

MINUTES OF MEETING

A meeting of the Chiropractic Physicians' Board of Nevada was held on Friday, April 4, 2008 in Room 4401 of the Grant Sawyer State Office Building, 555 E. Washington Avenue, Las Vegas, Nevada 89101. The following Board members were present for the roll call:

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

Dr. Yamane determined that a quorum of the Board was present and called the meeting to order at 9:15 AM. Member Dr. Deed Harrison was not present. Also present were Deputy Attorney General Daniel Ebihara, CPBN Prosecuting Attorney Elizabeth Foley and CPBN Executive Director Cindy Wade.

Dr. Margaret Colucci led those present in the Pledge of Allegiance.

Agenda Item 1 APPROVAL OF AGENDA

Dr. Colucci moved to approve the agenda as published. Dr. Youngblood seconded and the motion passed unanimously.

Agenda Item 2 PUBLIC INTEREST COMMENTS

There were no public interest comments.

Dr. Yamane announced that the administrative matters would next be addressed to accommodate those present. He turned the Chair over to Vice President Dr. Margaret Colucci because he was the investigating Board member for the next two matters.

Agenda Item 6 Administrative hearing/granting of continuance/approval of proposed settlement agreement in the matter of David Spendlove, DC, License No. B399, Complaint No. 07-31.

Dr. Yamane presented the terms and conditions of the proposed Agreed Settlement with Dr. David Spendlove, who was not present. Dr. Potts moved for approval of the proposed agreement. There was no second and the motion failed. Following discussion, Rick McCann moved that the agreement should be renegotiated to change the probationary period from one year to three years. Dr. Youngblood seconded and the motion passed unanimously with Dr. Yamane recused from voting.

Agenda Item 7 Administrative hearing/granting of continuance/possible approval of settlement agreement in the matter of Israel Villasenor, DC, License No. B797, Complaint No. 08-08.

Dr. Villasenor was present and Dr. Yamane presented the terms and conditions of the proposed Agreed Settlement. Dr. Potts moved to accept the Agreed Settlement as proposed. Paul Jackson seconded the motion which passed unanimously with Dr. Yamane recused.

Dr. Yamane resumed the Chair.

Agenda Item 8 Discussion/possible action with respect to the terms and conditions of the Board's Order pursuant to Dr. Stephen B. Shaw:

Dr. Shaw and his attorney, John Hunt, were present. Elizabeth Foley presented the proposed amendments to the January 28, 2008 Findings of Fact, Conclusions of Law and Administrative Decision and stated that Dr. Shaw will not seek judicial review of his case if the Board approves.

A. Approval of psychologist to conduct administration of PAI test and anger management course

Dr. Youngblood moved to approve Dr. Mortillaro for administration of the PAI test and anger management course. Dr. Potts seconded and the motion passed unanimously.

B. Approval of 500 hours community service

Dr. Youngblood presented a list of local community services and moved for approval of hours served under any of the health care services, shelters, senior services, veterans and also, animal shelters as well as Boys/Girls Club and child care. Dr. Colucci seconded the motion and it passed unanimously.

C. Approval of proposed plan for payment of fine and Board's costs

Ms. Foley stated that the proposed plan provides for payment of the \$10,000 fine within twelve months and payment of the costs totaling \$34,614.11 to be made in 24 monthly payments of \$1,442.25. Dr. Potts moved to approve the payment plan as proposed. Mr. Jackson seconded the motion and it passed with all in favor.

D. Approval of proposed Amendment to Findings of Fact

Dr. Potts moved for approval of the Amended Findings of Facts. Dr. Youngblood seconded and the motion passed unanimously.

Agenda Item 9 Administrative hearing/approval of proposed settlement agreement in the matter of James Spickelmier, DC, License No. B531, Complaint No. 05-7.

Dr. Spickelmier was present. Ms. Foley presented the terms and conditions of the proposed Agreed Settlement. She indicated that the total Board costs to be reimbursed will include her fees and the cost of the court reporter for this proceeding. Dr. Potts moved for approval of the Agreed Settlement as proposed. Mr. Jackson seconded and the motion passed unanimously with Dr. Colucci recused because she was the investigating Board member.

Agenda Item 10 Discussion/possible action with respect to approval of Application for Certification of Chiropractor's Assistant of Jacob Villasenor.

