



Oregon

Kate Brown, Governor

Oregon Board of Chiropractic Examiners

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PUBLIC SESSION MEETING MINUTES

OBCE Administrative Office
Morrow Crane Building
3218 Pringle Road SE, 2nd Floor Large Conf. Rm
Salem, OR 97302

November 19, 2015

Members Present

Daniel Côté DC, President

Glenn Taylor, Vice-President

Lisa Kouzes, Secretary

Jason Young DC

Paul Bjornson DC

Ron Romanick DC

Amber Reed JD, Public Member

Staff Present

Cassandra Skinner, JD, Executive Director

Kelly Beringer, Admin Assistant

Donna Dougan, Admin Assistant

Lori Lindley, AAG

Frank Prideaux DC, Healthcare Investigator

George Finch, Investigator

Cody Cosgrove, Office Specialist

Others Present

Stacy Delong, OHA; Anthony Medina DAS CFO, and Krista Dauenhauer LFO; Sharron Fuchs DC

11:30 AM CONVENE

Working Lunch

ADOPTION OF THE AGENDA

Motion: Dr. Kouzes moved and Dr. Young seconded the motion to adopt the agenda as presented.

Vote: Dr. Côté, aye; Dr. Romanick, aye; Dr. Bjornson, aye; Dr. Kouzes, aye; Dr. Young, aye; Mr. Taylor, aye, and Ms. Reed, aye. Motion passed unanimously.

REVIEW and ADOPT 2015 MINUTES

- March 2015: Discussion held and revisions made.

Motion: Mr. Taylor moved to accept the March minutes as revised; Dr. Kouzes seconded the motion.

Vote: Dr. Côté, aye; Dr. Romanick, aye; Dr. Bjornson, aye; Dr. Kouzes, aye; Dr. Young, aye; Mr. Taylor, aye; and Ms. Reed, aye. Motion passed unanimously.

- May 2015: Discussion held and revisions made.

Motion: Dr. Kouzes moved to accept the May 2015 minutes as revised; Mr. Taylor seconded the motion.

Vote: Dr. Côté, aye; Dr. Romanick, aye; Dr. Bjornson, aye; Dr. Kouzes, aye; Dr. Young, aye; Mr. Taylor, aye; and Ms. Reed, aye. Motion passed unanimously.

- June 2015: Discussion held and revisions made.

Motion: Mr. Taylor moved to accept the June 2015 minutes as revised; Dr. Kouzes seconded the motion.

Vote: Dr. Côté, aye; Dr. Romanick, aye; Dr. Bjornson, aye; Dr. Kouzes, aye; Dr. Young, aye; Mr. Taylor, aye; and Ms. Reed, aye. Motion passed unanimously. July 2015: Discussion held and revisions made.

Motion: Dr. Young moved to accept the July 2015 minutes as revised; Dr. Romanick seconded the motion.

Vote: Dr. Côté, aye; Dr. Romanick, aye; Dr. Bjornson, aye; Dr. Kouzes, aye; Dr. Young, aye; Mr. Taylor, aye; and Ms. Reed, aye. Motion passed unanimously.

- September 2015:

Motion: Dr. Kouzes moved to accept the September 2015 minutes with no revisions; Mr. Taylor seconded the motion.

Vote: Dr. Côté, aye; Dr. Goldeen, aye; Dr. Young, aye; Dr. Romanick, aye; Mr. Taylor, aye; and Dr. Kouzes, aye. Ms. Reed abstained as she was not present at the meeting. Motion passed.

PUBLIC COMMENTS

Mr. Medina and Ms. Dauenhauer had no comment.

DISCUSSION ITEMS

1. OHA Healthcare Work force Questionnaire Presentation

OHA's Stacy DeLong appeared before the Board to explain the legislative mandate to survey healthcare professionals. Per SB 230 (2015), Licensees will be required to complete a workforce demographic survey about their chiropractic practice within their license renewal process and the Board will be required to pay OHA a \$2 fee per licensee/completed survey. Rather than pass this fee along to Licensees, the Board determined that it will absorb this additional fee at this time with the possibility of revisiting the fee issue in the future.

