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Member
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Member
CINDY WADE
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CHIROPRACTIC PHYSICIANS' BOARD OF NEVADA

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MINUTES OF MEETING

A meeting of the Chiropractic Physicians' Board was held on Saturday and Sunday, July 10 and 11, 2010 in Room 4401 of the Grant Sawyer State Office Building at 555 E. Washington, Las Vegas, Nevada 89101. The following board members were present for the roll call:

Margaret Colucci, DC, President
Lawrence Davis, DC, Vice President
David G. Rovetti, DC, Secretary
Paul Jackson, Consumer Member
Jack Nolle, DC, Member
Ian K. Yamane, DC, Member

Consumer Member Shell Mercer was not present due to her recovery from recent surgery. Also present were CPBN Attorney Louis Ling and CPBN Executive Director Cindy Wade.

President Dr. Margaret Colucci determined that a quorum was present and called the meeting to order.

Dr. Lawrence Davis led those present in the Pledge of Allegiance.

Agenda Item 1 Approval of Agenda

Dr. Nolle moved that the agenda be approved. Mr. Jackson seconded and the motion passed unanimously.

Agenda Item 2 Public Comments

There were no public comments.

Agenda Item 3 Discussion/possible action regarding request for reinstatement of suspended license by Dr. Curtis Potts in the matter of Curtis Potts, DC, License No. B668, Case No. 08-09.

Dr. Potts was present by speakerphone. Mr. Ling explained that Dr. Potts's license has been suspended since June 18, 2010 pursuant to the Board's June 12, 2010 Order because of his noncompliance with the June 14, 2008 Agreed Settlement. Dr. Potts did pass the CPBN Law Test and is requesting the Board's consideration of reinstatement of his license. Dr. Potts described his current financial situation.

Agenda Item 3 Discussion/possible action regarding request for reinstatement of suspended license by Dr. Curtis Potts in the matter of Curtis Potts, DC, License No. B668, Case No. 08-09. (cont'd)

Following discussion, Dr. Rovetti made a motion to approve a payment plan that includes a down payment of \$500 and \$50 per month payments beginning on August 15, 2010 for twelve months, \$100 per month for the next twelve months with the balance due on the 25th of the following month, and automatic license suspension if a payment is received more than ten days late. Dr. Yamane seconded the motion. After further discussion, Dr. Rovetti amended his motion to change the amount of the down payment to the entire \$660.23 of Board's costs to be paid within ten days, the payments will be due on the 15th of each month, the automatic suspension will go into effect if a payment is received more than 30 days late, and Dr. Potts's license will be reinstated upon receipt of the \$660.23. Dr. Yamane seconded the motion and it passed with all in favor.

Agenda Item 6 Discussion/possible action for establishment of more concise licensee standards of documentation, etc., criteria.

Dr. Nolle addressed his concerns about the disparity of consistent standards of care and record keeping. It was generally agreed that the professional association should be encouraged to educate licensees in these areas.

Dr. Colucci turned the Chair over to Dr. Davis because she is the Investigating Board Member in the following matter.

Agenda Item 4 Discussion/possible action regarding continuation of administrative hearing in the matter of Michael Lin, DC, License No. B744, Complaint Nos. 08-5S and 08-10S.

Prosecuting attorney Elizabeth Foley, Dr. Lin and his attorneys, Edgar Carranza and Dr. Jeffrey Andrews, were present. Ms. Foley and Mr. Carranza summarized the portion of the hearing that occurred on June 12, 2010. Mr. Ling concurred with their summaries.

Ms. Foley stated that the Motion to Quash Subpoena that was filed by Dr. Lin was recently addressed in court. The judge narrowed the production of documents to certain ones that are to be redacted, and the charge concerning the subpoena compliance was dismissed without prejudice. The judge's order is not yet available in writing.

The Amended Complaint and the Answer to the Amended Complaint were reviewed. The Motion to Dismiss was reviewed. Mr. Carranza stated that the record justifies dismissal of this case. Ms. Foley requested that this be addressed at the conclusion of the hearing. A polling of the Board resulted in a decision to proceed with the rest of the hearing.

The following defense witnesses were sworn in and provided testimony: **Wei Minh Huang, Michael Lipton, Xia Tan, Cynthia Bazin, and Dr. Christian Choi.** An interpreter was provided for the testimonies of Mr. Wie Minh Huang and Mr. Xia Tan.

Mr. Jackson moved to deny the Motion to Dismiss. Dr. Rovetti seconded and the motion passed with all in favor.

Ms. Foley and Mr. Carranza made their closing arguments. The Board proceeded to deliberation and addressed the charges individually.

Mr. Jackson moved for dismissal without prejudice of the **subpoena charge under NAC 634.430(1)(h)**. Dr. Rovetti seconded. The motion passed with all in favor.

Charge 2: Violation of NRS 439B.435 which prohibits chiropractors from referral of patients to commercial establishments in which the practitioner has a financial interest. Mr. Jackson moved to find the defendant in violation. Dr. Yamane seconded. The motion passed with Drs. Davis, Nolle and Yamane and Mr. Jackson in favor and Dr. Rovetti opposed.

