

Alaska State Board of Chiropractic Examiners Newsletter *September 2005*

2005 Outstanding Regulatory Board

“Each year, the accomplishments of one board sets a new standard for chiropractic regulation.

They model for others the excellence that marks the daily responsibilities of protecting the health, safety and welfare of the public. They say it can be done and then they do it.

This year’s Federation of Chiropractic Licensing Boards (FCLB) award for out standing chiropractic regulatory board recognized the Alaska Board of Chiropractic Examiners’ innovative and proactive efforts.

The regulatory world has expanded to include a better understanding of the ethical responsibilities that come with the license to practice.

The Alaska Board of Chiropractic Examiners has embraced those responsibilities, setting a higher standard for doctor-patient relationships.

From accessibility issues to continuing education (CE), from increased patient protection to professional standards, these people have taken the board of tomorrow and brought it into clear focus today.

The foundation for their creativity is their commitment to service. Without hesitation, they faced the ethical crisis within the profession and didn’t back down.

They identified needs for greater accessibility to CE and licensure examination and took steps to bring necessary resources to their licentiates.

For their creativity in finding effective methods of meeting needs within the profession, for their commitment to developing character, professionalism, and ethics in their board and licensees, and for their willingness to volunteer generously their ideas and talent with the Federation family.”

FCLB proudly presented to the Alaska Board of Chiropractic Examiners the “2005 Outstanding Regulatory Board” plaque.



Accepting the award on behalf of the board were Dr. Clark Davis and Dr. Carol Davis (far right).

MEET THE BOARD

Dr. Gregory M. Culbert graduated from Palmer College of Chiropractic West in 1991 and has been practicing chiropractic in Eagle River since 1993.

Dr. Culbert was appointed to the Chiropractic Peer Review Committee 1999 and in 2002 appointed to the Board of Chiropractic Examiners.

2004 the board elected Dr. Culbert as its president and continues to serve at the leisure of the governor.



Gregory M. Culbert, D.C., DABCO



Carol J. Davis, D.C

Dr. Carol J. Davis has served on the board from 1986 – 1991 and from 1998 to June 24, 2005.

January 2003 the board elected Dr. Davis as its president. Dr. Davis served as the board president until August 2004.

Dr. Davis has been practicing chiropractic in Fairbanks since 1981 and was recently elected District I Director for the FCLB.

Thank you Dr. Davis, for your service and commitment to public protection.

DR. R. Clark Davis is the board secretary and has been serving since November 14, 2001 and continues to serve at the leisure of the governor.

Dr. Davis practices chiropractic in Ketchikan.

R. Clark Davis

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AT TIME
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MEET THE BOARD CONTINUED



David J. Mulholland, D.C.

Dr. David J. Mulholland is the board vice president and has served on the board since April 25, 2003 and continues to serve at the leisure of the governor.

Dr. Mulholland practices chiropractic in Anchorage.

Sean Siegel is the public member of the board and has been serving since November 16, 1998 and continues to serve at the leisure of the governor.

Sean Siegel
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NEWSLETTER

NEW BOARD MEMBER

Governor Frank H, Murkowski has appointed Rosemary Zimmerman, D.C. to the board, with her term due to expire on March 1, 2009.

Dr. Zimmerman fills the position left by Dr. Davis' departure from the board.

The board extends a welcome to Dr. Zimmerman who comes to the board with 18 years of chiropractic practice experience and practices chiropractic in Girdwood.



Rosemary Zimmerman, DC

MEETING

June 24, 2005, the board met for its regularly scheduled meeting in Juneau.

Present were Board Members: Dr. Greg Culbert, President (Eagle River), Dr. David Mulholland, Vice President (Anchorage), Dr. Clark Davis, Secretary (Ketchikan), Dr. Carol Davis (Fairbanks), and Sean Siegel, Public Member (Anchorage)

Present from the Division of Occupational Licensing: Ginger Morton, Licensing Supervisor, Margaret McQuaid, Investigator (Telephonically), Steve Winker, Paralegal, Cindy Roccodero, Licensing Examiner.

Present from the Department of Law was Dave Brower, Assistant Attorney General.

Present telephonically from Office of Administrative Hearings was David Stebing, Hearing Officer.

Present from Legislative Agencies and Offices, Legislative Audit Division was Pat Davidson, Legislative Auditor.

Public visitors were Michael Hanifen, B.S, DC (Telephonically), Daniel Holt, D.C., and Steven Messerschmidt, D.C.

Visitors are welcome.

