

**Board of Chiropractic Examiners
TELECONFERENCE MEETING MINUTES
Licensing, Continuing Education & Public Relations Committee
September 25, 2018
901 P Street, Suite 142A
Sacramento, CA 95814**

Teleconference Meeting Locations:

<p>Board of Chiropractic Examiners 901 P Street, Ste 142A Sacramento, CA 95814 (916) 263-5355</p>	<p>Heather Dehn, DC Dehn Chiropractic 4616 El Camino Ave. #B Sacramento, CA 95821 (916) 488-0242</p>	<p>Dionne McClain, DC McClain Sports & Wellness, Inc. 6360 Wilshire Blvd., Ste 410 Los Angeles, CA 90048 (323) 653-1014</p>
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Committee Members Present

Dionne McClain, D.C., Chair
Heather Dehn, D.C.

Staff Present

Robert Puleo, Executive Officer
Kenneth Swenson, Attorney III
Marcus McCarther, Assistant Executive Officer
Dixie Van Allen, Staff Services Manager
Natalie Boyer, Continuing Education Analyst
Andreia McMillen, Policy Analyst

Call to Order

Dr. McClain called the meeting to order at 11:33 p.m.

Roll Call

Dr. Dehn called roll. All Board Members were present at the locations specified on the Agenda.

Approval of Minutes

**MOTION: DR. DEHN MOVED TO APPROVE THE MINUTES OF THE JUNE 5, 2018 LICENSING & CONTINUING EDUCATION COMMITTEE MEETING
SECOND: DR. MCCLAIN SECONDED THE MOTION
VOTE: 2-0 (DR. DEHN- AYE, DR. MCCLAIN - AYE)
MOTION CARRIED**

Review, Discussion, and Possible Action on Pending CE Provider applications; Possible Recommendation to the Full Board

MOTION: DR. DEHN MOVED TO PRESENT CE PROVIDER APPLICATIONS TO THE FULL BOARD FOR APPROVAL.

SECOND: DR. MCCLAIN SECONDED THE MOTION

Discussion: Dr. Dehn expressed her continued interest in uncovering better ways to properly vet Continuing Education (CE) Providers to ensure quality.

Public Comment: Dr. Hugh Lubkin inquired about what additional changes the Board was recommending for the provider application. He was under the impression that per Department of Consumer Affairs (DCA) legal counsel, the provider application was meant to be purposefully concise to ensure all interested parties could become Board approved providers. He was also curious who on the Board would be responsible for vetting a new application process.

Mr. Robert Puleo responded that per the current regulations the Board was unable to require providers to include any detailed information about their organizations on the application. Going forward, with new regulation requirements, the Board was hoping to identify specific areas of importance that would help highlight a quality CE provider.

Mr. Kenneth Swenson added that there was no legal impediment to making a more prescriptive regulation for the CE provider application, following that all regulatory processes are undergone and approval is given by the Office of Administrative Law (OAL).

Public Comment: Dr. Lubkin asked whom on the Board would be responsible for the approval processes or if there would be a need to utilize subject matter experts to assist the Board in evaluating the providers and their courses.

Dr. McClain responded that the regulations would be determined through the CE Committee's process and there would be opportunity for input from the public.

Dr. Dehn added that there would be opportunity to discuss potential qualifications to the CE provider application as it was currently on the CE Committee agenda.

Dr. McClain called for a vote of the pending motion and further discussion of CE provider qualifications could be continued during the appointed agenda item.

**VOTE: 2-0 (DR. DEHN– AYE, DR. MCCLAIN – AYE)
MOTION CARRIED**

Review, Discussion, and Possible Action on Proposed Definitions to Subject Area – Public Health

Dr. McClain synopsisized that during the CE Subject Area discussion at the full Board Meeting on June 5th, it was suggested to change 'Communicable Diseases' to 'Public Health' in the subject area listing. The CE Committee is assisting with clarifying that definition.

Dr. Dehn asked for input from Ms. Dixie Van Allen, with identifying potential red flags in the proposed

definition of public health.