Jacob Villasenor was not present. His father, Dr. Israel Villasenor, expressed to the Board why Jacob should not be denied the opportunity to work as a Chiropractor's Assistant in his office. Dr. Villasenor was advised that Jacob needs to formally request that a hearing be scheduled for the Board's May 30-31, 2008 meeting if he wishes to appeal the denial of his application. Mr. McCann moved that no action be taken in this matter. Dr. Youngblood seconded and the motion passed with all in favor.

Agenda Item 25 Discussion regarding request from suspended licensee Mark Rubin to review his progress with the Family Court system and the Nevada Law test.

Dr. Rubin and Senior Deputy Attorney General David Newton were present. Mr. Newton stated that Dr. Rubin has waived his right to have counsel present. He noted that this matter is a non-action item. Dr. Rubin expressed to the Board why he needs to have the suspension of his license lifted so that he can practice. He stated that he will be better prepared to take the May 14, 2008 Law test. Mr. Newton stated that passing the Law test and payment of the balance of the fine are secondary to the resolution of the status of his child support payments in New York. These matters, as well as the issue of clarification of Dr. Rubin's quarterly reporting responsibilities during his suspension, may all be addressed at the May 30-31, 2008 meeting if Dr. Rubin will submit his request to be on the Agenda for action by the Board.

Agenda Item 11 Discussion/possible action with respect to approval of Application for License as a Doctor of Chiropractic of Jason T. O'Brien, DC.

Cindy Wade explained that Dr. O'Brien has charges pending against him in Nebraska. He understands that if he is granted a Nevada license it will be subject to disciplinary action if he is disciplined by Nebraska. Dr. Youngblood moved to approve Dr. O'Brien's application. Dr. Colucci seconded the motion and it passed unanimously.

Agenda Item 12 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.

Dr. Yamane turned the Chair over to Dr. Colucci for the next three matters.

B. Complaint 07-26S

Dr. Yamane explained that this complaint involves unlicensed activity by a licensee's brother. An investigation has confirmed that he was placing patients on a spinal decompression table without supervision. The brother is not registered as a CA with this Board; he is licensed as a DC in Utah. Settlement of this matter with the licensee is in progress. Dr. Yamane recommended that this complaint be placed on indefinite hold, or until an application for a Nevada license is received. Following discussion, Mr. Jackson moved that a "cease and desist" letter be sent with a request for reimbursement of the Board's costs of investigating this matter and that this information be sent to the Utah Board. Dr. Youngblood seconded the motion and it passed unanimously with Dr. Yamane recused.

A. Complaint 07-25S

The patient complained that he was charged for a missed appointment fee because he left when he found out he had no insurance coverage. The DC has written off the charge. Dr. Yamane recommended dismissal of the complaint because there was no violation. Dr. Youngblood moved for dismissal of the complaint. Dr. Potts seconded and the motion passed unanimously with Dr. Yamane recused as investigating Board member.

D. Complaint 08-04S

This complaint was filed by a patient who prepaid a considerable amount of money and was unhappy with the treatment she received. The doctor worked out a resolution of their differences and the patient has withdrawn her complaint. Dr. Potts moved that the complaint be dismissed. Mr. Jackson seconded and the motion passed unanimously with Dr. Yamane recused as investigating Board member.

Dr. Yamane resumed the Chair.

C. Complaint 07-32S

The complainant alleges her insurance was double billed and that the doctor failed to treat some of her symptoms. Dr. Youngblood has reviewed the patient records and found thorough documentation and findings substantiating that the billings and treatment rendered were appropriate. This is a duplicate of a complaint from the same person for the same circumstances that was dismissed in 2005. Dr. Yamane moved for dismissal of the complaint. Dr. Colucci seconded and the motion passed unanimously with Dr. Youngblood recused as investigating Board member.

Agenda Item 13 Approval of granting of licenses to DC applicants who successfully passed the February 13, 2008 Law Test.

Dr. Colucci moved to grant licenses to those who successfully passed the February 13, 2008 Law Test. Mr. McCann seconded and the motion passed unanimously.

Agenda Item 14 Approval of granting of certificates to CA applicants who successfully passed the February 8, 2008 examinations.

