



Oregon

Theodore R. Kulongoski, Governor

Oregon Board of Chiropractic Examiners

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PUBLIC SESSION

Morrow Crane Building
Second Floor Large Conference Room
3218 Pringle Road SE
Salem, Oregon

September 17, 2009

Members Present

Michael Vissers, DC President
Steve Koc, DC
Ann Goldeen, DC
Cookie Parker-Kent, Public Member
Douglas Dick, Public Member

Staff Present

Dave McTeague, Executive Director
Kelly Beringer, Admin Assistant
Donna Dougan, Admin Assistant
Tom Rozinski, Investigator
Lori Lindley, Assistant Attorney General

Excused

Joyce McClure, DC and Michael Megehee, DC

8:30 AM CONVENE and ADOPTION OF THE AGENDA

PUBLIC COMMENTS - none

DISCUSSION ITEMS

1. Policy Issue: 2009 Legislation Review

House Bill 2118 has a provision which gives health regulatory boards the authority regarding the disclosure of personal email, home addresses and phone numbers. Currently, we have about 60% of our licensees' email addresses, so we are thinking about distributing our next BackTalk newsletter by email and Web. The concern is that licensees will not want OBCE to give out their email addresses that would increase spam and other solicitations. We would also obtain more licensee email addresses if they knew these would not be distributed. The Board considered a policy that we are NOT going to disclose the personal emails and personal address information for other-than OBCE communications. Proposed policy statement

The OBCE will not release lists of licensee electronic mail addresses to outside vendors or organizations, except as required by law. The OBCE may utilize the licensee email list for agency communications and notifications. The OBCE will not release licensee home addresses and personal telephone numbers unless licensee designates these as their official mailing and contact information (usually on the renewal form).

Discussion: Board members agree with the proposed draft. *They did note that board member emails are posted on the OBCE web page and that those are public.*

Cookie Parker-Kent moved to accept the proposed policy language; Doug Dick seconded the motion. All in favor. Steve Koc, aye; Cookie Parker-Kent, aye; Doug Dick, aye; Michael Vissers, aye; and Ann Goldeen, aye.

Other issues: HB 2240 New chiropractic malpractice reporting law. Dave addressed implementation issues this fall and contacting the malpractice carriers. Lori Lindley mentioned that some other agencies have drafted a form for this mandatory reporting (The OBCE may/may not use the same.)

HB 2059 has a new Duty to Report across professions. Dave shared a draft article for the next issue of the BackTalk newsletter which explains this. Also, part of this new law requires a licensee to self-report if he/she is arrested or convicted for a felony, OR convicted of a misdemeanor they must report the incident within 10 days.

2. ETSDP Committee: Breast Thermography preliminary report

This issue is a work in progress. The minutes of the last meeting were provided to the Board, and the next meeting is scheduled for Thursday Oct 22, 2009. Dave noted that this issue is turning out to be controversial.

3. Committee Appointments: Peer Review alternate members

We have not yet received any letters of intent or applications. Dave said Dr. Chris Olshove who had served on the OBCE's Nominal Panel has shown interest. Dr. Goldeen suggested making an announcement on the "OregonDCs" listserv (she will post that message).

4. Administrative Rule Proposals update (held over until November)

5. Ethics & Jurisprudence Exam update

Donna Dougan is working with Steve Foreman in creating a beta-test on the Myicourse site.

6. OBCE 2007-09 Budget report

Dave reported we came in \$42,369 under budget for the 2007-2009 biennium which ended June 30, 2009. He pointed out this would have covered just one major contested case hearing if that had occurred. Our Legislatively Approved Budget grants the OBCE a 13% increase for the 2009-2011 biennium, which maintains the current service level. He pointed out increases for state government service charges, accounting, legal, and personnel as the reason for that increase. He said it appears that expenditures are increasing faster than revenues, but that the salary freeze and furlough days for staff would cause some savings in this biennium. If necessary, the Board may have to consider a small fee increase in the next biennium or one after that. *The furlough days are mandatory office closure day and are posted on the OBCE's websites.)*

7. Staff Report (BackTalk Outline)

Dave is working on the next issue of BackTalk. Also, Dave noted that it has been a long time since the board held a meeting outside the Salem/Portland area. If the Board is interested, Dave could arrange one. The next two Board meetings (November and January) are scheduled to be held in Portland at Western States Chiropractic College. In October, public member Douglas Dick is attending the Citizens Advocacy Center meeting in Orlando, Florida, and Dr. Joyce McClure is attending the FCLB Conference in South Dakota. Dave also asked board members to consider helping with the FCLB's Part IV exam development.

CORRESPONDENCE

1. Albert Noble DC, re: Lam Probe 4000

This issue is carried forward from the July board meeting. This is an electro-magnetic, high frequency radio wave that does something to the tissue when you press down with the probe. It probably has some therapeutic effects, but that is not the intent; the intent is to reduce wrinkles (cosmetic). Dave reminded the board that they previously determined that the use of lasers for cosmetic purposes was not within the scope of practice. This is not a laser, but it is for cosmetic purposes. Dr. Goldeen recommended that he get an esthetician's license. (Lori asked if the estheticians are licensed to use the machines.)

We did ask Dr. Noble if this is taught at any chiropractic college, and he replied no. The response on the laser device was based on whether it was taught at the Chiropractic colleges. Lori Lindley said that he can hire an esthetician to come in to his clinic to do it. Doug Dick asked if the device even has the standard approvals. Dr. Koc moved that the Board deny the use of this device as presented. Doug Dick seconded the motion. All in favor. Doug Dick, aye; Cookie Parker-Kent, aye; Ann Goldeen, aye; Steve Koc, aye; and Michael Vissers, aye.

