

Board of Chiropractic Examiners

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**BOARD OF CHIROPRACTIC EXAMINERS
PUBLIC SESSION MINUTES****March 26, 2009****Burbank Airport Marriott and Convention Center
2500 Hollywood Way
Burbank, CA 91505****Board Members Present**

Frederick Lerner, D.C., Chair
Hugh Lubkin, D.C., Vice Chair
Francesco Columbu, D.C., Secretary
Martin Mariscal, Public Member
Jeffrey Steinhardt, D.C.
Richard Tyler, D. C.

Staff Present

Brian J. Stiger, Executive Officer
LaVonne Powell, Senior Staff Council
April Alameda, Associate Governmental Program Analyst
Lavella Matthews, Associate Governmental Program Analyst
Tammi Pitto, Staff Services Analyst

Call to Order

Dr. Lerner called the meeting to order at 9:31 a.m.

Roll Call

Dr. Columbu called the roll. All members except were present except Dr. Steinhardt.

Closed Session

Dr. Lerner announced the board would be going into immediate closed session to deliberate on some court cases.

Public Session

Dr. Lerner opened public session at 11:00 a.m., he stated there was deliberations on cases before the board and announced that Dr. Steinhardt is present and was present during closed session.

Chair's Report

Dr. Lerner announced that the Governor has appointed two new board members and re-appointed Dr. Tyler. This has occurred as a result of very comprehensive effort from the governor's appointment secretary, whose office he expressed his thanks and gratitude towards.

Dr. Lerner reported that the Board is proceeding on a course of moving six new regulations through the process and actively working on a fee increase bill. We are on track regarding petitioner requests and overall we are functioning with a very high level in terms of our primary purpose, to protect the public. With a full agenda to get through, he is asking full cooperation of board members, staff, and the public to restrict comments to no longer than 3 minutes so that we can proceed in an orderly manner through the agenda.

Swearing In of New Board Members

As an Officer of the Board, Dr. Lerner introduced and administered the ceremonial oath of office to Mr. Mariscal, Dr. Steinhardt, and Dr. Tyler.

Committee Member Assignments

Dr. Lerner discussed the committee member assignments. The board is continuing with the same committees this year. However, some people have been reassigned. Under Continuing Education, Dr. Lubkin will be the chair and will serve with Dr. Tyler. Under Enforcement, Dr. Lubkin will be the chair and will serve with Dr. Steinhardt. Under Government Relations, Dr. Lubkin will be the chair and will serve with Mr. Mariscal. Under Legislation/Regulation, Dr. Lerner will be the chair and will serve with Dr. Columbu. Under Licensing, Dr. Steinhardt will be the chair and will serve with Dr. Tyler. Under Public Relations, Mr. Mariscal will be the chair and will serve with Dr. Lerner. Under Scope of Practice, Dr. Lubkin will be the chair and will serve with Dr. Lerner. Under Strategic Planning, Dr. Columbu will be the chair and will serve with Mr. Mariscal.

Approval of Minutes

January 8, 2009 Board Meeting

MOTION: DR. TYLER MOVED TO APPROVE THE JANUARY 8, 2009 MINUTES

SECOND: DR. COLUMBU SECONDED THE MOTION

VOTE: 6-0-2

MOTION CARRIED

Public Comment

None

Ethical Decision Making and Other Legal Training

Ms. Powell explained that all of the boards at the Department of Consumer Affairs, as well as the Chiropractic Board, are being offered this Ethical Decision Making training. This board has discussed this type of training for two years, but it has been more informal.

This training is a more formal type of presentation developed by Anita Scuri. The course does not take that long and you get an opportunity to ask questions. I would ask that the public please wait until the end of the presentation to ask questions. In light of the complexities of the Opening Meeting Act and the conflict of interests laws, as well as what is going on in the state and national scene, it is important that you feel comfortable when you make decisions. We want you to be able to see triggers so that you will know what questions to ask.

The Open Meeting Act is a sunshine law whose purpose is to promote openness and transparency in state decision making. You might ask yourself what the open meetings act has to do with ethical decision making. One component of making an ethical decision is to make one in compliance with the law. The law requires boards and committees to do business in public and not private.

Specifically, the act declares that people do not give their public servants the right to decide what is good for the public to know and what is not good for them to know.

The Open Meeting Act imposes three duties; give adequate notice of meeting that will be held and the items that will be discussed, conduct meetings in open session with exceptions of closed sessions that are very limited, and provide the public with an opportunity to comment. The law is intended to promote the public knowing the reasons behind government decisions and to have the opportunity to participate in making those decisions. The public cannot have input if it does not know about the meeting, if the meeting is held where decisions are made behind closed doors or via electronic communications.

