

Minnesota Board of Chiropractic Examiners

Biennial Report

July 1, 2002-June 30, 2004

For more information, contact:

Minnesota Board of Chiropractic Examiners

2829 University Avenue SE

Suite 300

Minneapolis, MN 55414

www.chiroboard.state.mn.us

Phone: (612) 617-2222

Fax: (612) 617-2224

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I. General Information

Cost of preparing this report

Pursuant to Minnesota Statute § 3.197 (1998), costs incurred in the preparation of this report must be reported. The Minnesota Board of Chiropractic Examiners (MBCE) estimates the cost of preparing this report to be \$1250.00.

A. Board mission and major functions

Mission

The mission of the Minnesota Board of Chiropractic Examiners (MBCE) is to protect the public through effective licensure and enforcement of the statutes and rules governing the practice of chiropractic to ensure a standard of competent and ethical practice in the profession.

Functions

The MBCE carries out activities authorized by Minnesota statutes and rules (licensing and/or enforcement) by collecting and storing licensure, educational and disciplinary data on approximately 3658 persons licensed as doctors of chiropractic as of June 30, 2004. Maintaining this information involves interaction with a myriad of stakeholders including applicants, licensees, educational institutions, attorneys, many other state agencies and health related licensing boards, national and federal information systems, and a national examination service.

Steps taken to successfully accomplish this mission include the following:

- **Enforcing standards and required knowledges, skills and abilities required for initial and continuing licensure**
 - Setting licensure renewal requirements through the rules process
 - Setting standards of conduct and a basis for disciplinary action through the rules process
 - Amending MBCE rules to address critical issues of public health and chiropractic regulation (for example, professional boundaries, continuing education, etc.)
 - Maintaining a list of continuing education sponsors and classes approved for continuing education credit
 - Reviewing and approving continuing education programs submitted by sponsors or individuals to determine if they meet requirements
 - Reviewing individual applicant/licensee documentation of completion of requirements for initial and continuing licensure
 - Regular contact with chiropractic students, school administrators, chiropractic associations and the public in the form of a semi-annual newsletter, maintaining a board web site (www.mn-chiroboard.state.mn.us), and by having public consumer board members assisting with overseeing the operations of the Board

- **Operating an agency which utilizes human and fiscal resources efficiently and effectively**
 - Maintaining a database of information about licensees, applicants, and registrations regarding the practice of chiropractic and sharing that information with the public as permitted by statute
 - Maintaining modern regulatory procedures by interacting with the statewide accounting system, the national examination service, and in excess of fifty (50) other boards of chiropractic
 - Providing information about licensees in response to inquiries received from the public or any public or private entity
 - Providing information to the public about where they can find answers to concerns related to chiropractic care, including information about whether persons are licensed with the board and whether they have had disciplinary action taken against their licenses in the past
 - Providing credentialing services related to approximately 2000 active chiropractic licenses annually
 - Providing to the public free copies of disciplinary orders via the board's web site

- **Complaint Investigation and Resolution**
 - Responding to inquiries, complaints and reports from the public and other health care regulators regarding licensure and conduct of licensees
 - Accepting complaints and reports from the public, health care providers, and regulators
 - Reviewing, investigating and determining jurisdiction and whether and what type of action to pursue for resolution
 - Seeking information directly from the licensee, patients, or other affected party
 - Securing investigation and fact finding information from other agencies in response to complaints or inquiries
 - Referring inquiries and complaints to other investigative, regulatory or assisting agencies when matters are outside the MBCE's jurisdiction
 - Responding to complainants and agency reports by informing the complainants/agencies of action taken to resolve their complaints while observing provisions of the data practices act regarding the legal status of data obtained during the course of an investigation and disciplinary proceeding
 - Holding conferences with licensees to identify their role and responsibility in a matter under investigation
 - Providing applicants and licensees education to improve practice and prevent recurrence of problems
 - Obtaining, whenever possible, voluntary agreement to disciplinary action or pursuing disciplinary action via the administrative courts when necessary
 - Coordinating disciplinary actions with civil and criminal court proceedings to conserve use of staff time and financial resources