Dr. Colucci moved to grant CA certificates to those who successfully passed the February 8, 2008 examinations. Dr. Potts seconded and the motion passed unanimously.

Agenda Item 15 Approval of granting of certificates to CA for Massage applicants who successfully passed the February 8, 2008 examinations.

Dr. Colucci moved to grant CA certificates to those who successfully passed the February 8, 2008 examinations. Mr. McCann seconded and the motion passed unanimously.

Agenda Item 16 Discussion/possible action with respect to request from Charles A. Musich, DC, for reimbursement of the late fee for his license renewal.

Rick McCann moved to deny Dr. Musich's request for reimbursement of the license renewal late fee. Dr. Youngblood seconded and the motion passed unanimously.

Agenda Item 17 Discussion/possible action regarding development of regulation changes for future Workshop and CPBN Legislative bill:

A. Scope of Practice Committee status report

The recent committee meeting was very productive with NCA members in attendance. Following discussion, Dr. Youngblood moved to approve the proposed definition that has been developed by the Scope of Practice Committee, including the amendments suggested today, to replace the current Scope of Practice definition under NRS 634.013. The motion was seconded by Dr. Yamane and passed unanimously. Susan Fisher reminded that all scope of practice issues will be reviewed by the Legislative SubCommittee before they go to the Legislature.

The board recessed for lunch at 12:15 PM and the meeting resumed at 1:20 PM.

B. Any changes, additions or deletions

Following discussion regarding the previously approved proposed change to NAC 634.541, Dr. Youngblood moved to rescind deletion of the phrase "or a referral bureau for licensees". Rick McCann seconded and the motion passed unanimously.

C. Establishment of dates for:**(1) Rule-making workshop**

The workshop will be held at 9:00 AM on Friday, May 30, 2008 in Las Vegas, followed by a regular meeting and hearings following the conclusion of the workshop and possibly extending into Saturday, May 31.

(2) Public hearing to adopt regulations

The hearing to adopt will be held at 9:00 AM on Saturday, July 11, 2008 in Las Vegas, to be followed by a regular meeting and hearings following the conclusion of the hearing to adopt regulations and possibly extending into Saturday, July 12.

In addition, a regular Board meeting was scheduled to be held in Reno on Saturday, June 14, 2008.

D. Approval of proposed changes to NRS

Dr. Youngblood moved to approve the proposed revisions to NRS 634.013 and NRS 634.190(1)(f), and to add the proposed new provision to NRS 634.018. Dr. Yamane seconded and the motion passed unanimously.

Agenda Item 20 Discussion/possible action with respect to approval of revision to Complaint, Investigation, Agreed Settlement/Disciplinary Action Process Procedure to provide for investigator contract approval levels.

Dr. Potts moved to approve the changes as proposed. Paul Jackson seconded and the motion passed unanimously.

Investigator Liz Rowan addressed the Board with respect to the impracticality of the requirement in the procedure for immediate recording, printing and signing by interviewees of their statements. She and Gina Crown feel this process would not be feasible in many instances. This will be placed on the agenda of the next meeting.

Agenda Item 18 Discussion/possible action regarding termination of Board's approval of Chiro-Income Solutions to operate as a referral bureau in Nevada.

Chiro-Income Solutions has never complied with the provisions of NAC 634.440. They received notice by Certified Mail on March 24, 2008 that this matter was to be addressed at this meeting, however, their representative was not present. Dr. Youngblood moved to rescind the Board's approval of Chiro-Income Solutions to operate a referral bureau in the state of Nevada. Dr. Potts seconded the motion which passed with all in favor except Dr. Yamane who recused because of a prior business relationship.

Agenda Item 19 Discussion/possible action regarding requests for approval to be continuing education sponsor:**A. J. Ray Weltch, DC, J. R. W. Seminars**

Dr. Yamane moved to approve J. Ray Weltch, DC, J.R.W. Seminars, to be a continuing education sponsor. Dr. Colucci seconded and the motion passed unanimously.

B. Educational Symposia

Dr. Potts moved to approve Educational Symposia to be a continuing education sponsor. Dr. Youngblood seconded and the motion passed unanimously.

C. FARB

Dr. Potts moved to approve FARB to be a continuing education sponsor. Dr. Yamane seconded and the motion passed with all in favor except Drs. Colucci and Youngblood who recused due to their participation in the recent FARB symposium.