Ms. Van Allen responded that the portion of the definition that speaks to “access to health-care, affordable health care” seemed problematic in its relationship to the chiropractic profession.

Mr. McCarther added that “access to health-care, affordable health care” were identified as public policy issues and outside the scope of what the Board was attempting to do with CE.

Dr. McClain responded that the goal was to assist in defining the term public health and not necessarily prescribe what content could potentially be submitted as a CE course.

Mr. Puleo stated that the definition would be setting parameters for what could be taught in a course offered under the public health subject area. Both access to health care and affordable health care were fine but the Board would need to determine if CE credit should be given in those areas.

Ms. Van Allen also added that “workplace safety” could be a problematic portion of the definition.

Public Comment: Ms. Laurie Isenberg, Director of Postgraduate and Continuing Education at Life Chiropractic West, added that many chiropractors work in the area of ergonomics and ‘workplace safety’ would be a fit within this definition.

Dr. McClain agreed that safety topics related to chiropractic was very necessary and appropriate within the definition.

Public Comment: Dr. Jonathon Egan, President at Southern California University of Life Sciences, asserted his agreement and pointed out that all portions of this definition were steeped in policy issues, which would be very appropriate for chiropractors to participate in.

Ms. Van Allen stated that the portion of the definition related to “substance abuse” treads on many other medical scopes of practice and was not necessarily related to the scope of chiropractic.

Public Comment: Dr. Egan pointed out that as chiropractors function as primary care physicians and see a wide array of patients, who are potentially addicted to a range of narcotics, there could be opportunity for life changing care and referrals to healthcare professionals outside of chiropractic.

Dr. McClain asked for recommendations on what could be changed within the definition to narrow the possibilities in preventing courses from being submitted under substance abuse that fall outside the scope of chiropractic.

Ms. Van Allen provided two possibilities for narrowing “substance abuse”. First, exclusions could be accomplished, firstly that exclusions could be included to the definition to help narrow the potential topics, and second, adding ‘as related to the practice of chiropractic’ to the definition, so that courses submitted under public health would fall squarely within the scope of chiropractic care.

Public Comment: Dr. Egan recommended reviewing the test plan under public health for the National Board of Chiropractic Examiners (NBCE) to determine appropriate language and content for the BCE’s definition.

Dr. Dehn suggested that Ms. Van Allen come prepared with suggestions for what to exclude from the public health definition at the next full Board Meeting. She also requested that the Committee be presented with information from the test plan on public health from the NBCE.

Dr. McClain summarized that the public health discussion would continue either at the next full Board

meeting or within the CE Committee, along with suggestions by staff for language that would assist in narrowing the definition.

Review, Discussion and Possible Action on List of Chiropractic Adjustive Techniques Provided by California Chiropractic Colleges

Dr. McClain introduced the research as a means of creating a concise adjustive technique list in order to assist staff in their review of CE applications.

Dr. Dehn stated that the list was currently limited to California colleges, but approved techniques would need to be gathered from all chiropractic colleges and from specialty boards.

Mr. Puleo responded that this list would be a guideline for staff when reviewing course applications, but this would not be a means to limit providers. If a provider were to offer a technique course not identified on this list, they would need to provide the Board with additional information from a college or specialty board supporting the technique as appropriate for a course.

Dr. Dehn asked for clarification that the “Student Led Clubs” at Palmer College of Chiropractic West were clubs approved by the college and had faculty advisors.

Public Comment: Ms. Isenberg stated that at Life Chiropractic College West, all student clubs are required to have a faculty advisor prior to being approved through the college’s administration.

Dr. Dehn agreed that this was her assumption, but she would like staff to confirm as well.

Dr. McClain advised that as staff further compile the adjustive techniques list from specialty boards and other colleges, they would need to verify faculty advised student led clubs.