B. Major activities during the biennium

The board accomplished the following major activities during the biennium:

- Review and revision of the board statutes to delete obsolete provisions and clarify others.
- Review and revision of board rules to delete obsolete provisions, or clarify items that had proven difficult to administer.
- Collaborate to develop and endorse positive changes in chiropractic licensing at the national level.
- Continues to use computer software to track information about the board and its various functions for access by the public, applicants for licensure and licensees of the board. The software provides information useful to other sites in state and federal government regarding active licensees, as well as the names and dates of licensees who have been disciplined in the past including the details about that discipline.
- Continues to enhance information on the board's web site to provide new information about the board and its various functions for access by the public, applicants for licensure and licensees of the board. The site provides links to other sites in state and federal government to help persons interested in finding appropriate information and to inform them of how to pursue complaints or concerns about care received. The MBCE web site also lists currently active licensees, as well as the names and dates of licensees who have been disciplined in the past and contains full text of disciplinary orders.
- Revised the multiple versions of the take-home jurisprudence exam to preserve testing integrity and improve application access for applicants.
- Investigated and reported disciplinary action to a national disciplinary database coordinated with the federal Health Integrity Protection Data Bank.
- Conducted regular staff meetings to coordinate internal administration and procedures.
- Conducted regular board and committee meetings to proactively guide and administer the responsibilities designated to the Board by statute and rule.

All of the functions listed above are supported by the database maintained at the MBCE. The infrastructure that contains this database runs in an SQL environment on hardware that is shared in a collaborative environment with 16 other health related licensing boards. This system has evolved into a format that continues to operate in conjunction with Electronic Government Services and other additional web-interactive capabilities. The net effect is increased user self-service of the public information maintained by the MBCE, as well as increased self-service for licensees/registrants through online license/registration renewal transaction processing.

C. Emerging issues regarding regulation of chiropractors

Emerging issues regarding regulation of chiropractors continues to fall into three major areas: inter-jurisdictional mobility, technology, and fraud investigation. The MBCE plans to continue addressing these issues in the coming biennium by refining the implementation of rules relating to inter-jurisdictional mobility (i.e., license transfer), and enforcement of statutes regarding pursuit of patients through the use of overly coercive tactics. The full impact of these issues regarding the regulation of chiropractors is unknown at this time and has been impacted by recent court decisions in Minnesota regarding *Pietsch* and *Thompson*.

An additional issue which will affect the expenditures of the Board is the end of the contract with the online payment company EzGov and compliance with the Governor's Drive to Excellence Plan. These changes may involve expenditure of funds to modify computer

programs, ensure continued collaboration with the 16 other health related licensing boards, and other goals which are not fully defined at this time.

II. Board's Members, Staff, and Budget

A. Board composition

Minnesota Statute § 148.03 requires the board to have 7 members (2 public members and 5 professional members from a variety of educational institutions). The Governor appoints these members for staggered four-year terms. The names of persons holding the seats as of June 30, 2004 are as indicated below.

<u>Name/Address</u>	<u>Position/End of Term</u>
ROSEMARY KASSEKERT 952 W. Idaho St. Paul, MN 55117	ADMINISTRATIVE OFFICER/ PUBLIC MEMBER January 2005
TERESA L. MARSHALL, D.C. (Northwestern College of Chiropractic) 31 Navaho Avenue Mankato, MN 56001	PROFESSIONAL MEMBER January 2006
LEROY F. OTTO, D.C. (Palmer College of Chiropractic) 127 South High Street Lake City, MN 55041	VICE PRESIDENT January 2007
JOAN PATALONIS 2560 Manitou Lane White Bear Lake, MN 55110	PUBLIC MEMBER January 2007
GARY PENNEBAKER, D.C. (Palmer College of Chiropractic) 8140 Flying Cloud Drive, #201 Eden Prairie, MN 55344	PRESIDENT January 2008
MARK O. REEVE, D.C. (Logan College of Chiropractic) 308 Fourth Avenue NW Austin, MN 55912	PROFESSIONAL MEMBER January 2005
HOWARD A. FIDLER, D.C. (Cleveland Chiropractic College KC) 4415 Excelsior Blvd St. Louis Park, MN 55416	PROFESSIONAL MEMBER January 2008

