



# Chiropractic Quality Assurance Commission

## Newsletter April – June 2012 Edition

### **Table of Contents**

Message from the Chair

Featured Articles:

Radiographic Standards

Complaint/Discipline Process

Clinic Consultants

Disciplinary Actions

Rules Information

Department News

2012 Meeting Dates/Location

## **Welcome to the Chiropractic Quality Assurance Commission Newsletter**

This purpose of our newsletter is to help keep the chiropractic community informed of issues related to Washington state laws as well as the work of the Chiropractic Quality Assurance Commission (commission).

### **Message from the Chair – Harold Rasmussen, DC**

More good news from the commission continues. We are pleased to announce that the commission, for the first time, earned recognition from the Federation of Chiropractic Licensing Boards (FCLB) at the 86<sup>th</sup> annual conference in May with the Dr. Earl L. Wiley “Outstanding Chiropractic Licensing Board” award.

Each year the FCLB recognizes one licensing board that has set a new standard for chiropractic regulation and dedication to public protection. The commission was honored for its ability to be proactive as opposed to waiting and acting upon complaints. The commission has gone the extra step by providing practitioners with the resources needed to avoid violations.

Some of the accomplishments we can be proud of include:

- Providing a quarterly publication addressing common points of confusion;
- Establishing a listserv for more consistent contact;
- Providing mentorship and support to doctors with marks against their records by emphasizing and explaining the ethical standards required of a health care practitioner;
- Embracing and clarifying the commission’s purpose in public protection by opening the door to dialogue between licensees, patients, and the commission.

These accomplishments were possible because the commission members chose to work together. Despite philosophical differences within the profession, the commission has chosen to look beyond those differences emphasizing the betterment of not only the public safety, but also our profession as a whole.

Governor  
The Honorable Christine Gregoire

Department of Health  
Mary C. Selecky, Secretary

Bob Nicoloff  
Executive Director

[Leann Yount](#)

Program Manager

### **Commission Members**

Harold Rasmussen, DC  
Chair

Gary “Gabe” Smith, DC  
Vice-Chair

Aaron Chan, DC

Patrick Espana, JD  
Public Member

Winfield Hobbs, DC

Bryson Langel, DC

Douglas Long, DC

Ronwynn Pratt, DC

Ronald Rogers, DC

Robert Schmitt, DC

James Slakey  
Public Member

Louise Stephens  
Public Member

Gita Vasudeva, DC

Matthew Waldron, DC

We celebrate the commission's achievement with recognition to each of its members as well as to the department's support staff – Bob Nicoloff, Executive Director, Leann Yount, Program Manager, Tammy Kelley, Disciplinary Case Manager, Patrick Hanley and Kyle Karinen, Staff Attorneys, Lilia Lopez, Assistant Attorney General (AAG), as well as past AAGs and other department staff.

Featured in the picture below is Dr. Lawrence O'Conner, FCLB President presenting the award to Leann Yount, Program Manager who is accepting the award on behalf of the commission.



To read the speech and obtain more information about this award, please visit [www.fclb.org](http://www.fclb.org).

## **RADIOGRAPHIC STANDARDS**

We've all seen examples of "bad" x-rays. On some level, judging x-rays as "good" or "bad" is a bit subjective. When the commission receives a complaint that a chiropractor has taken "bad" x-rays, or has otherwise violated the radiographic standards, the reviewing member must refer to [WAC 246-808-565](http://www.fclb.org) in an attempt to determine whether the x-rays in question do, in fact, fall below the standard. The WAC provides a sort of check list of items that assist the reviewing Commission member in making a more objective assessment of the images. In cases where there is some uncertainty, the Commission may secure the opinion of an expert chiropractic radiologist. This expert must also evaluate the films in the context of standards outlined in the WAC.

For the proactive chiropractor who wants to produce x-rays of consistently high quality and avoid a potential complaint, it might be wise to review [WAC 246-808-565](http://www.fclb.org) and perform a self audit to ensure compliance. The WAC specifically addresses the following elements with regard to radiographic standards:

### **1. Identification:**

- All films must be labeled and identify the patient by name and age.
- The name of the doctor, as well as the facility name and address, must also appear.
- The date of the study.
- Left/right or other positional markers as indicated.

