

STATE OF FLORIDA  
BOARD OF CHIROPRACTIC MEDICINE

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IN RE: LEGISLATIVE COMMITTEE MEETING

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BOARD OF CHIROPRACTIC MEDICINE  
PUBLIC FORUM

The above entitled panel convened via conference  
call on the 25th of November 2014, commencing at  
2:00 p.m.

Reported by:

JESSICA RENCHEN, Court Reporter  
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KEVIN FOGARTY, D.C., F.I.C.A., CHAIR  
DANITA HEAGY, D.C., VICE-CHAIR  
CHRISTOPHER FOX, D.C., MBA, NHA  
JULIE HUNT, D.C, DICCP  
KENNETH DOUGHERTY, D.C.  
DAVID COLTER  
RUTH PELAEZ

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## TELEPHONIC PROCEEDINGS

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MS. RODGERS: This is Adrienne Rodgers,  
Executive Director for the Board of Chiropractic  
Medicine. Let's Go ahead and start recording.

This is a meeting of the Legislative  
Committee on November 25, 2014. We're commencing  
the meeting at 2:00 p.m., Eastern Time.

Dr. Heagy, would you like me to call roll of  
the committee?

DR. HEAGY: Sure.

MS. RODGERS: Dr. Danita Heagy?

DR. HEAGY: Heagy, present.

MS. RODGERS: David Colter?

MR. COLTER: Here.

MS. RODGERS: Thank you. Those are the  
committee members. If anyone else would like to  
identify themselves, please do so now.

DR. FOGARTY: Kevin Fogarty.

DR. DOUGHERTY: Yes, Ken Dougherty.

MS. RODGERS: Anyone else want -- who is  
participating and not a board member wish to  
identify themselves?

MS. LOUCKS: This is Deborah Loucks.

MS. RODGERS: Hi, Ms. Loucks.

MS. LOUCKS: Hello.

1 MR. HEBERT: This is Jack Hebert with the --

2 MR. LAMBERT: This is Paul Lambert  
3 representing the Florida Chiropractic Association.

4 MS. RODGERS: Thank you, Mr. Lambert.

5 All right, Dr. Heagy, I'll turn the meeting  
6 over to you.

7 DR. HEAGY: Dr. Fogarty, did you have some --  
8 anything you wanted to say to begin the meeting as  
9 Chair of the Board of Chiropractic Medicine?

10 MR. FOGARTY: Just thank you all for holding  
11 this meeting. Every -- I think everybody's been  
12 identified, as far as staff and guests and board  
13 members, right now.

14 I just thought that as far as the rules of  
15 engagement (inaudible) just ask the board members  
16 to first bring to the agenda that's -- that you  
17 have sent out to everybody that has asked me  
18 comments that open back to our guests and go  
19 forward on that.

20 I just wanted to take a moment to -- before  
21 the meeting started -- just have a brief moment of  
22 silence. I don't know if everybody was aware, but  
23 Dr. Gary Pennebaker went ahead and passed this  
24 weekend. He was in an automobile accident on  
25 Sunday.

1           And Dr. Pennebaker was part of the FCLB and a  
 2 Palmer graduate and a strong supporter with the  
 3 ITA. It's just sad to hear of his passing this  
 4 weekend. And I know several of you had worked  
 5 with him in the past. So if you could just allow  
 6 me that indulgence for a minute. Anyway, thank  
 7 you for the indulgence.

8           Without any further ado, Dr. Heagy?

9           DR. HEAGY: So I'd like to go ahead and just  
 10 begin on the agenda. On Number II, Section  
 11 460.403 to remove the word "human" so that we can  
 12 allow chiropractors to adjust animals without  
 13 veterinary approval or supervision. That's  
 14 460.403 (9) (a). And I also think that (c) (1) has  
 15 to be addressed.

16           I think this would be a great way for  
 17 chiropractors to be able to care for animals.  
 18 Certainly a part of our rule of law says that we  
 19 can't do anything that we're not trained to do.

20           Anybody else have any feedback, board  
 21 members?

22           DR. DOUGHERTY: Dr. Heagy, this is  
 23 Ken Dougherty. I'm kind of not in favor of this.  
 24 I feel that "human" is there for a reason. We can  
 25 adjust animals now with the veterinarian

1 supervision. I'm just not in favor of going  
2 there.

3 DR. HEAGY: And -- and why is that? Is it  
4 about change or --

5 MR. DOUGHERTY: I mean, you know, or how much  
6 training would someone take in a -- in a weekend  
7 or even in a several weekend course on anatomy of  
8 all the different animals? You know, I just don't  
9 feel it's our area of expertise.

10 And for an owner of an animal, who wanted  
11 chiropractic, just ask a veterinarian and, you  
12 know, he would prescribe it, and we're covered  
13 under the vet's license.

14 You know, this is opening a door to possible,  
15 you know, malpractice stuff. I -- I feel more  
16 secure the way it is worded now, which "human"  
17 being in the legal statute.

18 DR. HEAGY: Thank you. Any other feedback,  
19 board members?

20 DR. FOGARTY: This is Kevin. The reality of  
21 it is that there are chiropractors out there that  
22 are adjusting animals. You know, in places like  
23 Wellington, where the Polo Ponies are a big thing.

24 There's a tremendous amount of docs that are  
25 flying in outside from Florida that are almost

1 with without vet supervision. Not that they're  
2 (inaudible). I think that is the (inaudible)  
3 chiropractic --

4 THE COURT REPORTER: I'm sorry -- I'm sorry  
5 to interrupt, but I can't hear anything.

6 DR. HEAGY: Could -- could I have the  
7 indulgence of the people on the phone that if  
8 you're not contributing, could you hit your mute  
9 button so we don't -- we (inaudible) the  
10 background noise.

11 THE COURT REPORTER: Thank you.

12 DR. HEAGY: Thank you.

13 DR. FOGARTY: Is that better?

14 DR. HEAGY: Good.

15 DR. FOGARTY: Okay. So I -- I think that it  
16 would (inaudible) the public a little bit more by  
17 making sure that people are -- are qualified to do  
18 it. And I think that, you know, it's not just the  
19 vet standing over somebody's animal watching them  
20 adjust. It's just the same (inaudible).

21 So we do have somebody that's on speakerphone  
22 right now that's outside. It's really (inaudible)  
23 at this point. (Inaudible). Thank you.

24 DR. HEAGY: Any other feedback from board  
25 members?

1 DR. DOUGHERTY: Ken Dougherty. I guess if  
2 "human" is removed and we're treating animals, we  
3 would be the portal of entries of the animal,  
4 meaning we're responsible for a diagnosis. I mean  
5 there could be other health issues going on  
6 besides adjusting the spine. There could be, you  
7 know, pathology. There could be, you know, blood  
8 pressure issues. Things like that.

9 And, you know, this would mean -- I would  
10 imagine that we will be responsible to diagnose  
11 the whole, you know, the whole animal.

