

**Board of Chiropractic Examiners**

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**BOARD OF CHIROPRACTIC EXAMINERS  
PUBLIC SESSION MINUTES  
January 21, 2010  
State Capitol  
Assembly Room 126  
Sacramento, CA 95814**

**Board Members Present**

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

**Staff Present**

Robert Puleo, Interim Executive Officer  
LaVonne Powell, Senior Staff Counsel  
Linda Shaw, Staff Services Manager  
Sandra Walker, Staff Services Manager  
Dixie Van Allen, Associate Governmental Program Analyst  
Lavella Matthews, Associate Governmental Program Analyst  
Valerie James, Office Technician

**Call to Order**

Dr. Lerner called the meeting to order at 9:00 a.m.

**Roll Call**

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

**Chair's Report**

Dr. Lerner gave the Chair's Report.

**Election of Officers for 2010****A. Chair**

**MOTION: DR. LUBKIN MOVED TO NOMINATE DR. LERNER TO CONTINUE AS CHAIR**

**SECOND: DR. TYLER SECONDED THE MOTION**

**VOTE: 5-0**

**MOTION CARRIED**

**Discussion**

None

**B. Vice Chair**

**MOTION: DR. TYLER MOVED TO NOMINATE DR. LUBKIN TO CONTINUE AS VICE CHAIR**  
**SECOND: DR. COLUMBU SECONDED THE MOTION**  
**VOTE: 5-0**  
**MOTION CARRIED**

**Discussion**

None

C. Secretary

**MOTION: DR. TYLER MOVED TO NOMINATE DR. COLUMBU TO CONTINUE AS SECRETARY**  
**SECOND: DR. STEINHARDT SECONDED THE MOTION**  
**VOTE: 5-0**  
**MOTION CARRIED**

**Discussion**

None

**Approval of Minutes**

November 19, 2009 Board Meeting

Ms. Powell stated there are some areas of the minutes where we will need to add more detail regarding the regulations. Mr. Puleo and Ms. Powell will attach the accepted staff's recommendations.

Dr. Lerner tabled them to the March 18<sup>th</sup> meeting.

**Public Comment**

None

**Board Member training on the Bagley-Keene Open Meetings Act and other relevant laws**

Dr. Lubkin stated that no board members had questions at this time.

Ms. Powell asked if DCA has provided the updated handbook.

Dr. Lerner responded they had not.

Ms. Powell will ensure that Mr. Puleo receives the updated handbook and distributes it to all board members. Ms. Powell doesn't feel there have been any changes that need to be brought up.

Dr. Lerner asked about a bill from last year in regards to a minority.

Ms. Powell responded this board exceeds the requirements of the Open Meetings Act, and is fine.

**2010 Board Meeting Schedule**

Ms. Powell will not be able to attend the September 16<sup>th</sup> and November 18<sup>th</sup> meeting. Dr. Steinhardt will not be able to attend the July 15<sup>th</sup> meeting.

**MOTION: DR. LERNER MOVED TO ALTER THE MEETINGS TO JULY 29<sup>TH</sup>, SEPTEMBER 23<sup>RD</sup>,**

**AND DECEMBER 2<sup>ND</sup>.**  
**SECOND: DR. LUBKIN SECONDED THE MOTION**  
**VOTE: 5-0**  
**MOTION CARRIED**

**Discussion**

Ms. Powell stated there is no need for a vote on the board meeting schedule. The schedule is always tentative and should be rescheduled as needed.

**Interim Executive Officer's Report**

Mr. Puleo gave the Interim Executive Officer's Report. The topics were Administration, Budget, Licensing, and Enforcement.

Dr. Lerner asked if we were continuing to monitor satellite certificates with QME.

Mr. Puleo responded that yes, we were continuing and it's remaining consistent.

Dr. Lubkin asked if the cite and fine was effective as a tool.

Mr. Puleo responded that it was effective in progressive discipline for less egregious violations that may not be necessary to seek full discipline through an accusation.

Dr. Lubkin asked if these cases are being resolved in 90-120 days.

Mr. Puleo responded these cases are more timely and cost effective since they are handled in house, without the involvement or cost of the Attorney General's office.

Dr. Lerner asked if we could see typical things that constitute gross negligence.

Mr. Puleo stated extreme departure from standard care constitutes gross negligence.

Mark Brown commented on the budget.

Christine Shultz commented on a breakdown of section 317.

Sherry McAllister, D.C. made suggestions on educational enforcement updates.

Dr. Steinhardt, Mr. Puleo and Ms. Powell discussed public information regarding disciplinary actions.