2. William Hartje, DC re: Dry Needling - is it within the scope of DC certified in minor surgery?

With his request, Dr. Hartje provided an article wherein Maryland announced that dry needling is now within their chiropractic scope of practice. Dr. Hartje argues that it is both diagnostic and therapeutic. The Board determined that this NOT allowed within Oregon's scope of chiropractic practice as breaking the skin for a therapeutic purpose is not allowed by ORS 684. Also this would be construed as the practice of acupuncture; previously, the Board sanctioned a licensee for practicing this technique.

3. Emory Giles PhD re: National College of Chiropractic's Doctor of Chiropractic Medicine degree.

Dr. Giles is asking if National's Doctor of Chiropractic Medicine (DCM) degree will be accepted in Oregon. He states that this degree is exactly the same as the doctor of chiropractic (DC) degree. Given the response to Western States Chiropractic College's own DCM degree a number of years ago, Dave was hesitant to answer this inquiry without the Board's input. Our statute says we do accept graduates from CCE accredited colleges. As long as applicants to practice chiropractic in Oregon graduate with a chiropractic college degree from a CCE approved college, they will be accepted for examination and licensure. The Board felt this would be confusing to the public and notes there is no mention of this term in our statutes, rules or the Doctor's Title Act.

10:30 AM ADJOURN to EXEC SESSION

12:30 PM WORKING LUNCH

1:00 PM RECONVENE to PUBLIC SESSION

IN THE MATTERS of

Case # 2009-5011 Jonah Buttler, Chiropractic Assistant

The Board proposed to impose conditions on his license for notifications and random UA's for three years. Cookie Parker Kent moved to accept the Board's determination; Doug Dick seconded the motion. All in favor. Steve Koc, aye; Michael Vissers, aye; Doug Dick, aye; Ann Goldeen, aye; and Cookie Parker-Kent, aye.

Case #'s 2009-1000 and 2009-1001

The Board determined insufficient evidence to find a violation with a letter of concern to be sent to the licensees. Cookie Parker-Kent moved to accept the determination; Ann Goldeen seconded the motion. All in favor. Michael Vissers, aye; Steve Koc, aye; Doug Dick, aye; Cookie Parker-Kent, aye; and Ann Goldeen, aye.

Case # 2009-5000 Jonathan Hansel, DC

The Board authorized the Executive Director to offer Dr. Hansel a new Consent Order Agreement for a five year probation and he must continue with group meetings two times a week, and counseling once a week, and he must enroll in abstinent and there will be random UA's with no less than 24 UA's during the first year and no less than 12 for each of the two years after that, and six per year for the remaining two years of his probation. He must appear before the Board once every six months for two years, and once a year for three years after that. Steve Koc moved to accept the Board's determination; Cookie Parker-Kent seconded the motion. All in favor. Michael Vissers, aye; Doug Dick, aye; Steve Koc, aye; Cookie Parker-Kent, aye and Ann Goldeen, aye.

Case # 2009-1021

The Board determined insufficient evidence to find a violation. Michael Vissers moved to accept the Board's determination; Ann Goldeen seconded the motion. All in favor. Steve Koc, aye; Doug Dick, aye; Cookie Parker-Kent, aye; Ann Goldeen, aye; and Michael Vissers, aye.

Case # 2009-1022

The Board determined no statutory violation with a letter of concern to the licensee regarding charts Ann Goldeen moved to accept the Board's determination; Cookie Parker-Kent seconded the motion. All in favor. Michael Vissers, aye; Steve Koc, aye; Doug Dick, aye; Cookie Parker-Kent, aye; and Ann Goldeen, aye.

Case # 2009-1024

The Board proposed no statutory violation. Cookie Parker-Kent moved to accept the Board's determination; Steve Koc seconded the motion. All in favor. Steve Koc, aye; Michael Vissers, aye; Doug Dick, aye; Ann Goldeen, aye; and Cookie Parker-Kent, aye.

Case # 2009-5007 Gregory Moll, DC

The Board proposed a Notice to Revoke for violations of ORS 684.100(1)(g)(A) and OAR 811-015-0035(1). Michael Vissers moved to accept the Board's determination. Cookie Parker-Kent seconded the motion. Steve Koc recused. Doug Dick aye; Ann Goldeen, aye; Cookie Parker-Kent, aye; and Michael Vissers, aye.

Case # 2009-3018 Ryan Lambert, DC

The Board proposed a \$5000 civil penalty, an additional eight hours continuing education on ethics, and completion of the NBCE Boundaries and Ethics examination. Steve Koc moved to accept the Board's determination; Cookie Parker-Kent seconded the motion. Ann Goldeen, aye; Doug Dick, aye; Steve Koc, aye; and Cookie Parker-Kent, aye. Michael Vissers recused.

Case # 2009-3017 Chris McCutcheon (unlicensed practice)

For unlicensed practice, the Board proposed to issue a \$10,000 civil penalty. Doug Dick moved to accept the Board's determination; Cookie Parker-Kent seconded the motion. All in favor. Ann Goldeen, aye; Doug Dick, aye; Steve Koc, aye; Michael Vissers, aye; and Cookie Parker-Kent, aye.

Case # 2009-1023 Tory Naugle, DC

The Board proposed to issue a Notice for a 30-day suspension, \$5000 civil penalty, completion of the PROBE program; an additional 12 hours ethics and boundaries CE for sexual misconduct violations. Cookie Parker-Kent moved to accept the determination; Doug Dick seconded the motion. Ann Goldeen, aye; Doug Dick, aye; Cookie Parker-Kent, aye; and Michael Vissers, aye. Steve Koc opposed.

1:10 PM ADJOURN for the day