

TO: NBCE Stakeholders

FROM: Members of the NBCE Board of Directors:
Vernon R. Temple, D.C.
Ted Scott, D.C.
N. Edwin Weathersby, D.C.
Oliver "Bud" Smith, Jr., D.C.

DATE: April 3, 2006

RE: CLARIFICATION - NBCE ISSUES

Dear Friends,

Recent correspondence by Drs. Padgett and Ferguson would suggest that there are those on the "outside" who are "attacking the NBCE." This is not the case. Make no mistake about it -- there is a division, but it is within the NBCE board of directors. Communications from individual NBCE board members do not represent the opinions of the entire board, nor have they been previewed by the directors.

As elected representatives to the board of directors of the National Board of Chiropractic Examiners, we are saddened to see an extraordinary elevation in the quantity of misinformation being circulated about the issue of transparency in governance of the NBCE. We felt it necessary to respond and present another viewpoint. Unfortunately, those who recommend positive changes and greater involvement by the regulatory boards are increasingly portrayed as disloyal, or destructive of the National Board exams, and frequently vilified.

This is not a contest between the "good guys and the bad guys." It is not about old vs. young. It is about a philosophy of governance, to guide the forward direction of the NBCE. It is about change with which some NBCE directors do not agree. Rhetoric referring to a "take-over" of the NBCE simply revives an old conspiracy theory used by past NBCE leaders to create confusion and allow the status quo to continue.

It is precisely this mindset that needs to be changed. The support for more openness and transparency has been building up for years. Some good steps were taken in 1999, and it's time to notch it up

again. Change is only frightening if those involved see changes as a personal threat, perhaps damaging their identities or financial security.

The NBCE examinations are pristine examples of what can be achieved when the regulatory and educational communities work together in the best interests of the patients served by our beloved profession. The tests are not under siege. The veil of secrecy in board governance is what is under attack.

Here are the facts:

1. Several board members have asked – for a number of years – for a financial breakdown of each director’s annual travel, and it has not been provided. This information has only been available to a select few members of the board. Each member of the board is legally responsible for the expenditures. Not being part of the “select few,” we simply do not know what they are. The more they deny, the more we wonder why.

We are not implying or alleging any impropriety. What we are requesting is full disclosure to duly elected, legitimate board members who are entitled to this information. It is only when it is withheld that allegations of wrong-doing are fueled. Only by appropriate disclosure of all information, which is well within the purview of the board of directors, can confidence and trust be restored.

2. The entire NBCE board should be able to review copies of the contracts for top management staff. Once again, current access to this information is restricted to a “select few.” The remaining board members have no idea how much money is involved, what the benefits packages are, or the terms for continuation or discontinuation of employment. Corporations such as ENRON have been taken down for similar secretive activities, resulting in federal enactment of the Sarbanes-Oxley legislation which provides not only appropriate oversight of such activities, but also has placed stringent standards on board members and their fiduciary duties. Although Sarbanes-Oxley is directed to for-profit corporations, the law provides good suggestions for not-for-profit corporations regarding transparency, accuracy, and board member responsibility.

3. In May 2005 the NBCE board leadership proposed **increasing** exam fees. Yet just six months later, that position had flip-flopped. The board was informed that the fees were too high, and we should **decrease** exam costs. The intense debate surrounding this issue is focused solely on the fact that no comprehensive study has been provided to the directors. Without that information, the board is unable to determine the optimal fee structure for the exams, including addressing the question of whether a greater reduction might have been possible, not just a random token number proposed by the leadership.

To ask the directors to make decisions of this level of importance without full board access to comprehensive financial studies is, quite frankly, irresponsible.

4. The Executive Committee of the NBCE has long dealt with governance issues in closed session, with limited group review of predetermined decisions made by a select few. We believe that these discussions should take place in open session with the entire board, with both adequate facts and sufficient time for healthy debate. Executive committees are not designed to replace board actions but only to respond to activities and decisions when a full complement of the board is not available. Executive Committee actions should be subject to board approval and full board disclosure. When this does not happen problems ensue.
5. The NBCE bylaws as currently written do not allow for delegate participation by public members of regulatory boards or by professional administrative staff (unless he or she is a DC). It's time to recognize and allow for the viewpoints of other experts in regulation in the delegate body of the NBCE.
6. Four at-large seats on the NBCE governing board are not directly accountable to the delegates from the regulatory boards. Election to those seats has never included an open call for nominations, review of CVs, and discussion of applicant qualifications. It is now time for elections based on competence and qualifications rather than a reward for blind loyalty.

In filling a recent at-large opening, the vote was six to five to elect the director. Three of the six people who voted for the

candidate had never met him, nor were his qualifications available for review.