12 DR. HEAGY: That's true. That's with humans;  
13 right? I mean, we comanage --

14 DR. DOUGHERTY: It means to examine humans.  
15 I think, you know, with animals, all the different  
16 types there are -- I don't know. Are these  
17 adjusting courses -- animal adjusting courses  
18 veered mainly towards the adjustment as opposed to  
19 doing a full exam and coming up with a diagnosis?

20 DR. HEAGY: I don't know the answer to that.  
21 Does anybody here know the answer to that?

22 DR. FOGARTY: No, I'm not familiar with that.

23 DR. HEAGY: So is there any comment from the  
24 public? Please identify yourself first so we know  
25 with whom we're speaking.

1           MR. LAMBERT: Madam Chair, this is Paul  
2 Lambert representing the Florida Chiropractic  
3 Association.

4           Chiropractors have for decades, many decades,  
5 been working with veterinarians at racetracks and  
6 in their offices sometimes under written protocols  
7 of -- with a veterinarian. This accommodation has  
8 worked well over those decades and keeps an accord  
9 that was made decades before that when the  
10 legislature passed the Veterinarian Practice Act.  
11 They would work on animals. Other physicians  
12 would work on humans.

13           When you take that -- drop that "human" out  
14 of there, you're going to take an entire  
15 profession, an association, that has no conflict  
16 with chiropractic or any chiropractic association  
17 and turn them into an immediate adversary in the  
18 legislature. This is going to cause a very, very  
19 ugly fight before the legislature that will only  
20 denigrate the image of chiropractic, and it's a  
21 losing cause.

22           I will ask Jack Hebert, who is our -- the FCA  
23 Legislative Chief Lobbyist, if he would explain  
24 the politics of it. But Florida Chiropractic  
25 Association would strongly oppose this rule.

1 Jack, do you have something that you can add to  
2 that? Jack, are you on the phone?

3 MR. HEBERT: Yes, thank you. I'm sorry. It  
4 was muted. This is Jack Hebert the Governmental  
5 Affairs Director for the Florida Chiropractic  
6 Association.

7 I can't say it anymore eloquently than  
8 California Lambert. I think this would be a  
9 pretty large food fight before the legislature,  
10 and I -- and I question what -- what the board's  
11 trying to achieve.

12 I mean we do have doctors that do this now  
13 and they seem to be able to do it well. This is  
14 not an item of complaint, at least, that -- that  
15 we hear a lot from our association position. But  
16 I think it would cause -- could potentially cause  
17 some problems in the legislature.

18 DR. HEAGY: Thank you, Mr. Hebert. Any other  
19 public comments? Okay. Hearing none.

20 Let's take up the next item on the agenda.  
21 Discussion on a new definition for accredited  
22 college, 460.403 2(f), like Frank. We're having  
23 -- we're not able to allow international students  
24 into Florida because of the United States  
25 Department of Education language that's there in

1 the law.

2 So I would like for us to find language that  
3 broadens the identity of the schools that would be  
4 acceptable to be licensed in the State of Florida.

5 Any other board members like to speak on  
6 that?

7 MR. COLTER: This is David Colter. I would  
8 propose that we (inaudible) a language,  
9 definition, or accredited, which means a  
10 chiropractic college, which is accredited by a  
11 board approved member council of the Councils on  
12 Chiropractic Education International, CCEI. That  
13 way we could have -- the board could retain the  
14 ability via rule to accept certain colleges and  
15 deny applicants from other colleges.

16 MS. LOUCKS: Dr. Heagy, this is Deborah  
17 Loucks.

18 DR. HEAGY: Yes.

19 MS. LOUCKS: So accredited college that's  
20 referred to in 460.403 (2)(f) relates to the  
21 acupuncture certification. Did you want to  
22 (inaudible) that acupuncture certification to  
23 outside the United States? Because that's what's  
24 changing it in this particular. The regular form  
25 grabs you at education in statement 406.

1 DR. HEAGY: Sorry. Next thing on the agenda.<sup>12</sup>  
2 MS. LOUCKS: I mean, that's fine. You can do  
3 it. I just want to make sure that -- that you  
4 are -- you know -- we're all talking about the  
5 same thing.  
6 DR. HEAGY: No. I'm sorry. That's on the  
7 agenda under 460.403 so.  
8 MS. LOUCKS: Yeah. I was like, well, I don't  
9 know. (Inaudible). But, you know what, I think it  
10 goes to -- unless you want us to look at -- look  
11 at it under (9)(a) under the definition of what  
12 the practice of chiropractic is. Maybe that's  
13 where --  
14 MS. ROGERS: That's correct. This is  
15 Adrienne Rogers. That's correct. It was under  
16 (9)(a).  
17 DR. HEAGY: Sorry.  
18 MS. RODGERS: Oh, you're fine.  
19 DR. HEAGY: (9)(a).  
20 MS. LOUCKS: It talks about: You can only  
21 use the techniques that are taught in CCE approved  
22 accredited colleges.  
23 DR. HEAGY: So can we use the language that  
24 Mr. Colter proposed with the board approved school  
25 and CCEI? I'm asking you, Ms. Loucks.

1 MS. LOUCKS: And I'm -- I'm thinking. I -- I<sup>13</sup>  
2 don't have any problem with the CCEI. I'm just  
3 wondering if you add the word "board approved"  
4 then you'll have to add some of the authority for  
5 the board. You would need to set up criteria that  
6 you would use to review the -- the accreditation  
7 of schools.

8 But I'm not sure of how much of that the  
9 board actually wants to get into or if you want to  
10 look at -- you know -- look at the CCEI and then  
11 if there are any other accrediting form -- you  
12 know -- form school accrediting entities out there  
13 that we may want to look at to see if their  
14 criteria would be acceptable.

15 So I guess -- I guess what -- what you all  
16 should look at is -- we don't have it with us  
17 today, but I know Mr. Colter had given it to the  
18 board members at your last meeting was the -- the  
19 requirements for CCEI and, you know, what they  
20 look at, as far as granting accreditations to  
21 schools. It seems, from what I have read, that  
22 CCEI was kind of an umbrella organization that  
23 accredited all -- like, I know that CCE is a  
24 member of the CCEI.

25 So I don't know if -- I guess, you know, it's

1 up to you all. We could certainly just try to add  
2 that language in there, but I -- I don't know how  
3 you want to deal with the board approved. Do you  
4 really want to get into reviewing accreditation  
5 forms from other schools that aren't CCEI?

6 DR. HEAGY: What about at (inaudible) some of  
7 the other state (inaudible) of FCLB, for example?

8 MS. LOUCKS: (Inaudible). I mean with the  
9 statute you can look at whatever entities you want  
10 to (inaudible).

11 MS. HEAGY: So can we direct board staff --  
12 actually, let's take feedback from other members  
13 if anybody would like to contribute on this  
14 subject.