**Ratification of Approved License Applications**

**MOTION: DR. TYLER MOVED TO RATIFY THE APPROVED LICENSE APPLICATIONS**  
**SECOND: DR. STEINHARDT SECONDED THE MOTION**  
**VOTE: 5-0**  
**MOTION CARRIED**

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

**Discussion**

None

**Ratification of Approved Continuing Education Providers**

None

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

None

**Recommendation to Waive Two Year Requirement to Restore a Cancelled License**

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

**SECOND: DR. STEINHARDT SECONDED THE MOTION**

**VOTE: 5-0**

**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 B).

**Discussion**

None

**Enforcement Committee Meeting Update**

Dr. Lubkin provided an update from the January 14<sup>th</sup> meeting.

**Search for Executive Officer**

Dr. Lerner provided an update on the search for an Executive Officer

Dr. Lerner, Mr. Puleo, Ms. Powell, and Dr. Columbu had discussion on the process and timeframe to find an Executive Officer.

**Rulemaking Calendar**

Mr. Puleo stated that we don't have anything to report because none of our regulations are in response to recent legislations.

**Proposed Regulations**

A. Manipulation under Anesthesia

Dr. Lerner provided an update stating the final regulation packet was submitted to OAL on December 31, 2010, and they have 30 business days to respond.

B. Continuing Education

Dr. Lerner provided an update stating this went out for a second 15 day comment period.

Ms. Powell, Mr. Puleo and the board members had discussion, and addressed the responses. Staff recommendations were also considered and addressed. Any comments that were previously addressed were not addressed again.

Public Comment was provided by Charles Davis, DC, Christine Shultz, Kendra Holloway, and Sherry McAllister.

Ms. Powell clarified that comments should only be directed towards new changes during a specific comment period. Only comments that address those new changes need to be responded to.

Actual changes to be made are:

355 (3) A: remove “a “Renewal or Restoration Application, “ (Revision date 08/09)”; add “an “Application for Restoration of License” (Revision date 02/10) or “Inactive to Active Status Application” (Revision date 02/10)”

356 (a): remove “January 1, 2011”; add “[the effective date of this regulation]”, remove “13”; add “11”, remove “12”; add “10”

356 (a) 3: remove “various”; add “all”

356 (b): remove “With the exception of the mandatory” and “The continuing education requirements specified”; add “the remaining continuing education requirements”

356 (b): add “4) The continuing education providers and courses referenced in this subdivision do not need to be approved by the Board for credit to be granted.”

357 (1): remove “in a day”; add “on a specific date”

357 (g): remove “Distance learning courses are required to be marketed without promotional material or advertisements embedded in the continuing education course delivery system.”, and “or embedded”; add “Nothing in this section shall be interpreted to prohibit a provider from mentioning a specific product or service solely for educational purposes.”

**MOTION: DR. TYLER MOVED TO ADOPT STAFF RECOMMENDATIONS WITH THE EXCEPTIONS OF THE ONES DISAGREED WITH DURING DISCUSSION, ALSO TO ADOPT CHANGES FROM THE PUBLIC THAT WERE AGREED TO**

**SECOND: DR. STEINHARDT SECONDED THE MOTION**

**VOTE: 5-0**

**MOTION CARRIED**

#### **Discussion**

None

#### **Public Comment**

None

**MOTION: DR. STEINHARDT MOVED TO DELEGATE TO MR. PULEO TO REJECT ANY COMMENTS THAT ARE NOT A DIRECT RESPONSE TO THE 15 DAY COMMENT PERIOD CHANGES, TO ACCEPT ALL POSITIVE COMMENTS, AND FILE WITH OAL, ALL NEGATIVE COMMENTS WILL BE BROUGHT BACK TO THE BOARD**

**SECOND: DR. TYLER SECONDED THE MOTION**

**VOTE: 5-0**

**MOTION CARRIED**

**Discussion**

None

**Public Comment**

None

C. Recognition of Chiropractic Specialties

Mr. Puleo provided an update stating the packet is being finalized and should be ready for submittal to OAL within the next few weeks.

D. Fingerprint Submissions

Mr. Puleo provided an update stating the packet needs to be submitted to OAL to be noticed. He expects that packet to be submitted to OAL next week.

**MOTION: DR. COLUMBU MOVED THAT A HEARING WILL NOT BE HELD UNLESS IT'S REQUESTED, AND DELEGATE TO MR. PULEO TO RESPOND TO ALL POSITIVE COMMENTS, AND ALL NEGATIVE COMMENTS WILL BE BROUGHT BACK TO THE BOARD**

**SECOND: DR. TYLER SECONDED THE MOTION**

**VOTE: 5-0**

**MOTION CARRIED**

**Discussion**

None

**Public Comment**

Public comment was provided asking if the Medical Board was also doing retroactive fingerprinting.

Ms. Powell responded that the plan is for all healing arts boards to do retroactive fingerprinting, however, all boards are in a different situation based on when they started fingerprinting and where they are at in the process.

**Public Comment**

Charles Davis, DC congratulated board members and board staff on a positive effect in the last 3 years.

The Board recognized and presented Judge Duvaras an award for serving on the Board.

**Future Agenda Items**

Dr. Tyler would like to discuss future duties for the Continuing Education Committee.

