

**STATE OF NEW JERSEY
DIVISION OF CONSUMER AFFAIRS
BOARD OF CHIROPRACTIC EXAMINERS
124 HALSEY STREET
NEWARK, NEW JERSEY
PUBLIC SESSION MINUTES
THURSDAY, FEBRUARY 28, 2013**

A meeting of the New Jersey Board of Chiropractic Examiners was held on February 28, 2013 at the State Office Building, 124 Halsey Street, 7th floor, Newark, New Jersey in the Somerset room on the 6th floor. The meeting was convened in accordance with the provisions of the Open Public Meetings Act with previous notification having been sent to the Secretary of State and the following publications: The 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 Albert Stabile, Jr., D.C., President of the Board, at 9:35 A.M. A roll call was taken and the following attendance was recorded and a quorum was present:

David A. Allen, D.C.	Present
Rosemary Calio, BSN, RN, D.C.	Present
Michael Krouse, D.C.	Present
Lawrence O'Connor, D.C.	Present
Thomas A. Senatore, Sr., D.C.	Present
Michael Spadafino, D.C.	Present
Albert Stabile, Jr., D.C.	Present
John Traier	Absent
James L. Winters, D.C.	Absent

Also present were: **Nancy Costello Miller, Deputy Attorney General; and Lisa Tadeo, Executive Director**

PUBLIC COMMENT

I. APPROVAL OF THE PUBLIC SESSION MINUTES OF JANUARY 24, 2013

A motion was made by Dr. Krouse, which was seconded by Dr. Allen, to approve the public session minutes from the January 24, 2013 meeting as presented. A vote was taken and the motion passed with all members present voting in favor.

II. CONTINUING EDUCATION COMMITTEE

The continuing education committee held a conference call on Wednesday, February 13, 2013 and reviewed 91 courses submitted by continuing education sponsors. The committee identified 13 courses where sponsors will be requested to provide additional information. The committee recommended that 8 courses be denied and 70 courses be approved based on the information submitted for these courses. A motion was made by Dr. Calio and seconded by Dr. Krouse, to deny

the 8 courses and approve the 70 courses as recommended by the committee. A vote was taken and the motion passed with all members present voting in favor.

III. NEW BUSINESS

Upon a motion made by Dr. Senatore, which was seconded by Dr. O'Connor, the Board voted to go into Executive Session to review and discuss applications for licensure and reinstatement. The Board returned to public session to continue the meeting and to vote on the applications for licensure and reinstatement.

A. Application for Chiropractic Licensure

1. Marc Chianese

A motion was made by Dr. O'Connor, which was seconded by Dr. Allen, to request that Marc Chianese appear before a committee of the Board to discuss his application for licensure. A vote was taken and the motion passed with all members present voting in favor.

2. Michael Fernandez

A motion was made by Dr. O'Connor, which was seconded by Dr. Calio, to request that Michael Fernandez provide the Board with more information concerning programs he completed. A vote was taken and the motion passed with all members present voting in favor.

3. Peter Steinmetz (Reinstatement)

A motion was made by Dr. Calio, which was seconded by Dr. Spadafino, to approve Dr. Steinmetz's application for reinstatement. A vote was taken and the motion passed with all members present voting in favor.

B. Board Discussion with Elizabeth Greenblatt, Regulatory Analyst RE: Sunset of Regulations

The Board met with Elizabeth Greenblatt, Regulatory Analyst, to discuss the New Jersey State Board of Chiropractic Examiners regulations which expire on December 22, 2013.

A motion was made by Dr. Calio, which was seconded by Dr. Senatore, to amend N.J.A.C. 13:44E-2.7 (c)2 from "...unless certified as a massage bodywork and somatic therapist certified in this State by the Massage, Bodywork and Somatic Therapy Committee created under the New Jersey Board of Nursing pursuant to N.J.S.A. 45:11-53 to 67 to perform massage therapy" to unless licensed as a massage and bodywork therapist licensed in this State by the Massage and Bodywork Therapy Board" as on September 4, 2012 the Massage and Bodywork Therapist Licensing Act was enacted. A vote was taken and the motion passed with all members present voting in favor.

