

**STATE OF NEW JERSEY
DIVISION OF CONSUMER AFFAIRS
BOARD OF CHIROPRACTIC EXAMINERS
124 HALSEY STREET, 6TH FLOOR
SOMERSET ROOM
NEWARK, NEW JERSEY
PUBLIC SESSION MINUTES
THURSDAY, FEBRUARY 22, 2007**

A meeting of the New Jersey Board of Chiropractic Examiners was held February 22, 2007 at the State Office Building, 124 Halsey Street, 6th floor, Newark New Jersey. The meeting was convened in accordance with the provision of the Open Public Meetings Act with previous notification having been sent to the Secretary of State and the following publications: The Bergen Record, Newark Star Ledger, Camden Courier Post, Trenton Times and Asbury Park Press to advise of the scheduling of this meeting. The meeting was called to order by Lawrence O'Connor, D.C., President of the Board, at 9:30 AM.

ATTENDANCE

PRESENT: Drs. Senatore, Murphy, Calio, Kostinas, Krouse, O'Connor, Spadafino, Stabile, and Mr. Traier

EXCUSED: Dr . Rada

ALSO PRESENT: DAG John Hugelmeyer, Executive Director Kevin Earle, and Recording Secretary Sonya Liverpool.

I. APPROVAL OF THE PUBLIC SESSION MINUTES OF JANUARY 25, 2007

A MOTION WAS MADE BY DR. KOSTINAS, WHICH WAS SECONDED BY DR. SPADAFINO, TO APPROVE THE PUBLIC SESSION MINUTES OF JANUARY 25, 2007 MEETING AS AMENDED. A VOTE WAS TAKEN, AND THE MOTION PASSED WITH ALL MEMBERS PRESENT VOTING IN FAVOR.

II. OLD BUSINESS

A. PROPOSED REGULATIONS : PERMISSIBLE PRACTICE STRUCTURES

The Board's proposal on Permissible Practice Structures was published in the New Jersey Register on February 5, 2007 and will be open for comments until April 6, 2007. No Board action was required. This was submitted for informational purposes only.

III. NEW BUSINESS

A. FEDERATION OF CHIROPRACTIC LICENSING BOARDS ANNUAL MEETING

Dr. O'Connor designated himself as the delegate to the FCLB annual meeting. Dr. Albert Stabile will serve as the alternate.

B. NATIONAL BOARD OF CHIROPRACTIC EXAMINERS ANNUAL MEETING

Dr. O'Connor designated Dr. Mary-Ellen Rada as the delegate to the annual meeting of the National Board of Chiropractic Examiners. Dr. Albert Stabile will serve as alternate.

C. APPLICATIONS

1. Manuel J. Compas, D.C.

Dr. Compas is an applicant for licensure by examination. He is a 2005 graduate of NYCC. The Board reviewed the results of Criminal History Background check concerning an incident in 1996, an explanation was submitted by Dr. Compas for the Board's review.

A MOTION WAS MADE BY DR. CALIO, WHICH WAS SECONDED BY DR. STABILE TO APPROVE THE APPLICATION FOR LICENSURE. A VOTE WAS TAKEN, AND THE MOTION PASSED WITH ALL MEMBERS PRESENT VOTING IN FAVOR.

2. Brian D. Anderson, D.C.

Dr. Anderson is an applicant for licensure by examination. He is a 2006 graduate of Parker College of Chiropractic. The results of Criminal History Background Check revealed an incident in 1999 and an explanation was submitted by Dr. Anderson.

A MOTION WAS MADE BY DR. STABILE, WHICH WAS SECONDED BY DR. KROUSE TO APPROVE THE APPLICATION FOR LICENSURE. A VOTE WAS TAKEN, AND THE MOTION PASSED WITH ALL MEMBERS PRESENT VOTING IN FAVOR.

D. ENDORSEMENT APPLICATION

1. Christine D. Benner, D.C.

Dr. Benner is a 1989 graduate of New York Chiropractic College and holds a license in the State of New York which was issued in 1989. The license is current and in good standing.

A MOTION WAS MADE BY DR. MURPHY, WHICH WAS SECONDED BY DR. STABILE, TO APPROVE DR. BENNER'S APPLICATION FOR LICENSURE BY ENDORSEMENT. A VOTE WAS TAKEN, AND THE MOTION PASSED WITH ALL MEMBERS PRESENT VOTING IN FAVOR.

IV. MISCELLANEOUS INQUIRIES

A. JOSEPH D. D'AGOSTINI, D.C.

Dr. D'Agostini is requesting a letter from the Board stating that a chiropractor in State of New Jersey may employ and supervise a Physical Therapist. In discussing this matter, the Board determined to provide Dr. D'Agostini with a copy of the Board's proposed permissible practice structures regulation that is currently in comment. It was noted that because Physical Therapists are independent practitioners, the term "clinical supervision" of physical therapy would not be specifically applicable, as Physical Therapists have some autonomy in their practice. It was further noted that Board regulations at N.J.A.C.13:44E-2.12 deals with referrals of patients to Physical Therapists. All the provisions of that regulation would be applicable in an arrangement where Physical Therapists would be employed within the context of a chiropractic practice.

