



WASHINGTON STATE
CHIROPRACTIC QUALITY ASSURANCE COMMISSION
SPECIAL MEETING MINUTES

March 19, 2020

This was a public meeting that was held online

Commission Members In Attendance:

David Folweiler, DC, Chair, Judy Colenso, Public Member, Vice-Chair, Michael Bostjancic, DC, Vice-Chair, Susan Jensen, JD, Executive Committee Public Member, Maria Best, DC, Susan Bogni, Public Member, Brian Chan, DC, Stephen Chan, DC, Dana Clum, DC, William Davis, DC, Doug Long, DC, Gabe (Gary) Smith, DC, Matthew Waldron, DC, and Vanessa Wise, DC.

Staff In Attendance:

Bob Nicoloff, Commission Executive Director
Jenny Yeam, Commission Licensing and Compliance Manager
Tammy Kelley, Commission Credentialing and Disciplinary Manager
Marlee O'Neill, DOH Legal Services Deputy Director
Christopher Gerard, Assistant Attorney General
Cori Tarzwell, DOH Policy Analyst

OPEN SESSION – Thursday, March 19, 2020

7:00 p.m.

1. CALL TO ORDER – Dr. Folweiler

7:00 p.m.

1.1 The agenda was approved as submitted.

2. CONSIDERATION OF A TEMPORARY POLICY REGARDING THE CONTINUING EDUCATION RULE, [WAC 246-808-150](#), IN LIGHT OF COVID-19 RECOMMENDATIONS – Dr. Folweiler, and Christopher Gerard, Assistant Attorney General

2.1 Dr. Folweiler discussed how State and Federal recommendations and guidelines related to COVID-19 have impacted the ability of chiropractors and chiropractic x-ray technicians to complete annual required continuing education.

2.2 Christopher Gerard reviewed options available to the Commission should it decide to establish a temporary policy regarding provisions in the continuing education rule.

- 2.3 After considering member comments and feedback from the public, the Commission adopted temporary policy CH-3-19-20B [COVID-19 and Continuing Education for Chiropractors](#). The policy will be added to the Commission’s website and distributed to subscribers to the Commission’s email list. (This policy is attached to these minutes.)

The policy states that the Commission will not take enforcement action against chiropractic licensees who complete the twenty-five hour continuing education (CE) requirement using exclusively online-based courses due to the COVID-19 public health emergency.

The policy will remain effective until the Commission withdraws this position at an open public meeting or until the Governor issues a proclamation declaring the termination of the state of emergency declared by Proclamation 20-05, as amended by any subsequent amendatory proclamations, whichever is earlier.

- 2.4 The Commission discussed an email received from Dr. Susan Vlasuk regarding the potential negative impact of COVID-19 on chiropractic x-ray technician continuing education course availability. It was determined that additional information is needed before the Commission can consider a temporary COVID-19 policy on chiropractic x-ray technicians continuing education.

3. COMMISSION TELEHEALTH GUIDELINES – Christopher Gerard, AAG

- 3.1 Christopher Gerard reviewed two versions, A and B, of a final draft of the Commission’s telehealth policy. The versions are nearly identical except for the peer-to-peer consultation sections:

Version A

Peer-to-Peer Consultations

The Commission understands RCW 18.25.005, RCW 18.25.011, and RCW 18.25.190 permit a chiropractor licensed by the Commission to consult with an individual who is not licensed by the Commission using synchronous or asynchronous communication so long as the chiropractor licensed by the Commission remains professionally responsible for the primary diagnosis and any testing or treatment provided to the Washington patient.

Version B

Peer-to-Peer Consultations

The Commission understands RCW 18.25.005, RCW 18.25.011, and RCW 18.25.190 permit a chiropractor licensed by the Commission to consult with a chiropractor who is not licensed by the Commission using synchronous or asynchronous communication if the following conditions are met:

1. *The chiropractor who is not licensed by the Commission is licensed in the state or United States territory where they practice;*
2. *The chiropractor licensed by the Commission remains professionally responsible for the primary diagnosis and any testing or treatment provided to the Washington patient; and*
3. *The chiropractor not licensed by the Commission does not set up an office or place of meeting patients, physical or virtual, in Washington.*

- 3.2 After receiving member comments and feedback from the public, the Commission adopted Version A of the Telehealth Policy, by a vote of 13 to 1, with Ms. Bogni opposed, indicating that she preferred Version B.

The policy will be added to the Commission’s website and distributed to subscribers to the Commission’s email list. (This policy is attached to these minutes.)

