

**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, September 23, 2010

A meeting of the New Jersey Board of Chiropractic Examiners was held September 23, 2010 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 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 Michael Krouse, D.C., President of the Board, at 10:00 A.M..

ATTENDANCE

PRESENT: Drs. Krouse , O'Connor, Stabile, Calio, Senatore, Murphy, Rada, Spadafino, and Mr. Traier (arrived 10:15 am)

EXCUSED: None

ALSO PRESENT: DAG John Hugelmeyer, Executive Director Jonathan Eisenmenger & Recording Secretary Sonya Liverpool

I. APPROVAL OF THE PUBLIC SESSION MINUTES OF JULY 22, 2010

A Motion was made by Dr. Rada, seconded by Mr. Traier, to approve the July 22, 2010 minutes as amended. The motion passed with all members present voting in favor.

II. EXECUTIVE DIRECTOR'S REPORT

A. 2011 NJ CHIROPRACTIC BOARD MEETING SCHEDULE

*** Readoption of the N.J.A.C. 13:45 © Licensee Duty to Cooperate**

III. NATIONAL BOARD OF CHIROPRACTIC EXAMINERS

Dr. O'Connor spoke briefly on a new building being dedicated in November 2010 located in Greeley, Colorado. He also told the Board he was able to go to Florida and review Tests 1 & 2.

IV. COUNCIL ON CHIROPRACTIC EDUCATION

Dr. O'Connor reported that he thinks the model acts should be re-written due to the fact there may be a wording issue.

V. RULES & REGULATIONS

- A. **PACE** - The Board voted to propose regulations at its meeting in June 2010. Subsequently, the Rules and Regulations committee reported on its meeting held in July 2010, concerning the proposed regulations to govern Continuing Education. Specifically, the committee recommends that the full Board revisit the issue of including language that grants approval to courses that are approved by PACE.

A motion was made by Dr. Spadafino, seconded by Dr. Calio, the Board took a vote about whether to reopen the discussion about the inclusion of PACE in the proposal. Four members voted in favor (Murphy, Spadafino, Calio, and Krouse). The proposal will go forward as approved in June. The motion passed with all members present voting in favor.

VI. CONTINUING EDUCATION

The Board discussed a working document drafted by Executive Director Eisenmenger concerning some basic guidelines to use when approving continuing education courses. Some additional comments were suggested to include in the working document.

- Evaluate content/subjects that the Board would approve for practice in New Jersey
- Monitoring attendance, sign-in/sign-out, post course evaluations
- The credentials of the instructor must meet the needs of the course & criteria of the Board (i.e., licenses, education, criminal history, etc.)

A committee was assigned to review continuing education courses going forward: Dr. Calio (chair), Dr. Murphy, Dr. Rada

A motion was made by Dr. Rada, seconded by Dr. Stabile, the Board voted to consider the following proposals for approval, and if approved, the courses will only be approved for the date and time they have been submitted. The motion passed with all members present voting in favor.

A. **ASSOCIATION OF NJ CHIROPRACTORS (ANJC)**

A list of all courses offered at the Fall Convention to be held October 16-17, 2010 was submitted for approval:

*Becoming the Family Chiropractor, Dr. Tami Hartman
Leading the Wellness Resolution,
Documentation
Nutrition and Blood Chemistries
Kinesio-Tapings*

A motion was made by Dr. Rada, seconded by Dr. O'Connor, the Board approved the above courses pending submission of the protocol for verification of attendance; the Board did not approve the one credit course entitled "Office Stress" presented by Dr. Paul Forti, due to his current license status and information about the disciplinary action. The motion passed with all members present voting in favor.

B. **SHERMAN COLLEGE OF STRAIGHT CHIROPRACTIC**

(Dr. Rada was recused)

A motion was made by Dr. O'Connor, which was seconded by Dr. Stabile, to approve all the courses, pending the verification that all instructors have licenses in good standing (if they are licensees) and the receipt of the policy on verifying attendance... A vote was taken and the motion passed with seven (7) members voting in favor and one (1) abstention (Dr. Spadafino).