Motion: Dr. Young made a motion to absorb the cost of the workforce survey; Dr. Kouzes seconded the motion. **Discussion:** Dr. Bjornson suggested that the Board may want to only absorb the cost for one year; the Board will consider this recommendation in future discussions.

Vote: Dr. Bjornson, aye; Dr. Young, aye; Dr. Kouzes, aye; Dr. Côté, aye; Mr. Taylor, aye; and Ms. Reed, aye. Dr. Romanick, nay. Motion passed.

2. CA Fees Analysis and Fingerprint Background checks

The Board reviewed staff's analysis.

Motion: Dr. Kouzes moved to go into rulemaking to add chiropractic assistants to the fingerprint background check rule (OAR 811-010-0084 and 811-010-0110 will be amended). Dr. Young seconded the motion.

Discussion: Staff will draft language for review in January 2016.

Vote: Dr. Côté, aye; Dr. Romanick, aye; Dr. Bjornson, aye; Dr. Kouzes, aye; Dr. Young, aye; Mr. Taylor, aye; and Ms. Reed, aye. Motion passed unanimously

3. Website Posting Pilot Project Report

Executive Director Skinner reported that the pilot project seemed to be accepted by the public as we have not received any negative feedback during the past six months.

Motion: Dr. Romanick moved to make the policy within the website pilot program a permanent board policy. Dr. Kouzes seconded the motion.

Vote: Dr. Côté, aye; Dr. Romanick, aye; Dr. Bjornson, aye; Dr. Kouzes, aye; Dr. Young, aye; Mr. Taylor, aye; and Ms. Reed, aye. Motion passed unanimously.

4. 2016 Record Keeping CE – Request for approval (2 hours) Dan Dock DC

Motion: Dr. Romanick moved to approve the presented course; Dr. Bjornson seconded the motion.

Vote: Dr. Côté, aye; Dr. Romanick, aye; Dr. Bjornson, aye; Dr. Kouzes, aye; Dr. Young, aye; Mr. Taylor, aye; and Ms. Reed, aye. Motion passed unanimously.

5. ETSDP recommendation - Infratonic QGM Device/Dr. Marelle O'Meara Application

Dr. Young delivered the committee's recommendation. The QGM device is based on Eastern sciences such as Qi Gong and is created by a Chinese manufacturer, available to the public. As far as efficacy, Dr. O'Meara provided a lot of documentation, however, there were no case studies to review. There is minimal evidence that shows efficacy. Regarding scope, Dr. O'Meara admitted that there is no "treatment protocol" - she uses the device adjunctively for musculoskeletal conditions. The committee did not have information to determine the device as standard, so the proposal is to approval for investigational status. It has FDA approval as an electrical modality (no heat).

With the investigational approval, informed consent is not required, and participation in, or conducting, a formal investigation of the procedure is not required. Regardless, the Board will request that Dr. O'Meara consider completing an investigation within one year. At the end of the year, the Board will reconsider the determination.

Motion: Dr. Young moved to approve the Infratonic QGM device as investigational for treating musculoskeletal conditions only; informed consent is recommended but not required; Mr. Taylor seconded the motion.

Vote: Dr. Côté, aye; Dr. Romanick, aye; Dr. Bjornson, aye; Dr. Kouzes, aye; Dr. Young, aye; Mr. Taylor, aye; and Ms. Reed, aye. Motion passed unanimously.

6. Ad hoc Committees

The Board previously discussed disbanding the ad hoc committees - ETSDP, Minor Surgery, and the Rules Advisory Committee. Executive Director Skinner drafted and presented a policy statement for the Board. The current OCPUG Committee will disband once its assigned work is finished.

As of December 31, 2015, the Oregon Board of Chiropractic Examiners will be disbanding all of its ad hoc committees (Rules Advisory Committee, ETSDP Committee, and the Minor Surgery/Proctology Review Committee) and will put calls out for membership interest for each committee if and when the need arises.

Thank you to all who have participated on these committees in years past - we greatly appreciate your time and dedication to improving chiropractic care within our state.