4. DISCUSSION REGARDING THE IMPACT OF THE COVID-19 CRISIS ON CHIROPRACTIC PATIENTS AND THE PRACTICE OF CHIROPRACTIC – Dr. Folweiler

- 4.1 The Commission discussed how the COVID-19 crisis has impacted patients, and the practice of chiropractors.
- 4.2 Dr. Folweiler presented a draft one page COVID-19 resource document for chiropractors for consideration by the Commission.
- 4.3 After incorporating changes suggested by members, the resource document was approved. The document will be added to the Commission’s website and distributed to subscribers to the Commission’s email list. (The resource document is attached to these minutes.)

5. ADJOURNMENT

- 5.1 The meeting adjourned at 8:36 p.m.



July 9, 2020

Prepared By: Robert Nicoloff, Executive Director

Date



July 9, 2020

Approved By: David Folweiler, DC, Chair

Date

Department of Health
Chiropractic Quality Assurance Commission

Policy Statement

Title:	COVID-19 and Continuing Education for Chiropractors	Number: CH-3-19-20B
References:	RCW 18.25.070 and WAC 246-808-150	
Contact:	Bob Nicoloff, Executive Director	
Phone:	(360) 236-2822	E-mail: cqac@doh.wa.gov
Effective Date:	March 19, 2020	
Approved By:	David Folweiler, DC, Chair	

Policy Statement

The Chiropractic Quality Assurance Commission (Commission) will not take enforcement action against its licensees who complete the twenty-five hour continuing education (CE) requirement using exclusively online-based courses due to the COVID-19 public health emergency.

The Commission intends to engage in emergency rulemaking to amend WAC 246-808-150(8) to reflect that a chiropractor may earn twenty-five hours of CE credit for completing a multimedia chiropractic education program, which includes, but is not limited to, the internet, teleseminars, employer led training, and audio or video presentations.

This policy will become effective immediately and will remain effective until the Commission withdraws this position at an open public meeting or until the Governor issues a proclamation declaring the termination of the state of emergency declared by Proclamation 20-05, as amended by any subsequent amendatory proclamations, whichever is earlier.

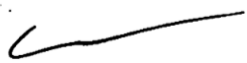
Background

Chiropractors in Washington State must complete twenty-five hours per year of CE that is recognized and approved by the Commission as a prerequisite to renewal (RCW 18.25.070 and WAC 246-808-150(1)).

Currently, a chiropractor cannot meet the CE requirements of the Commission by completing only online-based courses. Chiropractors are able to earn a "maximum of twelve hours" of CE for completing a "multimedia chiropractic education program, which includes, but is not limited to, the internet, teleseminars, employer led training, and audio or video presentations" (WAC 246-808-150(8)(a)). This prevents a chiropractor from meeting the CE requirements by only completing online-based CE because at least thirteen hours of CE must involve in-person programs.

Over the past month, the Governor has issued multiple emergency proclamations related to the COVID-19 public health emergency. The actions taken by the Governor are similar to a number of emergency proclamations passed in other states and by the federal government. Chiropractors have reported these restrictions have led to the cancellation of in-person CE programs. Consequently, chiropractors are unable to meet the CE requirements of the Commission. A failure to meet CE requirements can expose a chiropractor to discipline by the Commission (RCW 18.130.180(7), RCW 18.25.070, and WAC 246-808-150(1)).

At its special business meeting on March 19, 2020, the Commission decided it would not take enforcement action against licensees who complete the twenty-five hour CE requirement using exclusively online-based courses during the COVID-19 public health emergency. The Commission decided this would take effect immediately and will remain effective until the Commission withdraws this position at an open public meeting or until the Governor issues a proclamation declaring the termination of the state of emergency declared by Proclamation 20-05, as amended by any subsequent amendatory proclamations, whichever is earlier. The Commission decided it would also engage in emergency rulemaking to amend WAC 246-808-150(8) to reflect this decision.



March 19, 2020

David Folweiler, DC, Chair

Date

Policy Statement

Title:	Telehealth Policy	Number: CH-3-19-20A
Contact:	Bob Nicoloff, Executive Director	
Phone:	360-236-2822	
Email:	cqac@doh.wa.gov	
Effective Date:	March 19, 2020	
Approved By:	David Folweiler, DC, Chair	

Background

As noted by the Washington State Department of Social and Health Services¹:

Telehealth is a rapidly expanding mode of health care service delivery in the United States including here in Washington. Telehealth capabilities, such as videoconferencing, can expand the reach of services and improve efficiency of healthcare and related support services by shortening delays in services and eliminating or reducing travel time and associated costs. Telehealth-based services can be particularly beneficial for clients/patients that live in geographically remote or underserved areas, including urban areas.

