



State of California
Edmund G. Brown Jr., Governor

**BOARD OF CHIROPRACTIC EXAMINERS
PUBLIC SESSION MINUTES
January 20, 2011
State Capitol
Fourth Floor, Assembly Room 444
Sacramento, CA 95814**

Board Members Present

Frederick Lerner, D.C. Chair
Hugh Lubkin, D.C., Vice Chair
Jeffrey Steinhardt, D.C.
Richard Tyler, D.C.

Staff Present

Robert Puleo, Executive Officer
Spencer Walker, Senior Staff Counsel
Linda Shaw, Staff Services Manager
Sandra Walker, Staff Services Manager
Dixie Van Allen, Associate Governmental Program Analyst
Rebecca Rust, Associate Governmental Program Analyst
Christina Bell, Associate Governmental Program Analyst
Ray Delaney, Management Services Technician
Valerie James, Office Technician

Call to Order

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

Roll Call

Dr. Tyler called the roll. All members, but Dr. Columbu were present.

Chair's Report

Dr. Lerner discussed a few items and recent information regarding Board matters. Dr. Lerner expressed that he would like to calendar a Scope of Practice Committee Meeting in the near future.

Election of Officers for 2011

Dr. Lerner tabled this agenda item for when Dr. Columbu arrives.

Approval of Minutes

December 2, 2010 Board Meeting

**MOTION: DR. LUBKIN MOVED TO APPROVE THE MINUTES
SECOND: DR. TYLER SECONDED THE MOTION**

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Dr. Steinhardt requested that "Interim" be deleted from Executive Officer, Robert Puleo's title on page 2. Dr. Lerner also requested the correction of the word "ammend" to "amend" on page 2.

DR. LUBKIN MOVED TO AMEND THE MOTION BY REMOVING "INTERIM" FROM EXECUTIVE OFFICER, ROBERT PULEO'S TITLE AND CHANGE "AMMEND" TO "AMEND" ON PAGE 2.

DR. TYLER SECONDED THE MOTION

VOTE: 4-0

MOTION CARRIED

Public Comment

Bill Howe from the California Chiropractic Association (CCA) reported that State Compensation Insurance Fund has rescinded their policy denying consumers Chiropractic treatment for post-operative rehabilitation. Mr. Howe requested the Board to place this item on the next Board Meeting agenda.

Dr. Gerard Clum, D.C. thanked the Board for their services and announced his retirement as President of Life Chiropractic College West.

Board Member Training on the Bagley-Keene Open Meeting Act and Other Relevant Laws

Mr. Walker addressed what should be documented and recorded during the Board's closed session. Mr. Walker reviewed Government Code Section 11126.1 of the Bagley-Keene Open Meeting Act. Mr. Walker then recommended that the Board keep a record of the discussion topics and the decision made.

2011 Board Meeting Schedule

The Board meeting dates for 2011 are finalized. The locations were changed to reflect Northern and Southern California.

Executive Officer's Report

Mr. Puleo gave the Executive Officer's Report. The topics were Administration, Budget, Licensing, and Enforcement.

Ratification of Approved License Applications

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

SECOND: DR. STEINHARDT SECONDED THE MOTION

VOTE: 4-0

MOTION CARRIED

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

Ratification of Approved Continuing Education Providers

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

SECOND: DR. STEINHARDT SECONDED THE MOTION

VOTE: 4-0

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 Cancelled License

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

SECOND: DR. TYLER SECONDED THE MOTION

VOTE: 4-0

MOTION CARRIED

The Board ratified the attached list of approved cancellation restoration applicants incorporated herein (Attachment C).

Information Dissemination/Communication with Licensees and the Public

Dane Wilson from Office of Technology Services discussed the processes and timelines involved to enhance the Board's website. Mr. Wilson informed the Board that it should be updated within 6 weeks.

Department of Industrial Relations, Division of Workers Compensation – Update on Recognition of Chiropractic Specialties

Dr. Lerner reported on the meeting with Destie Overpeck, Chief Counsel from the Division of Workers Compensation (DWC). DWC will be providing revisions to their proposed language in the near future.

