



State of California
Edmund G. Brown Jr., Governor

**BOARD OF CHIROPRACTIC EXAMINERS
PUBLIC SESSION MINUTES**

September 20, 2012
Radisson LAX
6225 West Century Blvd.
Los Angeles, CA 90045

Board Members Present

Hugh Lubkin, D.C., Chair
Heather Dehn, D.C., Vice Chair
Francesco Columbu, D.C., Secretary
Julie Elginer, Dr. PH
Sergio Azzolino, D.C.

Staff Present

Robert Puleo, Executive Officer
Spencer Walker, Staff Counsel
Linda Shaw, Staff Services Manager
Sandra Walker, Staff Services Manager
Dixie Van Allen, Associate Governmental Program Analyst
Valerie James, Office Technician

Call to Order

Dr. Lubkin called the meeting to order at 10:03 a.m.

Roll Call

Dr. Columbu called the roll. All members were present.

Chair's Report

Dr. Lubkin reported on recent activities relating to Board matters.

Approval of Minutes

July 19, 2012 Board Meeting

MOTION: DR. DEHN MOVED TO APPROVE THE MINUTES

SECOND: DR. ELGINER SECONDED THE MOTION

VOTE: 5-0

MOTION CARRIED

T (916) 263-5355
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TT/TDD (800) 735-2929
Consumer Complaint Hotline
(866) 543-1311

Board of Chiropractic Examiners
2525 Natomas Park Drive, Suite 260
Sacramento, California 95833-2931
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Executive Officer's Report

Mr. Puleo gave the Executive Officer's Report. The topics were Administration, Licensing, and Enforcement. Mr. Puleo requested to take the Budget item later during the meeting upon the arrival of Cynthia Dines, from the Department of Consumer Affairs' (DCA) Budget Office.

Ratification of Approved License Applications

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

SECOND: DR. DEHN SECONDED THE MOTION

VOTE: 5-0

MOTION CARRIED

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

Ratification of Approved Continuing Education Providers

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

SECOND: DR. ELGINER SECONDED THE MOTION

VOTE: 5-0

MOTION CARRIED

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

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

Ratification to Waive Two Year Requirement to Restore a Canceled License

MOTION: DR. DEHN MOVED TO RATIFY THE RECOMMENDATION TO WAIVE THE TWO YEAR REQUIREMENT TO RESTORE A CANCELED LICENSE

SECOND: DR. LUBKIN SECONDED THE MOTION

VOTE: 5-0

MOTION CARRIED

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

The Use of the Zerona Laser for Laser Lipo Treatment

Dr. Columbu opened discussion on this agenda item and requested Legal Counsel's opinion regarding whether Laser Lipo Treatments are within a chiropractor's scope of practice. The Board's Legal Counsel, Mr. Walker stated his opinion that's based on the Board's laws and regulations as well as case law, Laser Lipo is not within the scope of practice because it's a cosmetic procedure and it was not taught in chiropractic schools in 1922.

Dr. Lubkin noted that this has already been addressed in the Board's Laser Safety Regulations (Section 302.5), which prohibit chiropractors from using lasers that have not been approved by the FDA as well as using a laser outside the chiropractic scope of practice.

The Board had a lengthy discussion regarding laser lipo devices and treatments.

Dr. Charles Davis, D.C. representing the International Chiropractic Association of California (ICAC) stated his opinion regarding Laser Lipo treatments.

Dr. Timothy Jennings, D.C. testified regarding his use of lasers to perform lipo treatments in his practice.

This topic was tabled pending further research.

Board Member Administrative Procedure Manual

Dr. Columbu opened discussion on the topic. Dr. Elginer suggested the Board Member Administrative Procedure Manual be updated to accurately reflect the Board Member's current work assignments.

Board Member Testifying as Experts

The Board discussed when Board Members should and should not testify as experts for Legislative hearings, malpractice cases, etc. whether it is appropriate for a Board Member to identify him/herself when serving as an expert.

Dr. Davis shared his comments regarding this topic.

The Board moved back to Agenda Item 4B – Executive Officer's Report – Budgets.

Executive Officer's Report - Budget

Cynthia Dines from DCA's Budget Office came forward to report on the Board budget. The Board went into Closed Session to discuss detailed budget issues.

Physio Therapy Guidelines – Misconduct

This item was tabled for another Board Meeting.

Enforcement Committee Meeting Update

Dr. Lubkin reported what was discussed at the previous Enforcement Committee Meeting.

