



Oregon

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Oregon Board of Chiropractic Examiners

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OBCE PUBLIC MEETING

Morrow Crane Building
3218 Pringle Road SE, 2nd Floor Large Conference
Salem, OR 97302

September 15, 2014

Members Present

Daniel Côté DC, President
Ann Goldeen DC Vice-President
Glenn Taylor, Secretary
Doug Dick, Public Member
Jason Young DC (teleconference)

Staff Present

Cassandra Skinner JD, Executive Director
Kelly Beringer, Admin Assistant
Tom Rozinski, Investigator
Frank Prideaux DC, Health Investigator
Lori Lindley, AAG
Shari Barrett, Office Specialist

Excused: Lisa Kouzes DC

Others Present Sharron Fuchs DC; Michael Smith AAL,
and Denise Zinkel/Allstate

ADOPTION OF THE AGENDA The agenda was adopted as presented.

PUBLIC COMMENTS None

DISCUSSION ITEMS

1. Rule hearing discussion continued, OAR 811-035-0015 Prohibits confidential agreements limiting response to Board complaints/investigation

Mike Smith testified on behalf of the OCA which voted to oppose the rule; Oregon criminal statutes prohibit payment for obstruction of justice. He stated that the rule is too broad and not limited to be case-specific. The board amended the language by inserting a phrase, "regarding a board proceeding." Ann Goldeen moved to accept; Doug Dick seconded the motion. All in favor; Motion passed unanimously.

In the Matter of

Case #s 2013-1040 and 2013-1043 Adam Lopez DC

The Board proposed to issue a Notice of Revocation. Dr. Daniel Côté moved to accept the determination; Doug Dick seconded the motion. Ann Goldeen is recused. Jason Young, aye, Glenn Taylor, aye, Daniel Côté, aye; Doug Dick, aye. Motion passed unanimously.

Discussion Items continued

7. Staff Report (Dr. Côté presented in Cass's absence) Cass is at the E-Board, and then later this afternoon she will meet our new board members as they are appointed. Our requested budget and affirmative action plan have been presented to the Governor's office. Regarding Dr. Côté's OCPUG review committee, he has a list of 20 people and he is in the process of picking a chair for that committee. He hopes the committee is up and running by the first of October, with an update ready at the end of a year's work. Dr. Sharron Fuchs suggested the Board update the document every two years. The New Doctor meeting is coming up October 2, with Drs. Kouzes and Young assisting. The next



Board meeting is scheduled for November 20 in Corvallis; we are planning a retreat in January 2015. Cass just reported that our E-Board request was accepted.

2. Policy: ChiroCredit.com and Online CA Initial Training

Both vendors, ChiroCredit.com (Paul Powers DC) and Professional Online Education (Rosalind Canham DC) are proposing that the didactic/lecture portion of the training be presented online with appropriate testing and verification that the applicant is present (timing is required). Motion 1: Ann Goldeen moved to change the board's policy to allow online Initial training. Doug Dick seconded the motion. All in favor. Motion passed unanimously. All persons interested in presenting online/video ITC must have the Board's pre-approval. (Current board approved trainers are pre-approved to adjust their live sessions for future online use – with these caveats added.) Motion 2: Ann Goldeen moved to approve ChiroCredit and Professional Online Education's request. All in favor. Motion passed unanimously.

3. Policy: Should malpractice insurance be a requirement for DCs?

Dr. Sharron Fuchs commented that all DCs carrying the OBCE specialty certificates (minor surgery, proctology and obstetrics) be required to maintain malpractice. She has an example of a dual licensed person (DC/midwife) who presents a statement for the patient to sign refusing malpractice. Dr. Côté added that the patient does have the right to go to a different practitioner. If we make the rule to have malpractice, are we going to mandate how much coverage? Glenn is interested in what the other Boards do. Do the other states require malpractice insurance for both general or high risk care (e.g. OB/Gyn)? Doug Dick offered that we research what other boards require. Glenn agreed and suggested we do a PowerPoll with the other Chiropractic Boards.

4. Policy: Should supervising DCs provide CE to their in-house CAs?

Dr. Côté brought this before the Board. We've had some licensees try to claim hours for CE for regular staff meetings. Motion 1: Ann Goldeen moved that we adopt a policy which prohibits CAs from getting their CE credit by the chiropractor in the office. Lori Lindley suggested that DCs will exchange services to provide CE for each other's CAs. Dr. Côté feels that a licensee should bring to the Board the curriculum and outline of what they propose to train. No second was offered for Motion 1; motion died.

(break)

DCs are not allowed to provide in-house CE to their own CAs for license renewal credit; plus all CE classes must be supported with a curriculum and certificate of completion. Ann Goldeen moved to accept; Doug Dick seconded the motion. All in favor. Motion passed unanimously.

