

**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, MAY 18, 2006**

A meeting of the New Jersey Board of Chiropractic Examiners which was held on June 15, 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 Lawrence O'Connor, D.C., President of the Board at 9:30 AM.

### **ATTENDANCE**

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

**EXCUSED:** Drs. Stabile and Murphy

**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 APRIL 20, 2006**

A MOTION WAS MADE BY DR. RADA, WHICH WAS SECONDED BY DR. KROUSE, TO APPROVE THE PUBLIC SESSION MINUTES OF APRIL 20, 2006 AS AMENDED. A VOTE WAS TAKEN, AND THE MOTION PASSED WITH ALL MEMBERS PRESENT VOTING IN FAVOR.

### **II. RECOGNITION**

Dr. O'Connor paused to recognize the contributions of two Board members who will be leaving in the coming month. Dr. O'Connor honored Dr. Atkisson for his many contributions to the Board since his initial appointment in 1999, including a term as Board President and long service as a member of the Preliminary Investigation Committee and Rules & Regulations Committee. Dr. Atkisson was presented with a plaque honoring his years of service.

Dr. O'Connor also recognized the service of Ken Faulkner. Mr. Faulkner was recognized for his service as a public member of the Board. Dr. O'Connor noted that Mr. Faulkner will be missed for his manner and deep-insight. Dr. O'Connor also had a plaque which will be forwarded to Mr. Faulkner.

### **III. COMMITTEE APPOINTMENTS**

The Committee Interest Form was distributed to Board members to indicate their interests in either the Preliminary Investigation Committee, the Rules & Regulations Committee and the Newsletter Committee. Appointments will be made at the June meeting.

### **IV. NEW LICENSEE ORIENTATION PROGRAM**

Executive Director Earle reported that the new Licensee Orientation Program is in the final stages of implementation. The Committee members will be signing on to the website to test the system, and new candidate information will be uploaded. More information will be provided at the June meeting.

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

Dr. O'Connor and Dr. Rada reported on the National Board of Chiropractic Examiners. At that meeting Dr. Mary- Ellen Rada was elected as a member of the Board of Directors of the National Board representing District 3. Following the Annual meeting, at the Organizational meeting of the Board of Directors, Dr. Rada was also elected Secretary of the National Board.

## **VI. FEDERATION OF CHIROPRACTIC LICENSING BOARDS**

At the Annual meeting of the Federation of Chiropractic Licensing Boards, Dr. O'Connor was elected the District 3 member of the Federation's Board of Directors.

## **VII. APPLICATIONS**

### **A. APPLICATIONS FOR INITIAL LICENSURE**

John Charles Langaraap

Dr. Langaraap is an applicant for initial licensure. In the course of his application, he revealed two incidents, both of which involved alcohol.

A MOTION WAS MADE BY DR. SENATORE, WHICH WAS SECONDED BY DR. CALIO, TO REQUIRE DR. LANGARAAP TO UNDERGO AN ASSESSMENT BY THE PROFESSIONAL ASSISTANCE PROGRAM. FOLLOWING THAT, AN APPEARANCE SHOULD BE SCHEDULED. A VOTE WAS TAKEN AND THE MOTION PASSED WITH ALL MEMBERS PRESENT VOTING IN FAVOR.

## **VIII. ENDORSEMENT APPLICATIONS**

### **A. Andrew Strauss, D.C.**

Dr. Strauss is a 1982 graduate of Palmer College who has completed Parts 1-3 of National Boards. He was initially licensed in the State of New York and received an additional license in the State of Florida. There is no record of disciplinary action with either state. Dr. Strauss is also licensed with the Chiropractic Registration Board of Victoria, Australia.

A MOTION WAS MADE BY DR. RADA, WHICH WAS SECONDED BY DR. KOSTINAS, TO APPROVE THE APPLICATION FOR 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.

### **B. Michael D. Hubble, D.C.**

This item was tabled from the April 20th meeting. Dr. Hubble has submitted evidence that he currently has no Child Support arrearage. Dr. Hubble also submitted information concerning his recent activities.

A MOTION WAS MADE BY DR. SENATORE, WHICH WAS SECONDED BY DR. RADA, TO APPROVE DR. HUBBLE 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.

### **C. Dmitry Davydov, D.C.**

Dr. Davydov is requesting licensure by Endorsement. Dr. Davydov revealed that he had been convicted of the crime of Enterprise Corruption, engaging in Insurance Fraud in the State of New York. No action has been taken by the New York Board at this time.

