

**STATE OF NEW JERSEY  
DIVISION OF CONSUMER AFFAIRS  
BOARD OF CHIROPRACTIC EXAMINERS  
PUBLIC SESSION MINUTES  
SEPTEMBER 15, 2005**

A meeting of the New Jersey Board of Chiropractic Examiners was held on September 15, 2005 at the State Office Building, 124 Halsey Street, 7th 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 Louro, D.C., President of the Board at 9:35 A.M.

**ATTENDANCE**

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

**EXCUSED:** Dr. Rada

**ALSO PRESENT:** DAG John Hugelmeyer, Executive Director Kevin Earle, recording secretary Maria Lado and Venus Hall, Government Representative.

**I. APPROVAL OF THE PUBLIC SESSION MINUTES OF JULY 21, 2005 MEETING**

A MOTION WAS MADE BY DR. O'CONNOR WHICH WAS SECONDED BY DR. SENATORE TO APPROVE THE PUBLIC SESSION MINUTES OF JULY 21, 2005 AS AMENDED. A VOTE WAS TAKEN AND THE MOTION PASSED WITH ALL MEMBERS PRESENT VOTING IN FAVOR.

**II. OLD BUSINESS**

**A. LARRY S. CASE, D.C.**

Dr. Case submitted a letter dated July 20, 2005. Dr. Case was requesting that the Board consider making a statement in writing that if he successfully completes a psychological exam (which has already been completed); successfully completed that SPEC exam for which he is present studying; and if he completes the Board's jurisprudence examination, that he will receive an independent chiropractic license.

A MOTION WAS MADE BY DR. CALIO WHICH WAS SECONDED BY DR. KOSTINAS TO RESPOND TO DR. CASE TO INDICATE THAT THE BOARD'S POSITION WAS PREVIOUSLY ARTICULATED IN ITS MARCH 23, 2004 LETTER SIGNED BY EXECUTIVE DIRECTOR EARLE. THE BOARD CANNOT GUARANTEE INDEPENDENT PRACTICE. WITH RESPECT TO THE ISSUE OF A PREVIOUSLY PAID REGISTRATION FEE THE BOARD'S ADMINISTRATIVE OFFICE WILL DETERMINE WHETHER OR NOT THE PREVIOUSLY PAID FEES CAN BE APPLIED TO OTHER CURRENT REGISTRATION. A VOTE WAS TAKEN AND THE MOTION PASSED WITH ALL MEMBERS PRESENT VOTING IN FAVOR.

**B. RICHARD COLLINS, D.C.**

The Board reviewed correspondence with attachments submitted by Zulima B. Farber, Esq. on behalf of Dr. Collins indicating that Dr. Collins has now completed the required continuing education as required by the settlement letter entered into by Dr. Collins on August 2, 2001.

A MOTION WAS MADE BY DR. STABILE WHICH WAS SECONDED BY DR. CALIO TO DIRECT A LETTER TO DR. COLLINS AND HIS ATTORNEY INDICATING THAT THE TERMS AND CONDITIONS OF THE SETTLEMENT LETTER HAVE NOW BEEN SATISFIED. A VOTE WAS TAKEN AND THE

MOTION PASSED WITH ALL MEMBERS PRESENT VOTING IN FAVOR.

C. ANDREW SECHTIN, D.C.

The Board reviewed correspondence submitted by Louis E. Baxter, Sr., M.D., Executive Medical Director of the Professional Assistance Program of New Jersey advocating the return of Dr. Sechtin's license under certain conditions. It was noted that the Board's order required that certain treatment records be provided to the Board.

A MOTION WAS MADE BY DR. STABILE WHICH WAS SECONDED BY DR. ATKISSON TO REQUIRE DR. SECHTIN'S APPEARANCE BEFORE THE FULL BOARD AND TO OBTAIN THE TREATMENT RECORDS PRIOR TO THAT APPEARANCE. A VOTE WAS TAKEN AND THE MOTION PASSED WITH ALL MEMBERS PRESENT VOTING IN FAVOR.

