



**WASHINGTON STATE  
CHIROPRACTIC QUALITY ASSURANCE COMMISSION  
MEETING MINUTES**

**June 6, 2013 – 9:00 a.m. to 3:30 p.m.**

Department of Health  
Creekside Building 2, Room 307  
20425 – 72<sup>nd</sup> Avenue South  
Kent, WA 98032

*The Department of Health offices are fragrance free. Please refrain from applying perfume, hairspray, cologne, or aftershave prior to your visit. Your cooperation is appreciated.*

**Commission Members:**

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

**Staff Present**

Leann Yount, Program Manager  
Bob Nicoloff, Executive Director  
Lilia Lopez, Assistant Attorney General  
Kyle Karinen, Staff Attorney  
Patrick Hanley, Staff Attorney

**Others Present**

Lori Grassi, WSCA  
Ron Wilcox, DC, L&I

On June 6, 2013 the Chiropractic Quality Assurance Commission (Commission) met in Kent, Washington at Center Creekside Two at Centerpoint, 20425 – 72<sup>nd</sup> Ave South, Room 307. In accordance with the Open Public Meetings Act, the revised meeting agenda was e-mailed to members of the Commission's listserv.

**OPEN SESSION – June 6, 2013** **9:00 a.m.**

**1. CALL TO ORDER – Dr. Rasmussen, DC, Chair** **9:00 a.m.**

**1.1** The agenda was approved with the following items added under agenda item 9.3:

- Oxygen use for certified chiropractic sports physicians (CCSP).
- Informing patients they can benefit from using a Transcutaneous Electrical Nerve Stimulation (TENS) unit and where to obtain one.
- Use of cupping.

**1.2** The March 23-24, 2013 and April 29, 2013 meeting minutes were approved as presented.

### 1.3 Message from the Chair:

- Dr. Rasmussen expressed his gratitude in being part of the commission's leadership for four years. He feels humbled and honored to have served in this role.
- Dr. Rasmussen has two years left on the commission. He will continue to assist and be part of the Pilot Planning Committee.

## 2. **SHB 1518 PILOT PROJECT PLANNING UPDATE – Dr. Rasmussen** **9:15 a.m.**

### 2.1 Dr. Rasmussen provided the following update about entering into the pilot project and the next steps:

- Dr. Rasmussen has been working with the department and the Office of Financial Management to hire Bob Nicoloff as the commission's full-time Executive Director (ED).
- The commission voted all in favor to hire Mr. Nicoloff as the ED effective July 1, 2013.
- Mr. Nicoloff is currently working on the paperwork to hire a full-time program manager. The commission would like Leann Yount to continue to serve in this role.

Mr. Nicoloff thanked the commission for selecting him as their ED. He understands the importance of this role, especially entering into a pilot project. He has served as the ED for several health professions for over 20 years. Mr. Nicoloff has been the commission's ED since 2006. He has several ideas for cost savings while keeping patient safety as the focus. He has many goals for the commission.

### 2.2 Commission members discussed how to best work with the department on the implementation planning process for the pilot project transition.

Mr. Nicoloff handed out the Medical Commission's Memorandum of Understanding (MOU) to assist the Chiropractic Commission with creating an addendum to the Operating Agreement (OA). The commission reviewed the MOU and created an addendum to the existing OA. The commission will continue to use the department's service units while they analyze data. The commission voted and adopted the addendum through August 2013. Mr. Nicoloff will provide the department with the addendum. The commission will work on developing a Pilot Project Operating Agreement.

## 3. **COMMISSION LEADERSHIP ELECTIONS – Dr. Rasmussen** **9:45 a.m.**

### 3.1 Commission members nominated and voted for the chair, vice-chair, and the Executive Committee (EC) public member positions. The terms are effective June 7, 2013 through June 30, 2014.

The nominees are:

- Chair – Gary “Gabe” Smith, DC
- Vice Chair:
  - Matthew Waldron, DC
  - Aaron Chan, DC
- EC public member:
  - Jim Slakey

Louise Stephens was nominated for the EC during the March meeting. She withdrew her name.