Review, Discussion and Possible Action on Proposed CPR Regulatory Language

Mr. McCarther stated that the direction of the Board was to update the CPR regulation to include CPR certification as a condition of relicensure. Mr. McCarther summarized the content of the proposed regulatory language.

Dr. McClain inquired if language was presented that would prevent a licensee from receiving CE credit annually if they chose to take a CPR recertification course every year.

Mr. Puleo responded that language could be drafted to match that sentiment.

Ms. Van Allen stated that the language specified the requirement to maintain CPR certification for licensure could potentially be sufficient.

Dr. Dehn did not anticipate these potential situations becoming problematic.

Public Comment: Ms. Isenberg inquired into the required length of the CPR course in order to receive the four hours of CE credit.

Mr. Puleo responded that the course must at least be four hours in length to receive four hours of CE credit. A longer course would be sufficient but licensees would only receive four hours of CE credit.

Public Comment: Ms. Isenberg suggested changing language to include ‘may earn a maximum of four hours’.

The Committee agreed to this suggestion.

Public Comment: Dr. Lubkin inquired if there would be any provision added for instructors of CPR, and whether they earn additional CE credit as they are instructing approved courses.

Mr. Puleo responded that further research would need to be conducted to determine what CE credit instructors might receive.

Public Comment: Ms. Isenberg further asked if the CPR instructor requirement would function in line with current regulations, if a CE instructor teaches a certain amount of Board approved course hours, they have earned the equivalent amount of CE credit.

Ms. Natalie Boyer affirmed that per current regulations, a CE instructor can earn an hour of CE credit for each hour of instruction in a Board approved course, up to 24 hours for the renewal year.

Mr. Puleo again stated that staff would need to further delve into the intricacies of this topic.

Dr. McClain asked that this material be available for the next CE Meeting.

Review, Discussion, and Possible Action on Revisions to Sections 360-366 of Title 16 of the California Code of Regulations Regarding Continuing Education

Dr. McClain summarized that the full Board had reviewed and offered recommendations on Subject Areas at the June 5th Board Meeting. She would like to begin the Committee's discussion with staff recommendations offered for Alternate Pathways.

Dr. Dehn wished to make a recommendation, that at the Oregon Chiropractic Board, they refer to the "Diverse/cross cultural sensitivity as it relates to patient care" as "Cultural Competency" and she encouraged staff to review this course.

Dr. McClain posed a question regarding occupational analysis and special projects under Alternate Pathways and whether these would only be offered by the Board every two years.

Mr. Puleo responded that there was no timeline restriction on these volunteer activities, but generally they only became available every few years. The Board has received a few inquires from licensees regarding receiving mandatory CE credit under Ethics and Law, if they participate in the ethics and law portion of exam development.

Mr. McCarther stated that within the proposed regulation changes, volunteers as subject matter experts for exam development have the opportunity to earn up to 16 hours of CE credit over the two-day workshop, up to eight hours in Ethics and Law and up to eight hours in Principles of Practice. Although additional changes must be made as Principles of Practice would no longer be an identified Subject Area for CE.

Dr. McClain agreed that while no further discussion was needed, the topic and regulation would need to be revisited to ensure clarity and consistency.

Public Comment: Ms. Isenberg inquired if CPR certification should be included as an Alternate Pathway to CE credit, as it was previously listed as a primary pathway.

Mr. Puleo responded that the Alternate Pathway would consist of a licensee taking a CPR certification course directly through ARC and AHA. A CPR course from a BCE approved provider would constitute as a Traditional Pathway.

Public Comment: Ms. Isenberg also encouraged the Board to consider including Council on Chiropractic Education (CCE) approved colleges' courses as an Alternate Pathway. Preventing them from needing to submit each CE course for approval to the Board.

Mr. Puleo stated that the Board could consider granting approval to all CCE colleges as providers, however they would still need to submit their CE courses to the Board for approval.

Public Comment: Dr. Egan agreed with Ms. Isenberg's suggestion. He also suggested that the CCE colleges could develop a process to affirm any faculty or guest lecturers offering courses under their provider status. Dr. Egan also posed a new question regarding which boards were identified under the Healing Arts Boards.