Public perception is extremely important. Public officials must not only protect the public, but also ensure public trust in the board as a living continuing entity. So what meetings are covered by the law? Generally speaking, whenever the majority of the board or a majority of a committee is meeting on matters of jurisdiction within the board. That includes discussion or consensus or decision making, not just decision making because the public might want to have benefit of your thought processes. When the public can come forward and interact with you, we are looking at something very positive. The CE regulations are an example of that.

There are some exceptions, meetings of a committee that consists of less than three people. One or more contacts or conversations between board members, so long as it doesn't evolve into a serial meeting, meaning one person e-mails another, then that person e-mails another, the conversation strings and then you put the strings together and you have reached a consensus. With e-mail, this is so easy to get out of hand. You can participate in a conference that is open to the public, such as an association meeting, and issues that are within this board's jurisdiction are open to the public. Like any other member public you are able to engage in discussion. You are not doing it on behalf of the board, but you are not prohibited from engaging in that discussion. In purely social or ceremonial functions it's ok to enter act with the other board members as long as you are not discussing any specific board issues.

Ms. Powell gave an example: The board members send an e-mail to all the members of another board. Some members of the Board respond and say this was a great idea for legislation next year and have attached a position paper. They would like you to read it and e-mail them back on whether you support the proposal. What should you do if you receive this type of e-mail?

Ms. Powell's response was to not open the attachment and respond saying that this would not be the appropriate way to go about this, and to inform the Executive Officer of the incident to preserve your right to vote on the subject later. Her advice is hyper diligence. Ms. Powell stated that Dr. Columbu, Dr. Tyler and Dr. Lerner have all e-mailed her stating they have received something and what they did with it. This is a good way to do it, preserving it in an e-mail.

Dr. Lubkin asked if she would like them sent to her because he has been sending his to Mr. Stiger.

Ms. Powell responded to send them to Mr. Stiger, however, she is always available for questions.

Ms. Powell explained the issue of whether or not you need to disqualify yourself from voting or abstain can be very tricky. Disqualification is sometimes called recusal. Remember that in discipline and licensing matters, you are acting as a judge.

As a judge you must be fair, objective and unbiased. Disqualification is defined as being ineligible to act on a specific matter before the board generally because of an actual or perceived biased or conflict of interest. It is mandatory once you once make that determination. Abstention is a voluntary action, it means that you are choosing not to vote on a particular case even if the law allows you to participate and vote. In deciding whether you should participate in the specific matter, ask yourself a few questions. Have you served as an investigator, prosecutor, or advocate before or during the adjudicative proceeding? Are you biased or prejudiced for or against the person, or do you have an interest including financial interest in a proceeding? Have you engaged in a prohibited ex parte communication before or during the adjudicative process? Do you or your spouse or a close family member have personal knowledge of disputed evidentiary facts concerning the proceeding? Do you doubt your capacity to be impartial? Do you, for any reason, believe that your recusal would further the interests of justice? Not every "yes" is an automatic disqualification. You might still need to go to an analysis. Mr. Stiger will provide you with a chart to help you decide if it's mandatory or if you need further discussion.

Dr. Tyler asked if or when someone recuses themselves, do they need to provide specific reasons?

Ms. Powell responded that you do not need to provide personal information, however you do need to provide a reason. Part of it is a requirement, another is once you are engaged in a discussion, an analysis occurs and sometimes it's not so clear cut. You really need to reveal some facts so that it can be determined if you need to be disqualified. If it's a closed session matter, you actually have to leave the room.

Ms. Powell gave some grounds that do not qualify as disqualification. If you are or are not a member of racial, ethnic, religious or similar group and the proceeding involves such a group that does not disqualify you. If experience, technical confidence or specialized knowledge of, or having any capacity, expressed or view on a legal policy issue presented to you, that doesn't disqualify you unless you are saying you will not even listen to the case with an open mind because you have taken a position on the issue.

So what happens when you disqualify yourself? You put your disqualification on the record, you cannot stay in the room and you cannot talk about the issue with any other members, before, during or after the vote. With a licensee, you will never know all of the facts. Some licensees will try to contact you and if they tell you the facts as they believe them, you can get in a situation where an excellent board member cannot vote. You need four board members to vote, if you are disqualified, you do not count.

When you are a board member and also a member or officer of a professional association, your board member hat has to always be your primary hat you have on. Your duty to the board is always your first. If you get into a situation where your association wants to do one thing but the board's policy is going in a different direction, your loyalty always has to be to the board while you are a board member. You are expected to keep confidential matters confidential regardless of whether that information may be of interest to your association. You cannot advocate a position as an association official that is contrary to your position to the board, if you have a conflict; you have to put the board first. If that comes up, you can always talk to Ms. Powell.

Something else that has come up is that you cannot accept any financial benefit from anyone that is separate from the board.