### **III. NEW BUSINESS**

#### **A. COMMITTEE APPOINTMENTS**

Dr. Louro submitted his appointments for Board Committees for the following year as follows. Board members were reminded that no more than six members could attend any Committee meeting, as this would constitute a quorum of the full Board which would require notice to the public, for the Rules and Regulations Committee, Dr. Louro would act as an alternate to ensure that no more than six persons attended the meeting.

#### **B. 2006 MEETING DATES**

The Board voted to approve its meeting dates for 2006 as follows:

January 19, 2006

February 16, 2006

March 16, 2006

April 20, 2006

May 18, 2006

June 15, 2006

July 20, 2006

August \*No Meeting\*

September 21, 2006

October 19, 2006

November 16, 2006

December 21, 2006

#### **C. NBCE JULY MONTHLY REPORT**

THIS WAS ACCEPTED AS INFORMATIONAL

#### **D. CCE REAFFIRMATION OF ACCREDITATION ANNOUNCEMENT**

The Commission on Accreditation at its semi-annual meeting of July 6-8, 2005 took action to re-affirm the accreditation of Northwestern Health Sciences University, College of Chiropractic.

THIS WAS ACCEPTED AS INFORMATIONAL

#### **E. MILWAUKEE JOURNAL SENTINEL ARTICLE**

"CHIROPRACTORS HAVE TO REVEAL RISKS, COURT RULES"

THIS WAS ACCEPTED AS INFORMATIONAL

#### **F. DEPARTMENT OF BANKING AND INSURANCE**

## PROPOSED PHYSICIANS' PIP FEE SCHEDULE AMENDMENTS

The Board reviewed a new draft dated August 29, 2004 of certain amendments to the Physician's PIP fee schedule which was reported to be a "substantial revision" to the previously issued July 8 draft. Commissioner Bryan noted that certain classes of providers had provided additional fee information. Of particular note was that the daily maximum for physical therapy and chiropractic care will be increased to \$99 above the current \$90.

Dr. Atkisson reported that at the July 21, 2005 PIP-TAC meeting the use of decompression therapies such as VAX-D and DRX will be coded as "powered traction therapy." Dr. Senatore and Dr. Atkisson were requested to collaborate on a draft comment regarding this interpretation.

In addition Dr. Louro has appointed Dr. Calio to serve as alternate to the PIP-TAC committee should Dr. Atkisson not be able to attend.

## G. FEDERATION OF CHIROPRACTIC LICENSING BOARDS - DISTRICT MEETING

Dr. O'Connor reminded Board members that New Jersey will be hosting the District meeting for Districts III and V for the Federation of Chiropractic Boards. The meeting will be held September 30 and October 1, 2005 at the Hyatt on the Hudson in Jersey City. A welcome reception will be held on Friday evening and all Board members are encouraged to attend and meet their counterparts from other jurisdictions.

## IV. CORRESPONDENCE/INQUIRIES

### A. LEE S. BEEFLER, ESQ.

Executive Director Earle noted that Mr. Beebler had submitted correspondence dated May 10, 2005 that was considered on the June 16, 2005 meeting regarding chiropractors submitting bills under CPT code 98943, and extra spinal manipulation. Executive Director Earle noted that the Board's response as articulated in those minutes only indicated that the Board has no regulations prohibiting the use of such codes. However, Mr. Earle suggested that the Board add a certain qualifying language as it has in the past with respect to extra spinal manipulations that the clinical record demonstrate a nexus between the extra spinal condition and the spine or vice versa, demonstrate a spinal condition was caused by an extra spinal condition.

