



Oregon

John A. Kitzhaber, MD, Governor

Board of Chiropractic Examiners

3218 Pringle Rd SE Ste 150

Salem, OR 97302-6311

Phone: (503) 378-5816

Fax: (503) 362-1260

OBCE Administrative Office, Morrow Crane Building, Email: oregon.obce@state.or.us
3218 Pringle Road SE, 1st Floor Conference Room Web: www.oregon.gov/OBCE

Salem, OR 97302

PUBLIC SESSION

January 17, 2013

Members Present

Ann Goldeen DC, President
Daniel Côté, DC Vice-President
Doug Dick, Public Member, Secretary
Todd Bilby DC
Christine Robinson DC
Glenn Taylor, Public Member
Huma Pierce DC, Excused

Staff Present

Dave McTeague, Executive Director
Kelly Beringer, Admin Asst
Tom Rozinski, Investigator
Lori Lindley, AAG

Others Present: Don Ferrante DC; Ivonne Feinauer;
& Kira Richards; and David Corll DC

CONVENE: 12:45 pm

ADOPTION OF THE AGENDA: Adopted as is.

PUBLIC COMMENTS - Don Ferrante, Ivonne Feinauer, and Kira Richards, and David Corll regarding the CPR discussion.

5. CE: CPR/First Aid requirement for 2014, reconsideration of Sept. 2012 decision

Dr. Ann Goldeen first invited Dr. Don Ferrante to address the Board regarding the CPR/first aid requirement and he first acknowledges that there was some dispute whether CPR/first aid is required by professions or not. He said, for one, it is absolutely mandatory that a licensee be CPR/first aid certified if they are working in a hospital. He also acknowledged that he is not here today representing the OCA. He reiterated that he feels strongly that chiropractors ought to be trained in these areas.

Dr. David Corll called in to make his comments. Other boards do not mandate CPR/First aid, and he thinks it should be elective only for chiropractors.

Board discussion: board members changed their previous "mandate" to a policy recommendation. The Board will strongly recommend all licensees take CPR/first aid training. In addition, CPR/first aid is accepted as CE. The Board asked Dr. Ferrante to draft an article of his experiences related to CPR, first aid, and AED training, and use, for the BackTalk Newsletter. Dr. Todd Bilby moved to adopt this determination as a policy, and that CPR/First Aid CE counts for CE credit. Doug Dick seconded the motion. No more discussion. Motion carries. Glenn Taylor, aye; Christine Robinson, aye; Todd Bilby, aye; Doug Dick, aye; Daniel Côté, aye and Ann Goldeen, aye.

ADJOURN to EXECUTIVE SESSION 12:50 pm

RECONVENE to PUBLIC SESSION 3:30 pm



IN THE MATTERS OF

Case #s 2012-1057 and 2012-3044 The board determined insufficient evidence to find a violation with a letter of concern. Daniel Côté moved to accept this determination; Doug Dick seconded the motion. All in favor. Christine Robinson, aye; Glenn Taylor, aye; Todd Bilby, aye; Doug Dick, aye; Daniel Côté, aye and Ann Goldeen, aye.

Case # 2011-5011 The Board proposed to close the case with the understanding the doctor has truly retired from practice. Daniel Côté moved to accept the determination; Ann Goldeen seconded the motion. All in favor. Christine Robinson, aye; Glenn Taylor, aye; Todd Bilby, aye; Doug Dick, aye; Daniel Côté, aye and Ann Goldeen, aye.

Case #s 2012-3003 and 2012-3008 The Board determined no statutory violation. Todd Bilby moved to accept the determination; Glenn Taylor seconded the motion. All in favor. Christine Robinson, aye; Glenn Taylor, aye; Todd Bilby, aye; Doug Dick, aye; Daniel Côté, aye and Ann Goldeen, aye.

Case # 2012- 1037 Leif Choi DC

The Board proposed to issue a Notice to Extend licensee's probation / mentorship for three more years, the mentor has to approve his video fluoroscopy during the period of his probation; a \$10,000 fine payable in 60 days, complete an additional 12 hours CE clinical justification; extend probation three more years for a total of five years; get informed consent form. Ann Goldeen moved to accept the Board's determination; Todd Bilby seconded the motion. All in favor. Christine Robinson, aye; Glenn Taylor, aye; Todd Bilby, aye; Doug Dick, aye; Daniel Côté, aye and Ann Goldeen, aye.