An association cannot pay for us to have any refreshments. You cannot accept anything from schools, licensees, associations, ce providers, anybody. It is a violation, but also it's a perception. You don't want to put yourself or the board in a bad position.

During a reinstatement hearing, licensees have a right to petition for reinstatement as well as a modification of the probation terms or reduction of the actual length of the probation. Even though we might put someone on probation for five years, the law anticipates that they might do so well in three years, that we would consider terminating that early. Keep an open mind on that, you are not second guessing a previous board decision. It is very important that the board members not second guess the finding in a previous board's decision, those finding have been established with due process with one exception. That is a default decision. When petitioners dispute those findings at a hearing, board members are at a disadvantage because you don't have all of the witnesses coming in with them to say what happened. If they are going to start to tell the story again, you only have one party, you don't have the victim or the expert telling the other side. However you do need to understand what led to the discipline and what were the findings because unless you understand the seriousness and the nature and some of the facts surrounding the discipline, you really can't evaluate if they provide sufficient rehabilitation, and that is really what your job is. The bottom line is trying to determine that they have sufficiently rehabilitated to where if we gave them a license the public would be safe. You have factors in your regulations to look at in order to make that decision. That is really what we need to focus on. The Deputy Attorney General represents the people of the State of California, and their job is to ask questions to make sure that it is clear as to what the findings and the severity and nature so that you can make the most informed decision you can under the circumstances. Inappropriate questions are regards to marital status, whether you have custody of your kids. If they mention that they receive therapy, it's alright to explore that a little bit, especially to ask if their therapist is aware of the decision on the license.

Executive Officer's Report

Budget

Mr. Stiger discussed the Governor's executive order to furlough employees twice each month, which resulted in state offices being closed on the first and third Fridays. Now, the furloughs are self directed resulting in our office being open each day but some days will be short staffed.

Mr. Stiger presented the budget report and explained the document in the packet for the new board members. He stated that the BCE projecting to fully expend the budget due to increased enforcement.

Dr. Columbu asked if the budget includes the attorneys from the Attorney General's Office. Mr. Stiger pointed out the line item pertaining to the Attorney General's Office.

Mr. Mariscal asked if this board is funded without general funds and when the budget got cut if we continued to collect the fees and where the fees went.

Mr. Stiger responded that Mr. Mariscal was correct, we are funded without general funds. We still collected the fees when the budget was cut, but we did not have the spending authority to use it.

Personnel

Mr. Stiger introduced Keith Powell, our Supervising Special Investigator I. He stated we are doing very well filling all of our positions. We just appointed a Special Investigator in San Diego who starts

on April 1, 2009. We are still trying to fill one more Special Investigator in Southern California. That will make us fully staffed. We were lucky enough to hire Linda Shaw as our new Licensing Manger.

Licensing

Mr. Stiger discussed our licensing population, under Chiropractors we have 32 less than last year and several more Satellite Offices. He acknowledged Tammi Pitto, Licensing Analyst, and recognized her in regards to our licensing processing time going way down since she has come on board, which will be noticeable in the ratification of approved licensees.

Enforcement

Mr. Stiger stated we present information over the past four fiscal years to give the Board some perspective. He stated pending complaints have been reduced to 658, which is the lowest it has been in a very long time. This is our backlog due the budget shortfall and we went down to six people. We have a new enforcement strategy, process and people. Mr. Stiger pointed out that we issued twenty citations and about \$800 in fines.

Mr. Mariscal asked if the fines are being paid.

Mr. Stiger responded, yes they are.

Web Casting Update

Mr. Stiger updated that the equipment has all been purchased and received. We have awarded a contract through the bidding process to Granicus. We are working with them to have the target date of the May 21st meeting webcasted. Mr. Stiger feels that we will make that date and wants the board to be aware that in order to show the meetings live, it will depend on what the internet connection availability is in each location. If we do not have a hardwire internet connection, we would record the meeting and then upload it as soon as we were able to so it would be available to the public.

Final Report to the Bureau of State Audits

Mr. Stiger updated we have one more report to complete for the audit that was completed in March of 2008. We have submitted incremental reports along the way and are now down to our final report which is due on April 3, 2009. The provided report is an update of the recommendations that we have either implemented or partially implemented in the past year. The audit was taken as a management – consultant type of exercise and we made it a priority. We have a few more things to work out but at this point we are headed in the right direction.

Status of Chiropractic Consultant Position

Mr. Stiger stated this position was mentioned in the audit. We don't have a Chiropractic Consultant on staff right now; we don't even have a position. The position was abolished due to it being vacant longer than six months. In the absence of a Chiropractic Consultant, the BCE established a network of 30 Chiropractic Experts and Witnesses.

Approval of Out of State Travel Blanket

Mr. Stiger stated every year we have to get our out of state travel requests approved by the Governor's office for the following fiscal year. This proposal is typical of what we have submitted in the past. Over the past couple of years there hasn't been a lot of out of state travel, but we do have colleges that we regulate that we need to go out to inspect.