### **2. Patient Exposure:**

- Where applicable, use gonadal shielding.
- Each film should show evidence of collimation such that the area of interest is included in the image with exposure to surrounding areas being limited as much as is reasonable.
- A minimum number of views (usually AP and lateral) are necessary in any regional study.
- A clinical rationale must be contained in the patient's record for any repeat radiographic studies. This must include any subjective or objective findings that substantiate the need for additional studies.

### 3. **Image Quality:**

- Adequate density (neither over- nor under-exposed).
- Adequate contrast.
- Free from artifacts (zippers, jewelry or other items that may limit your ability to assess the anatomical area of interest).

Familiarizing yourself with the professional standards outlined in the [RCWs](#) and [WACs](#) will help you avoid mistakes that could lead to complaints and potential sanctions. Additional rules concerning radiation protection in the healing arts are in [Chapter 246-225 WAC](#).

## **A Perspective & Observation from a Public Member of the Commission – Jim Slakey**

So where does the public member fit in and how best can that person contribute to the overall effectiveness of the commission? Having served on the commission since 2009, I have defined my role as an observer and questioner of the business of chiropractic care. Are the patient complaints being reviewed and discussed in an objective manner? Is the level of correction/discipline and sanctions fair and objective? Are the issues of “ethics and boundaries” being constantly stressed and evaluated? Since the primary mission of the commission is to protect the health, safety and welfare of the public by assuring that only competent and trained practitioners are licensed in Washington state, my efforts are mainly focused on the above questions.

Much of what goes on in the workings of the commission has to do with the technical nature of the business of chiropractic care in Washington State. For example, at a recent commission meeting the members discussed different levels of care that auxiliary staff can perform; issues regarding chiropractic procedures; Instrumentation/Standard of Care; Continuing Education/Continued Competency/State Examination factors. As a public member my contribution to these technical factors is limited, but the discussions of those issues at commission meetings provide a comprehensive background and context for the understanding of the practice of chiropractic care.

Having worked in the transportation field of state and local government for 30 years, and having spent considerable time on legislative matters including budgets, I have taken a special interest in understanding the budgeting process associated with the commission’s work. I have contributed to the discussions regarding licensing fees, expenditures and revenue, and the budget documents presented to the commission.

I was a recent appointment to the commission’s Planning/Executive Committee which will afford me additional opportunities to participate and have a positive influence on the commission’s overall effectiveness.

Not even knowing this commission existed three years ago, I have developed a great respect for the members and their hard work.

## Complaint & Disciplinary Process

The mandate of the department and the commission is to promote the delivery of quality health care to the residents of the state by regulating the competency and quality of professional health care providers under their jurisdiction. The commission accomplishes this mandate through a variety of activities in collaboration with the department.

There are a series of duties commission members perform such as review complaints and investigative materials, act as a juror in disciplinary proceedings, review laws/rules and make changes to them, protect the public, etc. Future articles will discuss them in detail.

This edition of the newsletter will focus on one duty in particular; assessing, investigating, and making recommendations related to complaints against healthcare providers. Disciplinary actions may range from a Notice of Correction to a Revocation of Licensure.

The information in this article explains in detail the process followed by the commission and the department with managing the complaint process. The authority for this action can be found in the Uniform Disciplinary Act, Chapter 18.130 of the Revised Code of Washington <http://apps.leg.wa.gov/rcw/default.aspx?cite=18.130>.

There are five basic steps that must be followed:

**Intake** - Reports come from a variety of sources, including patients, other health care professionals, insurance companies, etc.

**Assessment** - The disciplinary authority reviews the complaint and background information to determine if they should pursue an investigation..

**Investigation** – Notification of the complaint goes to the health care provider and the department asks for a response. Department investigators interview complainants, witnesses, and the health care provider. Pertinent records are gathered and a report is drafted by the investigator. **Case Disposition** - The disciplinary authority reviews the investigative report and supporting evidence. After reviewing the information, the disciplinary authority has three options:

- Close the case
- Refer for legal action
- Refer to a substance abuse monitoring program.

**Adjudication** – The disciplinary authority can close a case for any of the following reasons:

- The case presents a minimal risk
- Insufficient evidence
- Evidence does not support a finding of a violation.