**A MOTION WAS MADE BY DR. CALIO WHICH WAS SECONDED BY DR. SENATORE TO RESPOND TO MR. BEEFLER AS OUTLINED ABOVE. A VOTE WAS TAKEN AND THE MOTION PASSED WITH ALL MEMBERS PRESENT VOTING IN FAVOR.**

### B. MICHAEL GACCIONE, D.C.

Dr. Gaccione has inquired as to whether it is permissible for a neurologist to come to his office to perform needle EMGs and NCV testing on his patients. He noted that he is not certified in electro diagnostic testing and the doctor is not a partner or shareholder of his corporation. DAG Hugelmeyer pointed out that the provisions of N.J.A.C. 13:44E-3.9 was meant to address the issue of "mobile testing services" and prohibits a referral to another practitioner specifically for testing. It was pointed out that the plenary licensed physician, in this case a neurologist, should independently determine the need for certain neurological tests and therefore a referral should be made to the physician for a neurological consult. That medical practitioner should have a completely independent practice and if the neurologist is regularly to perform such services in the practice then an arrangement should be made to rent space to that practitioner at market rates.

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

### C. FAISAL HUSSAIN, D.C.

Dr. Hussain has questioned whether a chiropractor may be hired by a non-chiropractor to work in a chiropractic office or whether a chiropractor may refer a patient to an acupuncturist. With regard to the first question, chiropractors may not be employed by non-healthcare professionals. This has been a position of long standing supported by an Attorney General's opinion and will be articulated in the Board's Proposed Professional Structures Regulations.

With respect to the second question, the Board has addressed the issue of acupuncturists referrals in the past and has done so in conjunction with the Acupuncture Examining Board. Both Boards have independently determined that chiropractors are considered physicians with respect to the requirements for referrals. Executive Director Earle, who also serves as the Executive Director of the Acupuncture Examining Board, noted that the Acupuncture Board is currently developing an amendment to its regulations to explicitly identify chiropractors as "physicians" for the purposes of referral.

#### D. JOSEPH A. MASSOOD, ESQ.

Mr. Massood has sent an inquiry indicating that a major healthcare company has interpreted the Board's patient record rule at section A9 to require a full "SOAP" analysis for each and every treatment or service performed. The Board opined that a SOAP analysis (Subjective findings, Objective findings, Assessment and Plan) does not have to be performed for each particular procedure or service performed on each day of service. The gathering of subjective and objective findings and the assessment thereof should ultimately result in a plan that would include any of the treatments or services performed on that date of service.

#### E. ANDREW RODGERS, D.C.

This matter has been moved into Executive Session.

#### F. STEWART ROSTON, D.C.

Dr. Roston has submitted a question regarding insurance reimbursement for MUA procedures. The Board noted that it does not opine on insurance reimbursement issues or whether certain types of healthcare professionals should be reimbursed for certain services. Dr. Roston should be directed to various outside associations to address this issue and the complaint should be referred to the Department of Banking and Insurance on reimbursement issues.

#### G. JASON WEBER, D.C.

Dr. Weber has submitted an inquiry about chiropractic physicians rendering opinions in the context of review activities working for insurance carriers alleging that when reviewing files and making medical decisions they are working out of state. The Board noted that it has attempted to address this issue in the past through regulation. The Board's jurisdiction is limited to its own licensees and therefore the Board has established regulations governing patient record review and the performance of independent chiropractic examinations. Dr. Weber should be directed to a member of the State legislature to address this issue.

#### H. INQUIRY OF SYBARITIC, INC./TRACY L. WARNER, LAW CLERK PARALEGAL

Tracy L. Warner, Law Clerk/Paralegal with the above noted corporation asked whether chiropractors in New Jersey can use "Intense Pulse light Technology or IPL. No additional information was provided. The administrative office will contact Ms. Warner to identify the type of device. (Note following the Board meeting, Executive Director Earle contact Ms. Warner who indicated that this technology is used for laser hair removal.)

#### I. CELESTE A. WINE, D.C.

Dr. Wine has asked whether or not there is any way in which she as a Pennsylvania licensed chiropractor could own a chiropractic center in New Jersey. Dr. Wine should be advised that the practice of chiropractic in New Jersey requires that such practices be owned and operated by New Jersey licensed chiropractors, therefore the

ownership she proposes would be impermissible.

