



State of California
Edmund G. Brown Jr., Governor

BOARD OF CHIROPRACTIC EXAMINERS PUBLIC SESSION MINUTES

July 17, 2014

Life Chiropractic College West
25001 Industrial Blvd., Room 161
Hayward, CA 94545

Board Members Present

Sergio Azzolino D.C., Chair
Heather Dehn, D.C., Vice Chair
Dionne McClain, D.C.
John Roza, Jr., D.C.
Corey Lichtman, D.C.
Frank Ruffino

Staff Present

Robert Puleo, Executive Officer
Kristy Schieldge, Attorney III
Linda Shaw, Staff Services Manager
Sandra Walker, Staff Services Manager
Maria Martinez, Special Investigator
Dixie Van Allen, Associate Governmental Program Analyst
Valerie James, Management Services Technician

Call to Order

Dr. Azzolino called the meeting to order at 9:07 a.m.

Roll Call

Dr. Dehn called the roll. All members except Dr. Julie Elginer were present.

Pledge of Allegiance

Mr. Ruffino led the Pledge of Allegiance.

Chair's Report

Dr. Azzolino acknowledged and thanked Dr. Brian Kelly, President of Life Chiropractic College West and Dr. Kendra Holloway, D.C. for allowing the Board to meet at Life Chiropractic College West and reach out to the students on the functions and paramount responsibilities of the Board. Dr. Azzolino thanked Dr. Columbu and Dr. Lubkin for their services on the Board. He also acknowledged and thanked Board member for their dedication to the Board. He especially acknowledged Mr. Puleo for continuing to keep the inner workings of the Board functioning well. He also encouraged students and all licensees to stay connected with the Board.

Dr. Kelly came forward and acknowledged and thanked the Board. Dr. Kelly also stated that Dr. Gerald Clum, former president of Life West sends his regards. He indicated that classes are in session and students will be coming in and out of the Board meeting.

Dr. Kelly expressed concerns regarding the curriculum requirements in the Chiropractic Initiative Act, which have caused Chiropractic Education to remain static in California. Dr. Kelly noted that the outdated requirements in the act compel approved schools to use a 20th century model for delivering education. He further stated that sitting in class for 35 hours a week is not the way to deliver education in the 21st century. Dr. Kelly would like schools to have the flexibility to deliver chiropractic education more efficiently and cost effectively, thereby reducing the exorbitant level of debt currently incurred by Chiropractic Students.

Dr. Kelly also commented on the diversity of the chiropractic scope of practice throughout the US and the World. Mr. Ruffino asked whether Dr. Kelly had any insight to share with the Board regarding international accreditation. Dr. Kelly stated his interest in portability for chiropractors throughout the world.

Approval of Minutes

April 29, 2014 Board Meeting

DICSCUSSION

Ms. Schieldge requested corrections to the minutes made on pages 4 and 5. On page 4 in the middle of the page, the minutes state "AB 2025" it should read "AB 2028". On page 5 she recommended striking out the sentence and substituting it with: "She discussed the issue of problems with compliance with a 1996 federal law prohibiting states from conferring a professional license upon a person not lawfully residing in the U.S. unless state law expressly allows it. The bill fails to confer such express authority on the board or other boards in DCA, which creates a conflict with federal law."

Mr. Ruffino requested corrections on page 2 and page 4. On page 2 replace "Senate floor" with "Senate Committee room". On page 4 correct the spelling of "position."

MOTION: DR. DEHN MOVED TO APPROVE THE MINUTES WITH THE CHANGES DISCUSSED

SECOND: MR. RUFFINO SECOND THE MOTION

VOTE: 6-0

MOTION: CARRIED

Executive Officer's Report

Mr. Puleo gave the Executive Officer Report. Topics were Administration, Budget, Licensing and Enforcement.

Mr. Puleo stated that the budget is sound, despite the judgment the Board recently paid in the Arbuckle case. At the next Board meeting representatives from the Department of Consumer Affairs, Budget office will present our 2014/15 budget and answer any questions. Mr. Puleo reported that AB 1615 (Gatto) which authorized the Board to pay the Arbuckle judgment, was signed by the Governor on July 9, 2014, and effective immediately.