15 DR. DOUGHERTY: Ken Dougherty. I feel we  
16 need to do a lot of research on this. We can't  
17 just board in our statute and -- you know -- it's  
18 got to be researched. Something does need to be  
19 done. Chiropractic is worldwide, and it wasn't so  
20 much so 30 years ago when some parts of the  
21 statutes were written. It does need to be  
22 updated. The --

23 DR. HEAGY: Dr. Fogarty?

24 DR. FOGARTY: I think that, you know, we  
25 should -- I'm sorry. I -- somebody -- I can

1           barely hear everybody on this, and I took myself  
2           off speaker.

3           I think that we need some type of avenue to  
4           go ahead and bring foreign graduates in there. I  
5           think what Dr. -- Mr. Colter's proposing is -- is  
6           a way to do it. I'm kind of open to any type of  
7           research field that we think that the board needs  
8           to do, but we need to start it with -- at -- at  
9           this point in the game, I think we've had some  
10          information that David brought to us before. I  
11          thought that was good.

12          I think it should be -- you know -- not  
13          that -- in case CCEI goes broke or -- you know, I  
14          think we need to go ahead and have the board  
15          retaining some ability to go ahead and reject  
16          proposals for (inaudible) too foreign to what CCE  
17          standards are. In that regard, if they have the  
18          ability to go ahead and test out and take apart  
19          four tests and if they have met all the other  
20          requirements, we should be allowed foreign  
21          graduates to come in there -- into the state.

22          MS. LOUCKS: This is Deborah Loucks. I know  
23          that there are other statutes where -- with the  
24          way that it's set up is that the burden is on the  
25          applicant to demonstrate where they went to

1 school, their training, and education is  
2 substantially equivalent to that what he would  
3 have gotten from a CCE accredited school.

4 So that may be -- instead of saying it has to  
5 be board approved -- that would put the burden on  
6 the applicant to show -- I mean it still requires  
7 the board to review, you know, what -- what  
8 courses or coursework they took, but it would be  
9 on an individual basis as opposed to, you know,  
10 here's the (indiscernible) school and here's the  
11 curriculum.

12 DR. HEAGY: Then we get into the requirements  
13 for the bachelor's degree that we have in the  
14 State of Florida that other international schools  
15 do not have. So could we then require that they  
16 have a bachelor's degree even though it may be  
17 after the fact to come to Florida or can we do a  
18 reciprocity for a certain number of years  
19 practiced in a foreign country? I mean how are we  
20 going to work around this bachelor's degree issue,  
21 Ms. Loucks?

22 MS. LOUCKS: Well, that would be something  
23 that you would have to consider. Because right  
24 now you don't allow anyone to basically endorse or  
25 reciprocate with a Florida license. So you have

1 the people who enrolled in chiropractic school  
2 before they got their bachelor's degree that had  
3 been practicing in other states.

4 And my understanding is what they have  
5 done -- is the way the statute is written -- it  
6 doesn't allow you to count -- like say you spent  
7 two -- two or three years as an undergraduate and  
8 then you started, you know, your fourth year you  
9 started in chiropractic school. You're not  
10 allowed to use the hours that you got that first  
11 year in chiropractic school -- I mean your  
12 bachelor's hours to count (inaudible) accelerate  
13 you through chiropractic school, but you can take  
14 your chiropractic school hours and finish off your  
15 bachelor's degree.

16 I know that people that have been -- who have  
17 been licensed in other states previously and want  
18 to come to Florida that don't have their  
19 bachelor's degree (inaudible) have not met  
20 whatever undergraduate coursework they had  
21 (inaudible) chiropractic degree and send it to  
22 some colleges that will review their coursework  
23 and then give them a bachelor's degree after the  
24 fact.

25 I don't know if they have to take additional

1 courses or, you know, how -- how much that -- what<sup>18</sup>  
2 that entitles. But, you know, si in the Florida  
3 Board, they have a bachelor's degree, but it  
4 doesn't have to be bachelor's degree then your  
5 chiropractic.

6 DR. HEAGY: So can we direct you, Ms. Loucks,  
7 and Ms. Rodgers to find language that would allow  
8 or -- or to retain a certain amount of authority  
9 with CCE, the Department of Education, and CCEI  
10 and handle the bachelor's degree issues all in one  
11 self swoo?

12 MS. LOUCKS: What may be helpful is: If you  
13 look at what specifically you think are the  
14 requirements for the chiropractic license and if  
15 you say, well, what we believe is: In order to be  
16 licensed as a chiropractor in the state, you need  
17 to have, you know, a bachelor's degree, you need  
18 to have graduated from an accredited chiropractic  
19 college -- however you define what an accredited  
20 chiropractic college is -- and then you have to  
21 have, you know, passed parts 1 through 4 of the  
22 exam. You know, (inaudible) requirements  
23 (inaudible) want.

24 And -- and I guess I'm saying it's easier to  
25 tell me what requirements you want for people to

1           have licenses and then we can craft language that  
 2           says, these are the Florida requirements and if  
 3           you're coming from somewhere else then you have to  
 4           take all of the -- you know -- if you don't meet  
 5           all these requirements then we can do  
 6           substantially equivalent language and then the  
 7           applicant would have to show that -- for example,  
 8           well, I may not have gotten a bachelor's degree,  
 9           but, you know, I (inaudible) for whatever reason  
 10          they got a doctoral degree or a master's degree in  
 11          wherever -- whatever country I was working in.

12                    But if you look at my doctoral program in  
 13                    other countries, you know, it -- it's actually  
 14                    more than what a bachelor's -- I mean that would  
 15                    be the kind of issues that you would be looking  
 16                    at, but we can certainly do that.

17                    DR. HEAGY:   Because what he stated was  
 18                    exactly what our requirements are.   So if we could  
 19                    craft language, not only make the bachelor's  
 20                    degree language simpler and more understandable, I  
 21                    think we'd go a long way to also being able to  
 22                    include foreign graduates.

23                    Do we have any other feedback from board  
 24                    members?

25                    MR. DOUGHERTY:   I feel -- this is Ken

1 Dougherty. I feel that the -- the -- that  
2 bachelor requirement is a real mess to read in our  
3 statute so that definitely needs to be simplified and  
4 cleaned up.

5 I'm all for getting foreign graduates, you  
6 know, to practice in Florida -- able to practice  
7 in Florida. As I said, though, my feeling is:  
8 Some research needs to be done to, you know, not  
9 mix apples and oranges and, you know, come up with  
10 some, you know, guidelines there.

11 DR. HEAGY: Thank you. How about public  
12 comments?

13 MR. LAMBERT: This is Paul Lambert. The  
14 Florida Chiropractic Association Board of  
15 Directors earlier this year has requested the Board  
16 of Chiropractic Medicine consider this issue and  
17 (indiscernible) to support it. But with a copy,  
18 it'd be clearer that (inaudible) is a foreign  
19 graduate has the equivalent education and  
20 accreditation as a U.S. chiropractic school  
21 graduate does.