## J. ANONYMOUS INQUIRY - PT AND CHIROPRACTIC REFERRALS

The Board received a faxed inquiry from a chiropractor who was not identified indicating that he has entered into an LLC with another chiropractor. He practices with a physical therapist in one facility and the partner is questioning whether he can refer the patients from his chiropractic practice located at another facility.

THE BOARD OPINED THAT THERE IS INSUFFICIENT INFORMATION PROVIDED IN THIS INQUIRY TO PROVIDE GUIDANCE ON THIS ISSUE.

## V. APPLICATIONS

### A. JEFFREY C. BILLINGS, D.C.

Dr. Billings is a 2003 graduate of New York Chiropractic College and passed parts I, II, III and IV. Dr. Billings is licensed in Pennsylvania. Dr. Billings answered yes to the question regarding prior arrests and provided information concerning a 1991 action which occurred when he was a juvenile. This information also appeared on the criminal history background check. The Board upon review of this matter deemed the offense not to be a bar to licensure.

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

### B. ALI M. JAFARI, D .C.

\*\* Dr. O'Connor was recused from consideration in this matter.

The Board reviewed an application from the above noted applicant who is a 1980 graduate of Palmer College of Chiropractic and is currently licensed and in good standing in New York, Pennsylvania and Massachusetts. Dr. Jarari was licensed in NY after taking the National Boards which at the time was offered in nine parts. All sections were not passed. Research on this issue indicates that at the time National Board examinations were purchased by individual states and the grading criteria for licensure was an averaging of the individual scores of the separate sections.

A MOTION WAS MADE BY DR. SENATORE WHICH WAS SECONDED BY DR. STABILE TO APPROVE D. JAFARI'S APPLICATION FOR LICENSE 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. N

### C. JOHN A. MARINO, D.C.

Dr. Marino is a 1994 graduate of Palmer Chiropractic College and is licensed in good standing in Pennsylvania and has completed Parts I, II, III and IV of the National Boards. Dr. Marino had a malpractice case for which he provided an explanation.

A MOTION WAS MADE BY DR. STABILE WHICH WAS SECONDED BY DR. O'CONNOR TO APPROVE DR. MARINO 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.

### D. DIANE E. ROSENBERG-DEVITO, D.C.

Dr. Devito is a 1993 graduate of Los Angeles Chiropractic College who has been licensed in New York since 1993 via the New York Examination.

A MOTION WAS MADE BY DR. O'CONNOR WHICH WAS SECONDED BY DR. CALIO TO APPROVE DR. DEVITO BY ENDORSEMENT SUBJECT TO THE SUCCESSFUL COMPLETION OF THE JURISPRUDENCE EXAMINATION. A VOTE WAS TAKEN AN THE MOTION PASSED WITH ALL MEMBERS PRESENT VOTING IN FAVOR.

E. JAN W. KASPROWICZ, D.C.

Dr. Kasrowicz in an application for licensure by examination and is a 2001 graduate of NYCC. He has completed parts I, II, III and IV of the National Boards. Criminal history background check indicates and arrest in 1993 that was dismissed by conditional discharge.

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

## **VI. REINSTATEMENT**

A. STEPHEN BECKER, D.C.

Dr. Becker is requesting that the Board consider abating reinstatement fees indicating that he hadn't practiced since the summer 1996. He was seeking to reactivate his license and was told that he would have to pay all back registration fees. DAG Hugelmeyer noted that requirement to pay back registration fees a requirement set forth by statute in the Uniform Enforcement Act. The Board has no authority to waive back registration fees.

B. DOMINIC MAZZA, D.C.

Dr. Mazza submitted reinstatement request and indicated two arrest issue for which he submitted documentation and an explanation. These matters were initially revealed during his initial license application.

