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4734-8-03 Quality intervention program.

- (A) Description. The "Quality Intervention Program" (hereinafter "QIP") is a voluntary program designed to address practice and communication complaints which do not appear to warrant intervention by formal disciplinary action, but may indicate that the licensee involved has developed poor practice patterns or has failed to keep up with current standards of chiropractic and/or acupuncture practice. The primary candidates for referral are those licensees who appear to demonstrate a practice deficiency and who do not demonstrate any physical, mental, or chemical impairment problems which would render educational intervention ineffective or dangerous to the public. As long as there is no identifiable impairment issue, an educational intervention may be all that is needed to bring the licensee up to current standards of practice. The key component of this program is the "Quality Intervention Panel," a panel of experts whose responsibility and purpose are to assess each licensee referred to the program and make recommendations to a designated board member and the executive director based upon their peer assessment.
- (B) Program referral. Only a designated board member and the executive director of the board jointly have the authority to refer a licensee to the QIP.
- (C) Panel. A panel of experts will be selected and contracted with upon advice and approval of the board. The panel shall be comprised of a minimum of three experts, at least two of whom shall be Ohio licensed chiropractic physicians. The experts shall be chosen based on their experience, diversity, and communication skills. Panel members must have a practice history of a minimum of fifteen years, with no disciplinary or malpractice record. QIP panel members shall sign a panel member agreement that outlines their duties and obligations to the panel and the board.
- (D) Identifying a communication or practice deficiency. A board designate and the executive director shall review the evidence obtained from the board's initial investigation to determine whether a licensee should be referred to the QIP panel for possible participation in the QIP. Criteria to be used when making the determination may include, but are not limited to, the following:
- (1) Whether the public will be adequately protected if the licensee enters the QIP;
 - (2) Whether the licensee's conduct resulted in harm or other problematic outcome for the patient;
 - (3) The likelihood that the deficiency at issue is a deficiency that can be corrected through education and/or remediation;
 - (4) The extent of the licensee's cooperation with the board during its investigation;
 - (5) Whether the licensee's deficiency represents an intentional or willful commission or omission by the licensee;
 - (6) The frequency of the occurrence of the identified deficiency.
- (E) Assessment. It is the panel's responsibility to assess a licensee in order to affirm a practice deficiency, define the deficiency, determine if the defined deficiency can be corrected through a course of reeducation, and identify specific education and/or remediation to correct the identified deficiency. When the QIP panel is initially presented a referral, the panel members shall be provided with all relevant documents included in the investigative file of the licensee under review. Each panel member shall review the documents ~~and discuss them as a group. This discussion may be accomplished via a teleconference call.~~ If upon review, the

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panel believes that the documents demonstrate a practice deficiency on the part of the licensee, it may request that the licensee be called in for a meeting. At this meeting, the panel members may conduct a simulated case review and discuss with the licensee the minimal standards concerns that the documents revealed. By engaging in peer-based discussions, the panel is seeking to determine whether or not the licensee demonstrates a deficiency, to further identify that deficiency, and to determine whether educational intervention would be beneficial. In certain cases, the panel may refer the licensee to an educational institution for further in-depth evaluation.

(F) The QIP panel may determine the following after the assessment:

- (1) The licensee has no practice deficiency;
- (2) The licensee has an identified practice deficiency that can be corrected through educational intervention. The panel shall recommend a specific education program(s) to correct the deficiency;
- (3) The board should conduct further investigation into the matter;
- (4) The problem identified is too severe to be corrected through educational intervention ~~and that formal disciplinary action is recommended.~~

(G) Eligibility. A licensee may participate in the QIP if all of the following apply:

- (1) The public will be adequately protected if the licensee enters into the QIP;
- (2) The licensee has not been the subject of formal disciplinary action by any regulatory board or entity in Ohio or any other jurisdiction, unless it is determined that the disciplinary action was for a violation which should not preclude participation in the QIP;
- (3) The licensee is not concurrently under investigation by the board for a violation of Chapter 4734. of the Revised Code or the rules of the board which does not constitute a communication or practice deficiency;
- (4) It is determined that the nature of the licensee's identified deficiency is such that it may be corrected through education and/or remediation;
- (5) The licensee holds a current valid chiropractic license and is eligible to renew said license;
- (6) The licensee does not have any identified impairment that would significantly affect learning abilities or the ability of the licensee to incorporate learned knowledge and skills into the licensee's practice;
- (7) The licensee agrees in writing to be considered for participation in the QIP.

