



Oregon

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Oregon Board of Chiropractic Examiners

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Public Session Minutes

Western States Chiropractic College
Hampton Hall, 2900 NE 132nd Ave
Portland, Oregon

January 22, 2009

Members Present

Michael Vissers, DC President
Joyce McClure, DC Vice-President
Michael Megehee, DC Secretary
Steve Koc, DC
Minga Guerrero, DC
Cookie Parker-Kent, Public Member
Douglas Dick, Public Member

Staff Present

Dave McTeague, Executive Director
Kelly Edmundson, Admin Assistant
Donna Dougan, Admin Assistant
Michael Summers, Investigator
Lori Lindley, Assistant AG

Others Present: Joe Brimhall DC, WSCC president;
Steven Cranford DC

CONVENE 8:45 AM

ADOPTION OF THE AGENDA The agenda is adopted as presented.

BOARD OFFICER ELECTIONS

Each January the OBCE elects new officers.

For the position of board President, Michael Megehee nominates Michael Vissers DC; Joyce McClure seconds the nomination. Dr. Vissers accepts the nomination, and is appointed President. All in favor. Dr. Minga Guerrero stepped down and welcomed Dr. Vissers to the position.

For the position of Vice-President, Michael Megehee nominates Joyce McClure DC; Minga Guerrero seconds the nomination. Dr. McClure accepts the nomination. All in favor. Dr. McClure is appointed.

For the position of Secretary, Joyce McClure nominates Michael Megehee DC; Douglas Dick seconds the nomination. Dr. McClure accepts the nomination. All in favor.

Board members also appointed the delegate and alternate delegate for the Federation of Chiropractic Licensing Boards (FCLB) and the National Board of Chiropractic Examiners (NBCE):
Michael Megehee will serve as the FCLB delegate and the NBCE alternate. Joyce McClure will serve as the FCLB alternate delegate and NBCE delegate.

Other positions assigned as liaisons include Dr. Steve Koc accepts responsibility as the CE authority for the Board. He will also act as the new liaison for the Rules Advisory Committee. Dr. Guerrero will stay on as the liaison for the Examinations, Tests, Substances, Devices and Procedures (ETSDP) committee.

PUBLIC COMMENTS

Dr. Joseph Brimhall welcomed the board to the WSCC campus and thanked them for the work that they do. Dr. McClure took this time to thank Dr. Guerrero for her leadership as president of the Board of Chiropractic Examiners. Dr. Koc added that Dr. Guerrero's leadership and tone that she set as Board President helped bring forward unity in the profession.

Dr. Vissers invited Dr. Cranford to make comment, but he wished to speak once the rule hearing began

DISCUSSION ITEMS

1. Rule Hearing: Proposed Amendments to the Minor surgery rule regarding continuing education requirements.

9:00 AM Dr. Vissers opened the hearing on the proposed language of OAR 811-015-0030(2)(b).

12 hours of continuing education (seminar, course or instruction) related to minor surgery/proctology every three years. Optionally, in lieu of eight hours of the continuing education requirement, a chiropractic physician may document performance or observation of twelve minor surgery/proctology procedures every three years. Reasonable documentation of the procedure or observation is a copy of the patient schedule and/or patient billing/ or other patient record with the patient name redacted which indicates the type of procedure and date performed.

Dr. Vissers added that this has been presented to the profession with little or no response. Dave McTeague noted that Dr. Steve Gardner called and he was generally supportive of the amendment and that he is willing to be involved with the minor surgery doctors. Dr. Vissers asked for any public testimony.

When invited to comment, Dr. Cranford stated that the language appears different than the original proposal he saw last fall; the board restated the proposed rule requirement. In brief, licensees must complete at least four hours minor surgery/proctology CE every three years. The official requirement is twelve hours, but if the remaining eight CE hours is not available, the certified minor surgery doctor may observe or assist with *twelve* procedures in lieu of the continuing education training. After this explanation, Dr. Cranford agrees that the CE requirement is reasonable and manageable. He offered to provide practical hours for licensees needing to observe or assist.

