

Minutes of OCA Executive Board Meeting

May 19, 2021 VIA ZOOM

Agenda prepared by Dr. Todd Turnbull, DC, CCSP, CBIS/T, President

1. **Call to Order:** Dr. Turnbull called the meeting to order at 7:15 pm

Board Members Present: Michael Arnot, D.C., Dan Beebe, D.C., Dennis Cozzocrea, D.C., Les Feinberg D.C, Michael Lell, D.C, Bob Richards, D.C., Amanda Tipton, D.C., Todd Turnbull, D.C.

Others present: Jan Ferrante, Executive Director OCA.

2. **Approve Agenda:** Motion made by Dr. Lell, second by Dr. Cozzocrea, passed unanimously.
3. **Approve Minutes:** Motion made by Dr. Lell, second Dr. Beebe, passed unanimously.
4. **Attorney Jim Hendry – OBCE:** Brief background: Has represented many professionals before licensing boards, 10 years on the State Board of Psychologists, 10 years on the OBCE, has appeared before the medical board, dental board, nursing board, naturopathic board, board of pharmacy, and offered his insights on how these boards “relate” to their licensees. He also served on the OBCE under Dave McTeague, who he felt was very interactive with the profession. He noted certain political changes in Oregon that relate to the OBCE and that we are seeing a reflection of these changes in how the OBCE relates to the profession.

Dr. Lell asked if Mr. Hendry had a goal/plan to advocate for the OCA and whether having an attorney represent the OCA might make the OBCE MORE aggressive toward the profession. Mr. Hendry clarified as a lawyer he simply does what his clients ask him to do to advocate for him. He disclosed that as a panel attorney for NCMIC he has represented many chiropractors before the board, he was on the OBCE when there were two state associations, he is well respected in Salem, and he could act as a “paid lobbyist” on legal issues for the OCA in meetings, public discussions, administrative rules, etc.

Dr. Feinberg discussed suggestions including attending OBCE meetings, requesting special meetings with the OBCE, requesting blocks of time within already scheduled OBCE meetings to address special issues, and that we ideally want the profession to be the ones interacting with the board, rather than an attorney as the face of our profession, but that the OBCE does need to interact with the profession in a respectful and interactive way. However, if the OBCE fails to respond in a professional, interactive way then the OCA may need to reach out to an attorney to facilitate communication. Mr. Hendry reiterated that the OCA is a stakeholder in the state of Oregon, deserves a place at the table regarding issues that affect the profession, chiropractic patients, and the public, and he feels the OBCE recognizes that, and if they fail to respond as such, political pressures can be brought to bear.

Dr. Beebe asks if Mr. Hendry has any experience with any other boards who were antagonistic towards their professions and if he has seen that resolved. Mr. Hendry asked if OCA invites OBCE to our convention or board meetings and thinks the OCA should start to deal with the OBCE’s antagonism by

presenting a “friendly face” at board meetings, exercise more political influence, and invite OBCE to board meetings and convention.

Dr. Saboe notes the OCA does have a consistent place on the OBCE agenda for an OCA update, and that he presented that today. He asked Mr. Hendry what the possible legal steps would be to fight charges of “unprofessional conduct” for violating Executive Orders and/or mandates from OHA, considering liberal courts and lack of science to support such EO/mandates. Mr. Hendry noted restaurants in Oregon challenged the closure mandates in Federal Court and lost, and that he would expect a similar outcome with chiropractic. Dr. Richards discussed data that is available now, that wasn’t available then, and it pointed out the courts ignored medical data in their ruling. Dr. Saboe feels we need to present evidence-based science to agencies and policy makers to influence good policy rather than try to fight bad policy in court.

Dr. Richards suggested the board draw up a specific strategy to interact with the OBCE including the specific goals we want to achieve with the OBCE and in the event the OBCE fails to respond to requests for meetings, information, communication, then the OCA might then consult with Mr. Hendry to facilitate communication and achieve goals.