C. PALMER COLLEGE OF CHIROPRACTIC

A motion was made by Dr. O'Connor, seconded by Dr. Rada, to approve all the courses, pending the verification that all licensees are in good standing and the receipt of the policy on verifying attendance. The motion passed with all members present voting in favor.

D. D'YOUVILLE COLLEGE

A motion was made by Dr. Rada, seconded by Dr. Stabile, table this item to obtain more information for discussion next month concerning approving the program for licensure. Request the complete packet for the DC program. The motion passed with all members present voting in favor.

E. LIFE UNIVERSITY

Amber Lewis from Life University submitted the following courses for approval:

There was discussion about whether the Board will approve fractions of hours.

A motion made by Dr. Rada, seconded by Dr. Stabile, the Board determined to approve courses with ½ hour increments, as long as they are longer than one hour. A vote was taken and the motion passed with eight (8) members voting in favor and one (1) opposed(O'Connor).

A motion was made by Dr. O'Connor, seconded by Dr. Murphy, the Board will examine the components of multi-session courses and may approve the whole course, but not approve individual components. A vote was taken and the motion passed with all members present voting in favor.

1. Hope for Autism

A motion was made by Dr. Rada, seconded by Dr. O'Connor, the Board approved the courses submitted in the application, with the stipulation that Hyperbaric Oxygen Therapy is not in the scope of practice of chiropractic in the State of New Jersey. A vote was taken and the motion passed with all members present voting in favor.

2. Bio-Geometric Integration I

A motion was made by Dr. Murphy, which was seconded by Dr. Stabile, the Board approved the course as submitted. A vote was taken and the motion passed with all members present voting in favor.

3. Neuro-Functional Fitness

A motion was made by Dr. Senatore, seconded by Mr. Traier, the Board approved the course as submitted. A vote was taken and the motion passed with all members present voting in favor.

4. Fall CE 2010

A motion was made by Dr. Spadafino, seconded by O'Connor, to not Approve the 4-6 PM on Saturday - Florida Law, and 8 AM and 1 PM - Georgia Law. To Approve the rest of the courses as submitted. A vote was taken and the motion passed with all members present voting in favor.

5. Koren Specific Technique

The Board requests more information about the technique and a description of the course with the materials. The advertisement raises questions about the content of the course.

F. APPLIED KINESIOLOGY STUDY INSTITUTE - Philip Spieser

A course titled "AK in a Nut Shell" was submitted for approval to be held on October 16-17, 2010 in Parsippany, NJ.

A second course titled "Back Up and Back Down" was submitted for approval to be held on November 6-7, 2010 in Parsippany, NJ.

A motion was made by Dr. O'Connor, seconded by Dr. Stabile, to approve the courses as submitted. A vote was taken and the motion passed with all members present voting in favor.

G. THE CHIROPRACTIC LEADERSHIP SUMMIT

A course was submitted for approval to be held November 5-7, 2010 in Elizabeth, NJ. This course was approved for a potential total of fifteen (15) hours, including two (2) hours of nutrition.

A motion was made by Dr. Murphy, seconded by Dr. Senatore, to approve the courses as submitted. A vote was taken and the motion passed with all members present voting in favor.

VII. APPLICATIONS FOR LICENSURE

A. JUSTYNA M. LESNIAK, D.C. (INITIAL)

A motion was made by Dr. Rada, seconded by Dr. Spadafino, to approve the application for licensure; send a letter of caution to Dr. Lesniak to have no further contact with the criminal justice system and to also answer any application questions truthfully. A vote was taken and the motion passed with all members present voting in favor.

B. ADRIA J. ROTHFELD, D.C. (ENDORSEMENT)

A motion was made by Dr. Rada, seconded by Dr. Murphy, to approve Dr. Rothfeld's application for licensure. A vote was taken and the motion passed with all members present voting in favor.

C. TOD K. NAKATSUKA, D.C. (ENDORSEMENT)

Dr. Nakatsuka only took Parts 1 and 2 of National Board's, which was not equivalent to the requirement in NJ at the time.

A motion was made by Dr. Rada, seconded by Dr. O'Connor, to deny Dr. Nakatsuka's application because he did not complete the Part IV examination. He could submit more information about the test(s) he completed for California and/or Minnesota. A vote was taken and the motion passed with all members present voting in favor.