A motion was made by Dr. Calio, which was seconded by Dr. O'Connor, to amend the definition of "Special examination" in N.J.A.C. 13:44E-3.1 to include Vestibulo-Ocular Nystagmus Testing as an example of a special examination. A vote was taken and Dr. Krouse abstained while all others voted in favor. The motion passed by a majority vote.

- C. Inquiry from Andrea Sciarrillo, D.C.
RE: Concussions

A motion was made by Dr. Allen, which was seconded by Dr. Senatore, to table this matter while the Board gathers more information. A vote was taken and the motion passed with all members present voting in favor.

- D. Inquiry from Susann Clothier, D.C.
RE: Scope of Practice

Dr. Clothier inquired whether chiropractors licensed in New Jersey are permitted to perform internal examines, specifically related to pelvic floor health or must all techniques be performed externally.

A motion was made by Dr. Spadafino, which was seconded by Dr. Calio, to request that Dr. Clothier provide more information concerning the techniques which would be performed externally. A vote was taken and the motion passed with all members present voting in favor.

- E. Inquiry from Kyle Nielsen
RE: N.J.A.C. 13:44E-1A-6 Malpractice insurance

Mr. Nielsen inquired whether tail coverage is mandatory in the event a chiropractor cancels his/her malpractice insurance policy.

A motion was made by Dr. Spadafino, which was seconded by Dr. O'Connor, to inform Mr. Nielsen that tail coverage is mandatory pursuant N.J.A.C. 13:44E-1A-6. A vote was taken and the motion passed with all members present voting in favor.

- F. Inquiry from Christopher Kennett, Ph.D.
RE: Multi disciplinary Practice

Dr. Kennett inquired about a chiropractic physicaian and a medical physician partnering in a joint ownership of a legal entity which owns and operates a health care facility.

A motion was made by Dr. Senatore, which was seconded by Dr. Allen, to refer Dr. Kennett to the regulation, N.J.A.C. 13:44E-2.15 *Permissible practice structures*. A vote was taken and the motion passed with all members present voting in favor.

G. Inquiry from Mike Williams
RE: Prescribing and Dispensing

Mr. Williams inquired whether New Jersey licensed chiropractors could prescribe durable medical equipment items as well as orthotics and/or can they dispense these items if the prescription was provided by a licensed physician.

A motion was made by Dr. O'Connor, which was seconded by Dr. Allen, to request that Mr. Williams provide the Board with more specific information concerning the durable medical equipment. A vote was taken and the motion passed with all members present voting in favor.

H. Inquiry from Jeffrey B. Randolph, Esq.
RE: Extracorporeal Shock Wave Therapy

Jeffrey B. Randolph, Esq. wrote the Board on behalf of the Association of the New Jersey Chiropractors and inquired whether extracorporeal shock wave therapy was within the chiropractic scope of practice in the State of New Jersey.

A motion was made by Dr. Senatore, which was seconded by Dr. Calio, to inform Mr. Randolph that extracorporeal shock wave therapy can be ordered and performed by a licensed chiropractic physician provided it is being ordered and/or perform within the practice of chiropractic. A vote was taken and the motion passed with all members present voting in favor.

I. Letter from Stephen Lesse, D.C.
RE: Continuing Education

Dr. Lesse asked the Board for a waiver of the continuing education requirements as he has been teaching post graduate anatomy and physiology at a college for the past ten years, is a certified SORSI instructor, has a certification in Craniopathy, is teaching in a high school and is currently practicing part-time. Dr. Lesse advised the Board that the continuing education requirement cause him an economic restraint.

A motion was made by Dr. O'Connor, which was seconded by Dr. Senatore, to deny Dr. Lesse's request for a waiver of the continuing education requirement. A vote was taken and the motion passed with all members present voting in favor.

