



Chiropractic Quality Assurance Commission Meeting Minutes

February 14, 2013

Commission Members

Harold Rasmussen, DC, Chair, Gabe (Gary) Smith, DC, Vice-Chair, Patrick Espana, Public Member, Robert Schmitt, DC, Bryson Langel, DC, (absent), Louise Stephens, Public Member, Matthew Waldron, DC, Aaron Chan, DC, James Slakey, Public Member, Winfield Hobbs, DC, Ron Rogers, DC, Ronwynn Pratt, DC, (absent), and Doug Long, DC, (absent)

Staff Present

Leann Yount, Program Manager
Bob Nicoloff, Executive Director
Lilia Lopez, Assistant Attorney General
Patrick Hanley, Staff Attorney
Kyle Karinen, Staff Attorney
Don Painter, Supervising Investigator
Billie Jo Dale, Program Support
Megan Brown, Compliance Officer

Others Present

Paula Meyer, Executive Director, Nursing
Care Quality Assurance Commission (NCQAC)
Suellyn Masek, RN, NCQAC
Erica Benson-Hallock, NCQAC
Lori Grassi, WSCA

On February 14, 2013 the Chiropractic Quality Assurance Commission (Commission) met in Tumwater, Washington at Department of Health, Point Plaza East, 310 Israel Rd SE, Rooms 152/153. In accordance with the Open Public Meetings Act, the revised meeting agenda was e-mailed to members of the Commission's listserv.

OPEN SESSION – February 14, 2013

9:00 a.m.

1. CALL TO ORDER – Dr. Rasmussen, DC, Chair

- 1.1 The agenda was approved as presented.
- 1.2 The December 13, 2012 meeting minutes were approved as written.
- 1.3 Message from the Chair and/or Vice-Chair to include but not limited to:
 - Dr. Smith provided the following legislative meet-me-call update:
 - HB 1103 – Permits the disciplinary authority to issue a Summary of Suspension if the license holder is prohibited from employment in the care of vulnerable adults based on DSHS findings.
 - HB 1298 – Public records disclosure bill allows employment applications to be public record.
 - This could make a chiropractic commission member's application public record.

- HB 1381 – Moves the Health Law Judges away from the Department of Health and under the Office of Administrative Hearings.
 - This would not change the way the commission does business.
 - This bill was introduced last year and died.
- HB 1518 – Allows the chiropractic commission to enter into a pilot that provides them with additional authority over staffing, budget, and spending.
 - The commission had a similar opportunity in 2008 under HB1103 but they opted out of the pilot project. The Medical and Nursing Commissions’ entered into the five year pilot project.
- SB 1586 – Requires transparency for the patient regarding the training and certification for any healthcare professional that uses the term doctor, physician, PhD, doctorate, ARNP, etc.
 - This is already required under RCW 18.25.090.
- SB 5215 – This bill provides for future healthcare changes and will prevent a condition for licensure to participate in Medicare, Medicaid, and other public or third party reimbursement program.
- SB 5265 – Requires transparency with billing for healthcare providers to display a meaningful estimate of services on a public website.
- SB 5601 – Ensures chapter 19.68 RCW is interpreted in a manner consistent with the federal anti-kickback statute.
- SB 5632 (Companion HB 1551) – Concerning spinal manipulation and the use of roentgen rays and radium for diagnostic and therapeutic purposes, the use of electricity for surgical purposes including cauterization and chiropractic adjustments are included in “physical therapy.”
 - This bill was introduced in past legislative sessions and died. It appears the language is shifting from specific to broad. This creates interpretation needs.
 - Should we define chiropractic adjustment?
- Commission member resignation:
 - Dr. Rasmussen informed the commission that Dr. Gita Vasudeva resigned due to personal reasons. She submitted a letter to Ms. Yount to provide to the commission. He encouraged commission members to read the letter.

2. CASE PRESENTATION

- 2.1 Stipulated Findings of Fact, Conclusions of Law and Agreed Order – Panel A
Respondent: Perry E. Barnhill, DC
Master Case No: M2012-678
Staff Attorney: Kyle Karinen

The Agreed Order was approved as presented.

