

Board of Chiropractic Examiners

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**BOARD OF CHIROPRACTIC EXAMINERS****PUBLIC SESSION MINUTES****Thursday, October 25, 2007****9:00 a.m.****Department of Consumer Affairs
1625 N. Market Blvd., Suite S102
Sacramento, CA 95834****BOARD MEMBERS PRESENT**

Richard Tyler, D.C., Secretary
Francesco Columbu, D.C.
Frederick Lerner, D.C.
Jim Conran
Hugh Lubkin, D.C.

BOARD MEMBERS ABSENT

Judge James Duvaras, Retired

STAFF PRESENT

Brian J. Stiger, Executive Director
LaVonne Powell, DCA Senior Staff Counsel
Thomas Rinaldi, Deputy Attorney General
Lavella Matthews, Acting Licensing Manager
Marlene Valencia, Staff Services Analyst

PETITION HEARINGS:

Ann Sarli, Administrative Law Judge
Elena Almanzo, Deputy Attorney General

Call to Order

Dr. Tyler called the meeting to order at 9:00 a.m.

Roll Call

Dr. Columbu called the roll. All members were present with the exception of Judge Duvaras.

Mr. Stiger introduced Mr. Thomas Rinaldi. Mr. Rinaldi is our new liaison with the Attorney General's office.

Approval of Minutes

- August 16, 2007, Open Session

Dr. Tyler asked for a motion to approve the August 16, 2007 open session minutes. Dr. Lubkin indicated that on page 4 the motion made Mr. Conran was seconded by Dr. Lubkin and not Dr. Lerner.

DR. LERNER MOVED TO ADOPT THE AUGUST 16, 2007 OPEN SESSION MINUTES WITH THE CHANGE. DR. COLUMBU SECONDED THE MOTION. VOTE: 5-0. MOTION CARRIED.

Executive Officer's Report

Administration

Budget Update

Mr. Stiger reported that 2007/08 fiscal year budget was cut in half to \$1.5 million dollars. As of September 30, 2007, the Board has spent approximately \$428,000. This is approximately 28% of the total budget. This amount does not include all expenses. There are salary savings that we will begin to realize beginning October 1st. Two full-time staff members left the Board on October 1st and two retired annuitants were released in September. Additionally a few enforcement cases have been held from the Attorney General's Office due to a lack of resources. In looking at ways to save costs, there will be no petitioner hearing scheduled for the remainder of the fiscal year. The remainder of the Board meetings will be held in Sacramento, giving us a savings of approximately \$2,000 for each Board meeting. There are lots of things that we are doing to offset the budget reduction. This does not included unanticipated costs and we do have these costs with our lawsuits. Mr. Stiger referred to Mr. Kevin Peterson, Budget Manager with Department of Consumer Affairs to discuss the process for budget deficiency and Budget Change Proposals. Mr. Peterson gave the board members a copy of Budget Letter 07-24 *Expenditure Authorization Controls* and gave an overview of the budget deficiency and Budget Change Proposal process.

Mr. Conran asked about the priorities of the office specifically licensing and enforcement. Mr. Stiger replied that licensing is a very high priority. Licensing is our first basic defense in protecting consumers. The process itself should not be affected although the processing time may be delayed. Due to the lack of resources, all enforcement cases will have to be prioritized. This will be done with the help of Mr. Rinaldi and Ms. Powell. Mr. Stiger stated that he can assure the Board and the public that every dollar will be stretched to protect the public as much as we can. Some cases will have to be held until funds are available.

Personnel Update

Mr. Stiger reported that he attended a meeting on October 24, 2007 with the Department of Personnel Administration and Department of Consumer Affairs. The layoff plan has been approved and the

effective date of layoff will be January 7, 2008. At that time, staff will include 1 Executive Officer and 5 staff members. A Town Hall meeting is scheduled for next week so that staff can have questions answered.

Bureau of State Audits Update

Mr. Stiger reported that the audit is ongoing. Ms. Powell further stated that the report is due early next year and will be public information.

Enforcement Statistics

Mr. Stiger reported on the enforcement statistics for July 1, 2007 through September 30, 2007.

Senate Bill 801 and Any Other Legislation of Interest to the Board

Mr. Stiger reported that SB 801 was vetoed by the Governor on October 11, 2007. The Legislative Committee will track AB 163 which is sort of a reiteration of SB 801 when the session convenes in January 2008.

