



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

August 8, 2013 – 9:00 a.m. to 5:22 p.m.

Department of Health
Point Plaza East Building, Room 152/153
310 Israel Road SE
Tumwater, WA 98501

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.

Commission Staff Present

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

Others Present

Steve Hodgson, Finance Director
Steve Saxe, HP&F Director
Sam Marshall, HSQA
Tami Thompson, DOH Rules
Dick Goldsmith, Policy Analyst
Josh, Deputy Director
Don Painter, Chief Investigator
Jack Bucknell, Lead Attorney
Jenni Kirner, Credentialing Lead
Kari Neal, Credentialing
Colin Caywood, AAG Prosecutor
Kathy Schmitt, DOH
Carol Hooven, U of WA

On August 8, 2013 the Chiropractic Quality Assurance Commission (Commission) met in Tumwater, Washington at 310 Israel Road SE, Point Plaza East Building, Room 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 – August 8, 2013

9:00 a.m.

1.1 The meeting agenda was approved with the following revisions:

- March 24, 2013 mock hearing question/answer
- Special Continuing Education (CE) Committee application review

1.2 The June 6, 2013 and July 25, 2013 meeting minutes were approved as presented.

1.3 Message from the Chair and/or Vice-Chair:

Committee composition:

- Dr. Smith shifted some commissioners to other committees. He also designated Dr. Chan as the new CE Committee chair, Dr. Langel as the new Research Committee chair, and Dr. Waldron as the Pilot Committee chair.

Pilot project:

- Dr. Smith reported that the commission has entered into an interesting time being in the pilot project. The mission still remains to protect the public. The commission will set bench marks to meet and hopefully exceed during this time. The focus will be on controlling the budget, staffing, and coming up with better tools to protect the public . Dr. Smith encouraged the public member commissioners to provide comment and feedback along the way.
- Dr. Waldron thanked both Drs. Rogers and Rasmussen for setting the tone and changing the perception, in his opinion, of the commission's reputation. The commission is being perceived as more transparent and fair.

1.4 Special CE Committee:

- A motion was made, seconded, and approved all in favor to re-establish the CE Committee that was in place on June 6, 2013. They will continue to review an expired license reactivation application and make a decision on it.

1.5 Workshop Mock Hearing:

- Colin Caywood, AAG brought a Findings of Fact, Conclusions of Law, and Final Order as an educational tool. Some of the questions asked were:
 - Can a hearing panel member send the judge a note?
 - Ask the question. If unsure if the timing is right, send a note to the judge.
 - Depending upon the question being asked, the AAG may have to object if the question doesn't fit into the legal process.
 - Opposing counsel may also object.
 - The judge will make a decision immediately.

- Can a witness be recalled if they are still in the room but have already been excused from testifying?
 - The judge would need to be asked.
 - Legally it is permissible, but it is not a standard practice.
- Can the hearing panel review the draft order before it is served upon the respondent.
 - Yes, since the hearing panel is the decision maker. Let the judge know the panel wants to review the draft order before it is served.
 - It was mentioned that the commission hasn't adopted CPT codes.

Commission members would like to create a policy regarding requiring the review of draft orders prior to service. Ms. Yount will draft a policy and bring it to the October 10, 2013 meeting.

2. SHB 1518 PILOT PROJECT PLANNING COMMITTEE UPDATE – Dr. Waldron 9:15 a.m.

- 2.1** Dr. Waldron updated the commission about the July 25, 2013 Pilot Project Committee meeting. The committee reviewed and discussed the Nursing and Medical Commission's reports, budget information, performance measures, and began identifying areas for the strategic plan.

Leann Yount will schedule another Pilot Project Committee meeting for September.

- 2.2** Bob Nicoloff presented the draft strategic plan to the commission. The document will be a living document that will continue to change and evolve. Mr. Nicoloff will continue drafting it and provide an update at the October 10, 2013 commission meeting.