Bill Howe came forward and asked the Board a few questions in regards to the matter.

Proposed Regulations

A. Fingerprint Submissions

The fingerprint submission regulations have been approved and became effective on January 14, 2011.

B. Continuing Education

Office of Administrative Law (OAL) disapproved and sent back our regulatory package with the need for a few technical changes to the language. There were some issues with the Initial Statement of Reasons, which OAL wanted the Board to thoroughly address. The Board must vote on the changes to the language so it may be resubmitted to OAL. Once the language is approved, it will go out for another 15 day comment period. The Board will only respond to comments that pertain to the specific language change and will not comment on the past changes. Then the regulatory package will be resubmitted to OAL for its 30 day approval period.

Bill Howe came forward and had questions on how the continuing education approval process will go once approved. The Board was unable to take his comment since it did not pertain to the specific language changes.

MOTION: DR. STEINHARDT MOVED TO APPROVE THE CHANGES TO THE LANGUAGE AND SUBMIT TO OAL.

SECOND: DR. LUBKIN SECONDED THE MOTION

VOTE: 4-0

MOTION CARRIED

C. Omnibus Consumer Protection

The Omnibus Consumer Protection regulatory package has been submitted for the 45 day comment period which will end February 14, 2011.

D. Informed Consent

The Board is working on the Initial Statement of Reasons for the Informed Consent regulatory package. This should be finalized within the next couple of weeks and then sent to OAL.

E. Petitions for Reinstatement (Fee)

Mr. Puleo updated the Board and requested approval of the proposed language.

MOTION: DR. LUBKIN MOVED TO APPROVE THE LANGUAGE AND SUBMIT TO OAL.

SECOND: DR. TYLER SECONDED THE MOTION

VOTE: 4-0

MOTION CARRIED

Dr. Steinhardt asked for the Board to clarify within the proposed language that there is no guarantee that the applicant will have their license reinstated.

Mr. Walker suggested to modify the language in subsection (b) by adding the words “to deny or grant the petition” after the word “determination.”

MOTION: DR. LUBKIN MOVED TO AMEND THE MOTION BY CHANGING THE PROPOSED LANGUAGE IN SUBSECTION (b) TO READ “IN REACHING IT’S DETERMINATION TO DENY OR GRANT THE PETITION, THE BOARD MAY CONSIDER VARIOUS FACTORS INCLUDING THE FOLLOWING:” AND SUBMIT TO OAL.

SECOND: DR. TYLER SECONDED THE MOTION

VOTE: 4-0

MOTION CARRIED

Approval of New Chiropractic College – D’Youville College

Dr. Steinhardt had a few questions regarding the approval process and requirements. It was determined that D’Youville successfully completed the process and met all requirements.

MOTION: DR. TYLER MOVED TO APPROVE D’YOUVILLE COLLEGE.

SECOND: DR. STEINHARDT SECONDED THE MOTION

VOTE: 4-0

MOTION CARRIED

Chiropractors Performing Student Athletic Physicals and Serving as Team Doctors

CCA had requested this item to be placed on the agenda but was unable to provide the Board with requested materials in time for the Board meeting. The Board will table this item for the next Board meeting in March.

Authority Over Unlicensed/Non-Licensed Individuals Performing Chiropractic

The Board discussed concerns regarding unlicensed individuals, such as Physical Therapists, practicing chiropractic. After further discussion, Mr. Walker suggested the Board set up a meeting with the Physical Therapy Board to discuss the matter.

Bill Howe thanked the Board for looking into the matter.

Attorney General Billing Detail

The Board will table this item for the next Board meeting in March.

Public Comment

Carole M. Arbuckle requested that the closed session agenda item concerning her lawsuit be changed from “Board of Chiropractic Examiners v. Carole M. Arbuckle” to “Carole M. Arbuckle v. Board of Chiropractic Examiners.” Ms. Arbuckle made additional comments concerning this lawsuit.