PEER REVIEW UPDATE

The board would like to extend a welcome to Dr. Daniel Holt, new member to the Peer Review Committee.

The Peer Review Committee is advisory to the State Board of Chiropractic Examiners.

Currently there is a public member vacancy.

The board is soliciting nominations for replacement of its public member. Application for Appointment to the Peer Review Committee can be obtained from the board's web page at: www.commerce.state.ak.us/occ/pchi.htm

Current members of the Peer Review Committee are Dr. James Heston, Dr. Daniel Holt, and Dr. Nick Williams.

REGULATIONS

At its June 24, 2005 meeting the board approved to "Public Notice" the following regulations. The board would like to remind readers that these are proposed changes and not yet in effect. Public comment received regarding the proposed changes prior to and after the public comment period will not be heard.

This is not considered "public notice" of the regulations.

REGULATIONS CONTINUED

(Words in **boldface and underlined** indicate language being added; words [CAPITALIZED AND BRACKETED] indicate language being deleted. Complete new sections are not underlined.

12 AAC 16.030. Application for Licensure by Examination. (a) Except as provided in (b) of this section, a person applying for chiropractic licensure by examination shall submit, **at least** 45 days before the next schedule state chiropractic examination

(5) if the applicant is applying based on the applicant's active licensed practice of chiropractic under AS 08.20.120(b)(2), verification of the applicant's license in good standing in that jurisdiction, sent directly to the department from the licensing jurisdiction.

12 AAC 16.031(c)(8) is repealed and a new subsection is added to read:

(c) An applicant applying for a temporary permit for locum tenens practice under AS 08.20.163(b)(2) and this section shall submit

(8) repealed [A NOTARIZED, SWORN STATEMENT BY THE CHIROPRACTOR LICENSED IN THIS STATE FOR WHOM THE APPLICANT WILL SUBSTITUTE, INCLUDING THE DATES OF THE SUBSTITUTE PRACTICE AND THE DATE THAT THE CHIROPRACTOR LICENSED IN THIS STATE WILL RESUME PRACTICE.]

(d) An applicant applying for a temporary permit for locum tenens practice under AS 08.20.163 and this section shall submit a notarized, sworn statement by the chiropractor licensed in this state for whom the applicant will substitute, including the dates of the substitute practice and the date that the chiropractor licensed in this state will resume practice.

The lead-in language of 12 AAC 16.033 is amended to read:

12 AAC 16.033. Application for licensure by credentials. An applicant for licensure by credentials must meet the requirements of AS 08.20.141, pass the examination required under AS 08.20.141(5), and submit, **at least 45 days before the next scheduled state chiropractic examination,** the following:

12 AAC 16.046(a)(3) and (4) are amended to read:

(3) for the initial specialty chiropractic designation, documentation of the successful completion of a postgraduate specialty program at an accredited school approved by the board, **and mailed directly to the department from the accredited school;**

REGULATIONS CONTINUED

- (4) documentation of certification or diplomate status issued by the certification program or diplomate board verifying that the licensee has met the protocols, guidelines, standards, continuing competency examination, and coursework established by the certification program or diplomate board, **and mailed directly to the department from the certifying body.**

12 AAC 16.150 is amended to read:

12 AAC 16.150. Reexamination. An applicant who has failed the state chiropractic examination may apply for reexamination by submitting to the board at least 30 days before the next scheduled examination

- (1) **a written request for reexamination** [AN APPLIATION ON A FORM PROVIDED BY THE DEPARTMENT]; and
 (2) [REPEALED 5/10/98;]
 [(3)] the examination fee established in 12 AAC 02.150.

12 AAC 16.170(a) is repealed:

- (a) [EXCEPT AS PROVIDED IN (b) OF THIS SECTION, A SPECIAL EXAMINATION OF AN APPLICANT MAY BE ADMINISTERED AT A TIME OTHER THAN DURING A SCHEDULED EXAMINATION IF ALL MEMBERS OF THE BOARD AGREE AND NOTICE OF 30 DAYS IN WRITING IS GIVEN TO THE BOARD AND THE APPLICANT HAS COMPLIED WITH THE PROVISION OF AS 08.20 AND THIS CHAPTER.]

