

MINUTES OF MEETING

A meeting of the Chiropractic Physicians' Board of Nevada was held on Thursday, November 29, 2007 in Room 1100 of the Grant Sawyer State Office Building, 555 E. Washington, Las Vegas, Nevada 89101 and on Friday, November 30, 2007 in Room 4401 of the Grant Sawyer State Office Building, 555 E. Washington, Las Vegas, Nevada 89101.

The following Board members were present for the roll call at 1:00 PM on Thursday, November 29:

Stephanie Youngblood, DC, President
Margaret Colucci, DC, Vice President
Ian K. Yamane, DC, Secretary
Deed Harrison, DC, Member
Richard P. McCann, J.D., Consumer Member

Dr. Youngblood determined that a quorum of the Board was present and called the meeting to order. Chief Deputy Attorney General Gina Session, Member Dr. Curtis Potts and Executive Director Cindy Wade were not present due to a flight delay. Dr. Youngblood led those present in the Pledge of Allegiance.

Agenda Item 1 APPROVAL OF AGENDA

Dr. Colucci moved that the agenda be approved. Dr. Yamane seconded the motion and it passed unanimously.

Agenda Item 2 PUBLIC INTEREST COMMENTS (No Action)

There were no public comments.

Dr. Youngblood announced that agenda items would be addressed out of order due to the absence of Ms. Session, Dr. Potts and Cindy Wade, and for the convenience of those present.

Agenda Item 6 Board ratification of approval of continuance with respect to Complaint 05-7 In the Matter of James Spickelmier, DC, License No. B531.

Dr. Spickelmier was present. Following discussion, Rick McCann moved to continue this matter until the February 1-2, 2008 meeting and Dr. Harrison seconded. The motion passed with all in favor except Dr. Colucci who recused because she is the investigating Board Member.

Agenda Item 7 Administrative hearing/granting of continuance/approval of proposed settlement agreement in the matter of Corazon Murillo, DC, License No. B647, Complaint No. 07-19.

Dr. Murillo and her attorney, Richard Harris, were present. CPBN prosecuting attorney Elizabeth Foley presented the terms and conditions of the proposed Agreed Settlement in this matter for the Board's approval. Dr. Yamane moved for approval of the Agreed Settlement as proposed. Dr. Colucci seconded the motion with all in favor except Dr. Youngblood who recused as the investigating Board Member.

Agenda Item 3 APPROVAL OF PREVIOUS MINUTES

A. Dr. Colucci moved for approval of the October 12, 2007 Board Meeting minutes. Dr. Yamane seconded and the motion passed unanimously.

B. Dr. Colucci moved for approval of the October 11, 2007 Scope of Practice Committee Meeting minutes. Dr. Yamane seconded and the motion passed unanimously.

Agenda Item 4 DISCUSSION/APPROVAL OF BOARD FINANCIAL REPORTS:

A. Bank balance as of November 15, 2007

B. Income/Expense Report: July 1, 2007 through November 15, 2007

C. Accounts Receivable as of November 15, 2007

D. Accounts Payable as of November 15, 2007

E. Extraordinary Items/Items of Concern

Dr. Yamane moved for approval of the Board financial reports. Dr. Colucci seconded the motion and it passed unanimously.

Agenda Item 11 Approval of granting of licenses to DC applicants who successfully passed the November 14, 2007 Law Test.

Dr. Colucci moved for approval of granting of licenses to DC applicants who successfully passed the November 14, 2007 Law Test. Dr. Harrison seconded the motion and it passed unanimously.

Agenda Item 12 Discussion/possible action for approval of Dr. Stephanie Youngblood to attend January 25-27, 2008 FARB meeting in Santa Fe.

Dr. Yamane moved to approve Dr. Youngblood to attend the January 25-27, 2008 FARB meeting in Santa Fe. Dr. Harrison 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

There was no report from the Scope of Practice Committee.

B. Proposed revision to NAC 634.385

Dr. Yamane moved to table this matter until Ms. Wade can obtain more information from Dr. Rovetti, who proposed the revision. Rick McCann seconded the motion and it passed unanimously.

C. Any other changes, additions or deletions

There were no other changes, additions or deletions.

Chief Deputy Attorney General Gina Session, Member Dr. Curtis Potts and Executive Director Cindy Wade arrived at 2:35 PM.

Agenda Item 8 Reconsideration of terms and conditions of September 14, 2007 Agreed Settlement of Disciplinary Action and Order/granting of continuance/administrative hearing in the Matter of James T. Overland, Sr., DC, License No. B527, Complaint No. 05-06.

