



Jeremiah W. (Jay) Nixon
Governor
State of Missouri

Jane A. Rackers, Division Director
DIVISION OF PROFESSIONAL REGISTRATION

Department of Insurance
Financial Institutions
and Professional Registration
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STATE BOARD OF CHIROPRACTIC EXAMINERS

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Loree V. Kessler, MPA
Executive Director

**State Board of Chiropractic Examiners
OPEN SESSION TENTATIVE AGENDA
September 19, 2013 – 8:00 a.m.
Division of Professional Registration
3605 Missouri Blvd, Jefferson City Missouri**

Notification of special needs as addressed by the Americans with Disabilities Act should be forwarded to the Missouri State Board of Chiropractic Examiners, P.O. Box 672, 3605 Missouri Boulevard, Jefferson City, Missouri 65102 or by calling (573) 751-0018 to ensure available accommodations. The text telephone for the Deaf or Hard of Hearing is 800/735-2966 or 800/735-2466 for Voice Relay Missouri.

Except to the extent disclosure is otherwise required by law, the Missouri State Board of Chiropractic Examiners is authorized to close meetings, records and votes, to the extent they relate to the following: Chapter 610.021 subsections (1), (3), (5), (7), (13), (14), and Chapter 324.001.8 and 324.001.9 RSMo.

The Board may convene in closed session at any time during the meeting. If the meeting is closed, the appropriate section will be announced to the public, with the motion and vote recorded in open session minutes.

Please see attached agenda for this meeting.

Attachment

**State Board of Chiropractic Examiners
OPEN SESSION TENTATIVE AGENDA
September 19, 2013 – 12:15 p.m.
Division of Professional Registration
3605 Missouri Blvd, Jefferson City Missouri**

Call to Order	Dr. Gary Carver, President
Roll Call	Executive Director
Approval of Agenda	
1. Approval of Minutes	
<ul style="list-style-type: none"> • July 17, 2013 Conference Call Meeting 	
2. Financial Report	
3. New Zealand College of Chiropractic	
4. Earned Compliance Credits	
5. Federation Licensing Packets	
6. Michael Van Horenbeeck DC	
<ul style="list-style-type: none"> • Clarification Request 	
7. Int'l Chiropractors Ass'n v New Mexico Board of Chiropractic Examiners	
8. National Board of Chiropractic Examiners	
<ul style="list-style-type: none"> • November Part IV Exam 	

Motions to Close

Section 610.021 subsections (14), 324.001.8 and 324.001.9 RSMo for the purpose of discussing investigative reports and/or complaints and/or audits and/or other information pertaining to the licensee or applicant section 610.021 subsection (1) RSMo for the purpose of discussing general legal action, causes of action or litigation and any confidential or privileged communication between this agency and its attorney, and for the purpose of reviewing and approving closed meeting minutes of one or more previous meetings under the subsection 610.021 RSMo which authorizes this agency to go into closed session during those meetings.

OPEN SESSION MINUTES
Missouri State Board of Chiropractic Examiners
July 17, 2013 – 12:15 p.m.
Division of Professional Registration
3605 Missouri Boulevard – Jefferson City, Missouri

At 12:22 p.m., the Missouri State Board of Chiropractic Examiners conference call meeting was called to order by Dr. Gary Carver, Board President, at the Missouri Division of Professional Registration, 3605 Missouri Boulevard in Jefferson City, Missouri. The Executive Director facilitated roll call.

Board Members Present

Gary Carver, D. C., President
Margaret Freihaut, D.C., Secretary
Brian McIntyre, D.C.
Jack Rushin, D.C.

Staff Present

Loree Kessler, Executive Director
Jeanette Wilde, Processing Licensure Supervisor
Greg Mitchell, Counsel

Dr. Carver stated he would be voting in open and closed session.

A motion was made by Dr. Freihaut and seconded by Dr. Rushin to approve the open session agenda. Board members voting aye: Dr. Carver, Dr. Freihaut, Dr. McIntyre and Dr. Rushin. Motion carried unanimously.

A motion was made by Dr. Freihaut and seconded by Dr. McIntyre to approve the June 17, 2013 open session minutes. Board members voting aye: Dr. Carver, Dr. Freihaut, Dr. McIntyre and Dr. Rushin. Motion carried unanimously.

Brian Koonce DC – Class II Lasers

The board members reviewed the information and directed staff to send Dr. Koonce the federal regulations and information regarding use of class II lasers.

Health and Safety Institute

The board members directed staff to advise the continuing education provider that an application and fee was required for seminars offered for the 2013-2015 and future licensure renewal cycles.

FCLB District II Meeting

The board recommended Drs. Freihaut and Rushin attend the district meeting in October. The board noted the importance of the meeting and out of state travel allocation for fiscal year 2014.

At 12:33 p.m., a motion was made by Dr. Rushin and seconded by Dr. McIntyre to convene in closed session pursuant to section 610.021 subsection (14), 324.001.8 and 324.001.9, RSMo

for the purpose of discussing investigative reports and or complaints and or audits and or other information pertaining to the licensee or applicant, section 610.021 Subsection (1) RSMo for the purpose of discussing general legal actions, causes of actions or litigation and any confidential or privileged communication between this agency and its attorney, and for the purpose of reviewing and approving closed meeting minutes of one or more previous meetings under the subsections of 610.021 RSMo which authorizes agencies to go into closed sessions during those meetings. Board members voting aye: Dr. Carver, Dr. Freihaut, Dr. McIntyre and Dr. Rushin. Motion carried unanimously.

At 1:02 p.m., a motion was made by Dr. Rushin and seconded by Dr. McIntyre to convene in open session. Board members voting aye: Dr. Carver, Dr. Freihaut, Dr. McIntyre and Dr. Rushin. Motion carried unanimously.

At 1:03 p.m., a motion was made by Dr. Rushing and seconded by Dr. McIntyre to adjourn the conference call. Board members voting aye: Dr. Carver, Dr. Freihaut, Dr. McIntyre and Dr. Rushin. Motion carried unanimously.



Executive Director

Approved by the Board on

	A	B	C	D	E	F	G	H	I	J	K	L	M	N	O	P	Q
1	Chiropractors - 0630																
2	FY 2013 Monthly Fund Balance Sheet																
3		FY 2013 Actual													FY 2013 Projections		
4		July	August	September	October	November	December	January	February	March	April	May	June	Lapsed July	YTD Total	Projected	Remaining (Projected - YTD Total)
5	Beginning Fund Balance	616,745.67	603,331.57	587,811.99	581,722.41	564,705.09	558,684.63	591,883.16	665,962.85	824,436.85	907,002.12	900,699.06	897,766.81	879,292.32	478,318.30	455,450.00	(22,868.30)
6	Revenue	5,300.00	4,475.00	4,007.50	2,655.00	4,775.00	67,256.30	89,955.20	171,392.80	100,511.50	10,990.00	12,405.00	4,595.00	0.00	478,318.30	455,450.00	(22,868.30)
7	Start-up Loan Transfer - Lenders Revenue	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
8	Total Revenue	5,300.00	4,475.00	4,007.50	2,655.00	4,775.00	67,256.30	89,955.20	171,392.80	100,511.50	10,990.00	12,405.00	4,595.00	0.00	478,318.30	455,450.00	(22,868.30)
9	Total Funds Available	622,045.67	607,806.57	591,819.49	584,377.41	569,480.09	625,940.93	681,838.36	837,355.65	924,948.35	917,992.12	913,104.06	902,361.81	879,292.32	478,318.30	1,072,195.67	(22,868.30)
10																	
11	Appropriation Costs:																
12	Expense and Equipment	8,451.55	10,357.16	168.49	8,284.39	1,282.50	22,767.38	5,622.87	3,985.53	8,289.63	7,595.35	6,416.78	11,657.93	0.00	94,879.56	147,672.00	52,792.44
13	Personal Service and Per Diem	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
14	Total Appropriation Costs	8,451.55	10,357.16	168.49	8,284.39	1,282.50	22,767.38	5,622.87	3,985.53	8,289.63	7,595.35	6,416.78	11,657.93	0.00	94,879.56	147,672.00	52,792.44
15																	
16	Transfer Costs (other than monthly PR Transfer):																
17	Workers Compensation	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
18	Unemployment	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
19	Board Staff Fringe Benefits	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
20	Biennium Sweep	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
21	Rent	0.00	0.00	465.80	243.94	0.00	698.70	10.88	0.00	465.80	244.13	232.90	476.15	0.00	2,838.30	2,836.83	(1.47)
22	DIFP Department Cost Allocation	0.00	261.58	0.00	0.00	210.25	0.00	201.12	0.00	0.00	0.00	188.40	0.00	0.00	861.35	1,053.10	191.75
23	Licensee Refunds	0.00	0.00	0.00	200.00	0.00	0.00	0.00	0.00	0.00	300.00	0.00	400.00	0.00	900.00	1,000.00	100.00
24	Start-up Loan - Borrower's Expense/ Lic System	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	4,845.00	4,845.00
25																	
26																	
27																	
28																	
29																	
30																	
31																	
32	PR Transfer:																
33	Division-Wide Costs	0.00	632.40	648.06	800.05	762.51	767.85	540.59	725.74	606.52	628.59	652.54	833.98	0.00	7,598.83	13,956.72	6,357.89
34	Purchasing Staff	0.00	13.84	14.83	14.64	24.97	5.95	2.70	3.83	2.92	3.38	2.34	4.54	0.00	93.94	150.17	56.23
35	PR/IT Staff	0.00	648.22	666.85	391.09	562.99	1,199.44	672.36	433.85	218.18	420.34	510.51	613.17	0.00	6,337.00	10,498.53	4,161.53
36	Legal Team	0.00	0.00	40.31	0.00	88.04	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	128.35	0.00	(128.35)
37	CRR Staff	0.00	150.91	115.44	105.46	119.06	126.21	396.20	437.65	492.62	245.64	126.46	109.90	0.00	2,425.55	1,996.48	(429.07)
38	Board Specific:																
39	Expense/Equipment & Licensure Sys.	0.00	3.79	7.83	132.44	47.05	0.00	34.42	153.54	218.64	0.00	0.00	161.94	0.00	759.65	296.00	(463.65)
40	Personal Services	0.00	5,911.48	5,110.58	5,781.68	4,692.49	5,736.46	5,136.92	4,694.44	4,985.94	4,759.88	4,846.94	5,929.03	0.00	57,585.84	70,155.45	12,569.61
41	Fringe Benefits	0.00	1,904.91	1,843.64	1,894.19	1,810.90	1,890.78	1,846.67	1,813.85	1,836.15	1,818.84	1,825.51	1,908.30	0.00	20,393.74	34,299.00	13,905.26
42	Technical Support Staff	0.00	222.52	156.65	152.54	176.30	244.40	300.42	186.44	128.69	138.02	97.27	154.67	0.00	1,957.92	2,990.75	1,032.83
43	Central Mail Processing	0.00	160.58	151.45	140.40	144.20	151.55	147.01	153.49	159.31	157.11	158.74	193.87	0.00	1,717.71	1,817.37	99.66
44	CIU Investigations	0.00	1,001.07	707.15	911.50	874.20	469.05	343.35	330.44	541.83	361.78	467.26	437.61	0.00	6,445.24	8,464.00	2,018.76
45	Total PR Transfer	0.00	10,649.72	9,462.79	10,323.99	9,302.71	10,591.69	9,420.64	8,933.27	9,190.80	8,533.58	8,687.57	10,347.01	0.00	105,443.77	144,624.47	39,180.70
46																	
47	Total OA Cost Allocation Transfer	620.00	0.00	0.00	620.00	0.00	0.00	620.00	0.00	0.00	620.00	0.00	0.00	0.00	2,480.00	2,480.00	0.00
48																	
49	GR Transfer:																
50	Attorney General	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
51	Administrative Hearing Comm.	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	2,000.00	2,000.00
52	Total GR Transfer	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	2,000.00	2,000.00
53																	
54	FY 2012 Transfers Carried Over:																
55	FY 2012 June PR Transfer	9,642.55	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	9,642.55	9,642.55	0.00
56	FY 2012 July Lapse PR Transfer	0.00	(13.10)	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	(13.10)	(13.10)	0.00
57	FY 2012 PR Transfer Adjustment	0.00	(1,260.78)	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	(1,260.78)	(1,260.78)	0.00
58	FY 2012 Final Rent Transfer Adj	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
59	FY 2012 Final DIFP Transfer Adj	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
60	FY 2012 AG - June	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
61	FY 2012 AHC - June	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
62	Total FY 2012 Transfers Carried Over	9,642.55	(1,273.88)	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	8,368.67	8,368.67	0.00
63	Total Transfers	10,262.55	9,637.42	9,928.59	11,387.93	9,512.96	11,290.39	10,252.64	8,933.27	9,656.60	9,697.71	8,920.47	11,411.56	0.00	120,892.09	167,208.07	46,315.98
64	Total Appropriation Costs and Transfers	18,714.10	19,994.58	10,097.08	19,672.32	10,795.46	34,057.77	15,875.51	12,918.80	17,946.23	17,293.06	15,337.25	23,069.49	0.00	215,771.65	314,880.07	99,108.42
65	Ending Fund Balance	603,331.57	587,811.99	581,722.41	564,705.09	558,684.63	591,883.16	665,962.85	824,436.85	907,002.12	900,699.06	897,766.81	879,292.32	879,292.32	478,318.30	455,450.00	(22,868.30)
66																	
67	Total PR Transfer	9,642.55	9,637.42	9,928.59	10,767.93	9,512.96	11,290.39	9,632.64	8,933.27	9,656.60	9,077.71	8,920.47	11,411.56	0.00	118,412.09	143,327.00	24,914.91
68	Total GR Transfer	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	8,000.00	8,000.00
69	Total	9,642.55	9,637.42	9,928.59	10,767.93	9,512.96	11,290.39	9,632.64	8,933.27	9,656.60	9,077.71	8,920.47	11,411.56	0.00	118,412.09	151,327.00	32,914.91