The commission voted by way of a written ballot and the 2013/2014 leadership is:

- Dr. Smith, Chair
- Dr. Waldron, Vice-Chair
- Jim Slakey, EC’s Public Member

#### **4. FEDERATION OF CHIROPRACTIC LICENSING BOARD (FCLB) CONFERENCE UPDATE - Dr. Rasmussen and Leann Yount**

**4.1** Ms. Yount provided the following update about the May 1, 2013 Chiropractic Board Administrators Committee (CBAC) meeting:

##### **9 States Represented:**

- South Carolina
- Louisiana
- Oklahoma
- Ohio
- Kansas
- West Virginia
- Arkansas
- Texas
- Washington

##### **Welcome and Opening Remarks:**

- Beth Carter, CBAC Chair
- Dr. Lawrence O’Conner, FCLB President
- Dr. Norman Ouzts, NBCE President

Dr. O’Conner informed the CBAC attendees that the FLCB is drafting mobility standards for foreign trained chiropractors. He mentioned many states have laws that don’t allow for reciprocity or endorsement.

Dr. Ouzts reported that NBCE is evaluating the International Board of Chiropractic Examiners (IBCE) exam for equivalency. The exam is offered in another language. Because the exam has to be translated to English, it cannot be determined if it's substantially equivalent at this time. The exam is offered as a written exam and not a practical exam.

**Presentations:**

- NBCE Ethics & Boundary Exam – Dr. Judi Gerstung
  - Computer based essay exam offered through Pearson Vue Testing Centers at various locations.
  - Exam is administered the first Thursday of even numbered months
    - February, April, June, August, October, and December
  - Exam is \$1500 and \$500 for retakes
  - NBCE website has an exam study guide available
  - Several states are using the exam
  - Examiners can't grade an examinee from the same state they are licensed in.
  - NBCE is extending the opportunity to board administrators that are interested in becoming a grader for the E&B.
    - Training offered two or three times a year. The next one is in October.
  - NBCE is now offering the E&B exam to other professions. Illinois will start their pilot in December 2013.

**Jurisdiction Reports:**

- Oklahoma:
  - Approval was given by the Oklahoma Veterinarian Board for chiropractors to practice animal chiropractic.
    - Can get certified in animal chiropractic through Parker Chiropractic College.
  - Oklahoma mandates and provides an orientation for new chiropractors, which includes risks with marketing groups approaching new chiropractors, and ethics and boundaries.
  - State association submits CE documentation to the state board to verify signatures for CE attendance credit.
- Texas:
  - Texas recognizes and accepts foreign trained applicants that have passed the Council on Chiropractic Education International (CCDI) exam.

- Legislation passed that restricts appointed state board members that are married to a currently serving state association board member from being on both boards at the same time, as this is a conflict of interest.
- Arkansas
  - Arkansas's Practice Act 513 has rules regarding entities that utilize accident or police reports as business opportunities ("Ambulance Chasers").
    - Kansas also has rules regarding this type of practice.
- Chiropractic Assistants:
  - Some states offer this license
  - Have varying licensure requirements depending on the state – on-the-job training, certification course, exam, continuing education, different types of CAs (clinical/non-clinical).
    - Oregon, Maryland, Nevada, Tennessee license CAs.
      - Oklahoma:
        - CA PACE approved program
        - 2000 hours experience = 1 year fulltime or
          - Currently registered with member board with equivalent requirements
        - \$150 CA application & online exam fee
        - Supervised Practical Clinical Experience requires 300 hours before first renewal.
        - \$35 license fee
        - Biannual renewal
        - 6 CE hours
    - Oklahoma had legislation pass in 2011 to credential CAs. They have defined a “non-clinical” CA. They have model rules.
  - FCLB also has helpful language.

### **The First Amendment in the Regulatory Community – Dale Atkinson, JD**

Mr. Atkinson is the attorney for the FCLB and FARB. He presented about:

- Title Protection
- Advertising as board certified
- FARB.org website has a model code of conduct and model licensing and disciplinary documents.

## **CBAC Business Meeting**

- CBAC Financial update
- 2014 CBAC Meeting Ideas and Speaker Suggestion:
  - Gary Schultz, DC as a presenter
  - Registrar to present regarding CE
    - Question/answer regarding how to make things smoother with CE documentation for board administrators and registrars.
  - Send agenda item suggestions to CBAC by January 2014.
- President CBAC Committee Nominee
  - Patricia Oliver - Louisiana

### **4.2** Dr. Rasmussen provided an update to the Commission about the FCLB annual conference that was held in San Francisco, California on May 2-5, 2013:

The conference focused on connecting regulators.