B. Employees

The board has five full-time equivalent positions. Minnesota Statute Chapter 214 authorizes these positions. The positions are currently filled by a full-time executive director, a full time office manager/administrative assistant, a full-time licensing coordinator, a full-time health program representative (investigator) and a full-time continuing education coordinator/general support person. Additional staff was employed to fill temporary vacancies due to a military service leave and a medical leave. The names of current and former MBCE staff during this biennium are as follows:

Employee's Name	Job Classification	Dates of Employment
BLANSKI, LORI	Office Administrative Specialist	3/12/2001 to present
BURBEY, JOHN	Office Administrative Specialist	07/21/1999 to present
DORFF, KAREN E.	Office Services Supervisor I	11/10/1999 to present
KING, MICHELLE T.	Health Program Representative	07/02/1990 to present
OSMAN, SUSAN E.	Temp. Health Program Representative	4/8/03 to 3/20/04
SPICER, LARRY A.	Executive Director	01/06/1993 to present

(Note: For past employees, dates of employment represent date of first hire to date of termination, but may not reflect all lower classifications served during their time with the MBCE.)

In an effort to creatively alleviate a budgetary shortfall, staff was temporarily reassigned on a part-time basis to assist in the start up of the new Board of Behavioral Health and Therapy from December 2003 to May 2004.

C. Receipts and disbursements and major fees assessed by the board

A summary of the financial activity of the MBCE is as follows:

Item	FY2003	FY2004
Receipts	609180.69	616066.64
Disbursements	778391.46	537717.55

A list of specific rates charged during the biennium is as follows:

Fee	Amount
ACTIVE FEE	\$200.00
ACUPUNCTURE FEE	\$100.00
ACUPUNCTURE RENEWAL	\$50.00
APPLICANT	\$250.00
BOARD ORDERS	\$10.00
CE UPDATE	\$10.00
COPIES (per page)	\$0.25
DISCIPLINARY FEE	\$100.00
DUPLICATE LICENSE	\$10.00
FIRM - INITIAL	\$100.00
FIRM - RENEWAL	\$25.00
IE FEE	\$150.00
IE RENEWAL	\$100.00
INACTIVE FEE	\$150.00
INACTIVE REINSTATE	\$100.00
LATE FEE	\$150.00
LAWBOOKS	\$10.00
LETTER OF STANDING	\$10.00
LICENSE VERIFICATION	\$10.00
LISTS - COMPLETE	\$100.00
LISTS - PARTIAL	\$10.00
MAILING LABELS - PARTIAL	\$15.00
MAILING LABELS -COMPLETE	\$150.00
N.S.F. CHECK	\$0.00
N.S.F. SERVICE CHG	\$25.00
OTHER	\$3.00
PEER REVIEW	\$100.00
PRECEPTORSHIP FEE	\$100.00
PRIOR LATE FEE	\$300.00
PRIOR RENEWAL	\$200.00
REFUND FEE	\$0.00
REGRADE FEE	\$30.00
REVENUE REFUND	\$0.00
SEMINAR FEE	\$100.00
SPONSORSHIP FEE	\$500.00
TRANSFER	\$250.00
VOL RETIRED REINSTAT	\$100.00
WALL CERTIFICATE FEE	\$10.00
ONLINE RENEWAL FEES	Various ¹

¹ This figure is in the neighborhood of 1.85% of the renewal fee applied to; for 2003-4 season the exact amounts of the online renewal fees were: Active DC \$3.70; Inactive DC \$2.78 and Firm \$.50. In 2003 Acupuncture and Independent Examiner registration online renewal fees were set at \$3.50 to more closely meet the full/actual daily charges for credit card processing due to the limited number of users available to use the system. These fees do not impact the board's budget as they are passed through directly to the credit card processing vendor and a reduction is anticipated for FY 2005-6 due to increased usage and the requirement to remain revenue neutral.