A MOTION WAS MADE BY DR. SENATORE WHICH WAS SECONDED BY DR. STABILE TO APPROVE THE REINSTATEMENT APPLICATION. A VOTE WAS TAKEN AND THE MOTION PASSED WITH ALL MEMBERS PRESENT VOTING IN FAVOR.

## **VII. DISCIPLINARY MATTERS**

A. IN THE MATTER OF THE SUSPENSION AND/OR REVOCATION OF ALBERT G. CATTAFI, D.C.

Jackie S. George, Esq. for the Respondent

Tara Adams-Raggone, Deputy Attorney General, for the Attorney General

Debra Levine, Deputy Attorney General - Counsel for the Board

\*\*\*Dr. Senatore was recused from consideration and vote in this matter.

This matter has been brought to a hearing pursuant to a Motion for Summary Judgement filed by the Attorney General. A Motion was Filed on September 12, 2005 on a procedural matter. The counseling deputy has consulted with both parties in this matter and has indicated that Ms. George was not prepared to go forward with a Mitigation Hearing on todays date.

A MOTION WAS MADE BY DR. SENATORE WHICH WAS SECONDED BY DR. O'CONNOR TO GO INTO EXECUTIVE SESSION TO RECEIVE ADVICE OF COUNSEL.

UPON RETURNING TO PUBLIC SESSION, A MOTION WAS MADE BY DR. ATKISSON WHICH WAS SECONDED BY DR. O'CONNOR TO ADJOURN THE MITIGATION HEARING IF ONE IS NECESSARY, NOTING THAT NO FURTHER ADJOURNMENTS WOULD BE GRANTED. A MITIGATION HEARING WOULD BE SCHEDULED ON OCTOBER 20, 2005 AS A PEREMPTORY DATE. A VOTE WAS TAKEN AND THE MOTION PASSED WITH ALL MEMBERS PRESENT VOTING IN FAVOR.

The Attorney General presented her case noting that respondent during an appearance before a Preliminary Investigation Committee had admitted that in the context of a hospital admission at Meadowlands Hospital a patient under Dr. Cattafi's care who was undergoing an MRI and required a dose of valium to relieve anxiety related to the procedure. Dr. Cattafi indicated that he attempted to contact various physicians including the referring physician Edwin Cangemi to obtain an order for the administration of valium. Failing that Dr. Cattafi admitted that he wrote an order in the patient's chart for the administration of valium and signed Dr. Cangemi's name without his authorization. The Attorney General indicated that since there was not material factual disputes at issue that the Board should grant its summary decision on this matter. The Board admitted items P1-9 into evidence.

Ms. George then presented her case in defense of respondent including a certification prepared by Gina Pugliesi, MD an Emergency Room Physician noting some disputes concerning the call schedule and some tensions between psychiatrists and chiropractors.

A MOTION WAS MADE BY DR. MURPHY WHICH WAS SECONDED BY MR. TRAIER TO GO INTO EXECUTIVE SESSION TO DELIBERATE ON THIS MATTER.

UPON RETURNING TO PUBLIC SESSION A MOTION WAS MADE BY MR. FAULKNER WHICH WAS SECONDED BY DR. KOSTINAS TO GRANT THE MOTION FOR SUMMARY JUDGMENT MADE BY THE ATTORNEY GENERAL NOTING THAT THE BOARD'S DETERMINATION ON PENALTY WILL BE MADE DURING THE MITIGATION TO BE CONDUCTED AT 1PM ON A PEREMPTORY DATE OF OCTOBER 20, 2005. A VOTE WAS TAKEN AND THE MOTION PASSED WITH ALL MEMBERS PRESENT VOTING IN FAVOR WHEREUPON THE HEARING WAS ENDED.

B. IN THE MATTER OF THOMAS G. LEE, D.C.

Robert Conroy, Esq. counsel for Dr. Lee

Richard Jaffe, Esq. counsel for Dr. Lee

John Hugelmeyer, Deputy Attorney General for the State

Nancy Costello Miller, Deputy Attorney General Counsel for the Board

This matter was brought to the Board's attention after Dr. Lee received his chiropractic license in the State of New Jersey through endorsement. Dr. Lee attended Pennsylvania College of Straight College, a school no longer in existence, which had not been accredited by the NJ Board of Chiropractic Examiners.