- Approximately 140 attendees from North America represented chiropractic licensing boards, testing, associations, and chiropractic colleges.
- Joseph Janse Lecture delivered by Dr. Brian McAulay, President of Parker University. Dr. McAulay spoke about turning professional advocacy to social movement.
- Dr. Keith Overland, President of the American Chiropractic Association and former member of the Connecticut Board of Chiropractic Examiners, delivered the Keynote Address titled “A Vision for the Future of Chiropractic: The Role of the Regulator.”
- Other educational sessions at the conference included:
  - International collaboration
  - Certifying and regulating chiropractic clinical assistants
  - Chiropractic testing
  - Interjurisdictional mobility
  - Understanding criminal background checks
  - Regulating prepayment plans
  - The board in the public eye
  - Military considerations
  - Regulating advertising
  - CE compliance issues
  - Specialty training
- FCLB hosted a Black Tie Gala and Auction to benefit its new Program - certifying chiropractic clinical assistants. The auction brought in over \$30,000 for the program.
- Dr. Louis Sportelli’s presentation urged board members to balance both the rights of the licensees and the patients.

## **Elections – FCLB Board of Directors:**

- President: Dr. LeRoy Otto (MN)
- Vice President: Dr. Farrel Grossman (SC)
- Treasurer: Dr. Maggie Colucci (NV)
- District III Director: Dr. Kirk Shilts (MA)
- District III Alternate Director: Dr. Keita Vanterpool (DC)
- District IV Director: Dr. Gary Counselman (KS), former District IV alternate director, will fill this position until an election is held at the 2014 Annual Congress.
- Dr. Lawrence O'Connor (NJ) now assumes the office of Immediate Past President.
- The FCLB Board of Directors named District II Director Dr. Gary Pennebaker (MN) to serve another term as Board Chair.
- Also continuing on the board are District I Director, Dr. Donn Fahrendorf (ND); District V Director, Dr. Michael Coon (SC); and Administrative Fellow Director, Dr. Larry Spicer (MN).

## **Awards and Recognition:**

Dr. O'Connor presented awards to the following individuals and organizations:

- Pillars of Chiropractic recognizing dedication to public protection: Dr. Randy Schilsky (NC), Dr. Keith Overland (CT), and Dr. Patricia Connors-Allen (AK)
- Retiring Board Members: Dr. Ali Jafari (NY) and Dr. Daniel Saint-Germain (QC)
- President's Blue Flame Award: Dr. Kirk Shilts (MA)
- 2013 Dr. Wayne Wolfson Scholarship Award: Mr. James Evans (Life-West)
- Special Presidential Recognition: Ms. Cindy Wade (NV) and Dr. Richard Cole (TN)
- 2013 Dr. Earl L. Wiley Outstanding Board Award: Chiropractic Physician's Board of Nevada
- 2013 George R. Arvidson Award for Meritorious Service: Dr. Lisa Richard (NS)

The next FCLB meeting is scheduled for April 30-May 4, 2014, at the Myrtle Beach Marriott Resort & Spa at Grande Dunes.

**5. CHIROPRACTIC COMMISSION BYLAWS – Dr. Smith**

**10:15 a.m.**

**5.1** Dr. Smith presented the final chiropractic commission’s bylaws. The commission voted all in favor to adopt them.

**6. MANAGEMENT REPORT – Bob Nicoloff, Executive Director and Leann Yount 10:30 a.m.**

**6.1** Ms. Yount presented the 2014 meeting dates/ locations and the tentative hearing dates:

Date	City	Location
February 13, 2014 Meeting	Tumwater	Town Center 2 - Tumwater Room 158
April 10, 2014 Meeting	Tumwater	Point Plaza East - Tumwater Rooms 152 and 153
June 12, 2014 Meeting	Kent	CenterPointe – Kent Room 307
August 14, 2014 Meeting	Tumwater	To Be Determined (TBD)
October 9, 2014 Meeting	Kent	TBD
December 11, 2014 Meeting	Tumwater	TBD
January 9, 2014 Hearing	Tumwater	TBD
February 14, 2014 Hearing	Tumwater	TBD
March 13, 2014 Hearing	Tumwater	TBD
April 11, 2014 Hearing	Tumwater	TBD

May 8, 2014 Hearing	Tumwater	TBD
June 13, 2014 Hearing	Tumwater	TBD
July 10, 2014 Hearing	Tumwater	TBD
August 15, 2014 Hearing	Tumwater	TBD
September 11, 2014 Hearing	Tumwater	TBD
October 10, 2014 Hearing	Tumwater	TBD
November 13, 2014 Hearing	Tumwater	TBD
December 12, 2014 Hearing	Tumwater	TBD

**6.2** Ms. Yount presented the existing Delegation of Signature Authority form. The form stays in effect until a new one is signed. A new form needs to be signed for the 2013/2015 biennium. However, the commission deferred signing a new form until the commission can begin to discuss the vision, mission, values and strategies for the pilot project.