Motion: Dr. Kouzes moved to accept the proposal; Dr. Romanick seconded the motion.

Vote: Dr. Côté, aye; Dr. Romanick, aye; Dr. Bjornson, aye; Dr. Kouzes, aye; Dr. Young, aye; Mr. Taylor, aye; and Ms. Reed, aye. Motion passed unanimously.

CORRESPONDENCE

1. CA Initial Trainer Approval – Amy Hanson DC

Dr. Hanson provided her resume and proposed course outline for review.

Motion: Dr. Young moved to approve the course; Mr. Taylor seconded the motion.

Vote: Dr. Côté, aye; Dr. Romanick, aye; Dr. Bjornson, aye; Dr. Kouzes, aye; Dr. Young, aye; Mr. Taylor, aye; and Ms. Reed, aye. Motion passed unanimously.

2. CA Initial Trainer Approval – John Richardson DC

Motion: Dr. Young moved to approve Dr. Richardson's request also; Dr. Kouzes seconded.

Vote: Dr. Côté, aye; Dr. Romanick, aye; Dr. Bjornson, aye; Dr. Kouzes, aye; Dr. Young, aye; Mr. Taylor, aye; and Ms. Reed, aye. Motion passed unanimously.

3. CA Initial Training “live” webinars versus other options (S. Abrahamson DC)

The Board chose to keep its webinar policy as is; let Dr. Abrahamson know. No motion necessary.

IN THE MATTERS OF

NBCE Exam Proposal: The proposed change is to the fees to correlate with NBCE's process fees.

Motion: Dr. Côté moved to go into rulemaking regarding OAR 811-010-0085 Applicants and Examinations; Mr. Taylor seconded the motion.

Vote: Dr. Romanick, aye; Dr. Young, aye; Dr. Kouzes, aye; Ms. Reed, aye; Mr. Taylor, aye; Dr. Bjornson, aye; Dr. Côté abstained for having a possible conflict of interest as an NBCE District Director. Motion passed.

Dr. Fuchs will send Dr. Côté the new HERC guidelines - information about treating OB patients.

Case # 2014-1007 – The Board proposed to issue an Agreement of Voluntary Compliance where the Licensee must successfully pass SPEC exam within three months; and satisfactorily complete one file pull within 180 days.

Motion: Dr. Kouzes moved to accept the proposal; Dr. Romanick seconded the motion.

Vote: Dr. Côté, aye; Mr. Taylor, aye; Ms. Reed, aye; Dr. Kouzes, aye; Dr. Young, aye; and Dr. Romanick, aye. Dr. Bjornson abstained. Motion passed.

Case # 2014-5006 – The Board proposed a Letter of Concern.

Motion: Dr. Romanick moved to accept the proposal; Dr. Young seconded the motion.

Vote: Ms. Reed, aye; Dr. Romanick, aye; Dr. Côté, aye; Dr. Kouzes, aye; Dr. Young, aye; and Mr. Taylor, aye. Dr. Bjornson abstained. Motion passed.

Case # 2012-1050 – The Board proposed a Letter of Concern.

Motion: Dr. Romanick moved to accept the proposal; Dr. Young seconded the motion.

Vote: Dr. Kouzes, aye; Dr. Romanick, aye; Dr. Young, aye; Mr. Taylor, aye; Ms. Reed, aye; and Dr. Côté, aye. Bjornson abstained. Motion passed.

Case # 2015-1005 – The Board proposed to issue a Notice of Proposed Discipline for 12 hours CE charting; 8 hours CE in ortho/neuro; both CE requirements are to be completed within 4 months of the signed order. Licensee must successfully complete three file pulls of three new files within 12 months, and pay a \$2,000 civil penalty.

Motion: Dr. Côté moved to accept the proposal; Dr. Kouzes seconded the motion.

Vote: Dr. Young, aye; Dr. Côté, aye; Dr. Kouzes, aye; Dr. Romanick, aye; Mr. Taylor, aye; and Ms. Reed, aye. Bjornson abstained. Motion passed.

Case # 2016-5016 – The Board proposed a Letter of Concern.

