



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

August 14, 2014 – 9:00 a.m. to 4:30 p.m.

Department of Health (department)
Point Plaza East, Rooms 152/153
310 Israel Road
Tumwater, WA 98501

Commission Members:

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

Commission Staff Present

Leann Yount, Program Manager
Bob Nicoloff, Executive Director
Billie Jo Dale, Program Representative
Lilia Lopez, Assistant Attorney General (AAG)
Patrick Hanley, DOH Staff Attorney
Mike Ellsworth, DOH Supervising Staff Attorney

Others Present

Danielle Welliever, DOH Policy Analyst
Colin Caywood, AAG
Lori Grassi, WSCA

On August 14, 2014 the Chiropractic Quality Assurance Commission (commission) met in Tumwater, Washington at 310 Israel Road, Rooms 152/153. In accordance with the Open Public Meetings Act, the regular meeting agenda was made available on line at least 24-hours prior to the meeting.

OPEN SESSION – August 14, 2014

9:05 a.m.

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

9:05 a.m.

- 1.1 The agenda was approved as presented.
- 1.2 The June 12, 2014 meeting minutes were approved as presented.
- 1.3 Message from the Chair:

- Dr. Smith provided an update on commission member appointments. David Folweiler, DC and James Slakey have been re-appointed to a four-year term.

The Governor's Office is vetting to fill Dr. Roger's seat. At this time, Dr. Rogers position has not been filled. The position should be filled before the October 16, 2014 meeting.

- At the June 12, 2014 meeting, Dr. Waldron requested that Independent Chiropractic Examination (ICE) paper reviews be added under new business to the August 14, 2014 meeting agenda. His concern was that recommendations regarding patient care are being rendered by the ICE without a physical examination of patients.

Dr. Waldron indicated that after reviewing [RCW 18.25.005](#) and [RCW 18.25.006](#), he is withdrawing his request because the law clearly requires the patient to be physically examined.

More specifically, [RCW 18.25.005\(3\)](#) states that as part of a chiropractic differential diagnosis, a chiropractor shall perform a physical exam, which may include diagnostic x-rays, to determine the appropriateness of chiropractic care or the need to refer the patient to another healthcare provider.

2. CASE PRESENTATION

9:15 a.m.

- 2.1** Stipulated Findings of Fact, Conclusions of Law and Agreed Order on Reinstatement –Panel B
Respondent: Michael Breneman, DC
Master Case No: M2008-118770
Staff Attorney: Patrick Hanley

The Respondent did not appear before the commission. The order was not presented.

3. BOARD AND COMMISSION LEADERSHIP MEETING – Dr. Smith, DC, Chair 9:30 a.m.

- 3.1** Dr. Smith attended the Department of Health (department) annual board and commission leadership meeting on June 13, 2014. The department holds the leadership meeting each year to provide a business update to boards and commissions. Approximately 25 boards and commission were represented. Each board and commission also gave a brief update about the work and issues they are handling.

Some of the highlights included a presentation by Lisa Robin of the Federation of State Medical Board on telemedicine and the standards for delivery of care. Drew Bouton, Director and Kristin Peterson Deputy Director of the department's Policy, Legislative and Constituent Relations, reported on the 2014 legislative session including the new requirements for continuing education (CE) in suicide prevention. In addition, a law passed under the Open Public Meetings Act (OPMA) requiring that new commission members receive OMPA training given by the Attorney General's Office within 90-days of being appointed to the commission. Then everyone must be retrained on OMPA every four-years.

The next legislative session will begin January 12, 2015.

4.1 Bob Nicoloff provided a Pilot Project Activities and Workgroup update, as follows:

Pilot Project Update:

- Legal Workgroup:

Mr. Nicoloff reported that the Legal Workgroup has been working on developing formats for reports that will go to the commission and staff. The workgroup's goal is to establish a timeline for regular case status reports, hold oversight meetings with department staff, brainstorm regarding disciplinary education, training, policy development, refine goals, set objectives, and review progress for the workgroup.

- Credentialing and Budget Workgroups:

Mr. Nicoloff reported that both the Budget and Credentialing Workgroups meetings had to be postponed. The Budget Workgroup was working on including additional analyses and notes to the budget summary. The budget's ending reserve revenue balance decreased by \$55,000 due to the \$100 fee decrease in January and additional staff hired in May.

Mr. Nicoloff reported that the Credentialing Workgroup is working on completing new applications for preceptors and thirty-day permits.

- Investigative Workgroup:

Mr. Nicoloff reported that Judy Colenso will be replacing Dr. Rogers on the Investigative Workgroup.

Mr. Nicoloff reported that the Nursing Care Quality Assurance Commission (NCQAC) has signed their Operating Agreement (OA) with the department.

The OA had some significant changes in the way they do business. The NCQAC will be employing dedicated staff attorneys and the Washington Health Professional Services (WHPS) program and their staff.

