

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

**Public Session Minutes  
May 22, 2003**

A meeting of the New Jersey Board of Chiropractic Examiners was held on May 22, 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 Mary- Ellen Rada, D.C., President of the Board at 10:00 AM.

**ATTENDANCE**

**PRESENT:**

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

**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 APRIL 17, 2003**

A MOTION WAS MADE BY DR. O'CONNOR WHICH WAS SECONDED BY DR. ATKISSON TO ACCEPT THE PUBLIC SESSION MINUTES AS PRESENTED. A VOTE WAS TAKEN AND THE MOTION PASSED WITH ALL MEMBERS PRESENT VOTING IN FAVOR.

**II. REPORT OF THE PRESIDENT**

Dr. Rada proceeded to outline some initiatives for the coming year.

A new committee has been formed entitled "The Examination and New Licensee Orientation Committee". Drs. Murphy and O'Connor will serve as co-chairs of the committee and will include Dr. Rada and Dr. Stabile. The committee is charged with the responsibility to evaluate the current jurisprudence examination and make any necessary changes and modifications for approval by the full Board. In addition, modeled after the program initiated by the Massachusetts Board of Chiropractic Examiners, the committee will develop a new licensee orientation program to update its licensees on current statutes and regulations governing chiropractic practice in New Jersey and cover issues such as patient record keeping and risk management.

Dr. Rada has appointed Drs. Atkisson and O'Connor as co-chairs of the Rules and Regulations committee. Drs. Murphy and Rada serving as regular members and an alternating new Board

member to serve on a rotating basis.

The Preliminary Investigation Committee will be co-chaired by Drs. Atkisson and Senatore and consist of Dr. Rada and an alternating new Board member.

The DC/MD/PT Practice Committee or the Multi Disciplinary Committee will be chaired by Dr. Senatore and consist of Drs. Calio, Louro and Stabile.

Dr. Murphy will continue to serve as editor of the newsletter.

Dr. Rada submitted a proposed schedule of committee meetings and urged the committee chairs to make certain that the committees meet on a regular basis and periodically report back to the Board.

### **III. OLD BUSINESS**

#### **A. DISCIPLINARY MATTERS**

##### **1. MICHAEL MANNO, D.C.**

On January 23, 2003 a Provisional Order of Discipline was forwarded to an attorney representing Michael Manno, D.C. On February 11, 2002 Dr. Manno plead guilty in United States District Court to the crime of conspiracy to distribute and possess ketamine. He is currently serving a sentence of twenty-seven months in custody and four years of supervised release as well as a fine of \$6,000. No response was received by the Board to the Provisional Order of Discipline.

A MOTION WAS MADE BY DR. ATKISSON WHICH WAS SECONDED BY DR. O'CONNOR TO AUTHORIZE THE ISSUANCE OF A FINAL ORDER OF DISCIPLINE WHICH WOULD REVOKE DR. MANNO'S LICENSE TO PRACTICE CHIROPRACTIC FOR A MINIMUM PERIOD OF AT LEAST FIVE YEARS. PRIOR TO RESUMING ACTIVE PRACTICE IN NEW JERSEY RESPONDENT SHALL BE REQUIRED TO APPEAR BEFORE THE BOARD TO DEMONSTRATE FITNESS TO RESUME PRACTICE. A VOTE WAS TAKEN AND THE MOTION PASSED WITH ALL MEMBERS PRESENT VOTING IN FAVOR.

##### **2. NICHOLAS ROSANIA, D.C.**

On April 22, 2003 a Provisional Order of Discipline was filed regarding the above captioned respondent based upon a conviction of a crime of conspiracy (N.J.S.A. 2C:5-2); official misconduct (N.J.S.A. 2C:30-2); and bribery in official matters (N.J.S.A. 2C:27C), in Superior Court Essex County. Respondent was sentenced to a custodial term of four years in state prison. On April 30, 2003 a response to the Provisional Order of Discipline was filed by Patrick P. Toscano, Jr., Esq., on behalf of Dr. Rosania in mitigation of penalty noting that the Provisional Order of Discipline which ordered a five year suspension was "too punitive."

A MOTION WAS MADE BY DR. ATKISSON WHICH WAS SECONDED BY DR. O'CONNOR NOTING THAT THE BOARD WAS UNPERSUADED BY ARGUMENTS MADE BY COUNSEL FOR DR. ROSANIA AND AUTHORIZING THE ATTORNEY GENERAL TO ISSUE A FINAL ORDER WITH THE SAME TERMS THE PROVISIONAL ORDER OF DISCIPLINE. A VOTE WAS TAKEN AND THE MOTION PASSED WITH ALL MEMBERS PRESENT VOTING IN FAVOR.

## **C. FEDERATION OF CHIROPRACTIC LICENSING BOARDS ANNUAL MEETING**

Dr. O'Connor submitted a written report of the activities held at the Federation of Chiropractic Licensing Boards meeting, the theme of which was "a world view of ethics in chiropractic regulation." Dr. O'Connor noted that Executive Director Earle had served as the host for the Thursday general session which included presentations by Dr. Joseph D'Oronzio of New Jersey's ProBE program; a lecture by Dr. Steve Forman on a comparative study of disciplinary actions taken by the California Chiropractic and Medical Boards and the annual Joseph Janse lecture which was delivered by Dr. Scott Haldeman.