Motion: Dr. Young moved to accept the proposal; Mr. Taylor seconded the motion.

Vote: Dr. Young, aye; Dr. Côté, aye; Dr. Kouzes, aye; Dr. Romanick, aye; Mr. Taylor, aye; and Ms. Reed, aye. Dr. Bjornson abstained. Motion passed.

CE Audit Outcome - The Board proposed to assess a civil penalty of \$250 plus \$75 for failure to submit the balance of 1.5 hours (of 20 required).

Motion: Dr. Kouzes moved to accept the proposal; Mr. Taylor seconded the motion.

Vote: Dr. Côté, aye; Dr. Romanick, aye; Dr. Bjornson, aye; Dr. Kouzes, aye; Dr. Young, aye; Mr. Taylor, aye; and Ms. Reed, aye. Motion passed unanimously.

CE Policy Clarification – Based on a Licensee’s attempt to obtain CE credit for reading manuals, handbooks, and instruction guides, the Board agreed to revise the existing policy to clarify that these activities are not allowed for CE credit. Staff is to draft the revision for the Board’s review in January 2016.

Case # 2015-3000 - The Board proposed an Agreement of Voluntary Compliance with 1) two years of file pulls, with a minimum of three file pulls annually of no less than three patients per pull. At each file pull, records of all patients who have been referred for outside medical tests (not to include X-rays or routine blood work) would be provided since the last file pull. These records do not count as part of the three patients per pull required. 2) Complete 12 hours of CE (in addition to annual hours) in chart noting or clinical justification for lab work within 90 days of the effective date of the order; 3) Hire a mentor (approved by the board) and meet with them monthly for the first 12 months after the effective date of the order. After the final file review from the first year of the order, the board may extend this mentoring requirement to extend through the two year file pull requirement.

Motion: Mr. Taylor moved to accept the proposal; Dr. Romanick seconded the motion.

Vote: Dr. Côté, aye; Dr. Romanick, aye; Dr. Bjornson, aye; Dr. Kouzes, aye; Dr. Young, aye; Mr. Taylor, aye; and Ms. Reed, aye. Motion passed unanimously.

Case # 2015-3007 - The Board proposed a Letter of Concern and Case Closed.

Motion: Dr. Young moved to accept the recommendation; Dr. Bjornson seconded the motion.

Vote: Dr. Côté, aye; Dr. Romanick, aye; Dr. Bjornson, aye; Dr. Kouzes, aye; Dr. Young, aye; Mr. Taylor, aye; and Ms. Reed, aye. Motion passed unanimously.

Case # 2014-3006– Regarding the Order of Dismissal of the Notice of Proposed Discipline.

Motion: Dr. Côté moved to ratify the Order of Dismissal; Dr. Young seconded the motion.

Vote: Dr. Côté, aye; Dr. Romanick, aye; Dr. Bjornson, aye; Dr. Young, aye; Mr. Taylor, aye; and Ms. Reed, aye. Dr. Kouzes recused herself. Motion passed.

Case # 2015-2001 - The Board proposed to approve the Denial of Deposition.

Motion 1: Dr. Côté moved to accept the proposal; Dr. Romanick seconded the motion

Vote: Dr. Côté, aye; Dr. Romanick, aye; Dr. Bjornson, aye; Dr. Kouzes, aye; Dr. Young, aye; Mr. Taylor, aye; and Ms. Reed, aye. Motion passed unanimously.

In relation to the same case number above, the Board proposed to amend the Proposed Order.

Motion 2: Dr. Romanick moved to accept the proposal; Mr. Taylor seconded the motion.

Vote: Dr. Côté, aye; Dr. Romanick, aye; Dr. Bjornson, aye; Dr. Kouzes, aye; Dr. Young, aye; Mr. Taylor, aye; and Ms. Reed, aye. Motion passed unanimously.

Case # 2015-1011 - The Board proposed a Contingent Case Closed.

Motion: Dr. Romanick moved to accept the proposal; Ms. Reed seconded the motion.

