

**State Board of Chiropractic Examiners
124 Halsey Street, 6th floor
Newark, NJ**

**Public Session Minutes
February 27, 2003**

A meeting of the New Jersey Board of Chiropractic Examiners was held on February 27, 2003 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 Brian Atkisson, D.C., President of the Board at 10:00 AM.

ATTENDANCE

PRESENT: Drs. Atkisson, Calio, Louro, O'Connor, Rada, Senatore and Stabile Mr. Faulkner and Mr. Traier

ABSENT: Dr. Murphy

ALSO PRESENT: DAG John Hugelmeyer, Executive Director Kevin Earle, Terri Goldberg, Assistant to the Executive Director and recording secretary Nina Lado.

I. APPROVAL OF THE PUBLIC SESSION MINUTES OF JANUARY 23, 2003.

A MOTION WAS MADE BY DR. RADA, WHICH WAS SECONDED BY DR. O'CONNOR TO APPROVE THE PUBLIC SESSION MINUTES OF JANUARY 23, 2003 AS AMENDED. A VOTE WAS TAKEN AND THE MOTION PASSED WITH ALL MEMBERS PRESENT VOTING IN FAVOR.

II. OLD BUSINESS

A. REPORT OF THE RULES AND REGULATIONS COMMITTEE

Dr. Rada submitted a report of the Rules and Regulations Committee which met on January 30, 2003. The following is the status of current proposed regulations:

1. NEURODIAGNOSTIC REGULATION AMENDMENTS

Regulatory Analyst Jake Gertsman is working on the final draft of the amendments.

2. INDEPENDENT CHIROPRACTIC EXAMINATION REGULATION

Regulatory Analyst Jake Gertsman is completing the preferatory language for review by the Director's office and the Division of Law.

3. EMS/TENS UNIT REGULATION

The Division of Law has signed off on this regulation and it is now undergoing review with the Office of the Attorney General.

4. PROFESSIONAL PRACTICE STRUCTURES REGULATION

This regulation is currently awaiting final sign off by the Division of Law.

5. UTILIZATION REVIEW REGULATION

This proposal approved by the Board last January has not cleared the Departmental review in the Office of the Attorney General.

6. CURRENT INITIATIVES

Dr. Rada reported that the Committee had discussed the issue of rehabilitative exercise. It was suggested that the approach to this issue should be handled under N.J.A.C. 13:44E-2.7 "delegable tasks are functions of unlicensed assistants." It was recommended that an additional provision of this subsection be added to make it clear that a chiropractor is not permitted to delegate physical modalities of strengthening, conditioning and rehabilitative exercises. Such activities should be conducted by the chiropractor or delegated to a licensed healthcare professional.

AFTER FURTHER DISCUSSION, A MOTION WAS MADE BY DR. O'CONNOR WHICH WAS SECONDED BY DR. CALIO TO ACCEPT THE CHANGE AND SUBMIT IT TO THE REGULATORY UNIT FOR PREPARATION OF FINAL LANGUAGE TO PROPOSE THIS AS AN AMENDMENT TO THE BOARD'S REGULATIONS. A VOTE WAS TAKEN AND THE MOTION PASSED WITH ALL MEMBERS PRESENT VOTING IN FAVOR.

7. PRECEPTORSHIP

Inquiries are being made to determine what type of authority would be needed (whether statutory or regulatory) to permit these kinds of activities. An evaluation of other State statutes and regulations will be reviewed. If a model exists elsewhere it may make it easier to pursue an initiative in conjunction with the Board's current Scope of Practice.

8. CHIROPRACTIC TECHNICIANS

There was some discussion over the establishment over a class of licensure called chiropractic technicians. Some question was raised as to whether a statutory initiative would need to be pursued to establish some form of certification for a chiropractic technician or chiropractic assistant.

9. NUTRITION

A discussion was held with respect to the proposed language submitted by the New Jersey Chiropractic Society as well as language that had been previously considered by the Regulations Committee last year. The Committee discussed statutory prohibition currently in place that prohibit a chiropractor from dispensing or prescribing "drugs or medicines for any purpose whatsoever." These also should be considered with other statutory and regulatory structures that define the practice of medicine. Any language proposed by the Committee will have to consider these other factors before proceeding on this initiative.