Discussion was held on the STATUTE in place governing how the OBCE is to appoint future members and how the OCA, as a state association, is supposed to be allowed to recommend OBCE appointees and how the OBCE is NOT following this rule, but rather appointing future board members from the Peer Review committee without ANY communication with or input from the OCA. This “system” is not fair, equitable, does not follow state regulations, is fully incestuous, and is not in the best interest to protect the public. It was noted there is also an opening for a “lay/public member” currently on the OBCE and that the expired member remains on the board because the OBCE has failed to appoint a new person.

Mr. Hendry then stated he would be willing to work with the OCA on an hourly basis, to be careful with our time, use him for surgical strikes, he could give advice whether his time would be well spent on certain issues (or not), and then working together to devise a strategy for working with the board. He has a very good working relationship with Lori Lindley, the assistant Attorney General for the OBCE, and that he “knows” Cass Skinner, and that he would gather information from all the board members and then work with the OCA to formulate a strategy on how to best get our issues presented to the OBCE and to get a successful resolution.

5. **Executive Directors Report – Jan Ferrante:** Discussion was held whether to re-new Foot Levelers proposed 3-year contract with the OCA in which they would pay the OCA \$2000.00 (up from \$1500.00 previous contract) to be the OCA’s exclusive orthotic company, and in addition they provide a speaker (from their speaker bureau) for the OCA convention at their cost. Dr. Beebe questioned whether 3-years was too long, it was pointed out that they book their speakers far out in advance, we’ve had no major issues in the past, and that the contract could be canceled on written notice after one year. Motion made by Dr. Arnot to sign the 3-year agreement, second by Dr. Lell, motion carried.
6. Motion made by Dr. Lell to approve the current OCA10-District Membership Map developed by Jan Ferrante, that divides the current OCA membership into 10-districts within Oregon, Dr. Beebe seconded, motion passed unanimously.

Jan Ferrante noted Chiro Congress has their Quarterly District 5 meeting tomorrow 5/20/22, for which she submits a quarterly report, and asked if any other OCA officers or board members want their names submitted to also attend this meeting (and/or future round table discussion on insurance parity, etc) and Dr. Turnbull and Dr. Beebe both volunteered. Dr. Saboe volunteered to provide timely information to those who will attend from the recent listening sessions Health Human Services, Labor and the Treasury which stated insurers and health care providers can testify/provide input (have say) regarding whether Provider Non-Discrimination, section 2706, is being followed or not. In the transcript, insurance carriers are saying there's no issues regarding non-discrimination, and that states don't need non-discrimination language because federal language is being written. Jan said Lori Grassi (sp?) will be presenting a round table discussion, and the topic may or may not be about insurance parity.

7. **Legislative Report – Dr. Saboe.** Dr. Saboe attended the OBCE meeting today, informed them the OCA is forming a COVID Advisory Committee that will be tasked to look at key issues and the science behind those issues, with the plan to write a White Paper with recommendations, and that the OCA respectfully requests the OBCE to partner with the OCA in that endeavor. Dr. Saboe went on to explain what the OCA has been doing state and federally (on other/non-COVID issues). When he was done with his presentation, the public member asked what the goal/purpose of the committee was, and Dr. Saboe answered, “public safety.” The OBCE said they would discuss it. Also, the OBCE discussed OPUG's and apparently the lay person commented he didn't understand some of the wording in the document and was attempting to “word smith” change the wording on the fly during the meeting...and Dr. Saboe informed the OBCE that it took a COMMITTEE 14-months to craft said language. Dr. Saboe doesn't think the OBCE changed any of the language. Dr. Saboe commented on OBCE board meeting minutes from 1/21/22, page 2, where it states there is a ***“Statute 684.1302A, board members required to be chiropractors may be selected by the governor from a list of 3 or 4 nominees for each vacancy submitted by ANY PROFESSIONAL ORGANIZATION REPRESENTING CHIROPRACTORS.”*** Dr. Saboe noted this statute is not being followed by the OBCE and that, apparently, potential appointees to the OBCE are being hand selected by the director from Peer Review. There is a current OBCE opening for the public member position, and Dr. Dean Clark has also put in his nomination in as a doctor/Board Position, and Dr. Saboe volunteered to contact whoever is in charge of direct appointments by the governor and speak with them about the statute and to try to garner support for Dean Clark if the board approves.