***FY 2013 YTD Expenses by Budget Class Code
As of June 30, 2013
Chiropractors (0630)
Expense & Equipment: Approp 0820***

<i>Budget Object Class</i>	<i>Budget Object Class Name</i>	<i>YTD Expended</i>	<i>Appropriation</i>	<i>Remaining Appropriation</i>	<i>Percent Remaining</i>
140	TRAVEL, IN-STATE	4,056.02	11,400.00	7,343.98	64.42%
160	TRAVEL, OUT-OF-STATE	1,779.02	9,500.00	7,720.98	81.27%
180	FUEL & UTILITIES		60.00	60.00	100.00%
190	SUPPLIES	8,153.00	9,030.00	877.00	9.71%
320	PROFESSIONAL DEVELOPMENT	2,950.00	6,080.00	3,130.00	51.48%
340	COMMUNICATION SERV & SUPP	1,091.66	2,000.00	908.34	45.42%
400	PROFESSIONAL SERVICES	75,836.09	97,000.00	21,163.91	21.82%
420	HOUSEKEEP & JANITOR SERV			0.00	
430	M&R SERVICES	514.00	4,502.00	3,988.00	88.58%
480	COMPUTER EQUIPMENT			0.00	
560	MOTORIZED EQUIPMENT			0.00	
580	OFFICE EQUIPMENT		4,000.00	4,000.00	100.00%
590	OTHER EQUIPMENT		2,000.00	2,000.00	100.00%
640	PROPERTY & IMPROVEMENTS			0.00	
680	BUILDING LEASE PAYMENTS		100.00	100.00	100.00%
690	EQUIPMENT RENTAL & LEASES			0.00	
740	MISCELLANEOUS EXPENSES	499.77	2,000.00	1,500.23	75.01%
	TOTAL	94,879.56	147,672.00	52,792.44	35.75%

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RECEIVED
APR 09 2013

Loree Kessler, Executive Director
Missouri Board of Chiropractic Examiners
3605 Missouri Blvd. (Zip 65109)
P.O. Box 672 (Zip 65102-0672)
Jefferson City, MO
United States of America

March 4, 2013

Dear Missouri Board of Chiropractic Examiners.

International portability has been an emphasis of the Federation of Chiropractic Licensing Boards (FCLB) over the last few years. An emerging scenario in chiropractic education is for a US resident to:

- Get a Baccalaureate degree in the United States at a US Department of Education accredited institution;
- Study chiropractic at a fully accredited foreign chiropractic college;
- Pass all relevant US Boards; and
- Return to the United States to apply for licensure.

In other words, the world is shrinking and many US residents are choosing to have an overseas experience while they study chiropractic.

However, this poses some challenges to the US chiropractic licensing boards. They are:

1. Some statutes say that applicants for licensure must graduate from "CCE approved colleges only". These laws may have been adopted long ago, when there were no overseas programs. The laws may not yet have been updated to reflect that, outside of the United States, chiropractic colleges are accredited by their own government and respective regional chiropractic accrediting bodies.
2. Some statutes and rules specifically say that applicants must have received a "Doctor of Chiropractic (DC) degree." As you may be aware, that degree is only offered in the United States and Canada. Elsewhere in the world, the same chiropractic program will award a bachelors or masters of chiropractic, dependent on the national or international accrediting agencies that accredit them. Same core education, different terminology.
3. Some statutes and rules specify that a student must obtain a minimum of 90 hours of pre-requisites. This differs from state to state, but often there is language that adds the stipulation that this undergraduate education must be "US Department of Education accredited" as well. While well-intentioned, such terminology warrants updating to reflect the global environment in which students are trained.

RECEIVED

APR 09 2013

Items 1 and 2 present the issue of 'equivalency' and require an understanding of how education and accreditation functions for foreign chiropractic colleges. For example, the New Zealand College of Chiropractic (NZCC) has enjoyed full accreditation since 2001. The NZCC program is accredited by both the New Zealand Qualifications Authority (somewhat similar to the US Department of Education) and the Council on Chiropractic Education – Australasia. Many states have the opportunity to determine overseas equivalency and others simply do not.

For item #3, it may be somewhat more difficult for a foreign resident to train internationally and then apply in the US. Clearly this is an area that will have to be addressed long-term. However, even today, we are seeing an increase in the number of US residents that want to study chiropractic abroad and return home afterward.

The New Zealand College of Chiropractic in 2012 completed a very extensive curriculum review and mapping process. This exercise clearly demonstrates how all NZCC course objectives meet CCE Australasia and New Zealand Qualifications Authority (NZQA) standards.

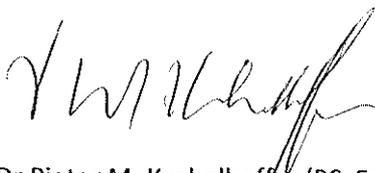
In addition, the NZCC Quality Management System and policies have been updated in 2012 as well. All of this work has resulted in very favourable feedback from both accreditation bodies (New Zealand Qualifications Authority and CCE-Australasia).

As a result, we have compiled our curriculum, policies, and curricula vitae of our faculty into 2 binders (and a flash drive) for you to review.

- For some states, this will be pivotal to determine whether NZCC graduates are eligible to apply for licensure and to define the specific conditions that need to be met.
- For others, it will not be a possibility due to the way the chiropractic statute or rule was written. If this is the case, then this packet is for educational purposes to illustrate what a **fully accredited foreign chiropractic college** looks like.

I am very excited to share our information with you so the Board can evaluate our College's curriculum and the great work that we do. If you need additional information from us, or the completion of a formal application, please let me know. I am hopeful that the end result will be that New Zealand College of Chiropractic graduates are eligible to apply for licensure in Missouri.

Respectfully submitted,



Dr Pieter M. Kachelhoffer (BScEd; DEd)

Vice-President Academic Affairs

New Zealand College of Chiropractic

New Zealand

Missouri Revised Statutes

Chapter 217

Department of Corrections

Section 217.703

August 28, 2012

Earned compliance credits awarded, when.

217.703. 1. The division of probation and parole shall award earned compliance credits to any offender who is:

(1) Not subject to lifetime supervision under sections 217.735 and 559.106 or otherwise found to be ineligible to earn credits by a court pursuant to subsection 2 of this section;

(2) On probation, parole, or conditional release for an offense listed in chapter 195 or for a class C or D felony, excluding the offenses of aggravated stalking, sexual assault, deviate sexual assault, assault in the second degree under subdivision (2) of subsection 1 of section 565.060, sexual misconduct involving a child, endangering the welfare of a child in the first degree under subdivision (2) of subsection 1 of section 568.045, incest, invasion of privacy, and abuse of a child;

(3) Supervised by the board; and

(4) In compliance with the conditions of supervision imposed by the sentencing court or board.

2. If an offender was placed on probation, parole, or conditional release for an offense of:

(1) Involuntary manslaughter in the first degree;

(2) Involuntary manslaughter in the second degree;

(3) Assault in the second degree except under subdivision (2) of subsection 1 of section 565.060;

(4) Domestic assault in the second degree;

(5) Assault of a law enforcement officer in the second degree;

(6) Statutory rape in the second degree;

(7) Statutory sodomy in the second degree;

(8) Endangering the welfare of a child in the first degree under subdivision (1) of subsection 1 of section 568.045; or

(9) Any case in which the defendant is found guilty of a felony offense under chapter 571,

the sentencing court may, upon its own motion or a motion of the prosecuting or circuit attorney, make a finding that the offender is ineligible to earn compliance credits because the nature and circumstances of the offense or the history and character of the offender indicate that a longer term of probation, parole, or conditional release is necessary for the

protection of the public or the guidance of the offender. The motion may be made any time prior to the first month in which the person may earn compliance credits under this section. The offender's ability to earn credits shall be suspended until the court or board makes its finding. If the court or board finds that the offender is eligible for earned compliance credits, the credits shall begin to accrue on the first day of the next calendar month following the issuance of the decision.

3. Earned compliance credits shall reduce the term of probation, parole, or conditional release by thirty days for each full calendar month of compliance with the terms of supervision. Credits shall begin to accrue for eligible offenders after the first full calendar month of supervision or on October 1, 2012, if the offender began a term of probation, parole, or conditional release before September 1, 2012.

