

MINUTES OF MEETING

A meeting of the Chiropractic Physicians' Board of Nevada was held on Saturday, December 15, 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 9:00 AM:

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, Member

Dr. Youngblood determined that a quorum of the Board was present and called the meeting to order. Consumer Member Paul Jackson was not present. Also present were Chief Deputy Attorney General Gina Session, CPBN Prosecuting Attorney Elizabeth Foley and CPBN Executive Director Cindy Wade.

Consumer Member Rick McCann led those present in the Pledge of Allegiance.

The Chair announced that Agenda Item 4 would be addressed first.

Agenda Item 4 Continuation of administrative hearing in the matter of Stephen B. Shaw, DC, License No. B705, Complaint Nos. 05-9 and 07-12.

Dr. Shaw and his attorneys, John Hunt and Bert Wuester, were present. Dr. Youngblood stated that the Respondent's Motion to Strike Any Untimely Filed/Served Closing Brief by the Prosecution was denied and the Prosecution's Motion to Strike Oversized Brief of Dr. Shaw was also denied.

Mr. Hunt stated that Linda Edwards would not be recalled as a witness and may be present during the hearing. He also stated that Mrs. Raquel Shaw would not be called as a witness. Dr. Shaw was called as a witness and provided testimony. Mr. Hunt declared that he had no more witnesses. Cindy Wade was called as a witness by Ms. Foley and provided testimony.

Dr. Youngblood declared that Prosecution **Exhibits 1 through 30** and **Defense Exhibits A through E** were admitted. She instructed that each side would be allowed one-half hour for presentation of their closing arguments. Following a short recess, the hearing reconvened at 11:52 AM and Ms. Foley and Mr. Hunt presented their closing arguments.

Following another short recess, the hearing reconvened at 12:55 PM. Dr. Youngblood instructed that the Respondent has admitted to the following **Factual Allegations** set forth in the Complaint for Disciplinary Action and Notice of Hearing: **Nos. 1, 4, 11, 12 and 13**. She then asked that the Board make their determination as to the remaining Factual Allegations.

Dr. Yamane moved that there is conclusive evidence in support of **Factual Allegation No. 2**. Dr. Colucci seconded and the motion passed with all in favor.

Dr. Colucci moved that there is conclusive evidence in support of **Factual Allegation No. 3**. Dr. Harrison seconded and the motion passed with all in favor.

Dr. Yamane moved that the **Factual Allegation in No. 5** is proven. Dr. Colucci seconded and the motion passed with all in favor.

Dr. Colucci moved that the **Factual Allegation in No. 6** is proven. Dr. Potts seconded and the motion passed with all in favor.

Dr. Yamane moved that the **Factual Allegation in No. 7** is proven. Dr. Colucci seconded and the motion passed with all in favor.

Dr. Colucci moved that the **Factual Allegation in No. 8** is true. Dr. Harrison seconded and the motion passed with all in favor.

Dr. Yamane moved that the matter addressed in **Factual Allegation No. 9** did occur. Dr. Potts seconded and the motion passed with all in favor.

Dr. Harrison moved that the matter addressed in **Factual Allegation No. 10** is established. Dr. Yamane seconded and the motion passed with all in favor.

Dr. Yamane moved that **Factual Allegation No. 14** was not supported by the evidence presented. Dr. Potts seconded and the motion passed with all in favor.

Dr. Potts moved that the **Factual Allegation in No. 15** was proven. Dr. Colucci seconded and the motion passed with all in favor.

Dr. Yamane moved that there was enough evidence to support **Factual Allegation No. 16**. Dr. Colucci seconded the motion and it passed with all in favor.

Dr. Potts moved that the **Factual Allegation in No. 17** was proven. Dr. Yamane seconded the motion and it passed with all in favor.

Dr. Yamane moved that the **Factual Allegation in No. 18** was proven. Dr. Colucci seconded and the motion passed with all in favor.

Dr. Colucci moved that the **Factual Allegation in No. 19** was true. Dr. Harrison seconded and the motion passed with all in favor.

With respect to **Charge No. 1** set forth in the Complaint for Disciplinary Action and Notice of Hearing, Dr. Yamane moved that an unprofessional conduct violation under NRS 634.018(6) has occurred. Dr. Harrison seconded and the motion passed with all in favor.

With respect to **Charge No. 2**, Dr. Yamane moved that there was an unprofessional conduct violation of NRS 634.018(10). Dr. Colucci seconded and the motion passed with all in favor.

Following discussion and on the recommendation of Chief DAG Gina Session, Dr. Yamane moved to dismiss **Charge No. 3** because the language was too vague. Dr. Colucci seconded and the motion passed with all in favor.

