

BOARD OF CHIROPRACTIC EXAMINERS  
124 HALSEY STREET, 6TH FLOOR  
SOMERSET ROOM  
NEWARK, NEW JERSEY  
PUBLIC SESSION MINUTES  
THURSDAY, SEPTEMBER 21, 2006

A meeting of the New Jersey Board of Chiropractic Examiners was held on September 21, 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. Calio, Stabile, Rada, Kostinas, Krouse, O' Connor, Senatore, Spadafino, Murphy, and Mr. Traier

**EXCUSED:** None

**ALSO PRESENT:** DAG John Hugelmeyer, Executive Director Kevin Earle, Government Representative Venus Hall and Recording Secretary Sonya Liverpool.

**I. APPROVAL OF THE PUBLIC SESSION MINUTES OF JULY 20, 2006**

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

**II. OLD BUSINESS**

**A. PROPOSED REGULATIONS**

The Board reviewed a copy of the Notice of Proposal that appeared in the New Jersey

Register on August 25, 2006, with amendments of the Board's regulations. The comment period is now open and will close as of October 20, 2006.

THIS WAS ACCEPTED AS INFORMATIONAL.

**B. NEW LICENSEE ORIENTATION & JURISPRUDENCE EXAMINATION**

The New Licensee Orientation & Jurisprudence Examination is now live on the Board's website and instructions have been provided to all currently pending candidates. In addition, the instructions are now included on the cover and face page of the Board's new license application. The license application is also available on the Board's website.

Executive Director Earle reported that the Board will now need to engage in a contract with our vendor Qwizics, LLC, to provide examination support and technical services on an annual basis. A copy of the proposal describing those services was available for the Board's review. The annual expense will be \$3,750 per year based on a contract that runs from July 1st - June 30th.

A MOTION WAS MADE BY DR. RADA, WHICH WAS SECONDED BY DR. STABILE, TO APPROVE THE PROPOSED CONTRACT AS PRESENTED. A VOTE WAS TAKEN AND THE MOTION PASSED WITH

ALL MEMBERS PRESENT VOTING IN FAVOR.

THIS WAS ACCEPTED AS INFORMATIONAL.

C. SCOTT WHITE, D.C.

The Board reviewed a letter from the above captioned chiropractor, who has been suspended pursuant to a Board Order. He has completed the ProBE Ethics course and received a grade of a Conditional pass. Dr. White was inquiring about what further steps he will need to do in order to reinstate his license. The Board recommended Dr. White be directed to the terms of the Order entered on October 8, 2001, providing evidence of the proof of successful completion of a program on Therapeutic Education in the area of sexual boundaries for professionals; a record of monitoring for alcohol abuse conducted by the Physician's Health Program and a record of attendance at AA as required by the PHP or by his criminal sentence; and proof of compliance with all terms of the criminal sentence imposed on March 16, 2001. Dr. White will also be required to appear before the Board to demonstrate fitness to practice. Upon receipt of the aforementioned information, an appearance will be scheduled.

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

### **III. NEW BUSINESS**

#### **A. 2007 MEETING DATES**

The Board approved the proposed meeting dates for calendar year 2007 as follows:

January 25th  
February 22nd  
March 22nd  
April 26th  
May 24th  
June 28th  
July 26th  
August - no meeting  
September 27th  
October 25th  
November 29th  
December 20th

The Preliminary Investigation Committee meetings shall be as follows:

January 18th  
February 15th  
March 15th  
April 19th  
May 17th  
June 21st  
July 19th  
August 16th  
September 20th  
October 18th  
November 15th  
December 13th

It has also been requested that the dates for the November meeting be changed, The Board will meet on Thursday,

November 30th and the Preliminary Investigations Committee will meet on Thursday November 16, 2006.

A MOTION WAS MADE BY DR. SPADAFINO, WHICH WAS SECONDED BY DR. CALIO, TO APPROVE THE MEETING DATES AS OUTLINED ABOVE. A VOTE WAS TAKEN AND THE MOTION PASSED WITH ALL MEMBERS PRESENT VOTING IN FAVOR.

#### **IV. LICENSING APPLICATIONS**

##### **A. ELIZABETH ANN SPADAFORA, D.C.**

The Board reviewed information that was revealed in the context of Dr. Elizabeth Spadafora's license application. The incident in question was determined not to be an impediment to licensure.