B. PALMER UNIVERSITY - FLORIDA

****Dr. Louro was recused in the consideration of this matter.****

****Dr. Atkisson as a member of the site team presented the report but was recused from consideration of this matter.****

The Board reviewed the results of the visit of the site team consisting of Drs. Anthony DeMarco, Gerald Sternbach and Brian Atkisson as well as Executive Director Earle to Palmer College of Chiropractic Florida on January 28, 2003.

AFTER DISCUSSION, A MOTION WAS MADE BY MR. TRAIER WHICH WAS SECONDED BY DR. O'CONNOR TO ACCEPT THE RECOMMENDATIONS OF THE SITE TEAM WHICH WOULD PROVIDE PROVISION APPROVAL TO PALMER COLLEGE OF CHIROPRACTIC FLORIDA SUBJECT TO A FURTHER INSPECTION TO BE CONDUCTED AFTER TWO ADDITIONAL QUARTERS OF THE PROGRAM HAVE BEEN COMPLETED AND THE CLINIC PROGRAM IS IN OPERATION. A VOTE WAS TAKEN AND THE MOTION PASSED WITH ALL MEMBERS PRESENT VOTING IN FAVOR.

C. MULTI-DISCIPLINARY COMMITTEE REPORT

Dr. Senatore reported that the Multi-Disciplinary Committee had met on February 20, 2003 and identified certain questions and concerns that should be addressed by this committee. More will be shared with the Board in the future.

III. NEW BUSINESS

A. DELEGATION OF MECHANICAL TRACTION

Some discussion centered around the current provision of Board regulations on delegation of activities to unlicensed assistants noting that the delegation of mechanical traction appears as a permissible activity under that section. Concerns were expressed concerning the skills of such an individual performing this function and the safety concerns associated with it.

AFTER SOME DISCUSSION, A MOTION WAS MADE BY DR. RADA WHICH WAS SECONDED BY DR. STABILE TO REQUEST AN AMENDMENT TO THE BOARD'S REGULATIONS THAT WOULD REMOVE MECHANICAL TRACTION FROM THE LIST OF DELEGABLE FUNCTIONS TO UNLICENSED ASSISTANTS. A VOTE WAS TAKEN AND THE MOTION PASSED WITH ALL MEMBERS PRESENT VOTING IN FAVOR.

B. DEPARTMENT OF ENVIRONMENTAL PROTECTION/BUREAU OF RADIOLOGICAL HEALTH

Anthony McMahon, Chief of the Bureau of Radiological Health requested an opportunity to speak to the Board on the implementation of the X-ray Quality Assurance Program that had become effective on January 16, 2001. He noted that extensive outreach and public education workshops had been held in 25 different venues and that chiropractor compliance has been good. He noted that the program has an objective of reducing radiation entrance exposure to the public for medical diagnostic x-ray procedures by 35% by the year 2005 and to improve impact quality by 15% for all diagnostic procedures by 2007. Mr. McMahon provided a copy of an entrance skin exposure report that is typically supplied to practitioners after an inspection by DEP and reported that chiropractors have an improved patient radiation exposure levels by

27% and image quality has improved by 19%. He also reported that the most common violations cited by DEP were failures to carry out quarterly and semi-annual tests for the visual check list; film and chemical shelf life; light/x-ray field alignment; repeat analysis; fixed or retention analysis; and dark room fog.

Following his presentation, Mr. McMahon was thanked for the information provided to the Board. It was suggested that Mr. McMahon prepare some type of an article for inclusion in the Board's newsletter. Mr. McMahon readily agreed to provide this information to the Board.

IV. DISCIPLINARY MATTERS

A. LARRY A. SABEL, D.C.

The Board reviewed a request submitted by Dr. Larry A. Sabel to have the period of his probation reduced and terminated.