Due to the rapid expansion of telehealth, the Chiropractic Quality Assurance Commission (Commission) developed this policy statement to address the following three areas related to the provision of chiropractic services via telehealth:

1. Licensing requirements for chiropractors providing telehealth services to Washington patients.
2. The standard of care for chiropractors providing telehealth services to Washington patients.
3. The role of the Commission in evaluating technology and equipment used to facilitate the provision of telehealth services.

Definitions

In additions to definitions contained in RCW 18.25 and WAC 246-808, the Commission adopts the following definitions for the purposes of this Policy Statement:

“Asynchronous Communications” means one way at a time communication, such as fax, email, SMS texting, or the electronic transfer of a digital image.

“Chiropractic care” has the same meaning as chiropractic in RCW 18.25.005.

“Distant Site” means the physical location of a chiropractor providing chiropractic services through telehealth. An example of this would be the chiropractor’s clinic location.

¹ Washington State Department of Social and Health Services, *Telehealth Implementation Guidebook*, March 2017, at 2, <https://www.dshs.wa.gov/sites/default/files/BHSIA/FMHS/DSHSTelehealthGuidebook.pdf> (last accessed September 6, 2019).

“Originating Site” means the physical location of a patient receiving chiropractic services through telehealth. Examples of this include a patient’s home, a videoconference facility, or a clinic.

“Synchronous Communications” means two-way real-time communications, such as videoconferences and telephone.

“Store-and-Forward Technologies” means the use of asynchronous communication of a covered person's health care information from an originating site to the health care provider at a distant site which results in diagnosis and management of the covered person.

“Telehealth” means delivering chiropractic care via asynchronous or synchronous communication technologies to facilitate the diagnosis, consultation and treatment, education, care management or self-management of a patient's condition.

“Temporary Practice Permit” means a registration issued by the Commission to a chiropractor licensed by another state, territory or country in which he or she resides. The holder of a temporary practice permit shall not establish a practice open to the general public and shall not engage in the temporary practice under this section for a period longer than thirty days per RCW 18.25.190.

Licensing Requirements

Practitioners providing chiropractic services via telehealth to patients located in Washington State must either be licensed or hold a temporary practice permit from the Commission.

Washington law requires chiropractors who are licensed in another state, territory, or country and who engage in chiropractic in Washington State temporarily (less than a thirty day period) to have a temporary permit to practice chiropractic in Washington State (RCW 18.25.190). The Commission understands this requirement to mean that chiropractors providing chiropractic care via telehealth to patients located in Washington State, even for a temporary period of time, are required to be registered with the Commission.

A chiropractor who provides chiropractic services to patients in Washington State over more than a thirty day period must be licensed by the Commission. Washington law requires any person who practices chiropractic in Washington State to be licensed by the Commission (RCW 18.25.011). The Commission understands this requirement to mean that chiropractors providing chiropractic care via telehealth to patients located in Washington State over more than a thirty day period are required to be licensed as a chiropractor by the Commission.

The Commission will refer chiropractors (whether located inside or outside of Washington State) who are providing chiropractic services to patients located in Washington to the Washington State Department of Health’s Unlicensed Practice Program if they do not hold a license or a temporary practice permit (see RCW 18.130.190).

Peer-to-Peer Consultations

The Commission understands RCW 18.25.005, RCW 18.25.011, and RCW 18.25.190 permit a chiropractor licensed by the Commission to consult with an individual who is not licensed by the Commission using synchronous or asynchronous communication so long as the chiropractor licensed by the Commission remains professionally responsible for the primary diagnosis and any testing or treatment provided to the Washington patient.

Hypothetical #1 – Virtual Encounter with Patient

A chiropractor uses technology to have a two-way audio and visual encounter with a patient to discuss an ongoing exercise regimen meant to assist the patient with chronic back pain. The patient is located in Washington. In this situation, the chiropractor must be licensed by the Commission to provide the telehealth service.

Hypothetical #2 – Telephone Discussion with Patient

Patient X (located in Washington) goes online and schedules a phone conference with Chiropractor A. As part of the scheduling process, Patient X completes a questionnaire and provides pertinent medical records and images to Chiropractor A for review prior to the telehealth conference. Chiropractor A will review the provided records and discuss them during the telehealth conference.

Patient X and Chiropractor A have their phone conference. During this phone conference, Chiropractor A discusses manual therapy, clinical appointments and personal training for Patient X to pursue. Patient X schedules a follow-up video conference with Chiropractor A.

In this situation, the chiropractor must be licensed by the Commission to provide these telehealth services.