N.J.S.A.45:9-41.6 states:

"The Board shall accept as an applicant for licensure as a chiropractor any individual who has graduated from a school, institution or college of chiropractic which was approved during the individual's entire course of study by the Board, and accredited by the Council of Chiropractic Education, or the Straight Chiropractic Academic Standards Association, or other accrediting agency approved by the United States Department of Education."

A Provisional Order of Rescission of License was filed with the Board on June 15, 2005.

The Board expressed to Dr. Lee that they believe that because he applied for endorsement through his Delaware license the focus was on whether or not that State exam was equivalent to NJ standards and that where he received his chiropractic education was an oversight. Although the Board sympathizes with the situation, they are bound by Statutory authority and have no choice but to rescind Dr. Lee's chiropractic

Mr. Jaffe addressed the Board on his client's behalf indicating that he knew of no other Board in the country where a license was taken after it had been granted to a licensee. Mr. Jaffe advised the Board that Dr. Lee has relocated to New Jersey and that he started a business incurring a large debt. Mr. Jaffe questioned whether in fact the Board had made a mistake and cited two other chiropractic institutions where the Board went out to evaluate and then later accredited them. Mr. Jaffe indicated that in those instances there were students that had attended unapproved schools for a period of time and then were allowed to come to New Jersey to receive a license.

Mr. Jaffe requested the Board move to dismiss this matter

A MOTION WAS MADE BY DR. STABILE WHICH WAS SECONDED BY DR. ATKISSON TO GO INTO EXECUTIVE SESSION TO RECEIVE ADVICE FROM COUNSEL.

UPON RETURNING TO PUBLIC SESSION A MOTION WAS MADE BY MR. TRAIER WHICH WAS SECONDED BY DR. O'CONNOR TO DENY THE REQUEST TO DISMISS BASED UPON A REVIEW OF THE FACTS WHICH INDICATE SUFFICIENT EVIDENCE THAT PENNSYLVANIA COLLEGE OF STRAIGHT CHIROPRACTIC WAS NOT AN APPROVED SCHOOL. A VOTE WAS TAKEN AND THE MOTION PASSED WITH ALL MEMBERS PRESENT VOTING IN FAVOR.

Mr. Jaffe has requested discovery of the Board's chiropractic school files.

Dr. Lee addressed the Board informing them that he had taken a \$76,000 loan secured by his home in order to start a practice and that he has employed 3 staff members. In addition he has also rented office equipment. Dr. Lee informed the Board that he sees approximately 50-60 patients per week and that his business is primarily a "word of mouth practice". Dr. Lee reports that losing his license would be a financial disaster. He also reports that he still practices in Philadelphia, PA. Dr. Lee was questioned as to whether he had in fact relocated his family to New Jersey. Dr. Lee responded that he had not that he had always lived in New Jersey and commuted to Philadelphia where he practiced.

Dr. Senatore questioned Dr. Lee as to whether or not he was aware of Pennsylvania College of Straight Chiropractic accreditation status with NJ during the time of attendance. Dr. Lee responded that he was unaware of the accreditation status.

Dr. Louro advised Mr. Jaffe and Mr. Conroy that the chiropractic school files will be made available to them through the office staff prior to the following meeting date on October 20, 2005 where this matter would be considered.

## **ADJOURNMENT**

A MOTION WAS MADE BY MR. TRAIER WHICH WAS SECONDED BY DR. MURPHY TO ADJOURN THE PUBLIC SESSION MEETING. A VOTE WAS TAKEN AND THE MOTION PASSED WITH ALL MEMBERS PRESENT VOTING IN FAVOR.

Respectfully Submitted,

Kevin B. Earle, MPH  
Executive Director