Mr. Puleo summarized the Board's fiscal year licensing trends. Dr. Azzolino requested trends on enrollment and growth rate of students graduating from Chiropractic Colleges. He would also like the national trends to be compared to the average population of each state. Dr. Dehn suggested providing trend updates at each board meeting.

Mr. Puleo discussed enforcement statistics and explained that what students or licensees do in their personal lives may have an effect on their license or obtaining a license. Dr. Azzolino pointed out the number of complaints related to unprofessional conduct and gross negligence. Dr. Azzolino asked Mr. Puleo to explain the compliant process. Mr. Puleo provided a brief overview on the complaint process and outcomes.

Ratification of Approved License Applications

MOTION: DR. DEHN MOVED TO RATIFY THE APPROVED LICENSE APPLICATIONS

SECOND: DR. ROZA THE MOTION

VOTE: 6-0

MOTION CARRIED

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

Ratification of Approved Continuing Education Providers

MOTION: DR. DEHN MOVED TO RATIFY THE APPROVED CONTINUING EDUCATION PROVIDERS

SECOND: DR. ROZA SECONDED THE MOTION

VOTE: 6-0

MOTION CARRIED

The Board ratified the attached list of approved continuing education providers incorporated herein (Attachment B).

Ratification of Denied License Applications in Which the Applicants Did Not Request a Hearing None

BCE Licensing, Continuing Education and Public Relations Committee Meetings Update

Dr. Dehn reported that the Committee's biggest task is to recognize international applicants. Ms. Schioldge summarized the tasks of the Committee regarding international applicants.

Dr. Dehn presented a handout titled "Top Ten Violations," Dr. Azzolino requested that the violations be presented in alphabetical order. Dr. Dehn agreed.

Dr. Dehn stated that in order to enforce the audit of continuing education courses, regulation changes will be needed.

The Committee is currently working on a letter to the Schools Insurance Authority, which addresses the Board's position on Chiropractors performing physical examinations for high school athletic programs.

Dr. Mike Liddell came forward with his concerns regarding restrictions on Chiropractors performing physical examinations for high school athletics programs. Dr. Liddell offered to provide the information he has gathered. Dr. Azzolino inquired as to the number from schools utilizing Chiropractors to perform physicals.

Dr. Kassie Donoghue representing the California Chiropractic Associations (CCA), came forward and commented that it is their top priority to research the number of schools that are utilizing Chiropractors to perform physicals. Dr. Dehn requested that Dr. Donoghue share any findings with the Board.

Dr. Azzolino stated that the Board needs to stay focused on what chiropractors are trained and qualified to do. Dr. Bill Meeker, President of Palmer Chiropractic West, came forward and commented that sports physicals are part of the school curriculum.

Government Affairs Committee Meeting Update

Mr. Ruffino provided an overview of the legislative bills and the Boards' positions. Ms. Schieldge commented that the Board took an oppose position on AB 2058 (Wilk) - Open Meetings. Mr. Ruffino requested a motion to approve the table of contents of the new Board Member binder. Ms. Schieldge recommended that the Board receive the full binder prior to voting. Mr. Ruffino tabled this item. Mr. Puleo reminded Board Members to respond to Dr. Elginer regarding mentoring new Board Members.

Ms. Van Allen provided a summary of AB 2143 (Williams)-Clinical Laboratories: chiropractors.

MOTION: MR. RUFFINO MOVED TO TAKE A SUPPORT POSITION ON AB 2143

SECOND: DR. DEHN SECONDED THE MOTION

VOTE: 6-0

DISCUSSION: NONE

MOTION CARRIED

BCE Enforcement Committee Meetings Update

Dr. Azzolino spoke regarding the purposed changes to the language in Section 317 -Failure to Refer. The Committee decided to leave the language as is.

Dr. Azzolino stated that the Committee was working on establishing a standard for maintaining or disposing of patient records when a Chiropractic office closes due to retirement, death or incapacity.