Dr. Overland and his attorney, Valner Johnson, were present. Dr. Youngblood turned the Chair over to Mr. McCann because she is the investigating Board Member in this matter. At Mr. McCann's request, Ms. Foley explained the reason for her Motion for Board Reconsideration of Agreed Settlement of Disciplinary Action and Order. Following discussion, Dr. Colucci moved that this matter be set for hearing or possible approval of an Agreed Settlement on February 1-2, 2008. Dr. Harrison seconded. The motion passed with all in favor except Dr. Youngblood who recused herself.

Agenda Item 10 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.

A. Complaint 07-08

Dr. Colucci and Compliance Officer Jeffrey Andrews, DC, JD, explained that a DC who is currently on probation and his two associates practice in a facility that is owned by an MD. It is advertised as a "medical" facility but their Self-Inspection forms did not list the MD as actually performing services within their practices. Additionally, one of their brochures contains several advertising violations, i.e., they "*specialize* in the treatment of auto accident injuries, including pain management", and the name of at least one licensee that is responsible for the content of the advertisement or communication is not included. The licensee who is on probation has been previously disciplined for a similar advertising violation. The Self-Inspection forms have been revised so that they now list the MDs who practice there and the licensees have agreed to have the brochure revised to conform with the advertising regulations. Mr. McCann moved for dismissal of the complaint with a warning letter to be sent to the licensees. Dr. Potts seconded and the motion passed with all in favor except Dr. Colucci who recused as the investigating Board Member.

B. Complaint 07-14

Dr. Harrison described this complaint which was filed by a patient alleging "unethical" and long-term care recommendations for treatment of her condition, claiming the DC used religious undertones to sell her on care and that he recommended 6 months of intensive chiropractic treatment including rehabilitation totaling several thousand dollars. Review of the records, which were adequate, did not substantiate her claims, however, an itemized short-term plan was not signed by the patient. The DC denies that he recommended 6 months of care. Dr. Colucci moved for dismissal of the complaint. Dr. Yamane seconded the motion which passed with all in favor except Dr. Harrison who recused himself as investigating Board Member.

C. Complaint 07-21

An out-of-state DC filed this complaint because a review of his patient's case by a Nevada DC resulted in a reduction of reimbursement for massage therapy due to insufficient information in the doctor's notes to justify the treatment. Dr. Potts recommended dismissal of this complaint because there is no violation. Dr. Yamane moved for dismissal of the complaint. Dr. Colucci seconded and the motion passed with all in favor except Dr. Potts who recused himself as the investigating Board Member.

Agenda Item 10 (Cont'd)**D. Complaint 07-23**

Dr. Youngblood provided the details of this sexual harassment complaint. This complaint was thoroughly investigated. The patient's records were obtained and inspected. Interviews were conducted with all parties as well as an in-depth interview with the DC by Dr. Youngblood, the Board's investigator and the Board's counsel. The doctor demonstrated the technique he administered to this patient and it was deemed to be appropriate to his style of treatment. Some problems that arose from the investigation revealed that the doctor did not label his x-rays and he neglected to make the patient aware in advance of the nature of the treatment he planned to utilize. Dr. Colucci moved to dismiss the complaint with a warning letter to be sent to the DC that he must label his x-rays, recommending that he attend courses on the subjects of x-ray and ethics and boundaries and that on first-time new female patients he should afford them an opportunity to have a female assistant in the room and explain the method of treatment he plans to administer. Dr. Harrison seconded and the motion passed with all in favor except Dr. Youngblood who recused as the investigating Board Member.

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**

Cindy reported a few updates to the Status of Complaints Received report. Dr. Yamane moved to approve the Executive Director reports. Mr. McCann seconded and the motion passed unanimously.

Agenda Item 13 Discussion/possible action with respect to annual evaluation of job performance of CPBN Executive Director and award of salary increase.

The results of the Board Members' evaluations of the job performance of Executive Director Cindy Wade were compiled and resulted in high marks. Dr. Yamane moved that Ms. Wade be awarded a 6% salary increase. Dr. Youngblood seconded and the motion passed unanimously.

Agenda Item 15 Discussion/possible action regarding request from Dr. David Rovetti to be given license renewal credit for instructing Impairment Ratings course.

Following discussion, Dr. Colucci moved to deny Dr. Rovetti's request. The motion was seconded by Dr. Potts and passed unanimously.

Agenda Item 16 Discussion/possible action with respect to request for waiver of the NCBTMB requirement for prospective CA for Massage applicant Angela Earle pursuant to NAC 634.355(5)(a).

