OREGON BOARD OF
CHIROPRACTIC EXAMINERS

PUBLIC SESSION MINUTES

May 19-20, 2016 9:00 AM
Meeting held at:
The Mill - The Spruce Room
3201 Tremont Ave
North Bend, OR 97459

Board President: Jason Young, DC Phone 503-378-5816 Fax 503-362-1260

Members Present
Jason Young DC, President
Glenn Taylor, Vice-President, Public Mbr.
Lisa Kouzes, DC Secretary
Paul Bjornson DC
Ron Romanick DC
Amber Reed JD, Public Mbr.

Staff Present
Cassandra Skinner JD, Executive Director
Kelly Beringer, Admin Assistant
Donna Dougan, Admin Assistant
Lori Lindley, AAG
George Finch, Investigator
Frank Prideaux DC, Healthcare Investigator

Others Present: Dianna Loudenbeck DC, Deborah Loudenbeck, Dan Loudenbeck, Abby Stauss DC, Robert Richards DC, Benjamin Voth DC, Rick White DC, Jolene Lanway, Calvin Mang DC, and Bryon Blackwell DC

8:00 AM Board Meet and Greet with area Doctors of Chiropractic
9:00 AM CONVENE

ADOPTION OF THE AGENDA
Proposal: Adopt as amended
Motion: Dr. Kouzes made a motion to adopt the agenda; Dr Bjornson seconded the motion.
Vote: Glenn Taylor, aye; Dr. Kouzes, aye; Dr. Romanick, aye; Dr. Young, aye; Amber Reed, aye; and Dr. Bjornson, aye.
Motion passed unanimously

REVIEW and ADOPT March 2016 Public Minutes
Proposal: Adopt as amended
Motion: Dr. Kouzes made a motion to adopt the March minutes; Dr Bjornson seconded the motion.
Vote: Glenn Taylor, aye; Dr. Kouzes, aye; Dr. Romanick, aye; Dr. Young, aye; Amber Reed, aye; and Dr. Bjornson, aye.
Motion passed unanimously

PUBLIC COMMENTS
Kristine Lumsden submitted written comment in opposition to today’s proposed rule for fingerprinting chiropractic assistants; her comments were read into the record.

9:30 AM ADMINISTRATIVE RULE HEARING

1. Chiropractic Assistant Rule (in relation to Fitness Determination & Background Check)
   Issue:
   Performing background checks by staff did not include a national check; this proposal would also bring the CA application process into line with the DC application process.
   Outcome:
   Proposal: Adopt the proposal to require fingerprint background checks of CA applicants
Motion: Dr. Kouzes moved to accept redline additions/deletions of 811-010-0110; Glenn Taylor seconded the motion.
Vote: Ms. Reed, aye; Dr. Young, aye; Dr. Romanick, aye; Dr. Kouzes, aye; Mr. Taylor, aye, and Dr. Bjornson, aye
Motion passed unanimously.

2. Fitness Determination & Fingerprint Background Check (for CAs) (previously noticed)
Issue:
The rule inferred that applicants for certification could be fingerprinted, but it was not clearly stated that Chiropractic Assistants are those applicants.
Outcome:
Proposal: Adopt the proposed amended rule
Motion: Dr. Kouzes moved to adopt the proposed changes; Dr. Bjornson seconded.
Vote: Dr. Bjornson, aye; Ms. Reed, aye; Dr. Romanick, aye; Dr. Kouzes, aye; Mr. Taylor, aye; and Dr. Young, aye
Motion passed unanimously.
Reasoning:
To bring clarity to the rule.

DISCUSSION ITEMS

1. Ratify Peer Review Reappointment Contracts
Issue:
Contracts were renewed; require final board approval
Outcome:
Proposal: ratify contracts
Motion: Glenn Taylor moved to ratify the Peer Review members’ contracts; Dr Bjornson seconded the motion.
Vote: Dr. Kouzes, aye; Dr. Young, aye; Ms. Reed, aye; Dr. Bjornson, aye; Mr. Taylor, aye; and Dr. Romanick, aye.
Motion passed unanimously.
Reasoning:
Dr. Hess will not be renewing; Drs. Seth Alley and David Russ both renewed. Dr. Vuky must interview with Board prior to full status.