22 And so I think that Dr. Dougherty hit it on  
23 the head when he said we need some more  
24 information here to do it right, to avoid the kind  
25 of messy language that we now have and that

1 bachelor bill section. And if we get some  
2 educators from CCE -- from -- and some input from  
3 the national or the Federation of Chiropractic  
4 Licensing Boards, it could be worded correctly,  
5 hopefully the first time, but it has to be well  
6 done.

7 DR. HEAGY: Thank you so much. Any other  
8 public comments? Hearing none.

9 MR. MORRIS: (Inaudible) --

10 DR. HEAGY: I'm sorry. Go ahead.

11 MR. MORRIS: Mr. Don Morris from Miami. I  
12 have a question: Has any other state done this?

13 DR. HEAGY: Yes. Yes, and they've done it  
14 successfully. And so I'd like to direct  
15 Ms. Rodgers and Ms. Loucks -- well, Ms. Rodgers to  
16 do the research to get the language. Is that an  
17 appropriate directive, Ms. Rodgers?

18 MS. RODGERS: Yes, ma'am.

19 DR. HEAGY: And using the FCLB as a resource  
20 and other state laws that have successfully  
21 allowed foreign graduates and then perhaps bring  
22 that, you know, sort of rough language to a full  
23 board meeting for us to -- either to nail it down  
24 the first time.

25 MS. RODGERS: I will do that.

1 DR. HEAGY: Thank you so much. Anything else  
2 on that? So we got 460.406 in that discussion.

3 Now, let's move onto 460.4062, continuing ed  
4 for faculty certificate. I taught at Palmer  
5 Florida and felt that that was a huge learning  
6 experience in and of itself. This certainly --  
7 the clinic doctors would benefit from being  
8 contemporary with their laws and rules and, you  
9 know, the same continuing ed requirements that a  
10 practicing field doctor has. Any other  
11 commentary?

12 DR. FOGARTY: This is Kevin. I agree with  
13 you. I think that you're -- I have no problem  
14 with that -- the faculty certificate. But I think  
15 there should be some continuing education  
16 requirements, which should be at least the 13  
17 required hours that everybody has to have for  
18 their biennium.

19 You have teachers that are teaching that  
20 are -- that do not have a firm grasp on some of  
21 the similar laws and rules from everything from  
22 documentation (indiscernible) to -- you know -- to  
23 even some of our ethical matters. And they're --  
24 they're the ones teaching some of the students and  
25 some of it's incorrectly so.

1           So I think by allowing them to have this  
2           extra hours, which would be the 13 required, that  
3           everybody's (inaudible) with the rest of us.

4           DR. HEAGY: Any other feedback from board  
5           members?

6           DR. DOUGHERTY: Ken Dougherty. I'll make  
7           agreement of -- I feel there should be some CE  
8           hours there and the 13 -- certainly the 13  
9           required, if not the full 40 or (inaudible), but  
10          I'm in agreement. We need some CE there.

11          DR. HEAGY: Any other public comments?

12          MR. LAMBERT: This is Paul Lambert.

13          We -- we can't really comment from the FCA  
14          perspective until the board of directors has an  
15          opportunity to review this issue. At that time we  
16          can comment whether we would support or not  
17          support it. I don't see how they wouldn't support  
18          this particular issue, though.

19          DR. HEAGY: Thank you so much. Any other  
20          public comments? Hearing none.

21          Can we move to item (b) on this same subject?  
22          Discuss it -- discussion of adding foreign  
23          accredited chiropractic graduates to (1)(a).  
24          Again, we have the CCE language. If we come up  
25          with acceptable language for CCE (indiscernible)

1 equivalent, you know, whatever language we decide  
2 on there, can we add it to this section to allow  
3 for foreign grads to be faculty on United States  
4 chiropractic colleges? Any board comment on that?

5 DR. FOGARTY: This is Kevin. I think you  
6 should direct staff, while they're crafting the  
7 other language and doing the research, just to go  
8 ahead and add this to that part. It is sort of  
9 all of those together. Is it not?

10 DR. HEAGY: It does. Ms. Loucks, can you --  
11 I'm sorry. Ms. Rodgers, could you do that  
12 research and help craft that language?

13 MS. RODGERS: Yes, ma'am, we will.

14 DR. HEAGY: Thank you so much.

15 MS. RODGERS: Yes.

16 MR. COLTER: David Colter. I picked out that  
17 (inaudible) 460, I counted 15 iterations of the  
18 words "accredited by council on chiropractic  
19 education," 15.

20 DR. HEAGY: So we need to look at all of  
21 those then.

22 DR. FOGARTY: Potentially, some don't -- some  
23 don't seem to apply that accreditation is  
24 specifically for U.S. residence. But in many of  
25 the other cases, it might just tie together or not

1 tie together.

2 DR. HEAGY: So, Ms. Rodgers, would you be  
3 willing to look at that within our law what --  
4 where we would have to craft language for changing  
5 the CCE piece?

6 MS. RODGERS: I could look at it and get a  
7 report ready for the board meeting in January.

8 DR. HEAGY: Thank you so much.

9 The next -- on Section V, 460.408, discussion  
10 of adding a show cause proceeding for a CE  
11 provider approval review.

12 Ms. Loucks, I have a sense that I don't fully  
13 grasp what -- what that's getting at. Could you  
14 illuminate me, please?

15 MS. LOUCKS: Sure. This is the board of the  
16 review and approval of the continuing education  
17 courses and providers. You really don't have any  
18 mechanism to address providers or courses, like if  
19 you approve the provider and then they can do the  
20 course, you know, for the biennium. You don't  
21 have any way to pull back that course once it's  
22 been approved. Once you all have approved it then  
23 that provider can offer that course for the  
24 duration of the biennium is my understanding.

25 So you -- there's no way for you to resend

1 your approval. I know there are other boards who  
2 have in their statute the authority to have a  
3 provider if they found, for some reason, that  
4 they're not meeting the requirements of your CE  
5 rule to come before the board and the board can  
6 issue a cause order.

7 And it basically makes the provider come and  
8 say -- you know -- the board can say, well,  
9 (inaudible) that you had indicated was the  
10 information that was presented in their syllabus  
11 isn't what it seems that the courses they're  
12 offering. So the course that was approved isn't  
13 technically the course that's being offered.

14 It would be a mechanism for the board to be  
15 able to have those people come in and then to give  
16 the board the authority to resend that approval  
17 for the, you know, the remainder of that course  
18 for that biennium.

19 DR. HEAGY: Thank you. I would definitely be  
20 in favor of that based on some of the issues that  
21 we've had on the continuing ed committee.

22 Do I have any other feedback from board  
23 members? Hearing none.

24 If I could direct Ms. Rodgers, would you be  
25 willing to craft language in that direction?

1 MS. RODGERS: Yes, ma'am.

2 DR. HEAGY: The next one: Discussion of  
3 defining the Practice Act as "chiropractic" not  
4 "chiropractic medicine."