AFTER CONSIDERATION, A MOTION WAS MADE TO GO INTO EXECUTIVE SESSION TO CONSIDER THIS MATTER. UPON RETURNING TO PUBLIC SESSION A MOTION WAS MADE BY MR. TRAIER WHICH WAS SECONDED BY DR. SENATORE TO DENY THE REQUEST FOR THE REDUCTION IN PROBATION. A VOTE WAS TAKEN AND THE MOTION PASSED WITH ALL MEMBERS PRESENT VOTING IN FAVOR.

B. LARRY CASE, D.C.

The Board reviewed a request for reinstatement submitted by Dr. Case as well as a copy of a Consent Order that had been proposed to be filed with the Board but was never finalized.

A MOTION WAS MADE BY DR. RADA WHICH WAS SECONDED BY DR. SENATORE TO REQUEST DR. CASE'S APPEARANCE BEFORE THE FULL BOARD BEFORE CONSIDERING THIS REQUEST. A VOTE WAS TAKEN AND THE MOTION PASSED WITH ALL MEMBERS PRESENT VOTING IN FAVOR.

C. STEPHEN PLINIO, D.C.

Dr. Plinio appeared before the Board to consider an opportunity for reinstatement following a Final Decision and Order that was entered before the Board on January 22, 2000 as a result of a guilty plea in Superior Court of New Jersey. The license was revoked and permitted respondent to respond for reinstatement upon his successful completion of all of the terms of the sentence issued by the Superior Court of New Jersey. Dr. Plinio noted that he was attending law school and has been working part time in a law office in Woodbridge. Concern was expressed over Dr. Plinio's clinical skills. He noted that he had recently joined a local Chiropractic Society and one practitioner had consented to working with him on his adjustment skills one on one to bring them up to par.

AFTER CONSIDERING THE MATTER, A MOTION WAS MADE BY DR. RADA WHICH WAS SECONDED BY DR. STABILE REQUESTING DR. PLINIO TO PROVIDE A LETTER FROM THE CHIROPRACTIC PRACTITIONER IN WHICH A PRECEPTORSHIP ARRANGEMENT WOULD BE ESTABLISHED; DR. PLINIO COULD BE REINSTATED BUT RESTRICTED TO AN ASSOCIATESHIP POSITION AND HE COULD BE REQUIRED TO SUBMIT A REPORT FROM THE PRECEPTOR AFTER 20 HOURS OF MONITORED PRACTICE. DR. PLINIO WILL ALSO BE REQUIRED TO SUCCESSFULLY TAKE AND PASS THE JURISPRUDENCE EXAMINATION. A VOTE WAS TAKEN AND THE MOTION PASSED WITH ALL MEMBERS

PRESENT VOTING IN FAVOR.

V. MISCELLANEOUS INQUIRIES

A. MICHAEL C. FOX, D.C.

Dr. Fox submitted a letter concerning insurance industry practices with regard to the use of spinal x-rays. He requested that the Board take a position that spinal x-rays are a "necessary diagnostic tool of the chiropractic analysis and should be used at the sole discretion of the treating chiropractor."

Board members reviewed the Scope of Practice regulations and noted that under N.J.A.C. 13:44E-1.1(c)1 the taking and ordering of x-rays limited to the osseous system are diagnostic and analytical procedures which are within the Scope of Practice of a licensee. Subsection 2.2 makes reference to radiographs within patient records. The Board opined that the use of x-rays is done at the discretion of the chiropractor but the use of the x-ray would depend upon the patients presentation.

A MOTION WAS MADE BY DR. RADA WHICH WAS SECONDED BY DR. SENATORE TO RESPOND TO DR. FOX AS OUTLINED ABOVE. A VOTE WAS TAKEN AND THE MOTION PASSED WITH ALL MEMBERS PRESENT VOTING IN FAVOR.

B. RONALD P. DELLANNO, D.C.

Dr. Dellanno submitted a similar inquiry to that made of Dr. Fox.

A MOTION WAS MADE BY DR. RADA WHICH WAS SECONDED BY DR. SENATORE TO PROVIDE THE SAME RESPONSE TO DR. DELLANNO. A VOTE WAS TAKEN AND THE MOTION PASSED WITH ALL MEMBERS PRESENT VOTING IN FAVOR.

