

MINUTES OF MEETING

A meeting of the Chiropractic Physicians' Board of Nevada was held on Friday, June 1, 2007 in the City of Las Vegas Council Chambers, 400 Stewart Avenue, Las Vegas, Nevada 89101.

The following Board members were present for the roll call at 9:00 AM:

Stephanie Youngblood, DC, President
Margaret Colucci, DC, Vice President
Ian K. Yamane, DC, Secretary
Richard McCann, J.D., Consumer Member
Curtis Potts, DC, Member

President Dr. Stephanie Youngblood determined that a quorum was present and called the meeting to order. Also present were Deputy Attorney General David Newton, prosecuting attorney for the Board Elizabeth Foley, Esq., Investigator Gina Crown, and CPBN Executive Director Cindy Wade.

Dr. Youngblood led those present in the Pledge of Allegiance.

Agenda Item 1 APPROVAL OF AGENDA

Dr. Colucci moved for approval of the agenda. Dr. Yamane seconded the motion and it passed unanimously.

Agenda Item 2 PUBLIC INTEREST COMMENTS (No Action)

There were no public interest comments.

_____ Dr. Youngblood noted that Dr. Mitchell Kane and his attorney, Thomas Pitaro, were present and declared that Agenda Item 10 would next be addressed, followed by Agenda Item 9. Dr. Youngblood recused herself from the Kane matter as the investigating Board member. She appointed Consumer Member Richard McCann to chair the Kane proceeding.

Agenda Item 10 Administrative hearing, approval of possible settlement agreement, or granting of request for continuance in the matter of Mitchell Kane., DC, License No. B781, Complaint No. 05-8.

Dr. Yamane disclosed that he had a business relationship with Dr. Kane approximately six years ago and Dr. Colucci disclosed that she has had a non-business relationship with Dr. Kane. The prosecution and respondent agreed that these relationships do not constitute a conflict.

At Mr. McCann's request, Ms. Foley summarized the terms and conditions of the proposed Agreed Settlement. Dr. Colucci moved to accept the proposed Agreed Settlement. The motion was seconded by Dr. Yamane. Following discussion, Dr. Colucci amended her motion to include the approval of either Dr. Jeffrey Andrews or Dr. James Palmer to serve as Compliance Monitor of Dr. Kane's probation. Dr. Yamane seconded the amended motion. After further discussion, Dr. Colucci further amended the motion to also include that the suspension and compliance monitoring will commence within seven days in coordination with the selected Compliance Monitor's schedule. It was understood that there will be more Board costs in addition to the estimated amount in the proposed agreement. The motion passed with all in favor except Dr. Youngblood, who recused from the voting.

Mr. McCann turned the Chair back to Dr. Youngblood.

Agenda Item 9 Administrative hearing, approval of possible settlement agreement, or granting of request for continuance in the matter of James T. Overland, Sr., DC, License No. B527, Complaint Nos. 05-6 and 06-1.

Ms. Foley explained that Dr. Overland, Sr.'s, attorney, Valner Johnson, has requested a continuance due to a personal issue. This is the first request for continuance in this matter and Mr. Johnson has stated that he and Dr. Overland will be ready to address this matter on July 13. Dr. Yamane moved for approval of a continuance. Mr. McCann seconded the motion which passed with all in favor except Dr. Youngblood who recused because she is the investigating Board member.

Agenda Item 3 APPROVAL OF PREVIOUS MINUTES:

A. April 13, 2007 as amended;

Dr. Colucci moved for approval of the April 13, 2007 meeting minutes as amended. Dr. Yamane seconded the motion and it passed unanimously.

B. May 11, 2007.

Dr. Youngblood moved for approval of the final draft of the May 11, 2007 minutes. Dr. Colucci seconded and the motion passed unanimously.

Agenda Item 11 Discussion/possible action regarding investigative guidelines for CPBN investigator.

Following extensive discussion about current investigative procedures, Dr. Yamane moved for adoption of specific investigative guidelines to integrate the protocols and procedures for investigation of a complaint with the investigating Board member, counsel and investigator as follows:

- Upon receipt of a complaint, the IBM (investigating Board member) will determine the severity of the case, i.e., mild, moderate or severe.

Agenda Item 11 Discussion/possible action regarding investigative guidelines for CPBN investigator. (Cont'd)

- If mild, IBM will gather the basic information for presentation to the Board with recommendation for its decision as to disposition.
- If moderate to severe, IBM will meet with counsel for decision on how to pursue. If necessary, IBM will review with investigator who will conduct investigation if deemed necessary.
- Investigator will present findings to IBM and counsel for their guidance to conclusion of the matter.
- Investigator will provide to IBM a monthly status report to include progress and costs to date on each case.
- IBM will report on status of the case at the next Board meeting.

Dr. Youngblood seconded the motion and it passed unanimously.

There was discussion regarding the need to refer to the proper authorities possible illegal activities of non-licensees detected during an investigation. The Board agreed that a new regulation should be drafted to establish authority and the appropriate time to refer such investigative information to other agencies, including, but not limited to, the F.B.I., U. S. Attorney, Insurance Crime Bureau, Attorney General Fraud Unit, Medicare, etc.