Dr. Lerner asked if there is a limitation to out of state travel to what is essential.

Mr. Stiger responded yes, it must be essential.

**MOTION: DR. LERNER MOVED TO APPROVED THE OUT OF STATE TRAVEL BLANKET
SECOND: DR. STEINHARDT SECONDED THE MOTION**

VOTE: 6-0

MOTION CARRIED

Discussion

None

Ratification of Approved Continuing Education Providers

None

Discussion

None

Ratification of Approved License Applications

**MOTION: DR. COLUMBU MOVED TO RATIFY THE APPROVED LICENSE APPLICATIONS
SECOND: DR. LUBKIN SECONDED THE MOTION**

VOTE: 6-0

MOTION CARRIED

The Board ratified the attached list of approved license applications incorporated herein (Attachment A).

Discussion

None

Ratification of Denied License Applications in Which the Applicants Did Not Request a Hearing

Mr. Stiger explained there is one individual that was denied his license and did not appeal the decision.

**MOTION: DR. STEINHARDT MOVED TO RATIFY THE DENIED LICENSE APPLICATIONS THAT
WERE NEVER APPEALED**

SECOND: DR. COLUMBU SECONDED THE MOTION

VOTE: 6-0

MOTION CARRIED

The Board ratified the attached list of denied license applications in which the applicants did not request a hearing incorporated herein (Attachment B).

Discussion

None

Recommendation to Waive Two Year Requirement to Restore a Cancelled License

Mr. Stiger explained that this is new. In about December 2008, we believed that we were not appropriately processing these types of applications. In the Act, what it says is that if a license has been cancelled the board can consider to restore that license two years following the cancellation of the license, which we were not doing in the past. We have applicants whose license has been cancelled, they applied, they have fulfilled all the CE requirements, done everything they were suppose to do and we are telling them they now have to wait two years. As a result, staff is recommending that the board waive the two year requirement for the people on this list.

Dr. Steinhardt asked for clarification on the official determination of a cancelled license and if there were any disciplinary reasons behind the cancellation.

Mr. Stiger explained there is an active license, then it expires, 60 days after it expires it goes into forfeiture, then 3 years after it's in forfeiture status it goes to cancelled status. So there are no disciplinary reasons behind the cancellation.

Mr. Mariscal asked for clarification on if they have been out of clinical practice for a number of years and the only requirement is CE?

Ms. Powell stated for 3 years it's pretty standard, other boards have 5 to 8 years without any clinical requirements. The actual requirements at this time is just CE, however our proposed CE regulations are being revamped and there are other options.

Mr. Mariscal asked if there was a way of knowing how many practitioners fall under this category.

Mr. Stiger responded that they have to apply to get their license restored so we know that these are the individuals that are in this category.

MOTION: DR. TYLER MOVED TO RATIFY THE RECOMMENDATION TO WAIVE TWO YEAR REQUIREMENT TO RESTORE A CANCELLED LICENSE

SECOND: DR. COLUMBU SECONDED THE MOTION

VOTE: 6-0

MOTION CARRIED

The Board ratified the attached list of applications in which the applicants request to waive the two year requirement to restore a cancelled license incorporated herein (Attachment C).

Discussion

Dr. Douglas Weed stated he is one of the people who got caught in this issue. He retired several years ago and let his license go. However, he did call board staff prior to it going into cancellation regarding the procedure he needed to follow to have his license restored. He has no marks against his license, he has committed no criminal acts, just elected to retire and then return to practice.

He was told by staff that the necessary steps for a license to be restored from both forfeiture, which is under 3 years, and cancelled status, which is over 3 years, was essentially the same at that time. He complied with all of the requirements and submitted the application for restoration, and then received a letter indicating he needed to wait for two years. He then spoke with Mr. Stiger, who has been extremely helpful, and then wrote a letter of appeal. He is simply requesting that the board take into consideration that he had completed all the requirements before the new position on the

matter was implemented and that the board consider approving the recommendation that the staff has made.

Dr. Lerner asked if this was approved, how long before they obtained their licenses.

Mr. Stiger stated about a week, very quickly.

