

**State of New Jersey
Division of Consumer Affairs
Board of Chiropractic Examiners**

Public Session Minutes

Thursday, November 20, 2003

A meeting of the New Jersey Board of Chiropractic Examiners was held on November 20, 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, Rada, Senatore, Stabile, O'Connor, Mr. Faulkner and Mr. Traier

ALSO PRESENT: DAG John Hugelmeyer, Terri Goldberg, Assistant to the Executive Director and recording secretary Nina Lado and Joshua Marzan.

I. APPROVAL OF THE PUBLIC SESSION MINUTES OF OCTOBER 23, 2003

A MOTION WAS MADE BY DR. SENATORE WHICH WAS SECONDED BY MR. TRAIER TO APPROVE THE PUBLIC SESSION MINUTES AS AMENDED. A VOTE WAS TAKEN AND THE MOTION PASSED WITH ALL MEMBERS PRESENT VOTING IN FAVOR.

II. OLD BUSINESS

A. PROPOSED REGULATIONS

1. INDEPENDENT CHIROPRACTIC EXAMINATIONS (N.J.A.C. 13:44E-2.14)

The Board reviewed copies of the comments submitted in response to the Board's proposal which was published in the New Jersey Register on Monday, August 18, 2003. Twenty comments were submitted in support of the proposal, six comments were submitted in support of the proposal but requesting changes and five comments were submitted against the proposal or requesting clarification.

A MOTION WAS MADE BY DR. MURPHY WHICH WAS SECONDED BY DR. SENATORE TO ACCEPT THE COMMENTS AND MOVE TO PUBLISH THE REGULATION WITH COMMENTS AND RESPONSES. A VOTE WAS TAKEN AND THE MOTION PASSED WITH ALL MEMBERS PRESENT VOTING IN FAVOR.

Public Commentor -

Dr. William Cirino, representing the Northern New Jersey Chiropractic Society addressed the Board thanking them for adopting this regulation and asked the Board to consider at some time in the future the issue of out-of-state practitioners performing paper reviews.

2. RULES AND REGULATIONS MEETING

The Rules and Regulations Committee scheduled a meeting on January 22, 2004.

B. DISCIPLINARY MATTERS

1. RICHARD J. HERBERT, D.C.

Dr. Herbert was the subject of an Interim Consent Order filed on June 22, 2000, a copy of which is enclosed. The Board has received correspondence from John E. Tiffany, Esq. on behalf of Dr. Herbert seeking reinstatement of his license to practice chiropractic. Background information and further information concerning Dr. Herbert's activities was forwarded under separate cover.

A MOTION WAS MADE BY DR. ATKISSON WHICH WAS SECONDED BY DR. CALIO TO INFORM MR. TIFFANY THAT BEFORE THE BOARD COULD ENTERTAIN REINSTATEMENT DR. HERBERT MUST PROVIDE THE BOARD WITH THE FOLLOWING INFORMATION:

WHAT HAS DR. HERBERT BEEN DOING DURING THE TIME OF INACTIVE PRACTICE?

HOW HAS THE CIVIL/CRIMINAL CASE BEEN RESOLVED?

HAVE ISSUES BEEN RESOLVED WITH DIVISION OF LAW PROSECUTING DEPUTY HAKIMA BEY LAWSON?

WHAT HAS DR. HERBERT DONE TO MAINTAIN HIS CHIROPRACTIC COMPETENCY?

WHAT HAS DR. HERBERT BEEN DOING TO REHABILITATE HIMSELF?

A VOTE WAS TAKEN AND THE MOTION PASSED WITH ALL MEMBERS PRESENT VOTING IN FAVOR.

III. NEW BUSINESS

A. PETITION FOR RULE MAKING - AMERICAN PHYSICAL THERAPY ASSOCIATION OF NEW JERSEY

The Board reviewed a Petition for Rule making seeking the Board's deletion of the provision of N.J.A.C. 13:44E-2.12, "Referral of patients to Physical Therapists." A copy of the existing regulation was attached for Board review.

Susan Gartland, Executive Director of the Physical Therapy Board addressed the Board advising that the PT Board had not taken part in the formation of the petition. However, Ms. Gartland advised that the PT Board is promulgating regulations and expressed an interest in working with other Boards.

A MOTION WAS MADE BY MR. FAULKNER WHICH WAS SECONDED BY DR. SENATORE TO FORM AN AD HOC COMMITTEE. THE MEMBERS CHOSEN FOR THIS COMMITTEE INCLUDE DRS. ATKISSON, O'CONNOR, SENATORE AND CALIO. THE AD HOC COMMITTEE WILL WORK WITH THE PHYSICAL THERAPY BOARD IN ORDER TO REVIEW THE PETITION AND WORK ON REGULATIONS. A VOTE WAS TAKEN AND THE MOTION PASSED WITH ALL MEMBERS PRESENT VOTING IN FAVOR.