4. For the purposes of this section, the term "compliance" shall mean the absence of an initial violation report submitted by a probation or parole officer during a calendar month, or a motion to revoke or motion to suspend filed by a prosecuting or circuit attorney, against the offender.

5. Credits shall not accrue during any calendar month in which a violation report has been submitted or a motion to revoke or motion to suspend has been filed, and shall be suspended pending the outcome of a hearing, if a hearing is held. If no hearing is held or the court or board finds that the violation did not occur, then the offender shall be deemed to be in compliance and shall begin earning credits on the first day of the next calendar month following the month in which the report was submitted or the motion was filed. All earned credits shall be rescinded if the court or board revokes the probation or parole or the court places the offender in a department program under subsection 4 of section 559.036. Earned credits shall continue to be suspended for a period of time during which the court or board has suspended the term of probation, parole, or release, and shall begin to accrue on the first day of the next calendar month following the lifting of the suspension.

6. Offenders who are deemed by the division to be absconders shall not earn credits. For purposes of this subsection, "absconder" shall mean an offender under supervision who has left such offender's place of residency without the permission of the offender's supervising officer for the purpose of avoiding supervision. An offender shall no longer be deemed an absconder when such offender is available for active supervision.

7. Notwithstanding subsection 2 of section 217.730 to the contrary, once the combination of time served in custody, if applicable, time served on probation, parole, or conditional release, and earned compliance credits satisfy the total term of probation, parole, or conditional release, the board or sentencing court shall order final discharge of the offender, so long as the offender has completed at least two years of his or her probation or parole, which shall include any time served in custody under section 217.718 and sections 559.036 and 559.115.

8. The award or rescission of any credits earned under this section shall not be subject to appeal or any motion for postconviction relief.

9. At least twice a year, the division shall calculate the number of months the offender has remaining on his or her term of probation, parole, or conditional release, taking into consideration any earned compliance credits, and notify the offender of the length of the remaining term.

10. No less than sixty days before the date of final discharge, the division shall notify the sentencing court, the board, and, for probation cases, the circuit or prosecuting attorney of the impending discharge. If the sentencing court, the board, or the circuit or prosecuting attorney upon receiving such notice does not take any action under subsection 5 of this section, the offender shall be discharged under subsection 7 of this section.

(L. 2012 H.B. 1525)

FAQ'S

Can an offender lose compliance credits if they receive a new violation?

The earned compliance credits remain with an offender even if they later have a non-compliant month. The exception to this is when an offender's supervision is revoked. If a supervision period is revoked, all compliance credits earned to that point are lost.

If an offender's offense is eligible, will they automatically earn a compliance credit each month?

No. An offender earns a compliance credit when they are compliant with their supervision responsibilities. This means that there are no Initial Violation Reports/Notices of Citations, or motions to revoke or suspend, during a calendar month and that the offender is not an absconder.

What can an offender do if they think the earned compliance credits were calculated wrong in my case?

The determination of earned compliance credits are not subject to formal appeal; however, as with all matters related to supervision, offenders are encouraged to discuss any questions they have with their supervising officer.

On August 28, 2012 House Bill 1525-Justice Reinvestment Initiative, which was signed by Governor Jay Nixon became law. This law established the Sentencing and Corrections Oversight Commission and changed some laws regarding criminal offenders under the supervision of the Missouri Department of Corrections, including creating an earned compliance credit for certain offenders.

Missouri Board
of Probation and Parole
3400 Knipp Drive
Jefferson City, MO. 65109
Phone: 573-751-8488
Fax: 573-751-8501

Missouri Board Of Probation and Parole

**Early Discharge/
Earned Compliance
Credit (RSMo 217.703)**



WWW.DOC.MO.GOV

What is an early discharge?

An early discharge is a final release, or discharge, from probation, parole or conditional release supervision prior to the scheduled supervision expiration date.

Who can authorize an early discharge?

The sentencing Court has authority to reduce the probation supervision term they originally established and the Parole Board can authorize an early discharge from parole or conditional release. The Division of Probation and Parole can also discharge an offender early based on earned compliance credits.

How can an offender obtain an early discharge?

The granting of an early discharge rests primarily with the sentencing Court or the Parole Board. For offenders that comply with their supervision conditions the Court may consider an early discharge as they determine. The Board can do this as well after the offender has completed three years of supervision in the community.

In the case of earned compliance credits, the early discharge is based solely on whether an offender meets the initial eligibility requirements and how well they comply with their supervision requirements. If an offender is interested in an early discharge granted by the Court or Board, or interested in learning more about earned compliance credits, they should discuss this with their supervising officer.

What is an earned compliance credit?

In 2012, legislation was passed that established earned compliance credits, which decrease a supervision term by 30 days for each month that an eligible offender is compliant on supervision for an eligible offense.

Who is eligible for earned compliance credit consideration?

Earned compliance credits are available for any offender who is:

- Not on lifetime supervision.
- On probation, parole or conditional release for a class C or D felony, or any offense listed in RSMo 195 (Drug Offenses), except for the following:
 - Aggravated Stalking
 - Sexual Assault
 - Deviate Sexual Assault
 - Assault 2nd
 - Sexual Misconduct Involving a Child
 - Endangering the Welfare of a Child
 - Incest
 - Invasion of Privacy
 - Abuse of a Child
- Supervised by the Division of Probation and Parole.
- In compliance with the conditions of supervision.
- Not ruled ineligible by the sentencing Court or Parole Board.
- Has completed at least two years of supervision

Under what circumstances can the sentencing Court make a ruling that an offender is ineligible for earned compliance credits?

A finding can be made on a probation case by the Court that, due to the nature and circumstances of the offense, or the history and character of the offender, a longer term of probation is required. This finding can only occur for the following offenses:

- Involuntary manslaughter in the first degree
- Involuntary manslaughter in the second degree
- Assault 2nd
- Domestic assault in the second degree
- Assault of a law enforcement officer in the second degree
- Statutory rape in the second Degree
- Statutory sodomy in the second degree
- Endangering the welfare of a child in the first degree
- Any case in which the defendant is found guilty of a felony offense under chapter 571

When did Earned Compliance Credits begin?

The credits started as of September 2012, with the first award for eligible offenders occurring on October 1, 2012.

Wilde, Jeanette

From: Kessler, Loree
Sent: Monday, August 19, 2013 12:49 PM
To: Wilde, Jeanette
Subject: FW: Application Packets from Missouri

For open session agenda Sept meeting.

From: Donna Liewer [mailto:DLiewer@fclb.org]
Sent: Monday, August 19, 2013 11:34 AM
To: Kessler, Loree
Cc: Julie Finn; Kelly Webb; drdbanderson@hotmail.com
Subject: RE: Application Packets from Missouri

Hi Loree! I'm delighted to answer your questions – see below...



FCLB Executive Director
970-356-3500

From: Kessler, Loree [mailto:loree.kessler@pr.mo.gov]
Sent: Friday, August 16, 2013 12:30 PM
To: Kelly Webb
Subject: RE: Request for Initial Licensing Packets

Per the Federation's request the application and instructions are attached.

The Missouri board requests clarification of the following.

Was this project a topic of discussion at a Federation annual and/or district meeting(s)?
This particular research project will be discussed at the 2013 district meetings. The issue of whether the CCE's 2012 admission standards would be in conflict with any state's licensure requirements has been discussed at both district and annual conferences for the past several years as part of various workshops and presentations on CCE's standards. That process began in 2007.

Is there a cost incurred by the Federation for consulting services provided by Dr. Anderson?
No, he is a volunteer.

How as Dr. Anderson selected for this project?
He asked me about the issue while at a meeting in Greeley for the Association for Chiropractic History. I told him it was on my wish list to research, and maybe his wife who is new at Logan might find a student to research it. He noted he would be happy to do the research for us. He provided his resume, which showed he was clearly qualified to handle a question of this complexity. The FCLB board of directors was pleased that such a qualified individual offered his services.

How will the results of Dr. Anderson's review be used by the Federation?
It will be provided to all the US member boards to do whatever they want to with the information. This is a service project. There may be a session at the 2014 annual conference to help boards understand the various options available to them.

Will the results of Dr. Anderson's review be shared with all member states or only the state reviewed?
A comprehensive report will be provided to all the US Boards.

What does the designation "DCP" stand for?
Doctor of Chiropractic Program, as used in the CCE Standards.

Thank you for your response to these questions.
My pleasure!

From: kwebb@fclb.org [<mailto:kwebb@fclb.org>]
Sent: Tuesday, August 13, 2013 12:42 PM
To: Kessler, Loree
Subject: Request for Initial Licensing Packets

TO: All Top Board Administrators – United States
FROM: Donna M. Liewer, FCLB Executive Director
DATE: August 13, 2013

RE: REQUEST FOR INITIAL LICENSING PACKETS

The FCLB has recently launched a research project to determine **whether recent changes in US-CCE Admissions requirements may create conflicts** with any of the 54 individual US regulatory board laws (50 states, District of Columbia, Puerto Rico, Virgin Islands, Guam).

The FCLB has partnered with Dr. David Anderson to complete this important project. Though now retired, Dr. Anderson has spent the vast majority of his professional career as an Enrollment Management Administrator at Palmer College of Chiropractic (Davenport, San Jose & Port Orange) and Texas Chiropractic College. He is extremely well-versed in DCP Admissions.

To facilitate and expedite this project in a timely fashion, I am asking if you would kindly forward to Dr. Anderson **an electronic copy of your board's current application for initial licensure and any procedural instructions** that are provided with the application.

His email address: drdbanderson@hotmail.com

If your board does not provide these materials electronically, please forward by mail to:

Dr. David Anderson
839 Whispering Village Circle
Ballwin, MO 63021

Please accept our sincere thanks for assisting the FCLB with this important project! Dr. Anderson may also contact your board with questions as he compares your board's requirements to those of the CCE-US. Thank you for any kindness you may extend to him.

The results of the study will be provided to your board when it is complete.

The initial strategy and method for this project are outlined below.

1. Review CCE Requirements relating to DCP admissions

- a. CCE Accreditation Standards
- b. CCA Manual of Policies

2. Identify and chart each board's eligibility requirements as it relates to

- a. Statute
- b. Regulations
- c. Application for licensure

3. Issue written report of possible conflicts or concerns that may affect student eligibility for licensure

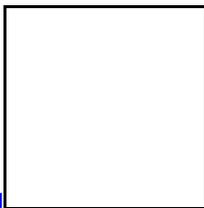
With best regards,



Donna M. Liewer
FCLB Executive Director
DLiewer@fclb.org
970-356-3500

Kelly R. Webb

PR and PACE Coordinator
Federation of Chiropractic Licensing Boards
5401 W. 10th Street, Suite 101
Greeley, CO 80634
(970) 356-3500
www.fclb.org



kwebb@fclb.org

IS THIS LEGAL?

Physical must be performed by a physician recognized by the American Medical Association. Physicals given by chiropractors will not be accepted.