D. DAVID W. SCHARBACH, D.C. (ENDORSEMENT)

A motion was made by Dr. O'Connor, seconded by Dr. Calio, to deny Dr. Scharbach's application based on false information submitted to the Board concerning the disciplinary action in California. He also has not submitted enough information about the examination he completed in California. A vote was taken and the motion passed with all members present voting in favor.

E. CAROLE J. KAPLAN, D.C. (REINSTATEMENT)

A motion was made by Dr. Calio, seconded by Dr. Rada, to reinstate Dr. Kaplan's license pending she pass the Jurisprudence Exam. A vote was taken and the motion passed with all members present voting in favor.

F. NICHOLAS J. UNGARO, D.C. (REINSTATEMENT)

A motion was made by Dr. Spadafino, seconded by Dr. O'Connor, to reinstate Dr. Ungaro's license pending he pass the Jurisprudence Exam. A vote was taken and the motion passed with all members present voting in favor.

G. WILLIAM MARA, D.C. (REINSTATEMENT)

A motion was made by Dr. O'Connor, seconded by Dr. Stabile, to deny Dr. Mara's application for licensure based on his criminal history. A vote was taken and the motion passed with all members present voting in favor.

H. GRACE H. TRINKOFF, D.C. (REINSTATEMENT)

A motion was made by Dr. Calio, seconded by Dr. Rada, to reinstate Dr. Trinkoff's license pending her taking and passing the Jurisprudence Exam. A vote was taken and the motion passed with all members present voting in

favor.

I. JEFFREY LALLY, D.C. (REINSTATEMENT)

A motion was made by Dr. Spadafino, seconded by Dr. O'Connor, to reinstate Dr. Lally's license pending he pass the Jurisprudence Exam. A vote was taken and the motion passed with all members present voting in favor.

*** From JULY 2010**

STEPHEN MICHAEL MURPHY, D.C. - This was moved to PUBLIC session

Note: Dr. Murphy appeared before the Board on July 22, 2010 to answer questions related to his application for licensure. The Board received a letter sent by Sally Sumner of Farmers Branch, Texas concerning a clerical error made that has affected Dr. Murphy's criminal history background check.

A motion was made by Dr. O'Connor, seconded by Dr. Stabile, to approve Dr. Murphy's application for licensure. A vote was taken and the motion passed with all members present voting in favor.

**The Board also ratified the recommendations on license applications that were reviewed at the July 2010 Meeting.

- A. Kurt D. Hostnik, D.C. (INITIAL)**
- B. Michelangelo Anzalone, D.C. (ELECTRO-DIAGNOSTIC)**
- C. Joseph M. DiOrio, D.C. (ELECTRO-DIAGNOSTIC)**
- D. David A. Fischer, D.C. (ELECTRO-DIAGNOSTIC)**
- E. Jody L. Serra, D.C. (ELECTRO-DIAGNOSTIC)**

A motion was made by Dr. Calio, seconded by Mr. Traier, to approve all the above listed applications. A vote was taken and the motion passed with all members present voting in favor.

VIII. OPEN DISCIPLINARY MATTERS

A. SCOTT WHITE, D.C.

The Board reviewed a report filed by the Professional Assistance Program dated July 27, 2010.

This was accepted as informational.

B. ANDREW SECHTIN, D.C.

The Board reviewed a report filed by the Professional Assistance Program dated July 21, 2010.

A motion was made by Dr. Calio, seconded by Dr. Senatore, to refer this matter to prosecution. A vote was taken and the motion passed with all members present voting in favor.

C. DARRYL J. WILLIAMS, D.C.

The Board reviewed an Offer of Settlement filed by the Board on July 22, 2010.

This was accepted as informational.

D. CAROLYN ILNICKI, D.C.

The Board reviewed a Uniform Penalty Letter filed by the Board on July 13, 2010.

This was accepted as informational.

E. WAYNE CREYAUFMILLER, D.C.

The Board reviewed a Provisional Order of Discipline filed by the Board on September 13, 2010.

This was accepted as informational.

F. JAY M. PLOTKIN, D.C.

The Board reviewed a Consent Order filed by the Board on July 30, 2010.

This was accepted as informational.