B. COUNCIL ON CHIROPRACTIC EDUCATION

The Board reviewed a notice submitted by the CCE seeking comment on three separate proposals as follows:

1. Proposal that physiological therapeutics be required in the CCE standards.
2. Proposal for an operational definition of "diagnosis" in the CCE standards.
3. Proposal for a new policy on exceptions or waivers to the standards.

A MOTION WAS MADE BY DR. O'CONNOR WHICH WAS SECONDED BY DR. ATKISSON TO HAVE EXECUTIVE DIRECTOR EARLE SEND A WRITTEN COMMENT TO THE CCE PROPOSALS ACC/FCLB DEFINITION OF DIAGNOSIS. A VOTE WAS TAKEN AND THE MOTION PASSED WITH ALL MEMBERS PRESENT VOTING IN FAVOR.

C. MICHAEL J. MURPHY, D.C.

The Board reviewed a copy of a message from the above captioned chiropractor who appears to be involved with an entity known as wellness business solutions seeking a declaratory statement concerning nutritional sales and compensation to chiropractors.

A MOTION WAS MADE BY DR. STABILE WHICH WAS SECONDED BY DR. CALIO TO ADVISE DR. MURPHY THAT HE SHOULD REFER TO THE BOARD'S SCOPE OF PRACTICE REGULATION. A VOTE WAS TAKEN AND THE MOTION PASSED WITH ALL MEMBERS PRESENT VOTING IN FAVOR.

IV. GENERAL CORRESPONDENCE

A. JACK DWYER

Mr. Dwyer is a second trimester student at Cleveland Chiropractic College and has a question concerning academic requirements for licensure.

A MOTION WAS MADE BY MR. TRAIER WHICH WAS SECONDED BY DR. LOURO TO INFORM MR. DWYER THAT HIS CONCERNS DO NOT APPEAR TO BE PROBLEMATIC AND THAT HE SHOULD REFER TO N.J.S.A. 45:9-41.7. A VOTE WAS TAKEN AND THE MOTION PASSED WITH ALL MEMBERS PRESENT VOTING IN FAVOR.

B. J. LEAH GARLAN, D.C.

The Board reviewed an inquiry from Dr. Garlan regarding veterinary chiropractic.

A MOTION WAS MADE BY DR. SENATORE WHICH WAS SECONDED BY MR. FAULKNER TO REFER THIS MATTER TO THE VETERINARY MEDICAL EXAMINERS BOARD. A VOTE WAS TAKEN AND THE MOTION PASSED WITH ALL MEMBERS PRESENT VOTING IN FAVOR.

C. CHARLES L. BLUM, D.C.

The Board reviewed correspondence from Dr. Blum requesting clarification of the Board's September 25, 2003 minutes regarding cranial therapy.

A MOTION WAS MADE BY DR. O'CONNOR WHICH WAS SECONDED BY DR. CALIO TO INFORM DR. BLUM THAT CRANIAL THERAPY CAN ONLY BE USED IF IT CAN BE RELATED TO A SPINAL COMPONENT. DR. BLUM SHOULD REFER THE N.J.A.C. 13:44E-1.1, SCOPE OF

PRACTICE. A VOTE WAS TAKEN AND THE MOTION PASSED WITH ALL MEMBERS PRESENT VOTING IN FAVOR.

D. KEVIN SHEEHAN, D.C.

The Board reviewed an inquiry from Dr. Sheehan regarding bringing in a Neurologist to do consultations and testing.

A MOTION WAS MADE BY DR. LOURO WHICH WAS SECONDED BY DR. ATKISSON TO RESPOND TO DR. SHEEHAN THAT RULE 13:44E-3.9 APPLIES WHEN TESTING IS REQUESTED BY A CHIROPRACTOR AND IS PERFORMED AT THE SAME PREMISES. THE RULE DOES NOT ADDRESS NEUROLOGICAL CONSULTATIONS IN WHICH LICENSED NEUROLOGISTS MAKE DOCUMENTED INDEPENDENT DETERMINATIONS REGARDING THE NECESSITY FOR NEURODIAGNOSTIC TESTS.

ADJOURNMENT

A VOTE WAS TAKEN BY MR. TRAIER WHICH WAS SECONDED BY DR. SENATORE TO ADJOURN THE PUBLIC SESSION MEETING AT 4:30PM. A VOTE WAS TAKEN AND THE MOTION PASSED WITH ALL MEMBERS PRESENT VOTING IN FAVOR.

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