Charge 3: Unprofessional conduct as defined in NAC 634.430(m) as deception in any business affairs that relate to the practice of chiropractic. Dr. Rovetti moved to find Dr. Lin not guilty. The motion passed with Drs. Nolle, Rovetti and Yamane in favor and Dr. Davis and Mr. Jackson opposed.

Charge 1: Violation of NAC 634.435 which governs chiropractic healthcare records. Dr. Yamane moved to find Dr. Lin guilty. Dr. Nolle seconded. The motion passed with all in favor.

Discussion ensued, followed by a motion by Dr. Nolle to revisit and reconsider the motion as to **Charge 3**. Dr. Yamane seconded and the motion passed with all in favor.

Charge 3: Unprofessional conduct as defined in NAC 634.430(m) as deception in any business affairs that relate to the practice of chiropractic. Dr. Nolle made a motion to reconsider and change the Board's decision to guilty. Mr. Jackson seconded the motion and it passed with all in favor.

The meeting was recessed until Sunday, July 11, 2010.

The meeting resumed at 9:09 AM on Sunday, July 11, 2010 in Room 4401 of the Grant Sawyer State Office Building at 555 E. Washington, Las Vegas, Nevada 89101. The following board members were present for the roll call:

Margaret Colucci, DC, President
Lawrence Davis, DC, Vice President
David G. Rovetti, DC, Secretary
Paul Jackson, Consumer Member
Jack Nolle, DC, Member

Consumer Member Shell Mercer was not present. Member Dr. Ian K. Yamane will be available by telephone at 1:30 PM for resumption of the deliberations of the Lin hearing. Also present were Deputy Attorney General Daniel Ebihara, CPBN Attorney Louis Ling and CPBN Executive Director Cindy Wade.

Dr. Rovetti led those present in the Pledge of Allegiance. Dr. Colucci determined that a quorum was present and called the meeting to order. She turned the Chair over to Dr. Davis because she is the Investigating Board Member in the next two matters.

Agenda Item 5 Discussion/possible action regarding continuation of administrative hearing in the matter of Keith Quisberg, DC, License No. B993, Complaint No. 08-37S.

Dr. Quisberg was present and was not represented by counsel. Mr. Ling requested that Exhibits 6 through 17 be admitted as evidence in this case. There was no objection from Dr. Quisberg. Mr. Ling requested that pursuant to NAC 634.630(3), under the third cause of action, "Manual Therapy (Billing Code 97140)" be added on Line 21 after (Billing Code 97530). Dr. Quisberg objected to the addition at this late date. Dr. Rovetti moved to accept the amendment. Mr. Jackson seconded the motion and it passed with all in favor.

Mr. Ling summarized the hearing proceedings that took place on May 15, 2010.

The hearing resumed. Prosecution witness **Barbara VanSinderen** was cross-examined by Dr. Quisberg.

Dr. Quisberg asked to be allowed to introduce statements from patients who received massages from Barbara VanSinderen with their names redacted. Mr. Ling objected to introduction of the statements because they appear to have been typed by Dr. Quisberg, they are not sworn statements and are not credible, there is no way to verify the signatures, there is no foundation, and he has had no opportunity to prepare.

Following discussion, Dr. Nolle made a motion to allow Dr. Quisberg to introduce the statements as Exhibit 18. Dr. Rovetti seconded. The motion passed with Drs. Nolle and Rovetti and Mr. Jackson in favor and Dr. Davis opposed. Exhibit 18 was reviewed.

Dr. Quisberg resumed his cross-examination of Ms. VanSinderen followed by questions from the Board.

Dr. Ryan Kissling was sworn in as a defense witness and provided testimony.

A break was called to afford Mr. Ling and Dr. Quisberg time to negotiate a settlement. After the break, Mr. Ling presented the following proposed settlement for the Board's consideration: The First and Fourth Causes of Action will be dismissed, the Second Cause of Action will be admitted as stated, and the Third Cause of Action will be admitted but only to the extent of deceitful conduct (no fraud or misrepresentation). Discipline will include a three year probation with a Compliance Monitor who will submit quarterly reports including monitoring of record keeping to record the performance of therapies performed by CAs, etc.; Dr. Quisberg will deal with his software vendor to get this accomplished, and he will pay all costs. He will attend 12 hours of continuing education on the subject of billing and coding, he will have one year to take and pass the coding and billing segment of the National Board Ethics and Boundaries Test after it becomes available, and he will pay all of the Board's fees and costs for prosecution of this matter with a payment plan to be worked out with the Investigating Board Member.

Mr. Jackson made a motion to accept the agreement with the probation reduced to two years and the "deceitful" reference removed. Dr. Davis seconded the motion. After discussion, Mr. Jackson amended his motion to eliminate the billing and coding continuing education requirement. Dr. Davis seconded the amended motion which passed with all in favor.