3. CONFERENCE ATTENDANCE - Dr. Smith 10:45 a.m.

- 3.1** The Federation of Chiropractic Licensing Boards is holding their District I and IV meeting on September 19-22, 2013 at the Heathman Lodge in Vancouver, WA. Commission members discussed and decided the following people will attend and represent Washington State:

- Dr. Smith, DC
- Dr. Waldron, DC
- Dr. Hobbs, DC
- Dr. Rogers, DC
- Dr. Rasmussen, DC
- Bob Nicoloff, Executive Director
- Leann Yount, Program Manager

- 3.2 The Citizen Advocacy Center is co-hosting their 2013 annual meeting with the Department of Health on October 29-30, 2013 at the Red Lion on Fifth Avenue in Seattle, WA.

Commission members discussed the conference. It was decided public member Jim Slakey will review the agenda and decide if he can attend.

- 3.3 The Council on Licensure, Enforcement, and Regulation (CLEAR) is holding their 2013 annual conference on October 3-5, 2013 at the Hyatt Regency in St. Louis, Missouri.

Commission members decided they won't be sending anyone to the conference.

- 3.4 The Washington State Chiropractic Association (WSCA) is holding their 2013 annual conference on October 11-13, 2013 at the Marriott Seattle Airport in Seattle, WA.

Commission members decided Mr. Nicoloff and Ms. Yount will host a commission table at the conference.

4. ESHB 2366 - SUICIDE EDUCATION STUDY UPDATE – Kathy Schmitt 11:00 a.m.

- 4.1 Kathy Schmitt and Carol Hooven from the University of Washington provided an update about the suicide education study. Some of the updates included:

- 30 professions represented
- 2,083 people answered survey:
 - Does it help to train healthcare providers in suicide prevention?
 - Yes, all studies have positive results.
 - Lack of training for some healthcare professions creates a barrier to determine if a patient is depressed or has suicidal ideation.
 - Report to legislature due in December, then it will be distributed to the department's boards/commissions.

5. DELEGATION OF AUTHORITY – Lilia Lopez, AAG 11:30 a.m.

- 5.1 Ms. Lopez discussed what delegation of signature authority means and what can and can't be delegated.

The commission's authority has been given to it by the legislature under chapter 18.25 RCW. It cannot delegate away this authority except as set forth in the statute. "Delegation of signature authority" is somewhat of a misnomer. The commission makes the underlying decision and then assigns a staff person to sign certain documents for purposes of efficiency. On the other hand, the commission may delegate business to panels of at least three members who may then transact business on behalf of the commission.. Properly delegated committees help to preserve the Commission's ability to form a hearing/appeal panel when someone appeals an item a committee has acted on.

After Ms. Lopez provided guidance on delegation, the commission discussed this and delegated the authority to the Research Committee to act on list/label requests.

- 5.2 The commission transferred CE audits, CE extensions beyond 30-days, and expired and inactive license CE review/approvals to the Panel A/Panel B disciplinary calls.

6. SCOPE OF PRACTICE SUNRISE REVIEW – Dr. Pratt 11:45 a.m.

- 6.1** Dr. Pratt updated commission members about the sunrise review that was held on August 6, 2013. The proposal is to change the scope of practice for chiropractors to include the performance of physical examinations for sports physicals and commercial driver’s licenses.

The Washington State Chiropractic Association, representatives from the University of Western States, and a chiropractic physician from Colorado who offers a training course in these type of exams testified in support of the sunrise. Some testified against the proposal and many provided written comments through the department’s rule comment website.

An additional 10-day comment period will be provided so interested parties can submit additional or rebuttal comments before a report will be drafted by the department.

A final report will be sent to the legislature by December. After the report is finalized, it will be made available to interested parties.

7. TRANSCUTANEOUS ELECTRICAL NERVE STIMULATION (TENS) UNIT 12:00 p.m.

- 7.1** Commission members continued reviewing the use of a TENS unit and the chiropractic scope of practice under RCW 18.25.005. It was decided that a TENS Unit, or similar device, is not within the scope of practice because “chiropractic care does not include the use of sound, diathermy, or electricity” under RCW 18.25.005.

LUNCH - Commission members continued meeting through lunch. 12:00 p.m.

8. MOCK DISCIPLINARY AUDIT CASE REVIEW – Dr. Rogers 12:15 p.m.

- 8.1** Dr. Rogers presented an advertising mock disciplinary audit for training purposes

9. CHIROPRACTIC QUALITY ASSURANCE COMMISSION COMMITTEES 12:30 p.m.

9.1 Planning/Executive Committee:

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

Priority #1

- Committee members met and continued discussing the draft strategic plan and pilot project planning.