Legislative Committee Report

A. Proposed Fee Increase

Dr. Lerner updated that under Article 12 of the Act, the most we could charge a licensee per year is \$150, section 12.5 states that to do more than that we have to go to the legislature. We have been originally approached by the Department of Finance that we will essentially run out of funding by 2011, so this is the proposed fee increase bill. Technically, we could do this next year but it's really the last second, so he'd rather do it now, so there is a little leeway. We have proposed fee increase bill language. At this time, we do not have an author so we are proceeding forward looking for one. He wants to ensure the public, there seems to be a little confusion out there. In order to facilitate future boards, it could be 10 or 20 years from now, rather than do a single fee increase, we also proposed a range. We are initially going to do a single fee increase, the most common is the license renewal fee which will move from \$150 to an annual fee of \$200. This information is all on the board's website. There was a rumor that there was going to be regular fee increases, which is simply not the case. For us to even ponder a fee increase we have to get approval from the Department of Finance, they do an audit on our spending and our budget before they make any kind of determination. Then we would have to go through the regulatory process, just as we are with the six other regulations we are doing now. We have no plans to do regular fee increases, all we have is this initial fee increase. The only difference, and the purpose of the range is to not have to go back to the legislature each and every time we need a fee increase, that there is a range we could go to because it is very difficult to get a bill through the legislature. Most other boards just do it by regulation anyway, so this is one way we can solve that problem. If you hear there are regular fee increases, it is absolutely not true. We have already voted on this to put it through the regulatory process so this is not a regulation, this is going to have to go through the legislature, senate, assembly and signed by the governor.

B. AB 361 (Lowenthal)

Dr. Lerner stated that this bill prohibits insurance companies that provide workers' compensation coverage from rescinding an authorization for medical services after the services are rendered. The staff recommended a support position on their analysis. The committee is making a recommendation to the board to take a support position.

MOTION: DR. TYLER MOVED TO SUPPORT AB 361

SECOND: DR. STEINHARDT SECONDED THE MOTION

VOTE: 6-0

MOTION CARRIED

Discussion

Mr. Mariscal stated being a new board member and actually from the insurance agency, he would like to reiterate to the public that this is pretty fair. If an insurance company already authorizes a course of treatment and the treatment is performed, it seem patently unfair for them to deny payment for the course of treatment.

C. SB 389 (Negrette-McCloed)

Dr. Lerner stated this is a bill for fingerprinting, we have almost the identical language already in a regulation for fingerprinting. So this is a bill that is parallel to our current regulation. It is recommended by Ms. Powell since you never know what is going to happen to a bill, to keep two of them running. If the bill goes through, then it would super cede the regulation. This is no different then the bill we already approved for the regulatory process.

The Board agreed through consensus to take a support position on SB 389.

D. SB 762 (Aanestad)

Dr. Lerner stated this bill would make it unlawful for a city or county to prohibit a healing arts licensee from engaging in any act or procedure that falls within the professionally recognized scope of practice of that license. The staff recommends a support position. The committee is making a recommendation to the board to take a support position.

MOTION: DR. COLUMBU MOVED TO SUPPORT SB 762

SECOND: DR. LUBKIN SECONDED THE MOTION

VOTE: 6-0

MOTION CARRIED

Discussion

Mr. Mariscal asked for clarification on the necessity of this law.

Mr. Stiger explained this generated a couple of years ago in West Hollywood. The city council voted to prohibit the de-clawing of cats, which is in the scope of practice of a veterinarian.

E. Any other legislative bills of interest to the Board

Dr. Lerner stated Mr. Stiger presented SB 674 to the board. This bill would require licensees to include DC following their name in all advertisements, which is completely consistent with our current regulation. It would require a licensee to disclose their name and license type on a name tag while working, which is a new one for us, or you can voluntarily inform your patients that you are a chiropractor.

MOTION: DR. COLUMBU MOVED TO TABLE SB 674 TO THE NEXT MEETING

SECOND: DR. LUBKIN SECONDED THE MOTION

VOTE: 6-0

MOTION CARRIED

Discussion

Dr. Lerner suggested since not everyone has had an opportunity to read this and it isn't a rush, we should table this to the next meeting.

Dr. Lerner stated he is sure there are other bills out there. He performed an internet search by chiropractor and 23 bills came up that the board has not seen yet. The bill season is upon us so we will need to watch on pending legislation. Also, bills from other professions will also have some effect on us.

Proposed Regulations

A. Letter of Admonishment

Mr. Stiger stated that this regulation package was approved by OAL and it becomes effective on April 3, 2009. This is an informal way of communicating with our licensees when they have a minor violation of the law. This is not formal discipline. The letter identifies what the violation is and we are asking them to correct it. There may be an order of abatement with a time frame to correct the violation. It can be appealed directly to the Executive Officer and does not go any further than that. It's like a fix-it ticket, and if the licensee does not comply then a citation may be issued.

Ms. Powell stated it is progressive discipline.

B. Chiropractic Quality Review Panels

Mr. Stiger clarified that this is a repeal of the Chiropractic Quality Review Panel and was approved by OAL on March 3, it becomes effective on April 2, 2009. This is a regulation that has been around for about 15 years, but was never implemented by the Board.

