

**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 24, 2007**

A meeting of the New Jersey Board of Chiropractic Examiners was held on May 24, 2007 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 Albert Stabile, D.C., President of the Board, at 9:30 AM.

ATTENDANCE

PRESENT: Drs. Senatore, Murphy, Calio, Kostinas , Krouse, O'Connor, Spadafino, Stabile, and Mr. Traier

EXCUSED: Dr . Rada

ALSO PRESENT: DAG John Hugelmeyer, Executive Director Kevin Earle, Recording Secretary Sonya Liverpool, and Paralegal Marc DeCarlo

I. APPROVAL OF THE PUBLIC SESSION MINUTES OF APRIL 26, 2007

A MOTION WAS MADE BY DR. O'CONNOR, WHICH WAS SECONDED BY DR. KOSTINAS, TO APPROVE THE PUBLIC SESSION MINUTES OF APRIL 26, 2007 MEETING AS AMENDED. A VOTE WAS TAKEN, AND THE MOTION PASSED WITH ALL MEMBERS PRESENT VOTING IN FAVOR.

II. ANNOUNCEMENTS

A. EXECUTIVE DIRECTOR KEVIN B. EARLE

Executive Director Earle announced to the Board that he would be leaving his position with the State of NJ and will be accepting a position as the Executive Director of the Arizona Board of Dental Examiners in Phoenix, Arizona commencing on July 16, 2007.

B. PRESENTATION

Dr. Murphy was requested to come forward to accept a plaque for recognizing him for his service as president of the Board of Chiropractic Examiners.

C. COMMITTEE ASSIGNMENTS

Dr. Stabile announced that he was circulating a list of committees and requested Board members to indicate their preferences for committee assignments for the next year. Appointments will be made at the June meeting.

III. OLD BUSINESS

A. PROPOSED REGULATIONS: PERMISSIBLE PRACTICE STRUCTURES

The comment period on the Board's Proposed Regulations on Permissible Practice Structures closed on April 6,

2007. Four comments were received. Regulatory Analyst Patricia Schiripo, was available to assist the Board in its response to comments.

The Board receives a comment from chiropractor Anthony Cifelli asking in a partner situation, where one of the partners is a chiropractor and one of the partners is an allied healthcare professional such as an M.D. or D.O., is there a minimum level of partnership acceptable to the Board. The Board responded that the proposed rule sets no minimum level of partnership for the chiropractor. Other disciplines must conform to the mandates of their own Boards or regulatory agencies with regards to the business structures in which they practice.

The Board received supportive comments from the Association of NJ Chiropractors and the New Jersey State Board of Physical Therapy Examiners and will thank the commenters for their support.

The Orthotics and Prosthetics Board of Examiners requested that the language of the proposed new rule include their licensees within the definition of " closely allied healthcare professionals." After discussing the matter, the Board determined to send this comment to its Rules & Regulations Committee to examine the relationship between the Orthotics and Prosthetics profession and the Chiropractic profession to determine whether those licensees would be an appropriate group to include in future rule making. It was noted that if the Board were to amend the rule at this stage, any amendment would be considered "substantive" and would require that the rule be re-published for comment.

A MOTION WAS MADE BY MR. TRAIER, WHICH WAS SECONDED BY DR. CALIO, TO ACCEPT THE RESPONSES TO COMMENTS AS OUTLINED ABOVE AND TO ADOPT THE REGULATION AND SUBMIT IT FOR PUBLICATION IN THE NEW JERSEY REGISTER. A VOTE WAS TAKEN AND THE MOTION PASSED WITH ALL MEMBERS PRESENT VOTING IN FAVOR.

B. COMMITTEE ON EXTRA SPINAL MANIPULATION

At the last Board meeting, the Board charged an Ad-Hoc Committee consisting of Drs. O'Connor, Stabile, Calio and Senatore to meet with Deputy Attorney General Hugelmeyer to explore the issues raised at the April meeting and to determine if it is possible to have the Attorney General join the appeal to be submitted to the NJ Supreme Court in the matter of Bedford vs. Riello as an amicus curiae. The Board was advised that a meeting had been held with representatives of the Association of New Jersey Chiropractors to include the Acting Director of Consumer Affairs and representatives of the Division of Law and the Director's Office staff. After evaluating the Bedford decision, the members of the association was advised that it did not appear likely that the Attorney General would join in the appeal. The Board members were also advised of this determination.