Dr. Saboe attended the MLAC meetings, where they were reviewing the Come Along Provision bill we got passed in 2013, which allows a chiropractor to see/treat a previous established patient for a worker's compensation injury even if that doctor is not on an MCO Panel, as long as the treating chiropractor follows the MCO rules. MLAC claimed to have only 3 complaints a year (of violation of this provision), then mentioned COVID work related claims and that 52% of death claims were relative to COVID. Dr. Sable asked the administrator if they knew which test was utilized to document COVID claims. They said they didn't know. Dr. Saboe pointed out that not all tests were equally accurate, and science showed that PCR test after 35 cycles is largely unreliable, and yet, they are paying out DEATH claims based on testing they didn't understand. Dr. Saboe pointed out that, as insurers and stakeholders, they should want to know the accuracy of the test responsible for these DEATH payouts related to COVID.

Motion was made by Dr. Beebe to support/nominate Dr. Dean Clark to the Public Member position of the OBCE, second by Dr. Arnot, motion carried unanimously.

- 8. Opioid/Fentanyl Overdose Training – Dr. Saboe:** Dr. Saboe proposed that Dr. Michael Taylor, D.C., Tulsa Oklahoma, put on a Opioid/Fentanyl overdose training on when/how to administer a (non-prescription) dose of NARCAN, which competes with the opioid receptor sites and can be a life saver. Dr. Saboe noted that the OBCE is going to require CE hours on “basic life support, defibrillator, and CPR” and that Dr. Taylor could help us meet all/some of those CE’s. Dr. Saboe said he would find out the cost/Dr. Taylors honorarium and get back to the board. Dr. Turnbull assigned this CE requirement research to Jan and Dr. Amanda, and that year 2 DC’s have an “opioid CE requirement” and Jan has requested a video be produced for them. Discussion was held on possibly recording a live presentation by Dr. Taylor for future CE video rental, or possible having Dr. Taylor appear by a LIVE ZOOM meeting (instead of appearing live in Oregon), which could also be “recorded” for future video rental CE’s by the OCA. Dr. Amanda pointed out the additional “hands on” hours required by OBCE.
- 9. COVID Advisory Committee Formation:** Dr. Turnbull asked for input, concerns, questions. Dr. Lell expressed concern about the potential quality of this proposed Advisory Committee and the potential “statement” it makes to the profession at large and other professions in Oregon. Emphasis being placed on evidence-based documents, and persons with experience in public health assessing actual COVID data. Dr. Turnbull stated his plan is to not have this be a “closed committee” but to have it open to a multitude of “voices.” And that as the voice of chiropractic in Oregon, the OCA needs to make some statement that is “universal” that everybody can agree to (expect for maybe the ultra-fringe on either end) but that, somewhere in the middle, the OCA should be able to have some stand (on the COVID issue) that we can all agree to. Dr. Turnbull pointed out that the New Hampshire Chiropractic Association has a COVID “policy statement,” as does the ICA. Dr. Saboe acknowledged Dr. Lell’s concerns stating this document needs to be bullet proof as it controversial, could be a double edge sword, and the only way we would present it/roll it out is if its quality “evidence based” work. Dr. Saboe recommended citing virologists, epidemiologists, and data crunchers; cited Lucija Tomljenovic, PhD, human biochemistry research group University of British Columbia, from outside the profession, and that once the document is written, the board can then decide to use it or not. Dr. Saboe envisions possibly using the document to have a learned, professional discussion with Oregon health-care policy makers on key issues and the science that supports the comments made in the document which could help prevent the implementation of inappropriate, non-evidence based, draconian public health measures that would ultimately be dangerous to the public. Dr. Saboe stressed this would be an internal document that we would use strategically; if at all. Dr. Turnbull wants a document that is a shield to protect us as a formal statement, policy or stance on the topic just as many organizations have similar documents on other topics such as concussion. Dr. Saboe states we have already formed a “policy statement” on COVID but feels this document would be much more than that in presenting the science behind each issue. Dr. Feinberg mentioned Dr. Geert Vanden Bossche (virologist who has worked in vaccine manufacturing) stated that vaccines with a narrow focus (on the spike protein), such as COVID vaccine, put “evolutionary pressure” on the virus to mutate and that this results in the cycles for new variants becoming shorter, and shorter and shorter (maybe only a couple of months to produce new variants), increasing transmissibility. This is known as “non sterilizing” vaccines; they don’t kill/take out the virus. Dr. Saboe has presented a rough outline. Motion made by Dr. Feinberg to form a COVID Advisory Committee tasked with developing a white paper to be submitted for approval by the OCA Board of Directors, and only to be used by approval of the board, seconded by Dr. Arnot, passed with no opposition.