Mr. McCarther agreed that this language should match the existing law, as it refers to Healing Arts Boards within Division 2 through DCA in the Business and Professions Code.

Public Comment: Dr. Egan encouraged the Board to potentially consider the American Public Health Association and other organizations as an alternate path to CE credit.

The Committee and staff discussed the current regulations relating to receiving CE credit for courses approved through other Healing Arts Boards.

Public Comment: Dr. Lubkin brought forward his concern that with the proposed additional mandatory subject areas and hours, there was an ever-decreasing number of general hours in which to participate in courses taught by another Healing Arts Board. He believes it would benefit the profession to allow for more opportunity for participating in CE courses taught by other medical professions, and to potentially remove Assessment and Diagnostic Procedures as a mandatory subject area.

Dr. McClain agreed that while the proposed mandatory hours has increased, it did not preclude a licensee from taking additional hours from another Healing Arts Board in a subject area that interests them. The Board is striving to uphold the minimum competency of CE for chiropractors and outside of that, licensees are able to take additional courses.

Mr. Puleo agreed with Dr. McClain and added that if these mandatory hours were taken through another Healing Arts Board, there would be limited control and regulation over the quality of the content in the course.

Dr. McClain directed the discussion to the next topic area, Provider Qualifications and Responsibilities.

Dr. McClain suggested having a specific individual identified on the CE provider application as the Responsible Party, and requiring the inclusion of their license number.

Mr. Puleo agreed with Dr. McClain's sentiment but was unsure how feasible it might be to pass the regulation. Mr. Puleo inquired how many of the Board's current CE providers were education institutions and larger organizations versus sole proprietorships.

Ms. Boyer responded that more than half were education institutions and larger organizations.

Mr. McCarther stated that a potential concern for holding the responsible party accountable is in the limited information the Board receives from larger organizations. With an individual licensee, the Board is privy to much of their personal information to identify their qualities as a CE provider. This could be problematic in attempting to vet all providers equally.

Dr. Dehn discussed the possibility of requiring Live Scan results for the responsible party for CE providers.

Public Comment: Dr. Egan suggested including an attestation clause to the CE provider application; that the responsible party, owner or faculty are not barred from offering CE in the state of California. This could potentially allow for disciplinary actions by the Board should something negative result.

Dr. Dehn and Dr. McClain agreed that this could be a potential inclusion to the application. Along with a Live Scan of the Responsible Party.

Mr. Swenson recommended having the application include the responsible party, ownership information, or a list of instructors and request pertinent information related to each. Mr. Swenson went on to state that an individual is unable to attest on behalf of another individual, if the suggested idea of an attestation is pursued, each individual in the organization involved in the CE courses would need to attest on their own behalf for it to be binding.

Mr. McCarther asked for clarification on whether it would be possible to require Live Scan results of CE providers.

Mr. Swenson confirmed that to place a requirement of a Live Scan, there would need to be a substantial concern that the criminal background of an individual would affect their ability to offer CE courses.

Mr. Puleo stated that the more potentially dangerous individual to a licensee was not the owner of a CE organization, but the instructor facilitating the course. Additionally, he was uncertain if the Board would be able to meet the necessity standard for OAL to include a provision such as a Live Scan.

Dr. McClain summarized that further research needed to be conducted to determine potential alternatives to the Live Scan option.

Mr. McCarther inquired if the Board could include disciplinary questions within the application to have the CE providers attest that they have never broken BCE law.

Mr. Swenson agreed that it would be possible to receive approval from OAL for an application including an attestation denying any involvement in disciplinary matters. He further clarified there would not be an opportunity to have individuals sign 'under perjury of law' within the attestation.

The Committee agreed that staff would investigate the possibilities of an attestation within the CE provider application.

Public Comment: Dr. Egan inquired if there were statistics related to complaints of poor performance of CE courses.