Board Member training on the Bagley-Keene Open Meetings Act and other relevant laws

Ms. Powell discussed why the open meeting act was created. Ms. Powell discussed closed sessions. She stated the deliberation and discussions are confidential. The action resulting from the closed sessions become public but the discussions themselves are confidential and may include attorney-client privileged communications. This includes petitioner hearings.

Mission Statement

Dr. Lubkin referred to the mission statement on the first page of the Administrative Manual proposed draft. Dr. Tyler asked for a motion to approve the mission statement.

DR. CONRAN MOVED TO ADOPT THE MISSION STATEMENT. DR. LERNER SECONDED THE MOTION. VOTE: 5-0. MOTION CARRIED.

Committee Report

Administrative Committee

Board Member Procedure Manual

Mr. Conran reported that the committee met several weeks to go over the manual.

MR. CONRAN MOVED THAT THE BOARD ADOPT THE ADMINISTRATIVE MANUAL. DR. LUBKIN SECONDED THE MOTION. Dr. Lerner referred to page 16 and suggested striking *four affirmative votes* and put *the Chair* in paragraph 5. Dr. Lubkin also suggested adding *this must be submitted in writing to the Chair and notice given to the Executive Officer.* **MR. CONRAN AND DR. LUBKIN ACCEPTED THE CHANGES. VOTE: 5-0. MOTION CARRIED.**

Mr. Conran reported that the other issue discussed during the committee meeting was the Ex-Parte issue. There was no consensus or agreement and it will be brought up during the next committee meeting. Dr. Lubkin clarified that the Ex-Parte issue is in regard to the Board members and not the Ex-Parte listed in the Administrative Manual.

Continuing Education Committee

Proposed Procedures for Approval of CE Courses and Providers

Dr. Lubkin reported that the committee has met regularly. The committee is suggesting that from this point forward all CE meetings be public meetings. The committee will meet on November 1, 2007 to discuss the required minimum hours of continuing education, clarification of the 50 minute equals 1 hour rule, online format, increasing the diagnostic and clinical aspect of courses. CE applications will be handles by staff under the direction of the Executive Officer. There is a proposed draft letter that will be used anytime the Executive Officer and staff are going to make a denial on a CE course. Courses that have been denied will go to the committee for review not for an overruling but to review any administrative, procedural and regulatory changes that may be required in the future. Ms. Powell added that there is still an appeal process for denials.

After a lengthy discussion clarifying the hours and courses of CE for the California board as compared to other Boards, Dr. Lerner requested information on other common health professions and what are the common requirements. Mr. Conran made a request to see what is required in other states for the profession.

Dr. Holloway requested that the new procedures for the CE application approval be on the internet so all providers are aware.

Announcements

Next Board Meeting

Mr. Stiger stated the next meeting is tentatively scheduled for Tuesday November 27th depending on Board member availability. The meeting will be in Sacramento.

Dr. Lerner announced a Manipulation Under Anesthesia Committee Meeting and a Legislative Committee on November 8, 2007 in Sacramento.

Public Comment

Dr. Charles Davis requested the 306.1 and 306, the establishment and implementation of Quality Review Panels, be agendized.

Brett Barley, with the Senate for Public Interest Law at the University of San Diego introduced himself and stated that he will be attending future meetings.

New Business

Future Agenda Items

Mr. Stiger proposed that Dr. Davis' request be placed on the next Enforcement Committee agenda.

Dr. Lubkin requested agendizing discussion on the NBCE SPEC exam and Ethics and Boundaries and the NCIC ethic exam.

The Board recessed for lunch at 10:30 a.m.

Dr. Tyler, D.C. called the Board into open session at 12:35 p.m. All Board members were present with the exception Judge Duvaras.

Petition Hearing for Reinstatement of Revoked License

Administrative Law Judge Ann Sarli presided over and Deputy Attorney General Elena Almanzo appeared on behalf of the people of the State of California on the following petition hearings:

- Gregory Ball
- Richard Monoson
- Marc H.P. Nadreau

Mr. James Daris was removed from the agenda. Following the petitioners oral testimonies, the Board reconvened into closed session at 3:15 p.m. to consider Mr. Ball, Mr. Monoson and Mr. Nadreau's Reinstatement of Revoked License.

Dr. Tyler adjourned the public meeting at 4:27 p.m.