With respect to **Charge No. 4**, Dr. Colucci moved that the charge is true. Dr. Harrison seconded the motion. Following discussion, the motion did not pass with all opposed. Dr. Potts moved to dismiss the charge because it was not proven. Dr. Colucci seconded and the motion passed with all in favor.

With respect to **Charge No. 5**, Dr. Yamane moved that violations of NAC 634.346, NAC 634.355, NAC 634.366 AND NAC 634.410 were proven, but violation of NAC 634.430 was not proven. Dr. Potts seconded and the motion passed with all in favor.

Chief DAG Gina Session provided instructions for the imposition of appropriate discipline action under NRS 634.190.

Following deliberation in open session, Dr. Harrison moved that the following discipline be imposed:

- Revocation of Dr. Shaw's chiropractic license with the revocation stayed
 - Probation for the duration of Dr. Shaw's criminal probation
 - 500 hours of Board approved community service to be completed within the probationary period
 - A repeat psychological test with the battery of tests that were performed by Dr. Etkoff within three months
 - Take and pass the CPBN Law test within one year
 - Take and pass the NBCE Ethics test within one year
 - Pay a \$10,000 fine within six months
 - Pay the Board for its costs within six months
 - A Board appointed Compliance Officer to monitor Dr. Shaw's compliance during the probationary period with quarterly reports to the Board; Dr. Shaw will be responsible for payment to the Compliance Officer
 - Attend 100 hours at an anger management course approved by the Board
- Dr. Colucci seconded and the motion passed with all in favor.

Dr. Youngblood informed everyone that immediately following a short break the Board would take public comments.

Agenda Item 10 Public Comment

After the break, the following persons commented with respect to the Shaw proceeding: Sidney Rudich, Sheri Weiss, Linda Edwards, Michael Mack, Debra Peart, Elaine Kissel and Lynn Kleinhandlite.

Agenda Item 3 APPROVAL OF PREVIOUS MINUTES: November 29 & 30, 2007

Dr. Yamane moved to approve the November 29-30, 2007 meeting minutes. Mr. McCann seconded the motion and it passed unanimously.

Agenda Item 5 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 No. 07-24

A female patient complained that a DC told her a joke that she considered to constitute sexual harassment. Investigating Board Member Dr. Curtis Potts stated that the joke may be construed as offensive but it does not rise to the level of sexual harassment, therefore, there is no violation. He moved for dismissal of the complaint with a letter of instruction to be sent to the DC. The motion was seconded by Dr. Youngblood and passed unanimously.

B. Complaint No. 07-30

Dr. Potts reported that this complaint was filed by a landlord who claims the DC committed “unprofessional conduct” by not fulfilling his financial and ethical obligation of paying for his occupation of an office for 12 days during October and has requested that the Board compel the doctor to pay him for his use of the property. There is no Board jurisdiction in this matter. Dr. Yamane moved that this complaint be dismissed. Rick McCann seconded and the motion passed unanimously.

Agenda Item 1 APPROVAL OF AGENDA

This agenda item was overlooked at the beginning of the meeting. Mr. McCann moved for approval of the agenda, Dr. Potts seconded and the motion passed unanimously.

Agenda Item 6 Discussion/possible action regarding appointment of Dr. Jeffrey D. Andrews, Esq., to monitor compliance of the probation of Dr. Corazon Murillo.

Dr. Potts moved that Dr. Jeff Andrews, Esq., be appointed to monitor Dr. Murillo’s compliance. Dr. Yamane seconded and the motion passed unanimously.

NON-ACTION ITEMS:

Agenda Item 7 Reports:

A. Board Financial Report

Cindy Wade reported that the renewals are coming in steadily and there is no outstanding Accounts Payable at this time.

B. Executive Director report

Cindy reported that there is one DC currently on probation who is having problems making his payments. His Compliance Monitor has consulted with the doctor and will watch this situation. A suspended licensee contacted Cindy to complain about the results of his recent test and requested that he be allowed to review his test. Cindy advised him to have his attorney contact the Board’s counsel in this matter.

Agenda Item 8 Correspondence Report.

Cindy was instructed to file a complaint against a licensee who has had four malpractice settlements since 2001.

Agenda Item 9 Board Member Comments.

There was a general review of the preceding hearing process.

Agenda Item 11 Adjournment.

Dr. Potts moved for adjournment of the meeting. Rick McCann seconded and the motion passed unanimously.

Approved: February 1, 2008

Ian K. Yamane, DC, Secretary