Vote: Dr. Côté, aye; Dr. Romanick, aye; Dr. Bjornson, aye; Dr. Kouzes, aye; Dr. Young, aye; Mr. Taylor, aye; and Ms. Reed, aye. Motion passed unanimously.

Case # 2013-5007 - The Board proposed Case Closed.

Motion: Dr. Côté moved to accept the proposal; Dr. Young seconded the motion.

Vote: Dr. Côté, aye; Dr. Romanick, aye; Dr. Bjornson, aye; Dr. Kouzes, aye; Dr. Young, aye; Mr. Taylor, aye; and Ms. Reed, aye. Motion passed unanimously.

Case #s 2015-1050 & 2015-1007 – The Board proposed to approve the Final Stipulated Order.

Licensee is to submit to UAs in concert with other organization, successfully take and pass the EBAS test within six months. If Licensee moves out of Oregon and returns at a later date, the Order is “tolled” (stops/starts). During probation, Licensee will appear before the board annually.

Motion: Ms. Reed moved to accept the Board’s proposal; Mr. Taylor seconded the motion.

Vote: Dr. Côté, aye; Dr. Romanick, aye; Dr. Bjornson, aye; Dr. Kouzes, aye; Dr. Young, aye; Mr. Taylor, aye; and Ms. Reed, aye. Motion passed unanimously.

Case # 2015-3008 - The Board proposed to issue a Letter of Concern.

Motion: Dr. Young moved to accept the proposal; Ms. Reed seconded the motion.

Vote: Dr. Côté, aye; Dr. Romanick, aye; Dr. Bjornson, aye; Dr. Kouzes, aye; Dr. Young, aye; Mr. Taylor, aye; and Ms. Reed, aye. Motion passed unanimously.

WORK SESSION

Administrative Rules Review

- Review 811-010-0005 through 0040 - Dr. Kouzes
Discussion was held and revisions made regarding these rules: 811-010-0005 “Definitions,” 811-010-0015 “Filing Addresses,” 811-010-0025 Display of License, and 811-010-0040 Duty to Report.
- Review 811-010-0045 and 0089 - Dr. Romanick has no recommendations for change.
- Review 811-010-0066, -0071, -0080 and 0084 - Mr. Taylor
Discussion was held and revisions made regarding these rules: OAR 811-010-0066 Reciprocity, 811-010-0071 Board Members, 811-010-0084 Fitness Determination (earlier today the Board also proposed to go into rulemaking to include background checks for CAs)
- Review 811-010-0090 and 0093 - Dr. Côté
Discussion was held and revisions made regarding this rule 811-010-0090 Food and Drugs. No recommendations were made for revisions to 811-010-0093 Guide to Policy and Practice Questions.

With the mention of the Guide to Policy and Practice Questions, AAG Lindley asked whether the Board wanted to consider drafting a rule on the marijuana infused substances issue. Executive Director Skinner reminded the Board that a policy was adopted in September; and the Board may want to wait to determine whether rulemaking is necessary.

- Review 811-010-0095 - Drs. Goldeen and Bjornson
Discussion was held and revisions made regarding 811-010-0098 Peer Review
- Review 811-010-0100 - Dr. Young and Executive Director Skinner
Discussion was held and revisions made regarding this rule 811-010-0110 Chiropractic Assistants.
- Review 811-010-0120 and 0130 (Ms. Reed and Dr. Côté)

Continue review regarding these rules Business Entity Ownership, and 811-010-0130 Other Licensed Health Care Providers

Cultural Competence Continuing Education – Executive Director Skinner gave a brief update; the OHA is still working on a list of approved classes.

Telehealth/telemedicine rules. The Board discussed rulemaking on this issue at its July 16, 2015 Board meeting. Executive Director Skinner was tasked with providing a copy of other health-related boards' administrative rules. In January 2016, the Board will re-visit this discussion and review the Nevada rules.

Board Retreat Follow Up (Review table of Priorities) Executive Director Skinner confirmed that the Board is keeping to its priorities and will revisit the list at the Board's meeting in January, 2016.

3:15 PM ADJOURN to Executive Session
3:20 PM RE-CONVENE & ADJOURN for the Day

Final Minutes approved January 15, 2016