(H) Participation agreement. When the QIP panel determines that a licensee has an identified practice deficiency, the licensee shall be invited to participate in the QIP. Prior to acceptance into the QIP, the licensee shall execute a participation agreement with the board for the QIP which includes, but is not limited to, provisions which:

- (1) Set forth the identified deficiency;
- (2) Identify the specific education and/or remediation the licensee must complete, including identification of

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educational provider(s) that will provide the prescribed educational intervention;

- (3) Specify the time frame during which the licensee must agree to abide by the recommendations set forth by the educational provider(s) that will provide the prescribed educational intervention;
 - (4) Require the licensee to pay all expenses incurred as a result of the required education and/or remediation;
 - (5) Require the licensee to cooperate with any QIP related entity, including, but not limited to, the educational provider(s) prescribed by the panel;
 - (6) Require the licensee to direct any educational provider(s) to send written progress reports regarding the licensee's progress in education and/or remediation to the QIP at specified intervals;
 - (7) Require the licensee to sign any and all waivers necessary to secure all reports required by the QIP;
 - (8) Specify that the prescribed education and/or remediation intervention may not be used to satisfy any continuing education requirements for license renewal;
 - (9) Specify the terms and conditions the participant must meet to successfully complete the education and/or remediation;
 - (10) Specify that the board may monitor the licensee's practice for a specific time period to ensure the licensee has corrected their practice deficiency;
 - (11) Specify that the board may consider termination from the QIP as an aggravating factor if the board proceeds with disciplinary action;
 - (12) Set forth the grounds for termination from the QIP.
- (I) Educational intervention/remediation. The board shall approve individual programs and/or select providers of education and assessment services for QIP utilization. Panel members may review the content of and recommend programs for board approval.
- (J) A licensee determined by the board to be eligible for the QIP who refuses to enter into the participation agreement as set forth in this rule within the time frame specified by the QIP ~~shall~~may be subject to disciplinary action for the identified deficiency in accordance with section 4734.31 of the Revised Code.
- (K) Termination. A licensee determined by the panel to have a deficiency that may be corrected through participation in the QIP may be terminated from the QIP for any of the following reasons:
- (1) Failure to comply with any term of the participation agreement entered into by the licensee;
 - (2) Receipt of evidence from the educational provider indicating that the licensee has failed to progress through or to successfully complete the education and/or remediation in the manner and during the time frame prescribed by the panel;
 - (3) Committing or showing to have another deficiency that falls within the parameters of the QIP during an existing intervention;
 - (4) Failure to complete the education and/or remediation; or
 - (5) Failure to maintain eligibility for the QIP.

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- (L) If a licensee is terminated from the QIP, the board may continue with disciplinary proceedings in accordance with Chapter 4734.31 of the Revised Code. The board may consider a licensee's termination from the QIP when determining discipline to be imposed.
- (M) Completion of the QIP. A licensee who participates in the QIP shall comply with all the terms and conditions set forth in the agreement and shall provide or direct to be provided to the QIP a written report or transcript from the educational provider(s) verifying that the participant has successfully completed the educational intervention.
- (N) Upon completion of all participation requirements, the QIP panel shall review all information relevant to the licensee's education and/or remediation to make a recommendation to the board designate as to whether the licensee's practice as a chiropractic physician meets the accepted standards for the profession.
- (O) When the board or its designee determines that the licensee's identified deficiency has been sufficiently corrected so as to conform to the accepted standards for the profession, the licensee shall be notified in writing that the education and/or remediation has been successfully completed and participation in the QIP is concluded.
- (P) Legal representation. ~~Meetings of the~~The QIP ~~panel and a licensee are~~is meant to be a peer to peer interaction. The licensee may have an attorney present for any meeting with the QIP panel; ~~although the meeting is not a formal disciplinary proceeding. If the licensee decides not to attend the meeting, there is no need to send an attorney in his or her place.~~
- (Q) Confidentiality. The case review and assessment conducted by the QIP is part of the investigatory process pursuant to section 4734.45 of the Revised Code and is confidential and not subject to discovery in any civil proceeding. Accordingly, records of discussions held by the panel and/or board members or staff are confidential investigatory material and not subject to public disclosure. Regular reports to the board shall be made detailing the general activities of the QIP. The identity of the licensee under review and the patients whose records were reviewed shall not be provided to the board or disclosed to the public.