- 2.2 Stipulated Findings of Fact, Conclusions of Law and Agreed Order – Panel B
Respondent: Edward L. West, DC
Master Case No: M2011-1183
Staff Attorney: Patrick Hanley for Kyle Karinen

The Agreed Order was approved as presented.

- 2.3 Stipulated Findings of Fact, Conclusions of Law and Agreed Order – Panel A
Respondent: Keith D. Meyer, DC
Master Case No: M2012-416
Staff Attorney: Kyle Karinen

The Agreed Order was approved as presented.

- 2.4 Stipulated Findings of Fact, Conclusions of Law and Agreed Order – Panel B
Respondent: David M. Silverstein, DC
Master Case No: M2012-416
Staff Attorney: Patrick Hanley for Kyle Karinen

The Agreed Order was approved as presented.

3. HB 1103 PILOT PROJECT REPORT – Bob Nicoloff, Executive Director 9:30 a.m.

- 3.1 Bob Nicoloff presented the commission with an overview of HB 1103. The bill was enacted in 2008 that entered both the Medical Quality Assurance Commission (MQAC) and the Nursing Care Quality Assurance Commission (NCQAC) into a five-year pilot project. The pilot projects gave them increased authority over budget and staffing. MQAC and NCQAC are required to negotiate performance-based expectations with the Secretary of Health to include:

- Effectiveness of licensing and disciplinary activities,
- Efficiency, timelines, and personnel resources,
- Budgetary activity, and
- Regulatory activities, including timelines, consistency of decision making, and performance levels.

Commission members also watched the House Committee on Health Care and Wellness hearing that was held on February 7th regarding HB 1518.

Mr. Nicoloff informed commissioners that the reports are done. He reminded the commission that all three reports have been emailed to them, as well as placed in their meeting packets.

Dr. Rasmussen asked Mr. Nicoloff to obtain more information on costs from MQAC and NCQAC.

Paula Meyer, Executive Director with NCQAC and the NCQAC's leadership visited the commission. They presented their views on the pilot project, as follows:

NCQAC:

- Enhance Patient Safety:
 - Obtained approval for decision packages to increase staffing which improved their performance measures and meeting the targets of negotiated performance measures.
 - NCQAC improved their performance during the pilot. However, a data comparison with a national databank showed greater improvements can be made in the areas of education, discipline, and financial outcomes.
 - NCQAC compared their performance with the Arizona (AZ), a semi-autonomous board, and North Carolina (NC), an independent Nursing Board. Those boards have more authority than NCQAC has in the pilot. Both boards have more effective licensing measures, greater efficiency in investigations, and with financial measures.
 - NCQAC feels it can continue to improve if they operated more like AZ or NC.
 - NCQAC manages and directs all staff duties, to include investigative and disciplinary matters. However, they use the department staff and systems to carry out those duties.
 - Next step is to do survey and compare data with other states that are doing better in areas.
 - Performance Timelines:
 - 71% of opened complaints were investigated,
 - 48% of investigative backlog was decreased
 - 37% decrease in time used in investigations by implementing consistencies and adding staff.
 - 100% increase in licensing decisions which now occur on the same day as the receipt of final documents.

Based upon the pilot project results, NCQAC is asking the legislature to make permanent the provisions of SHB 1103 with some additional enhancements.

Commission members asked the NCQAC members why they feel the pilot was a success, as follows:

- Staff understands the mission and what their expectations are. They have the resources, staff, and training to get the job done.
- Greater control over the budget allows staff to get things done quicker or provide outreach in areas of need, resulting in greater public safety.
- Pilot gave a greater understanding of the cost of services within the various department offices with licensing, investigation, disciplinary, and indirects.
- NCQAC feels the pilot was positive and the Chiropractic Commission should consider trying it.

You can view the HSQA, MQAC, and NCQAC reports on the department's [website](#).

