



WASHINGTON STATE
CHIROPRACTIC QUALITY ASSURANCE COMMISSION
BUSINESS MEETING MINUTES
May 13, 2021

This was a public meeting held via a webinar

Commission Members Present:

David Folweiler, DC, Chair, Judy Colenso, Public Member, Vice-Chair, Michael Bostjancic, DC, Vice-Chair, Susan Jensen, JD, Executive Committee Public Member, Susan Bogni, Public Member, Brian Chan, DC, Stephen Chan, DC, Dana Clum, DC, Michael Long, DC, Rebecca Taylor, DC, Jas Walia, DC, and Vanessa Wise, DC. Maria Best, DC, and William Davis, DC were not present.

Staff Present:

Bob Nicoloff, Commission Executive Director
Tammy Kelley, Commission Deputy Executive Director
Jenny Yeam, Commission Licensing and Compliance Manager
Brandy Acuff, Commission Health Services Consultant
Karen Gohlsen, DOH Administrative Assistant
Julianne Kolln, DOH Policy Analyst
Marlee O'Neill, Legal Services Deputy Director
Christopher Gerard, Assistant Attorney General

OPEN SESSION – Thursday, May 13, 2021

9:00 a.m.

1. CALL TO ORDER – Dr. Folweiler, Chair

- 1.1** The draft agenda was approved with an addition of Item 9.2, Consideration of delegation of authority to Commission members on the Veterinary Board – Chiropractic Commission Task Force.

2. INTRODUCTION – Dr. Folweiler, Chair

- 2.1** The Commission's newly assigned Department of Health Policy Analyst Julianne (Jules) Kolln was introduced to the Commission.

3. MESSAGES FROM COMMISSION LEADERSHIP

- **Dr. Folweiler, Chair; Ms. Colenso, Vice-Chair; Dr. Bostjancic, Vice-Chair; Ms. Jensen, Executive Committee Public Member**

- 3.1** Dr. Folweiler thanked everyone for attending. Commission Leadership noted that they all are very much looking forward to meeting with everyone in person when it is permitted again.

4. APPROVAL OF MEETING MINUTES

4.1 The draft March 11, 2021 meeting minutes were approved as submitted.

5. COVID-19 UPDATE - Dr. Folweiler and Tammy Kelley, Deputy Executive Director

5.1 Ms. Kelley indicated that the number of new complaints received by the Commission related to licensee non-compliance with COVID-19 requirements has dropped recently. This reduction may be related to the letter regarding COVID-19 requirements that was sent to every chiropractor in February.

Ms. Kelley also discussed overall complaint trends during the last two years. In particular she noted that complaints regarding allegations of licensee sexual misconduct have significantly increased in the last year.

6. UPDATE REGARDING 2021 NATIONAL MEETINGS AND ACTIVITIES

6.1 The Commission discussed the following recently attended meetings and activities:

- National Board of Chiropractic Examiners (NBCE) delegate meeting, April 30th, and Federation of Chiropractic Licensing Boards (FCLB) annual conference, May 1st

Members and staff registered: Ms. Bogni, Dr. B. Chan, Dr. S. Chan, Dr. Clum, Dr. Folweiler, Dr. Long, Dr. Wise, Tammy Kelley, Jenny Yeam, Bob Nicoloff

Activities and topics that were covered at these meetings included: leadership elections, approving bylaw changes, analyzing licensing testing costs, reviewing court cases, and supporting profession initiatives.

- Council on Licensure Enforcement and Regulation (CLEAR) Webinar on Roles and Responsibilities of a Board Member, March 18th

Members registered: Dr. Walia, Dr. Wise

Topics covered on the webinar included: promoting the public interest, key concepts in regulatory governance, setting appropriate licensing and practice standards, and handling licensee discipline.

- CLEAR Webinar on Administrative Rulemaking, April 22nd

Members registered: Dr. Wise, Ms. Jensen, Ms. Colenso

Topics covered on the webinar included: authority to issue rules, types of rules, establishing clear standards and definitions, keeping the public interest at the forefront when drafting rules.