Dr. Azzolino commented on the statute of limitation for filing a consumer complaint. Mr. Puleo provided a brief overview of the process of complaints. The Committee determined it is unnecessary to establish a limitation due to the patient record retention regulation, which requires licensees to maintain patient records for a minimum of 5 years.

Discussion and Possible Action Regarding Options for Implementation of Uniform Standards for Substance Abusing Healing Arts Licensees” (SB 1441, Ridley-Thomas, Chapter 548, Statutes of 2008)

Ms. Schieldge provided the history on SB 1441 and the options for implementation of uniform standards. Ms. Schieldge explained the three possible trigger language options on how to define substance abusing licensees. She recommended placing the Standards as separate documents from the Disciplinary Guidelines since they are different components. The Board has to implement the Standards exactly how it's written and the Guidelines are discretionary on a case by case bases.

Ms. Schieldge provided an explanation of Option 1 (Presumption) Trigger: if the conduct of the licensee is found to be a violation involving drugs and/or alcohol the licensee shall be presumed to be a substance abusing licensee. If the licensee does not rebut the presumption at the hearing, the terms and conditions of the Standard shall be used in any order rendered. The positive of this option is it's simple for the staff to administer based on the facts if alcohol and/or drugs are involved. The negative is the large pool of licensees that are not substance abusers, and this option may subject to the Board to legal challenges.

Option 2 (Clinical Diagnostic) Trigger: If a licensee admits to the having a substance abuse problem, the evidence is confirmed. If the licensee does not admit to a substance abuse problem, a clinical diagnostic evaluation will be ordered and the Standards may be made based on the clinical

diagnostic report. Other Boards prefer this option because it provides for an independent expert evaluation to determine if the licensee has a substance abuse problem. Where the evaluator's report proves facts to the Board of a substance abuse problem, the Board can apply the standards. The problem with this option is that the hearing will take place before the evaluation so when the decision is rendered, the licensee won't know whether the uniform standards will be applied within the disciplinary order.

Option 3 "Trigger" (Hearing): the Standards will only apply after the hearing. The Standards only apply once it is proven, based on evidence that the licensee has a substance abuse problem. Ms. Schiedge recommended Option 3 "Trigger", since it allows the Executive Officer to decide whether to plead this allegation and the standards up front and gives the licensee a fair notice of the direction the Board might take.

MOTION: DR. DEHN MOVED TO APPROVE OPTION 3 "TRIGGER" (HEARING) FOR WHEN SB 1441 UNIFORM STANDARDS APPLY

SECOND: DR. ROZA SECONDED THE MOTION

VOTE: 6-0

MOTION CARRIED

Assembly Member Bill Quirk of Hayward came forward and welcomed the Board to his Assembly district and formally thanked the Board and staff for their services. Mr. Ruffino spoke on Assembly Member Bill Quirk's accomplishments.

Consideration of and Possible Action Regarding Proposed Regulations to Implement Recommendations to Strengthen Enforcement Programs Pursuant to the Consumer Protection Enforcement Initiative (CPEI)

Mr. Puleo provided a brief overview of the Consumer Health Protection Enforcement Act [SB1111-(McLeod)] which resulted in the Board implementing selected provisions through the rulemaking process resulting in the Omnibus Consumer Protection Regulations.

Ms. Schiedge stated that the Enforcement Committee had a lengthy discussion regarding the proposed language. She stated that Dr. Azzolino suggested and the Enforcement Committee agreed that in Section 312 on page 3, there needs to be clarification after the sentence that begins, "The licensed doctor of chiropractic shall initially examine and prepare a written treatment plan for a patient prior to the provision of physiotherapy treatment. The unlicensed individual shall follow and provide only the treatment defined in the written plan". It was suggested adding the language "For the purposes of this section, a written treatment plan may be included in the Soap (S.O.A.P) notes; Subjective, Objective, Assessment Plan procedure.

Dr. Azzolino recommended striking out "initially examine and" from the second paragraph of Section 312 on page 3.

Ms. Schiedge recommended striking out section 317.2 on page 5 because it is duplicative of existing law, Business and Professions Code Section 143.5.