The Health Professions and Facilities (HP&F) indirect overhead charge is still an unresolved issue. The issue was raised with the Office of Financial Management for review. This is significant to the pilot commissions, as this may determine a different percentage that the commissions are charged. Currently the indirect rate is charged at 28 percent. Mr. Nicoloff will meet with department management in preparation for discussion with the secretary on the OA.

The commission leadership is planning to meet with legislators to share the new procedure for addressing scope of practice questions.

Mr. Nicoloff also reported that the first online jurisprudence exam has been drafted and will be presented at the October 16, 2014 meeting. A cost analysis was also completed to determine what fee to charge when utilizing the jurisprudence exam in disciplinary cases.

- 4.2 Mr. Nicoloff attended the recent Washington State Chiropractic Association (WSCA) board meeting. Dr. Clyde B. Jensen, Ph.D., gave a presentation on Mending the Chiropractic Clef. A copy of the presentation was provided to the commission members.

5. APPLICATION ISSUE – Lilia Lopez, AAG 10:00 a.m.

- 5.1 The commission discussed the chiropractic license application requirements under [RCW 18.25.020](#) to include, but not limited to, the law directing that applications be in writing and notarized. Ms. Lopez advised that because the language is so specific regarding the requirement that applications must be in writing and notarized, it makes it hard to go to an online application process.

The department is in the process of moving towards requiring applicants to complete an application online instead of a paper application. The goal is that all professions applications will only be handled electronically by June 30, 2016. Mr. Nicoloff reported that OFM is working with the Chief Information Officer to remove statutory barriers regarding electronic signatures.

Because RCW 18.25.020 requires a notary, a motion was made for the notary requirement to be placed back on the application instructions within 30-days and the applications must be notarized. The motion was approved all in favor.

6. PRECEPTOR LICENSE UPDATE– Bob Nicoloff, Executive Director 10:30 a.m.

- 6.1 Mr. Nicoloff reported on recent experiences and frustrations that both the program staff and the WSCA are receiving about the preceptor application process. The issues seem to be around the process of having to complete a new application every time the preceptor license is requested. The license is good for one year and it is not renewable. The commission, AAG, and staff have been looking at the laws and rules to see if this license can be renewed.

The WSCA has also expressed interest to the commission about amending the preceptor rule under [WAC 246-808-190](#) to clarify that regular senior students can perform duties either inside or outside of a clinic, such as a sporting event, as long as the student is under a commission approved preceptor and the preceptor is onsite.

A motion was made to put this item on the October 16, 2014 Rules Committee agenda for further discussion. The motion was approved all in favor.

7. DIAGNOSTIC ULTRASOUND – Dr. Smith, Chair 11:00 a.m.

- 7.1 Commission members discussed an inquiry that was received from a vendor regarding whether ordering a diagnostic ultrasound (DU) for various conditions is within the chiropractic [scope of practice](#).

Ms. Grassi from the WSCA referred the vendor to the commission for a response. The vendor wants to have a booth at the WSCA annual conference. The WSCA wanted the vendor to make sure that DU is within the chiropractic scope of practice before hosting a booth at the conference.

After discussion the following motion was made:

Chiropractors ordering diagnostic testing, and the results are interpreted by a licensed practitioner for the purpose of making a differential diagnosis, is within the chiropractic scope of practice. In addition, [RCW 18.25.005\(3\)](#) requires chiropractors to refer patients to other healthcare providers, for treatment of conditions which are beyond the chiropractic scope of practice.

The motion was approved all in favor.

8. REVIEW DRAFT COMMISSION STATEMENT REGARDING IN-STATE EDUCATION COURSES ON SUBJECTS OUTSIDE SCOPE OF PRACTICE – Dr. Smith, Chair and Bob Nicoloff, Executive Director

8.1 Recently the commission has been made aware of an in-state chiropractor education course being offered on procedures that are not within the chiropractic scope of practice in Washington (WA). The commission reviewed the draft response and made changes to the statement. It clarifies that the completion of courses do not permit chiropractors to work beyond the WA scope of practice, and that such courses will not be recognized in satisfying a chiropractors continuing education (CE) requirement.

For example, chiropractors may not perform acupuncture procedures in WA as per RCW 18.25.005 and [WAC 246-808-580](#). Even if a chiropractor completes a course in acupuncture, this will not permit the chiropractor to practice acupuncture in WA. If the chiropractor wishes to practice acupuncture in WA, then they must obtain an additional professional license which includes the practice of acupuncture, such as the WA East Asian Medicine Practitioner license.

[WAC 246-808-155](#) doesn't require the chiropractor to obtain approval prior to taking a course. However, if the course doesn't fall within an approved CE category under [WAC 246-808-150](#), it would not be accepted towards their license renewal CE hours.