With no further public comment, Dr. Megehee moved to accept the rule proposal as drafted. Joyce McClure seconded the motion. All in favor. Cookie Parker Kent, aye; Michael Megehee, aye, Steve Koc, aye; Joyce McClure, aye; Michael Vissers, aye, Minga Guerrero, aye, Douglas Dick, aye.

9:20 AM Dr Vissers closed the rule hearing.

2. Policy Issue: 2009 Legislation

Dave McTeague provided legislative contacts (representatives and senators) for each board members. Dr. Vissers stressed to the board members the importance of communicating to their legislators; your voice carries more weight than the agency administrator. Yesterday was the first hearing of the House Health Committee. The chair of that committee seemed to have a sense that all agencies were confused about their roles as boards, whether it is to serve the profession or public protection.

Dave was invited to testify first on HB 2056, the public member bill. While he was up, he made a point of telling the committee that we were not confused about our mission, that our mission is public protection, and that it is the professional associations responsibility to advocate for the profession. Dave was questioned a lot about the burden (workload) on the professional board members and whether it would really be that much difference if the board was change to have four professional and three public members. If anything, they could add another professional member, and another public member. Dave's testimony is available on the legislative website. Dave thanked Drs. Megehee, McClure, and Guerrero, and Doug Dick for additional statements in his testimony.

Doug Dick asked Dave if he had a sense that the Committee was swayed. Dave believes they will pass a bill, and it will affect particularly boards with only one public member. Dave thinks they will be persuaded to *not* reduce our professional members. In Doug Dick's testimony, he made it clear that it was too much for a board to rely on him as a public member to act on a chiropractor.

Our "final order" bill came through, SB 274 (no longer legislative concept 193); it takes away board final order authority. That was introduced through the Senate Judiciary Committee. There may be a house bill that does the same thing. We have concerns about the competency evaluation bill, and the bill to eliminate our cost recovery. As those bills come through, Dave will be letting board members know, and they can contact their legislators.

Dr. Vissers recommended that board members know "who wrote the bills," "who is for it," "who is against it," and "why are they writing the bill" before you meet your legislator. Dr. Guerrero also added that it's a good idea to provide *written* documentation with all of this information. Dr. Guerrero added that having something written will be something they can refer back to.

Furthermore, Dave talked with Bob Oleson; he is the co-lobbyist with Vern Saboe DC. The Oregon Chiropractic Association has four proposed bills relating to workers compensation issues. One bill deals with MCO panels, another bill will try to fix the permanent impairment rating. Also, HB 2369 forces the insurer to fully disclose to the injured consumer the right to the significance of signing settlement agreements; it also apparently restricts access to auto crash reports (along the lines of the board's proposal).

3. Policy Issue: CE credits for Board members

Dr. Vissers is proposing eight hours of continuing education for board members for services. It meets the requirement of our CE rule; we are improving and increasing our knowledge and proficiency in chiropractic practice by study and review of cases and policy issues. Also, Dr. Vissers recommends that we claim a potential or actual conflict of interest IF we vote in favor of this proposal. Dr. Vissers claims an actual or potential conflict of interest. Because it has been standard for our subcommittees to receive CE credit for their services, he does not see where board members should be penalized because they move from a committee up to the board level. Dr. Megehee also claimed he has a potential or actual conflict of interest.

Dr. Guerrero brought out that there has been some argument that we should not get credit when we are already being compensated for a seminar (such as FCLB or NBCE conferences). That is not practical in the sense that the board spends 3-4 days out of practice. We prepare a report for the board, attend the board meeting, plus present the information to the profession in the form of the BackTalk newsletter, and the New Licensee training.

Dr. Vissers added that the eight hours that might be allowed covers attendance to the six board meetings, rule committee meetings, etc. not just attendance to the FCLB or NBCE meetings. He agrees, that the fact that board members are reimbursed or paid per diem is not relevant. Dr. Koc claimed a potential or actual conflict of interest. He supports the maximum allowance of eight hours CE. Doug Dick and Cookie Parker-Kent are in support of the professional board members receiving credit for their efforts. Drs. Joyce McClure and Minga Guerrero also claim potential or actual conflicts of interest, if this proposal passes.