Mr. Puleo and Mr. McCarther responded that there were not. Mr. McCarther added that there was not currently a mechanism for the Board to compile complaints against a CE provider for a poor CE course.

Public Comment: Dr. Egan suggested requiring a post course assessment tool for all Board approved CE courses.

Dr. Dehn agreed that this recommendation had been considered by the Committee, she also suggested having this assessment include a way for licensees to contact the Board directly with concerns and including a statement ensuring the licensees credits would not be in jeopardy because of a poorly performing CE course.

Public Comment: Ms. Isenberg volunteered to assist the Board in developing an assessment tool.

Dr. McClain agreed that standardization needed to be implemented among assessment tools utilized by CE Providers.

Dr. McClain continued the discussion to the next topic, Definition of a Course.

Public Comment: Ms. Isenberg stated that the proposed suggestion of limiting the hours of instruction to eight hours in a day, did not match the desire of course participants. Many licensees need to achieve their annual hours in a very concise amount of time and the 12-hour course is very appealing to many licensees.

Dr. Dehn, Dr. McClain and Dr. Egan agreed that a 12-hour course is more in line with what licensees were looking for in available CE courses.

Public Comment: Ms. Isenberg stated that the other proposed changed of a 60-minute hour should not be considered, and instead, the 50-minute hour should be maintained to allow for break times during longer course days.

Public Comment: Dr. Egan also recommended against the 60-minute hour.

Ms. Van Allen reminded the Committee that differences in applications, between the 50 or 60-minute hour, has required staff to spend more time than necessary calculating the total amount of course hours.

Dr. McClain suggested requiring the CE providers to specifically identify an hour by hour breakdown, and if the outline was not sufficient, the application would not be reviewed.

Dr. Dehn hoped that by redefining subject areas there would be less opportunity to submit 24 hours of instruction under one course.

Ms. Van Allen agreed but stated there was still some concern over the definition of Chiropractic Adjustive Technique, as it could lend itself to include many 'patient care' activities, instead of just chiropractic adjustment maneuvers.

Dr. Dehn suggested adding language to the subject area that adjustive techniques would be approved for hands on portions only and would not include evaluation activities or after care.

Public Comment: Ms. Isenberg expressed concern over teasing out separate subject areas from technique procedures, as most techniques require multiple subject areas covered during a given hour of instruction. She felt separating subject areas was not genuine to the content nor to the teaching method.

Ms. Boyer stated due to the concerns of breaking apart applications into different subject areas, the plan presented to the Committee proposed allowing providers to submit applications for a full day of

instruction, with multiple subject areas listed and charging per hour of instruction. This could eliminate the need to tease apart patient care techniques.

The CE Committee and public participants agreed with exploring this model.

Mr. McCarther stated that Board staff would need to further explore the possibility of charging per hour, there would need to be a significant amount of research to identify what an appropriate cost would be.

Dr. McClain agreed and continued the discussion to the Denial and Appeal Process.

Ms. Boyer supplied an explanation that the suggestions included were identified from the Acupuncture Board's denial process for CE providers and CE courses, as a potential starting point for the CE Committee's discussion.

Dr. McClain suggested adding 'false advertisements or social media publicization' to actions identified as potential grounds for denying, or withdrawing approval, of a CE course.

Mr. Swenson mentioned that there would need to be a provision of the application that could identify reviewing social media type advertisements. The Board would only be able to review and potentially deny on material required in an application.

Dr. McClain directed the discussion to the Licensee Reporting Requirements.

Mr. Puleo announced that the Board was aggressively moving forward with potential technology requirements to allow licensees to complete the renewal process online. Licensees would be able to identify all CE courses completed and pay the renewal fee, ultimately mandating 100% CE audit compliance.

Mr. Puleo went on to state that for current audits, the staff would be issuing an audit compliance form for licensees to complete and acknowledge their CE courses completed, creating additional accountability in the audit process.

Public Comment

No public comment.

Future Agenda Items

None

Adjournment

Dr. McClain adjourned the meeting at 2:00 p.m.