To ensure patient safety and compliance with state regulations, the commission strongly advises that chiropractors carefully review whether courses they are considering are on procedures and techniques that chiropractors can legally perform in WA.

A motion was made to approve the statement. The motion was approved all in favor. Ms. Yount will send the statement out via the chiropractic listserv and also have it posted on the website.

9. MOCK DISCIPLINARY AUDIT CASE REVIEW – Dr. Hobbs 11:30 a.m.

9.1 Dr. Hobbs presented a mock case for training purposes.

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

10.1 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 reviewed venue information for the 2015 spring workshop. It was decided that the workshop will be held on April 11-12, 2015 at either the Davenport or Oxford Suites in Spokane. The committee recommended that Ms. Yount obtain additional cost information from both locations before a final decision can be made.

Priority #2

- Committee members discussed hosting a table at the WSCA October 18-19, 2014 annual conference and what materials to bring. The committee recommended that the commission host a table and what items to bring. The commission voted all in favor of hosting a table again to include the following items:
 - 10 copies of laws/rules,
 - recent newsletters,
 - listserv sign-up sheet,
 - program information sheet, and
 - rules priority list

10.2 Budget Committee:

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

Priority #1

- Committee members reviewed the current budget report. The budget looks good. There are no concerns at this time.

Priority #2

- Committee members reviewed the costs associated with administering the Jurisprudence exam in disciplinary matters. After reviewing a cost recovery analysis, the committee recommended charging a \$100 exam fee each time it is taken by licensees as a disciplinary sanction.

Commission members were all in favor and approved the exam fee.

10.3 Instrumentation and Procedure/Standard of Care Committee:

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

Priority #1

- Committee members discussed the April 10, 2014 Diagnostic Ultrasound (DU) and Pulse Electro-Magnetic Field (PEMF) presentations. On presentation to the commission, the committee reported that the requestor was sent the newly adopted procedure and form to complete for both the DU and PEMF before they can be added to the Classification of Procedures and Instrumentation List. Completed forms have not been returned. Without the completed forms, the committee cannot make a recommendation to the commission. Ms. Yount will send another email to the requestors asking them to complete the new form. When the forms are received, this item will be added to a future meeting agenda.

Priority #2

- Committee members did not continue to discuss ICEs because it was covered under item 1.3.

10.4 Research Committee:

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

Priority #1

- Committee members discussed [ESHB 2160](#) – Physical Therapist (PT) and spinal manipulation to see where the commission may need to conduct rulemaking. The PT board is in the preliminary rulemaking phase. They are holding their first rule writing workshop on August 18, 2014. The commission will continue to monitor the process to determine if and when the commission should provide input.

Ongoing

- Committee members reviewed additional information that was received for the list and label request:
 - Veeva Systems – Requested list/labels to be used for licensure verification to determine which providers are permitted to practice. The committee reviewed the additional information submitted by Veeva Systems. The commission voted to deny this request, as they are not a professional association or educational organization.

10.5 Continuing Education/Continued Competency/State Exam Committee:

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

Priority #1

- There was a delay with placing the jurisprudence exam online. A status update will be provided at the October 16, 2014 meeting.

Priority #2

- The committee reviewed the draft policy regarding CE audit delegation. On presentation to the commission, the draft policy was approved all in favor for use.

Ongoing:

- There were no jurisprudence exam comments to review.

10.6 Communications Committee:

Members include: Doug Long, DC, Chair, Judy Colenso, Public Member, Robert Schmitt, DC, Ronwynn Pratt, DC, and Vacant DC

Priority #1

- Committee members reported that they did not have new articles to review. Dr. Pratt will contact Dr. Long on the status of his two pending articles. Commission members will bring articles or article ideas to the October 16, 2014 meeting.
- 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 – Judy Colenso
 - Audits
 - Pilot Project Update – Dr. Waldron and Mr. Nicoloff
 - Suicide assessment, screening, and referral
 - Electronic Records Retention
 - Disciplinary Jurisprudence Exam Fee

Articles Under Review:

- None

Ongoing:

- Summary of disciplinary cases – Leann Yount

Priority #2

- Chiropractic Quality Assurance Commission Overview PowerPoint Presentation
 - Committee members deferred working on the presentation to the October 16, 2014 meeting.

Priority #3

- Committee members reviewed the chiropractic website and made the following recommendations to the commission:
 - Separate the chiropractic and the chiropractic x-ray technician professions and make two web pages,
 - Align the chiropractic web page link to the section where medical and nursing are,
 - Include pictures, and
 - Organize web page layout better

As presented to the commission, they voted all in favor for Ms. Yount to move forward with the changes.

10.7 Pilot Committee:

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

Priority #1

- Committee members did not meet to discuss the Pilot Workgroups progress, as this was covered under item 4.