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

#### **V. ENDORSEMENT APPLICATIONS**

##### **A. ROBERT KLASS, D.C.**

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

##### **B. JOSEPH WILLIAM NUSBAUM, D.C.**

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

##### **C. EDWARD L. REUSS, III , D.C.**

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

##### **D. NICHOLAS ANDREW WASLYN, D.C.**

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

##### **E. REGULATORY ISSUE: ENDORSEMENT**

In connection with the endorsement applications, some discussion ensued about whether applicants from other states ought to be in active practice when pursuing licensure by endorsement. It was suggested that this issue be reviewed by the Rules & Regulations Committee.

A MOTION WAS MADE BY DR. RADA, WHICH WAS SECONDED BY DR. SENATORE, TO REFER THIS ISSUE TO THE RULES & REGULATIONS COMMITTEE FOR THEIR CONSIDERATION. A VOTE WAS TAKEN AND THE MOTION PASSED WITH ALL MEMBERS PRESENT VOTING IN FAVOR.

#### **VI. ELECTRO DIAGNOSTIC PERMIT APPLICATIONS**

The Board reviewed applications from the following individuals:

1. Mark Dawoud, D.C.
2. David G. Harris, D.C.
3. Diego Ruiz, D.C.

A MOTION WAS MADE BY DR. STABILE, WHICH WAS SECONDED BY DR. KOSTINAS, TO APPROVE THE ELECTRO DIAGNOSTIC PERMIT APPLICATIONS FOR THE ABOVE REFERENCED INDIVIDUALS. A VOTE WAS TAKEN AND THE MOTION PASSED WITH ALL MEMBERS PRESENT VOTING IN FAVOR.

## **VII. GENERAL CORRESPONDENCE**

### **A. JEFFREY B. RANDOLPH, ESQ.**

Mr. Randolph submitted correspondence as a request for the Board's interpretation of its patient records regulation as contained in N.J.A.C. 13:44e-2.2. Mr. Randolph identified the specific twelve items that are required by rule and stated that the regulation is "unclear as to what is specifically required to be in each daily treatment note of a treatment treating chiropractor." He reported that certain insurance carriers were interpreting the regulation to require that a recordation of every subjective complaint, objective of finding assessment, and plan of treatment (SOAP) should be included in every daily chart entry. Mr. Randolph asked the Board to opine about what constitutes proper or satisfactory documentation in a patient's file. The Board noted that the regulation sets forth the minimum standard for patient records and requires that at each patient visit, the record contain " a description of care or services rendered at each visit together with the name of licensee or other person rendering the care." Subsection 10 of the rule requires the notation of significant changes in the patient's condition and subsection 11 requires a periodic notation of the patient status regardless of whether significant changes have occurred. The Board was advised by counsel that if it issued an opinion independent of the language in the rule, the Board would effectively be "rulemaking" without adhering to the requirements of the Administrative Procedures Act.

A MOTION WAS MADE BY DR. MURPHY, WHICH WAS SECONDED BY DR. KROUSE, TO RESPOND TO MR. RANDOLPH INDICATING THAT THE RULE APPEARS TO BE SELF EXPLANATORY HOWEVER, IF REPRESENTATIVES OF THE ASSOCIATION OF NEW JERSEY CHIROPRACTORS HAS A RECOMMENDATION ON HOW THE REGULATION OUGHT TO BE IMPROVED, THE BOARD WILL CONSIDER SUCH RECOMMENDATIONS. A VOTE WAS TAKEN AND THE MOTION PASSED WITH ALL MEMBERS PRESENT VOTING IN FAVOR.

A further discussion ensued about chiropractors serving as reviewers and whether the Board should identify criteria or qualifications for individuals to perform those reviews.

A MOTION WAS MADE BY DR. MURPHY, WHICH WAS SECONDED BY DR. KROUSE, TO REFER THIS ISSUE TO THE RULES & REGULATIONS COMMITTEE FOR FURTHER STUDY AND RECOMMENDATION. A VOTE WAS TAKEN AND THE MOTION PASSED WITH ALL MEMBERS PRESENT VOTING IN FAVOR.

### **B. NEW JERSEY MANUFACTURER'S INSURANCE GROUP**

The Board reviewed correspondence from Mary Marrino, a Special Investigator with NJ Manufacturer's asking for the Board's interpretation regarding certain physical modalities and their associated CPT codes.

A MOTION WAS MADE BY DR. SENATORE, WHICH WAS SECONDED BY DR. CALIO, TO REFER THE INDIVIDUAL TO THE PROVISIONS OF N.J.A.C. 13:44E-2.7 AS WELL AS TO A COPY OF THE BOARD'S SUNSET PROPOSAL FOR FURTHER CLARIFICATION & GUIDANCE ON THE ISSUE OF WHO MAY PERFORM CERTAIN PHYSICAL MODALITIES AND WHETHER SUCH MODALITIES MAY BE DELEGATED OR PERFORMED BY A LICENSED CHIROPRACTOR OR ANOTHER LICENSED HEALTHCARE PROVIDER. A VOTE WAS TAKEN AND THE MOTION PASSED WITH ALL MEMBERS PRESENT VOTING IN FAVOR.

