



Oregon

Kate Brown, Governor

Board of Chiropractic Examiners

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PUBLIC SESSION MEETING MINUTES

OBCE Administrative Offices

3218 Pringle Rd, SE, Suite 150

Salem, Oregon

July 16, 2015

Members Present

Daniel Côté DC, President

Glenn Taylor, Vice-President

Lisa Kouzes, DC, Secretary

Jason Young DC

Ann Goldeen DC (telecommuted)

Ron Romanick DC

Amber Reed JD

Staff Present

Cassandra Skinner JD, Executive Director

Kelly Beringer, Admin Assistant

Donna Dougan, Admin Assistant

George Finch, Investigator

Frank Prideaux DC, Health Investigator

Lori Lindley, AAG

ADOPTION OF THE AGENDA

Dr. Kouzes moved to adopt the amended agenda (items 5 and 6 were added); Dr. Romanick seconded the motion. All in favor. Motion passed unanimously.

10:00 AM CONVENE for Government Ethics law training (ORS Ch. 244) for Board and Staff

Hayley Weedn from the Government Ethics Commission gave a 1-1/2 hour presentation about the Commission and reviewed the statutes regarding government ethics affecting the board and staff members.

11:45 am BREAK for Lunch

DISCUSSION ITEMS

1. Telemedicine – further review (by DOJ) Mississippi and Texas info

Questions arose about who would be the regulator for violations – the state where the DC is or the state in which the care was provided. AAG Lindley added that she has done quite a bit of research and most of the people are saying that care given in Oregon should be performed by an Oregon-licensed DC. Dr. Côté asked how the malpractice carriers would respond. Dr. Young also gave the example of his MVA patient in Los Angeles, was in pain, and called him (in Oregon) for advice. Dr. Romanick feels that that the Oregon DC outside of state must be licensed in *that* state in order to treat his in-state Oregon patient. How would anyone enforce regulation over someone outside the state treating an in-state Oregon patient? Our job is to protect the Oregon public.

The Board advised Dr. Megehee that if he is providing patients advice or care in another state, he should be licensed in that state. Dr. Kouzes suggested that our “travel to treat” law may be expanded to cover other situations. Mr. Taylor – if either the patient or the doctor is in Oregon, the treating physician must have an Oregon license in order to treat. Make this a policy.



Executive Director Skinner added that the discussion is looking more like a rule proposal instead of a policy and should be referred to the Rules Advisory Committee (scheduling to be held off until later). Dr. Kouzes moved to go into rulemaking with more information to be reviewed first; Ms. Reed seconded the motion. All in favor. Motion passed unanimously.

2. Calendaring 2016 Board (and board-related) meeting dates

Prior to adopting the calendar, Executive Director Skinner asked the Board if they would consider having future July board meetings as brief teleconferences due to the large volume of staff work in that month (state exam, all CA renewals, July DC renewals and a full board meeting). The members were not in favor of a teleconference but were in favor of an abbreviated meeting. Dr. Romanick moved to adopt this as a new board policy; Mr. Taylor seconded the motion. All in favor. Motion passed.

Of the Board's regularly scheduled meetings, three 2-day meetings will be scheduled over the year, the rest will remain one day. The meeting dates were proposed for January 15-16 (Friday/Saturday); March 17 (Thursday); May 19-20 (Thursday/Friday); July 21 (Thursday) (and a "short" day); September 15-16 tentative (days of week TBD); and November 17 (Thursday). Mr. Taylor moved to accept the scheduled date and meeting lengths; Dr. Goldeen seconded the motion. All in favor. Motion passed unanimously.

In addition, the following locations were proposed: January, Silverton; March, Salem; May, Coos Bay; July, Salem; September, Klamath Falls (possibly at the "Running Y"); and November, UWS. Dr. Romanick moved to accept the proposed meeting locations; Mr. Taylor seconded the motion. All in favor. Motion passed unanimously.

3. New Marijuana laws/rules/FAQs

- Discussed earlier – Board is treating it similar to alcohol.

4. FCLB Regional Meeting - October 2015

Board members and Executive Director Skinner will be attending the District IV October 1-4 annual conference in Coeur d'Alene. Mr. Taylor is not available as the Board's FCLB delegate; Dr. Kouzes will attend as the Board alternate.

