

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

**Public Session Minutes  
April 17, 2003**

A meeting of the New Jersey Board of Chiropractic Examiners was held on April 17, 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 10:05 AM.

**ATTENDANCE**

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

**ABSENT:** Dr. Stabile

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

**I. APPROVAL OF THE PUBLIC SESSION MINUTES OF MARCH 27, 2003.**

A MOTION WAS MADE BY DR. RADA AND SECONDED BY MR. TRAIER TO APPROVE THE PUBLIC SESSION MINUTES OF MARCH 27, 2003. A VOTE WAS TAKEN AND THE MOTION PASSED WITH ALL MEMBERS PRESENT VOTING IN FAVOR.

**II. OLD BUSINESS**

**A. ELECTION OF OFFICERS**

Dr. Atkinson conducted the election of officers.

**PRESIDENT:** At the March 27, 2003 meeting, Dr. Mary Ellen Rada was nominated for President. Dr. Atkinson called for other nominations. No other nominations were made.

A MOTION WAS MADE BY DR. O'CONNOR, WHICH WAS SECONDED BY MR. TRAIER TO ELECT DR. RADA BY ACCLAMATION. A VOTE WAS TAKEN AND THE ELECTION WAS UNANIMOUS.

**VICE PRESIDENT:** At the March 27, 2003 meeting, Dr. Lawrence O'Connor and Dr. Joseph Louro were nominated for the office of Vice President. Dr. Louro asked to be recognized and

requested that his name be removed from consideration for this office.

A MOTION WAS MADE BY MR. TRAIER, WHICH WAS SECONDED BY DR. RADA TO ELECT DR. O'CONNOR AS VICE PRESIDENT OF THE BOARD. A VOTE WAS TAKEN AND THE ELECTION WAS UNANIMOUS.

**SECRETARY:** At the March 27, 2003 meeting, Dr. Joseph Murphy was nominated to serve as Secretary.

THERE BEING NO OTHER NOMINATIONS, A MOTION WAS MADE BY MR. TRAIER WHICH WAS SECONDED BY DR. RADA TO ELECT DR. MURPHY UNANIMOUSLY TO THE OFFICE OF SECRETARY.

**TREASURER:** At the March 27, 2003 meeting, Dr. Brian Atkisson was nominated for the office of Treasurer. No other nominations were made.

A MOTION WAS MADE BY DR. RADA WHICH WAS SECONDED BY DR. SENATORE TO ELECT DR. ATKISSON TO THE OFFICE OF TREASURER.

ALL MEMBERS VOTED IN FAVOR OF THE ELECTION.

Dr. Rada then assumed the chair and thanked the board members, particularly Dr. Atkisson for his leadership and for a year of remarkable accomplishments. Dr. Rada asked that she be given time to discuss initiatives for the coming year as well as committee appointments. Dr. Rada emphasized that she would like all of the committees, particularly the Rules and Regulations committee to be meeting on a regular schedule.

### **III. OLD BUSINESS**

#### **1. BOARD RESPONSE REGARDING LIFE UNIVERSITY ARTICLE**

The Board reviewed copies of letters that had been directed under Dr. Atkisson's signature to Dynamic Chiropractic and the Chiropractic Journal in response to information concerning the Board's position and actions taken regarding Life University's approval.

THIS WAS ACCEPTED AS INFORMATIONAL.

### **IV. NEW BUSINESS**

#### **A. NATIONAL BOARD OF CHIROPRACTIC EXAMINERS**

The Board reviewed correspondence from the National Board of Chiropractic Examiners requesting a representative from the Board to participate in the development of the Part IV practical examination on June 20th and 21st, 2003 in Greeley, Colorado. Drs. Atkisson and Rada expressed interest in participating in this activity subject to scheduling.

#### **B. FY2003 BUDGET REPORT (1ST HALF)**

The Board reviewed a budget report from the first six months of fiscal year 2003.

THIS WAS ACCEPTED AS INFORMATIONAL

#### **C. RENEWALS**

Executive Director Earle reported that the Division of Consumer Affairs was preparing for bi-annual renewal which is scheduled for October 30, 2003. Mr. Earle reported that a postcard mailing would be directed to all licensees requesting that all addresses be updated. Renewal notices are scheduled for distribution during the last week of June 2003. The Division is also exploring the possibility of engaging the services of a vendor to conduct online license renewal.

## **B. PIPTAC COMMITTEE REPORT**

Dr. Atkisson submitted a written report of the March 2003 meeting of the Commissioner's Advisory Committee on PIP. Dr. Atkisson report on the following items:

1. A Superior Court Opinion in Passaic County held that a Chiropractor qualified as a "Physician" within the purview of the AICRA Act of 1998.
2. The Committee has been reviewing a draft Attending Physicians Treatment Plan. Dr. Atkisson suggested that the form lacks clinical data and would not be sufficient for an insured to make a decision.
3. There are draft changes being made to the Decision Point Review and Precertification Requirements.
4. Dr. Atkisson also reported that there appears to be a strong movement toward "evidence based care" which he suggested was difficult for musculoskeletal/neuromusculoskeletal healthcare. Dr. Atkisson opined that this would need to be coupled with outcome based care to be effective for an individual patient.