2. Ratify OCPUG Committee Members
Outcome:
Proposal: Ratify the OCPUG Committee roster
Motion: Dr. Kouzes moved; Dr. Romanick seconded.
Vote: Dr. Bjornson, aye; Dr. Romanick, aye; Dr. Kouzes, aye; Dr. Young, aye; Mr. Taylor, aye; and Ms. Reed, aye.
Motion passed unanimously.
Reasoning:
New members were added, including Drs. Romanick; Mitch Haas, and Craig Morris. Previous Board member, Doug Dick, also volunteered.

3. OCPUG Committee Report

Issue:
First meeting since the reconvening of the committee; Board liaison, Dr. Romanick attended.

Outcome:
Dr. Romanick addressed the OCPUG committee with an outcome of a better understanding and acceptance for the continuation of the process. The committee was reminded that they are an arm of the Board, and any decisions or opinions should take that into consideration. The committee agreed that there should be a WAD section. The Board would like to see a copy of the committee minutes in addition to the Board member reports. Director Skinner added that any decisions needed to reflect any roll call votes. The next OCPUG meeting is June 9.

4. NBCE/FCLB Report

Issue:
Dr. Kouzes, Mr. Taylor, and Director Skinner attended the national conference.

Outcome:
Mr. Taylor spoke to the topics discussed: International standards, by-law provisions; malpractice; updates on NBCE and international issues, some discussion about specialty exams (OBCE minor surgery and proctology and OB/Gynecology). The Oregon Board continues to be ahead of many other boards in regulatory issues. Dr. Kouzes made a request to the FCLB to support under-funded boards for conference attendance; the NBCE is taking on more state licensing exams. The EBAS is offered across professions. NBCE is gaining national and international recognition for their test development (for more than just chiropractic). AAG Lindley added that there is an attorney forum which she also recommends.

Oct. 13-16 FCLB Regional Meeting: Dr. Kouzes, Dr. Romanick, and Mr. Taylor looking at availability to attend. Director Skinner to attend.

5. NBCE and Ethics Online Discussion

Issue:
OBCE contacted the NBCE about taking over its Ethics exam in addition to the OB/Gyn and Minor Surgery/Proctology exams it is already delegated.

Outcome:
Proposal: Move this discussion to January 2017
Motion: Dr. Young moved; Amber Reed seconded
Vote: Dr. Bjornson, aye; Dr. Romanick, aye; Dr. Young, aye; Dr. Kouzes, aye; Mr. Taylor, aye; and Ms. Reed, aye.
Motion passed unanimously.

Reasoning:
Director Skinner addressed the need for development of the questions and test integrity. Dr. Young would like to see how the current two exams are managed before we move to add another. Push this conversation to January 2017.
6. CE Audit Report (2016 January to March renewals)
   **Issue:**
   Report outcome of recent DC CE audit
   
   **Outcome:**
   Staff reported that all doctors complied with the request for documentation; no issues arose. Due to the conversations during the audit, staff was advised to add a discussion to the next e-blast about the administrative aspect of CE documentation. Mr. Taylor mentioned that FCLB also will maintain that documentation for PACE attendees.

7. Proposed Amendment to OAR 811-010-0093 Guide to Policy & Practice
   
   **Issue:**
   The Board approved amendments to the Guide in March. The approval date needs to be updated in the rule to March 17, 2016
   
   **Outcome:**
   **Proposal:** Go into permanent rulemaking.
   **Motion:** Dr. Kouzes moved; Dr. Romanick seconded
   **Vote:** Mr. Taylor, aye; Dr. Young, aye; Dr. Romanick, aye; Dr. Kouzes, aye; Ms. Reed, aye; and Dr. Bjornson, aye.
   Motion passed unanimously.

8. Executive Director and Fall 2016 FARB Conference (Request Approval to Attend)
   
   **Issue:**
   FARB is the Federal Administrative Regulatory Boards. There next meeting is Sept 29 – Oct 2 in Chicago (for EDs and AAGs). Director Skinner requests approval to attend – Cease and Desist issues; legal recording of minutes; ethics; review of top regulatory cases; delegation of authority; criminal administration proceedings.
   