Minga Guerrero moved to accept the proposal that the professional board members be allowed eight hours CE credit; Joyce McClure seconds the motion. All in favor. Cookie Parker Kent, aye; Michael Megehee, aye, Steve Koc, aye; Joyce McClure, aye; Michael Vissers, aye, Minga Guerrero, aye, Douglas Dick, aye. The policy is effective with today's meeting.

4. 2008 Complaint Statistics, 2008 Key Performance Measure Report

Briefly reviewing the complaint statistics reports for 2007 and 2008, our complaints received went down 24 percent. Dr. McClure noticed also that our time to resolve complaints is also down. We are proposing two new performance measures and we are dropping two. The board made a policy decision to stop work on the Educational Manual so it is logical to eliminate this measure and the other was measuring the percentage of recordkeeping violations resulting in mentoring plans (because the universe is too small).

The two new measures: 1) measure the time a complaint is received to the board's initial review; and 2) measure how long it takes to issue a license (for this board it's most often the next day).

5. Ethics & Jurisprudence Exam Update Report

Dave is estimating that we may have a workshop in March or May to draft questions and answers. Waiting until May gives Dave more time to ramp up for the task, but board members prefer March.

6. Staff Report (Board meeting schedule for 2009, Winter BackTalk drafts)

After discussion, the Board determined to hold July's meeting on the third Thursday (July 16, 2009).

Dave asked for board interest in helping with the NBCE practical Part IV exam. Joyce McClure plans to help with the May 15 – 17 NBCE Part IV Exam. In addition, she will participate on the June 12-13 test committee. Dr. Guerrero may also assist with the May Part IV exam.

Dave emailed members draft articles for the BackTalk to review. He needs more on the President's Report, and a brief article on continuing education from staff.

CORRESPONDENCE

A Verne Saboe DC email public safety issue of non-chiropractors/non-physicians attempting to perform spinal adjustments/manipulations

Dr. Vissers stated that the Association (OCA) will be coming before the board to discuss some rule or policy language clean up to support some of their issues/agenda. This is "heads up" at this time. They want to further define what we do as chiropractors. They also want to expand our authority over those that do not have a chiropractic license, who may be practicing chiropractic.

10:15 AM ADJOURN TO EXECUTIVE SESSION
2:00 PM RECONVENE TO PUBLIC SESSION

IN THE MATTER OF

Continuing Education of Cascade Success Systems

After review of the **Pain Management** video developed by Cascade Success Systems, the Board determined that only two hours of the six hour video are approved for continuing education. Steve Koc DC moved to accept the board's determination; Douglas Dick seconded the motion. This will be issued as a Proposed Order subject to contested case hearing. All in favor. Cookie Parker Kent, aye; Michael Megehee, aye, Steve Koc, aye; Joyce McClure, aye; Michael Vissers, aye, Minga Guerrero, aye, Douglas Dick, aye.

After review of the **Evidence-Based Outcomes Management** video, also developed by Cascade Success Systems, the Board determined that only one hour of the two hour video is approved for continuing education. Minga Guerrero DC moved to accept the Board's determination; Michael Megehee DC seconded the motion. This will be issued as a Proposed Order subject to contested case hearing. All in favor. Cookie Parker Kent, aye; Michael Megehee, aye, Steve Koc, aye; Joyce McClure, aye; Michael Vissers, aye, Minga Guerrero, aye, Douglas Dick, aye.

Case # 08-3012

The Board proposes no statutory violation. Douglas Dick moved to accept the determination; Steve Koc, DC seconded the motion. All in favor. Cookie Parker Kent, aye; Michael Megehee, aye, Steve Koc, aye; Joyce McClure, aye; Michael Vissers, aye, Minga Guerrero, aye, Douglas Dick, aye.