Dr. Lell noted that WSCC has an opening for the position of Dean College of Chiropractic. Kathleen Galligan was the Dean who recently resigned.

10. ChiroPac – President’s Challenge – Dr. Turnbull: Tabled.

11. Membership Drive – Dr. Lell: Dr. Lell reached out to Michael Smith as suggested by Dr. Turnbull, as Michael Smith reached out to Dr. Turnbull expressing a desire to become more involved in membership, and Dr. Lell will follow up with one of his assistants. Gatti is offering to sponsor events around the state to help our membership.

Dr. Lell also wrote an email to all of the regular attendees of the OCA Convention thanking them and asking for their feedback. He’s already gotten some responses and is compiling a spreadsheet of their responses and intends on calling the Diamond and Platinum members thanking them and asking for their feedback and should have that in a week and a half.

Based on the success of the Ankle Adjusting Seminar and Gatti sponsorship, Dr. Lell reached out to another local adjusting seminar presenter regarding further such seminars and this person was not interested, so Dr. Lell will look for other potential presenters.

Dr. Lell is working with the OCA Membership webpage designers to make membership information and benefits more centralized, concise, and clear as to what membership dollars are actually paying for and making it easier to sign up with the OCA. Dr. Lell has worked with Jan to itemize all the membership benefits and will reach out to the web designers regarding reformatting and restructuring the website as necessary, and then will begin calling chiropractors directly to begin hands-on membership drive.

Regarding Social Media, Dr. Lell asked if anyone knew the cost of “posts” to our Facebook account, and wants to know the OCA policy for him to push posts. Dr. Lell thinks its important to push the OCA’s legislative wins, upcoming battles, and how to generally get this information out to the profession. In the past he used his own funds and would get reimbursed. Jan states there is an OCA credit card “link” for pushing posts. Dr. Lell states as an “administrator” he technically can boost posts, cost being \$25-\$30 per month. Dr. Turnbull requests that Dr. Lell submit any personal expenses he incurs to the OCA for reimbursement.

Dr. Turnbull stated we need to create an “agenda” for any fundraising events by the OCA, sponsored by Michael Smith and Gatti, possibly as soon as June/July/August—Fun In The Sun.

