

**Board of Chiropractic Examiners**

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**BOARD OF CHIROPRACTIC EXAMINERS  
MEETING MINUTES  
Manipulation Under Anesthesia (MUA)  
Tuesday, July 17, 2007  
12:30 p.m.  
Department of Consumer Affairs  
1625 N. Market Blvd., Ste. S102  
Sacramento, CA 95834**

**COMMITTEE MEMBERS PRESENT**

Frederick Lerner, D.C., Chair  
Hugh Lubkin, D.C.

**STAFF PRESENT**

Brian J. Stiger, Executive Officer  
LaVonne Powell, DCA Senior Legal Counsel  
Marlene Valencia, Staff Services Analyst

**Call to Order**

Dr. Lerner called the meeting to order at 12:35 p.m.

**Roll Call**

Dr. Lubkin called the roll. Both committee members were present.

**Discussion and Possible Action re Issues in "Petition to Define Practice Rights and to Amend, Repeal and/or Adopt of Practice Regulations as Needed," Submitted by David Prescott, Attorney**

Mr. Prescott petitioned the Board to define the practice rights of chiropractors. Mr. Prescott explained that under the statute in which the petition was filed, the Board must schedule a public meeting to hear the petition.

Mr. Prescott's stated his position is that the basic fundamental practice right of chiropractors was intended to be the same as it was for drugless practitioners. Physicians and surgeons under the 1913 Act may treat injuries, diseases, deformities or other physical or mental conditions -- so can drugless practitioners.

Mr. Prescott states the intent of the 1922 Chiropractic Act was to grant to chiropractors that same basic practice right and then the exceptions need to be considered.

Mr. Prescott states he has volumes of information to support his position that he would like to present to the Board, which will take up to a day and a half to present. Mr. Prescott wants the evidence be entered into the public record so that the evidence can be examined.

Dr. Lubkin asked Mr. Prescott how much information he had to get an idea of how much time board members would need to devote to this subject.

Mr. Prescott offered to scan the information on a DVD and provide to the Board. Ms. Powell raised concerns about copyright laws with regards to Mr. Prescott's evidence.

Mr. Prescott offered a three step process in moving forward.

Phase One: Determine the scope of practice intended by the 1922 Act.

Phase Two: Determine if the Board has the authority to adopt a new scope of practice.

Phase Three: Adopt regulations to define the new scope of practice.

Mr. Prescott requests the opportunity to present the information to the Board. Ms. Powell explained that even if the Board agreed with Mr. Prescott's legal argument, the Board has discretion on moving forward with regulations.

Dr. Lerner recognized and thanked Mr. Prescott for his presentation and acknowledged the significance of Mr. Prescott's argument.

The committee agreed to place this topic on the next committee meeting and allow Mr. Prescott 1 ½ hours to make his presentation.

### **Discussion and Possible Action re September 9, 2004 MUA Regulation that was Disapproved by the Office of Administrative Law**

Dr. Lerner explained that the Board promulgated regulations in 2005, which were rejected by the Office of Administrative Law. Dr. Lerner informed the public that Drs Lerner and Lubkin, Ms. Powell, and Mr. Stiger met with representatives from OAL earlier this morning to discuss the issues with the previous regulation package. OAL representatives explained that the Board needed a legal opinion supporting its position that MUA is within the scope of practice of a chiropractor before submitting new regulations. Dr. Lerner asked Ms. Powell to provide a written opinion and submit it to the MUA committee. Ms. Powell stated that she would hope to have the opinion to the Committee by the end of October. Ms. Powell also told the Committee members that the opinion would be confidential unless the Committee members agreed to release it to the public.

### **Meeting Adjourned**

Dr. Lerner adjourned the meeting at 1:10 p.m.