III. Licensing and Registration

A. Persons licensed or registered

Chiropractors are authorized to practice in Minnesota only when maintaining an Active status license. Licensees may place their license in an Inactive, Voluntarily Retired, or Emeritus status when they no longer intend to practice in Minnesota. Other statuses, such as Terminated, Revoked, or Suspended may be imposed for non-renewal or disciplinary reasons. In addition to the above, a status of Deceased is also tracked in the database. Active and Inactive status licensees have the most interaction with the Board and account the following level of database entries/renewal activity:

Persons Licensed with Status of	As of June 30, 2003	As of June 30, 2004
Active	2241	2292
Inactive	178	165
Total	2419	2457

Active and Inactive licensees maintain registrations with the Board as follows:

Registrations	As of June 30, 2003	As of June 30, 2004
Acupuncture	565	607
Professional Firms	381	409
Independent Examiners	82	77
Graduate Preceptors	38	39
TOTAL REGISTRATIONS	1066	1132

B. New licenses issued during biennium

The numbers of new chiropractic licenses issued in the biennium are as follows:

FY	By Exam	By Transfer	Total
2003	177	8	185
2004	141	9	150

C. New registrations (acupuncture, corporation, graduate preceptor (GPP), or independent examiner) issued during biennium

The numbers of new registrations issued in the biennium are as follows:

FY	Acupuncture	Corporation/ Firm	GPP	Independent Examiner	Total
2003	51	57	19	11	138
2004	65	48	13	12	138

IV. Complaints

A. Complaints received

The MBCE regulates only one occupation—chiropractors. The following numbers all pertain to licensed chiropractors in the 2 previous bienniums. Numbers were not available for the FY2001 – 2002 biennium due to programming revisions underway at the time the information was being gathered. That information along with the current biennial information is provided below.

ITEM	FY 2001	FY 2002	FY 2003	FY 2004
1. COMPLAINTS RECEIVED (1 per DC/complainant)	**	**	**	**
2. COMPLAINTS PER 1000 REGULATED PERSONS	**	**	**	**
3. TOTAL COMPLAINTS (actual numbers of allegations will not match the number of complaints received as many complaints consist of more than one allegation; i.e., 1) application disclosure and 2) disciplinary action taken in another state, or 2) poor recordkeeping and 2) billing for services not rendered)	142	198	171	149
BY TYPE BREAKDOWN: (may be multiple per DC/CP)				
A. Acupuncture Violations	**	0	0	2
B. Physical or Mental Disability	**	1	1	0
C. Advertising (7 categories)	**	48	25	30
D. Aiding and Abetting an Unlicensed Practice	**	1	3	3
E. Application Disclosure	**	0	5	16
F. Billing Dispute	**	2	3	4
G. Conviction of a Crime/Misdemeanor	**	13	4	9
H. Delegating professional responsibilities to unqualified	**	5	1	1
I. Discipline in Another State or Jurisdiction	**	3	1	1
J. Exercising Influence over a Patient to exploit Gain	**	21	15	12
K. Failure to report or cooperate with Board Investigation	**	0	1	1
L. Fraud in applying for a license	**	0	1	2
M. Graduate Preceptorship Program violation	**	1	2	1
N. Gross or Repeated Malpractice	**	22	8	14
O. Habitual Intemperance in the Use of Alcohol or Drugs	**	2	10	9
P. HPSP report of non-compliance	**	1	2	3
Q. Improper Maintenance of Records (4 categories)	**	15	7	18
R. Independent Examiner false or unfounded, unprofessional, etc.	**	5	8	3
S. Other, non-jurisdictional, not a Chiropractic Statute/Rule	**	10	4	8
T. Petition for Termination of Action	**	2	4	1
U. Practice Outside the Scope of Chiropractic	**	3	3	5
V. Practice Under a False or Assumed Name	**	2	2	0
W. Practice w/o a License	**	6	4	6
X. Professional Corporation Registration Violation	**	1	1	1
Y. Recordkeeping	**	3	14	6
Z. Revealing privileged communication	**	1	0	1