Case # 2012-3022 The Board determined no statutory violation. Christine Robinson move to accept the Board's determination; Doug Dick seconded the motion. All in favor. Christine Robinson, aye; Glenn Taylor, aye; Todd Bilby, aye; Doug Dick, aye; Daniel Côté, aye and Ann Goldeen, aye.

Case # 2012-1046 The Board determine insufficient evidence with a letter of concern. Glenn Taylor moved to accept the Board's determination; Christine Robinson seconded the motion. All in favor. Christine Robinson, aye; Glenn Taylor, aye; Todd Bilby, aye; Doug Dick, aye; Daniel Côté, aye and Ann Goldeen, aye.

Case #s 2012-3020, 2012-3021 and 2012-3025

The Board determined insufficient evidence with a letter of concern. Daniel Côté moved to accept the determination; Doug Dick seconded the motion. All in favor. Christine Robinson, aye; Glenn Taylor, aye; Todd Bilby, aye; Doug Dick, aye; Daniel Côté, aye and Ann Goldeen, aye.

Case # 2012-2010 The Board determined a contingent case closed provided the licensee sends the board E.O.B.s within 10 days showing compliance. Ann Goldeen moved to accept the Board's determination; Christine Robinson seconded the motion. All in favor. Christine Robinson, aye; Glenn Taylor, aye; Todd Bilby, aye; Doug Dick, aye; Daniel Côté, aye and Ann Goldeen, aye.

Case # 2012-1049 The Board proposed insufficient evidence with a letter of concern. Glenn Taylor moved to accept the Board's determination; Doug Dick seconded the motion. All in favor. Christine Robinson, aye; Glenn Taylor, aye; Todd Bilby, aye; Doug Dick, aye; Daniel Côté, aye and Ann Goldeen, aye.

Case # 2012-2004 The Board proposed to withdraw previous notice and determined instead a contingent case closed provided the licensee agrees to a file pull of three PIP cases within six months and six hours CE in coding approved by the Board (to be completed within 60 days). Todd Bilby moved to accept the Board's determination; Daniel Côté seconded the motion. All in favor. Christine Robinson, aye; Glenn Taylor, aye; Todd Bilby, aye; Doug Dick, aye; Daniel Côté, aye and Ann Goldeen, aye.

Case # 2011-1026 et al Don Reneau DC

The Board proposed a two year suspension, pass the NBCE Ethics & Boundaries test within 6 months; ten years probation, PROBE within one year; and following the suspension a permanent restriction on his license to have a chaperone when treating female patients; a psychosexual evaluation before he re-enters practice; and a board interview prior to returning to practice. Doug Dick moved to accept the Board's determination; Christine Robinson seconded the motion. All in favor. Christine Robinson, aye; Glenn Taylor, aye; Todd Bilby, aye; Doug Dick, aye; Daniel Côté, aye and Ann Goldeen, aye.

Case # 2012-5027 The Board proposed no statutory violation. Christine Robinson moved to accept the determination. Glenn Taylor seconded the motion. All in favor. Christine Robinson, aye; Glenn Taylor, aye; Todd Bilby, aye; Doug Dick, aye; Daniel Côté, aye and Ann Goldeen, aye.

Frances H Winston CA Applicant

The Board proposed to issue the CA license with standard stipulations to disclose history to employers. Doug Dick moved to accept the determination; Daniel Côté seconded the motion. All in favor. Christine Robinson, aye; Glenn Taylor, aye; Todd Bilby, aye; Doug Dick, aye; Daniel Côté, aye and Ann Goldeen, aye.

Natasha Harkness, CA Applicant

The Board proposed to issue the CA license with standard stipulations to disclose history to employers. Daniel Côté moved to accept the Board's determination; Doug Dick seconded the motion. All in favor. Christine Robinson, aye; Glenn Taylor, aye; Todd Bilby, aye; Doug Dick, aye; Daniel Côté, aye and Ann Goldeen, aye.

Daniel Beebe DC

The Board proposed a three year probation with file reviews, \$2,000, 6 hours CE clinical justification and 6 hours charting – both to be completed within 60 days. Doug Dick moved to accept the determination; Daniel Côté seconded the motion. All in favor. Christine Robinson, aye; Glenn Taylor, aye; Todd Bilby, aye; Doug Dick, aye; Daniel Côté, aye and Ann Goldeen, aye.