Proposed Omnibus Consumer Protection Regulations

The Board had a brief discussion on the subject.

MOTION: DR. COLUMBU MOVED TO ACCEPT THE CHANGES AS PROPOSED BY THE ENFORCEMENT COMMITTEE AS AMENDED

SECOND: DR. AZZOLINO SECONDED THE MOTION

VOTE: 5-0

MOTION CARRIED

MOTION: DR. LUBKIN MOVED TO HAVE THE AMENDED LANGUAGE TO THE PROPOSED REGULATION SUBMITTED TO THE OFFICE OF ADMINISTRATIVE LAW

SECOND: DR. DEHN SECONDED THE MOTION

VOTE: 5-0

MOTION CARRIED

Standards for Extracorporeal Shock Wave (ECSW) Therapy – Proposed Regulation Section 318.2

Dr. Lubkin opened discussion on the proposed regulation for ECSW Under Anesthesia, which the Enforcement Committee recommends the Board move forward to Rulemaking.

Dr. Columbu questioned whether ECSW is within the chiropractic scope of practice.

The Board's Legal Counsel, Mr. Walker, stated his opinion that it is not authorized pursuant to the Cree's and Tain decisions.

Dr. Lubkin noted that ECSW is a form of ultrasound and that the Enforcement Committee heard testimony from Edward Cremata, D.C. who teaches ECSW and is of the opinion that it is an ultrasound-based technology.

Dr. Columbu stated his opinion that ECSW is not a form of ultrasound.

The Board discussed whether ECSW is the same as a lithotripter, which is specifically prohibited by Section 302.

Dr. Dehn pointed out that subdivision (f) of the proposed language specifically states that ECSW therapy is limited to ultrasound related technologies within the scope of practice of a chiropractor.

Dr. Davis commented regarding his understanding of the law and his belief that it is appropriate for a chiropractor to use ECSW for musculoskeletal purposes.

MOTION: DR. LUBKIN MOVED TO APPROVE THE PROPOSED LANGUAGE

SECOND: DR. AZZOLINO SECONDED THE MOTION

VOTE: 5-0

MOTION CARRIED

**MOTION: DR. LUBKIN MOVED TO HAVE THE APPROVED PROPOSED LANGUAGE
SUBMITTED TO THE OFFICE OF ADMINISTRATIVE LAW**

SECOND: DR. AZZOLINO SECONDED THE MOTION

VOTE: 5-0

MOTION CARRIED

Name of Corporation – Regulation Section 367.7 & Corporations Code Section

Dr. Azzolino opened the discussion on this topic and noted that Section 367.7 of the Board's regulations unnecessarily restricts the name of a chiropractic corporation to the name or last name of one or more of the corporation's shareholders. He also pointed out that this section conflicts with Section 1054 of the Business and Professions Code.

The Board discussed this provision and agreed that Section 367.7 should be repealed.

MOTION: DR. COLUMBU MOVED TO REPEAL SECTION 367.7

SECOND: DR. AZZOLINO SECONDED THE MOTION

VOTE: 5-0

MOTION CARRIED

MOTION: DR. LUBKIN MOVED TO HAVE STAFF BEGIN THE REGULATORY PROCESS

SECOND: DR. COLUMBU SECONDED THE MOTION

VOTE: 5-0

MOTION CARRIED

Government Affairs Committee Meeting Update

Dr. Lubkin gave an overview of the Government Affairs Committee Meeting.

Legislative Update

- A. SB 924 (Price) – Patient Direct Access to Physical Therapist and Provider Corporations
Mr. Puleo reported that the bill failed in Assembly.

The Board moved forward to Agenda Item 17 – Public Comment then Agenda Item 18 Future Agenda Items.

Public Comment

None

Future Agenda Items

Dr. Elginer requested to have the Governor's Reorganization Plan be addressed at the next Board Meeting. Dr. Lubkin indicated that he would like to address this item at the first of next year.

Dr. Dehn requested to have Groupons and Living Social advertisements be addressed at a future Committee Meeting.

Dr. Lubkin requested to hold committee meetings for all three Committees. Dr. Lubkin requested the matter of unlicensed Chiropractors from foreign countries seeking licensure be discussed at the upcoming Licensing Committee meeting.

Hearings Re: Petition for Reinstatement of Revoked License

Administrative Law Judge David Rosenman presided over and Deputy Attorney General Thomas Rinaldi appeared on behalf of the people of the State of California on the following hearing:

- A. Alex Giventer

Closed Session

The Board went into closed session for deliberation on Board related matters.