If the case is not closed, different legal action may be pursued which may include any of the following:

- Notice of Correction
- Statement of Allegations (SOA)
- Statement of Charges (SOC)
- Notice of Decision
- Notice of Intent to Issue Cease and Desist Order.

A SOA is an informal action. The respondent doesn't admit to wrong-doing but understands that there may be enough evidence to support a violation. Once a SOA is served there is an opportunity for settlement. If they don't reach a settlement, the disciplinary authority reconsiders the facts of the case and may withdraw the SOA or decide to move it up to a formal SOC.

A settlement conference is made available to all respondents who have formally received a SOC. The desired outcome of the settlement conference is a mutually agreed upon SOC and Stipulated Findings of Fact, Conclusions of Law and Agreed Order (AO) to resolve the case.

If an agreement cannot be reached, a formal hearing is available to the respondent. After adjudication, if the AO requires certain conditions, the case is assigned for compliance monitoring.

Conditions may include but are not limited to:

- Probation
- Practice review
- Approved practice supervisor
- Patient notification
- Mental health evaluations
- Continuing Education
- Exam.

Once meeting the conditions of compliance, the respondent can request a termination of the AO or STID conditions for release from compliance.

## **Clinic Consultants**

The commission frequently receives complaints relating to poor documentation or improper coding issues. In cases where these complaints have merit, the commission must take some form of disciplinary action. For technical violations such as these, the ultimate goal for the commission is to find a remedy that produces a correction of the underlying deficiency.

While our first priority is to protect the welfare of the public, our next priority is to "rehabilitate," not merely "punish" the license holder. To this end, the commission has been working toward creating more opportunities to include some form of clinical consulting as a component of the rehabilitation process.

In a clinic consultant situation, the disciplined chiropractor hires an expert to review office documentation and/or billing/coding procedures. This consultant can then provide feedback to the chiropractor and office staff that will encourage specific corrective actions and improved protocols. The consultant also provides progress reports to the commission ensuring they are addressing the needed changes.

Absent the consultant situation, the commission has often relied on random audits to determine whether the doctor has independently taken steps to improve documentation or billing practices. While the audit scenario allows the commission to assess the doctor for compliance, the commission's role in the audit process is limited to either "passing" or "failing" the subject of the audit. The commission cannot provide the same level of feedback on specific methods to improve protocols as a clinic consultant. A consultant can work with the doctor to improve procedures beyond a minimum standard. The situation may help the doctor correct bad habits and should provide additional opportunities for professional growth.

An additional benefit of the clinic option is that it may help shift the costs of disciplinary compliance more directly to the responsible parties. While audits are an important tool for the commission, they are not inexpensive. Disciplinary compliance costs directly impact practitioner licensing fees. Since consultants are hired by the chiropractor under discipline, the chiropractic program does not bear the expense. It is hoped that by utilizing consultants the commission can achieve better outcomes, doctors under discipline will have enhanced opportunities to improve procedures, and compliance expenses will be reduced.

## DISCIPLINARY ACTIONS

The Washington State Department of Health has revoked or suspended the licenses, certifications, or registrations of health care providers in our state. The department has also immediately suspended the credentials of people prohibited from practicing in other states.

The department's Health Systems Quality Assurance division works with boards, commissions, and advisory committees to set licensing standards for more than 70 health care professions (e.g., medical doctors, nurses, counselors).

Information about health care providers is on the agency's website. Click on "[Provider Credential Search](#)" on the Department of Health home page ([www.doh.wa.gov](http://www.doh.wa.gov)) The site includes information about a health care provider's license status, the expiration and renewal date of their credential, disciplinary actions and copies of legal documents issued after July 1998. This information is also available by calling 360-236-4700. Consumers who think a health care provider acted unprofessionally are also encouraged to call and report their complaint.

The Chiropractic Commission has taken the following disciplinary actions, or withdrawn charges, against Washington state licensed chiropractors.

### **January 2012:**

#### ***King County:***

Released chiropractor **Greg Pfiffner** (CH00002939) from terms and conditions set against his license.

#### ***Kitsap County:***

Amended the statement of charges against chiropractor **Marc A. Ferrin** (CH00033961), convicted of theft and attempted criminal liability of person making false statement for falsely billing the Department of Labor and Industries for treatment he hadn't provided to nine different patients.