- 3.2** Commission members discussed the pilot project reports and the NCQAC's presentation on their pilot project. The commission voted to send a letter to Secretary Selecky in support of Substitute House Bill 1518, which would provide the commission the option of participating in a five year pilot project to evaluate the effect of granting additional authority over budget development, spending, and staffing.

Mr. Nicoloff and/or Ms. Yount will work with the Executive Committee to draft a letter.

4. 2013 LEGISLATIVE SESSION BILLS – Bob Nicoloff 11:15 a.m.

- 4.1** Mr. Nicoloff presented an additional legislation update about the following bills:

- HB 1566 – Concerning educational outcomes of youth in out-of-home care.
- HB 1573 – Prohibitions Against Discriminating Against Licensed Chiropractors – Requires schools and entities to recognize chiropractors as an approved healthcare profession to conduct sports and Department of Transportation driver fitness exams.
 - Bill has public hearing on February 21st in the Healthcare and Wellness Committee.

5. BUDGET/FEE UPDATE – Bob Nicoloff, Executive Director

- 5.1** Mr. Nicoloff provided an update regarding the fee decrease. He gave commission members a six year analysis handout with fee reductions of \$126 and \$156. The analysis does support a fee decrease.

Steve Saxe, Director took a decision paper that outlined the commission's request for a renewal fee decrease to Karen Jensen, Assistant Secretary, for consideration. She approved the fee decrease. It will be at least \$100. He will get approval for the lowest decrease without creating a need to increase fees in the future.

Mr. Saxe will inquire with other professions' to see if they need a decrease then rulemaking will begin. The rule's package will include any other profession that needs a fee decrease. The secretary has authority over fees. The assistant secretary's office staff will process the rule's package.

6. NEW BUSINESS REQUESTED ITEMS FROM DECEMBER 13, 2012 MEETING 11:45 a.m.

6.1 Commission members requested the following items for the February 14th meeting agenda:

- Disciplinary panel calls:
 - Dr. Hobbs requested information regarding the disciplinary call process and the length of time allotted for the calls.
 - Ms. Yount informed commission members the calls happen on the first and third Thursdays of every month.
 - Tammy Kelley initiates the calls by securing a conference call line that the commissioners call in to. There isn't a time limit for these calls. Sometimes there may be a conflict for staff with back-to-back meetings or the room reservation. Staff will ensure that there are as few conflicts as possible.
- Hearings:
 - Commission members requested someone from the Adjudicative Services Office to come and answer questions regarding scheduling the hearings and commission member availability.
 - Mr. Nicoloff reported the department is looking into this. Other programs have similar concerns with the reserved hearing dates.

7. 2013 HEARINGS – Leann Yount, Program Manager

7.1 The commission secured hearing panel members for the following hearing dates:

- May 10, 2013 – Panel A
- May 14-15, 2013 – Panel B
- May 28-31, 2013 – Panel A
- June 7, 2013 – Panel B

8. CHIROPRACTIC DRAFT BYLAWS – Dr. Smith 11:45 a.m.

8.1 Dr. Smith presented the draft bylaws to the commission. Commission members discussed the draft bylaws and the suggested edits. The Executive Committee will continued to working on the edits to the bylaws.

Commission members voted all in favor to adopt the bylaws as discussed.

2013 LEGISLATIVE SESSION BILLS CONTINUED – Lori Grassi, WSCA 12:00 p.m.

Ms. Grassi thanked the commission for allowing her to provide a legislative update. She reported the WSCA is watching and is involved with several bills, as follows:

- HB 1515 – Medical Assistants

- Second year seeing this bill and it doesn't include chiropractors.
- HB 1518 – Pilot Project
 - Support – However, do not support SHB 1518 amended section 7 with the Operating Agreement. WSCA wants the commission to have the same pilot as MQAC and NCQAC.
- SB 5144 – Medical Assistants
 - Similar to HB 1515
- HB 1551/SB 5632 – Physical therapy bills regarding spinal manipulation.
 - Representative Lori Jenkins is supportive.
 - WSCA opposed the bill.
 - Bill imposes both associations to work together and come to an agreement.
- HB 1573 – This bill allows chiropractors to perform sports and DOT physicals.
 - WSCA is working closely with WIAA
 - Hearing set for February 21st.
 - WSCA will testify as well as doctors representing DOT fitness exams and information about the Certified Chiropractic Sports Physicians certification and sports physicals.
- HB 1779 – Master esthetics bill
 - Creates another higher level for them to use some medical devices.
- SB 5215 – Insurance bill
 - Healthcare professionals' licensees may not be required to participate in public or private third-party reimbursement programs.
- SB 5540 – Expands opportunities to purchase healthcare coverage from out-of-state carriers.
- SB 5465 – Concerning exemptions from licensure as a physical therapist.
 - Watching bill

LUNCH - Commission members continued meeting through lunch. **12:30 p.m.**

9. MOCK DISCIPLINARY AUDIT CASE REVIEW – Dr. Smith **12:30 a.m.**

9.1 Dr. Smith presented a mock audit for training purposes

10. CHIROPRACTIC QUALITY ASSURANCE COMMISSION COMMITTEES **1:00 p.m.**

10.1 Planning/Executive Committee:

Members include: Harold Rasmussen, DC, Chair, Gabe Smith, DC, Vice-Chair, Ron Rogers, DC, Immediate Past Chair, and Jim Slakey, Public Member

10.2 Budget Committee:

Members include: Harold Rasmussen, DC, Chair, Gabe Smith, Vice-Chair, DC, and Ron Rogers, DC, Immediate Past Chair

10.3 Continuing Education/Continued Competency/State Examination Committee:

Members include: Matt Waldron, DC, Chair, Gabe Smith, DC, Aaron Chan, DC, Bryson Langel, DC, Win Hobbs, DC, and Jim Slakey, Public Member.

10.4 Research Committee:

Members include: Aaron Chan, DC, Chair, Patrick Espana, Public Member, Bryson Langel, DC, Gabe Smith, DC, Jim Slakey, Public Member, Robert Schmitt, DC, and Louise Stephens, Public Member.

10.5 Instrumentation and Procedure/Standard of Care Committee:

Members include: Win Hobbs, DC, Chair, Doug Long, DC, Matt Waldron, DC, Ron Rogers, DC, Ronwynn Pratt, DC.

10.6 Communications Committee:

Members include: Doug Long, DC, Chair, Ron Rogers, DC, Patrick Espana, Public Member, Robert Schmitt, DC, Ronwynn Pratt, DC, Louise Stephens, Public Member, and James Slakey, Public Member

11. COMMITTEE REPORTS

3:00 p.m.

Committees updated Commission members about the following committee work:

11.1 Planning/Executive Committee:

Members include: Harold Rasmussen, DC, Chair, Gabe Smith, DC, Vice-Chair, Ron Rogers, DC, Immediate Past Chair, and Jim Slakey, Public Member

Priority #1

- Committee members finalized the draft bylaw edits with Ms. Lopez as previously discussed under item 8.1.

Ms. Lopez will revise the bylaws and send them to Ms. Yount.

Priority #2

- Committee members finalized the workshop details and draft agenda items.

11.2 Budget Committee:

Members include: Harold Rasmussen, DC, Chair, Gabe Smith, Vice-Chair, DC, and Ron Rogers, DC, Immediate Past Chair

Priority #1

- Committee members did not need to meet.

11.3 Continuing Education/Continued Competency/State Examination Committee:

Members include: Matt Waldron, DC, Chair, Gabe Smith, DC, Aaron Chan, DC, Bryson Langel, DC, Win Hobbs, DC, and Jim Slakey, Public Member.

Priority #1

- Committee members reviewed and approved six continuing education (CE) license renewal audits.

Priority #2

- Committee members reviewed information about other healthcare programs and how they conduct their business regarding CE courses and the CE course providers. None of the professions pre-approve CE. It was decided that the commission doesn't want to pre-approve CE at this time. It is too costly and time consuming.