6.2 The Commission discussed plans for the following upcoming meetings and activities:

- NBCE Spring Part IV Examinations, May 21-23, various locations including Portland
Nominated Representatives: Dr. B. Chan, Dr. Davis
- NBCE Part IV Test Committee, June 11-12, Greeley, CO
Nominated Representative: Dr. S. Chan
- CLEAR annual conference, September 22-25, was to be an in-person meeting, but now has been changed to a virtual meeting
Previously Expressed Interest: Ms. Bogni, Dr. Bostjancic, Dr. Clum, Dr. Davis, Ms. Jensen, Dr. Long, Dr. Walia, Dr. Wise
- FCLB District I & IV meeting, October 7-11, Whitefish, MT
Previously Expressed Interest: Dr. Best, Ms. Bogni, Ms. Jensen, Dr. Wise
- NBCE Fall Part IV Examinations, November 12-14, various locations including Portland
Previously Expressed Interest: Dr. B. Chan, Dr. S. Chan, Dr. Davis, Dr. Walia

Members may also be participating in the following upcoming CLEAR Regulatory Governance Webinars:

- Professional Discipline, May 20th
Previously Expressed Interest: Dr. Walia, Dr. Wise, Dr. Taylor, Ms. Bogni, Ms. Jensen, Ms. Colenso
- Assessing Competence, June 17th
Previously Expressed Interest: Dr. Walia, Dr. Wise

7. LEGISLATIVE UPDATE – Ms. Bogni and Dr. Wise

- 7.1** Ms. Bogni and Dr. Wise discussed [SB 5229](#), concerning health equity continuing education for health care professionals, [SB 5169](#), concerning provider reimbursement for personal protective equipment during the state of emergency related to COVID-19, [SB 5423](#), concerning telemedicine consultations, and [HB 1196](#), concerning audio-only telemedicine.

Mr. Gerard stated that the Commission would likely need to adopt rules to implement the continuing education requirements established in SB 5229.

Ms. Kelley commented that once the the additional continuing education requirements are implemented, it would be reviewed as part of future licensee continuing education audits.

8. ASSISTANT ATTORNEY GENERAL REPORT – Christopher Gerard, AAG

- 8.1** Mr. Gerard discussed the Washington State Supreme Court’s decision in [State v. Blake \(2021\)](#) in which the court declared unconstitutional Washington’s strict liability drug possession statute, which criminalized unintentional, unknowing possession of controlled substances without a prescription ([RCW 69.50.4013\(1\)](#)). The decision could impact prior Commission disciplinary action that was based solely, or in part, on a conviction under RCW 69.50.4013(1). If chiropractors or chiropractic X-ray technicians believe they have been affected by the Blake decision, they are encouraged to contact the Commission.

Mr. Gerard also mentioned the Washington State Legislature has passed and Governor Inslee is expected to sign Senate Bill 5476 in response to the Blake decision.

9. COMMISSION ANIMAL MANIPULATION COMMITTEE UPDATE – Dr. Matt Waldron, Pro Tem Member, and Christopher Gerard, AAG

- 9.1** Dr. Waldron provided an update on the activities of the Commission’s Animal Manipulation Committee and the Veterinary Board – Chiropractic Commission Task Force.

Dr. Waldron shared information from his discussion regarding the goals of the Task Force with Dr. Richard DeBowes, President, Washington State Veterinary Medical Association. He also indicated that the Task Force might consider utilizing a third-party facilitator to assist in the process of developing the Task Force recommendations. Lori Grassi, Executive of Legislation & Policy, Washington State Chiropractic Association, commented that the Center for Dispute Resolution has provided helpful facilitators in the past, and might be a good resource.

The next meeting of the Veterinary Board – Chiropractic Commission Task Force is expected to be held this summer.