Hypothetical #3 – Diagnosis

Chiropractor A takes an X-ray image of Patient B. Both Chiropractor A and Patient B are located in Washington. Chiropractor A examines the X-ray image and sends this X-Ray image and other pertinent records to Chiropractor C who resides and is licensed in another state.

Chiropractor C reviews the X-ray image and other pertinent records, makes a diagnosis, and proposes a treatment plan for Patient B. Chiropractor C then reports this diagnosis and proposed treatment plan with Chiropractor A and Patient B via telephone. Patient B is then referred to Chiropractor C for any questions that relate to implementation of the treatment plan.

In this situation, Chiropractor C must be licensed by the Commission to provide these services.

Hypothetical #4 – Consult

Chiropractor A takes an X-ray image of Patient B. Both Chiropractor A and Patient B are located in Washington. Chiropractor A examines the X-ray image and makes a finding but wants a second opinion.

Chiropractor A then sends this X-Ray image to Chiropractor C who resides and is licensed in another state. Chiropractor C looks at the X-ray image and agrees with Chiropractor A's finding. Chiropractor A then reports this finding and a proposed treatment plan with Patient B.

Chiropractor A would need to be licensed in Washington, but Chiropractor C would not need to be licensed in Washington because this consultation appears to meet the requirements of the peer-to-peer exemption outlined above (assuming the other criteria are met).

Standard of Care

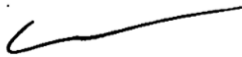
The Commission shall treat chiropractic care delivered by a chiropractor through telehealth in an identical manner to the provision of chiropractic care delivered by a chiropractor in person. Washington State licensed chiropractors should be familiar with the laws regulating the profession, particularly RCW 18.25 and WAC 246-808.

For example, a chiropractor is required to keep “complete and accurate documentation on all patients and patient encounters” (per WAC 246-808-560) and this requirement is applied to patient encounters that occur “in-person” or “face-to-face” in the same manner as patient encounters that occur via telehealth.

A failure to conform to the standard of care as required by law, whether the chiropractic care is provided in-person or via telehealth, may subject the chiropractor to potential discipline by the Commission.

Equipment and Technology

The Commission does not endorse or evaluate the suitability of specific equipment and technology used to provide telehealth services. The Commission will consider whether the provision of telehealth services meets the standard of care for the provision of chiropractic care.



March 19, 2020

David Folweiler, DC, Chair

Date



**State of Washington
Chiropractic Quality Assurance Commission
March 24, 2020**

We know that the COVID-19 public health emergency is stressful for chiropractors, their staff, and their patients.

We suggest that if you want advice on how to handle this crisis, turn to the resources on the Washington State Department of Health's, the Washington State Office of the Governor's, the World Federation of Chiropractic's, and the Centers for Disease Control and Prevention's websites:

<https://www.doh.wa.gov/Emergencies/Coronavirus>

<https://www.doh.wa.gov/Portals/1/Documents/1600/coronavirus/OutpatientGuidance-COVID19.pdf>

<https://www.governor.wa.gov/issues/issues/covid-19-resources>

<https://www.cdc.gov/>

<https://www.cdc.gov/coronavirus/2019-ncov/hcp/index.html>

<https://www.cdc.gov/coronavirus/2019-ncov/community/guidance-business-response.html>

https://www.wfc.org/website/images/wfc/Latest_News_and_Features/Coronavirus_statement_2020_03_17.pdf

To help chiropractors get the continuing education required for renewing their license, the Commission will allow chiropractors to get all of their education from multi-media (on-line) providers, rather than being limited to 12 hours. The Policy Statement reflecting this position is attached.

The Commission has also developed a Policy Statement for delivering chiropractic services via telehealth. Chiropractors are required to be licensed in Washington State to deliver chiropractic services via telehealth to patients in Washington State. This Policy Statement is also attached.

We have received questions about whether chiropractors should continue to treat patients in a time of recommended social distancing. At the time of writing, the Commission is not aware of any requirement that chiropractic clinics close or otherwise cease to provide chiropractic services to patients. If the Commission becomes aware this position has changed, it will communicate this information to licensees. However, the Commission does not play a role in deciding whether chiropractic clinics remain open. Consequently, the Commission recommends chiropractors utilize the resources provided to gain the most up to date information on the state and national response to the COVID-19 public health crisis.

If you are interested in volunteering to assist with the crisis, the Department of Health has information here:

<https://www.doh.wa.gov/Emergencies/NovelCoronavirusOutbreak2020/HealthcareProviders/EmergencyVolunteerHealthPractitioners>

Yours in health,


David Folweiler, DC
Chair