Adjournment

Dr. Lubkin adjourned the meeting at 2:49 p.m.

(ATTACHMENT A)

Approval By Ratification of Formerly Approved License Applications
May 1, 2012 – June 30, 2012

Name (First, Middle, Last)			Date Issued	DC#
Jeffrey	Forrest	Armstrong	7/5/2012	32356
Jonathan	David	Diaz	7/5/2012	32357
Andrew	Robert	Dyer	7/5/2012	32358
Derrick	Jeffrey	Giles	7/5/2012	32359
Ginger	Ann	Kastens	7/5/2012	32360
Anthony	David	Mills	7/5/2012	32361
Kyle	Kamran	Jahangiri	7/10/2012	32362
Katie	Ruth	Ngan	7/11/2012	32363
Shadi		Rahmani	7/11/2012	32364
Peter		Salama	7/11/2012	32365
Matthew	Raymond	Skalski	7/17/2012	32366
Karo		Ter-Nersesyan	7/17/2012	32367
Kombiz	Klam	Pourteymoor	7/24/2012	32368
Nicholas	Joseph	Wirtz	7/24/2012	32369
Bethanne	Marie	Baretich	7/31/2012	32370
Dennis	Hamilton	Barker	7/31/2012	32371
Shawn	Christopher	Borges	7/31/2012	32372
Michael	Fischer	Cady	7/31/2012	32373
Angela	Marie	Caraza	7/31/2012	32374
Jeffrey	Alexander	Chan	7/31/2012	32375
Amber	Marie	Eckel	7/31/2012	32376
Austin	Jay	Komarek	7/31/2012	32377
Tan	T	Nguyen	8/3/2012	32378
Cameron	Thomas	Quillian	8/3/2012	32379
Michael	Casey	Schmitz	8/3/2012	32380
Aaron	Matthew	Ayala	8/7/2012	32381
Kristin	Marie	Beierle	8/7/2012	32382
Jenny	Brook	Merkel	8/7/2012	32383
Matthew	Benjamin	Murphy	8/7/2012	32384
Gary	Peter-James	Van Lue	8/8/2012	32385
Dan	Mitchell	Oliver	8/8/2012	32386
Jonathan	David	Block	8/8/2012	32387
Joshua	Paul	Leach	8/8/2012	32388

Jasmine	Lee	Alden	8/9/2012	32389
Gloria	Zapien	Andrade	8/9/2012	32390
Daniel	Lazar	Katrikh	8/9/2012	32391
Ahmed	Ezzat	Korayem	8/9/2012	32392
Roma	Jean	Nall	8/10/2012	32393
Heather	Nadine	Vaughn	8/10/2012	32394
Nathan	Jerome	Sermersheim	8/10/2012	32395
Jeremy	Tjandra	Subadya	8/10/2012	32396
Richard	William	Rowley	8/21/2012	32397
JB		Silver	8/21/2012	32398
Jeremy	Elias	Sontag	8/21/2012	32399
Brian	James	Van Aken	8/21/2012	32400
Leslie	Judith	Veliz	8/21/2012	32401
Teja	Carisa	Fox	8/24/2012	32402
Jong	Han	Kim	8/24/2012	32403
Ricardo		Marquetti	8/24/2012	32404
Katherine	Ruth	McDermont	8/24/2012	32405
Rodrigo	Ta'Vora	Oliveira	8/24/2012	32406
Amy	Marie	Shu	8/24/2012	32407
Manita		Verma	8/24/2012	32408
Corinne	Renee	Skutley	8/24/2012	32409
Roshani		Desai	8/29/2012	32410
Cory	Patrick	Barker	8/30/2012	32411
Kristy	Lynn	Kahn	8/30/2012	32412
Sue	Ok	Lee	8/30/2012	32413
Nasim		Pedram	8/31/2012	32414
Eugene		Plotitsa	8/31/2012	32415

(ATTACHMENT B)

Approval by Ratification of New Continuing Education Providers

CONTINUING EDUCATION PROVIDERS

1. VITAL Imaging

2. Emergency Care & Safety Inst

3. Arthur Faygenholtz, D.C.

4. The Chiropractic Seminar Gro

(ATTACHMENT C)
Recommendation to Waive Two Year Requirement
on Restoration of a Cancelled License

Name (Last, First MI)	License No.	Cancellation Date
Sihock, Franklin	23985	May 31, 2011