C. Manipulation Under Anesthesia

Mr. Stiger stated there is some action for the Board to consider today. We had our public hearing on February 24, 2009. We received some comments that are included in the board packet. Staff went through and analyzed the comments, and are recommending to the board to amend the previously adopted language to include the recommendations from the medical board. The board needs to make a decision on whether they want to include that language or not.

MOTION: DR. LERNER MOVED THAT THE BOARD REJECTS THE FIRST COMMENT BY DR. SINGLETON BECAUSE THERE ARE STUDIES THAT SHOW MUA IS BENEFICIAL AND THE WRITTEN COMMENTS BY WILLIAM E. BARNABY, MICHAEL CHAMPEAU, KATHLEEN CREASON, DAVID NINAN, D.O., AND DELILAH CLAY BECAUSE THE USE OF DRUGS IN THE INITIATIVE ACT DOES NOT PROHIBIT CHIROPRACTORS FROM PERFORMING WITHIN THE SCOPE OF PRACTICE AND THE LEAGL OPINION ADDRESSES THAT ISSUE, AND THE BOARD ACCEPTS ALL OF THE CHANGES PROPOSED BY THE MEDICAL BOARD OF CALIFORNIA

SECOND: DR. LUBKIN SECONDED THE MOTION

VOTE: 6-0

MOTION CARRIED

Discussion

Dr. Lerner commented that you can see by the strike-out language what the medical board recommended. He is glad because the board had a difficult time coming up with all the accrediting agencies. Not wanting to leave anyone out, we over did it. There is an agency that the medical board does not recognize, and that would pose a burden on their anesthesiologists. Another recommendation is to add "following an appropriate prior examination", this is very standard procedure so this is a good, safe thing to put in there.

The Board rejected the oral comment from Mark Singleton, MD, because there are in fact several scientific studies in support.

The Board rejects the written comment from William E. Barnaby, California Society of Anesthesiologists, Legislative Council; Michael Champeau, President, California Society of

Anesthesiologists; Kathleen S. Creason, Executive Director, Osteopathic Physicians and Surgeons of California; David Ninan, DO, Department of Anesthesia; and Delilah Clay, Research Associate, Medical and Regulatory Policy, California Medical Association, these issues have already been addressed in a legal opinion.

The Board is accepting all the recommendations suggested by the California Medical Board.

Mr. Mariscal had questions and wanted clarification the legal opinion.

Ms. Powell stated that she wrote the legal opinion, it was reviewed by her supervisor, Anita Scuri. Ms. Scuri is the Medical Board's attorney. It was then approved by Ms. Scuri's supervisor Doreathea Johnson, who is Chief Council for the Department of Consumer Affairs. So the legal opinion was written in concurrence with the legal council of the Medical Board.

Mr. Mariscal wanted to comment regarding Michael Champeau's comment, as public member, he feels Mr. Champeau's comments provide some valid positions. He feels most patients just want to feel better and it looks after reading all of the materials, that it would have been easier if the two types of disciplines would have worked together from the beginning. He understands that he is coming in on the tail end of this and ultimately what we are talking about is helping a patient relieve some pain that can't otherwise be relieved. He appreciates that the legal opinion came from both sides. He was not aware that there was concurrence from the Medical Board's legal council on this matter and that changes his outlook a little bit. None the less, he feels this could have been resolved easier if both sides would recognize that this really is for the benefit of the patient and he feels that this language should exist in both sides. It should exist in the side, that in an event of a medical doctor performing any procedure under manipulation of anesthesia, that a chiropractor be present as well. From a consumer's standpoint, the people who are going to see either type of practitioner are just looking for relief. If it was uniform on both sides, we wouldn't have had any issues or discussion.

D. Continuing Education

Mr. Stiger stated that this regulation has not been filed at OAL yet. We are still working on the package and are continuing to get written comments. At this point the formal comment period has not opened yet. We anticipate filing it next week and the open comment period would open up shortly after.

Dr. Lerner stated for the benefit of the public and the new board members, that we had a continuing education workgroup that spent about 7 months on this. It passed on to the Continuing Education Committee that spent about 2 more months on this. He applauds all who have participated, he is sure there are a few missed spots so if you see one, please send your comments in to the Board. We voted to start the regulatory process in January. As you saw with the MUA regulation, we will bring it back to the Board to make recommended changes if the Board feels they are appropriate.

E. Time Frame to Petition for Reinstatement of a License and Modification of Probation or Early Termination of Probation

Mr. Stiger stated that this is language that has been adopted by the board but has not been filed with OAL yet. We anticipate it will be filed in the next 3 weeks and that will open up the formal comment period.

F. Recognition of Chiropractic Specialties

Mr. Stiger stated the recommendation is to amend the previous regulatory language to the one provided in the board packet.

