

**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, APRIL 20, 2006**

A meeting of the New Jersey Board of Chiropractic Examiners which was held on February 16, 2006 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 Joseph Murphy, D.C., President of the Board at 9:30 AM.

### **ATTENDANCE**

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

**ALSO PRESENT:** DAG John Hugelmeyer, Executive Director Kevin Earle, Venus Hall, Government Representative and Recording Secretary Sonya Liverpool.

### **I. APPROVAL OF THE PUBLIC SESSION MINUTES OF MARCH 16, 2006**

A MOTION WAS MADE BY MR. TRAIER, WHICH WAS SECONDED BY DR. RADA, TO APPROVE THE PUBLIC SESSION MINUTES OF MARCH 16, 2006 AS AMENDED. A VOTE WAS TAKEN, AND THE MOTION PASSED WITH ALL MEMBERS PRESENT VOTING IN FAVOR.

### **II. ELECTION OF OFFICERS**

Before proceeding with elections Dr. Murphy asked to address the Board on a matter of personal privilege. Dr. Murphy then announced that he was withdrawing his name from consideration of the Board for the office of President. Dr. Murphy thanked the Board for its support during his term of office.

A MOTION WAS MADE BY MR. TRAIER, WHICH WAS SECONDED BY DR. STABILE, TO ELECT LAWRENCE O' CONNOR, D.C. AS PRESIDENT OF THE BOARD. THE VOTE WAS UNANIMOUS.

Dr. O' Connor then assumed the chair.

Two nominations were received for the office of Vice President. The election was conducted with eight members voting in favor of Dr. Murphy; and three members voting in favor of Dr. Calio. Dr. Murphy was elected Vice President.

A MOTION WAS MADE BY MR. TRAIER, WHICH WAS SECONDED BY DR. RADA, TO ELECT DR. MICHAEL KROUSE AS SECRETARY AND DR. JAMES KOSTINAS AS TREASURER. A VOTE WAS TAKEN WITH ALL MEMBERS PRESENT VOTING IN FAVOR.

Dr. O'Connor then thanked the Board members for their vote of support. He requested that any Board members who had any specific desire to sit on a committee should indicate their interests. He will be contacting individual Board members to discuss committee appointments before the next meeting.

### **III. NEW BUSINESS**

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

The Board reviewed the provisions of three bylaw amendments that will be considered at the annual meeting of the National Board of Chiropractic Examiners in May. The Board also reviewed various communications relating to National Board issues. Board members expressed concern that National Board resources were being used to advocate certain individuals seeking election to National Board positions.

A MOTION WAS MADE BY MR. TRAIER, WHICH WAS SECONDED BY DR. ATKISSON, TO DIRECT A LETTER TO THE NATIONAL BOARD OF CHIROPRACTIC EXAMINERS EXPRESSING OBJECTION TO THE USE OF NATIONAL BOARD RESOURCES FOR POLITICAL PURPOSES. A VOTE WAS TAKEN AND THE MOTION PASSED WITH ALL MEMBERS PRESENT VOTING IN FAVOR.

WITH RESPECT TO BYLAW CHANGES, A MOTION WAS MADE BY MR. TRAIER, WHICH WAS SECONDED BY DR. STABILE, TO EXPRESS SUPPORT FOR THE BI-LAW CHANGES. A VOTE WAS TAKEN AND THE MOTION PASSED WITH ALL MEMBERS PRESENT VOTING IN FAVOR.

## **IV. APPLICATIONS FOR INITIAL LICENSURE**

### **1. JEFFREY S. ZUIDEMA, D.C.**

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

### **2. MICHAEL D. HUBBLE, D.C.**

It was noted that this individual appears to have a Child Support arrearage. Dr. Hubble has provided no specific information demonstrating that his arrearage amounts to less than six months. In addition, no CV was attached to indicate what Dr. Hubble has been doing for the last two years. Consideration of this application was tabled pending receipt of that information.