She also recommended changes to Section 384.1 on page 7. The forms need to include notices to the petitioners of their rights. Mr. Puleo also stated that corrections will need to be made to page 8, Section 384.1 (e), (f) and (g) to reflect the changes to the forms. Dr. Dehn would like clarification to question number 3a of the "Petition for Early Termination of Probation" form by adding "including current discipline."

Ms. Schiedge recommended striking out Sections 390.7 and 390.8. She explained the Initiative Act does not authorize the Board to limit its own discretion in determining whether to set a penalty in a particular case (i.e., impose revocation in every case regardless of the facts). She discussed the fact that the courts have found that it is an abuse of discretion for Boards to not exercise their discretion in setting a penalty when it is not limited by the Legislature.

Dr. Azzolino recommended referring the changes back to the Enforcement Committee for final review.

**MOTION: MR. RUFFINO MOVED TO APPROVE THE CHANGES AND BRING REFER TO THE ENFORCEMENT COMMITTEE FOR REVIEW PRIOR TO PRESENTING TO THE FULL BOARD
SECOND: DR. MCCLAIN SECONDED THE MOTION**

VOTE: 6-0

MOTION CARRIED

Proposed Regulations

A. Sponsored Free Health Care Event

Mr. Puleo reported that staff will be submitting the final rulemaking package to the Office of Administrative Law.

B. Licensure and Renewal – Military

Ms. Schiedge would like to receive feedback on the application forms which were revised to confirm with the Disclosure Act. Mr. Puleo recommended referring the revised application form to the Licensing Committee for review.

Public Comment for Items Not on the Agenda

No public came forward to provide comment.

Future Agenda Items

No future agenda items were brought forward

Hearings Re: Petition for Early Termination/Modification of Probation

Administrative Law Judge, Mary Margaret Anderson, presided over and Deputy Attorney General Rosalda Perez appeared on behalf of the people of the State of California in the following hearings:

A. Ward Henry, D.C. – DC 13550

B. Brett Stine, D.C.-27704

Closed Session

Following oral testimonies, the Board went into Closed Session for deliberation and determinations regarding petitioners.

Open Session

The Board went back into Open Session to adjourn the meeting.

Adjournment

Dr. Azzolino adjourned the meeting at 3:15 p.m.

(ATTACHMENT A)
Approval By Ratification of Formerly Approved License Applications
April 1, 2014 – June 30, 2014

Name (First, Middle, Last)			Date Issued	DC#
Sean	David	Drake	4/10/2014	32914
Christopher	Vincent	Garden	4/10/2014	32915
Johanna		Martinez	4/10/2014	32916
Daniel	Joseph	Moynihan	4/10/2014	32917
Tiffany	Monique	Crouch	4/11/2014	32918
Erik	David	Jameson	4/11/2014	32919
Kristi	Ann	Vaughan	4/11/2014	32920
Gabriel	Joseph	Altman	4/11/2014	32921
Nicholas	Leslie	Grant	4/11/2014	32922
Brandon	Justin	Hodges	4/11/2014	32923
Zoe	Violet	Belka	4/22/2014	32924
Steven	Matthew	Kaiser	4/22/2014	32925
Matthew	Pasquale	Basilio	4/23/2014	32926
Brenda	Elizabeth	Mondragon	4/23/2014	32927
Kaitlin	Joanne Lee	Overman	4/23/2014	32928
Michael	Dale	VanDerschelden	4/23/2014	32929
Tiffany	Cherie	Christie-Smith	4/24/2014	32930
Christine	Michael	Lautfy	4/24/2014	32931
Lisa	Yoneda	Le	4/24/2014	32932
Andrew	Michael	Lowey	4/24/2014	32933
Steven	Patrick	Lowry	4/24/2014	32934
Melissa	Evangeline	Mitchell	4/24/2014	32935
Ryan	Dean	Slaughter	4/24/2014	32936
Jordan	McKenzie	Ambrose	5/7/2014	32937
Ronald	Keith	Gilbert	5/7/2014	32938
Wendy	Ann Staples	Hicks	5/7/2014	32939
Chilinh	Dinh	Nguyen	5/7/2014	32940
Angel	Gerardo	Ochoa-Rea	5/7/2014	32941
Nicole	Kimiye	Sakuma	5/7/2014	32942
Nathan	Andrew	Spencer	5/7/2014	32943
Daniel		Demian	5/14/2014	32944
Kevin	Alan	Golden	5/14/2014	32945
Todd	James	Harris	5/14/2014	32946