MOTION: DR. LUBKIN MOVED TO AMEND THE PREVIOUS REGULATORY LANGUAGE AND ADD THE INTERNATIONAL ACADEMY OF CLINICAL NEUROLOGY

SECOND: DR. COLUMBU SECONDED THE MOTION

VOTE: 6-0-1

MOTION CARRIED

Discussion

Kristine Shultz, California Chiropractic Association, commented that there is one organization that is missing, the International Academy of Clinical Neurology. This organization looks at specialty programs, their hope is that the Board would include them.

Dr. Charles Davis, DC, President, ICA of California, stated he presented at a previous board meeting, the 14 specialties that would be included under this regulation.

Public Comment

Mark Washington, Sales Manager, Marriott Hotel, introduced himself and handed out his business card.

Future Agenda Items

None

Hearings re: Petition for Reinstatement of Revoked License

Administrative Law Judge Julie Cabos-Owen presided over and Deputy Attorney Generals Gregory Salute and Tom Rinaldi appeared on behalf of the people of the State of California on the following hearings.

- Barney Nenadov
- Barry Michaels
- Richard Greenland

Following oral testimonies, the Board went into closed session to consider Barney Nenadov, Barry Michaels, and Richard Greenland for Reinstatement of Revoked License.

Closed Session

Following oral testimonies, the Board went into closed session for deliberation and determinations of Petitioners.

Adjournment

Dr. Lerner adjourned the public meeting at 4:13 p.m.

Attachment A

**Approval By Ratification of Formerly Approved License Applications
 December 23, 2008 – February 28, 2009**

| Name (First, Middle, Last) | | Date Issued | DC# | |
|-----------------------------------|-----------|--------------------|------------|-------|
| Gerald | | Nastasia Jr. | 1/2/2009 | 31098 |
| Michael | Lee | Kemper | 1/9/2009 | 31099 |
| Anish | Jai | Chandra | 1/9/2009 | 31100 |
| John | Jason | Cherry | 1/9/2009 | 31101 |
| Sara | | Aramipour | 1/9/2009 | 31102 |
| Matthew | Walter | Hassey | 1/13/2009 | 31103 |
| Natalie | Marie | King | 1/13/2009 | 31104 |
| Daniel | Joseph | Jacobazzi | 1/13/2009 | 31105 |
| Elizabeth | Starr | Molina | 1/13/2009 | 31106 |
| Jonathan | Bao | Huynh | 1/20/2009 | 31107 |
| Mike | Seth | Kuoppamaki | 1/20/2009 | 31108 |
| Kristine | Kay | Brew | 1/20/2009 | 31109 |
| Katharine | Elizabeth | Randall | 1/20/2009 | 31110 |
| David | C. | Savage | 2/24/2009 | 31111 |
| Allison | Courtney | Spencer | 1/20/2009 | 31112 |
| Steve | | Thao | 1/20/2009 | 31113 |
| Jeffrey | Martin | Thompson | 1/20/2009 | 31114 |
| Lee | Russell | Towasser | 1/20/2009 | 31115 |
| Shannon | Gerald | Watson | 1/20/2009 | 31116 |
| Long | Lonnie | Yang | 1/20/2009 | 31117 |
| Malinda | My Hong | Nguyen | 1/20/2009 | 31118 |
| Arash | | Pershen | 1/20/2009 | 31119 |
| Susan | Marie | Anderson | 2/2/2009 | 31120 |
| Amber | Nicole | Kingsley | 2/2/2009 | 31121 |
| Brenda | | Basken | 2/2/2009 | 31122 |
| Corey | Scott | Erlitz | 2/2/2009 | 31123 |
| Geoffrey | Anson | Allen | 2/2/2009 | 31124 |
| Patrick | | Khaziran | 2/2/2009 | 31125 |
| Hans | Christian | Delfo | 2/2/2009 | 31126 |
| Tracy | Lynn | Foley | 2/2/2009 | 31127 |
| Mohammad | Adam | Moradi | 2/2/2009 | 31128 |
| Carrol | Yoonjung | Baek | 2/10/2009 | 31129 |
| Daniel | Adrian | Maldonado | 2/10/2009 | 31130 |
| Kyle | Bruce | Bills | 2/10/2009 | 31131 |

