

**Board of Chiropractic Examiners  
MEETING MINUTES  
Enforcement Committee  
July 14, 2012  
Department of Consumer Affairs  
1625 North Market Blvd., El Dorado Room  
Sacramento, CA 95834**

**Committee Members Present**

Hugh Lubkin, D.C., Chair  
Francesco Columbu, D.C.  
Sergio Azzolino, D.C.

**Staff Present**

Robert Puleo, Executive Officer  
Sandra Walker, Compliance Manager  
Linda Shaw, Licensing/CE Manager  
Dixie Van Allen, Associate Governmental Program Analyst  
Valerie James, Office Technician

**Call to Order**

Dr. Lubkin called the meeting to order at 11:20 a.m.

**Roll Call**

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

**Approval of February 24, 2011 Scope of Practice Committee Minutes**

**MOTION: DR. LUBKIN MOVED TO APPROVE THE MINUTES**

**SECOND: DR. AZZOLINO SECONDED THE MOTION**

**VOTE: 3-0**

**MOTION CARRIED**

## **Approval of March 17, 2011 Committee Minutes**

**MOTION: DR. LUBKIN MOVED TO APPROVE THE MINUTES**

**SECOND: DR. AZZOLINO SECONDED THE MOTION**

**VOTE: 3-0**

**MOTION CARRIED**

## **Chiropractic Patient Records/Accountable Billings and Informed Consent**

Dr. Columbu indicated that section 318 is not being followed. Dr. Azzolino spoke on the issues with section 318(a)(3) and (4) relating to computerized patient records and the inability for signatures/initials of the patient and/or doctor. The Committee had a lengthy discussion.

Cynthia Butler, D.C. came forward and indicated that other states set recommended guidelines and reference them in their regulations.

The Committee discussed revised language for section 318(a)(3) in order to address electronic signatures.

Ms. Penny Cunha representing the California Chiropractic Association (CCA) suggested using the word 'attest' rather than requiring a signature or initials.

Mr. Puleo will research other healthcare professions as to providing suggested language relating to electronic signatures and will seek legal advice.

Dr. Azzolino requested clarification to section 318(a)(4) as to the signature of patient being on the initial intake form or if a signature is needed at every visit. After a lengthy discussion, it was decided that 'on initial intake form' should be added to the end of section 318(a)(4).

Dr. Columbu spoke on the issues of section 319.1 which is causing confusion. He believes one of the following needs to be done; changes need to be made to the language; repeal the regulation; or, informed consent should be used voluntarily.

The Committee had a lengthy discussion.

Dr. Butler came forward and indicated that informed consent can be interpreted in many different ways.

Dr. Lubkin wants to recommend to the full Board to leave informed consent regulation as is, repeal the regulation, or make changes. Dr. Lubkin requested Dr. Columbu to draft suggested language to be presented at the July 19, 2012 Board meeting.

Dr. Azzolino questioned if a patient was treated a number of years ago and came back with the same aggravated condition how would the informed consent work. He believes modifying the language with a grace period would address this issue.

## **Proposed Omnibus Consumer Protection Regulations**

The Committee discussed the proposed Omnibus Consumer Protection regulations by sections.

Section 303(b) will be reworded related to designating an address of record with a post office box.

The Committee would like to add 'province/territory' after 'a foreign government' in section 304(a). Mr. Puleo will check with legal counsel on the addition.

Section 308 wording of 'in a conspicuous place' should be clarified. After a lengthy discussion it was determined to change that reference to the wording in 308.1(b).

There was a lengthy discussion on Section 308.1 regarding notice to consumers.

**MOTION: DR. COLUMBU MOVED TO ELEMIMATE SECTION 308.1 IN ITS ENTIRETY**  
**SECOND: DR. LUBKIN SECONDED THE MOTION**  
**VOTE: 1-2**  
**MOTION FAILED**

**MOTION: DR. LUBKIN MOVED TO POST THE NOTICE TO CONSUMERS IN A CONSPICUOUS PLACE OR IN A WRITTEN FORMAT, 8 1/2 X 11 PIECE OF PAPER, FOR A PATIENT TO SIGN AND KEPT IN THEIR FILE AND FOR THE PATIENT TO TAKE HOME**

Dr. Butler came forward to speak on the inability to post a notice at her place of business.

Dr. Lubkin withdrew his motion.

**MOTION: DR. AZZOLINO MOVED TO REMOVE SECTION 308.1 IN ITS ENTIRETY**  
**SECOND: DR. COLUMBU SECONDED THE MOTION**  
**VOTE: 2-0-1**  
**MOTION CARRIED**

Section 312, all references to 'duly licensed chiropractor' should be changed to 'duly licensed doctor of chiropractic.' All references to 'physical' therapy should be changed to 'physio' therapy.

Section 312(b) should be rewritten as 'Unlicensed individuals may conduct standard neurological, orthopedic, physical and chiropractic examinations. They may not render a conclusion either verbally or in writing to a patient regarding the patient's physical condition. Such individuals shall be at all times under the direct supervision of a duly licensed doctor of chiropractic.'

Section 312(c)(3) and 312(c)(4) should be removed.

Section 312(e)(4), in the second paragraph, add 'all preceptors are under the direct supervision of a duly licensed doctor of chiropractic.'

Section 317.3(a)(1)(C) add 'province/territory' after 'a foreign government.' Mr. Puleo will check with legal counsel on the addition.

Section 390.7 change the section reference of 729(c) to 729(c)(3). Mr. Puleo will look into this section for clarification on the length between an 'active patient' related to a doctor of chiropractic engaging in a relationship with said patient.

Section 390.8(a) add 'province/territory' after 'a foreign government.' Mr. Puleo will check with legal counsel on the addition.

### **Minimum Requirement for Patient Examination**

Dr. Lubkin would like to establish a minimum requirement for patient examinations. This item will be tabled for the next Enforcement Committee meeting for review.

### **Disciplinary Guidelines**

#### **Category I**

Sandra Walker, Board's Compliance Manager, came forward and provided an overview of the existing Disciplinary Guidelines, Category I (categories of violations and recommended penalties), and Standard and Optional Conditions with recommended revisions.

The Committee will continue the overview at its next meeting.

### **Mandatory Reporters Information on Web Site**

Mr. Puleo presented a proposed sample of mandatory reporting information that can be placed on the Board's web site.

### **Pain Management**

Dr. Lubkin spoke on issues of pain management within the practice of chiropractic. Mr. Puleo informed the Committee that Dixie Van Allen has been researching excessive treatment and pain management. Information will be provided at the next Enforcement Committee meeting. Dr. Azzolino provided information on the American Academy of Pain Management to aid with the research

### **Standards for Extra Corporeal Shock Wave (ECSW) Therapy**

Dr. Lubkin would like Board staff to put regulations forward on Extra Corporeal Shock Wave to model the Manipulation Under Anesthesia regulations.

### **Public Comment**

No comments were brought forward.

**Future Agenda Items**

Dr. Azzolino requested an agenda item relating to the inconsistencies of fictitious names and corporate names within the Initiative Act and the Business and Professions Code.

**Adjournment**

Dr. Lubkin adjourned the meeting at 3:23 p.m.