5 I -- I get questions about this all the time  
6 from members of my practice. They ask me "What's  
7 chiropractic medicine?" So I think it's confusing  
8 to the public. You know, if there's a historical  
9 context, I would love to hear it. But I'm -- I'm  
10 not -- I -- my understanding of this wording is  
11 that there was a movement 20 years ago to do super  
12 boards so that we wanted to be included with the  
13 physicians. I don't think that thread is still  
14 around. I'm -- I'm open to hearing the opinions  
15 of the other board members.

16 DR. DOUGHERTY: Ken Dougherty. My  
17 understanding is that the -- the legislatures  
18 tended -- before it was chiropractic medicine --  
19 tended to be lumping chiropractors in with, say,  
20 physical therapist and nurses and not with the  
21 other physician classes. And, you know, that was  
22 put in there so that we wouldn't be grouped with  
23 the physicians, as we should be.

24 Also the insurance companies were starting to  
25 question medical necessity. And if we're

1 practicing chiropractics -- you know -- is  
2 chiropractic necessity is not medical necessity  
3 but if we're practicing chiropractic medicine, it  
4 falls under medical necessity, so they couldn't  
5 deny chiropractic claims. That's my understanding  
6 why it was put in there.

7 DR. HEAGY: Thank you. Anyone else have  
8 feedback on that?

9 MR. COLTER: This is David Colter. Has this  
10 arrived, this question and this specific  
11 discussion, because of the definition of number --  
12 of (e) under chapter -- subchapter 403? Because  
13 it says, "The term chiropractic medicine,  
14 chiropractic, doctor of chiropractic, or  
15 chiropractor shall be synonymous with chiropractic  
16 physician." And to me it feels like the first  
17 one, chiropractic medicine, is not a person, it's  
18 a philosophy more than the doctor.

19 I raised this question a few weeks ago. And  
20 so I'm wondering if this discussion is regarding  
21 that and not changing the practice -- defining the  
22 Practice Act.

23 DR. HEAGY: Well, it's really about the  
24 language. Someone else spoke up. Was it Dr. --

25 DR. FOGARTY: Yeah, this is Kevin. I just

1 wanted to -- since Mr. Lambert has the -- the most  
2 history here with -- when this bill went through,  
3 perhaps he could go ahead and help -- help us with  
4 the history on this.

5 DR. HEAGY: Mr. Lambert?

6 MR. LAMBERT: We're -- we're dancing all  
7 around it. About twenty years ago, the AMA and  
8 the FMA picked up the ball on that. We're trying  
9 to garner a monopoly on the term "medicine" so  
10 that medical necessity would only be determined by  
11 physicians' license to practice medicine to wit  
12 the allopaths and the osteopaths. That would have  
13 been disastrous for insurance purposes or for a  
14 lot of other purposes, and it would have relegated  
15 chiropractic and podiatry to a second class to  
16 them. And in order to put the -- put this to an  
17 end of the Podiatry Association and the Board of  
18 Chiropractic Association argued that the term of  
19 "medicine" is generic, and it has to be modified  
20 to be given a meaning allopathic medicine,  
21 chiropractic medicine, podiatric medicine, et  
22 cetera.

23 And therefore if bills were introduced to  
24 insert the term "medicine," everywhere where  
25 chiropractic or podiatry or podiatric was filed in

1 the statutes, the president was argued at that  
2 time that there were several statutes before that  
3 time that had defined a physician license to  
4 practice medicine under Chapter 458, Chapter 459,  
5 Chapter 460, or Chapter 461 were in a few places  
6 in the statutes. And so the legislature passed  
7 those bills, and we put the matter to rest since  
8 then.

9 And so the Florida Chiropractic Association  
10 position has been to protect that in order to  
11 protect the -- the -- the equal status of  
12 chiropractic with the allopathic and osteopathic  
13 disciplines. And so we -- we wouldn't urge that.  
14 We just leave that alone.

15 There was no philosophy. There was nothing  
16 sinister behind it, other than protecting the  
17 profession from being encroached or squashed by --  
18 by other professions.

19 MR. COLTER: This is David Colter. I think  
20 we might have the wrong target in the cross  
21 errors. When I thought this up a couple weeks  
22 ago, it was specifically about chiropractic  
23 medicine not being equal to a person. In the  
24 definition 460.403 it's defining the terms that  
25 are a synonymous for chiropractic physicians.

1           So I still don't -- I still haven't heard the  
2 answer to the question: Is this about the  
3 Practice Act or is it about a definition -- this  
4 discussion? Adrienne, could you shed some light  
5 on that, possibly?

6           MS. RODGERS: No. I don't think I can shed  
7 anymore light on that. I may have misunderstood  
8 your initial question.

9           DR. DOUGHERTY: David, Ken Dougherty. In our  
10 statute, defining chiropractic is defined as  
11 drugless and no surgery. So it is not changing  
12 what we do. It's just making sure that we are  
13 included with the group of physicians and not  
14 excluded from a physician class.

15           So it's not, you know, telling anybody in the  
16 public that we practice medicine, absolutely not.  
17 We practice chiropractic medicine, which is  
18 drugless and surgeryless. And again, Mr. Lambert  
19 was eloquent in giving the reasons why that needed  
20 to be done.

21           MR. COLTER: Okay. I'm trying to (inaudible)  
22 that that's not the issue. The issue for me is  
23 that if I look at the definitions, I see the term  
24 chiropractic is synonymous with -- excuse me.  
25 Chiropractic medicine and a few other things is

1           synonymous with chiropractic physician. And I  
2           suggest that those are. I'm not -- I have no  
3           intention of opening up the Practice Act or any of  
4           these other discussions with this.

5           MS. LOUCKS: Mr. Colter, this is Deborah  
6           Loucks. I think the reason that it's put in the  
7           statute that way is if you look further back in  
8           the statute, there's less (inaudible) protective  
9           terms, and chiropractic medicine is a protective  
10          term that if someone -- if you didn't include that  
11          as a term that you needed to have a license for, I  
12          could represent to the public that I'm a person  
13          who performs chiropractic medicine and since I'm  
14          not using the term "Doctor Chiropractic" or  
15          "Chiropractic Physician," if it wasn't included as  
16          a term that you need to be licensed as a  
17          Chiropractic Physician for then I couldn't be  
18          prosecuted for using that term.

19          So I think that's why it's including --  
20          because in 460 -- I think it's 401 (inaudible).  
21          Yeah, 460.411 it lists (inaudible) all the  
22          protected terms and "Chiropractic Medicine" is one  
23          of them.

24          MR. COLTER: So in that definition, I see  
25          that it quotes "Chiropractic Medicine is not a

1 person; A Doctor of Chiropractic Medicine is a  
2 person," and that might address it. It just  
3 doesn't sound clean to me.