| | | | | |
|-------------|-----------|----------------|-----------|-------|
| Steven | Lawrence | Black | 2/10/2009 | 31132 |
| Jason | Dean | Kennedy | 2/10/2009 | 31133 |
| Marcie | Shane | Morton | 2/17/2009 | 31134 |
| Kristina | Marie | Blum | 2/17/2009 | 31135 |
| Kacie | Karmen | Flegal | 2/17/2009 | 31136 |
| Sebastian | Andrew | Gonzales III | 2/17/2009 | 31137 |
| Paul | Crispin | Barkmeier | 2/17/2009 | 31138 |
| Damien | Johann | Burgess | 2/19/2009 | 31139 |
| Clorinda | Yuen Mon | Lau | 2/19/2009 | 31140 |
| Derek | Phillip | Gibbons | 2/19/2009 | 31141 |
| Jack | Thomas | Li | 2/19/2009 | 31142 |
| Michael | Thomas | Buckle | 2/19/2009 | 31143 |
| Cassandra | Marie | Herbst | 2/19/2009 | 31144 |
| Roslyn | | Migdale | 2/19/2009 | 31145 |
| Charlotte | Elizabeth | Campbell | 2/19/2009 | 31146 |
| Daniel | Eric | Glimpse | 2/19/2009 | 31147 |
| Jason | Matthew | Higgins | 2/19/2009 | 31148 |
| Christopher | William | George | 2/19/2009 | 31149 |
| Evan | John | Mountford | 2/19/2009 | 31150 |
| Amanda | Elizabeth | Apesos | 2/19/2009 | 31151 |
| Ian | Sheene | Davis-Tremayne | 2/19/2009 | 31152 |
| Matthew | Howard | Cobb | 2/19/2009 | 31153 |
| Jay | Chae-Hun | Lee | 2/19/2009 | 31154 |
| Sang Woen | Arthur | Hong | 2/19/2009 | 31155 |
| Jason | William | Bergerhouse | 2/23/2009 | 31156 |
| Katherine | Elizabeth | Lyn | 2/23/2009 | 31157 |
| Joshua | Jay | Knowles | 2/23/2009 | 31158 |
| Pawen | Singh | Dhokal | 2/23/2009 | 31159 |
| Carley | Plantrich | Fardell | 2/23/2009 | 31160 |
| Jonathan | Zhiqiang | Guan | 2/23/2009 | 31161 |
| Sarah | Rebekah | Martinez | 2/23/2009 | 31162 |
| Dorea | Leigh | Wilder | 2/23/2009 | 31163 |
| Brian | George | Najor | 2/24/2009 | 31164 |
| Maryam | | Noorivaziri | 2/24/2009 | 31165 |
| Shannon | Marie | Ozier | 2/24/2009 | 31166 |
| Il | Hwan | Park | 2/24/2009 | 31167 |
| Amy | Joy | Pietrowski | 2/24/2009 | 31168 |
| Adam | Dennis | Poole | 2/24/2009 | 31169 |
| Justine | Jee-Eun | Rhee | 2/24/2009 | 31170 |
| David | Jerome | Saber | 2/24/2009 | 31171 |
| Jacob | George | Sahourieh | 2/24/2009 | 31172 |
| Joseph | Dayao | Sapiandante | 2/24/2009 | 31173 |
| Stephen | Brent | Waller | 2/24/2009 | 31174 |

| | | | | |
|--------|----------|---------------|-----------|-------|
| Seung | Wook | Yun | 2/24/2009 | 31175 |
| Mandi | Lynne | Miedema | 2/26/2009 | 31176 |
| Bonnie | Lianne | Fischer | 2/26/2009 | 31177 |
| Leslie | Lee | Berneske | 2/26/2009 | 31178 |
| Erica | Ann | Martin | 2/26/2009 | 31179 |
| Amy | Michelle | Hernandez | 2/26/2009 | 31180 |
| Megan | Shay | Mordecai | 2/26/2009 | 31181 |
| Amie | Beth | Gregory | 2/26/2009 | 31182 |
| Erica | Jean | Blankenbehler | 2/26/2009 | 31183 |
| Dayna | Joelle | Blum | 2/26/2009 | 31184 |

Attachment B

Ratification of Formerly Denied License Applications
Applicants Did Not Submit an Appeal

January 1, 2009 – February 28, 2009

Name (First, Middle, Last)
Reason for Denial

Date Denied

Donatelli, Anthony

11/26/2008

Criminal Convictions:

- Conspiracy to Possess with Intent to Distribute Anabolic Steroids - **Felony**
- Facilitating Smuggling of Schedule III Controlled Substances; aiding and abetting– **Felony**

Disciplinary Actions in other States:

- **State of Virginia:** license **indefinitely suspended** for violating terms of probation
- **State of Rhode Island:** license **revoked** for illegal and unprofessional conduct

Attachment C

Recommendation to Waive Two Year Requirement
on Restoration of a Cancelled License

| Name (Last, First MI) | License No. | Cancellation Date |
|------------------------------|--------------------|--------------------------|
| Gross, Dale Martin | 16398 | 06/30/2007 |
| Herschorn, Jack | 11929 | 10/31/2008 |
| Kim, Alex Stevens | 28968 | 03/30/2008 |
| Origel, Wilmer Dorado | 16790 | 05/31/2008 |
| Weed, Douglas Lewis | 13418 | 10/31/2008 |
| Yang, Roger | 25633 | 06/30/2007 |