There was a break for lunch and the meeting reconvened at 1:45 PM to resume the following matter:

Agenda Item 4 Discussion/possible action regarding continuation of administrative hearing in the matter of Michael Lin, DC, License No. B744, Complaint Nos. 08-5S and 08-10S.

Prosecuting attorney Elizabeth Foley, Dr. Lin and his attorneys, Edgar Carranza and Dr. Jeffrey Andrews, were present. The Board continued their deliberation of this matter with Dr. Ian Yamane on speakerphone.

Charge 4: Violation of NAC 634.415 which governs supervision of Chiropractic Assistants by a licensee. Dr. Rovetti moved to find Dr. Lin guilty. Mr. Jackson seconded. The motion passed with all in favor.

Charge 5: Violation of NAC 634.460 which sets forth the limitations of practice by Chiropractic Assistants. Dr. Rovetti moved to find Dr. Lin guilty. Dr. Nolle seconded. The motion passed with all in favor.

At Dr. Andrews' request, he was allowed to make a plea for leniency for his client. However, after he had made several statements, an objection by Ms. Foley that he was attempting to re-try the case was sustained.

After considerable discussion with regard to appropriate discipline, Mr. Jackson moved for a three year revocation with the revocation stayed and a three year probation imposed during which Dr. Lin's practice will be monitored by Affiliated Monitors at his expense; Dr. Lin will be ordered to not take on any new dual chiropractic/attorney relationships and he will be required to dispose of the existing chiropractic/attorney relationships within six months; he must attend a 12 hour seminar on the subject of ethics and boundaries and take and pass the National Board Ethics and Boundaries test and the CPBN Law test within 12 months; and Dr. Lin must pay all of the Board's costs in this matter. Imposition of a fine or fines will be addressed by separate motion. Dr. Davis seconded the motion. Following more discussion, Mr. Jackson restated his motion to change the revocation to suspension and, if any violation should occur during the probationary period, the suspension will go into effect immediately. Dr. Davis seconded the restated motion. The motion passed with Drs. Davis, Nolle, Yamane and Mr. Jackson in favor and Dr. Rovetti opposed.

Dr. Davis made a motion that Dr. Lin be fined in the amount of \$1,000 per charge, a total of \$5,000. Dr. Yamane seconded the motion. The motion passed with Drs. Davis, Nolle and Yamane and Mr. Jackson in favor and Dr. Rovetti opposed.

Dr. Colucci resumed the Chair.

Agenda Item 7 Discussion/possible action for consideration of establishing a substance abuse counseling program for licensees.

Dr. Nolle recommends that the Board be proactive in this area. Mr. Ling described several of the programs that are utilized by other Boards. Dr. Nolle will gather more information and this matter will be addressed at a future meeting.

Agenda Item 8 Discussion/possible action regarding development of an on-line, CE-qualified, informational video discussing issues important to the Board.

Dr. Rovetti described his concept of the information video. Dr. Nolle moved to accept Dr. Rovetti's proposal to create a one hour video with a tracking format at the end to enable licensees to obtain credit for one free hour of continuing education toward their license renewal.

Agenda Item 9 Discussion/possible action regarding modification of the Board's policy on Test Reviews.

Dr. Rovetti suggested that because the Board's law test is a written test and not a "practical" test, all Board members should review the test, and certify that it is a fair and accurate test (or make changes so that it is so). Any requests for a test review after that will not be accepted as it would be futile to have a board member correct a question he/she has already certified as fair and accurate. After discussion, Dr. Davis made a motion to continue with the current policy. Mr. Jackson seconded the motion. The motion passed with Drs. Colucci and Davis and Mr. Jackson in favor, Dr. Rovetti opposed, and Dr. Nolle abstained.

Agenda Item 10 Discussion/approval of Executive Director Reports:

- A. Status of Complaints Received
- B. Status of Current Probations
- C. Legal/Investigatory

Ms. Wade provided updates of the reports since they were published. There was no discussion.

Agenda Item 11 Correspondence Report

Dr. Rovetti will respond to a licensee who inquired about an advertising issue. Mr. Ling and Ms. Wade apprised the Board of a letter and questionnaire from the Governor's office, and an e-mailed notice regarding mandatory attendance by Board Chairs and Executive Directors at a follow-up meeting with the Governor's staff.

Agenda Item 12 Board Member Comments

There was some discussion about the recent decision of the NIAA to approve chiropractors for performance of school sports physicals.

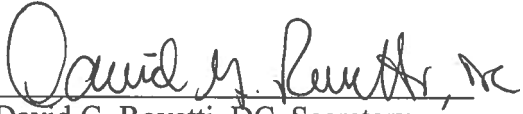
Agenda Item 13 Public Comment

There was no public comment.

Agenda Item 14 Adjournment

Dr. Rovetti moved for adjournment and Mr. Jackson seconded. The motion passed with all in favor.

Approved: September 9, 2010



David G. Rovetti, DC, Secretary