In fact, the most recent at-large director elected, Dr. Frank Lizzio, is an employee of New York Chiropractic College. His candidacy was promoted by three NBCE Directors:

- Dr. Kenneth Padgett, past president and current chancellor of NYCC
- Dr. Peter Ferguson, past president and current member of the NYCC board of trustees
- Dr. Frank Hideg, who recently concluded his service on the NYCC board of trustees

Not only is this a conflict of interest, but it potentially jeopardizes Dr. Lizzio's continued employment at NYCC should he not vote in accordance with their wishes.

By design this system is vulnerable to abuse, regardless of which faction leads the board, and should be de-politicized. To ensure sufficient regulatory oversight, the NBCE delegates should have a direct role in the selection of the at-large directors.

7. There are no bylaws provisions or policies currently in place to prohibit service on the boards of trustees of the colleges tested by the NBCE. While real or perceived, the potential conflict of interest cannot be ignored. NBCE directors have access to confidential information that could be misused. At this time, 1/3 of the NBCE directors have a recent or current affiliation with one particular educational institution. Again, this is a system flaw that should be corrected.
8. Although the Executive Committee of the NBCE has recommended adding two additional at-large seats (bringing the 11 member board to 13), this did not receive the 2/3 vote necessary to bring the idea to the delegates for ratification. Why?
 - We believe this was a direct attempt to dilute the authority of the state licensing boards over the operations of the NBCE
 - The NBCE bylaws already allow for a public member to hold one of the at-large seats

- One at-large seat is currently held by the chancellor of NYCC, bringing chiropractic college expertise to the board
- The cost of adding these two positions was not provided

9. Delegate concerns expressed in 1999-2000 persuaded the NBCE to enact term limits for at-large directors. Recently, pressure from individual state licensing boards and their delegates again forced the NBCE to pass recommendations for term-limits for district directors. However, this has required extraordinary effort.

A bylaws amendment adding district director term limits was defeated 7 – 4 in November 2005. It was finally passed unanimously in March 2005. This was after considerable pressure was applied by several delegates. State licensing board influence is feared by those who wish to become “autonomous and independent.”

We are proud of the NBCE exams and hold them out as the crown jewel of chiropractic. Our tests are the envy of other professions. The exam processes are squeaky clean, thanks to our dedicated NBCE staff and professionals from the regulatory and educational communities.

It’s simply time for NBCE board governance to rise to the level of NBCE examinations. The National Board is on the verge of expanding its services to a worldwide regulatory family; the time is now for the crafting of policies to be based on the strength of the idea, not the color of loyalty.

We urge each chiropractic regulatory board and chiropractic college to ask questions, to study the issues, and to suggest designs in governance that can ensure fair and transparent management of the National Board and its developing international branch for years to come. We are not suggesting an emotional knee-jerk wholesale reform for reform’s sake, but rather are advocating a thoughtful process to ensure the integrity and fidelity of an organization that must above all be beyond reproach.

There are obvious glaring errors in the NBCE board process and those flaws must be addressed and corrected by thoughtful deliberation. Emotional accusations and personal attacks serve no useful purpose in this debate.

We disagree with Dr. Padgett's recommendation to "File 13" [trash can] all communications that do not agree with leadership at the NBCE. We believe you should read all communiqués with a critical eye, and ask questions of both sides in this most serious debate.

As directors, we also disagree with Dr. Padgett's use of the NBCE Communications Department to distribute political campaign information. This was clearly an inappropriate use of NBCE resources. We believe it was wrong for him, and it would be wrong for us. Therefore, we are distributing this information to you directly.

We must remember that it is the family of regulatory boards – the Federation of Chiropractic Licensing Boards – that envisioned and developed the NBCE 43 years ago. The mission of the NBCE is to serve the chiropractic regulatory boards by providing high quality examinations that boards can rely on in lieu of developing their own individual tests. Much like the federations and testing arms of other licensed professions, the FCLB and NBCE are created by and from the regulatory boards. We are members of the same team.

We must not let secrecy and isolation in governance be promoted under the guise of autonomy and independence in testing. In fact, independence in testing does mean being free from inappropriate outside influence on exam content, passing scores, and applicant eligibility. It does not mean independence from the state licensing boards that empower the NBCE to perform testing.

For every institution in the country, from the Catholic Church to Wall Street, from Congress to corporations, the issues revolve around the fundamental issues of disclosure and transparency. NBCE should be leading by example.

Vernon R. Temple, D.C.

Ted Scott, D.C.

N. Edwin Weathersby, D.C.

Oliver "Bud" Smith, Jr., D.C.