12. Insurance Relations Committee – Dr. Arnot: Dr. Arnot noted Todd/Arah aren’t receiving his Mobilize posts on this subject, and Go Daddy is working with Google Chrome, and working with IT guys on this issue. Dr. Arnot reached out to Regence Blue Cross Blue Shield and discovered they no longer have a formal “Provider Relations” department. So, was referred and spoke to a “Leah T.” Dr. Arnot identified himself as the liaison for the Insurance Committee of the OCA Board of Directors, and Leah T identified herself only as the Provider Escalation Team Representative, who indicated (as we already knew) that as of April 1st no longer required eviCore pre-authorization for spinal manipulation in Oregon. He asked if it was possible to have the entire scope of chiropractic codes waived for pre-

authorization and she indicated that there are TWO types of Regence plans in the state of Oregon. One is a “self-funded” group which have uniform medical plans and they are typically waving all physical medicine prior-authorizations. Chiropractic offices CAN ASK if a patient is a member of a “self-funded” group when performing insurance pre-authorization for our patients. If they are, we can most likely get physical medicine procedures paid for without having eviCore prior authorization.

The second type of Regence plan is the “fully funded” group which still require prior authorization for physical medicine, but that his office has billed a manual therapy code 97140 along with a spinal manipulation code and had it paid without eviCore being involved and had neuromuscular reeducation code 97112 with a spinal manipulation code paid without eviCore pre-authorization. Dr. Arnot asked if Leah T. was expecting any further changes to these policies later in the fall as it sounds like eviCore might be losing ground with Regence in Oregon as P.T.’s are also complaining about eviCore, and Dr. Arnot asked if the OCA could go on the record by submit a letter to their committee or policy makers at Regence and she said no, but that she would submit this conversation to the panel or committee who deals with eviCore that we are looking to expand the non-pre-auth to our entire scope of practice.

Dr. Arnot also took the opportunity to inquire about the “dollar conversion factor” for chiropractic and remind Leah T of the language in the Non-Discrimination Act that Kitzhaber signed into law, and pointed out that chiropractic dollar conversion factor is lower than that of the MD’s, DO’s and the PT’s, for the same physical medicine codes. Leah T said there was nothing they could do as there is no venue to negotiate that with the panel that sets those allowed amounts...Leah T’s supervisor was also attending/listening in...and she stated they would submit that inquiry as well to their Regence panel at their next session. Dr. Arnot has Leah T’s direct line phone number with her extension so he can reach back out to her in the fall to see if this was submitted to the panel. Dr. Arnot feels if we can get a level playing field with the MD’s, DO’s, and PT’s that it will be cost beneficial to Regence in the long run. Parity beneficial to the entire profession and could be used in our membership drive.

Dr. Arnot states he and Dr. Saboe will be meeting further regarding the upcoming/proposed PIP Symposium with insurance stakeholders to set some dates and details.

Dr. Saboe stated he has a phone conversation scheduled with Jennifer Muse, Head of State Farm West Coast PIP Department, and also had some email exchanges, and feels that we might want/have to hold these Zoom meetings individually with each carrier versus all together.

Dr. Saboe noted that we have had rules in place regarding non-discrimination reimbursement since 2017, but the remaining issue is reimbursement. And that the Insurance Commissioner is/has been non-committal regarding insurance company contracts so Dr. Saboe contacted Gov Brown, someone requested a Dept of Justice opinion, under the AAG, and they confirmed/stated insurance companies can pay chiropractors less than other providers by “inappropriately” using language in a Federal Medical bill, and Dr. Saboe got a response/rebuttal by Tom Daily...so then, we went after the ESSENTIAL BENEFITS MANDATORY 20-SPINAL MANIPULATION VISITS IN THE BENCH MARK PLAN... As the reimbursement angle is dead (see explanation above) our hope is to reintroduce a bill stating reimbursement rates based on quality performance measures not on type of provider. Also to prevent PIP from going the MCO route.

13. New Business: None.

14. Board Member Announcements/Questions/Comments/Concerns: None

15. Next Board Meeting: Thursday June 16, 7:15 pm, at OCA office in person if able. Motion made by Dr. Richards to adjourn May 19, 2022 meeting, seconded by Dr. Feinberg, motion carried, meeting ended 9:00 pm.