4 DR. HEAGY: Accept that there aren't any  
5 colleges that actually give degrees in  
6 Chiropractic Medicine, except for one.

7 MR. COLTER: But it says "a Doctor of  
8 Chiropractic Medicine."

9 DR. HEAGY: Right. But it's a Doctor  
10 Chiropractic. I hear what you're saying. The  
11 terms don't go together. It's a semantic issue.

12 DR. DOUGHERTY: Dr. Heagy, Ken Dougherty. If  
13 I could interject?

14 DR. HEAGY: Yeah.

15 DR. DOUGHERTY: -- (inaudible) degree in  
16 Chiropractic Medicine.

17 Dr. HEAGY: I know, national. Yeah, I did  
18 say. Maybe you missed that part of my comment.

19 DR. DOUGHERTY: Okay. I -- I'm on the Board  
20 of Trustees Of National. National does not give  
21 the --

22 DR. HEAGY: Oh.

23 DR. DOUGHERTY: -- Doctor of Chiropractic  
24 Medicine degree.

25 DR. HEAGY: So the one in Florida or the one

1 in Chicago?

2 DR. DOUGHERTY: Both.

3 DR. HEAGY: Okay. And then the name of their  
4 degree is not Doctor of Chiropractic Medicine?

5 DR. DOUGHERTY: Correct.

6 DR. HEAGY: Okay. I'm corrected then. Thank  
7 you very much for that.

8 DR. DOUGHERTY: You're welcome.

9 DR. HEAGY: So there is a degree, as far as I  
10 know, Doctor of Chiropractic Medicine. So we're  
11 still stuck there.

12 So do we have any further comment on the term  
13 "medicine" in our -- in this discussion?

14 MR. MORRIS: This is Don Morris.

15 DR. HEAGY: Okay. Hi, Don Morris.

16 MR. MORRIS: I'm pretty sure there is at  
17 least one scholar that has used the term "Doctor  
18 of Chiropractic Medicine" on their degree. They  
19 use it a lot for whatever that's worth.

20 DR. HEAGY: Okay. Thank you very much.

21 Okay. Any other public comment? Hearing none.

22 Let's move onto (b), adding specific  
23 authority to promulgate standards of practice  
24 rules.

25 Ms. Loucks, could you enlighten me on the

1 direction here?

2 MS. LOUCKS: Yes. The board in the past has  
3 tried to establish training and education  
4 requirements to do various procedures in  
5 chiropractic, such as -- I know there was some  
6 discussion about practice rules for MUA and lasers  
7 and -- I've always told the board that you don't  
8 have any specific statutory authority to -- to  
9 carve out standards of practice for particular  
10 procedures.

11 And so I know that the board should -- I mean  
12 everyone is concerned about allowing people that  
13 don't have sufficient education, other than a  
14 weekend course (indiscernible) or whatever it was,  
15 you know, the laser light and EMG, to just be able  
16 to do it. And so the board wanted to have rules  
17 that will justify more rigid standards or  
18 stringent standards.

19 And I think if you have in your statutes some  
20 specific authority that allows the board to create  
21 standards of practice rules then you -- at least  
22 get over that hurdle, we (inaudible) into a  
23 problem with the Drug Administrative Procedures  
24 Committee when we try to do the (inaudible) last  
25 year or the year before. But that's what this

1 suggestion is for.

2 And if you have the authority and the  
3 Practice Act, that doesn't necessarily mean that  
4 you have to have the rules on everything. But  
5 certain procedures that you think would be too  
6 dangerous or, you know, would require more  
7 training than just a weekend course, maybe you  
8 would have the ability to perhaps create some sort  
9 of standards of practice rules. And that's all  
10 (inaudible).

11 DR. HEAGY: I would certainly be in favor of  
12 that. Any other board member want to give comment  
13 on that? Members of the public? Comment?  
14 Hearing none.

15 Ms. Rodgers, can I direct you to do some  
16 research on perhaps what other state's language is  
17 and draft some language for us to look at at the  
18 next meeting?

19 MS. RODGERS: Yes, ma'am, I can do that.

20 DR. HEAGY: And on (c), adding language to  
21 include "overutilization." I know that we had to  
22 repeal the rules because the -- the Joint  
23 Administrative Procedures Committee -- I think is  
24 the name of the group -- said that we didn't have  
25 statutory authority to discipline chiropractors

1 for overutilization.

2 So I certainly think that we see cases of  
3 blatant overutilization. I would like to add  
4 statutory authority, so we can discipline those  
5 cases. (Inaudible).

6 MS. LOUCKS: This is Deborah Loucks. That's  
7 not exactly how -- how it went. And I guess the  
8 question for the board -- because your rule had  
9 just said that overutilization is -- if you  
10 don't -- if your records don't justify the course  
11 of treatment.

12 DR. HEAGY: Okay.

13 MS. LOUCKS: And the way that the prosecutors  
14 (indiscernible) that rule was sort of -- it was --  
15 if your records then justify the course of  
16 treatment, then they would charge you with  
17 overutilization. And they sort of said that was  
18 the presumption of guilt. And we actually had  
19 gotten the rules challenged on that rule, and when  
20 I was going through the statute, the  
21 overutilization was (inaudible) that wasn't used  
22 anywhere in the statute.

23 And so I guess when we repeal that rule, it  
24 doesn't stop the prosecution from being able to  
25 prosecute people for, you know, not having

1 (inaudible) justify the course of treatment. And  
2 I guess the issue for the board is: The way that  
3 that rule had been set up before, it was sort of a  
4 presumption of guilt that we could convict you of  
5 overutilization if your records then justified the  
6 course of treatment.

7 So I know that there have been some  
8 discussions about whether -- how the board wants  
9 to prosecute the record cases. And I think that  
10 this discussion would go into that, because I  
11 don't know if you necessarily want to put -- to  
12 put in the statute that rule. Because I'm not  
13 sure that -- just defining overutilization is not  
14 having records justify the course of treatment,  
15 which is already part of your -- your record's  
16 rule.

17 DR. HEAGY: Yeah.

18 MS. LOUCKS: You know, we can -- you could --  
19 if the board wants to do that, you certainly  
20 could. But I -- I don't know if you want to look  
21 at the record. I mean, I -- I know that before we  
22 had talked about it. I don't know if you  
23 necessarily want to open up your record's rule.

24 But is there something else that you want  
25 to -- I mean, is there some other issues that the

1 overutilization and -- because that was just kind  
2 of a shortcut, and I don't know if there's some  
3 other disciplinary violation that people are  
4 committing that the board is -- is interesting in  
5 adding? I guess is what my question is.

6 So because -- because you have the -- you  
7 have the disciplinary guideline for, you know,  
8 billing the insurance company for things that  
9 aren't done. And your record's rule says your  
10 records have to justify your course of treatment.  
11 But I don't know, you know, the overutilization,  
12 if you want to include that as a grounds for  
13 discipline, you can, but then, of course, you  
14 would have to define what overutilization is, and  
15 I don't know -- you would have to define what that  
16 is. Okay?