Side discussion: Dr. Côté was asked by UWS: Can students adjust each other in a technique class without a full work up? Yes, refer to ORS 684.020 (as long as they are students and on campus).

5. CE Credit for board related activity

The Board determined that a maximum of six (6) CE credit will be allowed annually for board members, staff, committee members, and board-appointed mentors. In addition, any non-board member attending the public session of a board meeting will be credited with two hours CE and a maximum of 6 hours per year. Hours will be credited based on sign-in/sign-out. Dr. Young moved to accept the determination; Ms. Reed seconded the motion. All in favor. Motion passed unanimously. This is a new policy.

CORRESPONDENCE

1. LMTs and reduced Initial Training (Hiskey DC)

Dr. Hiskey asked if licensed massage therapists may be exempted from the practical training. Dr. Young can see them skipping the physiotherapy and anatomy, but because the Board is reviewing the CA rule and scope at this time this question will be answered at a later date.

Sidebar: In January 2016 – staff is to provide the OCPUG committee minutes and report. Dr. Côté provided a brief progress report.

WORK SESSION

Board Committee Expectations, terms, etc.

Dr. Côté suggests we review all the board committees (excluding the Peer Review Committee as its existence is mandated by statute). After discussion, Dr. Côté moved to disband all existing “ad hoc” committees. When an issue arises or a rule needs amended, the Board will call out for participants. Letters of explanation will be sent to existing committee members. Mr. Taylor proposed holding off any disbanding for a couple months. He would also like the board to develop selection protocols, etc. The Board is taking this action to start fresh with the ad hoc committees considering that current members have been on board for many years without opportunity for other interested persons to participate. People who apply and are approved, but do not then participate will be “dinged” on future requests to participate.

2:15 PM Adjourn to Executive session

4:10 PM Reconvene to Public

IN THE MATTERS OF

Case # 2012-5008 The Board proposed insufficient evidence. Dr. Romanick moved to accept the proposal; Dr. Young seconded the motion. Dr. Goldeen recused. Dr. Côté, aye; Mr. Taylor, aye; Dr. Romanick, aye; Ms. Reed, aye; Dr. Young, aye, and Dr. Kouzes, aye. Motion passed.

Case # 2015-3000

The Board proposed to issue a Notice of Suspension for failure to cooperate. Ms. Reed moved to accept the proposal; Dr. Young seconded the motion. All in favor. Motion passed unanimously.

Case # 2014-1008

The Board proposed a contingent case closed with successful completion of the EBAS and PROBE - both within 6 months. If the licensee does not agree to the CCC by August 7, the Board will propose other discipline. Mr. Taylor moved to accept the proposal; Dr. Romanick seconded the motion. Dr. Young recused for potential or actual conflict of interest for possible financial gain. Dr. Kouzes, aye; Dr. Romanick, aye; Dr. Côté, aye; Dr. Goldeen, aye; Mr. Taylor, aye and Ms. Reed, aye. Motion passed.

Case # 2014-1022 The Board proposed to administratively close the case. Mr. Taylor moved to accept the proposal; Dr. Romanick seconded the motion. Dr. Young is recused. Dr. Kouzes, aye; Dr. Goldeen, aye; Dr. Côté, aye; Dr. Romanick, aye; Mr. Taylor, aye, and Ms. Reed, aye. Motion passed.

Case # 2015-3014 The Board proposed insufficient evidence to find a violation with a letter of concern for contact with the complainant. Dr. Kouzes moved to accept the proposal; Ms. Reed seconded the motion. All in favor. Motion passed unanimously.

Case # 2014-1030

The Board proposed to issue a Notice of Discipline – Cease and Desist for unlicensed practice with a \$10,000 fine; refer to Department of Revenue, Secretary of State’s office, and DCBS’ Consumer Protection, Washington and Clackamas County District Attorneys’ offices, and report to the State of Washington. Ms. Reed moved to accept the Board’s proposal; Dr. Kouzes seconded the motion. All in favor. Motion passed unanimously.