G. MICHAELENE CALLAHAN, D.C.

The Board reviewed a Consent Order filed by the Board on July 30, 2010.

This was accepted as informational.

H. BRYAN BAJAKIAN, D.C.

The Board reviewed a Motion for Default & Request for Default Judgement. DAG Carla Silva appeared on behalf of the Attorney General. Vicki Ariens, Esq. (Via phone conference) submitted a letter of representation and requested an adjournment so that Dr. Bajakian can fully respond to the motion for default.

**A motion was made by Dr. O'Connor, seconded by Dr. Stabile, to deny the adjournment of this matter. A vote was taken and the motion passed with seven (7) members voting in favor and two (2) abstentions.
7-0-2 (Mr. Traier and Dr. Murphy abstained)**

The Board considered the motion for default.

A motion was made by Dr. Calio, seconded by Dr. Stabile, to accept the Motion for Default. Dr. Bajakian is considered to be in default. A vote was taken and the motion passed with all members present voting in favor.

A motion was made by Dr. Murphy, seconded by Dr. Stabile, to enter a Judgment by Default, to revoke Dr. Bajakian's license and assign costs of the

investigation and legal fees. A vote was taken and the motion passed with all members present voting in favor.

IX. INQUIRES

A. JE'VONNA N. HOPKINS, D.C.

Dr. Hopkins sent an inquiry to the Board about NJ new requirement for continuing education.

A motion was made by Dr. Murphy, seconded by Dr. Rada, to tell Dr. Hopkins that there is a proposed regulation that would permit licensees to complete up to 12 hours of CE via distance learning methods. A vote was taken and the motion passed with all members present voting in favor.

B. PERRY METZGER, D.C.

Dr. Metzger's inquiry is in regards to what CPT Codes are permissible to be performed by a licensed Chiropractor.

A motion was made by Dr. Rada, seconded by Dr. Spadafino, to send Dr. Metzger a letter that the Board's position is that a properly trained chiropractor may perform VNG, but the Board does not comment on billing codes, or what may be billed. A vote was taken and the motion passed with all members present voting in favor.

C. JACK C. KING, D.C.

Dr. King's inquiry asks the Board, "Is a licensed NJ Chiropractor allowed to supervise Hyperbaric Oxygen Chamber in a hospital setting?"

A motion was made by Dr. Stabile, seconded by Dr. Calio, to send Dr. King a letter that this matter is not within the scope of practice of a chiropractor. A vote was taken and the motion passed with all members present voting in favor.

D. WARDELL SANDERS, PRESIDENT OF THE NJ ASSOCIATION OF HEALTH PLANS

Mr. Sanders' letter to the Board is a follow-up with additional questions to an inquiry he sent to the Board in March 2010 concerning whether the new scope of practice law is preempted by the Federal ERISA Law.

A motion was made by Dr. Rada, seconded by Dr. Senatore, to send Mr. Sanders a letter that the Board does not render legal advice, but will seek guidance from the Attorney General as may become necessary with regard to any case or controversy that may come before it. A vote was taken and the motion passed with all members present voting in favor.

E. MARTIN S. POLLACK, D.C.

Dr. Pollack sent an inquiry to the Board about NJ new requirement for continuing education.

A motion was made by Dr. Rada, seconded by Dr. Calio, to send Dr. Pollack a letter that he should submit documentation from the course(s) to be submitted to the Board to review and make an appropriate determination. A vote was taken and the motion passed with seven (7) members voting in favor

and two (2) abstentions. The vote was 6-0-2 (Drs'. Krouse and Spadafino abstained)

ADJOURNMENT

A MOTION WAS MADE BY DR. RADA, WHICH WAS SECONDED BY DR. MURPHY, TO GO INTO EXECUTIVE SESSION AT 12:00 P.M., TO CONSIDER THREE (3) PIC SUMMARIES, SEVEN (7) CONSUMER COMPLAINTS, FOUR (4) OPEN COMPLAINTS AND NINE (9) REFERRALS FROM OTHER AGENCIES. A VOTE WAS TAKEN AND THE MOTION PASSED WITH ALL MEMBERS PRESENT VOTING IN FAVOR.

Respectfully Submitted,

Jonathan Eisenmenger
Executive Director

/s/