   **Outcome:**
   **Proposal:** Approve the expenditure for staff’s attendance to FARB
   **Motion:** Dr. Kouzes moved; Dr. Romanick seconded the motion.
   **Vote:** Ms. Reed, aye; Mr. Taylor, aye; Dr. Young, aye; Dr. Bjornson, aye; Dr. Romanick, aye; Dr. Kouzes, aye.

9. November 17, 2016 New Doctor Introduction
   
   **Issue:**
   Board Members need to volunteer
   
   **Outcome:**
   The next Introduction will be held the evening immediately after the November board meeting 6 – 9 PM. Dr. Romanick will attend, Mr. Taylor will attend. Dr. Bjornson may attend.

10. EBAS Board Training
    
    **Issue:**
    Is the Board interested in training provided by EBAS about what they do, and how to use those services.
    
    **Outcome:**
    Add the training to the January 2017 board retreat (1-2 hours).
**CORRESPONDENCE**

1. **Request for Approval Record Keeping (Abrahamson, DC)**
   
   **Issue:**
   
   Dr. Scott Abrahamson is requesting approval.
   
   **Outcome:**
   
   **Proposal:** Accept Dr. Abrahamson’s curriculum
   **Motion:** Dr. Koizes moved and Dr. Romanick seconded.
   **Vote:** Mr. Taylor, aye; Dr. Young, aye; Dr. Romanick, aye; Dr. Koizes, aye; Ms. Reed, aye; and Dr. Bjornson, aye.

   **Reasoning:**
   
   Hit all aspects of the Record Keeping check list.

2. **Request for Approval Record Keeping (Corll, DC)**
   
   **Issue:**
   
   Dr. David Corll is requesting approval.
   
   **Outcome:**
   
   **Proposal:** Approve Dr. Corll’s course.
   **Motion:** Dr. Romanick moved to accept; Dr. Bjornson seconded.
   **Vote:** Dr. Kouzes, aye; Dr. Young, aye; Ms. Reed, aye; Dr. Bjornson, aye; Mr. Taylor, aye; and Dr. Romanick, aye
   Motion passed unanimously.

   **Reasoning:**
   
   Consistent content with previous approvals.

3. **Request for Approval Record Keeping (Turner DC)**
   
   **Issue:**
   
   Dr. Wendi Turner requests the Board’s approval.
   
   **Outcome:**
   
   **Proposal:** Deny approval of course
   **Motion:** Dr. Kouzes moved to deny the request; Dr. Romanick seconded the motion.
   **Vote:** Ms. Reed, aye; Dr. Young, aye; Dr. Romanick, aye; Dr. Kouzes, aye; Mr. Taylor, aye, and Dr. Bjornson, aye
   Motion passed unanimously.

   **Reasoning:**
   
   Upon review, the Board found that most of the curriculum is about coding. It Does not meet the requirements to address the Check list.

4. **Dry Needling – Letter from Alan Dinehart DC (carry on)**
   
   **Issue:**
   
   Dr. Dinehart was frustrated that the Board gave up the efforts for dry needling.
   
   **Outcome:**
   
   Dr. Young shared Dr. Dinehart’s comments. Dr. Young will respond to Dr. Dinehart with suggestions on taking legislative action, and summarize the dry needling matter previously attempted.
Reasoning:
AAG Lindley responded that the Court of Appeals determined that the OBCE was attempting to practice outside of the scope.

11:10 AM ADJOURN to Executive session
4:45 PM RECONVENE Public Session for In the Matters of

IN THE MATTERS OF
DC & CA Issues
b. Case # 16-5004 Chiropractic Assistant Applicant
Proposal: Deny the certification.
Motion: Dr. Kouzes moved; Second by Dr. Bjornson
Vote: Dr. Kouzes, aye; Dr. Romanick, aye; Mr. Taylor, aye; Dr. Bjornson, aye; Ms. Reed, aye; and Dr. Young, aye.
Motion passed unanimously.

c. Case # 16-5003 Chiropractic Assistant Applicant
Proposal: License with stipulations - Continue criminal probation (keep attending AA, UAs); no other crimes; continue with sobriety programs. Stay with current employer for two years.
Motion: Dr. Kouzes moved; Second by Dr. Bjornson
Vote: Dr. Kouzes, aye; Dr. Romanick, aye; Mr. Taylor, aye; Dr. Bjornson, aye; Ms. Reed, aye; and Dr. Young, aye.
Motion passed unanimously.