12 AAC 16.200(a) and (a)(1) are amended to read:

- (a) The board **may** [WILL, IN ITS DISCRETION,] issue a temporary permit to an applicant for licensure by examination **or credentials** who **is scheduled to sit for the next state chiropractic examination and who otherwise**
- (1) meets the requirements of 12 AAC 16.030(a) **or 12 AAC 16.033**

12 AAC 16.340(a) is amended by adding a new paragraph to read:

- (a) The following programs are approved by the board:

(3) continuing education programs that are certified by the Providers of Approved Continuing Education (PACE) through the Federation of Chiropractic Licensing Boards (FCLB).

REGULATIONS CONTINUED

12 AAC 16.420(d) and (f) are amended to read:

- (d) The peer review committee shall examine each request for peer review submitted to it in accordance with guidelines established by the board. Except as provided in (f) of this section, the peer review committee shall report its findings to the board **within 45 days of receipt** and furnish a copy of its findings to the patient, licensee, and third-party payor involved in the case.
- (f) The peer review committee shall file with the department's investigative section **within 45 days of receipt** a complaint against a licensee if it determines that reasonable cause exists to believe the licensee has violated any portion of AS 08.20 or this chapter for which a licensee may be disciplined. The peer review committee shall give all complaint information it has to the department.

12 AAC 16.920(a) is amended by adding a new paragraph to read:

(14) using unsanitary or unsafe equipment.

12 AAC 16 is amended by adding a new section to read:

12 AAC 16.925. Establishment of doctor-patient professional relationship. A doctor-patient professional relationship is established when a consultation, evaluation, diagnosis, opinion, or treatment recommendation about a patient's actual personal health care history occurs in a clinical setting.

12 AAC 16 is amended by adding a new section to read:

12 AAC 16.930. Lewd or immoral conduct with patients prohibited. (a) A licensee may not engage in lewd or immoral conduct in connection with the delivery of professional services to a patient or solicit sexual contact or a romantic relationship with the patient within six months after the licensee terminated the doctor-patient professional relationship.

(b) It is a defense to a disciplinary action alleging a violation of this section that

- (1) at the time of, or immediately preceding, the contact the patient was the licensee's spouse, or was in a dating, courtship, or engagement relationship with the licensee; or
- (2) the licensee terminated the doctor-patient professional relationship with the former patient more than six months before the contact occurred.

(c) It is not a defense to a disciplinary action alleging a violation of this section that the contact occurred

- (1) with the consent of the patient;
- (2) outside professional treatment sessions; or

REGULATIONS CONTINUED

(3) off of the premises regularly used by the licensee for the professional treatment of patients.

(d) As used in AS 08.20.170(a)(8) and this section, “lewd or immoral conduct” includes sexual misconduct, sexual contact, or attempted sexual contact, with a patient outside the scope of generally accepted methods of examination or treatment of the patient during the time the patient is receiving professional treatment from the licensee.

(e) As used in this section,

(1) “attempted sexual contact” means engaging in conduct that constitutes a substantial step towards sexual contact;

(2) “sexual contact”

(A) means touching, directly or through clothing a patient’s genitals, anus, or female breast, or causing the patient to touch, directly or through clothing, the licensee’s or patient’s genitals, anus, or female breast;

(B) includes sexual penetration;

(C) does not include acts

(i) that may reasonably be construed to be normal caretaker responsibilities for a child, interactions with a child, or affection for a child; or

(ii) performed for the purpose of administering a recognized and lawful form of chiropractic examination or treatment that is reasonably adapted to promoting the physical or mental health of the person being treated;

(3) “sexual misconduct” means behavior, a gesture, or an expression that may reasonably be interpreted as seductive, sexually suggestive, or sexually demeaning to a patient; “sexual misconduct” includes

(A) encouraging the patient to masturbate in the presence of the licensee or masturbation by the licensee while the patient is present;

(B) offering to provide controlled substances or other drugs in exchange for sexual contact;

(C) disrobing or draping practice that is seductive, sexually suggestive, or sexually demeaning to a patient, such as deliberately watching a patient dress or undress or failing to provide privacy for disrobing;

(D) making a comment about or to the patient that is seductive, sexually suggestive, or sexually demeaning to a patient, including

(i) sexual comment about a patient’s body or underclothing;

(ii) sexualized or sexually demeaning comment to a patient;

(iii) demeaning or degrading comments to the patient about the patient’s sexual orientation, regardless of whether the patient is homosexual, heterosexual, or bisexual;

(iv) comments about potential sexual performance of the patient during an examination or consultation, except when the examination or consultation is pertinent to the issue of sexual function or dysfunction;