17 DR. FOGARTY: Deborah, this is Kevin. How --  
18 how can we go ahead -- and this has always been  
19 (inaudible) to me. You know there's a difference  
20 between somebody that comes before the board that  
21 does something and they make a mistake. They do  
22 something wrong and they screwed up and their  
23 records aren't quite up to snuff. And -- and we  
24 know that, okay, you want to do things to  
25 rehabilitate them and move them on and that's

1 fine.

2 But then you got the people that are down  
3 right stealing, and it doesn't take a rocket  
4 scientist to figure out that these people are  
5 really posing up the system, and they're ruining  
6 our profession. I've always had an issue where  
7 we -- we were -- we were out there giving the same  
8 amount of justice to those people. The same  
9 amount of justice to those people.

10 There should be a way that if we know  
11 somebody is stealing that we can go ahead, besides  
12 finding more -- whatever it is -- shouldn't there  
13 be a way to prosecute them based on this  
14 overutilization umbrella, to say, hey, he's not  
15 the guy that's screwed up his records; this is the  
16 guy that's actually stealing?

17 MS. LOUCKS: Well, and if you included a  
18 disciplinary ground that says, you know,  
19 "overutilization is the grounds for discipline,"  
20 and the board would have to define what  
21 overutilization is. And then I guess at that  
22 point you would need to look. Because the way it  
23 was defined before was just -- you didn't -- your  
24 medical records failed to justify the course of  
25 treatment, which was the same -- was the same

1 thing that you have in your records rule.

2 But if you want to ask what were utilization  
3 as a disciplinary grounds then perhaps you could  
4 have a rule that more is said, you know,  
5 overutilization is when you're making people come  
6 in five days a week for, you know, two hours or  
7 whatever it is. I mean, you -- of course, you  
8 can't say that because somebody may need you,  
9 but --

10 DR. FOGARTY: Right.

11 MS. LOUCKS: -- but I mean then -- I think  
12 then the board would be able to use its  
13 professional judgement and say, well, here's how  
14 it works -- you know -- what overutilization  
15 means. And I guess my only issue with it is: I  
16 think it's hard if you just say your records that  
17 justify the course of treatment, because that's  
18 your -- just basic minimal records keeping.

19 DR. FOGARTY: Correct.

20 MS. LOUCKS: So, you know, and so I don't  
21 practice chiropractic. I don't know, you know,  
22 what the overutilization -- how you would -- how  
23 would you -- how you could define that, but I mean  
24 you certainly could do that. And you could do  
25 that either in the statute or if you just want to

1 say, you know, overutilization is the grounds for  
2 discipline and the board is going to have the  
3 authority to justify it by rule what  
4 overutilization means.

5 DR. HEAGY: I would like to see us direct  
6 overutilization as a part of the statute and then  
7 craft a rule that -- that lays out what  
8 overutilization is.

9 MS. LOUCKS: And you could certainly do that.  
10 I mean, you could just include, you know, that as  
11 a separate grounds for discipline or maybe at --  
12 you know -- at -- and then do -- and then have the  
13 statute say that the board has the authority to,  
14 you know, have rules that define what  
15 overutilization is.

16 MR. COLTER: And why do we want to add to the  
17 statute "overutilization"? Is it to address what  
18 Dr. Fogarty brings up? That -- that we -- we like  
19 to have a lesser penalty against someone who's  
20 made a mistake?

21 DR. HEAGY: Well, and --

22 MR. COLTER: What's -- what's the  
23 justification? I'm -- I'm trying to understand  
24 the justification.

25 MS. LOUCKS: In the past, Mr. Colter, there

1           have been a rule of the board that said  
2           overutilization means that your medical records  
3           then justify your course of treatment. And when  
4           the prosecutors were prosecuting people for  
5           records violation, they would charge them with  
6           violating 460.413(m), and they would charge them  
7           with violating the record's keeping rule, which is  
8           (inaudible) and then they would also charge them  
9           with violating this other rule for  
10          overutilization.

11                 Last January, there was a rule challenge  
12          filed by a chiropractor who had been -- a probable  
13          cause had been filed on his record and the rules  
14          challenge was: Well, you're charging me with  
15          overutilization which is not -- the rule doesn't  
16          have any basis for statute. So when I went  
17          through to do the research on the rules challenge,  
18          I realized that that must have been a remnant from  
19          the past because the word "overutilization" was  
20          not used anywhere in the statute. So you can't  
21          have a rule that defines the term that's not in  
22          the statute.

23                 And so the board didn't have any authority to  
24          define that rule. So we had to repeal that rule.  
25          And this was added at the request of the

1 prosecutor, Ms. Rosita Van Winkle (phonetic), had  
2 wanted this discussion and then wanted to add it.  
3 But that's the genesis of it.

4 DR. HEAGY: And then that would give us the  
5 discretion, once it reaches the board, to decide  
6 Dr. Kevin's issue. You know, is this someone  
7 who's blatantly stealing and giving the profession  
8 a bad name or just somebody that's made a mistake  
9 and --

10 MS. LOUCKS: Well -- (inaudible) that  
11 discretion now. And I guess if you're going to  
12 add a separate disciplinary charge for  
13 overutilization, then perhaps if you define  
14 overutilization in a way that it gears more  
15 towards the people who are (inaudible) the system  
16 or, you know, really doing inappropriate things  
17 and that they're charged with that violation  
18 instead of just (inaudible) charging them with the  
19 regular (inaudible) violation as well.

20 But you would be able to look at those and  
21 say, well, you know, we don't really think that  
22 this case rises to the level of the  
23 overutilization, and it's just the regular record  
24 keeping and then perhaps they would have separate  
25 tracks that way.

1 DR. HEAGY: And ca we do that by rule now  
2 without changing the statute or do we have to  
3 change the statute to -- to define overutilization  
4 by rule?

5 MS. LOUCKS: Well, you don't have any --  
6 overutilization isn't used in your statute. I  
7 mean the board can certainly now look at any of  
8 the cases. The problem that we have at probable  
9 cause is -- is where the panel members are looking  
10 at a case and they tell the prosecutors, you know,  
11 this is clearly a case where this person is  
12 committing fraud.

13 The prosecutors -- and I don't mean and I'm  
14 speaking for them as best as I can, because I  
15 don't look at the cases as thoroughly as they do.  
16 A lot of times what the prosecutors will say is --  
17 (inaudible) what we call specific intent crime and  
18 you have to prove that the person knew at the time  
19 that they were submitting the insurance form --  
20 claim that they were submitting something -- a  
21 document that was a lie. And that's a pretty  
22 tough burden for the prosecutors.

23 And so there isn't anything between the  
24 specific intent fraud crime and just the general  
25 record's keeping violation in your statute now.