Case # 2011-3013 The Board approved the request to disclose confidential case information to the Board of Psychologist Examiners. Daniel Côté moved to accept the approval; Christine Robinson seconded the motion. All in favor. Christine Robinson, aye; Glenn Taylor, aye; Todd Bilby, aye; Doug Dick, aye; Daniel Côté, aye and Ann Goldeen, aye

Case # 2012-3038

The Board proposed no statutory violation. Todd Bilby moved to accept the determination; Christine Robinson seconded the motion. All in favor. Christine Robinson, aye; Glenn Taylor, aye; Todd Bilby, aye; Doug Dick, aye; Daniel Côté, aye and Ann Goldeen, aye.

Case # 2012-3017 The Board authorized the legal counsel to negotiate an Agreement of Voluntary Compliance with the licensee with provisions as discussed by the Board. Todd Bilby moved to accept

the determination; Doug Dick seconded the motion. All in favor. Christine Robinson, aye; Glenn Taylor, aye; Todd Bilby, aye; Doug Dick, aye; Daniel Côté, aye and Ann Goldeen, aye

BOARD OFFICERS ELECTION, BOARD COMMITTEE ASSIGNMENTS, FCLB & NBCE DELEGATES

Board officers:

Daniel Côté was nominated for President. Doug Dick was nominated to continue as Secretary; Ann Goldeen DC was nominated as Vice-President. Doug Dick seconded the motion; all nominated accepted the nominations. Effective today, Daniel Côté is the new Board President; Ann Goldeen is the new Board Vice-President; and Doug Dick continues as the Board Secretary. All in favor. Doug Dick, aye; Todd Bilby, aye; Christine Robinson, aye; Daniel Côté, aye; Ann Goldeen, aye; Glenn Taylor, aye.

FCLB & NBCE:

After nominations, Daniel Côté is the NBCE delegate; Ann Goldeen is the alternate NBCE delegate. Dr. Goldeen is the FCLB delegate, and Doug Dick is the alternate FCLB delegate. All in favor to the assignments. Christine Robinson, aye; Bilby, aye; Goldeen, aye; Côté, aye; Dick, aye; and Taylor, aye.

Board committee assignments:

Continuing Education Reviewer – Christine Robinson volunteered.

ETSDP – Todd Bilby volunteered.

Rules Advisory Comte – Glenn Taylor volunteered.

Liaison to the OCA – Daniel Côté volunteered.

DISCUSSION ITEMS

1. Budget & Legislative issues update:

- Governor's Proposed Budget and Budget Policy Packages, SB 106
- Supplemental funding request & Expenditures report

Dave met with Senator Laurie Monnes Anderson who chairs the Senate Health Committee; our bill died in that committee last session; she was open on the issue. Dave also intends to meet with Senator Kruse from Roseburg. Aside from a brief discussion about the budget, Dave talked to the Board about Senate Bill 302 which proposes to merge a number of small health boards into the Oregon Health License Agency. The separate associations are all opposing this bill.

Dave has submitted the supplement budget request numbers to the legislative budget analyst, including the need for the part-time investigator, and the fee increase. We are set to spend approximately \$220,000 on our DOJ bill this biennium, and we might have at least one more contested case hearing.

2. Peer Review Committee appointment (2:00 p.m. interview)

After interviewing Dr. Trevor Douglass today Ann Goldeen moved to appoint him to Peer Review Committee. Christine Robinson seconded the motion. All in favor. Todd Bilby, aye; Ann Goldeen, aye; Doug Dick, aye; Glenn Taylor, aye; Daniel Côté, aye; and Christine Robinson, aye.

3. Proposed Rule Amendments: Pre-Paid Treatment Plans rule (continued from Nov.)

We have no input from OCA – this discussion is carried forward to March 2013. Refer this to the Rules Committee, assuming we get recommendations from the OCA. Dr. Côté will speak to Dr. Saboe. Dr. Bilby talked about some of the points the OCA had touched on – the pre-pay plans are typically a year in

duration, so it's reasonable to limit them to three months duration. Also, if a DC is charging for a service before the service then a person should be entitled to a time-of-service discount. These plans are about making money, not so much about the patient. Dr. Côté added that he sells a "punch card." The patient pre-pays; if they decide they do not want to continue care, Dr. Côté refunds what is left on the card. Dr. Bilby adds you cannot realistically predict six months out what a patient will need/not need; limit the plans to three months. The Rules Committee will review this on March 7, 2013.