A MOTION WAS MADE BY DR. CALIO, WHICH WAS SECONDED BY MR. TRAIER, TO DENY THE LICENSE APPLICATION BASED UPON A CONVICTION OF A CRIME OF MORAL TURPITUDE THAT REFLECTS UPON THE PROFESSION. THE BOARD AUTHORIZES THE PREPARATION OF A PROVISIONAL ORDER OF DENIAL WHICH WILL PROVIDE DR. DAVYDOV WITH AN OPPORTUNITY TO RESPOND. A VOTE WAS TAKEN AND THE MOTION PASSED WITH ALL MEMBERS PRESENT VOTING IN FAVOR.

## **IX. INQUIRIES**

### **A. Domenick Conte, D.C.**

This matter was reviewed at the July 2005 meeting. In Dr. Conte's original inquiry he asked whether or not it was permissible for a Chiropractor to perform Intra-operative Tests including SSEP's, MEP's, EMG's and ABR's. The tests are not used for the diagnosis or treatment of patients, but to assist a surgeon with information during a case. Dr. Conte's further inquiry indicates that in a surgical setting including the MEP and EMG do not fall within the definition of a diagnostic test, as these monitoring procedures are not intended to assist in establishing a diagnostic or treatment plan.

DR. ATKISSON MADE A MOTION, WHICH WAS SECONDED BY DR. SENATORE, TO RESPOND TO DR. CONTE THAT THE ACTIVITY OUTLINED IN HIS LETTER APPEARS TO BE OUTSIDE THE SCOPE OF PRACTICE OF A CHIROPRACTOR AND THAT BASED UPON HIS TRAINING AND EXPERTISE HE IS NOT FUNCTIONING AS A CHIROPRACTOR IN THIS ROLE. FURTHERMORE, THESE FUNCTIONS ARE TYPICALLY PROVIDED BY TRAINED TECHNICIANS WHOSE SERVICES ARE ENGAGED BY THE OPERATIVE PHYSICIAN OR SURGEON. THE BOARD THEREFORE WOULD HAVE NO JURISDICTION OVER THIS ACTIVITY. DR. CONTE SHOULD BE ADVISED THAT HE SHOULD NOT IDENTIFY HIMSELF AS A CHIROPRACTOR IN THE CONTEXT OF THE PERFORMANCE OF THESE SERVICES. A VOTE WAS TAKEN AND THE MOTION PASSED WITH ALL MEMBERS PRESENT VOTING IN FAVOR.

### **B. INQUIRY OF NESTOR SMITH, ESQ.**

At the September 25, 2005 meeting, the Board reviewed an inquiry from Faisal Hussein, D.C. questioning whether a Chiropractor may be hired by a Non-Chiropractor to work in a Chiropractic office. In the Board's response, it indicated that the arrangement would be contrary to a longstanding position of the Board and supported by the opinion of the Attorney General. Mr. Smith requested that he be provided with a copy of the Board's Proposed Professional Structure Regulations and requested a citation of any regulation adopted by the Board which would prohibit such an arrangement. Mr. Smith indicated that the only limiting section at present would appear at N.J.A.C. 13:44E-2.6, which prohibits the division of fees among licensees and a bona fide employment, partnership or corporate relationship for the delivery of professional services.

Deputy Attorney General Hugelmeyer indicated that he responded to this inquiry and sent Mr. Smith a copy of the referenced opinion from the Attorney General. He was advised that the proposed regulation is currently undergoing legal review.

### **C. INQUIRY OF PAMELA MANDEL, ESQ.**

Ms. Mandel questioned certain billing code practices. The Chiropractor in question performed spinal adjustment as well as manual therapy and received notice from an insurance carrier that code 97140 will not be reimbursed if it is used in the same area as the manual therapy code.

A MOTION WAS MADE BY DR. RADA, WHICH WAS SECONDED BY DR. SENATORE, TO RESPOND TO MS. MANDEL THAT THE BOARD DOES NOT TAKE ANY POSITION WITH RESPECT TO ANY ISSUES RELATED TO THE USE OF CERTAIN BILLING CODES. A VOTE WAS TAKEN AND THE MOTION PASSED WITH ALL MEMBERS PRESENT VOTING IN FAVOR.

## **D. INQUIRY OF CATHERINE KOWALSKI, D.C.**

Dr. Kowalski is interested in providing an Interactive Metronome at her office and asked whether or not the service is in or out of a Chiropractor's scope of practice. She provided a copy of a brochure.