10.8 Rules Committees Panel A:

Members include: Harold Rasmussen, Chair, Winfield Hobbs, DC, Robert Schmitt, DC, Gabe Smith, DC, Bryson Langel, DC, David Folweiler, and Jim Slakey, Public Member

Priority #1

- Committee members continued to review and work on the draft language of [WAC 246-808-150](#) – Continuing Education language for the CR102. The committee presented their recommendations to the commission. The significant change from the last meeting is the suggestion to remove the hour limitation on chiropractic philosophy.

A motion was made to move forward with the new draft language and file the CR102. The commission voted eleven in favor, one opposed, and two were absent for the vote. Ms. Dale and Ms. Yount will work together and move forward with filing the CR 102.

The rules hearing will likely be held during the December 11, 2014 meeting in Tumwater.

10.9 Rules Committees Panel B:

Members include: Ronwynn Pratt, DC, Chair, Aaron Chan, DC, Doug Long, DC, Matthew Waldron, DC, Judy Colenso, Public Member, and Louise Stephens, Public Member

Priority #1

- Committee members tabled continuing to work on amending the language of [WAC 246-808-550](#) – Future Care Contract language for the CR102 until more review is done regarding the Office of the Insurance Commissioner laws.

11. COMMITTEE REPORTS

3:00 p.m.

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

12. MANAGEMENT REPORT – Bob Nicoloff and Leann Yount

3:30 p.m.

- 12.1 Ms. Yount presented information about the [Citizen Advocacy Center 2014 Annual Meeting](#). The meeting will be held October 23-24, 2014 in Baltimore, MD. The theme of the meeting is Effective Regulation through Collaboration.

The commission decided not to send a public member to this meeting.

- 12.2 October commission meeting date and location:

Moved from October 9, 2014 to October 16, 2014 at:
Comfort Inn Conference Center
1600- 74th Avenue Southwest
Tumwater, WA 98501

- 12.3 Ms. Yount reported that the Federation of Chiropractic Licensing Boards District I and IV meeting will be held on October 10-12, 2014. The commission members that are attending the conference will only receive three days per diem for meals, be paid for three days, and be reimbursed for the hotel stay on October 9, 10, and 11, 2014.

- 12.4 Ms. Yount reported that the department is working on updating their sexual misconduct rules language under Chapter 246-16-WAC.

[WAC 246-16-100](#) says “a healthcare provider shall not engage, or attempt to engage, in sexual misconduct with a current patient, client, or key party.” The proposed draft language includes, adding to the definition of sexual misconduct, any type of a sexual conviction, even if the instance does not involve a current patient, client, or key party. They are asking the boards and commission to consider amending their rules as well to align with the department’s rules. This item will be added to the October 16, 2014 meeting agenda under New Business.

13. NEW BUSINESS

- 13.1 The Sexual Misconduct rule under [WAC 246-808-590](#) will be reviewed at the October 16, 2014 commission meeting, along with the department’s proposed changes to [WAC 246-16-100](#) for consistency.

14. PUBLIC COMMENT

3:50 p.m.

- 14.1 Ms. Grassi asked the commission’s opinion if they want WSCA to move forward with legislation that adds more time to commission member term limits. Commission members provided their thoughts about lengthening the current four-year term limits to longer terms. Members felt that additional time would be helpful, as it does take time for new members to get up to speed. The public members thought this was especially important for their terms, as they aren’t licensed in the profession they are appointed to so it naturally takes longer to learn the nuances of the profession.

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 “July 2014 issue of “The Sentinel News for Department Employees.”

15.2 Chiropractic and chiropractic x-ray licensing statistics as July of 2014.

16. COMMISSION ADJOURNMENT

4:30 p.m.

Next Business Meeting:

October 16, 2014
Comfort Inn Conference Center
1600 74th Avenue Southwest
Tumwater, WA 98501

Prepared By: Leann Yount, Program Manager

Date

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

Date

Licensing Statistics as of July 29, 2014

Chiropractic X-ray Technicians

	May 30, 2014	July 29, 2014
Total Active Licenses	206	205
Total Pending Licenses	7	16
Expired in Renewal (expired within 1 year since last renewed)	58	65
Expired Licenses (expired more than 1 year since last renewed)	898	904
Total Revoked	1	1
Total Suspended	3	3
Active on Probation	0	0
Active with Restrictions or Conditions	0	0

Chiropractors

	May 30, 2014	July 29, 2014
Total Active Licenses	2361	2363
Total Pending Licenses	41	41
Total Inactive Licenses	162	159
Expired in Renewal (expired within 1 year since last renewed)	85	85
Expired Licenses (expired more than 1 year since last renewed)	2526	2539
Total Revoked	35	35
Total Suspended	42	42
Active on Probation	9	7
Active with Restrictions	1	1
Active with Conditions	12	13