4. Review / Approve Proposed Record Keeping courses

Drs. Franchesca Vermillion and Kimberly DeAlto, and Tom Necela (The Strategic Chiropractor) submitted programs for approval. Dr. Bilby moved to accept both courses as approved. Dr. Goldeen seconded the motion. All in favor. Christine Robinson, aye; Glenn Taylor, aye; Doug Dick, aye; Daniel Côté, aye; Ann Goldeen, aye; and Todd Bilby, aye.

7. Policy Issue: Colloidal Silver (ETSDP Committee report)

Dave drafted a policy based on the committee's recommendations. Dr. Goldeen read the proposal to the Board. Dr. Aungst proposed a minor edit to the last sentence "...multiple TRACE elements...." "And "...such as is found in naturally occurring mineral deposits...." His comment was meant to clarify the FDA's statement; however, Dr. Bilby thinks we should stick to the FDA guidelines. Ann Goldeen moved to adopt the ETSDP's recommendation for Colloidal Silver. Christine Robinson seconded the motion. All in favor. The policy is attached to these minutes as Addendum 1. Doug Dick, aye; Todd Bilby, aye; Ann Goldeen, aye; Daniel Côté, aye; Christine Robinson, aye; and Glenn Taylor, aye.

Silver; Colloidal Silver

Previous OBCE policy stated, "Licensed chiropractors may create their own colloidal silver and sell it to their patients..." As of January 17, 2013, this is revised due to concerns that the oral ingestion of silver runs the risk of causing argyria, a serious skin condition, and other less common health problems.

New Policy: Chiropractic physicians may not create their own colloidal silver for ingestion purposes and/or retail this to their patients from this point forward. (i.e. outside scope as per the ETSDP rule). Chiropractic physicians creating their own solutions may only use these for topical use.

Both the National Center for Complementary and Alternative Medicine and the Food and Drug Administration have issued strong warnings and alerts that focus on oral ingestion of silver compounds.

Topical uses of silver as taught and utilized in chiropractic colleges is within the Oregon chiropractic scope of practice. Even given the potential for absorption of silver across the mucous membranes, the occasional use of intranasal Argyrol applications for sinusitis would not result in a dose that remotely approximates the chronic oral Reference Dose (RfD – 5 mg/kg of body weight/day) of silver established by the EPA as a risk for developing argyria. Also allowed is multi-mineral formulations which include small doses of colloidal silver below the allowable EPA limits.

6. Policy Issue: BAX 3000 (ETSDP Committee report)

Dr. Bilby chaired the committee. Four members questioned the device. The committee recommends that it not be used for diagnostic purposes. There is a moderate risk level to using it, and all of the risks and complications have to be spelled out.

Jim Aungst submitted comments critical of this device. Bilby added that the rest of the committee feels there may be some potential benefit. Doug Dick added that this is the machine he feels is not electrically

safe. It is not State Fire Marshall, UL, ETL, or Canadian Standard Association approved. The device in its entirety has been “cleared” is not true. Dr. Bilby said Dr. Misenheimer doesn’t understand what he has or how it works; as the company is defunct and doesn’t respond to questions.

Dave will ask the State Fire Marshal to clarify the fire code rules on appliances. Dr. Côté suggested we move to approve the device, and see what the State Fire Marshall determines. Todd Bilby moved to adopt the proposed policy for the BAX 3000 and similar devices as presented; Daniel Côté seconded the motion. No further discussion. Three board members voted in favor; three voted in opposition. Drs. Côté, Robinson, aye; and Bilby voted aye. Dr. Goldeen, Glenn Taylor and Doug Dick vote nay. Motion failed. The Board will consult with the State Fire Marshall and review this at a future meeting.

8. Policy Issue: Should the OBCE have policy/rule for third party file reviews?

Yes. They need to keep their reports like any other doctor. The Board referred to the IME policy too. IME doctors are not required to keep the treating patient records. Can we expand the IME policy to include file reviewers? Also file reviewers must have access to the entire file in order to justify their clinical decision. Dr. Côté suggests turning the policy into a rule may carry a stronger position. Dave suggested the members come up with a draft concept and ask for input from the public.

9. Staff Report (Complaint statistics, performance measures)

The Board currently has 89 open complaints; 23 of them are recent. We will bring P&P updates to add to the Guide at a future meeting. We’ll draft an article about CPR for the next BackTalk. Dave also suggests inviting Vern Saboe to the next meeting for an Association legislative update.

ADJOURN 4:45 pm