

**Board of Chiropractic Examiners
TELECONFERENCE MEETING MINUTES
Licensing & Continuing Education Committee
May 7, 2021**

Teleconference Meeting

Committee Members Present

Dionne McClain, D.C., Chair
Laurence Adams, D.C.
David Paris, D.C.

Staff Present

Robert Puleo, Executive Officer
Kristin Walker, Assistant Executive Officer
Dixie Van Allen, Staff Services Manager I
Natalie Boyer, Continuing Education Analyst
Amanda Campbell, Continuing Education Analyst
Michael Kanotz, Attorney III

1. Call to Order & Establishment of a Quorum

Dr. McClain called the meeting to order at 10:00 am.

Dr. Paris called roll. Dr. McClain and Dr. Paris were present, Dr. Adams joined the meeting late. A quorum was established.

2. Approval of March 25, 2021, Meeting Minutes

MOTION: DR. PARIS MOVED TO APPROVE THE MINUTES OF THE MARCH 25th, 2021 LICENSING & CONTINUING EDUCATION COMMITTEE MEETING.

SECOND: DR. MCCLAIN SECONDED THE MOTION.

Discussion: There was none

Public Comment: There was none.

VOTE: 2 - 0, (DR. MCCLAIN – AYE, DR. PARIS – AYE, DR. ADAMS - ABSENT)

MOTION CARRIED.

3. Public Comment for Items Not on the Agenda

There was none.

4. Review, Discussion and Possible Action to Article 6. Continuing Education Sections 361 – 363

Ms. Boyer guided the Committee through the review process of the continuing education (CE) regulations document. They began with Section 362. Continuing Education Provider Approval. Ms. Boyer brought the Committee's attention to subsection (b), which acknowledged the Federation of Chiropractic Licensing Boards Providers of Approved Continuing Education (FCLB PACE) approval but maintained the Board's authority for course review and approval.

Ms. Boyer shared potential changes in Section 362, 362.1, 362.2, 362.3, 362.4 and 362.5 without any questions or comments from the Committee.

Ms. Boyer moved on to Section 363. Approval of Continuing Education Courses. She pointed out the changes in the first paragraph of this section, that now supported both in-person and two-way video conferences could be approved as an in-person CE event.

Dr. McClain suggested changing "so long as" to "as long as" in the last sentence of the first paragraph of this section.

Dr. Paris inquired if the Committee had agreed not to use 'synchronous' and 'asynchronous' as part of the definition in the regulations.

Ms. Boyer recalled that there had been some confusion within the Committee with the use of that terminology and she had included "in real time" instead.

Mr. Puleo suggested adding a clause that included 'synchronous' and 'asynchronous' in the definitions listed in the regulations.

Dr. Paris agreed.

Dr. McClain suggested reiterating the definitions of 'synchronous' and 'asynchronous' for the public record.

Dr. Paris stated that synchronous was learning that existed or occurred at the same time and asynchronous did not occur at the same time and is sometimes referred to as "store and forward".

Dr. McClain inquired if further examples needed to be included in the regulations to help individuals determine what would constitute as a synchronous learning course.

Ms. Boyer responded that she would add 'synchronous' and 'asynchronous' terms into the regulatory document but was hesitant to add too many examples that would restrict the options when offering an in-person CE course.

Ms. Boyer continued with the review of Section 363 and pointed out the new reference to the PACE Pre-Check application.

Ms. Boyer brought the Committee's attention to Section 363 (b) which defined a 'course' in the regulations and the continued discussion that needed to occur to properly define 'course' or determine what term they would like to use in its place. Ms. Boyer shared that in many of the new drafts for the CE applications the term "event" had been used. The new model would allow a provider to apply for multiple hours and competencies on the same application and did not know if it was necessary to have an itemized list of all activities that could constitute a course.

Dr. McClain was concerned about creating a list as it would hem in the creativity of limits the options available to providers.