On Tuesday May 15, 2007 Drs. Stabile and O'Connor were available to meet with Executive Director Earle and DAG Hugelmeyer to discuss recommendations with regard to this matter. The Committee focused on developing alternative language to the current scope of practice that would clarify the ambiguities in the current statutory scope of practice, and address the Extra Spinal issue consistent with what has been the Boards relatively consistent interpretation. The Committee noted that a critical service to patients is now being removed from a chiropractor's armamentarium. The Committee believes that the loss of these procedures, that are complimentary to the Spinal adjustment will undermine the confidence of patients. The Committee also recognizes that all chiropractors are trained and tested to perform these procedures and that the incorporation of extra spinal manipulation is consistent with the contemporary practice of chiropractic across the country.

The Committee also recommended that if an amendment to the scope of practice were pursued with the State Legislature, the Association ought to pursue some form of amnesty for chiropractors who were practicing in reliance on the Board's past interpretations of the scope of practice, which required a chiropractor to demonstrate the relationship of the extra spinal manipulation to the spine.

Proposed language recommended by the Committee was reviewed by the full Board. It was noted that should the Board vote to propose a statutory change, it would be presented to the Office of the Director and the Attorney General's office for their assistance in seeking sponsorship and passage of this legislation. After some discussion, the following language was developed:

"The practice of Chiropractic is defined as: A system of adjusting the articulations of the spinal column and clinically related extra spinal articulations, by the manipulation thereof, for the removal of subluxation, articular dysfunction, and/or nerve interference and the stabilization of the neuro-musculoskeletal system"

A MOTION WAS MADE BY DR. KROUSE, WHICH WAS SECONDED BY DR. KOSTINAS, TO RECOMMEND THE LANGUAGE AS OUTLINED ABOVE AND TO SEEK THE ASSISTANCE OF THE DIRECTOR'S OFFICE AND THE ATTORNEY GENERAL TO OBTAIN SPONSORSHIP AND PASSAGE OF LEGISLATION TO MODIFY THE SCOPE OF PRACTICE. A VOTE WAS TAKEN WITH SIX MEMBERS IN FAVOR, TWO OPPOSED (DRS. SPADAFINO AND CALIO), AND ONE ABSTENTION (MR. TRAIER). THE MOTION PASSED.

C. FEDERATION OF CHIROPRACTIC LICENSING BOARDS: REPORT ON THE ANNUAL MEETING

Dr. O'Connor submitted a report from the annual meeting of the Federation of Chiropractic Licensing Boards. This was accepted as informational.

D. NATIONAL BOARD OF CHIROPRACTIC EXAMINERS: REPORT ON THE ANNUAL MEETING

Dr. Rada submitted a written report on the annual meeting but was not present to discuss the results of that meeting. This was accepted as informational.

E. NEW LICENSE ORIENTATION & JURISPRUDENCE EXAMINATION ANNUAL MAINTENANCE CONTRACT

A MOTION WAS MADE BY DR. CALIO, WHICH WAS SECONDED BY DR. SENATORE, TO APPROVE THE ANNUAL MAINTENANCE CONTRACT FOR WEBPOSTING SERVICES FOR THE BOARDS NEW LICENSEE ORIENTATION & JURISPRUDENCE EXAMINATION. A VOTE WAS TAKEN AND THE MOTION PASSED WITH ALL MEMBERS PRESENT VOTING IN FAVOR.

IV. MISCELLANEOUS INQUIRIES

A. ROY F. JACKSON, D.C.

Dr. Jackson submitted an inquiry concerning the performance of Nerve Conduction Velocity Tests and Needle EMG's. Specifically, Dr. Jackson asked whether a Nerve Conduction velocity test would be accepted as a "stand alone test" noting that a colleague has insisted that a N.V. should not be performed unless a Needle EMG is done on the same day.

The Board noted that the answer to this question would depend upon patient's clinical presentation and the results of an appropriate examination. Such a clinical examination would determine the need for certain diagnostic tests depending on the patient's clinical presentation. Each test would isolate the area of involvement to identify the source of the patient's problem. Dr. Jackson should be referred to the language of the Board's rules at N.J.S.A. 13:44E-3.2(c)5 noting that tests should not be performed unless they yield data of sufficient clinical value to be useful in a diagnosis.

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

ADJOURNMENT

A MOTION WAS MADE BY MR. TRAIER, WHICH WAS SECONDED BY DR. KOSTINAS, TO GO INTO EXECUTIVE SESSION TO REVIEW PENDING DISCIPLINARY MATTERS & 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