9.2 Budget Committee:

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

Priority #1

- Committee members didn’t meet to discuss implementing light refreshments at business meetings. This item will be discussed at the October 10, 2013 meeting.

9.3 Instrumentation and Procedure/Standard of Care Committee:

Members include: Win Hobbs, DC, Chair, Doug Long, DC, Ron Rogers, DC, Ronwynn Pratt, DC, and Vacant DC

Priority #1

- Committee members reviewed the following items and will add them to, the Classification of Chiropractic Procedures and Instrumentation List (List), as follows:
 - Webster Technique – the existing language will be removed from the approved section and added to the non-approved section. However, the clause will remain that the technique is approved for musculoskeletal application only. It's not approved for express purposes of breech presentation.
 - The following approved labs will be added to the List:
 - Fecal, throat swab, and skin scrape

Priority #2

- Committee members furthered analyze and revised the layout of the List. Ms. Yount will make the changes and post the revised List on the website.

9.4 Research Committee:

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

Priority #1

- Committee members reviewed statistics from the disciplinary matrix. They decided they want six different meeting month charts to compare, as this equals one year of statistics. Currently the committee is comparing only two meeting months of statics. Ms. Yount will create the form and place it on the October 10, 2013 committee meeting agenda.

Priority #2

- Committee members reviewed the Federation of Chiropractic Licensing Board's (FCLB) website information for Washington State. It was decided the information was misleading and it needed to be revised. The committee directed Ms. Yount to request replacing the current language under "physiotherapy" on the FCLB website with RCW 18.25.005 (2).

Ongoing

- Committee members reviewed the following list and label requests:
 - Cherry Chiropractic Corporation – seeking interested persons for employment opportunities.
 - Did not meet the intent of the law.
 - Washington State Chiropractic Association – renewing their recognition, as it expired in April 2013.

- Meets the intent of the law.
- Versatility Claims Resources, Inc., - offering a continuing education course.
 - Did not meet the intent of the law.

9.5 Continuing Education/Continued Competency/State Examination Committee:

Members include: Aaron Chan, DC, Chair, Bryson Langel, DC, Win Hobbs, DC, Louise Stephens, Public Member, and Vacant DC

Priority #1

- Committee members deferred reviewing continuing education (CE) license renewal audits to a panel call.

Priority #2

- Committee members deferred reviewing CE documentation to reactivate expired licenses to a panel call.

Priority #3

- Committee members reviewed information regarding the option to have the jurisprudence (JP) exam on the website. The department has the ability to place the JP exam securely online. Ms. Yount will look further into the details and provide an update at a future commission meeting.

Ongoing:

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

9.6 Communications Committee:

Members include: Doug Long, DC, Chair, Patrick Espana, Public Member, Robert Schmitt, DC, Ronwynn Pratt, DC (Acting Chair), and Vacant DC

Priority #1

- 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.
 - Responsibility of a Retiring Chiropractor – Patrick Espana
 - Bad X-rays – Dr. Smith
 - Audits

The following articles will go in the September – December 2013 Newsletter:

- Coding for Massage Therapy versus Manual Therapy – Dr. Rasmussen
- Disciplinary Matrix Usage – Louise Stephens
- Communications – Gary Schultz, DC, DACBR
- Classification of Chiropractic Procedures & Instrumentation List – Dr. Hobbs

Articles Under Review:

- Communications – Gary Schultz, DC, DACBR

Ongoing:

- Summary of disciplinary cases – Leann Yount

9.7 Pilot Committee:

Members include: Matthew Waldron, DC, Chair, Jim Slakey, Public Member, Ron Rogers, DC, Harold Rasmussen, DC, and Gabe Smith, DC

Priority #1

- Committee members reviewed the draft pilot project strategic plan. Mr. Nicoloff will continue working on the draft and provide updates to the Pilot Committee as needed. An update will also be provided at the October 10, 2013 commission meeting.

Priority #2

- Committee members reviewed and accepted the draft pilot project reimbursement form. Ms. Yount will begin tracking the pilot project time separately from regular commission business work/time.

10. COMMITTEE REPORTS 3:30 p.m.

10.1 Committees reported to the commission about their committee work. Some items were presented as a status update and others were presented for consideration.