Clinic Use Only

000421 AUG 13 02

Name _____

Height _____ Weight _____ % Body Fat (Optional) _____

Pulse _____ BP _____ / _____ (_____ / _____ _____ / _____)

Vision R20/ _____ L20/ _____ Corrected Y N Pupils Equal Unequal

MEDICAL	NORMAL	ABNORMAL FINDINGS
Appearance	<input type="checkbox"/>	
Eyes /Ears /Nose /Throat	<input type="checkbox"/>	
Lymph Nodes	<input type="checkbox"/>	
Heart	<input type="checkbox"/>	
Pulses	<input type="checkbox"/>	
Lungs	<input type="checkbox"/>	
Abdomen	<input type="checkbox"/>	
Genitalia (males only)	<input type="checkbox"/>	
Skin	<input type="checkbox"/>	
MUSCULOSKELETAL		
HEAD	<input type="checkbox"/>	
Neck	<input type="checkbox"/>	
Back	<input type="checkbox"/>	
Shoulder /arm	<input type="checkbox"/>	
Elbow /forearm	<input type="checkbox"/>	
Wrist /hand	<input type="checkbox"/>	
Hip (thigh)	<input type="checkbox"/>	
Knee	<input type="checkbox"/>	
Leg /ankle	<input type="checkbox"/>	
Foot	<input type="checkbox"/>	

Cleared
 Cleared after completing evaluation/rehabilitation for: _____

Not cleared for: _____ Reason: _____

Recommendations: _____

Physician Name: _____ Phone _____

Physician Signature _____ Date _____



Preparticipation Physical Evaluation Form

*Please explain any yes answers below.

	YES	NO
1. Have you had a medical illness or injury since your last check up or sport physical?	<input type="checkbox"/>	<input type="checkbox"/>
2. Do you have an ongoing or chronic illness?	<input type="checkbox"/>	<input type="checkbox"/>
3. Have you ever been hospitalized overnight?	<input type="checkbox"/>	<input type="checkbox"/>
4. Have you ever had surgery?	<input type="checkbox"/>	<input type="checkbox"/>
5. Are you currently taking any prescription or nonprescription (over-the-counter) medications or pills or using an inhaler?	<input type="checkbox"/>	<input type="checkbox"/>
6. Have you ever taken any supplements or vitamins to help you gain or lose weight or improve your performance?	<input type="checkbox"/>	<input type="checkbox"/>
7. Do you have any allergies (for example, to pollen, medicine, food, or stinging insects)?	<input type="checkbox"/>	<input type="checkbox"/>
8. Have you ever had a rash or hives develop during or after exercise?	<input type="checkbox"/>	<input type="checkbox"/>
9. Have you ever been dizzy during or after exercise?	<input type="checkbox"/>	<input type="checkbox"/>
10. Have you ever had chest pain during or after exercise?	<input type="checkbox"/>	<input type="checkbox"/>
11. Do you get tired more quickly than your friends do during exercise?	<input type="checkbox"/>	<input type="checkbox"/>
12. Have you ever had racing of your heart or skipped heartbeats?	<input type="checkbox"/>	<input type="checkbox"/>
13. Have you had high blood pressure or high cholesterol?	<input type="checkbox"/>	<input type="checkbox"/>
14. Have you ever been told you have a heart murmur?	<input type="checkbox"/>	<input type="checkbox"/>
15. Has any family member or relative died of heart problems or of sudden death before age 50?	<input type="checkbox"/>	<input type="checkbox"/>
16. Have you had a severe viral infection (for example, myocarditis or mononucleosis) within the last month?	<input type="checkbox"/>	<input type="checkbox"/>
17. Has a physician ever denied or restricted your participation in sports for any health problems?	<input type="checkbox"/>	<input type="checkbox"/>
18. Do you have any current skin problems (for example itching, rashes, acne, warts, fungus, or blisters)?	<input type="checkbox"/>	<input type="checkbox"/>
19. Have you ever had a head injury or concussion?	<input type="checkbox"/>	<input type="checkbox"/>
20. Have you ever been knocked out, become unconscious, or lost your memory?	<input type="checkbox"/>	<input type="checkbox"/>
21. Have you ever had a seizure?	<input type="checkbox"/>	<input type="checkbox"/>
22. Do you have frequent or severe headaches?	<input type="checkbox"/>	<input type="checkbox"/>
23. Have you ever had numbness or tingling in your arms, hands, legs, or feet?	<input type="checkbox"/>	<input type="checkbox"/>
24. Have you ever had a stinger, burner, or pinched nerve?	<input type="checkbox"/>	<input type="checkbox"/>
25. Have you ever become ill from exercising in the heat?	<input type="checkbox"/>	<input type="checkbox"/>
26. Do you cough, wheeze, or have trouble breathing during or after activity?	<input type="checkbox"/>	<input type="checkbox"/>
27. Do you have asthma?	<input type="checkbox"/>	<input type="checkbox"/>
28. Do you have seasonal allergies that require medical treatment?	<input type="checkbox"/>	<input type="checkbox"/>
29. Do you use special protective or corrective equipment or devices that are not usually used for your sport or position (for example, knee brace, special neck roll, foot orthotics, retainer on your teeth, hearing aid)?	<input type="checkbox"/>	<input type="checkbox"/>
30. Have you had any problems with your eyes or vision?	<input type="checkbox"/>	<input type="checkbox"/>
31. Do you wear glasses, contacts, or protective eyewear?	<input type="checkbox"/>	<input type="checkbox"/>
32. Have you ever had a sprain, strain, or swelling after injury?	<input type="checkbox"/>	<input type="checkbox"/>
33. Have you broken or fractured any bones or dislocated any joints?	<input type="checkbox"/>	<input type="checkbox"/>
34. Do you want to weigh more or less than you do now?	<input type="checkbox"/>	<input type="checkbox"/>
35. Do you lose weight regularly to meet weight requirements for your sport?	<input type="checkbox"/>	<input type="checkbox"/>
36. Do you feel stressed?	<input type="checkbox"/>	<input type="checkbox"/>
37. Have you had any other problems with pain or swelling in muscles, tendons, bones, or joints? If yes, check the appropriate box:	<input type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/> Head <input type="checkbox"/> Shoulder <input type="checkbox"/> Wrist <input type="checkbox"/> Thigh <input type="checkbox"/> Foot <input type="checkbox"/> Neck <input type="checkbox"/> Upper Arm <input type="checkbox"/> Hand <input type="checkbox"/> Knee <input type="checkbox"/> Back <input type="checkbox"/> Elbow <input type="checkbox"/> Finger <input type="checkbox"/> Shin/Calf <input type="checkbox"/> Chest <input type="checkbox"/> Forearm <input type="checkbox"/> Hip <input type="checkbox"/> Ankle		

Please explain:

38. Sickle Cell Trait screening (mandatory): Positive _____ Negative _____ Unknown status _____ (see waiver form) *The NCAA encourages ALL athletes to be aware of their sickle cell trait status.

39. Record the dates of your most recent immunizations (shots):
 Tetanus: _____ Measles: _____
 Hepatitis B: _____ Chickenpox: _____

FEMALES ONLY

40. When was your first menstrual period? _____
41. When was your most recent menstrual period? _____
42. How much time do you usually have from the start of one period to the start of another? _____
43. How many periods have you had in the last year? _____
44. What is the longest time between periods in the last year? _____

Explain "YES" answers here: _____

I hereby state that, to the best of my knowledge, my answers to the above questions are complete and correct.

Name _____ Date of birth _____ RU ID _____

Signature of athlete, parent or guardian _____ Date _____

Dr. Michael Van Horenbeeck



SAINT LOUIS MO 630
09 AUG 2013 PM 2 L

Wildwood Health &
Wellness Center
16017 Manchester Rd.
Wildwood, MO 63040
636-455-7787

MO State Board Of Chiropractic
3605 Missouri Blvd
P.O. Box 672
Jefferson City, MO. 65102-0672

65102067272

User Name: LORENE SAMSON
Date and Time: 08/12/2013 1:01 PM EDT
Job Number: 4191010

Document(1)

1. Int'l Chiropractors Ass'n v. N.M. Bd. of Chiropractic Examiners, 2013 N.M. App. LEXIS 69

Client/matter: 99999-1

Int'l *Chiropractors* Ass'n v. *N.M.* Bd. of Chiropractic Examiners

Court of *Appeals* of *New Mexico*

July 31, 2013, Filed

NO. *31,690* (consolidated with No. *31,668*)

Reporter: 2013 N.M. App. LEXIS 69

INTERNATIONAL *CHIROPRACTORS* ASSOCIATION, Plaintiff-Appellant, v. *NEW MEXICO* BOARD OF CHIROPRACTIC EXAMINERS, Defendant-Appellee, and *NEW MEXICO* BOARD OF PHARMACY and *NEW MEXICO* MEDICAL BOARD, Plaintiffs-Appellants, v. *NEW MEXICO* BOARD OF CHIROPRACTIC EXAMINERS, Defendant-Appellee.

Notice: THIS SLIP OPINION IS SUBJECT TO FORMAL REVISION UPON RELEASE OF THE FINAL VERSION.

Subsequent History: As Amended August 6, *2013*.

Prior History: [*1] Direct *Appeal* from Rulemaking by the *New Mexico* Board of Chiropractic Examiners.

Core Terms

chiropractic, formulary, pharmacy, sentence, inject, controlled substance, dangerous drug, train, legislative intent, cosmetic, plain meaning, prescribe, second sentence, modify, internal quotation marks, higher education, mineral, educational requirements, surplusage, clinical, license, comma

Counsel: Charles V. Garcia, Cuddy & McCarthy LLP, Albuquerque, NM; Patrick Ortiz, Santa Fe, NM; James S. Turner, Esq., Swankin & Turner, Washington, D.C., for Appellant International *Chiropractors* Association.

Gary K. King, Attorney General, Zachary A. Shandler, Assistant Attorney General, Santa Fe, NM, for Appellee *New Mexico* Board of Chiropractic Examiners.

Thomas R. Daly, Odin, Feldman & Pittleman, P.C., Reston, VA; Susan M. Hapka, Sutin, Thayer & Browne, Albuquerque, NM, for Amicus Curiae, American Chiropractic Association.

Gary K. King, Attorney General, Zachary A. Shandler, Assistant Attorney General, Santa Fe, NM, for Appellee *New Mexico* Board of Chiropractic Examiners.

Judges: JAMES J. WECHSLER, Judge. WE CONCUR: TIMOTHY L. GARCIA, Judge, J. MILES HANISEE,

Judge.

Opinion by: JAMES J. WECHSLER

Opinion

WECHSLER, Judge.

This *appeal* is taken under the Uniform Licensing Act, *NMSA 1978, §§ 61-1-1 to -34* (1957, as amended [*2] through *2013*), to challenge rules adopted by Appellee, the *New Mexico* Board of Chiropractic Examiners (the Chiropractic Board). The rules in question approve an amended advanced practice chiropractic formulary that includes minerals and additional drugs to be administered by injection (2010 formulary) and a *new* rule establishing additional educational requirements for advanced practice chiropractic physicians (training rule). Appellants, the *New Mexico* Board of Pharmacy (the Pharmacy Board), the *New Mexico* Medical Board (the Medical Board), and the International *Chiropractors* Association (the ICA), challenge the 2010 formulary, asserting that it violates the requirement of *NMSA 1978, Section 61-4-9.2(B)* (2009) of the Chiropractic Physician Practice Act, *NMSA 1978, §§ 61-4-1 to -17* (1968, as amended through 2009), that prior approval of the Pharmacy Board and the Medical Board be obtained. The ICA also challenges the training rule, arguing that it lacked the necessary prior approval of the Medical Board. We hold that the 2010 formulary that includes minerals and additional drugs to be administered by injection violates Section 61-4-9.2(B)'s requirement that the formula receive approval [*3] from the Pharmacy Board and the Medical Board. We find no fault with the training rule. Accordingly, we set aside the 2010 formulary.