A MOTION WAS MADE BY DR. KROUSE, WHICH WAS SECONDED BY DR. KOSTINAS, TO RESPOND TO DR. D'AGOSTINI AS OUTLINED. A VOTE WAS TAKEN, AND THE MOTION PASSED WITH ALL MEMBERS PRESENT VOTING IN FAVOR.

B. INQUIRY OF CHARLES A. FERRANTE, D.C.

Dr. Ferrante has posed certain questions regarding Electro Diagnostic testing. The Board was advised by the Attorney General that the letter requests a legal interpretation. Dr. Ferrante should be advised that he should seek advise of legal counsel with regard to the proposed arrangement outlined in the letter.

C. INQUIRY OF KEVIN MERLINO, D.C.

Dr. Merlino has submitted an inquiry proposing to form a "Medispa" providing a number of different services

which would be outside of the scope of practice of a chiropractor. On advice of the Attorney General, it was recommended that the Board respond to Dr. Merlino suggesting that he seek the advice of competent legal counsel on these matters.

D. AMERICAN CHIROPRACTIC ASSOCIATION / COUNCIL ON NEUROLOGY

The Council on Neurology indicated that the New Jersey Board had not addressed Board certification in chiropractic specialties by rule making or by statute. The Council notes that the Diplomat level / Board Certification is the " international standard by which stakeholders, including the public, might choose their specialists and health care professionals might choose their referral consultants." The Council requests the Board's position with respect to the accredited Board Certification in Neurology including advertising issues.

It was recommended that the Board respond that nothing in New Jersey statutes or regulations recognizes Board Certifications in any area of specialty in Chiropractic. Board regulations, however require that where specialty designation is noted in a Chiropractor's title or in any public representation, the specific agency conferring such specialization should be spelled out to avoid any confusion to the public.

A MOTION WAS MADE BY DR. CALIO, WHICH WAS SECONDED BY DR. KROUSE, TO RESPOND TO THE COUNCIL AS OUTLINED ABOVE. A VOTE WAS TAKEN, AND THE MOTION PASSED WITH ALL MEMBERS PRESENT VOTING IN FAVOR.

E. INQUIRY OF ALEX HERNANDEZ, D.C.

Dr. Hernandez is inquiring about whether an official distributor of a nutritional company can come into the office and "scan people" for their nutritional health. Dr. Hernandez said he will not be personally recommending his patients to this individual nor will his corporation reap any financial rewards for this scanning. The Board noted the specific restriction in both Statute and Regulation on the offering of nutritional services within the context of chiropractic practices. With any advertising, in which Dr. Hernandez would be involved, the offering of such services would implicitly indicate that such services would be available at his practice. The Board suggest that such an arrangement would be impermissible under Board regulations.

A MOTION WAS MADE BY DR. KROUSE, WHICH WAS SECONDED BY DR. SPADAFINO, TO RESPOND AS NOTED ABOVE. A VOTE WAS TAKEN, AND THE MOTION PASSED WITH ALL MEMBERS PRESENT VOTING IN FAVOR.

F. INQUIRY OF DAVID ZUCKERMAN, D.P.M.

Dr. Zuckerman has made inquiry regarding the feasibility of bringing the service of " Extra corporeal Shock Wave Therapy" to chiropractors. The therapy is performed as a single treatment under local anesthetic and would be offered to patients for the treatment of plantar fasciitis, Achilles Tendinitis, Tennis Elbow, Patellar Tendon, and shoulder tendon pathologies.

A MOTION WAS MADE BY DR. MURPHY, WHICH WAS SECONDED BY DR. STABILE, TO RESPOND TO DR. ZUCKERMAN THAT SUCH THERAPY SHOULD NOT BE PROVIDED TO CHIROPRACTIC PATIENTS AS A STAND ALONE TREATMENT, AS THEY WOULD ALL APPEAR TO BE OUTSIDE THE SCOPE OF A CHIROPRACTOR. A VOTE WAS TAKEN, AND THE MOTION PASSED WITH ALL MEMBERS PRESENT VOTING IN FAVOR.