**6.3** Ms. Lopez discussed the commission’s delegation authority in general. The commission was established under RCW 18.25.0151. It can’t delegate authority given to its by the legislature to someone else. Ms. Lopez suggested at the beginning of the form it should include a descriptive definition of the intent of the delegation.

Ms. Lopez also reminded commission members that when reviewing committee work, such as continuing education (CE) documents, a “preliminary review” can be made. However, a final decision is most generally made during an open meeting with a quorum of the commission.

**6.4** No other relevant items were discussed.

**7. RULES REVIEW PROCESS CONTINUED – Dr. Rasmussen 11:00 a.m.**

**7.1** Commission members discussed the rules review and determined how to proceed. Ms. Yount will create a matrix outlining what suggested changes are needed. Commission members will review the matrix during the August 8, 2013 meeting and prioritize the rules.

**8. NEW BUSINESS REQUESTED –Dr. Rasmussen**

**8.1** Commission members discussed examples of good, bad, and questionable records such as:

- Electronic
- Written
- Check-mark boxes
- dictated

A mock audit will be prepared for the August 8, 2013 meeting.

**LUNCH - Commission members continued meeting through lunch. 11:30 a.m.**

**9. CHIROPRACTIC QUALITY ASSURANCE COMMISSION COMMITTEES 11:30 a.m.**

**9.1 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 continued working on the pilot project planning. Mr. Nicoloff is reviewing areas where spending may be reduced.
- The addendum amends the current Operating Agreement to clarify roles and responsibilities of the commission and the department as the commission begins to implement 2SHB 1518 including, but not limited to, the start-up of a Pilot Project to evaluate the effect of granting the commission additional authority over budget development, spending, and staffing. Both parties agree to work diligently to attempt to address the following topics through additional amendments by August 15, 2013:
  - Integrated Licensing System,
  - Facilities,
  - Equipment and Furnishings,
  - Signature Authorization, and,
  - Contracts for Services

**Priority #2**

- Committee members reviewed applications that were received for future commission members. The appointment packet will be sent to the Governor's Office for their review, consideration, and selection.

## **9.2 Budget Committee:**

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

### **Priority #1**

- Committee members reviewed the budget. The budget was considerably underspent in the 2011/2013 biennium. Mr. Nicoloff will get more information about the status of a fee decrease and report back during the August 8, 2013 meeting.

## **9.3 Instrumentation and Procedure/Standard of Care Committee:**

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

### **Priority #1**

- Committee members reviewed the following requests and determined whether or not to place them on the Classification of Chiropractic Procedures and Instrumentation List (List), as follows:
  - Neurofeedback/EEG feedback:
    - Committee members reviewed additional information regarding Neurofeedback. Neurofeedback is within the scope of practice but it is not being placed on the List at this time.
  - Oxygen use for certified chiropractic sports physicians (CCSP):
    - It was determined that chiropractors that are CCSPs can give oxygen to athletes.
  - Can chiropractors inform patients they can benefit from using a Transcutaneous Electrical Nerve Stimulation (TENS) unit and where to obtain one?
    - TENS units are outside of the scope of practice. A chiropractor cannot inform a patient about where to get one, as this may be considered prescribing. Prescribing items not within the scope of practice is not allowed.
  - Use of cupping:
    - Cupping falls within the chiropractic scope of practice because massage therapists can do this. Massage therapy is also within the chiropractic scope of practice.

## **9.4 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, as follows:

- Complainants:
  - Anonymous – 23
  - Chiropractors – 24
  - Female Patients – 67
  - Male Patients – 41
  - State Agencies – 36
  - Other Professions – 17
  - Insurance Companies - 42

It was decided that Ms. Yount will create a smaller matrix to compare statistics from the prior meeting with the current statistics.

### **Ongoing**

- Committee members reviewed list and label requests, as follows:
  - Alaska Chiropractic Society – seeking interested persons for shared space opportunities that are available.
    - Did not meet the intent of the law.
  - ProfessionalCE.net – offering online continuing education courses.
    - Met the intent of the law.