BACKGROUND

A certified "advanced practice chiropractic" physician has "prescriptive authority for therapeutic and diagnostic purposes." *Section 61-4-9.1; 16.4.15.7(B) NMAC* (7/23/2010). The Chiropractic Board has the statutory obligation to approve formularies for substances to be administered by certified advanced practice chiropractic physicians. *Section 61-4-9.2(B)*. A formulary is a listing of the approved substances and includes the manner in which they may be administered. *16.4.15.11 NMAC* (11/13/2011). Formularies are embodied under a rule of

LORENE SAMSON

the Chiropractic Board. *Id.* A formulary that includes "[d]angerous drugs or controlled substances, drugs for administration by injection and substances not listed in [Subsection A of Section 61-4-9.2](#) requires prior submission to the Pharmacy Board and the Medical Board for approval. [Section 61-4-9.2\(B\)](#).

Effective September 11, 2009, the Chiropractic Board adopted an administrative rule establishing an advanced practice chiropractic formulary. This 2009 formulary was the subject of prior litigation between the [*4] parties. After the voluntary dismissal of its *appeal* to this Court, the Pharmacy Board gave its approval for certain substances, and the manner for their administration, to be included in the formulary. The Chiropractic Board decided to replace the formulary proposed in 2009 with the 2010 formulary that was effective *July 23, 2010*. On *July 29, 2011*, the Chiropractic Board issued notice that it would hold a hearing and regular meeting to consider various items, including the 2010 formulary. The 2010 formulary included an amendment to the formulary of 16.4.15.11 NMAC to include minerals and additional drugs to be administered by injection and a *new* rule, 16.4.15.12 NMAC (11/13/2011), establishing additional educational requirements for certified advanced practice chiropractic physicians that was not approved by the Medical Board.

The Chiropractic Board did not submit its proposed 2010 formulary to the Pharmacy Board or the Medical Board prior to the August 30, 2011 hearing. In connection with the hearing, both boards advised the Chiropractic Board that they did not approve the 2010 formulary. The ICA also objected to the 2010 formulary as well as the training rule. The Chiropractic Board [*5] approved the 2010 formulary that amended 16.4.15.11 NMAC and the *new* language of 16.4.15.12 NMAC. The Pharmacy Board and the Medical Board filed a single *appeal* from the Chiropractic Board's action, and the ICA filed a separate *appeal*. This Court consolidated the *appeals* and granted a stay of the two administrative rules pending the resolution of this *appeal*.

ARGUMENTS OF THE PARTIES

In this *appeal*, the Pharmacy and Medical Boards and the ICA contend that the 2010 formulary, 16.4.15.11 NMAC, is contrary to law because the Chiropractic Board adopted it without approval of the Pharmacy and Medical Boards, as required by [Section 61-4-9.2\(B\)](#). The ICA additionally argues that the Chiropractic Board's own regulations required it to obtain the approval of the Pharmacy and Medical Boards before approving the 2010 formulary. It further contends that the training rule, 16.4.15.12 NMAC, violates [Section 61-4-9.1\(D\)](#) and [16.4.15.10\(C\) NMAC](#) (3/31/2009) because the Medical Board did not approve the *new* training requirements.

The Chiropractic Board counters that its 2010 formulary does not require approval of the Pharmacy and Medi-

cal Boards based on its interpretation of [Section 61-4-9.2\(B\)](#) that construes [*6] the plain meaning of the statutory language, avoids surplusage, and complies with proper re-punctuation. It argues that its interpretation of [Section 61-4-9.2](#) does not result in any conflict with its regulations. It further contends that the Medical Board was not required to approve the training rule.

STANDARD OF REVIEW

In an *appeal* of the adoption of a regulation under the Uniform Licensing Act, this Court may set aside the regulation only if it finds the regulation to be: "(1) arbitrary, capricious or an abuse of discretion; (2) contrary to law; or (3) against the clear weight of substantial evidence of the record." [Section 61-1-31\(C\)](#). The arguments in this *appeal* raise the question of whether the 2010 formulary and the training rule are contrary to law. Our interpretation of the relevant statutes and administrative rules and regulations is also a question of law. See [PC Carter Co. v. Miller, 2011 NMCA 52, ¶ 11, 149 N.M. 660, 253 P.3d 950](#). We review the Chiropractic Board's application of the law de novo. See *id.*

THE 2010 FORMULARY

"An administrative agency has no power to create a rule or regulation that is not in harmony with its statutory authority." *Rivas v. Bd. of Cosmetologists*, 1984 NMSC 76, ¶ 3, 101 *N.M.* 592, 686 P.2d 934. [*7] The statutory authority at issue is contained in [Section 61-4-9.2](#), which states that:

A. A certified advanced practice chiropractic physician may prescribe, administer and dispense herbal medicines, homeopathic medicines, over-the-counter drugs, vitamins, minerals, enzymes, glandular products, protomorphogens, live cell products, gerovital, amino acids, dietary supplements, foods for special dietary use, bioidentical hormones, sterile water, sterile saline, sarapin or its generic, caffeine, procaine, oxygen, epinephrine and vapocoolants.

B. A formulary that includes all substances listed in Subsection A of this section, including compounded preparations for topical and oral administration, shall be developed and approved by the board. A formulary for injection that includes the substances in Subsection A of this section that are within the scope of practice of the certified advanced practice chiropractic physician shall be developed and approved by the board. Dangerous drugs or controlled substances, drugs for administration by injection and substances not listed in Subsection A of this section shall be submitted to the [Pharmacy Board] and the [Medical Board] for approval.

LORENE SAMSON

The central [*8] issue before us concerns the meaning of the third sentence of [Section 61-4-9.2\(B\)](#) as to the circumstances under which approval of the Pharmacy and Medical Boards is required. We thus seek to interpret [Section 61-4-9.2](#) to establish the Legislature's intent in enacting the statute. See [Bd. of Educ. for Carlsbad Mun. Sch. v. N.M. State Dep't of Pub. Educ.](#), 1999 NMCA 156, ¶ 16, 128 N.M. 398, 993 P.2d 112 ("The primary purpose of statutory interpretation is to ascertain and give effect to legislative intent." (internal quotation marks and citation omitted)). As the Chiropractic Board points out, this Court refers to the canons of statutory construction to interpret statutory meaning. [Janet v. Marshall](#), 2013 NMCA 37, ¶ 9, 296 P.3d 1253. The Chiropractic Board specifically requests that we interpret [Section 61-4-9.2](#) based on three such canons: that a statute should be interpreted in accordance with its plain meaning, see [Janet](#), 2013 NMCA 37, ¶ 9; that a statute should be interpreted to give effect to its entire language such that no language is surplusage, see [Benny v. Moberg Welding](#), 2007 NMCA 124, ¶ 8, 142 N.M. 501, 167 P.3d 949; and that a court may re-punctuate a sentence to fulfill [*9] the legislative intent. See [City of Roswell v. Hall](#), 1941 NMSC 011, ¶ 4, 45 N.M. 116, 112 P.2d 505.

We address each of the Chiropractic Board's arguments. However, we believe that the Legislature's intent is best resolved by looking to the language of [Section 61-4-9.2](#) in the context of "its history and background" and the manner in which it "fits within the broader statutory scheme." [Chatterjee v. King](#), 2012 NMSC 19, ¶ 12, 280 P.3d 283. In this regard, we examine [Section 61-4-9.2](#) in conjunction with statutes that address the same subject matter in order to ensure "a harmonious, common-sense reading." [Chatterjee](#), 2012 NMSC 19, ¶ 12.

History and Background of [Section 61-4-9.2](#)

In 2008, the Legislature amended the Chiropractic Physician Practice Act. Among the amendments, the Legislature for the first time authorized the Chiropractic Board to establish by rule an advanced chiropractic practice physician certification registry. [Section 61-4-9.1](#). The Legislature distinguished an advanced chiropractic practice physician from other *chiropractors*. It permitted an advanced chiropractic practice physician to "have prescriptive authority for therapeutic and diagnostic purposes as authorized by [*10] statute" and included within this authority the ability to administer "a drug by injection." *Id.*; [Section 61-4-2\(C\)](#). With this distinctive authority, the Legislature required that an advanced chiropractic practice physician be licensed and certified by a nationally-recognized credentialing agency, have completed three years of post-graduate clinical practice or equivalent clinical experience and annual continuing education, and have "completed a minimum of ninety clinical and didactic contact course hours in pharmacology, pharmacognosy, medication administration and toxicology certified by an examination from an institution of higher education approved by the [Chiropractic

Board] and the [Medical Board]." [Section 61-4-9.1\(D\)](#).

With the creation of the advanced chiropractic practice physician status in 2008, the Legislature also required the Chiropractic Board to develop a formulary to address advanced practice chiropractic physicians' prescribing, administering, and dispensing and further required that the formulary be approved by the Pharmacy and Medical Boards. [Section 61-4-9.2](#) (2008). The Legislature additionally required coordination between regulatory boards by mandating joint [*11] approval of the Chiropractic and Medical Boards of higher education requirements. [Section 61-4-9.1\(D\)](#).

The Legislature's authority to enact the Chiropractic Physician Practice Act stems from its exercise of the state's power to regulate for the protection of the health, safety, and welfare of its citizens. See [State ex rel. Dep't of Pub. Safety, State Police Div. v. One 1986 Peterbilt Tractor, Black in Color, with an Altered VIN](#), 1997 NMCA 50, ¶ 15, 123 N.M. 387, 940 P.2d 1182 ("The [L]egislature is the proper branch of government to determine what should be proscribed under the police power, and a determination of what is reasonably necessary for the preservation of the health, safety and welfare of the general public is a legislative function." (alteration, internal quotation marks, and citation omitted)). Although the Legislature did not include a specific purpose provision in the Chiropractic Physician Practice Act, it did mandate that the Chiropractic Board establish educational requirements "for the purpose of protecting the health and well-being of the citizens of this state." [Section 61-4-3\(G\)](#). The statutes forming the Pharmacy and Medical Boards specifically state the purpose [*12] of the statutes as within the state's police power. See [NMSA 1978, § 61-11-1.1\(B\)](#) (1997) ("The purpose of the Pharmacy Act is to promote, preserve and protect the public health, safety and welfare[.]"); [NMSA 1978, § 61-6-1\(B\)](#) (2003) (stating the purpose of the Medical Practice Act to be "[i]n the interest of the public health, safety and welfare").