AA. Splitting fees, Paying a Commission or Accepting a Rebate	**	13	21	1
BB. Unable to Practice w/reasonable Skill/Safety to the Public	**	14	5	8
CC. Unprofessional Conduct (general)	**	0	3	4
DD. Unprofessional Conduct, billing: unconscionable fee, for services not rendered, threatening, dishonest, fraud, etc.	**	27	46	23
EE. Unprofessional conduct, gross ignorance or incompetence	**	1	2	2
FF. Unprofessional conduct, performing unnecessary services	**	0	2	3
GG. Unprofessional conduct, sexual	**	5	13	8
HH. Violation of a Lawful Order of the Board	**	4	4	5

**These numbers were unavailable at the time this report was compiled.

B. Open complaints on June 30

The following is a summary of the length of time complaints were open during the previous biennium. Numbers were not available for the FY2001 – 2002 biennium due to programming revisions underway at the time the information was being gathered.

ITEM	FY19 99	FY 2000	FY 2001	FY 2002	FY 2003	FY 2004
1. Complaints Open:	64	21	**	**	**	**
2. Open Less Than 3 Months	9	19	**	**	**	**
3. Open 3 to 6 Months	40	45	**	**	**	**
4. Open 6 to 12 Months	27	1	**	**	**	**
5. Open More Than 1 Year	25*	1	**	**	**	**

*Regarding the 25 complaints open more than one year in FY1999, 17 of these complaints were related to one doctor.

**These numbers were unavailable at the time this report was compiled.

C. Closed complaints on June 30

The following summarizes how complaints were closed during the two previous bienniums. Numbers were not available previously for the FY2001 – 2002 biennium due to programming revisions underway at the time the information was being gathered.

Fiscal year	2001	2002	2003	2004
Number of complaints received in the fiscal year	142	198	171	149
Disposition type				
Closed, insufficient evidence	48	78	55	48
Closed, no violation	8	11	4	4
Non-jurisdictional	21	26	15	10
Referred	3	13	15	1
Violation resolved	37	44	41	34
Violation, warning	0	3	5	7
Unable to pursue (no waiver or no contact info)	12	5	2	2
Disciplinary action * (cases closed by action)	7	8	13	14
Actual number of disciplinary actions taken	4	4	4	6
Corrective Action Agreement * (cases closed by CAA)	3	2	2	0
Actual number of Corrective Action Agreements	1	1	2	0
Voluntarily Surrender license	0	1	0	2
Granted unconditional license	0	1	2	0
Revoked for taxes	3	0	1	0
Reinstate from discipline w/probation	0	1	1	1
Complaints closed **	142	192	157	114

*Note 1: A single disciplinary or corrective action may close more than one complaint. Also, cases are counted by the date received, but disciplinary actions are counted by date of the action, which may be in a different fiscal year than the date the complaint was received. So numbers may not total the same.

**Note 2: Some cases remain open from all three fiscal years.

FY 2001 = 7-1-00 to 6-30-01

FY 2002 = 7-1-01 to 6-30-02

FY 2003 = 7-1-02 to 6-30-03

FY 2004 = 7-1-03 to 6-30-04

V. Trend Data as of June 30

The following is a summary of activity by the board for recent years.

Year	A. Persons Active Licensed	A. Persons Inactive Licensed	B. Complaints	C. Complaints Per 1,000 Licensees	D. Open Cases
2004	2292	165	These numbers were unavailable at the time this report was compiled.		
2003	2241	178			
2002	2118	184	Numbers were not available for the FY2001 – 2002 biennium due to programming revisions underway at the time the information was being gathered		
2001	1987	185			
2000	1966	202	133	68	unknown
1999	1874	191	119	64	unknown
1998	1767	201	178	101	unknown
1997	1625	201	148	90	unknown
1996	1615	206	158	96	unknown
1995	unknown	unknown	147	unknown	unknown
1994	unknown				
1993	unknown				
1992	unknown				
1991	unknown				

Note: For years 1995-1991 the old computer system is unable to maintain historical statistical data. Regarding open cases in the years 1996 to present, that information is not easily calculated in the manner requested.