Dr. Adams joined the meeting at 10:21 am.

Dr. Paris asked for a further explanation of how the fees were associated with the definition of a course.

Ms. Boyer shared that currently in regulation a course equaled one application with one subject area. The proposed model would allow a provider to apply for multiple competencies of various hours within a single application and they would pay a fee per hour requested in that application.

Dr. Paris went on to inquire how many hours could be contained in the definition of a course.

Ms. Boyer responded that there was not a limit to how many hours a provider could request. If providers tried to bundle multiple hours or days of an event onto one application, it would become very complex as they would only be awarded one approval number.

Ms. Boyer suggested potentially including a clause that a course could only be a certain amount of days but that could potentially limit a lengthy seminar.

Mr. Puleo suggested that if the fee structure was changed, where each hour of instruction was associated with a particular fee, that would be a deterrent to providers from attempting to include all their course hours for an entire year onto one application.

Dr. Paris agreed.

Dr. Adams inquired if the present discussion had been initiated by some of the provider's feedback to the Committee regarding their confusion over the competencies and the further breakdown of fees for those competencies.

Ms. Boyer responded that this particular topic was one that the Committee and staff had been discussing for some time, as it was requiring a departure from the current application and fee model. The Committee needed to determine what was in the best interest for the CE regulations to be as clear as possible and reduce confusion that many new providers experienced when submitting CE course applications.

Dr. Adams felt that the clearest method was to allow the provider to select the competencies for their application and then the fee should be determined per hour.

Dr. Paris agreed to the per hour fee. He went on to state that the fees should also reflect the amount of times a course was being offered during the approval period and required staff to review the course again.

Dr. Adams mentioned that he was not aware that a course received multiple reviews, he was under the impression that staff reviewed and approved the course once during the application process and that the course could be offered multiple times during the year.

Ms. Boyer responded that the course was reviewed once per year, at the initial application period. Providers were encouraged to include all the dates they intend to offer the course on their application. If, in the future, they included more dates and locations to that particular approved course staff would not conduct another review, but would update the records for that particular course.

Dr. Paris inquired if it involved much staff time to process the request.

Ms. Boyer responded that it did, as staff would update the course record and post the new dates to the Board's website.

Mr. Puleo added that there would be the potential need for hiring experts or utilizing Board Members' expertise to review courses when staff felt the content was not compatible with regulations or if there was an appeal to a denied course. These items would contribute to the overall fee associated with a course.

Ms. Van Allen added a point of clarification, that for providers submitting courses with multiple instructors and breakout sessions occurring simultaneously during a seminar, each hour of instruction needed to be assessed a fee and not just each hour of credit that a participant could earn. She wanted to ensure that this was clear to providers within the regulations.

Mr. Puleo redirected the Committee to focus on defining a 'course' and 'event' for the regulatory language.

Dr. McClain inquired if it was necessary to define 'course' more than it already was. She also inquired if there had been a definition of the term 'event' that was being utilized on the "CE Event Application".

Mr. Kanotz advised the Committee that the regulatory language would need to keep some definition of course as the fee was directly tied to the definition, in statute as "\$56 per course".

Dr. Adams reiterated that a fee per hour of instruction seemed to make the most sense in terms of staff time and resources and placed more responsibility on the provider to show their course content relating to the available competencies.

Ms. Boyer clarified that in the proposed regulations a course would consist of one competency that could be made up of several hours of instruction, yet when a provider applied to the Board, they could choose to include multiple courses or competencies to make up their CE event. The proposed fee structure would be assessed per hour of instruction.

Dr. Paris suggested making a 'course; consist of multiple 'classes'. A 'class' would be one 50-minute credit hour. A 'course' would consist of one or multiple classes in the application process. He felt this was more in line with education institutions.

Dr. McClain recommended staff prepare definition language based on the example of 'courses' and 'classes' that Dr. Paris provided.

Ms. Van Allen felt that the instructor needed to be incorporated into the definition of a course.

