



**State of New Jersey
Division of Consumer Affairs
Board of Chiropractic Examiners
Public Session Minutes
July 25, 2002**

A meeting of the New Jersey Board of Chiropractic Examiners was held on July 25, 2002 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 at 9:50AM by Board President Brian Atkisson

ATTENDANCE:

Drs. Atkisson, Apuzzio, Murphy, O'Connor, Rada, Senatore and Winters. Public Members Ken Faulkner and John Traier

ABSENT:

Dr. Stetzel

ALSO PRESENT:

DAG John Hugelmeyer and Executive Director Kevin Earle

I. APPROVAL OF THE PUBLIC SESSION MINUTES OF JUNE 27, 2002.

A MOTION WAS MADE BY DR. O'CONNOR WHICH WAS SECONDED BY MR. TRAIER TO ACCEPT THE MINUTES OF JUNE 27, 2002 AS AMENDED. A VOTE WAS TAKEN AND THE MOTION PASSED WITH ALL MEMBERS PRESENT VOTING IN FAVOR. DR. ATKISSON ABSTAINED FROM THE VOTE IN THIS MATTER.

II. OLD BUSINESS

A. STATUS OF LIFE UNIVERSITY

Executive Director Earle advised the Board that it has been reported that Life University has submitted an appeal of the accreditation decision of the Council of the Committee on Accreditation of the Council on Chiropractic Education. He also reported that there have been changes in the leadership of Life University and Michael Schmidt, D.C. has been appointed the Interim President of Life University effective July 15, 2002. It could not be anticipated as to when the Committee on Accreditation will make a decision with respect to the appeal.

B. INQUIRY OF MARGARET M. DILLON, D.C.

Dr. Dillon submitted a letter dated June 20, 2002. Dr. Dillon reported that the Board of Veterinary Medical Examiners had voted to deny the petition for rulemaking submitted by Dr. Dillon to remove the term "Animal Chiropractic" from Board Regulations at N.J.A.C. 13:44-3.1. Dr. Dillon submitted information on two court cases which she believed related to this issue. Dr. Dillon asked whether the Board of Veterinary Medicine was permitted to revise its current veterinary practice without going to the legislature. Deputy Attorney General Hugelmeyer reported that the Deputy Director of the Division of Consumer Affairs had asked for a legal opinion with respect to the use of this term. Deputies in the Division of Law were collaborating on this issue. No decisions have been made with respect to the authority of the Veterinary Board to use the term chiropractic. Since this involves an area of conflict between two professional disciplines it is up to the Director's office of the Division of Consumer Affairs in consultation with the Division of Law to resolve the issue. The Board was advised that it is outside of its authority to deal with this issue.

C. PROPOSED REGULATIONS: PRESCRIPTIONS OF ELECTROTHERAPY DEVICES FOR HOME USE.

The Board reviewed a draft of the proposed amendments to the regulations which would specifically revise the regulations on delegable tasks to unlicensed assistants at N.J.A.C. 13:44E-2.7 to specifically prohibit the delegation of the use of electrotherapy devices including interferential powered by alternating current as a delegable task to an unlicensed assistant. In addition, the regulation proposed a change at N.J.A.C. 13:44E-2.7A which defines the conditions under which electrotherapy devices can be prescribed for home use. It was suggested that a definition of electrotherapy devices be included in the regulation as follows:

"Electro therapy devices" means devices which generate an electrical current applied to the skin via an electrode to cause a physiological effect, which shall include TENS, EMS or interferential.

It was also determined that it was necessary to further refine the definition of an electric muscle stimulation (EMS) device to determine the use of such a device. Board members recommended that the term "EMS device" be applied to devices which are used for "reduction of muscle spasm."

The regulation also should read, a licensee shall not prescribe an electrotherapy device for home use which either uses an AC electrical current or is an interferential device which crosses two medium frequency currents.

Under the listing of instructions for home use, it was recommended that the phrase "precautions against misuse of the unit" should include the phrase "including the use of the device for any purpose other than that for which it was prescribed."

In the section dealing with the instructions provided to the patient as to where the device should not be applied over, it was recommended that in the section reading "over tissue or blood vessels vulnerable to hemorrhage," the term "or inflammation" should be added. An additional subsection should indicate that the device should not be applied over a malignancy.

AFTER FURTHER DISCUSSION, A MOTION WAS MADE BY MR. FAULKNER WHICH WAS SECONDED BY DR. MURPHY TO APPROVE THE REGULATION FOR PUBLICATION AS A PROPOSAL SUBJECT TO COMMENT IN THE NEW JERSEY REGISTER. A VOTE WAS TAKEN AND THE MOTION CARRIED WITH ALL MEMBERS PRESENT VOTING IN FAVOR.

D. PROPOSED REGULATIONS: INDEPENDENT CHIROPRACTIC EXAMINATIONS

Regulatory Analyst Jake Gertsman indicated that a draft of the Independent Chiropractic Examination regulation will be available for the Board's review at its September meeting.