## **10. WASHINGTON STATE CHIROPRACTIC ASSOCIATION (WSCA) – Lori Grassi 1:00 p.m.**

- 10.1** Ms. Grassi and Ron Wilcox, DC presented information about Labor & Industries (L&I) credentialing for the Medical Provider Network and consequences from disciplined cases.

There are currently 19,805 applicants that have been approved or are pending a decision. About 70 providers have been initially denied. Most request a reconsideration of the decision. Reconsiderations are subject to a peer review and medical director review. Applicants have 60-days to request the reconsideration. L&I has 90-days to respond.

When a chiropractor has disciplinary action taken against their license resulting from technical or standard of care violations, they get removed from the L&I Medical Provider Network and are reported to the National Practitioner Databank. This may cause the chiropractor to get removed from other insurance panels and may also increase their medical malpractice insurance.

The WSCA is working with L&I on their concerns.

The criteria for provisional enrollment fall under [WAC 246-20-01020](#). The criteria for healthcare provider network standards fall under [WAC 296-20-01030](#) and [WAC 296-20-01050](#). You can review all the rules under [Chapter 296.20 WAC](#).

**11. CHIROPRACTIC QUALITY ASSURANCE COMMISSION COMMITTEES 1:30 p.m.**

**11.1 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 continuing education (CE) license renewal audits.

**Priority #2**

- Committee members reviewed and made a decision about two applicants continuing education (CE) license renewal documentation. Expired license applicants must meet the criteria in [WAC 246-808-180](#).

**Priority #3**

- Committee members reviewed information received from the New Zealand College of Chiropractic. Doctors trained from their school can obtain a chiropractic license in Washington if they meet the criteria under [WAC 246-808-105](#). However, they don't meet the requirements for licensure by endorsement under [WAC 246-808-135](#).

**Priority #4**

- Committee members reviewed the core curriculum from New York Chiropractic College's postgraduate education department about commercial driver fitness training to see if it would be accepted for Washington State chiropractic continuing education (CE). As per [WAC 246-808-155](#), prior approval is not required. Approved CE categories fall under [WAC 246-808-150](#).

**Ongoing:**

- Committee members didn't have any JP exam comments to review.

**11.2 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 the draft May – August 2013 newsletter. Ms. Yount will make minor edits and send it to the listserv and post it on the website.

**Priority #2**

- Committee members continued reviewing drafted articles as well as continued working on drafting 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
  - Time of Service Discount

- Markings on X-Rays
- Audits

**Articles Under Review:**

- Boundary Issues – Dr. Long

**Completed Articles:**

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

**Ongoing:**

- Summary of disciplinary cases – Leann Yount

**12. COMMITTEE REPORTS 2:30 p.m.**

**12.1** Committees reported to commission members about their committee work. See agenda items 9 and 11.

**13. NEW BUSINESS 3:00 p.m.**

**13.1** The following items were requested to be placed on the August 8, 2013 meeting agenda:

- Affiliated Monitors
- L&I Provider Network
- Future Workshop

**14. PUBLIC COMMENT**

**14.1** No members of the public were present. **3:15 p.m.**

**15. 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.

**15.1** April 2013 issue of “The Sentinel News for Department Employees.”

**15.2** Chiropractic and chiropractic x-ray licensing statistics as of June 2013.

**15.3** The July 2011 through May 2013 budget report.

**16. COMMISSION ADJOURNMENT 3:30 p.m.**

**Next Meeting:** August 8, 2013  
 Department of Health  
 Point Plaza East Building, Rooms 152/153  
 310 Israel Road  
 Tumwater, WA 98501

**17. PANEL A DISCIPLINARY CASE REVIEW**

**17.1** Panel A will meet to discuss and determine whether the cases presented should be investigated, closed, or moved to the informal or formal resolution process.

*Licensing Statistics as of June 5, 2013*

**Chiropractic X-ray Technicians**

**January 28, 2013      January 5, 2013**

Total Active Licenses	206	212
Total Pending Licenses	12	8
Total Expired Licenses	828	849
Total Revoked	1	1
Total Suspended	3	3
Active on Probation	0	0
Active with Restrictions	0	0

**Chiropractors**

**January 28, 2013      June 5, 2013**

Total Active Licenses	2308	2305
Total Pending Licenses	53	36
Total Inactive Licenses	191	180
Total Expired Licenses	2375	2421
Total Revoked	34	33
Total Suspended	42	46
Active on Probation	10	12
Active with Restrictions	1	1

Prepared By: Leann Yount, Program Manager

Date

Approved By: Gary "Gabe" Smith, DC, Chair

Date