Mr. Puleo stated that as a layperson he felt that 'course' and 'class' had the same meaning, they were interchangeable. He felt that the term 'event' better encompassed a program with several competencies and instructors, held over multiple days. Mr. Puleo inquired if the distinction between those two terms was something that the Council on Chiropractic Education (CCE) utilized.

Dr. Paris suggested reaching out to CCE and receiving feedback on the terms they used.

Mr. Puleo surmised that a course would be taken over multiple class periods throughout a semester or quarter, through several class hours. This example did not explicitly transcend to CE formats as a provider could offer a single course, completed in a single hour of instruction.

Dr. McClain suggested seeking feedback from CCE and utilizing the definitions from the collegiate environment.

Mr. Puleo stated that staff had enough information to continue the research for the regulatory language and the definition of a course.

Ms. Boyer agreed and went on to state that the agreements from the Committee: that course could consist of multiple competencies and that fees should be assessed per hour of instruction. Additional language options would be brought before the Committee.

Ms. Boyer moved on with the document review process in Section 363. She pointed out that the first sentence on page 10 would be stricken as it did not comply with the Committee's agreed upon understanding, that an application could consist of more than one competency.

Ms. Boyer next pointed out Section 363 (k), a new provision that excluded Competency 2 – Chiropractic Adjustment/Manipulation from being taught through any online learning platforms. She went on to point out that in a later section of the regulations, Section 364 (e), licensees had the opportunity to apply for a medical waiver to complete all CE courses online. With this new exemption in place, licensees seeking a medical waiver would not have the opportunity to complete the mandatory competencies online, as there would not be many providers offering the course through two-way video conferences or through traditional distance learning courses.

Dr. McClain inquired if the exemption needed to be removed.

Ms. Boyer responded that there might be an alternate to the exemption if the Committee had another suggestion for those seeking medical waivers.

Mr. Puleo mentioned that if the Committee allowed for all competencies to be available through two-way video courses there wouldn't be a need for individuals to seek out approval for completing all their CE hours through online platforms.

Dr. Adams shared that now that he had attended some two-way video adjustive technique courses, he felt that Competency 2 had validity in the market place and should not be excluded from online platforms.

Dr. McClain inquired what type of feedback was possible during the technique practice time during a video course.

Dr. Adams stated that many doctors were not participating in the adjustive technique demonstrations during the in-person seminars he had attended. Dr. Adams suggested mandating that the licensees had to have a partner present to participate with the adjustive technique practicum during a course.

Dr. McClain inquired if there was a significant number of individuals requesting medical waivers.

Ms. Boyer responded that prior to the Covid-19 pandemic, the Board received about 2-3 medical waiver exemptions per months. After the Covid-19 pandemic, the Board received 25 requests for the month of August 2020. This was prior to the Department of Consumer Affairs' (DCA) waiver that approved two-way video conferences in place of in-person CE courses. This material could be found in the November 2020 Licensing & CE Committee material packet on the Board's website.

Dr. Paris inquired how many individuals requested temporary waivers versus individuals who had long term medical conditions,

Mr. Puleo responded that despite the nature of the medical exemption, the regulations required the individual to submit a request annually for approval. There were no blanket approvals for this process.

Dr. Paris suggested that other providers, like PACE, would be offering adjustive technique courses online and that could potentially suffice for the very few individuals who would request this exemption year after year.

Dr. McClain agreed with the suggestion, that the few individuals needing the medical waiver exemption would also be granted approval to complete adjustive technique courses through online means, from providers like PACE, without the Committee removing the exclusion clause in subsection 363 (k).

Dr. Adams shared his concern with excluding adjustive technique from distance learning and two-way video conferences, which would require individuals to travel for a four-hour requirement. He encouraged the Committee Members to participate in a Zoom style adjustive technique course, as he had personally experienced such a course and found the view to be superior to in-person presentations.