Plain Meaning of [Section 61-4-9.2](#)

The Chiropractic Board makes two arguments concerning the plain meaning of [Section 61-4-9.2](#). In its answer brief, it raises an argument that draws upon the original language of [Section 61-4-9.2](#) as enacted by the Legislature in 2008. That language read:

A [*13] certified advanced practice chiropractic physician may prescribe, administer and dispense herbal medicines, homeopathic medicines, vitamins, minerals, enzymes, glandular products, naturally derived substances, protomorphogens, live cell products, gerovital, amino acids, dietary supplements, foods for special dietary use, bioidentical hormones, sterile water, sterile saline, sarapin or its generic, caffeine, procaine, oxy-

gen, epinephrine and vapocoolants. A formulary shall be developed by the board and approved by the [Medical Board] and the [Pharmacy Board].

[Section 61-4-9.2](#) (2008).

The Chiropractic Board's plain meaning interpretation of [Section 61-4-9.2](#) raised in its brief focuses on the first two sentences of [Subsection B](#). According to the Chiropractic Board, the first sentence plainly authorizes it to adopt a formulary allowing an advanced practice chiropractic physician to prescribe and administer a substance listed in [Subsection A](#). With its amendment to [Section 61-4-9.2](#) in 2009, the Legislature removed from [Subsection A](#) the language requiring Pharmacy and Medical Board approval. Thus, to the Chiropractic Board, under the plain meaning of the first sentence of [Subsection B](#), the [*14] Pharmacy and Medical Boards do not need to approve the formulary. See *N.M. Cattle Growers' Ass'n v. N.M. Water Quality Control Comm'n*, 2013 NMCA 46, ¶ 8, 299 P.3d 436 ("The law of statutory construction presumes that when the Legislature amends a statute, it intends to change the existing law."), cert. granted, 2013 NMCERT 003, 300 P.3d 1181.

The Chiropractic Board similarly analyzes the plain meaning of the second sentence of [Subsection B](#). It reads this sentence to permit it to adopt a formulary allowing an advanced practice chiropractic physician to administer by injection a substance listed in [Subsection A](#) if it ensures that such formulary is consistent with the scope of practice of an advanced practice chiropractic physician. Again, because the second sentence of [Subsection B](#) does not contain language requiring that the Pharmacy and Medical Boards approve such formulary, the Chiropractic Board does not consider such approval to be within the plain meaning of [Subsection B](#).

By its own account, the Chiropractic Board's plain meaning interpretation of [Section 61-4-9.2](#) raised in its brief does not address the third sentence of [Subsection B](#). And it is the meaning of the third sentence [*15] that is the crux of the issue before us. Indeed, the language of this sentence indicates a legislative intent to require Pharmacy and Medical Board approval for the use of certain drugs and substances by an advanced practice chiropractic physician. The question is which drugs or substances are subject to the required approvals.

The Chiropractic Board raised an alternative argument at oral argument to this Court. It argued that the plain meaning of the third sentence of [Section 61-4-9.2\(B\)](#) is reflected in the Legislature's reference to "substances in [Subsection A](#)" in the first and second sentences. According to the Chiropractic Board, the Legislature's use of the language "substances listed in [Subsection A](#)" in connection with its requirement that the Chiropractic Board develop formularies in the first two sentences indicates that when the Legislature required Pharmacy and

Medical Board approval in the third sentence of [Subsection B](#) for "substances not listed in [Subsection A](#)," it plainly meant to exclude substances listed in [Subsection A](#) from the required approval.

In addressing these arguments, we note the interchangeable use of "drug" and "substance" in the Chiropractic Physician Practice [*16] Act. [Section 61-4-9.2\(B\)](#) refers to the "substances" listed in [Subsection A](#). But [Subsection A](#) includes "over-the-counter drugs." The third sentence of [Subsection B](#) uses the terms "[d]angerous drugs," "controlled substances," "drugs for administration by injection," and "substances not listed in [Subsection A](#)." [Section 61-4-9.2\(B\)](#). The definitions section of the Chiropractic Physician Practice Act defines "chiropractic" in part by including "the administering of a drug by injection by a certified advanced practice chiropractic physician[.]" [Section 61-4-2\(C\)](#). It does not, however, define "drug" or "substance" for the purposes of the Chiropractic Physician Practice Act. At oral argument, the Chiropractic Board and the Pharmacy Board both indicated that the Chiropractic Physician Practice Act uses the terms "drug" and "substance" interchangeably. By virtue of this interchangeable use, we do not make any distinction between "drug" and "substance" in the language of the Chiropractic Physician Practice Act. Cf. *Hanson v. Turney*, 2004 NMCA 69, ¶ 12, 136 N.M. 1, 94 P.3d 1 (stating that, when the Legislature was aware of a distinction used in other statutes and did not adopt it, it intended [*17] otherwise).

When we then turn to the language of the third sentence of [Section 61-4-9.2\(B\)](#), and focus only on "drugs for administration by injection," we observe no lack of clarity in the requirement that a formulary that includes "drugs for administration by injection" or "substances not found in [Subsection A](#)" be approved by the Pharmacy and Medical Boards. The Chiropractic Board, however, contends in its brief that, in context, the second and third sentences are confusing and do not permit such an isolated focus. In particular, it argues that a reading of [Section 61-4-9.2\(B\)](#) that addresses the first two sentences as establishing the Chiropractic Board's authority to develop and approve formularies and the third sentence as limiting that authority does not make sense and renders statutory language duplicative or surplusage.

In order to address these arguments, we must consider the other types of drugs the Legislature listed in the third sentence. Because the Chiropractic Physician Practice Act does not define these terms, we look elsewhere for guidance. See *Janet*, 2013 NMCA 37, ¶ 11 ("The [*18] statute itself does not define [the term], so we look to case law and other statutes for guidance."). "Dangerous drugs" and "controlled substances" are defined in the context of laws that similarly address regulated drugs. "Controlled substances" are defined in the schedules of the Controlled Substances Act, *NMSA 1978, §§ 30-31-1 to -41* (1972, as amended through 2011), and are subject to regulation by the Pharmacy Board. Con-

trolled substances are also defined in the *New Mexico* Drug, Device and Cosmetic Act by reference to the Controlled Substances Act. [NMSA 1978, § 26-1-2\(D\)](#) (2011). As defined in the *New Mexico* Drug, Device and Cosmetic Act, a "drug" is an article "recognized in an official compendium" that is "intended for use in the diagnosis, cure, mitigation, treatment or prevention of disease." [Section 26-1-2\(E\)\(1\), \(2\)](#). Also as defined in the *New Mexico* Drug, Device and Cosmetic Act, a "dangerous drug" is

a drug, other than a controlled substance enumerated in Schedule I of the Controlled Substances Act, that because of a potentiality for harmful effect or the method of its use or the collateral measures necessary to its use is not safe except under the supervision of a practitioner [*19] licensed by law to direct the use of such drug.

[Section 26-1-2\(F\)](#).

These definitions were in place when the Legislature amended [Section 61-4-9.2](#) in 2009. Although the Legislature did not specifically refer to the *New Mexico* Drug, Device and Cosmetic Act or the Controlled Substances Act for definitions, as it could have, it had already linked the *New Mexico* Drug, Device and Cosmetic Act to the Chiropractic Physician Practice Act by mandating coordination between the Chiropractic Board and the Pharmacy Board, which oversees the operation of the *New Mexico* Drug, Device and Cosmetic Act. See [NMSA 1978, § 61-11-6\(A\)\(1\), \(9\)](#) (2005). Moreover, we believe that the Legislature intended the use of the *New Mexico* Drug, Device and Cosmetic Act and Controlled Substances Act definitions to apply because it used the terms "dangerous drugs" and "controlled substances" that are clearly defined in those acts. "Controlled substance" does not have meaning without reference to the Controlled Substances Act that defines it. See [Gutierrez v. J & B Mobile Homes](#), 1999 NMCA 7, ¶ 8, 126 N.M. 494, 971 P.2d 1284 (applying "a common sense interpretation to the plain language of the statute"). In addition, when interpreting [*20] a statute, we seek to harmonize statutes involving the same or similar subject matter. See [Sinclair v. Elderhostel, Inc.](#), 2012 NMCA 100, ¶ 14, 287 P.3d 978 (stating that "[w]hen two statutes cover the same subject matter, we attempt to harmonize and construe them together in a way that facilitates their operation and the achievement of their goals" (alteration in original) (internal quotation marks and citation omitted)). Under the definition of "dangerous drugs" in the *New Mexico* Drug, Device and Cosmetic Act, we agree with the Pharmacy and Medical Boards that a drug that is administered by injection falls within the definition because it is not safe unless it is administered under the supervision of an appropriately licensed practitioner.

Returning to the Chiropractic Board's arguments, it first contends that if the Legislature had intended the third

sentence to be a limitation of the second sentence, "it would have been clearer if the [L]egislature had expressly added the phrase 'shall be submitted to the [Pharmacy Board] and Board of Medicine' to the end of the second sentence." The Legislature had used this approach in 2008 and removed this language in 2009. While this approach [*21] may have more directly stated the legislative intent, we do not second guess the approach the Legislature utilized. See [Marckstadt v. Lockheed Martin Corp.](#), 2010 NMSC 1, ¶ 31, 147 N.M. 678, 228 P.3d 462 (stating that this Court "will not second-guess" the method chosen by the Legislature). Although the adopted approach may be more indirect because of the need to reference the *New Mexico* Drug, Device and Cosmetic Act, we do not consider it to be ambiguous. See [Bd. of Educ. for Carlsbad Mun. Sch.](#), 1999 NMCA 156, ¶ 18 ("A statute is ambiguous if reasonably informed persons can understand the statute as having two or more meanings."). We also do not consider this approach to render the second sentence of Section 61-4-9.2(B) surplusage. As we have expressed, the second sentence granted the authority to the Chiropractic Board to adopt a formulary for drugs administered by injection, and the third sentence required the Chiropractic Board to submit such a formulary to the Pharmacy and Medical Boards for approval.

The Chiropractic Board's second argument asserts that, under a construction in which the third sentence of [Section 61-4-9.2\(B\)](#) limits the second sentence, the legislative use of [*22] the phrase "drugs for administration by injection" in the third sentence of [Section 61-4-9.2\(B\)](#) duplicates the use of the term "[d]angerous drugs" earlier in the same sentence. We agree that there is overlap in the language because, as we have discussed, the term "dangerous drugs" includes drugs for administration by injection. Nevertheless, we do not consider this overlap to confuse the legislative intent. See [Bd. of Educ. for Carlsbad Mun. Sch.](#), 1999 NMCA 156, ¶ 16 ("The primary purpose of statutory interpretation is to ascertain and give effect to legislative intent." (internal quotation marks and citation omitted)). Drugs administered by injection are a subset of "dangerous drugs." While the Legislature could have excluded drugs administered by injection, or used other language such as "dangerous drugs, including drugs for administration by injection," we do not believe that separately listing such drugs alters the legislative intent. We could not construe the separate listing as surplusage unless we attached a different meaning either to "drugs for administration by injection" or to "dangerous drugs." However, we do not perceive a meaning that is different from those we have discussed [*23] for either term, and the Chiropractic Board has not asserted that there is a different meaning for the terms.