A MOTION WAS MADE BY DR. KOSTINAS, WHICH WAS SECONDED BY DR. RADA, TO REQUEST THAT DR. KOWALSKI PROVIDE MORE INFORMATION INCLUDING RESEARCH INTO THIS MODALITY AND HOW IT IS INCORPORATED INTO CHIROPRACTIC PRACTICE. A VOTE WAS TAKEN AND THE MOTION PASSED WITH ALL MEMBERS PRESENT VOTING IN FAVOR.

## **X. MISCELLANEOUS MATTERS**

### **A. NATIONAL BOARD OF CHIROPRACTIC EXAMINERS: SURVEY RESULT ON RESCINDED CCE-US RECIPROCAL AGREEMENTS WITH FOREIGN DOCTOR OF CHIROPRACTIC PROGRAMS**

This was accepted as informational.

### **B. THE COUNCIL ON CHIROPRACTIC EDUCATION INTERNATIONAL: STATEMENT REGARDING EQUIVALENCE OF THE ACCREDITATION STANDARDS OF CCEI MEMBERS OF ACCREDITING BODIES**

This was accepted as informational.

## **XI. APPEARANCES**

### **A. David Harris, D.C.**

Dr. Harris was the subject of a Consent Order filed on August 11, 2004 in which his license to practice Chiropractic was suspended for a period of five years, the first eighteen months of which shall be served as an active suspension and the balance stayed to serve as a period of probation. Dr. Harris completed the ProBE. The Order further required that prior to resuming active practice, Dr. Harris shall be required to further appear before the Board to determine whether any restrictions shall be placed on his practice.

Dr. Harris was represented by Keith Roberts, Esq., who put his appearance on the record. Dr. Harris was sworn. He testified that he had met all the financial requirements of the Board's Order. When asked of his practice plans, he indicated that his former practice had been transferred to a Dr. Victor Verlezza. He expected to resume ownership and control of that practice. Dr. Harris expressed remorse for his conviction for the use of a runner and the fact that the Board sought to impose penalties on him for this activity. He testified that he could assure the Board that he would not engage in such activity ever again.

UPON A MOTION BY DR. ATKISSON, SECONDED BY DR. RADA, THE BOARD WENT INTO EXECUTIVE SESSION TO DELIBERATE WHILE DR. HARRIS REMAINED OUTSIDE.

UPON RETURNING TO PUBLIC SESSION, A MOTION WAS MADE BY DR. ATKISSON, WHICH WAS SECONDED BY DR. RADA TO PERMIT DR. HARRIS TO RETURN TO THE ACTIVE PRACTICE OF CHIROPRACTIC PROVIDED THAT HE SHALL, AT HIS EXPENSE AND WITH HIS FULL COOPERATION BE MONITORED FOR AT LEAST THE REMAINDER OF THE PERIOD OF PROBATION ESTABLISHED BY THE AUGUST 11, 2004 ORDER OF THE BOARD. SUCH MONITORING SHALL BE PERFORMED BY AFFILIATED

MONITORS INC. OF BOSTON, MASSACHUSETTS AND SHALL BE CONDUCTED RANDOMLY ON AT LEAST A QUARTERLY BASIS INCLUDING DIRECT OBSERVATION OF THE MONITORS IN RESPONDENT'S OFFICE ENCOMPASSING ANY AND ALL TREATMENT BILLING AND RECORD KEEPING AND OFFICE PROCEDURES. THIS ACTIVITY SHALL BE MONITORED FOR COMPLIANCE OF THE STANDARDS MANDATED BY STATUTES AND REGULATIONS GOVERNING THE PRACTICE

OF CHIROPRACTIC. REPORTS SHALL BE PROVIDED TO THE BOARD BY AFFILIATED MONITORS ON AT LEAST A QUARTERLY BASIS FOR THE REMAINING PERIOD OF PROBATION. AFFILIATED MONITORS SHALL REPORT TO THE BOARD ORALLY AND IN WRITING IMMEDIATELY IN ALL CASES WITHIN SEVENTY TWO HOURS OF ANY OCCURRENCE OR BEHAVIOR OBSERVED WHICH AFFILIATED MONITORS IN GOOD FAITH BELIEVES TO BE A VIOLATION OF THE STATUTES AND REGULATIONS GOVERNING CHIROPRACTIC PRACTICE IN NEW JERSEY. A VOTE WAS TAKEN AND THE MOTION PASSED WITH ALL MEMBERS PRESENT VOTING IN FAVOR.

## **ADJOURNMENT**

A MOTION WAS MADE BY DR. KOSTINAS, WHICH WAS SECONDED BY DR. CALIO, 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