## **V. ENDORSEMENT**

### **ALLEN SCOTT ROTHMAN, D.C.**

The Board reviewed an application for licensure by endorsement by Allen Scott Rothman. Dr. Rothman is a 1988 graduate of New York Chiropractic College and was licensed in New York. There is no record of disciplinary action.

A MOTION WAS MADE BY DR. ATKISSON, WHICH WAS SECONDED BY DR. O'CONNOR TO ACCEPT DR. ROTHMAN FOR LICENSURE BY ENDORSEMENT SUBJECT TO THE SUCCESSFUL COMPLETION OF THE JURISPRUDENCE EXAMINATION. A VOTE WAS TAKEN AND THE MOTION PASSED WITH ALL MEMBERS PRESENT VOTING IN FAVOR.

## **VI. GENERAL CORRESPONDENCES**

### **A. JANE ULRICH**

Mrs. Ulrich provided the Board with a copy of a letter dated March 26, 2003 directed to Governor McGreevy complimenting the Board for its actions in connection with the successful resolution of a complaint made against a licensee. Mrs. Ulrich also directed a letter to Executive Director Earle, thanking the staff and the Enforcement Bureau for their assistance in resolving this matter.

### **B. INQUIRY OF SEAN T. HAGAN, ESQ. - RE: ELECTRICAL STIMULATION**

Mr. Hagen directed a letter to the Board concerning the delegation of electric stimulation to unlicensed employees under a chiropractor's supervision billing under CPT code 97014. He noted that the CPT code does not require direct one on one patient contact by the provider pursuant to the CPT coding guidelines. The issue of delegation to assistive personnel of this particular modality was discussed. Traditionally the Board has interpreted the used of electric stimulation as a modality that falls under the category pursuant to N.J.A.C. 13:44E-2.7 (c)6, as a "task" task or function for which the skill, training and judgment of a licensed chiropractor is required to safely and competently preform such task of function.

The intention of the Board concerning the delegation of this modality has been further clarified in currently pending Board regulations which deal with the issue of the delegation of these and other similar devices which are required to be delegated to licensed healthcare personnel. The regulation proposed by the Board also deals with the prescription of battery operated devices for home use. The Board's proposed regulation notes that any such device which is powered by alternating current is not delegable to an unlicensed individual.

A MOTION WAS MADE BY DR. CALIO, WHICH WAS SECONDED BY DR. ATKISSON TO RESPOND TO MR. HAGAN AS OUTLINED ABOVE TO NOTE THAT ELECTRIC STIMULATION MAY ONLY BE DELEGATED TO A LICENSED HEALTHCARE PROFESSIONAL. FURTHER THE APPROPRIATE CPT CODE FOR THIS MODALITY WOULD BE 97032 WHICH REQUIRES THE CONSTANT ATTENDANCE OF THE PROVIDER.

**C. INQUIRY OF SEAN T. HAGAN, ESQ. -  
RE: KINETIC ACTIVITIES AND THERAPEUTIC EXERCISES**

The Board reviewed correspondence dated April 8, 2003 regarding the Board's position with respect to the delegation of kinetic activities and therapeutic exercise in a chiropractor's office under CPT codes 97530 and 97110. Mr. Hagan questions an insurance carrier's position that such activities are not delegable to unlicensed employees. The Board discussed it's intention which was articulated at it's February meeting to pursue language in it's regulations that clarify it's position with respect to kinetic exercises and rehabilitation that such activities may not be delegable to an unlicensed personnel. Further review of the CPT coding guides finds that such therapeutic procedures are required to be provided by either a physician or therapist with direct one on one patient contact under both CPT codes referenced in Mr. Hagan's letter.

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

**VII. PUBLIC COMMENT**

**DR. JOSEPH TUZZEO**

On behalf of Northern New Jersey Chiropractic Society presented a statement noting concerns about the proposed Federation of Chiropractic Licensing Board's PACE program. A notation was made of the requirement that continuing education programs under PACE would need to be "evidenced based." Further noted that the fee schedule associated with the PACE program would make continuing education offerings from chiropractic colleges non-competitive.

Executive Director Earle who participated as a member of the PACE task force which developed the PACE criteria address Dr. Tuzzeo's concerns to note that the development of

the program has been an ongoing process. Programs like PACE are used by most other professions to facilitate the evaluation of course offerings and provide a service to licensing boards so that there is some assurance that the educational offering has some nexus to the profession; that attendance records are maintained; that the course materials are appropriate to the subject being taught in our support of the educational objectives of the program. Further benefits include a listing of all courses by approved providers on the FCLB website and an ability to maintain continuing education records on the website for individual doctors. Executive Director Earle offered to meet with representatives of the Northern New Jersey Chiropractic Society to discuss this matter. He further noted that development of the PACE criteria was an evolving process and had undergone a number of changes during its evolution including consultation with various stake holders.

## **ADJOURNMENT**

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