Dr. Rada noted that Dr. O'Connor was elected as an alternate district director to the Federation's Board of Directors and was appointed to the nominating committee.

Executive Director Earle reported on speakers at the annual Association of Chiropractic Board Administrators meeting which included presentations on sexual boundaries and insurance fraud.

The report was accepted as informational.

## **D. NATIONAL BOARD OF CHIROPRACTIC EXAMINERS ANNUAL MEETING**

Dr. Rada reported on the annual business meeting of the National Board of Chiropractic Examiners which was conducted on May 2, 2003. The changes in the by-laws were approved. Drs. Vernon Temple and Rick Murphree were re-elected as District III and V directors respectively.

## **IV. GENERAL INQUIRIES**

### **A. JOSEPH M. DIORIO, D.C./ WESTFIELD SPINE CENTER**

Dr. Diorio submitted an inquiry concerning employing a physical therapist either as an employee or an independent contractor and presented four different scenarios requesting whether or not the arrangements were legal. After consulting with the Deputy Attorney General it was noted that the Board should respond to Dr. Diorio suggesting that he consult with competent legal counsel and have legal counsel review two specific statutory provisions and regulatory provisions on referral fees and overutilization.

A MOTION WAS MADE BY DR. CALIO WHICH WAS SECONDED BY DR. STABILE TO RESPOND AS NOTED ABOVE. A VOTE WAS TAKEN AND THE MOTION PASSED WITH ALL MEMBERS PRESENT VOTING IN FAVOR.

### **B. ROBERT J. REINHARDT, D.C.**

Dr. Reinhardt is following up with an earlier correspondence regarding referral of patients of chiropractors to acupuncturists. He noted that the Acupuncture Board had expressed no objection to this referral arrangement noting that chiropractors can be classified as physicians but would not qualify to actually perform acupuncture based upon 300 hours of training as the acupuncture statute requires that only an MD, DO or Dentist are permitted to perform acupuncture with this level of training. The Board generally agreed with Dr. Reinhardt's position.

A MOTION WAS MADE BY DR. MURPHY WHICH WAS SECONDED BY DR. ATKISSON TO

RESPOND TO DR. REINHARDT AFFIRMING HIS POSITION AND NOTIFYING THAT CHIROPRACTORS ARE NOT QUALIFIED TO PERFORM ACUPUNCTURE UNLESS THEY RECEIVE FULL LICENSURE BY THE BOARD OF ACUPUNCTURE EXAMINERS. CHIROPRACTORS MAY NOT QUALIFY BASED UPON THE 300 HOURS OF INSTRUCTION WHICH IS SPECIFICALLY LIMITED TO MDs, DOs, AND DENTISTS. A VOTE WAS TAKEN AND THE MOTION PASSED WITH ALL MEMBERS PRESENT VOTING IN FAVOR.

### **C. INQUIRY OF JOSEPH GORRELL, ESQ. BILLING FOR TECHNICAL COMPONENT OF DIAGNOSTIC TESTS**

Mr. Gorrell submitted a letter dated May 9, 2003 providing his interpretation of the Board's Diagnostic Testing Regulations as set forth in N.J.A.C. 13:44E-3.2 and suggesting that if a company provides a technician to offer diagnostic testing in a chiropractor's office the diagnostic testing company may bill for the professional component of the test and the chiropractor may bill for the technical component.

The discussion ensued with the Deputy Attorney General noting that the Board's interpretation of the regulation is quite different from Mr. Gorrell's interpretation.

A MOTION WAS MADE BY MR. FAULKNER WHICH WAS SECONDED BY DR. STABLE TO REQUEST DEPUTY ATTORNEY GENERAL HUGELMEYER TO DRAFT A RESPONSE TO MR. GORRELL PROVIDING A CLEAR INTERPRETATION OF THE BOARD'S DIAGNOSTIC TESTING REGULATIONS. A VOTE WAS TAKEN AND THE MOTION PASSED WITH ALL MEMBERS PRESENT VOTING IN FAVOR.

### **V. ENDORSEMENT**

#### **EMILIO PAEZ**

The Board reviewed the application of Dr. Paez who is a 1994 graduate of New York chiropractic college with no disciplinary actions and a license in New York.

A MOTION WAS MADE BY DR. O'CONNOR WHICH WAS SECONDED BY DR. ATKISSON TO APPROVE DR. PAEZ FOR LICENSURE BY ENDORSEMENT. A VOTE WAS TAKEN AND THE MOTION PASSED WITH ALL MEMBERS PRESENT VOTING IN FAVOR.

### **VI. PUBLIC COMMENT**

Representatives of the New Jersey Chiropractic Society asked whether the Board's Regulations Committee would be dealing with the nutrition issue. It was reported that a schedule for the Regulations Committee has now been established and the Board would be receiving the recommendation from that Committee in the next few months.

### **ADJOURNMENT**

A MOTION WAS MADE BY MR. TRAIER WHICH WAS SECONDED BY DR. SENATORE TO GO INTO EXECUTIVE SESSION TO REVIEW PENDING DISCIPLINARY MATTERS AND CONSUMER COMPLAINTS. THE MOTION PASSED WITH ALL MEMBERS PRESENT VOTING IN FAVOR. THE MEETING WAS ADJOURNED AT 11:25 AM.

