye.

Case # 2006-1019 Gail Ott, DC

The Board proposed a \$500 civil penalty and a letter of reprimand for allowing chiropractic assistants to practice without the chiropractic physician on premise. Joyce McClure moved to accept the Board's determination; Minga Guerrero seconded the motion. Michael Vissers, aye; Michael Megehee, aye; Joyce McClure, aye; Kevin Shuba, aye; and Minga Guerrero, aye.

Case # 2005-5011 Samantha Kennedy, CCA

The Board proposed a \$250 civil penalty and a letter of reprimand for unlicensed practice of massage, and practicing as a chiropractic assistant when the chiropractic physician was not on the premise. Michael Vissers moved to accept the Board's determination. Joyce McClure seconded the motion. Michael Vissers, aye; Michael Megehee, aye; Joyce McClure, aye; Kevin Shuba, aye; and Minga Guerrero, aye.

On a separate matter, and regarding civil penalties, Dr. McClure would like to tighten up the collection of fines due within the time determined in a Final Order. After discussion, board members agreed to keep some controls on penalties due and their due date; specifically, the lesser sums.

DISCUSSION ITEMS

1. Strategic Plan discussion: Professional Standards & Recommendations

Development of the Educational Manual is part of the Board's strategic Plan.. As a member of the Steering Committee, Dr. Vissers noted that they recently approved the Record Keeping chapter. He believes that promoting quality in chiropractic is one of the goals of the Educational Manual. Dave added that the Board should decide whether they want to keep the current goals, and if so, re-adopt them with direction to staff to continue working on the process and the EMEBC.

Dr. Guerrero added that she is looking forward to the development of a health promotion and wellness chapter. There are a number of federal mandated wellness programs throughout the state and the work coordinates exactly with the timing of the Federal government's program.

Kevin Shuba moved to adopt this document with minor edits. Megehee seconded the motion. All in favor. Michael Vissers, aye; Michael Megehee, aye; Joyce McClure, aye; Kevin Shuba, aye; and Minga Guerrero, aye.

Dr. Guerrero added that we will be approving the continued work, including health promotion and wellness. She plans to continue discussions with Western States Chiropractic College to see if they are interested in helping with this process. OBCE staff are preparing a mailing of Chapter 2 (Diagnostic Imaging) and Chapter 3 (Record Keeping).

At this time, Dr. McClure again brought up her proposal to issue CE for licensees reading the Educational Manual in order to encourage licensees to read the material, and to improve understanding as to the content and intent of the EMEBC. Dr. McClure made a motion to the board that the EMEBC goes out with a letter to the field, and that continuing education hours are available at two hours per chapter, by signing the enclosed affidavit and answering two questions. Dr. Megehee seconded the motion. Discussion. The Board determined that it is unnecessary to require an "exam" to receive the credit hours. The Board directed staff to create an Affidavit to sign as verification of completion and it is to include the statement, "Unless specifically indicated, this Educational Manual consists of practice recommendations and not administrative rules." Kevin Shuba moved to accept the motion *with changes*; Dr. Guerrero seconded the motion. All in favor. Michael Vissers, aye; Joyce McClure, aye; Kevin Shuba, aye; Michael Megehee, aye; and Minga Guerrero, aye.

1:40 pm Break to Exec Session for a second Peer Review interview

2. Appointments: Peer Review Committee, Rules, ETSDP

There are four applicants for the ETSDP committee. Dr. McClure moved to appoint Guillermo Bermudez DC, James Aungst DC, Jayson Frisch DC and Chris Allen DC to the Examinations, Tests, Substances, Devices and Procedures (ETSDP) Committee. Dr. Megehee seconded the motion. All in favor. Michael Vissers, aye; Michael Megehee, aye; Joyce McClure, aye; and Minga Guerrero, aye; and Kevin Shuba, aye.

Drs. James Aungst and Christopher Clark are also interested in joining on the Rules Advisory Committee. Dr. McClure moved to appoint both Drs. Aungst and Clark to the Rules Advisory Committee. All in favor. Michael Vissers, aye; Michael Megehee, aye; Joyce McClure, aye; and Minga Guerrero, aye; and Kevin Shuba, aye.