New Complaints and Carry Forward
Case # 15-3011
Proposal: Case close; no statutory violation
Motion: Dr. Bjornson; Second, Mr. Taylor
Vote: Dr. Kouzes, aye; Dr. Romanick, aye; Mr. Taylor, aye; Dr. Bjornson, aye; Ms. Reed, aye; and Dr. Young, aye.
Motion passed unanimously.

Case # 15-3017
Proposal: Case close; no statutory violation
Motion: Ms. Reed moved; Second by Dr. Kouzes
Vote: Dr. Kouzes, aye; Dr. Romanick, aye; Mr. Taylor, aye; Dr. Bjornson, aye; Ms. Reed, aye; and Dr. Young, aye.
Motion passed unanimously.

Case # 15-3010
Proposal: Contingent case closed with three file pulls over 12 months and complete CE (6 hours documentation and 4 hours orthopedic exams) (also within 12 months)
Motion: Dr Young moved; Second, Dr. Romanick
Vote: Dr. Kouzes, aye; Dr. Romanick, aye; Mr. Taylor, aye; Dr. Bjornson, aye; Mr. Reed, aye; and Dr. Young, aye.
Motion passed unanimously.
Case # 15-3019
Proposal: Contingent case closed, submit proof of informed consent to treat minors; complete two file pulls on minor patients within one year and submit to 6 hours CE in orthopedics within 6 months.
Motion: Dr. Romanick moved; Seconded by Mr. Taylor
Vote: Dr. Kouzes, aye; Dr. Romanick, aye; Mr. Taylor, aye; Dr. Bjornson, aye; Ms. Reed, aye; and Dr. Young, aye.
Motion passed unanimously.

Case # 15-3013
Proposal: Case close; insufficient evidence to find a violation
Motion: Dr. Romanick moved to accept the proposal; Second, Ms. Reed
Vote: Dr. Kouzes, aye; Dr. Romanick, aye; Mr. Taylor, aye; Dr. Bjornson, aye; Ms. Reed, aye; and Dr. Young, aye.
Motion passed unanimously.

Case # 16-1000
Proposal: Issue a Notice of Proposed Discipline to revoke and issue a $10,000 civil penalty.
Motion: Mr. Taylor moved; Second, Dr. Kouzes
Vote: Dr. Kouzes, aye; Dr. Romanick, aye; Mr. Taylor, aye; Dr. Bjornson, aye; Ms. Reed, aye; and Dr. Young, aye.
Motion passed unanimously.

Case # 16-1006
Proposal: Case close; no statutory violation
Motion: Dr. Kouzes moved; Second, Mr. Taylor seconded.
Vote: Dr. Kouzes, aye; Dr. Romanick, aye; Mr. Taylor, aye; Dr. Bjornson, aye; Ms. Reed, aye; and Dr. Young, aye.
Motion passed unanimously.

Case # 15-3014
Proposal: Issue a Notice of Proposed Discipline, assessing a civil penalty of $5,000 and complete 6 hours CE in differential diagnosis or cardiac respiration (within six months)
Motion: Dr. Young moved; Second by Dr. Bjornson
Vote: Dr. Kouzes, aye; Dr. Romanick, aye; Mr. Taylor, aye; Dr. Bjornson, aye; Ms. Reed, aye; and Dr. Young, aye.
Motion passed unanimously.