1 So when you have someone that has submitted the  
2 claim -- I mean you have a separate violation for  
3 submitting claims to an insurance company's  
4 services that wont render and the prosecutor that  
5 (inaudible) charge people with that, but they  
6 weren't charging with them before.

7 A lot of times the prosecutors will say,  
8 well, you know, we don't have enough evidence to  
9 show that fraud happened, but we, you know, can  
10 show that the record's aren't right. And so they  
11 were billing the -- they were charging them with  
12 the overutilization when it was -- after they were  
13 charging the overutilization with almost every  
14 record case but some cases where they couldn't  
15 prove the fraud part.

16 DR. HEAGY: So is there any other feedback  
17 from other board members?

18 MS. LOUCKS: Did that help?

19 DR. DOUGHERTY: This is Ken Dougherty. I --  
20 I agree. Dr. Fogarty hit it right on the head.  
21 You got people who just have sloppy record  
22 keeping, you know, but the treatment is  
23 reasonable, it's effective, wasn't drawn out  
24 passed ridiculous amounts. They have those that  
25 treat forever and, you know, my, you know,

1 utilization on (inaudible), et cetera, et cetera.

2 And, you know, whether in front of the board  
3 we know the difference, you know, who made  
4 mistakes with their record keeping and who is  
5 potentially, you know, just trying to, you know,  
6 maximize here. I'd like to see something that we  
7 could do, but I know there's been some issue with  
8 the overutilization. You have to define it and  
9 everything.

10 I'm not familiar, but we have ranges in our  
11 penalties. Is the range -- in the record keeping  
12 rule, is the range there -- or statute -- is the  
13 range reasonable to accommodate both situations,  
14 where you have somebody who made a mistake and has  
15 sloppy records but the care was reasonable still  
16 have record keeping violation versus somebody, you  
17 know, we feel you know we feel is really grossly  
18 overutilizing. I'm not familiar with the -- what  
19 the limits are -- the -- the guidelines on the  
20 penalty phase of that.

21 DR. HEAGY: Ms. Loucks, can you answer that?

22 MS. LOUCKS: Sure. Right now, for a first  
23 time record keeping violation, the minimum penalty  
24 is a \$500 fine and/or one year of probation up to  
25 a maximum fine of \$7,500, a three months license

1 suspension and then six months of probation.

2           However, the board has the ability to either  
3 lower that penalty or increase that penalty. And  
4 in order to do either one of those, you would just  
5 need to site in the record -- or to the record --  
6 you know, why you want to impose something less  
7 than the minimum or impose something more than the  
8 maximum.

9           And you know that's where you could say,  
10 well, you know, this person, you know, we think  
11 that they just -- you know -- it wasn't a major  
12 issue. Their -- you know -- their records just  
13 didn't conform with the standard but, you know, we  
14 dont really think, you know, whatever. And you  
15 could -- (inaudible) the \$500 fine and probation.  
16 And you're not even required -- it isn't a  
17 requirement that even the first time violation of  
18 record keeping would even have to want the  
19 probation in the record keeping the way that the  
20 guidelines are now.

21           DR. HEAGY: So as it is -- we have a lot of  
22 discretion even without changing the statute. Is  
23 that -- is that what you're saying? Is that what  
24 I'm hearing you say?

25           MS. LOUCKS: Yeah. I mean as far as

1 determining what kind of penalty you want to  
2 impose for a record keeping violation, sure.

3 DR. HEAGY: So -- so we could solve the  
4 problem without changing the statute. You know,  
5 what's the sort of (inaudible) of the board on,  
6 you know, adding to the discipline or the  
7 discipline statute or just doing it on a  
8 case-by-case basis as a board at our discretion?

9 DR. FOGARTY: Well, the guidelines that we  
10 have set up isn't statute, it's board rule.

11 MS. LOUCKS: Right.

12 DR. FOGARTY: And that's (inaudible). I  
13 guess -- and -- and I agree with Ken. I think if  
14 we could go ahead and just, you know, (inaudible)  
15 a different amount of justice for the person,  
16 based on who we're seeing before us. I don't  
17 know. Maybe the case-by-case might be the way to  
18 do it.

19 DR. HEAGY: So are you saying that you dont  
20 think we need to change the statute or we do need  
21 to change the statute?

22 DR. FOGARTY: I do not -- I don't know. Ken,  
23 what do you think?

24 DR. DOUGHERTY: I'm looking at MS. Loucks  
25 and, you know, I think I can, you know, kind of

1           tend to go with what she recommended on this.  
2           Again, overutilization, you got to define it. Is  
3           somebody going to challenge how you define it, and  
4           use one guideline, we're going to use another  
5           guideline.

6           I'm leaning towards not changing and just  
7           using the penalty guidelines. I mean if it can be  
8           done, and it can be done clearly and safely, it's  
9           not a big mess, I would -- I would like to see it.  
10          Because people overutilize, I'd like to see them  
11          get, you know, disciplined for that.

12          DR. FOGARTY: Maybe if prosecution came back  
13          to us -- to the board and said this is what we  
14          were sort of looking at doing, maybe then we could  
15          go ahead and say yeah or nay. But my concern  
16          again is to go ahead -- and I don't want the  
17          chiropractors in a -- in a box, you know, where as  
18          soon as you go outside that box, you're  
19          overutilizing.

20          DR. DOUGHERTY: Agreed.

21          DR. FOGARTY: There's got to be some --  
22          there's got to be discretion.

23          DR. HEAGY: It's like a domino effect too  
24          that has --

25          DR. FOGARTY: Right.

1 DR. HEAGY: Could we ask the prosecution to  
2 give us feedback on language that they feel would  
3 be helpful and then decide at the board meeting as  
4 a board together, you know, our general take on  
5 that?

6 MS. LOUCKS: This is Deborah Loucks.  
7 I was going to suggest that you do that. Because,  
8 like I said, Ms. Rosita Van Winkle had requested that  
9 this be added, and I think she's out possibly --

10 DR. HEAGY: So could we -- who would be in  
11 charge of getting that language from them?  
12 Ms. Rodgers or (inaudible)?

13 MS. RODGERS: I'll talk with Ms. Rosita Van  
14 Winkle and get some language for you for the next  
15 board meeting.

16 DR. HEAGY: Beautiful. That concludes the  
17 business to come before our legislative committee.  
18 Is there any other feedback?

19 With that, I'd like to adjourn our meeting.  
20 Thank you so much to each of the individuals who  
21 have attended. I really appreciate it.

22 (Thereupon, the proceedings were concluded at  
23 3:06 p.m.)

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CERTIFICATE OF REPORTER

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I, JESSICA RENCHEN, Registered Professional Court Reporter, certify that I was authorized to and did stenographically report the foregoing proceedings and that the transcript is a true and complete record of my stenographic notes.

DATED this 25th day of November, 2014.

JESSICA RENCHEN, Court Reporter

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