Future Agenda Items

None

Hearings Re: Petition for Reinstatement of Revoked License

Administrative Law Judge Dian Vorters presided over and Deputy Attorney General Leslie Burgermyer appeared on behalf of the people of the State of California on the following hearings:

- Charles L. Whitney
- Parviz Kavooosi

Hearings Re: Petition for Early Termination of Probation

Administrative Law Judge Dian Vorters presided over and Deputy Attorney General Leslie Burgermyer appeared on behalf of the people of the State of California on the following hearings:

- Paul J. Bologna

Closed Session

Following oral testimonies, the Board went into closed session for deliberation and determinations of petitioners.

Election of Officers for 2011

A. Chair

MOTION: DR. STEINHARDT MOVED TO NOMINATE DR. LERNER TO CONTINUE AS CHAIR

MOTION: DR. TYLER MOVED TO NOMINATE DR. LUBKIN AS CHAIR

Discussion

After a lengthy discussion amongst the Board members, the motion was amended.

MOTION: DR. LUBKIN MOVED TO AMEND THE MOTION AND NOMINATE DR. LERNER TO CONTINUE AS CHAIR

SECOND: DR. TYLER SECONDED THE MOTION

VOTE: 4-0

MOTION CARRIED

B. Vice Chair

MOTION: DR. LERNER MOVED TO NOMINATE DR. LUBKIN TO CONTINUE AS VICE CHAIR

SECOND: DR. TYLER SECONDED THE MOTION

VOTE: 4-0

MOTION CARRIED

Discussion

None

C. Secretary

MOTION: DR. LUBKIN MOVED TO NOMINATE DR. COLUMBU TO CONTINUE AS SECRETARY

SECOND: DR. TYLER SECONDED THE MOTION

VOTE: 4-0

MOTION CARRIED

Discussion

None

Adjournment

Dr. Lerner adjourned the public meeting at 3:56p.m.

(ATTACHMENT A)
Approval By Ratification of Formerly Approved License Applications
November 1, 2010 – December 31, 2010

Name (First, Middle, Last)			Date Issued	DC#
Brent	Eugene	Babcock	11/5/2010	31829
Lina		Falkinstein	11/5/2010	31830
Latronda	Yvette	Hill	11/5/2010	31831
John	Joseph	Herrsche	11/5/2010	31832
Michelle	Baau-Yih	Chu	11/5/2010	31833
Craig	Richard	Sanchez	11/5/2010	31834
Nicholas	Scott	Araza	11/10/2010	31835
Jerald	Rodney	Hannah	11/10/2010	31836
Amanda	Elizabeth	Kinee	11/10/2010	31837
JoonKyu		Park	11/10/2010	31838
Kaylin	Audrey	Schack	11/12/2010	31839
Anthony	Juan	Subia III	11/12/2010	31840
Jennifer		Tu	11/12/2010	31841
Ger		Cha	11/19/2010	31842
Huong	Thi Ly	Danh	11/19/2010	31843
Allison	Grace	French	11/19/2010	31844
Peter	James	Janousek	11/19/2010	31845
Michael	Steven	Lee	11/19/2010	31846
David	Kendall	Perry	11/19/2010	31847
Jessica		Collazo-Rosario	12/6/2010	31848
Crystal	Dawn	Martin	12/6/2010	31849
Kristina	Nesreen	Menefee	12/6/2010	31850
Martha		Mulugeta	12/6/2010	31851
Kristen	Lee	Breyemeier	12/10/2010	31852
Garbis		Khanjian	12/10/2010	31853
Yoon Ho	Reuben	Lee	12/10/2010	31854
Mary	Elizabeth	Melendez	12/10/2010	31855
Adana	Anna	Moses	12/10/2010	31856
Kevin	Barkley	Linzey	12/10/2010	31857
Hai Kristy	Dong	Tran	12/10/2010	31858
Nathan	Ian	Weller	12/10/2010	31859

(ATTACHMENT B)
Approval By Ratification Of Continuing Education Providers

<u>CONTINUING EDUCATION PROVIDERS</u>	<u>DATE APPROVED</u>
BioResource, Inc...	01/10/2011

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

Name (Last, First MI)	License No.	Cancellation Date
Howell, Ralph	17251	03/31/2009