Case # 15-3012
Proposal: Contingent Case Closed with a Letter of Concern; 3 file pulls over 6 months.
Motion: Dr. Bjornson moved; Second, Dr. Romanick
Vote: Dr. Kouzes, aye; Dr. Romanick, aye; Mr. Taylor, aye; Dr. Bjornson, aye; Ms. Reed, aye; and Dr. Young, aye.
Motion passed unanimously.
Case #s 16-1003, 16-1004 and 16-1005
Proposal: Add new cases to Amended Notice of Proposed Discipline.
Motion: Dr. Kouzes moved; Second by Mr. Taylor
Vote: Dr. Kouzes, aye; Dr. Romanick, aye; Mr. Taylor, aye; Dr. Bjornson, aye; Amber Reed, aye; and Dr. Young, aye.
Motion passed unanimously.

Case # 16-1009
Proposal: Case close; no statutory violation
Motion: Dr. Kouzes moved; Second, Dr. Bjornson
Vote: Dr. Kouzes, aye; Dr. Romanick, aye; Mr. Taylor, aye; Dr. Bjornson, aye; Ms. Reed, aye; and Dr. Young, aye.
Motion passed unanimously.

Case # 16-3003
Proposal: Case close with a Letter of Concern
Motion: Dr. Romanick; Second, Dr. Bjornson
Vote: Dr. Kouzes, aye; Dr. Romanick, aye; Mr. Taylor, aye; Dr. Bjornson, aye; Ms. Reed, aye; and Dr. Young, aye.
Motion passed unanimously.

Case # 15-3009
Proposal: Suspend license for six months beginning June 1, 2016, for failure to respond to Board request.
Motion: Mr. Taylor moved; Second, Dr. Kouzes
Vote: Dr. Kouzes, aye; Dr. Romanick, aye; Mr. Taylor, aye; Dr. Bjornson, aye; Ms. Reed, aye; and Dr. Young, aye.
Motion passed unanimously.

Case # 16-3006
Proposal: Issue a stipulated order –licensee may maintain ownership and administration, but no patient contact; Civil penalty $1,000 within 30 days.
Motion: Mr. Taylor moved; Second, Dr. Bjornson
Vote: Dr. Kouzes, aye; Dr. Romanick, aye; Mr. Taylor, aye; Dr. Bjornson, aye; Ms. Reed, aye; and Dr. Young, aye.
Motion passed unanimously.

Case # 16-3002
Proposal: File an injunction against licensee for practicing without a license; refer to DOJ Civil Enforcement.
Motion: Dr. Kouzes moved; Second, Mr. Taylor
Vote: Dr. Kouzes, aye; Dr. Romanick, aye; Mr. Taylor, aye; Dr. Bjornson, aye; Ms. Reed, aye; and Dr. Young, aye.
Motion passed unanimously.

5:05 PM Adjourn for the day
Friday, May 20, 2016

WORK SESSION

Administrative Rule Considerations/Revisions

- 811-010-0005 through 0040  LK (Definitions; Addresses; etc.)
  The Board proposed to add additional definitions to 811-010-0005 including a definition for over-the-counter/non-prescription substances, and good moral character. Other minor edits were made to 811-010-0015, 0025, and 0040

- 811-010-0066, 0071, 0080 and 0084  GT (Reciprocity; Board; Applicants)
  The Board proposed a minor change to 811-010-0066

- 811-010-0090 and 0093  DC (Food and Drugs; Policy & Practice)
  The Board proposed a minor edit to 811-010-0090 and updated the amend date in 0093 (0093 was filed for rulemaking in June 2016)

- 811-010-0095  PB/CS (Peer Review)
  The Board proposed minor clean up edits to 811-010-0095

- 811-010-0100  JY (Chiro Assistants)
  Work is ongoing

- 811-010-0120 and 0130  AR (Chiropractic Professional Corporation and Business Entity...)
  Work is ongoing

Regarding the proposed amendments above, the Board will propose to go into rulemaking at the September 2016 board meeting.

Discussion of these issues is ongoing:
- Citation Authority
- Military Spouse
- Telehealth/telemedicine rules (Other State Rules?)
- Board Retreat Follow Up (Review table of Priorities)

Prepared by Kelly Beringer, OBCE, Administrative Assistant
Transcribed 09/06/16
Recording to be destroyed 09/06/17 per OAR 166-350-0010(4)