Dr. Lubkin suggested for the Enforcement and Scope of Practice Committees continuing to enhance the board's public protection role.

The meeting was adjourned until 1:00 for petitioner hearings.

### **Hearings re: Petition for Reinstatement of Revoked License**

Administrative Law Judge Jonathan Lew presided over and Deputy Attorney General Tom Rinaldi appeared on behalf of the people of the State of California on the following hearings.

- Mario Alvarado
- Dennis Nguyen
- Salim A. Chowdhry

### **Closed Session**

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

### **Closed Session Announcements and Adjournment**

Dr. Lerner announced that the board members had deliberated on the above petitions during closed session. He then adjourned the public meeting at 4:30 p.m.

**Attachment A**

**Approval By Ratification of Formerly Approved License Applications  
November 1, 2009 – December 31, 2009**

| <b>Name (First, Middle, Last)</b> |             |               | <b>Date Issued</b> | <b>DC#</b> |
|-----------------------------------|-------------|---------------|--------------------|------------|
| Oscar                             | Alejandro   | Castro        | 11/5/2009          | 31453      |
| Jane                              | Holybee     | Baxley        | 11/5/2009          | 31454      |
| Michelle                          | Lee         | Anderson      | 11/5/2009          | 31455      |
| Brian                             | Christopher | Cripe         | 11/5/2009          | 31456      |
| Michael                           | Cody        | D'Auria       | 11/5/2009          | 31457      |
| Mark                              | Gabriel     | Tenenbaum     | 11/5/2009          | 31458      |
| Nikki                             | Latoya      | Thornton      | 11/5/2009          | 31459      |
| Minh                              |             | Vo            | 11/5/2009          | 31460      |
| Phillip                           | Brian       | Yoo           | 11/16/2009         | 31461      |
| Hoc                               |             | Tiet          | 11/19/2009         | 31462      |
| Duy                               | Hoang       | Le            | 11/30/2009         | 31463      |
| Gail                              | Duane       | Kelley        | 11/30/2009         | 31464      |
| Jennifer                          | Anne        | Murphy        | 11/30/2009         | 31465      |
| Massoud                           |             | Abedinzadeh   | 11/30/2009         | 31466      |
| Jennifer                          | Jean        | Pedley        | 11/30/2009         | 31467      |
| Beau                              | Jonathan    | Pierce        | 11/30/2009         | 31468      |
| Igor                              |             | Sklovskiy     | 11/30/2009         | 31469      |
| Jennifer                          | Eileen      | Olthafer      | 11/30/2009         | 31470      |
| Jeremy                            | Sean        | Dorris        | 12/3/2009          | 31471      |
| Andrea                            | Baiotto     | Dorris        | 12/3/2009          | 31472      |
| Ashley                            | Ann         | Miller-DeBoer | 12/3/2009          | 31473      |
| David                             | Thompson    | Main          | 12/3/2009          | 31474      |
| James                             | Oliver      | McElroy       | 12/3/2009          | 31475      |
| Connie                            | Loraine     | Evans         | 12/3/2009          | 31476      |
| Julie                             | Elizabeth   | Lynch-Sasson  | 12/3/2009          | 31477      |
| Christopher                       | Ray         | Adams         | 12/3/2009          | 31478      |
| Danny                             | Basil       | Bachoua       | 12/10/2009         | 31479      |
| Matthew                           | Carl        | Kamerzell     | 12/10/2009         | 31480      |
| Tracey                            | Suzanne     | Reeb          | 12/10/2009         | 31481      |
| John                              |             | Vang          | 12/10/2009         | 31482      |
| Erik                              | Knute       | Anderson      | 12/17/2009         | 31483      |
| Neal                              | Michael     | Damian        | 12/17/2009         | 31484      |
| Richard                           | Walter      | Dinubilo      | 12/17/2009         | 31485      |



|         |           |          |            |       |
|---------|-----------|----------|------------|-------|
| Andrew  | Robert    | Mukai    | 12/17/2009 | 31486 |
| Kristen | Michelle  | Adriano  | 12/17/2009 | 31487 |
| Daniel  | Ross      | Cockrell | 12/17/2009 | 31488 |
| Lucas   | C.        | McCully  | 12/17/2009 | 31489 |
| Joel    |           | Wilstead | 12/21/2009 | 31490 |
| Julie   |           | Quan     | 12/21/2009 | 31491 |
| Laura   | Catherine | Scheiner | 12/31/2009 | 31492 |

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

| <b>Name (Last, First MI)</b> | <b>License No.</b> | <b>Cancellation<br/>Date</b> |
|------------------------------|--------------------|------------------------------|
| Dolan, R. Michael            | 13766              | 05/31/2009                   |
| Himes, Robert                | 25702              | 10/31/2009                   |
| Howse, Cheerie               | 16417              | 12/31/2008                   |
| Myung, Ray                   | 29079              | 09/20/2009                   |
| Stevens, Don                 | 18206              | 12/31/2008                   |