Dr. McClain reiterated that public safety was a priority versus the potential inconvenience for licensees. Dr. McClain went on to state that with the inclusion of PACE courses, there was the potential of numerous courses being added to the California marketplace.

Dr. Paris mentioned that he had witnessed some technique and other patient care courses through Zoom and he continued to believe that this type of instruction did not meet the standards for quality education for public protection that the Board was tasked with.

Ms. Boyer summarized the Committee's conversation for future action items. Subsection 363 (k) would remain as is and a new clause would be included into subsection 364 (e) to include approval for online courses of Competency 2.

Dr. Adams wished to express his interest in receiving input from providers and licensees regarding taking adjustive technique courses through two-way video platforms, he was concerned with making a decision regarding the exclusion at this time. Dr. Adams also shared that other healthcare providers, like dentist, completed specific professional training through Zoom courses that had been sanctioned by their regulatory board.

Dr. McClain appreciated the comments and moved to accept public comments prior to moving on for further review of the regulatory language.

Public Comment: Dr. Marcus Strutz, chiropractor and continuing education provider with Back to Chiropractic Seminars, shared that he had numerous videos he could share with the Committee that demonstrated the camera angles and close up views in his courses. He also shared that he had received hundreds of testimonials from participants who agreed to the superiority of two-way video conference courses. Dr. Strutz invited the Committee Members to schedule one on one tutorials with him to see the potential in adjustive technique courses offered through Zoom.

Public Comment: Ms. Laurie Isenberg, Director of Postgraduate & Continuing Education at Life Chiropractic College West, shared that from all her course applications in numerous different states, none of the regulatory bodies defined what a 'course' or 'class' was. She also questioned including the statement that when teaching chiropractic adjustive technique the instructor needed to be licensed in the state of California. She did not think that was feasible considering that many times the instructor taught the set up for the technique but did not actually deliver the adjustment. And finally, she beseeched the Committee to include Philosophy as part of the competency structure for continuing education.

Ms. Boyer returned to Section 361 for review. Ms. Boyer pointed out, in Section 361 (g) (5), some slight language changes to address Dr. McClain's concern from the March Committee Meeting. The language had become a bit clearer to properly reference when a licensee could earn CE credit for participating in a National Board of Chiropractic Examiners (NBCE) exam.

Ms. Boyer then moved onto subsection 361 (g) (3) which allowed licensees to earn credit from a PACE approved course through a PACE provider. This was added to the regulations based on information from previous Committee meetings and in light of the recent addition of the PACE Pre-Check application process. Ms. Boyer was curious if the Committee wished to keep this provision.

Dr. Adams shared that he felt this provision was inconsistent with what the Board had recently decided, that they wished to maintain control of the CE course approval process from PACE approved providers.

Ms. Boyer agreed and shared that this policy topic was from many years ago yet was no longer consistent with the Board's recent decision.

The Committee agreed with removing the clause.

Ms. Van Allen suggested including a provision into the CE provider denial process to include a timeframe for when a provider could reapply for Board approval. Currently there was nothing in regulation preventing a provider from instantly applying for Board approval following a denied provider application.

Ms. Boyer agreed.

Ms. Boyer progressed with reviewing the forms and applications included as reference in the regulations.

There were no questions from the Committee on the language of the Continuing Education Competency document.

Dr. Adams suggested revisiting the breakdown in mandatory hours, as he felt some of the provider's feedback implied that they were too lengthy. He felt that more hours could be assigned to individuals who needed it, due to an enforcement infraction, but that the mandatory hours could be lowered for most of the licensing population.

Dr. McClain mentioned that the increased hours were not just for those who had been disciplined, but because the Board has seen infractions in referrals and diagnosis, there was a larger problem which could be alleviated through preemptive CE courses requirements.

Ms. Boyer continued to the CE Provider Application and the CE Event Application.

Dr. Paris inquired if, on the first page of the CE Event Application, it could be considered to include the instructor when asking about content that had been changed for a CE course.