Priority #3

- Committee members deferred reviewing information about conducting the jurisprudence (JP) exam securely online until the June 13th meeting.

Ongoing:

- Committee members reviewed JP exam comments. Based on the comments, the questions have been updated to avoid confusion and redundancy.

Committee members also directed Ms. Yount to draft a letter to a CE entity telling them that the CE course has not been approved by the commission. The letter indicates the course has been pre-approved by the commission. WAC 246-808-155 puts the onus on the chiropractor to decide if the course they want to take falls within a pre-approved CE category under WAC 246-808-150.

Ms. Yount will write the letter informing the entity of this and request the note be removed from the mailings.

11.4 Research Committee:

Members include: Aaron Chan, DC, Chair, Patrick Espana, Public Member, Bryson Langel, DC, Gabe Smith, DC, Jim Slakey, Public Member, Robert Schmitt, DC, and Louise Stephens, Public Member.

Priority #1

- Committee members reviewed the disciplinary matrix. No further revisions were needed.

The following complainant types were received:

- 23 – anonymous
- 24 – chiropractors
- 7 – massage therapists
- 10 – other professions
- 67 – female patients
- 41 – male patients
- 36 – agencies
- 39 – by 15 different insurance companies

Priority #2

- Committee members reviewed and approved the draft closed disciplinary case form that Ms. Yount created to assist with tracking violation trends on the disciplinary matrix. Ms. Yount will email the form to all commissioners for immediate use.

Ongoing

- Committee members reviewed the following lists and labels requests and denied them because they didn't meet the definition of a professional association:
 - Free Continuing Education Association (FCEA) – offering free continuing education courses to practitioners.
 - North Cascades Massage Connection – is seeking names of Whatcom County healthcare practitioners to inform them of organizing that is taking place with many healthcare groups regarding the Affordable Care Act and how residents can obtain the best healthcare.

Committee members asked Ms. Yount to remind the office that fulfills these requests to provide the chiropractic lists/labels application when requests come through.

11.5 Instrumentation and Procedure/Standard of Care Committee:

Members include: Win Hobbs, DC, Chair, Doug Long, DC, Matt Waldron, DC, Ron Rogers, DC, Ronwynn Pratt, DC.

Priority #1

- Committee members reviewed requests and made decisions for the Classification of Chiropractic Procedures and Instrumentation List, as follows:
 - Koren Specific Technique:
 - This appears to be a combination of approved techniques that fall within the chiropractic scope of practice. Because the procedure is within the scope of practice, it was decided it didn't need to be added to the list.
 - Weight-loss Cream containing 5% testosterone, 1% DHEA, and homeopathic ingredients:
 - Not approved and will be placed on the non-approved list.
 - Neurofeedback also known as EEG Biofeedback.
 - Committee members couldn't find research that this is being taught in a chiropractic college. If inquirer can provide the evidence, the committee will review it again. It will remain off of the list at this time.
 - Fundamental Chiropractic a Textbook:
 - The purpose of the list is to classify instruments and procedures, not textbooks. The committee isn't going to start approving textbooks. It will remain off the list.

- Chest x-rays within the chiropractic scope of practice:
 - Because the of taking x-rays is part of conducting a chiropractic physical exam to determine the need for chiropractic care or to refer out to another healthcare professional, it was determined that taking chest x-rays is within the scope of practice and doesn't need to be on the approved list.

11.6 Communications Committee:

Members include: Doug Long, DC, Chair, Ron Rogers, DC, Patrick Espana, Public Member, Robert Schmitt, DC, Ronwynn Pratt, DC, Louise Stephens, Public Member, and James Slakey, Public Member

Priority #1

- Committee members reviewed and approved the draft January – April 2013 draft newsletter. Ms. Yount will send it forward for department approval. Then it will get posted on the website and emailed out through the listserv.