## **C. ACUPED DETOXIFIER**

The Board reviewed correspondence and information submitted by Jeffrey B. Randolph, Esq. On behalf of Whole Life Focus Inc., requesting the Board to determine whether chiropractors in NJ may utilize or sell "Whole Life Acuped pads" to patients with chiropractic conditions. Representatives of the company were also available to answer questions regarding this matter. The device apparently originated in Korea and was described to provide a "natural cleansing effect of toxins" and to be used in conjunction with chiropractic services. The company was asked if any research could be provided in peer reviewed journals to support the use of the device. The Board was advised that any such research would've been performed in Korea. The Board further questioned the statement that the device was "certified by the FDA." The Board questioned whether the FDA approval could be interpreted to mean that the device was safe to market but questioned whether the approval meant that the device could do what it claims to do. The Board opined that if the purposes of this device was for "detoxification," it would not fall within the scope of practice of a licensed chiropractor. The Board would like to see further information before it makes a determination on this issue.

## **VIII. DISCIPLINARY MATTERS**

I/M/O ROBERT A. KAPLAN, D.C.

On May 19, 2006, a Provisional Order of Discipline was filed on the above captioned matter. On November 16, 2004, a criminal complaint was filed in the Commonwealth of Pennsylvania charging respondent with one felony count of criminal attempt to commit unlawful contact with a minor and one felony count of criminal use of a communication facility in connection with an internet sex sting. On November 14, 2005, respondent pleaded guilty to criminal attempt to commit unlawful contact with a minor, a first degree felony and criminal use of a communication facility, a third degree felony. On February 22, 2006, respondent was sentenced to 6 - 23 ' months in prison and two 10 year probation periods to run consecutively, a \$2000 fine, 1000 hours of community service and several additional conditions. The Provisional Order notes that the aforesaid conduct provides grounds for the suspension and revocation of a license to practice chiropractic. The Provisional Order would revoke Dr. Kaplan's license to practice chiropractic and prior to any application for reinstatement, respondent should submit documentation of full and complete satisfaction of his criminal sentence and any sanctions or penalties imposed by the State Board of Chiropractic of the Common Wealth of Pennsylvania. No response has been received to the Provisional Order of Discipline.

A MOTION WAS MADE BY MR. TRAIER, WHICH WAS SECONDED BY DR. RADA, TO AUTHORIZE THE ISSUANCE OF A FINAL ORDER OF DISCIPLINE CONTAINING THE SAME SANCTIONS AS DETAILED IN THE PROVISIONAL ORDER OF DISCIPLINE. A VOTE WAS TAKEN AND THE MOTION PASSED WITH ALL MEMBERS PRESENT VOTING IN FAVOR.

## **IX. REGULATORY MATTERS**

Dr. Spadafino reported that the PIPTAC Committee had not met and further reported that the Department of Banking & Insurance currently has proposed revisions to the PIP fee schedule. The comment period for those proposed regulations expires on November 4, 2005. Dr. O'Connor appointed an Ad-hoc Committee consisting of himself, Dr. Spadafino, and Dr. Senatore to draft a comment for the Board's consideration at its October meeting.

## **X. APPEARANCES**

A. JOHN J. LANGERAAP, D.C.

Dr. Langerap appeared in connection with information submitted in connection with his license application. An inquiry was conducted in Executive session, the Board returned to Public session.

A MOTION WAS MADE BY DR. RADA, WHICH WAS SECONDED BY DR. KOSTINAS, TO GRANT DR. LANGERAAP A LICENSE TO PRACTICE CHIROPRACTIC IN THE STATE OF NJ SUBJECT TO A

VOLUNTARY AGREEMENT TO UNDERGO CERTAIN MONITORING REQUIREMENTS. A VOTE WAS TAKEN AND THE MOTION PASSED WITH ALL MEMBERS PRESENT VOTING IN FAVOR.

## ADJOURNMENT

A MOTION WAS MADE BY DR. MURPHY, WHICH WAS SECONDED BY DR. KOSTINAS, TO GO INTO EXECUTIVE SESSION TO CONSIDER PENDING DISCIPLINARY MATTERS, ENFORCEMENT BUREAU REPORTS 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

[◀ back](#)

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