- 9.2** Consideration of delegation of authority to Commission members on the Veterinary Board – Chiropractic Commission Task Force

Mr. Gerard stated he and Assistant Attorney General Lisa Kelley, advisor to the Veterinary Board of Governors, have been asked legal questions by the Task Force. In order to permit a discussion of any response to legal questions at Task Force meetings, it would be necessary that both the Board and the Commission consider delegating waiver of any attorney/client privilege to their respective members on the Task Force. In response, the Commission approved a motion to delegate the decision of whether to waive the attorney/client privilege to the Commissions members of the Task Force.

10. CONTINUING EDUCATION CREDIT FOR ATTENDING COMMISSION MEETINGS VIRTUALLY - Dr. Folweiler

- 10.1** The Commission approved revisions to [Policy 8.10.17](#) to recognize virtual attendance at Commission meetings as credit toward satisfying required continuing education hours. Further revisions to the policy may be considered as the Commission gains experience with meetings that are held both virtually and in-person.

11. DRAFT RULES ON INDEPENDENT CHIROPRACTIC EXAMINERS - Dr. Folweiler

11.1 The Commission reviewed the draft rules on independent chiropractic examiners (ICE). Work on these rules will continue at future Commission meetings.

12. DISCUSSION REGARDING MUSCULOSKELETAL DIAGNOSTIC ULTRASOUND IMAGING - Dr. Folweiler

12.1 The Commission approved updates to the [Classification of Chiropractic Procedures and Instrumentation List](#) to include musculoskeletal diagnostic ultrasound imaging. The updated list will be added to the Commission website.

13. BUDGET AND FINANCIAL OVERVIEW- Bob Nicoloff, Executive Director

13.1 The Commission's current budget and finances were reviewed.

**14. CONSIDERATION OF REQUESTS FOR LICENSEE LISTS AND LABELS
– Tammy Kelley, Deputy Executive Director**

14.1 The Commission approved the list and labels request from RussoCME.

14.2 The Commission approved the list and labels request from Seattle Manual Therapy.

**15. COMMISSION NEWSLETTER AND TRAINING PLANNING
- Tammy Kelley, Deputy Executive Director**

15.1 The Commission reviewed and updated the future newsletter articles list and future training topics list.

15.2 Ms. Kelley requested that the Commission members review the draft newsletter articles included in the meeting packet, and that they email her any feedback or suggested edits.

16. LEADERSHIP NOMINATIONS

16.1 Commission members were provided an opportunity to nominate members for leadership positions for the one-year term beginning in July 2021.

Ms. Jensen and Ms. Bogni were nominated for the Public Member position on the Commission Executive Committee.

Dr. Clum, Dr. Wise, and Dr. Bostjancic were nominated for the two Commission Vice-Chair positions.

Dr. Folweiler was nominated for the Commission Chair position.

An additional opportunity to nominate members will be provided at the July meeting, before the voting and elections for the positions.

17. STAFF REPORT – Bob Nicoloff, Executive Director, and Tammy Kelley, Deputy Executive Director

17.1 Mr. Nicoloff stated that the paperwork necessary to schedule the hearing to adopt proposed changes to the Commission’s sexual misconduct rule has been drafted. It is anticipated that the hearing will be held before the end of the year.

17.2 Mr. Nicoloff requested that the Commission Executive Committee meet to identify recommended changes to the Commission-Department of Health Joint Operating Agreement (JOA). The Commission approved a motion to delegate this activity to the Executive Committee.

17.3 Ms. Kelley discussed projects and activities in the Commission office including significant staff work on DOH committees to replace the current licensing and disciplinary computer systems.

18. NEW BUSINESS REQUESTS – Commission Members

18.1 Dr. Clum commented that she and staff are working to schedule a presentation on Cone-Beam Computer Tomography (CBCT) systems at the July Commission meeting.

19. PUBLIC COMMENT

19.1 There were no additional comments from the public.

20. CORRESPONDENCE AND REPORTS

20.1 The Commission acknowledged receipt of the Licensee Statistical Report as of May 7, 2021.

21. ADJOURNMENT

21.1 The Commission meeting adjourned at 11:47 am.



July 8, 2021

Prepared By: Robert Nicoloff, Executive Director

Date



July 8, 2021

Approved By: David Folweiler, DC, Chair

Date