The Chiropractic Board's oral argument position does not affect our analysis because we read the third sentence of Subsection B as an overarching requirement with respect to the formularies required by the first two sen-

tences. "[S]ubstances not listed in [Subsection A](#)" is but a single category requiring approval. The language used distinguishes the category from the substances listed in [Subsection A](#). But, particularly in view of the interchangeability of the terms "drugs" and substances" in the Chiropractic Physician Practice Act, we do not consider the use of the language to have greater meaning. To the extent that "substances in [Subsection A](#)" are also "dangerous drugs" or "drugs administered by injection," they fit within the specific categories identified in the third sentence of [Subsection B](#).

When we thus read [Section 61-4-9.2](#) both in connection with the history and other provisions of the Chiropractic Physician Practice Act and the definitions of the *New Mexico* Drug, Device and Cosmetic Act, which is a similar exercise of the Legislature's police power to protect the health [*24] and safety of its citizens, the meaning of the third sentence of [Section 61-4-9.2\(B\)](#) is clear. In creating the advanced practice chiropractic physician, the Legislature's primary purpose was to protect the public health and safety. Seemingly because of the existing authority and purpose of the Pharmacy and Medical Boards to protect the public health and safety concerning the prescribing and administering of drugs, the Legislature mandated a coordinated effort among the Chiropractic, Pharmacy, and Medical Boards to fulfill its purpose. It linked the Chiropractic Board to the Medical Board in developing a special educational requirement for advanced practice chiropractic physicians. It further required, in [Section 61-4-9.2\(B\)](#), that the Pharmacy and Medical Boards approve the use of dangerous drugs and drugs for administration by injection, among others. The Legislature has adopted similar coordinated efforts for other health professionals. See *NMSA 1978, Section 61-9-17.2(B)* (2002) (requiring the State Board of Psychologist Examiners and the Board of Medical Examiners to jointly develop guidelines concerning a psychologist's prescribing of psychotropic medication); *NMSA 1978, Section 61-3-23.3(E)* [*25] (2001) (requiring the Board of Nursing to develop a formulary for prescriptive authority of certified registered nurse anesthetists in collaboration with the Board of Medical Examiners).

In 2008, the legislative language left no room to question the need for the Pharmacy and Medical Boards to approve the Chiropractic Board's formularies. Although the 2009 amendment modified the language of [Section 61-4-9.2](#), we do not believe that it modified the Legislature's mandate that the Pharmacy and Medical Boards approve the Chiropractic Board's formularies that it considered necessary for the protection of the public health and safety. In 2009, the Legislature relaxed its requirement that the Chiropractic Board submit all formularies to the Pharmacy and Medical Boards for approval. However, using terms with which it was familiar because of their use in the *New Mexico* Drug, Device and Cosmetic Act and the Controlled Substances Act, the Legislature required approval for, among other drugs and

substances, dangerous drugs. By using this term, the Legislature intended to follow the established definition in the *New Mexico* Drug, Device and Cosmetic Act. Otherwise, the Legislature would have created [*26] an ambiguity, or worse, a *new*, conflicting definition, a result that we do not believe that it intended. See *Bd. of Educ. for Carlsbad Mun. Sch.*, 1999 NMCA 156, ¶ 18 ("A statute is ambiguous if reasonably informed persons can understand the statute as having two or more meanings.").

In summary, we read [Section 61-4-9.2\(B\)](#) to authorize the Chiropractic Board to develop and approve formularies to permit an advanced practice chiropractic physician to prescribe and administer the substances listed in [Subsection A](#). The formularies may include both topical and oral administration and administration by injection. However, the Chiropractic Board must submit its formularies to the Pharmacy and Medical Boards for approval to the extent that the formularies include dangerous drugs, as defined in the *New Mexico* Drug, Device and Cosmetic Act. As defined in the *New Mexico* Drug, Device and Cosmetic Act, dangerous drugs include drugs for administration by injection.

Re-Punctuation

The Chiropractic Board differs with this interpretation and would have us re-punctuate the third sentence of [Section 61-4-9.2\(B\)](#) to adopt what it argues is the legislative purpose. According to the Chiropractic Board, Dr. [*27] Stephen Perlstein and Dr. Robert Jones, proponents of the 2009 amendment, testified at the rulemaking hearing that the intent of the 2009 amendment was to distinguish natural substances from all others and that there was no debate as to whether the Chiropractic Board had oversight over the natural substances. These natural substances are the ones listed in [Subsection A](#). The proponents intended the amendment to enable the Chiropractic Board to oversee the dispensing of the Subsection A substances without approval of the Pharmacy Board and the Medical Board. They believed that they had worked out the third sentence to read: "Dangerous drugs or controlled substances and drugs for administration by injection not listed in [Subsection A](#) shall be submitted to the [Pharmacy Board] and the [Medical Board] for approval." The Chiropractic Board contends in this *appeal* that this interpretation is consistent with the second sentence that allows it to develop a formulary for the substances of Subsection A to be administered by injection without approval by the Pharmacy and Medical Boards. Dr. Perlstein testified at the rulemaking hearing that a drafter at the Legislative Council Service modified [*28] this language by placing a comma after "dangerous drugs or controlled substances" that set off "dangerous drugs or controlled substances" and changed the meaning of the intended language.

The Chiropractic Board suggests two ways in which this

Court could alter the third sentence of [Section 61-4-9.2\(B\)](#) to achieve the substance that it contends was intended. First, it suggests that the emphasis of the third sentence should be on the language "not listed in [Subsection A](#)" such that "not listed in [Subsection A](#)" modifies all three items covered in the sentence, "[d]angerous drugs or controlled substances," "drugs for administration by injection," and "substances." To capture this emphasis, the Chiropractic Board suggests that we modify the third sentence to delete the comma after "controlled substances" and insert "and" in its place. The suggested sentence would read:

Dangerous drugs or controlled substances and drugs for administration by injection and substances not listed in [Subsection A](#) of this section shall be submitted to the [Pharmacy Board] and the [Medical Board] for approval.

Alternatively, the Chiropractic Board suggests that we re-punctuate the third sentence to add a comma before [*29] and after "not listed in [Subsection A](#) of this section" so that "not listed in [Subsection A](#) of this section" will modify all other items listed in the sentence. The sentence would thus read:

Dangerous drugs or controlled substances, drugs for administration by injection and substances, not listed in [Subsection A](#) of this section, shall be submitted to the [Pharmacy Board] and the [Medical Board] for approval.

We find the Chiropractic Board's suggestions to be problematic for four reasons. First, it is not the realm of this Court to re-write a statute to comport with our opinion as to the manner it should be interpreted. See [Martinez v. Sedillo](#), 2005 NMCA 29, ¶ 7, 137 *N.M.* 103, 107 P.3d 543 ("We will not rewrite a statute."). The Chiropractic Board relies on a single case, [Roswell](#), 1941 NMSC 11, ¶ 4, 45 *N.M.* 116, 112 P.2d 505, to support its position. In that case, our Supreme Court observed from the face of a city ordinance that a word was incorrectly used. *Id.* ¶ 2. It considered the error to be clerical and substituted a word and a comma that was also used in a parallel clause in the ordinance. *Id.* As the Court pointed out, "[w]hen the ordinance is read as a whole, there can be no [*30] question as to its intended meaning." *Id.* ¶ 3. In this case, there is no apparent clerical error in the [Section 61-4-9.2\(B\)](#) as written that frustrates the intended meaning.

Second, the Chiropractic Board rests its argument on the testimony of Drs. Perlstein and Jones concerning the Legislature's intent in amending [Section 61-4-9.2](#). *New Mexico* courts look primarily to the legislation itself to ascertain legislative intent. [Regents of the Univ. of N.M. v. N.M. Fed'n of Teachers](#), 1998 NMSC 20, ¶ 30, 125

N.M. 401, 962 P.2d 1236. As a general rule, the Legislature "speaks solely through its concerted action as shown by its vote." *U.S. Brewers Ass'n, Inc. v. Dir. of the N.M. Dep't of Alcohol Beverage Control*, 1983 NMSC 59, ¶ 9, 100 *N.M.* 216, 668 P.2d 1093 (emphasis, internal quotation marks, and citation omitted). Although contemporaneous documents presented to the Legislature or statements of legislators made while legislation is pending may be considered to bear upon legislative intent, our courts do not generally consider statements of legislators or others after legislation has passed. *State ex rel. Helman v. Gallegos*, 1994 NMSC 23, ¶ 35, 117 *N.M.* 346, 871 P.2d 1352; *Claridge v. N.M. State Racing Comm'n*, 1988 NMSC 056, ¶¶ 24, 28, 107 *N.M.* 632, 763 P.2d 66. [*31] Moreover, Drs. Perlstein and Jones testified at the rulemaking hearing about their intent as proponents of the 2009 amendment, not about the Legislature's intent.

Third, notwithstanding the testimony of Drs. Perlstein and Jones, the Chiropractic Board asks that we re-write [Section 61-4-9.2\(B\)](#) to adopt a meaning that was not clearly the intent of the Legislature. As we have earlier discussed, the history and background of the Chiropractic Physician Practice Act support the requirement that the Pharmacy and Medical Boards approve formularies that contain dangerous drugs.

Last, the Chiropractic Board's suggested alterations to the third sentence do not persuade us that the Legislature intended Pharmacy and Medical Board approval to apply only to substances not listed in Subsection A. In its first suggestion, the words "not listed in [Subsection A](#) of this section" are not separated from the immediately previous word "substances" so as to indicate that they refer to any items other than "substances." See [Hale v. Basin Motor Co.](#), 1990 NMSC 068, ¶ 9, 110 *N.M.* 314, 795 P.2d 1006 (stating the doctrine of the last antecedent as "[r]elative and qualifying words, phrases, and clauses are to be [*32] applied to the words or phrase immediately preceding, and are not to be construed as extending to or including others more remote" (internal quotation marks and citation omitted)). In the alternative suggestion, the word "substances" placed before a comma and the words "not listed in [Subsection A](#) of this section" do not make sense without a further descriptor or modifier. Each of the other references to drugs or substances in the sentence is more specifically described.

THE ICA'S ARGUMENTS CONCERNING THE CHIROPRACTIC BOARD'S REGULATIONS

The ICA raises additional arguments on *appeal* concerning the Chiropractic Board's regulations. It contends that the Chiropractic Board's adoption of the 2011 formulary violated its own regulations, that the regulations require Medical Board approval for training programs for advanced practice chiropractic physicians, and that the Chiropractic Board's prescribed training does not meet

statutory and regulatory requirements. We consider the ICA's arguments in turn.

As to the adoption of the 2011 formulary, the ICA points to [16.4.15.7\(E\) NMAC](#), [16.4.15.8\(A\) NMAC](#) (7/23/2010), and [16.4.15.8\(H\) NMAC](#). Regulation 16.4.15.7(E) of the Administrative Code defines [*33] "[c]hiropractic formulary" as "those substances that have been approved for use by the *chiropractor* registered in advanced practice by the [Chiropractic Board] and as by statute with consensus between the [Medical Board] and [Pharmacy Board]." Regulation 16.4.15.8(A) of the Administrative Code provides in part that actively registered chiropractic physicians "are allowed prescription authority that is limited to the current formulary as agreed on by the [Chiropractic Board] and as by statute, by the [Pharmacy Board] and the [Medical Board]." Regulation 16.4.15.8(H) of the Administrative Code addresses amendments to advanced practice formularies. It permits the Chiropractic Board to review the formularies annually for necessary amendments and further provides that all amendments "be made following consensus of the [Medical Board], [the Pharmacy Board] and the [Chiropractic Board]." [16.4.15.8\(H\) NMAC](#). The ICA argues that these regulations read together "all provide that any expansion of the chiropractic formulary must be made by consensus of all three boards."