Dr. Earle's request was reviewed. Dr. Yamane moved to grant Dr. Earle's request for the waiver of the NCBTMB requirement for Angela Earle because she is licensed by the State Massage Therapy Board, however, she must take and pass the CPBN Law test to be certified as a CA for Massage. Dr. Colucci seconded the motion and it passed unanimously.

NON-ACTION ITEM:

Agenda Item 18 Reports:

A. Attorney

Ms. Foley reported on the status of pending disciplinary cases.

B. Investigator

Gina Crown reported on the status of current investigations. She has hired Liz Rowan to perform investigative work in southern Nevada.

C. Committees

There were no committee reports.

ACTION ITEM:

Agenda Item 17 Board Member travel expenses

A. Review of travel expense form

Cindy Wade reviewed the travel expense form and policy.

B. Approval of revised policy

Dr. Yamane moved for approval of the revised "Compensation of Salary to Board Members and Per Diem Allowance and Travel Expenses to Board Members and Employees" policy. Dr. Potts seconded and the motion passed unanimously.

NON-ACTION ITEMS (cont'd):

Agenda Item 19 Correspondence Report.

There was no correspondence to report.

Agenda Item 20 Board Member Comments.

The meeting following the February 1-2, 2008 meeting was tentatively scheduled for April 4-5, 2008. Deletion of the regulations requiring certification of Massage Therapists will be on the agenda for consideration at the February 1-2, 2008.

Agenda Item 21 Public Comment.

Dr. Jeffrey Andrews requested that the Board consider re-establishing the regulation that required retention of advertising files. He also requested that the Board consider establishing a program for review by the Board of proposed advertising in a fashion similar to the one recently established by the State Bar. There was also discussion with the Board regarding the flow of Compliance Monitor reporting and the information that may be provided to Compliance Monitors when they are assigned to a case.

Mr. McCann moved that the meeting be recessed until 9:00 AM on Friday, November 30. Dr. Yamane seconded the motion and it passed unanimously.

The meeting reconvened at 9:00 AM on Friday, November 30, 2007 in Room 4401 of the Grant Sawyer State Office Building, 555 E. Washington Ave., Las Vegas, Nevada 89101.

The following were present at the roll call:

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

Dr. Youngblood determined that a quorum was present and called the meeting to order. She announced that the following matter would be addressed.

Agenda Item 9 Administrative hearing/possible approval of settlement agreement in the matter of Stephen B. Shaw, DC, License No. B705, Complaint Nos. 05-9 and 07-12.

Dr. Stephen Shaw and attorneys, John Hunt and Bert Wuester, were present. Also present was Elizabeth Foley, prosecuting attorney for the Chiropractic Physicians' Board of Nevada and the CPBN's counsel, Chief Deputy Attorney General Gina Session. Dr. Youngblood announced and both parties agreed that Exhibits 1, 4, 11, 12 and 13 have been admitted. She also stated that in the interest of time the criminal case has been admitted and will not be re-tried. She also announced that the Board has the authority to relax the rules of evidence in the interest of a fair and expeditious administrative hearing.

The respective counsels introduced themselves. The following witnesses were present and sworn in: Monica Caldera, Parley Call, Gina Crown, Linda Edwards, Wayne Halton, Judge Michelle Leavitt, Robert Mirisch, Chuck Molina, Raquel Shaw, Dr. Stephen Shaw and Cindy Wade. All witnesses except Dr. Shaw and Ms. Wade were excluded.

Ms. Foley and Mr. Hunt presented their opening statements. Witnesses for the prosecution Parley Call and Judge Michelle Leavitt testified. Ronald Knoblock, MD, was sworn in and testified. Witnesses Robert Mirisch, Linda Edwards, Dr. Stephen Shaw and Gina Crown testified. Witness for the defense Dr. Lewis Etcoff was sworn in and testified, followed by Monica Caldera.

The hearing was originally scheduled to continue on Saturday, December 1, 2007, however, because Board Member Dr. Deed Harrison could not be present, it was agreed to continue the hearing until Saturday, December 15. It was also agreed that the attorneys for both sides will file briefs with the Board, and send copies to each other and to the six presiding Board members by facsimile on December 11, 2007. The presiding Board members were cautioned to not discuss the case in the meantime.

A court reporter was present during this proceeding and a copy of the transcript may be obtained upon request to Valley Reporters in Las Vegas, Nevada.

Agenda Item 22 Adjournment.

Dr. Yamane moved for adjournment at 7:50 PM. Dr. Colucci seconded and the motion passed unanimously.

Approved: December 15, 2007

Ian K. Yamane, DC, Secretary