C. R. DAVID BLAKE, ESQ.

Mr. Blake submitted several questions concerning the use of VAX-D by chiropractors. Mr. Blake inquired whether chiropractors were permitted to perform VAX-D procedures to which the Board responded, yes. Mr. Blake then inquired whether a VAX-D procedure must be done in conjunction with an adjustment. The Board responded that pursuant to Scope of Practice regulations the use of any modality such as VAX-D must be accompanied by an adjustment. Finally, Mr. Blake made several inquiries concerning billing and coding. The Board's administrative office was instructed to respond to Mr. Blake that the Board does not take a position regarding reimbursement, billing and coding for any procedures.

A MOTION WAS MADE BY DR. O'CONNOR WHICH WAS SECONDED BY MR. TRAIER TO RESPOND TO MR. BLAKE AS OUTLINED ABOVE. A VOTE WAS TAKEN AND THE MOTION PASSED WITH ALL MEMBERS PRESENT VOTING IN FAVOR.

D. COUNCIL ON CHIROPRACTIC EDUCATION BOARD OF DIRECTOR'S MEETING

The Board reviewed the actions taken at the January 12, 2003 Board of Director's meeting.

THIS WAS ACCEPTED AS INFORMATIONAL.

E. LIFE UNIVERSITY

The Board reviewed information concerning Life University's present status. A US District Court Judge reinstated Life University's probational status with the Council on Chiropractic Education as of June 2002.

THIS WAS ACCEPTED AS INFORMATIONAL.

F. PUBLIC COMMENTS

Dr. Steven Clark brought to the Board's attention that various Superior Court Judges appear to be rendering opinions that chiropractors cannot sign certificates regarding the permanency of injuries. Question has arisen whether trial courts consider chiropractors as physicians. Deputy Attorney General discussed the issue with Board members and with members of the public and noted that specifically at N.J.A.C. 13:44E-3.1 under the Diagnostic Testing Regulations, a chiropractic physician is defined, however, the definition specifically relates to the terminology used in that subsection of the regulations. It was recommended that Dr. Clark and other obtain specific information as to what provisions of law are being applied and in what jurisdictions and courts so that further review can be undertaken.

VI. ENDORSEMENTS

A. ERIC S. GLICKMAN, D.C.

A MOTION WAS MADE BY DR. LOURO WHICH WAS SECONDED BY DR. STABILE TO GRANT DR. GLICKMAN A LICENSE BY ENDORSEMENT PENDING THE SUCCESSFUL COMPLETION OF THE JURISPRUDENCE EXAMINATION. A VOTE WAS TAKEN AND THE MOTION PASSED WITH ALL MEMBERS PRESENT VOTING IN FAVOR.

B. TERRY I. ZICKERMAN, D.C.

A MOTION WAS MADE BY DR. RADA WHICH WAS SECONDED BY DR. CALIO TO GRANT DR. ZICKERMAN A LICENSE BY ENDORSEMENT PENDING THE SUCCESSFUL COMPLETION OF THE JURISPRUDENCE EXAMINATION. A VOTE WAS TAKEN AND THE MOTION PASSED WITH ALL MEMBERS PRESENT VOTING IN FAVOR.

C. REGINALD F. WATKINSON, D.C.

A MOTION WAS MADE BY DR. SENATORE WHICH WAS SECONDED BY DR. STABILE TO GRANT DR. WATKINSON A LICENSE BY ENDORSEMENT PENDING THE SUCCESSFUL COMPLETION OF THE JURISPRUDENCE EXAMINATION. A VOTE WAS TAKEN AND THE MOTION PASSED WITH ALL MEMBERS PRESENT VOTING IN FAVOR.

ADJOURNMENT

A MOTION WAS MADE BY DR. O'CONNOR WHICH WAS SECONDED BY DR. SENATORE TO GO INTO EXECUTIVE SESSION TO REVIEW PENDING DISCIPLINARY MATTERS AND CONSUMER COMPLAINTS. A VOTE WAS TAKEN AND THE MOTION PASSED WITH ALL MEMBERS PRESENT VOTING IN FAVOR.