Jessica	Elaine	Nichols	5/14/2014	32947
Karla	Nicole	Solum	5/14/2014	32948
Jason	Reed	Ulaner	5/14/2014	32949
Daniel		Aguilera	5/30/2014	32950
David	Garcia	Arreola	5/30/2014	32951
Brianna	Lyn	Barone	5/30/2014	32952
Anthony	George	Britton	5/30/2014	32953
Yvette	Marie	Castro	5/30/2014	32954
Munyeong		Choi	5/30/2014	32955
Nicholas	Edward	Cruze	5/30/2014	32956
Caitlin	Alissa Elaine F	Dyck	5/30/2014	32957
Asdrubal	Ibarra	Lopez	5/30/2014	32958
Brett	William	Lukas	5/30/2014	32959
Dylan	Michael	Murray	5/30/2014	32960
Lauren	Taylor	Oberstein	5/30/2014	32961
Sean	Anthony	Conte	6/10/2014	32962
Matthew	Anthony	Pennetti	6/10/2014	32963
Vivien Lee	Heramis	Sampica	6/10/2014	32964
Farah	Abud	Ameri	6/12/2014	32965
David	Richard	Street	6/12/2014	32966
Lesley	Anne	Vance	6/12/2014	32967
Kelvin	SungWon	Yoo	6/12/2014	32968
Amber	Jo	Bollman	6/17/2014	32969
Artin	Patrick	Giragosian	6/17/2014	32970
Dustin	Reed	Hess	6/17/2014	32971
Ryan	Michael	Manning	6/17/2014	32972
Rizaldy	Araya	Ortiz	6/17/2014	32973
Gianfranco		Roberto	6/17/2014	32974
Supreet	Kirit	Shah	6/17/2014	32975
Sarah	Elizabeth	VanValkenburg	6/17/2014	32976
Tracy	Chen	Yang	6/17/2014	32977
Chad	James	Anderson	6/18/2014	32978
Katerina	Nicole	Captanis	6/18/2014	32979
Victoria	Elizabeth	Huff	6/18/2014	32980
Kabil		Ro	6/18/2014	32981
Maurice	Yuji	Saito	6/18/2014	32982
Bongkyun	Francisco	Suh	6/18/2014	32983
Min	Joung	Youk	6/18/2014	32984
Craig	Jason	Epstein	6/19/2014	32985
Ryan	Aaron	Rogers	6/19/2014	32986
Jared	Allen	Young	6/19/2014	32987
Clinton	Franco	Cabero	6/27/2014	32988

Xephyr	Marie	Day	6/27/2014	32989
Scott	Michael	Hansen	6/27/2014	32990
Lee	Noble	Horine	6/27/2014	32991
Natalie	McGrew	Horine	6/27/2014	32992
Travis	Adam	Martin	6/27/2014	32993
Teni		Minaeian	6/27/2014	32994
Carol	Ngar	Ngo	6/27/2014	32995
Vu	Pham	Ngo	6/27/2014	32996

(ATTACHMENT B)

Ratification for New Continuing Education Providers

<u>CONTINUING EDUCATION PROVIDERS</u>	<u>DATE APPROVED</u>
1. <u>Pacific Rim Seminars</u>	<u>07/17/14</u>
2. <u>Brian T Garrett, DC</u>	<u>07/17/14</u>
3. <u>Institute for Integrative Healthcare Studies</u>	<u>07/17/14</u>
4. <u>Modern Moveology</u>	<u>07/17/14</u>
5. <u>Guy Voyer, DO</u>	<u>07/17/14</u>
6. <u>Douglas M Gillard, DC.</u>	<u>07/17/14</u>
7. <u>Claudia Anrig</u>	<u>07/17/14</u>
8. <u>Michigan Association of Chiropractors</u>	<u>07/17/14</u>