Released chiropractor **Matthew D'Alton Nash** (CH00003646) from terms and conditions set against his license.

#### ***Thurston County:***

Charged chiropractor **Jeffry A. Finnigan** (CH00001437) with unprofessional conduct. He allegedly failed to provide adequate patient exams prior to treatment, failed to keep adequate records, and failed to keep sufficient patient documentation to justify the billing records.

#### ***Yakima County:***

Ended the probation order against chiropractor **William Duane Harrington** (CH00003133).

## February 2012:

### *King County*

February 2012: modified the agreed order against **Dawn M. Hunter** (CH00034116) and placed her license on probation until June 2016 giving her conditions with which she must comply. She failed to comply with prior terms and conditions set against her license, and billed insurance claims under a massage practitioner's name and ID who didn't provide treatment.

*Out of State (Missouri)* February 2012: entered into an agreed order to accept the voluntary license surrender of chiropractor **Marc A. Ferrin** (CH00033961). Ferrin's conviction was for third degree theft, one count of attempted criminal liability of persons making false statements or concealing information, and eight counts of criminal liability of persons making false statements or concealing information. He falsely billed the Washington State Department of Labor and Industries for treatment he never provided to numerous patients.

## March 2012:

### *Spokane County*

Charged chiropractor **Kevin L. Bond** (CH00001649) with unprofessional conduct for failing to comply with terms and conditions set against his license. An audit done by the department also found a number of deficiencies in his patient records.

### *Jefferson County:*

March 2012: ended the probation order against chiropractor **Keith David Meyer** (CH60131354).

## April 2012:

### *Pierce County*

April 2012: indefinitely suspended the credential of chiropractor **Danny D. Baldwin** (CH00003681). Baldwin placed newspaper ads claiming a "cold laser technology" would reduce body fat. He also billed patients for future care and failed to refund patients for care not provided.

### *Spokane County*

April 2012: suspended the credential of chiropractor **Michael Allen Baker** (CH00001832) for four years for failing to comply with a prior agreed order, fraudulent billing practices, and practicing on an expired license.

## Rules Information

Governor Gregoire issued an Executive Order on November 17, 2010 freezing all non-critical rulemaking through December 31, 2012, unless an exception is met and the rule has been authorized to proceed with rulemaking. The commission was granted an exception to proceed with rulemaking on [WAC 246-808-180](#) for patient safety reasons.

Currently, a Washington state chiropractor whose license expired for three years or more must pay the fees and pass the jurisprudence exam to renew the license. There are no other requirements to reinstate the expired credential.

The commission has concerns that there are increased risks of patient harm when a practitioner who has not practiced for more than three years, and has not maintained clinical competency or continuing education, is able to reactive an expired license with minimal requirements.

[WAC 246-12-040](#) sets the general requirements for a health care practitioner to renew an expired credential. Any requirements related to competency must be determined by the regulatory entity. The commission believes rulemaking is necessary to protect the public and that practitioners with licenses expired greater than three years must be able to demonstrate clinical knowledge and application.

A hearing regarding the proposed language is set during the commission meeting in October.

### **Department News - Online Renewals**

The Department of Health is in the process of implementing online license renewals for all health professions. The implementation process is unfolding by introducing a handful of professions at a time. Chiropractors and chiropractic x-ray technicians are not yet able to renew online, but will be able to renew their license online sometime in the near future

### **2012 Commission Meeting Dates and Locations**

August 9, 2012	Department of Health Center Creekside Three at CenterPoint – Room 1 20435 72 Ave. S., Suite 200 Kent, WA
October 11, 2012 <i>Note: Meeting date &amp; location may change to October 27 &amp; 28, 2012 at the Heathman Lodge</i>	Department of Health Center Creekside Three at CenterPoint – Room 1 20435 72 Ave. S., Suite 200 Kent, WA
December 13, 2012	Department of Health Point Plaza East, Room 152 & 153 310 Israel Rd. Tumwater, WA

Do you have ideas or suggestions for future commission newsletters? Is there something specific that you think we should address or include? Please submit suggestions to [leann.yount@doh.wa.gov](mailto:leann.yount@doh.wa.gov).