Following a recess for lunch, Mr. Newton introduced Dan Ebihara, the Board's new Deputy AG for northern Nevada prosecutions.

Agenda Item 4 DISCUSSION/APPROVAL OF BOARD FINANCIAL REPORTS:

- A. Bank balance as of June 1, 2007**
- B. Income/Expense Report: July 1, 2006 through June 1, 2007**
- C. Accounts Receivable as of June 1, 2007**
- D. Accounts Payable as of June 1, 2007**
- E. Extraordinary Items/Items of Concern**

Dr. Potts moved for approval of the Board financial reports. Rick McCann seconded and the motion passed unanimously.

Agenda Item 5 DISCUSSION/APPROVAL OF Executive Director reports:

- A. Status of Complaints Received**
- B. Status of Current Probations**
- C. Legal/Investigatory:**
 - 1. Costs assessed since last report**
 - 2. Costs assessed year-to-date**
 - 3. Costs collected since last report**
 - 4. Costs collected year-to-date**

Ms. Wade informed the Board that Dr. Overland, Jr., has not signed the May 11 Agreed Settlement and has been given 5-day notice to sign or he will be noticed for hearing. Rick McCann moved for approval of the Executive Director reports. The motion was seconded by Dr. Yamane and passed unanimously.

Agenda Item 6 Approval of 2007-08 Proposed Budget.

Ms. Wade presented two budget proposals for 2007-08. Dr. Colucci moved for approval of the more conservative budget. The motion was seconded by Dr. Yamane and passed unanimously.

CONSENT CALENDAR

All items shall include discussion and possible action. Consent items may be pulled at the request of the Board members wishing to have an item or items further discussed. When items are pulled for discussion, they will be automatically placed at the beginning of the Administrative Agenda.

Dr. Yamane moved to approve the Consent Calendar:

Agenda Item 7 Granting of Doctor of Chiropractic licenses to those who passed the May 9, 2007 examination.

Agenda Item 8 Approval of James Palmer, DC, as probation compliance officer for southern Nevada.

Dr. Youngblood seconded and the motion passed unanimously.

Agenda Item 12 Discussion/possible action regarding proposed establishment of advisory board for oversight of complaint/investigatory/disciplinary process.

Dr. Colucci described the purpose and possible structure of an advisory board. Mr. Newton stated that this would probably require a statutory change. Dr. Potts moved that this matter be further researched for consideration of establishing an advisory board in statute or regulation. Dr. Yamane seconded and the motion passed unanimously.

Agenda Item 13 Status report/discussion/possible action regarding anonymous profiles of possible disciplinary actions. Board action will be limited to either dismissing the matter if the Board determines it has no jurisdiction over the subject or providing direction to pursue the matter further:

Complaint 07-06 (Youngblood).

_____ Dr. Youngblood explained that the patient who filed this complaint was happy with a set of orthotics and ordered a second set. He later became dissatisfied with them and complained because he wanted a refund. Upon notice from the Board of the complaint, the DC refunded \$530 and the patient withdrew the complaint. Dr. Youngblood moved for dismissal of the complaint. Dr. Yamane seconded and the motion passed unanimously.

Agenda Item 14 Discussion/possible action regarding development of regulation changes for future Workshop including, but not limited to:

A. Scope of Practice: Committee status report

Dr. Youngblood reported that the committee had met on Wednesday. They are in the process of researching the scope of practice issues and continuing to move forward.

B. Definition of “mobile chiropractic”

The proposed definition will be re-drafted and presented at the next meeting.

C. Any other changes, additions or deletions

There were no suggestions for additional regulation changes.

NON-ACTION ITEMS:

Agenda Item 15 Reports:

A. Attorney

Dr. Youngblood reported that the James Overland, Jr., and also the James Overland, Sr., matters are scheduled to be addressed at the July 13-14 meeting, as well as one or two others.

B. Investigator

There was no comment with respect to the investigator's written report.

C. Committees

Test Committee Chair Dr. Colucci asked for volunteers to assist with administration of the August 24, 2007 CA examinations.

The Legislative Committee issues were discussed. The Board's bill was passed without the proposed new fees. Cindy recommended that fee increases be considered under regulation changes at the next meeting since we were unsuccessful in adding new fees in statute. There was no objection. SB310 passed which includes a raise in Board member daily salaries from \$80 to \$150, as well as a provision for determination of whether or not continued board existence is warranted based on their progress reports that are submitted to LCB.

Agenda Item 16 Correspondence Report.

There was no comment regarding the form letter received from the State Bar in response to the Board's complaint filed against attorney Brent Harsh. The next Newsletter will be ready for mailing in June. Drs. Colucci and Yamane expressed their interest in attending the August 30-September 2, 2007 FCLB District Meeting in Juneau.

Agenda Item 17 Board Member Comments.

There were no Board member comments.

Agenda Item 18 Public Comment.

Cindy acknowledged her appreciation for the excellent work and support received from Deputy AG David Newton who has been promoted and will no longer serve as the Board's Counsel. The full Board concurred.

Agenda Item 19 Adjournment.

Dr. Colucci moved that the meeting be adjourned. Dr. Yamane seconded and the motion passed unanimously.

Approved: July 13, 2007

Ian K. Yamane, DC, Secretary