### **3. MELISSA DAWN MURTAUGH, D.C.**

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

## **V. ENDORSEMENT APPLICATIONS**

### **1. ARCHER IRBY, D.C.**

A MOTION WAS MADE BY DR. STABILE, WHICH WAS SECONDED BY DR. RADA, TO APPROVE THIS APPLICATION FOR ENDORSEMENT SUBJECT TO THE JURISPRUDENCE EXAMINATION. A VOTE WAS TAKEN AND THE MOTION PASSED WITH ALL MEMBERS PRESENT VOTING IN FAVOR.

### **2. EDWIN A. EMERSON, III**

It was noted that Dr. Emerson's application indicates that he may have been in default on a Health Education Loan. The Board requested that he submit documentation as to the status of his repayment of his Health Education Loan.

## **VI. PENDING DISCIPLINARY ACTIONS**

### **A. MIHRAN BAKALIAN, D.C.**

(Deputy Attorney General Hugelmeyer, who is serving as a prosecutor with respect to this matter, was recused in the consideration of this matter and left the room.)

**A MOTION WAS MADE BY MR. TRAIER, WHICH WAS SECONDED BY DR. RADA, TO GO INTO EXECUTIVE SESSION TO RECEIVE ADVICE OF COUNSEL. DEPUTY ATTORNEY GENERAL NANCY KOSTELLA MILLER, COUNSELED THE BOARD ON THIS MATTER.**

On January 30, 2006, a Provisional Order of Discipline issued by the Attorney General and filed with the Board, based upon a stipulation of settlement entered with the Office of Insurance Fraud Prosecutor in which a penalty of \$5,000 was imposed based upon Dr. Bakalian's submission of a false and misleading statement of material facts in support of a claim for benefits under a disability insurance policy. A response was filed by Dr. Bakalian on February 28, 2006. A further response has been submitted by Deputy Attorney General John D. Hugelmeyer on April 5, 2006. A reply has been submitted by Dr. Bakalian.

**AFTER CONSIDERING THE MATTER IN EXECUTIVE SESSION, A MOTION WAS MADE BY DR. ATKISSON, WHICH WAS SECONDED BY DR. CALIO, TO SCHEDULE A HEARING IN MITIGATION OF PENALTY WITH RESPECT TO THIS MATTER. A VOTE WAS TAKEN AND THE MOTION PASSED WITH ALL MEMBERS PRESENT VOTING IN FAVOR.**

#### **B. VIRGINIA FATATO, D.C.**

(Deputy Attorney General Hugelmeyer, who is serving as a prosecutor with respect to this matter, was recused and left the room during the consideration of this matter)

Dr. Fatato was the subject of a Provisional Order of Discipline, issued by the Attorney General and filed with the Board on February 17, 2005. At the June 16, 2005 Executive Session Meeting, the Board reviewed a request from Dr. Fatato for modification and/ or dismissal of the Provisional Order. The Board had made a determination to move forward and issue a Final Order of Discipline absent a request for a hearing. By letter, Dr. Fatato has submitted a formal request to be scheduled for a hearing at the next available full Board meeting. The Board went into Executive Session to deliberate on this request.

**UPON RETURNING TO PUBLIC SESSION , A MOTION WAS MADE BY DR. SENATORE, WHICH WAS SECONDED BY DR. ATKISSON, TO SCHEDULE A HEARING AND MITIGATION OF PENALTY WITH RESPECT TO THIS MATTER. A VOTE WAS TAKEN AND THE MOTION PASSED WITH ALL MEMBERS PRESENT VOTING IN FAVOR.**

#### **C. PAUL ROSES, D.C.**

On February 10, 2006, the Attorney General filed an Administrative Complaint seeking the suspension or revocation of the license of Paul Roses, D.C.. The Board received a letter brief submitted by Deputy Attorney General John Miscione, requesting that the Board enter a finding of default based upon Dr. Roses failure to file an answer to the administrative complaint. After the receipt of the letter brief from DAG Miscione, the Board received an answer to the Administrative Complaint from Michael Keating, Esq. on behalf of Dr. Roses.