REGULATIONS CONTINUED

- (v) demeaning or degrading comments to the patient about the patient's sexual orientation, regardless of whether the patient is homosexual, heterosexual, or bisexual;
 - (vi) comments about potential sexual performance of the patient during an examination or consultation, except when the examination or consultation is pertinent to the issue of sexual function or dysfunction;
 - (vii) requesting details of sexual history or sexual likes or dislikes of the patient if the details are not clinically indicated for the type of examination or consultation;
- (E) initiation by the licensee of conversation with a patient regarding the sexual problems, preferences, or fantasies of the licensee;
- (F) using the doctor-patient professional relationship with the patient to solicit sexual contact or a romantic relationship with the patient or another;
- (G) kissing a patient in a romantic or sexual manner;
- (4) "sexual penetration"
- (A) means genital intercourse, cunnilingus, fellatio, anal intercourse, or an intrusion, however slight, of an object or any part of a person's body into the genitals or anus of another person's body; each party to any of the acts defined as "sexual penetration" is considered to be engaged in sexual penetration;
 - (B) does not include acts performed for the purpose of administering a recognized and lawful form of chiropractic examination or treatment that is reasonably adapted to promoting the physical health of the person being treated.

If you are interested in receiving notification of proposed regulatory changes, you will need to submit a written request to be placed on the Board of Chiropractic Examiners', Interested Parties List and mail the request to:

Regulation Specialist
Division of Corporations, Business and Professional Licensing
P.O. Box 110806
Juneau, AK 99811-0806

All public notices of proposed regulatory changes are posted on the Divisions web page at: www.commerce.state.ak.us/occ

INVESTIGATIVE UPDATE

At its June 24 meeting, Margaret McQuaid, Investigator reviewed the investigative report, which reflected that there are five open cases, which two are for the same doctor and two closed cases, one licensee remaining on probation for five years. After some discussion with the board it was determined that Ms. McQuaid could close two additional cases.

All complaints must first go through the Division's Investigator (907) 269-8184 and not through the board.

COMPLAINTS/PUBLIC RECORD

Anyone may make a complaint against a chiropractor. The Division investigates all complaints.

The cost of investigations is directly reflected in the licensing fees for chiropractors.

Licensing information is public record (except that which is required to be kept confidential by state and federal law).

Information regarding current licensees, including mailing addresses, license actions are available on the Divisions' website: www.commerce.state.ak.us/occ.

Click on "Professional License Search" and fill in the boxes necessary for the individual licensee.

There are 211 active licensed chiropractic physicians, 13 inactive licensed chiropractic physicians (not authorized to practice in Alaska). 2 Licensees on probation and 2 retired licensed chiropractic physicians (not authorized to practice in Alaska).

MEETING AND EXAMINATION DATES

2005/2006 Tentative Meeting Schedule



October 14, 2005
January 13, 2006
April 14, 2006

2006 State Chiropractic Examination Schedule



January 13 April 14 July 14 October 13

Applications and all supporting documents must be postmarked no later than 45 days before the scheduled examination date.

CONTINUING EDUCATION

CE Requests for Approval

A continuing thank you to Dr. Fred Risch for his ongoing review of request for board approval of continuing education courses.

Requests for CE approval are received by the licensing examiner, who indexes the courses and forwards them on to Dr. Risch.

Dr. Risch reviews the “Continuing Education Program Request for Approval” forms, course schedules and descriptions, credentials of the instructors, number and type of credit hours, and makes a recommendation to the board.

The board, in a mail ballot or at a meeting reviews Dr. Risch’s recommendations and votes on course approval.

Approved courses are listed on the Division’s web site:
www.commerce.state.ak.us/occ/pchi.htm.

This process may be assisted in the future by the upcoming PACE program.

It is the INDIVIDUAL CHIROPRACTOR’S RESPONSIBILITY to check the web site or with Licensing Examiner, Cindy Roccodero (cindy_roccodero@commerce.state.ak.us).

Requests are to be submitted in advance in a legible handwriting or typed.

BOARD PURPOSE STATEMENT

It is the objective of the Board of Chiropractic Examiners to foster professional standards consistent with the best interests of the public and to do so in accordance with the laws of the state.

The board does not represent chiropractors that is a function of professional societies or associations. However, the board does try to work with these organizations towards common goals.

BOARD MISSION STATEMENT

The mission of the Alaska Board of Chiropractic Examiners is to foster higher professional standards relative to the practice of Chiropractic in the state of Alaska consistent with the best interest of the health, welfare, and safety of the public.

The values we embrace are equity, honesty, responsibility and collaboration.

Alaska Board of Chiropractic Examiners

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