G. ALAN MARCUS, D.C.

Dr. Marcus was the subject of a Consent Order of Voluntary Surrender to be deemed a revocation on February 28, 2002. He has submitted an inquiry seeking the opportunity to do marketing and consulting to chiropractors and indicates that such services would be provided via phone conversations and in person outside of the doctor's office. Dr. Marcus indicated that he understands that he must advise a physician or others in response to an inquiry as to the status of his licensure. However, he noted that the title of "Doctor of Chiropractic" has not been

stripped by virtue of his degree from an accredited Chiropractic College. He states that he intends to maintain his title and refer to himself as Dr. Alan Marcus, D.C. and requests the Board's approval. The Board had an opportunity to review the Consent Order of Voluntary Surrender as well as a copy of the Directives' that were attached thereto. Specifically, Dr. Marcus should be directed to the provisions number 5,6, and 7 of the Directives'. Provision # 5 prohibits an individual who is revoked from conveying to the public that such person is a legal practitioner or authorized to practice in a licensed profession. Provision # 6 prohibits an individual from using any sign or advertise that such person either alone or with other person has or maintains a professional office for the practice of the profession or that they are entitled to practice and provision # 7 which requires the cessation of the use of any stationary where the persons name appears as a professional in practice. The Boards opined that the use of any designation such as doctor would be violative of the statutory prohibition on the use of such title without indicating that such person is a Chiropractor or Chiropractic Physician. Further the Board opined that by virtue of the revocation, the use of the title "D.C." after ones name would imply to the public that one holds a license to practice.

A MOTION WAS MADE BY DR. CALIO, WHICH WAS SECONDED BY DR. STABILE, TO RESPOND TO DR. MARCUS AS OUTLINED ABOVE. A VOTE WAS TAKEN, AND THE MOTION PASSED WITH ALL MEMBERS PRESENT VOTING IN FAVOR.

H. INQUIRY OF CHRISTINE CAREY

The Board reviewed a referral received from the Office of the Attorney General objecting to access to an accident report.

A MOTION WAS MADE BY DR. SENATORE, WHICH WAS SECONDED BY DR. KOSTINAS, TO RESPOND TO MS. CAREY THAT ACCIDENT REPORTS ARE A MATTER OF PUBLIC RECORD UNDER THE OPEN PUBLIC RECORDS ACT AND THUS, THE BOARD HAS NO JURISDICTION OVER AN INDIVIDUAL'S ACCESS TO THOSE ACCIDENT REPORTS AS LONG AS THE RECORDS WERE OBTAINED IN A LEGAL MANNER. A VOTE WAS TAKEN, AND THE MOTION PASSED WITH ALL MEMBERS PRESENT VOTING IN FAVOR.

I. INQUIRY OF DAMEN VANGINNEKEN

Mr. VanGinneken also makes an inquiry regarding accident reports. It was recommended that Mr. VanGinneken receive a similar response to that which will be provided to Ms. Carey.

V. INFORMATIONAL

A. OREGON BOARD OF CHIROPRACTIC EXAMINERS

The Board reviewed a press release which questioned " NASA Medical Breakthrough" advertising claims promoting the use of certain spinal decompression devices and suggesting that chiropractors in that state may not use any advertising making untruthful, improper, misleading or deceptive statements.

This was accepted as informational.

VI. APPEARANCES

A. SCOTT WHITE, D.C.

Dr. White appeared seeking reinstatement to the active practice of chiropractic. He testified under oath and appeared with Louis Baxter, M.D., Executive Medical Director of the Professional Assistance Program of New Jersey, which made five recommendations or conditions under which it would support Dr. White's return to practice including :

1. Total abstinence from all psycho active substances

2. Random weekly urine screens
3. Face to face follow up with the Professional Assistance Program
4. Documented attendance at AA meetings
5. Quarterly status reports to be provided by the PAP to the Board.

Dr. White testified over the issues learned during his suspension and following his completion of the ProBE program.

THE BOARD WENT INTO EXECUTIVE SESSION TO DELIBERATE, UPON RETURNING TO PUBLIC SESSION A MOTION WAS MADE BY DR. STABILE, WHICH WAS SECONDED BY DR. KOSTINAS, TO PERMIT THE REINSTATEMENT OF DR. WHITE TO THE ACTIVE PRACTICE OF CHIROPRACTIC SUBJECT TO THE CONDITIONS OUTLINED BY THE PROFESSIONAL ASSISTANCE PROGRAM OF NEW JERSEY. A VOTE WAS TAKEN, AND THE MOTION PASSED WITH ALL MEMBERS PRESENT VOTING IN FAVOR.

ADJOURNMENT

A MOTION WAS MADE BY DR. STABILE, WHICH WAS SECONDED BY DR. SPADAFINO, TO GO INTO EXECUTIVE SESSION TO REVIEW THREE PENDING DISCIPLINARY MATTERS & ONE ENFORCEMENT BUREAU REPORT & ONE CONSUMER COMPLAINT. A VOTE WAS TAKEN AND THE MOTION PASSED WITH ALL MEMBERS PRESENT VOTING IN FAVOR.

Respectfully Submitted,

Kevin B. Earle, M.P.H.
Executive Director