On their face, [16.4.15.7\(E\) NMAC](#) and [16.4.15.8\(A\) NMAC](#) do not go as far as the ICA argues. Both require the involvement of the [*34] Pharmacy and Medical Boards "as by statute." By this express language, the regulations do not require any more than what is required by statute.

Regulation 16.4.15.8(H) of the Administrative Code requires the consensus of the Chiropractic Board and the Pharmacy and Medical Boards for an amendment to advanced practice formularies. The adoption of the 2011 formulary amended the previous formulary. 16.4.15.11 NMAC. Although it appears that the Chiropractic Board may be acting in a manner that is inconsistent with this regulation, we need not address this argument in view of our holding that the Chiropractic Board is statutorily required to obtain the Pharmacy and Medical Board's approval of the formulary to the extent it includes dangerous drugs.

The ICA's remaining arguments concern the Chiropractic Board's adoption of 16.4.15.12 NMAC, the training rule pertaining to the educational requirements of advanced practice chiropractic physicians. The Medical Board objected to 16.4.15.12 NMAC, stating that because the hours of training do not appear to be suffi-

cient, it would "continue to disapprove all injectables until adequate training is proposed and agreed to by the" Medical Board. [Section 61-4-9.1\(D\)](#) [*35] requires an advanced practice chiropractic physician to have "completed a minimum of ninety clinical and didactic contact course hours" in specified subjects "from an institution of higher education approved by the [Chiropractic Board] and the [Medical Board]." Regulation 16.4.15.7(D) of the Administrative Code similarly requires that "[a]ny educational institution allowed to provide clinical and didactic programs credited toward advanced practice certification must have concurrent approval from the [Medical Board] and the [Chiropractic Board]." Regulation 16.4.15.8(B)(2) of the Administrative Code provides that a chiropractic physician applying for advanced chiropractic physician registry must submit documentation of the completion of the specified ninety hours of education "provided by an institution approved by the [Medical Board] and the [Chiropractic Board]." We find no fault with the training rule.

These provisions require the Medical Board to approve the institutions of higher education that provide the minimum of ninety specified educational hours to an advanced practice chiropractic physician. They do not give the Medical Board authority to decline any other type of approval. [*36] The ICA's position that the Medical Board could object to the formulary because it did not believe that the educational rule provided sufficient training is not supported by the statute and regulations it cites. As a result, the approval of higher education requirements by the Medical Board will not translate into a justification to reject separate "drug or substance" formularies proposed by the Chiropractic Board. The issues are distinct and we reject this argument by the ICA.

CONCLUSION

We hold that the 2010 formulary that includes minerals and additional drugs to be administered by injection violates Section 61-4-9.2(B)'s requirement that the formula receive approval from the Pharmacy Board and the Medical Board. We find no fault with the training rule. Accordingly, we set aside the 2010 formulary.

IT IS SO ORDERED.

JAMES J. WECHSLER, Judge

WE CONCUR:

TIMOTHY L. GARCIA, Judge

J. MILES HANISEE, Judge

Wilde, Jeanette

From: Kessler, Loree
Sent: Tuesday, July 30, 2013 7:18 AM
To: Wilde, Jeanette
Subject: FW: NBCE - Part IV November 2013 Exam with Nomination Form Attached
Attachments: Nov 2013 Nomination Form_distributed_0001_distributed.pdf

September agenda open session. Thanks.

From: Deborah Beeman [<mailto:dbeeman@NBCE.org>]
Sent: Monday, July 29, 2013 3:12 PM
To: Kessler, Loree
Subject: NBCE - Part IV November 2013 Exam with Nomination Form Attached

Your state licensing board has indicated that it will accept and/or require the National Board of Chiropractic Examiners' Part IV Practical Examination Program. The NBCE has agreed to support the attendance of one or two board members from each participating state at the November 2013 Part IV exam administration.

You are invited to recommend one or two examining board members to represent your state and its chiropractic licensing agency as examiners at the NBCE's November 8, 9, & 10, 2013 Part IV Practical Examination administration. (A list of colleges where the exam will be given is attached.) These individuals must be licensed chiropractors and appointed members of your board or the executive director (licensed chiropractor) of your board. Your recommended appointees must also be individuals who are able and willing to follow directions and instructions given by the National Board representatives pertaining to the evaluation of the candidates' clinical competence.

The NBCE will reimburse your state's representative(s) for:

1. The lowest round-trip coach airfare
2. Hotel (room and tax)
3. Reasonable ground transportation expenses and
4. An honorarium provided to all examiners.

Your recommended state appointee(s) will be asked to submit an NBCE voucher at the test site. The NBCE requests copies of airline tickets, hotel bills (if paid on a personal credit card), and ground transportation expenses to be sent to Dr. Paul Townsend **no later than four weeks** following the November 2013 Part IV examination.

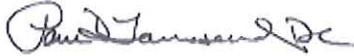
An orientation and instructional meeting will be held for all examiners at each Part IV exam test site on Friday evening, November 8th at 6:30 PM in a designated location at each Part IV exam test site. Specific details will be communicated to all appointed examiners by the NBCE well in advance of the examination administration. All participating examiners will be paid \$125 per exam rotation honorarium plus \$75 for attending the Friday evening orientation.

Please provide names, addresses and telephone numbers on the enclosed form of the individuals your state licensing board would like to recommend for the November 2013 Part IV exam (**along with a copy of their resume**) to me by **Friday, September 27, 2013.**

Early notification of these individuals is essential in order to obtain the best airfare and hotel accommodations. You may FAX the form to

970-356-1095, mail it to NBCE, 901 54th Avenue, Greeley, CO 80634, or email to dbeeman@nbce.org.
If you have any questions regarding this matter, please contact me at 1-800-964-6223 Ext. 163 or Debora Beeman at Ext. 154.

Sincerely,



Paul Townsend, D.C.
Director of Practical Testing

Emailed by:

Debora Beeman

Sr. Administrative Assistant

Practical Testing, Research & Development

State Board Nominees' Participation Form
for November 8, 9, & 10, 2013
National Board of Chiropractic Examiners'
Part IV Practical Examination

FAX: Debora Beeman - 970-356-1095

Nominated State Board Rep. Name:

Address:

City: State: Zip Code:

Office Phone #: Fax #:

E-mail Address:

Test Site Choice #1:

Test Site Choice #2:

Left click mouse on
drop down arrows to
view and select test
sites.

Deadline for this form to be turned into NBCE is September 27, 2013

Submit by E-mail

Print Form

*If you have any problems filling in this form, or sending it by e-mail,
please call Debora Beeman at 1-800-964-6223 Ext. 154.*

**Please provide a copy
of the nominee's resume!**

OPEN SESSION MINUTES
Missouri State Board of Chiropractic Examiners
September 19, 2013 – 8:00 a.m.
Division of Professional Registration
3605 Missouri Boulevard – Jefferson City, Missouri

At 8:05 a.m., the Missouri State Board of Chiropractic Examiners conference call meeting was called to order by Dr. Gary Carver, Board President, at the Missouri Division of Professional Registration, 3605 Missouri Boulevard in Jefferson City, Missouri. The Executive Director facilitated roll call.

Board Members Present

Gary Carver, D. C., President
Margaret Freihaut, D.C., Secretary
Brian McIntyre, D.C.
Jack Rushin, D.C.

Staff Present

Loree Kessler, Executive Director
Jeanette Wilde, Processing Licensure Supervisor
Greg Mitchell, Counsel

Visitor

Anne Fehr, MSCA

Dr. Carver stated he would be voting in open and closed session and welcomed Ms. Fehr as the incoming executive director of MSCA, effective November 1, 2013.

A motion was made by Dr. Freihaut and seconded by Dr. Rushin to approve the open session agenda adding a discussion regarding a clarification request from Dr. Charles Maurer. Board members voting aye: Dr. Carver, Dr. Freihaut, Dr. McIntyre and Dr. Rushin. Motion carried unanimously.

A motion was made by Dr. Freihaut and seconded by Dr. Rushin to approve the July 17, 2013 open session minutes. Board members voting aye: Dr. Carver, Dr. Freihaut, Dr. McIntyre and Dr. Rushin. Motion carried unanimously.

Financial Report

The board members reviewed the information. No official action taken by the board.

New Zealand Chiropractic College

The board members reviewed the information provided by the school and directed staff to send a letter referencing the statutory provisions regarding the educational requirements.

Earned Compliance Credits

Counsel provided an overview of the statutory change regarding compliance credits relating to criminal probation. No official action taken by the board.

Federation Licensing Packets

The board reviewed the information from the Federation regarding the overview of CCE changes. No official action taken by the board.

Michael Van Horenbeeck – Athlete’s Physicals

The board reviewed the information and instructed staff to respond to the licensee that it is the school’s prerogative regarding who can provide physicals for athletes.

International Chiropractors Association v New Mexico Board of Chiropractic Examiners

The board reviewed the case regarding the promulgation of regulations for an advanced practice chiropractic physicians’ formulary. No official action taken by the board.

National Board of Chiropractic Examiners

Drs. Freihaut and McIntyre will be associate examiners the Part IV session at Logan Chiropractic College and Dr. Carver will be an examiner at the Kansas City site.

Dr. Charles Maurer

The board reviewed the information regarding solicitation by a third party and directed staff to provide a response to the licensee highlighting the applicable regulation.

Drs. Freihaut and Rushin will be attending the District II meeting October 17- 20. The executive director stated information relating to the agenda would be forwarded to both board members for reference purposes during the various discussions at the district meeting.

At 9:15 a.m., the board took a recess and reconvened at 9:29 a.m.

At 9:29 a.m., a motion was made by Dr. Rushin and seconded by Dr. Freihaut to convene in closed session pursuant to section 610.021 subsection (14), 324.001.8 and 324.001.9, RSMo for the purpose of discussing investigative reports and or complaints and or audits and or other information pertaining to the licensee or applicant, section 610.021 Subsection (1) RSMo for the purpose of discussing general legal actions, causes of actions or litigation and any confidential or privileged communication between this agency and its attorney, and for the purpose of reviewing and approving closed meeting minutes of one or more previous meetings under the subsections of 610.021 RSMo which authorizes agencies to go into closed sessions during those meetings. Board members voting aye: Dr. Carver, Dr. Freihaut, Dr. McIntyre and Dr. Rushin. Motion carried unanimously.

At 2:25 p.m., a motion was made by Dr. Freihaut and seconded by Dr. McIntyre to convene in open session. Board members voting aye: Dr. Carver, Dr. Freihaut, Dr. McIntyre and Dr. Rushin. Motion carried unanimously.

At 2:26 p.m., a motion was made Dr. Rushin and seconded by Dr. Freihaut to adjourn the meeting. Board members voting aye: Dr. Carver, Dr. Freihaut, Dr. McIntyre and Dr. Rushin. Motion carried unanimously.



Executive Director

Approved by the Board on December 12, 2013