Agenda Item 21 Discussion/possible action regarding establishment of Board policies:**A. Handling complaints filed against Board members**

Dr. Yamane discussed Board ethics issues and advised Board members to exercise extreme caution. He distributed a proposed policy addressing handling of complaints filed against Board members. Dr. Colucci moved that the proposed policy be implemented. Mr. McCann seconded and the motion passed unanimously.

B. Inclusion of limited involvement of IBM in hearing process

Dr. Yamane suggested that it would be beneficial if the respective investigating Board member were to be allowed to participate on a limited basis during disciplinary hearings. Following discussion, Dr. Youngblood moved for no action to be taken at this time. Dr. Colucci seconded and the motion passed unanimously.

Agenda Item 22 Discussion/possible action regarding approval of lobbyist contract.

Susan Fisher was commended for her work. Dr. Youngblood moved for approval of the proposed contract with Fisher Consulting. Mr. McCann seconded the motion and it passed unanimously.

Agenda Item 23 Discussion/possible action regarding reassignment of Committee chairs.

Dr. Potts moved for assignment of the following committee Chairs: Paul Jackson - Legislative Committee Chair, Dr. Yamane - CE Committee Chair, and Dr. Colucci - Test Committee Chair. Dr. Yamane seconded and the motion passed unanimously.

Agenda Item 24 Discussion/possible action regarding request from David Rovetti, DC, for license renewal credit for seminar presenters.

There was general agreement that a presenter of a seminar should not benefit by receiving credit for his attendance at a seminar if he also stands to profit by presenting the seminar. Mr. Jackson moved to deny Dr. Rovetti's request. Dr. Youngblood seconded and the motion passed unanimously.

Agenda Item 3 APPROVAL OF PREVIOUS MINUTES:**A. February 1, 2008 Board Meeting****B. February 29, 2008 Scope of Practice Committee Meeting**

Dr. Colucci moved for approval of the February 1, 2008 Board meeting minutes and the February 29, 2008 Scope of Practice Committee meeting minutes. Dr. Potts seconded and the motion passed unanimously.

Agenda Item 4 DISCUSSION/APPROVAL OF BOARD FINANCIAL REPORTS:**A. Bank balance as of March 31, 2008****E. Extraordinary Items/Items of Concern****B. Income/Expense Report: July 1, 2007 through March 31, 2008****C. Accounts Receivable as of March 31, 2008****D. Accounts Payable as of March 31, 2008**

Cindy Wade reported that the accounting clerk is currently working on establishing electronic payment to selected vendors. Dr. Potts moved to approve the financial reports. Dr. Colucci 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**
- D. Annual Report**

Several issues with respect to current probations will be addressed for action at the next meeting with 30-day notices sent to the licensees. Compliance Monitor Dr. Jeffrey Andrews, Esq., will be requested to attend. There is a need for a policy that will allow compliance monitors to deal directly with the Board member who investigated the complaint. Dr. Youngblood moved for approval of the Executive Director reports. The motion was seconded by Paul Jackson and passed unanimously.

NON-ACTION ITEMS:**Agenda Item 26 NBCE Test Committee report.**

Dr. Yamane reported on his recent participation on the National Board Test Committee.

Agenda Item 27 Reports:

- A. Attorney**

There was no attorney report.
- B. Investigator**

Investigator Gina Crown's report was reviewed. There were no other reports.
- C. Committees**

The next CA exams will be administered on August 22, 2008 in Las Vegas and Reno.

Agenda Item 28 Correspondence Report.

The next Newsletter will include a profile of Board President Dr. Yamane. The proposed regulation changes will be included in the mailing with an invitation to participate in the May 30 Workshop.

The status of the inter-scholastic issue will be addressed at the next meeting.

Agenda Item 29 Board Member Comments.

Dr. Youngblood expressed her concern about reportedly inaccurate information that was offered by the NCA's attorney during his presentation at their recent meeting. This should be addressed in the Newsletter.

Agenda Item 30 Public Comment.

There was no public comment.

Agenda Item 31 Adjournment.

Dr. Youngblood moved that the meeting be adjourned. Dr. Potts seconded and the motion passed unanimously.