In addition Dr. Megehee moved to appoint Chris Allen, DC for the current opening on the Peer Review Committee, and in addition appoint Sunny Kierstyn, DC as the first observation member, and Don White, DC as the second observation member. Joyce McClure seconded the motion. All in favor. Michael Vissers, aye; Michael Megehee, aye; Joyce McClure, aye; and Minga Guerrero, aye. At the time of this vote (after 3 pm) Kevin Shuba was excused for the day.

3. Policy Issue: Primary Care Physician Status and Implications with Clinical Justification, Oxygen application and Basic Emergency Medicine (Continued from July)

This is a holdover from the July meeting. There is the remaining question as to how a chiropractor would obtain oxygen? The Board may need to propose a change to the statute. As long as medical oxygen is considered to be a legend drug, pharmacies or medical suppliers will not release it to chiropractors. To note, WSCC is training students on the use of oxygen as part of the core curriculum for emergency use (Dr. Guerrero will verify). *(Dr. Vissers also suggested that someone verify whether NCMIC would cover oxygen in the chiropractic clinic.)*

Lindley added that the Board needs to check whether oxygen is in the Pharmacopoeia, and whether the college teaches about the use of oxygen before the Board moves forward. Hold this discussion topic.

4. Performance Evaluation/s

Dr. Guerrero hand-carried another draft of her proposed board member evaluation form. Board members are not required to be evaluated; the Governor's Office requires evaluating the Executive Director. Some boards do self-evaluation of their members. Dave added that the intent of the current Strategic Plan review process the board also is evaluating the Executive Director. However, in practice that has not been quite the same as a traditional evaluation. The Legislature's Best Practices checklist asks if the Board does an annual performance evaluation (of the Executive Director). Dave proposed the Board consider returning to the traditional evaluation.

After discussion and review of the drafts, Dr. Guerrero asked for a motion on the preferred Evaluation form for the Executive Director. Kevin Shuba moved to adopt Dr. Guerrero's proposed Executive Director Performance Evaluation form. Joyce McClure seconded the motion. All in favor. Michael Vissers, aye; Michael Megehee, aye; Joyce McClure, aye; and Minga Guerrero, aye; and Kevin Shuba, aye

Kevin Shuba also moved that board members should each complete the Executive Director evaluation forms and return them prior to the November 16, 2006 board meeting date. All agreed.

5. Best Practices Assessment Scorecard

Dave McTeague explained that these Best Practices are expected to be performed by each state agency. He suggested that one Board member may agree to track each of these practices and explain how the Board accomplishes them. Vissers volunteered (as Board Vice-President) to facilitate and track the practices. The signal from the Legislature is that this will be a mandatory performance measure for all agencies in the near future. Dr. Vissers suggested that the Best Practices Self-Assessment be completed by each member by the January 2007 board meeting. Dave McTeague will email the Best Practices form to board members to complete electronically.

6. Staff Report

Dave informed the Board that the Peer Review Committee will next meet on November 16, 2006; this is a joint meeting with the Board. In the past the Board and Committee met in Executive Session and during a working lunch. The idea is to keep the Board and the Peer Review Committee on the “same page.” Dr. Koc will inform the rest of the Committee.

One of Dave’s current projects is work on the annual performance progress report. We collect our data on a calendar year basis. Dave acknowledged that his initial calculations show we have lost some ground in that the time between opening a complaint to the time it is closed has grown. Handling of the larger complicated cases is partially to blame (i.e. Womack and Walsh cases). That progress report will also support our need for extra dollars for additional contract investigative help.

Dr. Vissers asked for a breakdown of the statistics regarding opening and closing complaints, and our goals.

- 2:35 pm** **Break to Executive Session**
- 3:00 pm** **Reconvene for** In the Matters of *(above)*
- 3:15 pm** **Break again to Executive Session** to conclude case review
- 4:00 pm** **Reconvene for final** In the Matters of *(above)*
- 4:10 pm** **Adjourn Public Session** (return to Exec Session)