- See agenda item nine for report.

11. NEW BUSINESS REQUESTED FROM JUNE 6, 2013 MEETING –Dr. Smith 4:00 p.m.

11.1 Commission members discussed and determined how to proceed with the following requested new business items:

- Affiliated Monitors – Dr. Rasmussen:
 - Dr. Rasmussen wanted the commission to know about a monitoring service that is available. The commission currently uses the department for compliance monitoring.
- Documentation – Dr. Hobbs and Dr. Rasmussen:
 - For training purposes, Dr. Hobbs proposed that the doctors bring redacted chart files for the commission to review together. This will identify the various ways to document. Commissioners have to decipher respondent’s chart notes and need to understand what they’re looking at and how to interpret them.
 - Commission members will send the files to Ms. Yount to prepare for the December 12, 2013 meeting.
- L&I Provider Network:
 - Some commission members are not happy that the commission wasn’t aware of the rule making.
 - Dr. Rasmussen proposed creating an early remediation program that is non-disciplinary program. Need to explore areas of actions less than a STID.

- Future Workshop:
 - The Executive Committee will discuss when to have another workshop.

12. RULES REVIEW PROCESS CONTINUED – Dr. Smith 4:15 p.m.

12.1 Commission members deferred reviewing, discussing, and prioritizing the rules review matrix to the October 10, 2013.

13. MANAGEMENT REPORT – Bob Nicoloff, Executive Director and Leann Yount 4:40 p.m.

13.1 Ms. Yount presented an update to the 2014 meeting locations, as follows:

- February 13, 2014 – Tumwater, Town Center 2 Building, Room 158
- April 10, 2014 – Tumwater – Point Plaza East Building, Rooms 152/153
- June 12, 2014 - Kent, Centerpointe Conference Center, Room 307
- August 14, 2014 – Tumwater
- October 9, 2014 – Kent
- December 11, 2014 - Tumwater

13.2 Mr. Nicoloff and Steve Hodgson, HSQA Financial Director, provided an update regarding the licensing fee decrease and timeline to include:

- Draft CR 102 rules package – August 5, 2013
- File CR 102 – September 4, 2013
- Public hearing – October 8, 2013
- Draft CR 103 rule package – October 18, 2013
- File CR 103 – November 15, 2013
- 31-days after filing or no later than January 1, 2014

The \$100 fee decrease will be applied to the chiropractic application and license renewal fees. The new renewal fee will be reflected on the renewal notices being mailed in October even though the decrease doesn't take effect until a future date.

13.3 Ms. Yount requested Disciplinary Panel A commissioners to volunteer for a hearing in February 2014. Ms. Yount secured three commissioners for the hearing.

14. NEW BUSINESS 4:50 p.m.

14.1 Commission members or program staff requested the following items for the next meeting agenda:

- Forming an education team to present short CE seminars to educate chiropractors on various commission related topics.
- Amend the bylaws under Article VI and VII.

15. PUBLIC COMMENT 4:55 p.m.

15.1 No members from the public addressed the commission.

16. 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. If discussion was needed, that item was moved and placed on the business agenda for discussion.

16.1 July 2013 issue of “The Sentinel News for Department Employees.”

16.2 Chiropractic and chiropractic x-ray licensing statistics as of July 2013.

17. COMMISSION ADJOURNMENT

5:22 p.m.

Next Meeting: October 10, 2013
Department of Health
20425 72nd Ave. S., Room 307
Kent, WA 98032

Prepared By: Leann Yount, Program Manager

Date

Approved By: Gary “Gabe” Smith, DC, Chair

Date

Licensing Statistics as of August 1, 2013

Chiropractic X-ray Technicians

	June 5, 2013	August 1, 2013
Total Active Licenses	212	217
Total Pending Licenses	8	9
Total Expired Licenses	849	858
Total Revoked	1	1
Total Suspended	3	3
Active on Probation	0	0
Active with Restrictions	0	0

Chiropractors

	June 5, 2013	August 1, 2013
Total Active Licenses	2305	2316
Total Pending Licenses	36	35
Total Inactive Licenses	180	185
Total Expired Licenses	2421	2436
Total Revoked	33	34
Total Suspended	46	45
Active on Probation	12	12
Active with Restrictions	1	1