Priority #2

- Committee members continued reviewing drafted articles and discussed future articles to include:
 - Records Retention – WAC 246-808-650 and RCW 70.02.160 – Dr. Long
 - Oxygen usage – Dr. Long
 - Performance measures – Bob Nicoloff.
 - Coding for Massage Therapy versus Manual Therapy – Dr. Rasmussen
 - Responsibility of a Retiring Chiropractor – Patrick Espana
 - Disciplinary Matrix Usage – Louise Stephens
 - Avoiding Complaints – Dr. Long

Completed Articles:

- Auxiliary Staff Duties – Dr. Schmitt
- Groupon/Deal-of-the-Day – Dr. Pratt

It was decided that the May - August edition of the newsletter will include the auxiliary staff and the disciplinary matrix usage articles.

The Groupon/deal-of-the-day article will be placed on hold to follow the active legislation, as it may need to be revised.

Ongoing:

- Summary of disciplinary cases – Leann Yount

12. FCLB DELEGATE & ALTERNATE-DELEGATES

3:45 p.m.

12.1 Commission members designated a Washington State voting delegate and alternate-delegate for the May 1-5, 2013 FCLB meeting at the Grand Hyatt in San Francisco, CA, as follows:

- Dr. Smith as delegate
- Dr. Chan as alternate

Ms. Yount will also attend the board administrators meeting in addition to the FCLB meeting.

13. NBCE ANNUAL BUSINESS MEETING OF STATE DELEGATES

13.1 NBCE is holding their annual business meeting of state delegates on Friday, May 3rd at the Grand Hyatt San Francisco, CA.

Commission members also designate a Washington State voting delegate and alternate-delegate as follows:

- Dr. Smith as delegate
- Dr. Chan as alternate

NBCE also identified two chiropractic commission members to assist with administering the Part IV practical examination on:

- Spring Part IV Exam – May 17, 18, & 19, 2013 – Dr. Chan and Dr. Rasmussen
- Fall Part IV Exam – November 8, 9, & 10, 2013 – Dr. Hobbs and Dr. Schmitt
- June 7 & 8, 2013 - Part IV Test Committee Meeting – Dr. Rogers

14. MANAGEMENT REPORT – Bob Nicoloff, Executive Director and Leann Yount 4:00 p.m.

14.1 Ms. Lopez previously presented the department’s suggested edits for the Independent Chiropractic Examinations Interpretive Statement (IS). Commission members discussed and voted all in favor of the changes. She will make the edits and send it to Ms. Yount. Ms. Yount will route the IS to the Assistant Secretary’s Office for approval. Once approved, it will be sent to the department’s Policy Legislative Constituent Relations office so it can be filed with the Code Reviser.

15. NEW BUSINESS

15.1 Commission members or program staff may request items for the next meeting agenda.

16. PUBLIC COMMENT

16.1 No members of the public were present.

17. CONSENT AGENDA

Items listed under the consent agenda (informational items) are routine agency matters. Items were approved by a single motion of the commission without discussion.

17.1 January 2013 issue of “The Sentinel News for Department Employees.”

17.2 Chiropractic and chiropractic x-ray licensing statistics as of January 2013.

17.3 The July 1, 2011 through December 31, 2012 budget report.

18. COMMISSION ADJOURNMENT**Next Meeting:**

March 23-24, 2013
 SpringHill Suites Marriott Vancouver
 Columbia Tech Tower
 1421 SE Tech Center Drive
 Vancouver, WA 98683

*Licensing Statistics as of February 1, 2012***Chiropractic X-ray Technicians**

	November 30, 2011	February 1, 2012
Total Active Licenses	225	222
Total Pending Licenses	16	17
Total Expired Licenses	772	777
Total Revoked	1	1
Total Suspended	3	3
Active on Probation	0	0
Active with Restrictions	0	0

Chiropractors

	November 30, 2011	February 1, 2012
Total Active Licenses	2310	2311
Total Pending Licenses	22	31
Total Inactive Licenses	202	192
Total Expired Licenses	2261	2284
Total Revoked	35	35
Total Suspended	37	38
Active on Probation	11	11
Active with Restrictions	1	1

 Prepared By: Leann Yount, Program Manager

 Date

 Approved By: Harold Rasmussen, DC, Chair

 Date