Case # 2015-2000

The Board proposed a contingent case closed. Licensee must complete 12 hours CE in documentation and six (6) hours CE in Billing and Coding; both must be live presentations. Hours are to be completed within three months and these hours are in addition to the regular annual CE. Licensee is to cease and desist using the “infrasound” device; and to petition the Board’s ETSDP committee for approval. Dr. Côté moved to accept the proposal; Dr. Kouzes seconded the motion. Discussion – What if licensee does not choose to continue use of the device, does she still need to make application to the ETSDP? No. Dr. Côté amended his motion – he moved to accept the proposed discipline as stated and if the licensee wishes to use the device, she must make application to the ETSDP committee, wait for final approval. All in favor. Motion passed unanimously.

Case # 2015-1006 The Board proposed no statutory violation. Dr. Young moved to accept the proposal; Dr. Kouzes seconded the motion. All in favor. Motion passed unanimously.

Case # 2014-2013 The Board will accept the counter offer of six hours CE in ethics and boundaries, and six in coding - both to be live CE presentations. The licensee may go to PIP arbitration but he may not collect any unpaid balance from patients. Dr. Young moved to accept the determination; Dr. Romanick seconded the motion. All in favor. Motion passed unanimously.

Case # 2015-2001 The Board proposed to issue a Notice to Revoke. A previous order stated that the Board proposed to revoke, but stayed the revocation unless, and if, the licensee fails to abide by the Order. Dr. Young moved to accept the proposal; Dr. Kouzes seconded the motion. All in favor. Motion passed unanimously.

Dr. Kouzes moved to adjourn, Dr. Romanick seconded the motion. No vote was taken as Dr. Young asked the Board to review his proposed OAR amendment. Motion died.

WORK SESSION

OAR 811-010-0110 Chiropractic Assistants – Prior to proposing his amendment to the CA rule, Dr. Jason Young claimed a conflict of interest based on the fact that he is a board approved trainer for chiropractic assistant education.

AAG Lindley initially commented that under number 6 it should be made clear whether the certifications are requiring “additional” training.

Dr. Young began his proposal and explained why he is making this proposal. We don't want a high turnover in the profession. There is a great potential for someone working in a clinic but never knowing about HIPAA, duty to report, boundaries and ethics, etc. Also we want to expand the scope for a CA and allow for chances to obtain more appropriate training for the type of therapies being offered at their clinic. Forgetting the current paradigm of a CCA, the "new" (first layer) "chiropractic assistant" will need only two hours of training (the Board could put this packet of training materials together).

The next step up is a "certified CA" – they would get the 8 hours didactic training (Dr. Young said any of these folks may already have completed the two hours training designated for a "CA"); they would have more patient encounters with some additional rights and responsibilities. Once they are a CCA, they are able to get the additional specialty certifications – for example, a physiotherapy specialist (aka similar to our current CA). They would need two additional hours of didactic and four hours of practical (Dr. Young cited some sample subjects).

There is a soft tissue technician with 8 hours didactic and four hours practical – again Dr. Young cited a number of subjects to be taught specific to soft tissue therapy. He proposes that the STT could perform up to two units of soft tissue units per visit. LMTs could be issued this STT certificate without additional training by showing proof of valid licensure in Oregon or elsewhere.

The next CA level is for an imaging specialist; they will have proper licensing from the Oregon Medical Imaging Board. The OMI Board offers multiple imaging certifications (e.g. cervical, thoracic, etc.); the CA would work only under their specific imaging certification/s.

Lastly, there is a proposed status of Advanced Clinical Assistant. To attain this certification a CCA must receive (8) hours of didactic training and (4) hours of practical, hands-on training in basic kinesiology, orthopedic examination and functional movement screening. Certification will allow the CCA to assess and record ROM, functional movement screening, basic posture evaluation and orthopedic testing.

Dr. Romanick added that it is not necessary to build one on another program; a CA may only take one or two certification classes, or all four.

Related issues are the fees and any examination; Dr. Young feels that the CCA would only need to take the exam; an exam would not be necessary for those "practical" sessions. Glenn suggested using the same descriptor for the different certifications (i.e. specialist versus technician, etc.)

Dr. Côté recommends massaging the language, put some fees in there, etc. In September, we can review it one more time and then refer it to the Rules Advisory committee. Dr. Young added that we should grandfather in the current CAs as Physiotherapy Specialists.

Dr. Young moved to adjourn for the day; Dr. Kouzes seconded the motion. All in favor. Motion passed unanimously.

4:15 PM ADJOURN