III. NEW BUSINESS

A. FEDERATION OF CHIROPRACTIC LICENSING BOARDS REGIONAL MEETING

A regional meeting of the Federation of Chiropractic Licensing Boards will occur on October 3-6, 2002 in Asheville,

North Carolina. Board members were requested to provide guidance on any issues that need to be placed on the agenda for discussion. Dr. Atkisson appointed Dr. O'Connor as the delegate from the New Jersey Board for the meeting. Unfortunately travel restrictions currently in place only permit one individual to attend each meeting. Board members were also advised that the Federation of Chiropractic Licensing Boards will be inviting College Presidents in the area of each district to attend or send observers to the District meeting.

B. FCLB UPDATE

Executive Director Earle reported that he had participated in his first meeting as the Executive Fellow Member of the Federation's Board on July 10, 2002. A number of issues were discussed including the viability of placing Board meeting minutes on the FCLB website. The FCLB Board determined that that would be done so that member Boards could be aware of discussion and plans for the FCLB.

C. DEPARTMENT OF BANKING AND INSURANCE

Dr. Atkisson reported that he had participated in what is now known as the Commissioners advisory Committee on Personal Injury Protection. He reported that there appears to be some effort to make some changes in the Care Pathways. Dr. Atkisson expressed some concern that it appeared that an effort had been initiated to impose further restrictions on the care pathways. Dr. Atkisson had questioned whether data had been provided by the insurance carriers that would evidence any cost savings that had been generated from the AICRA reforms. It was suggested that a request be forwarded to the Department of Banking and Insurance specifically asking that question to determine if utilization patterns had significantly changed after the institution of the reforms in 1999.

A MOTION WAS MADE BY DR. RADA WHICH WAS SECONDED BY MR. TRAIER TO SEND SUCH AN INQUIRY TO THE DEPARTMENT OF BANKING AND INSURANCE. A VOTE WAS TAKEN AND THE MOTION PASSED WITH ALL MEMBERS PRESENT VOTING IN FAVOR.

IV. ENDORSEMENT

A. RICHARD J. MATUSZCZAK, D.C.

Dr. Matuszczak is a 1986 graduate of Palmer Chiropractic College and is currently licensed in both Massachusetts and Connecticut. Licenses are current and in good standing. State Board examination taken in Massachusetts in 1987 was deemed equivalent to the New Jersey examination. A CIN-BAD search has turned up no derogatory information on Dr. Matuszczak.

A MOTION WAS MADE BY DR. WINTERS WHICH WAS SECONDED BY DR. O'CONNOR TO APPROVE DR. MATUSZCZAK'S APPLICATION 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.

B. DEBBIE ANN SKJAVELAND, D.C.

Dr. Skjaveland was a 1999 graduate of Canadian Memorial Chiropractic College, an institution that has previously been approved by the Board and took the National Canadian Licensure Boards in October 1999 and is currently licensed in province of Saskatchewan. The Canadian Board consists of a cognitive skills exam and clinical skills exam. The Board determined that information concerning the Canadian Exam was insufficient to make a determination in this matter and instructed the Board office to get additional information concerning the Canadian Boards in order to evaluate this matter further.

A VOTE WAS MADE BY DR. WINTERS WHICH WAS SECONDED BY MR. TRAIER TO TABLE CONSIDERATION OF THIS APPLICATION PENDING RECEIPT OF THE INFORMATION OUTLINED ABOVE. A VOTE WAS TAKEN AND THE MOTION PASSED WITH ALL MEMBERS PRESENT VOTING IN FAVOR.

V. DISCIPLINARY ACTIONS FILED

A. SCOTT J. SCHEMANSKI, D.C.

Administrative Action Complaint Filed on June 27, 2002, alleging engaging in the practice of chiropractic while unlicensed; unlawful solicitation of patients; allowing unlicensed persons to engage in providing professional healthcare services; billing for services not rendered; failure to maintain proper patient records; negligent patient care and prescribing sham diagnostic testing; failure to comply with a Board Subpoena; failure to comply with Board regulations on professional identification; engaging in an impermissible practice structure. Complaint seeks suspension or revocation of license plus other penalties and costs.

B. MICHAEL J. SHERMAN, D.C.

Settlement letter in lieu of Filing Formal Disciplinary Action Filed on June 13, 2002 for overutilization of SEMG's; failing to document orders for testing and failure to incorporate the results into the patient record and failure to document physical therapy consultations and instructions in the patient record. Formal reprimand; cease and desist in violations; penalties of \$9,000 and costs of \$287.50.

ADJOURNMENT

A MOTION WAS MADE BY DR. WINTERS WHICH WAS SECONDED BY DR. RADA TO GO INTO EXECUTIVE SESSION TO CONSIDER PENDING DISCIPLINARY MATTERS, INVESTIGATIONS AND TO CONDUCT ONE INVESTIGATIVE INQUIRY. A VOTE WAS TAKEN AND THE MOTION PASSED WITH ALL MEMBERS PRESENT VOTING IN FAVOR. THE PUBLIC SESSION OF THE MEETING WAS ADJOURNED AT 12:15 PM.

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