Ms. Boyer responded that if a CE course was submitted where the content had not changed but the instructor had, there would be a record of that with the instructors curriculum vitae and the completed attestation page.

Dr. Paris understood, he thought it might be helpful when gathering information.

Ms. Boyer explained how the CE Event Application could be utilized with the new CE competency model when applying for CE course approval.

The Committee discussed several examples of how providers of larger seminars would fill out the proposed CE Event Application.

Dr. Paris returned to the competency language for Competency 7 – Information and Technology Literacy, he felt there should be an additional objective that reflected the outcome of attending a peer review research seminar. He suggested a title change to include “exposure and education in research”.

Dr. Adams suggested “literature and research review”.

Dr. Paris also suggested adding language into the competency document to imply that the curricular objectives were examples but not the only option. There could be additional learning objectives that the provider could determine and present in their event applications.

Ms. Boyer agreed and would make the adjustment.

Dr. Adams shared that one of the providers had provided feedback to include a provision in regulations that would allow the Board the authority to make changes to the laws as they deemed necessary.

Ms. Boyer responded that such a provision would not be possible as the rulemaking process required all laws to be put before the Office of Administrative Law (OAL). She shared that there were Section 100 changes that allowed for non-substantive changes, such as to grammar or design.

Mr. Kanotz agreed that all rulemaking changes needed to be submitted to OAL.

Ms. Boyer moved on to the PACE Pre-check Application. She acknowledged that a statement needed to be included requesting the providers’ course outline and instructors’ curriculum vitae.

There were no public comments at the conclusion of this agenda item.

5. Review, Discussion and Possible Action on Committee’s Activities to Solicit Stakeholder Participation in Promulgating Continuing Education Regulations

Dr. McClain wished to hear suggestions from the Committee regarding potential ways to solicit participation from stakeholders regarding the proposed changes to the CE regulations.

Dr. Adams suggested soliciting written feedback from the chiropractic colleges and larger providers, as a few providers had already done so and he found it very informative.

Dr. Paris was supportive of as much outreach as possible, he did not think that a town hall

format would be the most productive option.

Dr. McClain agreed that the Committee has always been open to feedback and suggestions from the public and it would be more concise and effective to hear from stakeholders in a written format. She went on to encourage providers to submit feedback or specific language changes for the proposed regulations.

Dr. Paris also pointed out that the next agenda item covered selecting the next couple of Committee meeting dates and those would pose additional opportunity for the public to engage with the Committee and the promulgation of regulation changes.

Dr. Adams agreed. He suggested 1500 words or less for the written feedback.

Dr. McClain suggested one to two pages for the written feedback and emphasized the need to be concise when submitting items to the Committee and Board.

Mr. Puleo encouraged the schools and providers to communicate with each other and come to a consensus on potential ideas and submit unified written recommendations to the Board.

Public Comment: Dr. Strutz shared that he felt the prominent issue that providers would be interested in discussing was whether adjustive technique was offered both as a live and zoom type course. He also stated that the competencies should be as clear as possible so that the providers understood what they were meant to teach.

6. Review, Discussion and Possible Action on Scheduling Future Committee Meetings

The Committee selected June 17th, 2021 as the next Licensing & CE Committee Meeting date, from 10am to 1pm. They also selected two options, between July 29th and August 13th, and will wait to hear back from Dr. McClain regarding her schedule.

Ms. Boyer stated that two meetings would be sufficient at this time. This same agenda topic would be added to the second meeting date to ensure the Committee had an opportunity to review their schedules and select more meeting dates.

7. Public Comment on Items Not on the Agenda

There were none.

8. Future Agenda Items

Dr. Adams encouraged the Committee to avail themselves of online adjustive technique courses to better familiarize themselves with two-way video conferences formatting and style.

9. Adjournment

Dr. McClain adjourned the meeting at 1:24 p.m.