Case # 08-5017

The Board proposed insufficient evidence to find a violation, and closed the case. Michael Vissers DC moved to accept the determination; Minga Guerrero DC seconded the motion. All in favor. Cookie Parker Kent, aye; Michael Megehee, aye, Steve Koc, aye; Joyce McClure, aye; Michael Vissers, aye, Minga Guerrero, aye, Douglas Dick, aye.

Case # 09-5000 Jonathan Hansel DC

The Board proposes to issue an Interim Stipulated Agreement to Dr. Hansel. On a contingency basis the Board authorizes staff to issue an Emergency Suspension of his license if he does not agree to the Agreement within 48 hours of his receipt it. Michael Megehee DC moves to accept the Board's determination; Steve Koc DC seconds the motion. All in favor. Cookie Parker Kent, aye; Michael Megehee, aye, Steve Koc, aye; Joyce McClure, aye; Michael Vissers, aye, Minga Guerrero, aye, Douglas Dick, aye.

Case # 08-5020

The Board proposed insufficient evidence to find a violation with a cautionary letter to be sent to the licensee. Cookie Parker-Kent moved to accept the determination; Michael Megehee DC seconded the motion. All in favor. Cookie Parker Kent, aye; Michael Megehee, aye, Steve Koc, aye; Joyce McClure, aye; Michael Vissers, aye, Minga Guerrero, aye, Douglas Dick, aye.

The Board re-considered the following four cases regarding the 2008 CE Audit. These were initially reviewed in November, but some additional information came before the board that may have changed the actions.

Case # 08-5012 John Donovan DC

The Board re-proposed to assess a civil penalty of \$650 (\$250 for falsifying the Renewal Notice Affidavit and \$50 per CE hour incomplete by the licensee's renewal date) Cookie Parker-Kent moved to accept the determination; Michael Vissers DC seconded the motion. All in favor. Cookie Parker Kent, aye; Michael Megehee, aye, Steve Koc, aye; Joyce McClure, aye; Michael Vissers, aye, Minga Guerrero, aye, Douglas Dick, aye.

Case # 09-5001 Jerry Evans DC

The Board re-proposed to assess a civil penalty of \$850 (\$250 for falsifying the Renewal Notice Affidavit and \$50 per CE hour incomplete by the licensee's renewal date) Michael Vissers moved to accept the determination; Steve Koc DC seconded the motion. All in favor. Cookie Parker Kent, aye; Michael Megehee, aye, Steve Koc, aye; Joyce McClure, aye; Michael Vissers, aye, Minga Guerrero, aye, Douglas Dick, aye.

Case # 08-5025 Westley Kuns DC

The Board re-proposed to assess a civil penalty of \$650 (\$250 for falsifying the Renewal Notice Affidavit and \$50 per CE hour incomplete by the licensee's renewal date). Cookie Parker-Kent moved to accept the board's determination; Michael Megehee DC seconded the motion. All in favor. Cookie Parker Kent, aye; Michael Megehee, aye, Steve Koc, aye; Joyce McClure, aye; Michael Vissers, aye, Minga Guerrero, aye, Douglas Dick, aye.

Case # 08-5022 Lee Samler Lloyd DC

The Board re-proposed to assess a civil penalty of \$450 (\$250 for falsifying the Renewal Notice Affidavit and \$50 per CE hour incomplete by the licensee's renewal date). Cookie Parker-Kent moved to accept the board's determination; Joyce McClure DC seconded the motion. All in favor. Cookie Parker Kent, aye; Michael Megehee, aye, Steve Koc, aye; Joyce McClure, aye; Michael Vissers, aye, Minga Guerrero, aye, Douglas Dick, aye.

Case #s 08-1024 and 08-1025

The Board determined Case Closed. Minga Guerrero moved to accept the board's determination; Joyce McClure seconded the motion. All in favor. Cookie Parker Kent, aye; Michael Megehee, aye, Steve Koc, aye; Joyce McClure, aye; Michael Vissers, aye, Minga Guerrero, aye, Douglas Dick, aye.

2:30 PM ADJOURN for the day