5. OCPUG review discussion (Dr. Cote)

(See Staff Report above)

6. Continuing Education – Over the Counter Substances Request for Approval

The Oregon Chiropractic Association has a new presenter for previously approved over-the-counter substances course material; Will Board approve the new instructor for the OCA Convention and future video recording? Louis D'Amico, DC has a degree in pharmacology. Dr. Goldeen moved to approved Dr. Amica; Doug Dick seconded the motion. All in favor. Motion passed unanimously.

CORRESPONDENCE

1. **Can a DC use Uroplasty for overactive bladder?** (Sharron Fuchs DC)

Lori Lindley and Frank Prideaux say that ORS 684.010 says you cannot penetrate the skin for anything other than diagnostic purposes; therefore this technique should not be allowed. Dr. Fuchs maintains that there is no “substance” injected. Lori added that technically, electricity is a substance. Dr. Fuchs has a (1910) reference saying this is electrotherapy. Dr. Côté needs more legal analysis on this issue. Lori reminds Dr. Côté that the court defined “physiotherapy” and that the Board may need to draft a new law re-defining it. Lori would have to look at previous AG opinions. Dr. Fuchs said that in 1972 the appellate court said that the Board could define physiotherapy. She also has a “very comprehensive” definition of physiological therapeutics in 1927 (for physicians).

2. **Can CAs use Colonic Therapy, AND Does OBCE policy need clarified?** (Sharron Fuchs DC)

Dr. Fuchs wants the statement to be clarified in that colonic therapy IS a hydrotherapy. Dr. Côté proposed to change the policy to read, “Although determined to be allowed within the chiropractic scope of practice, and that colonic therapy is hydrotherapy, CAs are not allowed to perform it due to the high risk of the procedure.” Ann Goldeen seconded the motion. All in favor. Motion passed unanimously.

3. **Can a DC practice Hypnotherapy in his clinic? Take CE?** (B MacDonald DC)

Dr. Goldeen thinks hypnotherapy is in the classification of psychological therapy which she does not believe is within our scope. Lori Lindley looked it up and it is defined as a form of psychological counseling. Answer: No, the practice of hypnotherapy is not within the scope of chiropractic, nor is hypnotherapy allowed for CE.

2:30 PM Cass returned from the Capitol

IN THE MATTERS OF (Dr. Young not present)

Discussion Item #2 Woodward, Karleen CA Applicant with Conviction (New Case #2014-5013)

The Board proposed to deny CA certification for failure to disclose all convictions on her application. Doug Dick moved to accept the determination; Ann Goldeen seconded the motion. All in favor. Motion passed unanimously.

Case #2014-1011 The Board found no statutory violation, but will send a letter of concern regarding patient/doctor relationship in IME situations. Daniel Côté moved to accept the determination; Ann Goldeen seconded the motion. All in favor. Motion passed unanimously.

Case #2014-3008 The Board found no statutory violation. Ann Goldeen moved to accept the determination; Glenn Taylor seconded the motion. All in favor. Motion passed unanimously.

Case #2014-1013 The Board found no statutory violation, but will send a letter of concern. Glenn Taylor moved to accept the determination; Ann Goldeen seconded the motion. All in favor. Motion passed unanimously.

Case #2014-1009 The Board found no statutory violation. Doug Dick moved to accept the determination; Glenn Taylor seconded the motion. All in favor. Motion passed unanimously.

Case #2014-1007 The Board proposed a contingent case closed with two file pulls – one MVA and one non-MVA or workers compensation file - both less than one year old. Ann Goldeen moved to accept the determination; Doug Dick seconded the motion. All in favor. Motion passed unanimously.

**Case #s 2011-2005 and 2013-1007 B. Hatch and
Case #2012-5005 L. Hatch**

The Executive Director signed an order regarding a request for exceptions in the above two cases.

- 1) The Board voted to ratify the second Order denying an extension for exceptions. Glenn Taylor moved to accept the determination; Doug Dick seconded the motion. All in favor. Motion passed
- 2) The Board voted to issue a consolidated amended proposed order including all costs for both practitioners; Glenn Taylor moved to accept the determination; Ann Golden seconded the motion. All in favor. Motion passed unanimously.

Case #2014-3009 The Board found no statutory violation. Ann Goldeen moved to accept the determination; Doug Dick seconded the motion. All in favor. Motion passed unanimously.

Case #2011-3003 The Board voted to ratify the redacted order. Ann Goldeen moved to accept the determination; Doug Dick seconded the motion. All in favor. Motion passed unanimously.

Case #2013-2015

The Board proposed to close this matter contingent on the licensee's completion of a four hour ethics class and six hours community service within 60 days. Ann Goldeen moved to accept the determination; Doug Dick seconded the motion. All in favor. Motion passed unanimously.

Case #2014-1012 The Board found no statutory violation. Glenn Taylor moved to accept the determination; Ann Goldeen seconded the motion. All in favor. Motion passed unanimously.

Ann Goldeen moved to adjourn; Glenn Taylor seconded the motion. All in favor, meeting adjourned.

3:30 PM ADJOURN