- J. Letter from Thea Stabin, D.C.
RE: Continuing Education

Dr. Stabin informed the Board that she completed 30 continuing education credits from internet courses and just realized that the continuing education requirement only allows her to complete 12 continuing education credits by asynchronous distance learning courses. Dr. Stabin asked the Board to allow her to use all 30 credits that she completed through distance learning courses for this renewal period.

A motion was made by Dr. Calio, which was seconded by Dr. O'Connor, to deny Dr. Stabin's request. Dr. Stabin will need to complete 18 credits from in person courses by August 31, 2013 as N.J.A.C. 13:44E-1A.5(i) only allows a maximum of 12 continuing education credits by asynchronous distance learning courses. The Board will advise Dr. Stabin that if she completed any live webinars then those credits would count towards the 18 credits. A vote was taken and the motion passed with all members present voting in favor.

- K. Inquiry from Brian M. Wraith, D.C.
RE: Permissible Business Practice

Dr. Wraith inquired whether a chiropractor can hire a nurse practitioner.

A motion was made by Dr. Calio, which was seconded by Dr. Senatore, to inform Dr. Wraith that a chiropractor can hire a nurse practitioner but the nurse practitioner would be practicing under a chiropractor, therefore, would be practicing within the scope of practice of a chiropractor. A vote was taken and the motion passed with all members present voting in favor.

- L. Inquiry from David Katz
RE: Permissible Business Structures

Dr. Katz inquired whether a chiropractor and a surgeon can be part of the same professional limited liability company. Dr. Katz asked for clarification of the Board of Medical Examiners statutes and regulations concerning this matter.

The Board will refer Dr. Katz to the regulation, N.J.A.C. 13:44E-2.15 *Permissible practice structures*.

- M. Federation of Chiropractic Licensing Boards
February 25, 2013 District III Highlights

The Board reviewed the Federation of Chiropractic Licensing Boards February 25, 2013 District III Highlights and considered it informational.

IV. OLD BUSINESS

- A. Letter from Lowell S. Miller, Esq.
RE: Permissible Business Structures

Mr. Miller previously inquired if a chiropractor can perform chiropractic services out of their home in a limited capacity. Mr. Miller also inquired about the business establishment of a practice.

The Board advised Mr. Miller that a chiropractor can perform chiropractic services out of their home provided they are a licensed chiropractor in the State of New Jersey and referred Mr. Miller to the regulation, N.J.A.C. 13:44E-2.15 *Permissible practice structures*.

Mr. Miller asked the Board what constitutes the establishment of a chiropractic practice. Specifically the establishment of the actual physical practice and what factors one would use to determine if a physical practice has been established.

A motion was made by Dr. O'Connor, which was seconded by Dr. Senatore, to inform Mr. Miller that there may be other laws in the State of New Jersey that may impact the establishment of a practice such as town ordinances, etc. A vote was taken and the motion passed with all members present voting in favor.

V. OPEN DISCIPLINARY MATTERS

- A. Professional Assistance Program Reports
Re: John Rotundo, D.C.
Interim Consent Order filed January 17, 2012

Dr. O'Connor recused himself from this matter.

The Board reviewed a report from Louis E. Baxter, M.D. dated January 14, 2013 concerning Dr. Rotundo's compliance with his monitoring plan with the Professional Assistance Program of New Jersey.

Upon a motion made by Dr. Calio, which was seconded by Dr. O'Connor, the Board voted to go into Executive Session to discuss matters involving investigations of violations of the Board's enabling act, the Uniform Enforcement Act and/or Board regulations.

1. Six matters filed with the Board, which require review and additional recommendations with regard to investigations and/or actions.
2. Nine matters where additional information has been submitted to the Board concerning pending investigations.

ADJOURNMENT

The Board returned to Public Session and a motion was made by Dr. Spadafino, which was seconded by Dr. O'Connor, to adjourn the meeting at 1:00 P.M. A vote was taken and the motion passed with all members voting in favor.

Respectfully submitted,

Lisa Tadeo
Executive Director