**AFTER CONSIDERING THE MATTER, A MOTION WAS MADE BY MR. TRAIER, WHICH WAS SECONDED BY DR. RADA, TO DEEM THIS MATTER A CONTESTED CASE AND TO REFER IT TO THE OFFICE OF ADMINISTRATIVE LAW FOR TRIAL. A VOTE WAS TAKEN AND THE MOTION PASSED WITH ALL MEMBERS PRESENT VOTING IN FAVOR.**

### **VII. MISCELLANEOUS ITEMS - COUNCIL ON NEUROLOGY/ AMERICAN CHIROPRACTIC ASSOCIATION**

The Board received communication from the ACA Council on Neurology reporting that the American Chiropractic Neurology Board has completed its job analysis, examination, preparation and Angoff studies specific to the development of a specialist certification in three areas to include Electrodiagnostics, Childhood

Behavioral Disorders and Vestibular Rehabilitation.

This was accepted as informational.

## **VIII. APPEARANCES**

### **A. THOMAS HERCHAKOWSKI, D.C.**

Dr. Herchakowski appeared pursuant to the requirements set forth in a Consent Order entered on April 21, 2005. Appearing with Dr. Herchakowski was Dr. Edward Reading of the Professional Assistance Program of New Jersey Inc..

Dr. Reading presented the position statement of the Professional Assistance Program of New Jersey. He reported that Dr. Herchakowski has been abstinent from alcohol use as well as the use of any non-prescribed medications. Copies of all of Dr. Herchakowski's urine screens were presented and submitted to the Board for their review. He participates in at least three AA meetings per week. Dr. Herchakowski has been practicing as an associate in the office of Dr. David Kutschman, in order to fulfill the supervision requirements of the Consent Order. The PAP makes the following recommendations: 1) Dr. Herchakowski should be issued an unrestricted license. It is recommended that the Consent Order conditions be removed and replaced with a private letter agreement ; 2) Dr. Herchakowski shall continue voluntary involvement with the PAP ; 3) Continue monthly urine screens for the next three months, followed by screens of not less than four times per year, at that point

Dr. Herchakowski will have demonstrated at least three years of post treatment recovery ; 4) Continued participation in the minimum of three AA meetings per week; 5) Permit independent practice; 6) Quarterly visits with the PAP; 7) Quarterly reports to the Board by the PAP with immediate notification of a relapse or any illegal behavior.

Dr. Herchakowski was asked if he agreed with the PAP's recommendations. Dr. Herchakowski expressed some confusion over those conditions. Some discussion ensued concerning the ability of the Board issuing a private letter agreement. Deputy Attorney General Hugelmeyer will research the issue.

A MOTION WAS MADE BY MR. TRAIER, WHICH WAS SECONDED BY DR. RADA, TO TABLE CONSIDERATION OF DR. HERCHAKOWSKI'S APPLICATION UNTIL THE BOARD HAS HAD AN OPPORTUNITY TO RESEARCH THE ISSUE AND DR. HERCHAKOWSKI HAS HAD AN OPPORTUNITY TO CONFER WITH THE PAP CONCERNING THE RESTRICTIONS PROPOSED. A VOTE WAS TAKEN AND THE MOTION PASSED WITH ALL MEMBERS PRESENT VOTING IN FAVOR.

### **B. ROBERT ROSANIA, D.C.**

(Dr. Senatore was recused from this matter and left the room)

Dr. Rosania appeared before the Board to discuss certain matters which were revealed in the course of his application for licensure. Following the appearance, a motion was made by Dr. Stabile, which was seconded by Dr. Kostinas to go into Executive Session to consider the application.

UPON RETURNING TO PUBLIC SESSION, A MOTION WAS MADE BY DR. STABILE, WHICH WAS SECONDED BY MR. FAULKNER, TO APPROVE DR. ROSANIA'S APPLICATION FOR LICENSURE. A VOTE WAS TAKEN AND THE MOTION PASSED WITH ALL MEMBERS PRESENT VOTING IN FAVOR.

## **ADJOURNMENT**

A MOTION WAS MADE BY DR. ATKISSON, WHICH WAS SECONDED BY DR. KOSTINAS, TO GO INTO EXECUTIVE SESSION TO CONSIDER PENDING DISCIPLINARY MATTERS AND CONSUMER COMPLAINTS. 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