

JIM GIBBONS  
*Governor*  
MARGARET COLUCCI, DC  
*President*  
LAWRENCE DAVIS, DC  
*Vice President*  
DAVID G. ROVETTI, DC  
*Secretary*

STATE OF NEVADA



PAUL JACKSON  
*Consumer Member*  
SHELL MERCER, ESQ  
*Consumer Member*  
IAN YAMANE, DC  
*Member*  
JACK NOLLE, DC  
*Member*  
CINDY WADE  
*Executive Director*

CHIROPRACTIC PHYSICIANS' BOARD OF NEVADA

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MINUTES OF MEETING

A meeting of the Chiropractic Physicians' Board was held on Friday and Saturday, June 11 and 12, 2010 in 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 illness. Also present were Board Counsel Louis Ling, Esq., and CPBN Executive Director Cindy Wade.

President Dr. Margaret Colucci determined that a quorum was present and called the meeting to order. Dr. Jack Nolle led those present in the Pledge of Allegiance.

Agenda Item 1 Approval of Agenda

Dr. Nolle moved for approval of the agenda. Paul Jackson seconded and the motion passed unanimously.

Agenda Item 2 Public Comments

There were no public comments.

Agenda Item 4 Discussion/possible action regarding minutes of previous meeting: Approval of May 15, 2010 Minutes.

Dr. Davis requested that the wording on Page 5 under D. Complaint 10-05S be changed to "...the complainant is an attorney who is going to file a complaint with the Police." He moved for approval of the minutes with the amended wording. Mr. Jackson seconded the motion and it passed with all in favor.

**Agenda Item 5** Discussion/approval of Board Financial Status Report:

A. June 1, 2010 Financial Statements

There was extensive discussion with regard to the Board's current cash position and the need to reduce expenses. The staff has produced savings in several areas, i.e., outsourcing of the bookkeeping, telephone/voice mail, mailings and supplies, and the office lease has been negotiated down from \$1,227.65 to \$1,112.50 per month, an annual savings of \$1,381.80. Investigating Board Members need to make every effort to not let the costs of disciplinary cases get out of control. Mr. Jackson moved to approve the financial statements. Dr. Davis seconded and the motion passed unanimously.

B. Proposed 2010-12 Budget

The proposed 2010-12 budget will be considered after Agenda Item No. 16 has been addressed.

C. Extraordinary Items/Items of Concern

Cindy Wade asked if the Board has any interest in moving the office to a nicer space that is available in a different building in the same complex which would cost an additional \$12.50 per month plus the cost of moving. Dr. Rovetti was requested to negotiate for the space at no increased rent or moving costs to the Board.

**Agenda Item 16** Discussion/possible action regarding lobbyist proposals:

A. Interviews with prospective lobbyists

B. Selection of lobbyist

The current lobbyist's contract will expire on July 16, 2010. Mr. Ling recently completed and has been certified in the State's mandatory training for Contract Managers. He advised that a contract that pays from \$10,000-\$25,000 per year requires that a solicitation process be conducted, but it can be less formal than if it exceeds \$25,000 per year. Following discussion, Mr. Jackson made a motion that the Board initiate a search for an "at will" lobbyist that can be contracted to start in late November or early December, 2010 and will extend through the end of the Legislative session. Dr. Rovetti seconded the motion and it passed with all in favor.

**Agenda Item 5** Discussion/approval of Board Financial Status Report:

B. Proposed 2010-12 Budget

The 2010-12 budget was approved with the lobbyist expense reduced to \$16,000 per year, a total of \$32,000 for the two-year period.

**Agenda Item 6** Discussion/approval of Executive Director reports:

A. Status of Complaints Received

B. Status of Current Probations

C. Legal/Investigatory

Ms. Wade provided the latest updates to the reports. Dr. Nolle moved for approval of the Executive Director reports. Dr. Yamane seconded and the motion passed unanimously.

**Agenda Item 10** Discussion/possible action for approval to place Jones-Vargas law firm on a preferred attorney list for a six month period.

Dr. Colucci explained that there may occasionally be a need to engage another attorney firm for assistance with an extensive case. Mr. Jackson made a motion to place the Jones Vargas firm on the Board's preferred attorney list with the understanding that an outside firm would only be used upon the approval of the IBM and the CPBN Chair who will negotiate the contractual terms. Dr. Yamane seconded and the motion passed unanimously.

**Agenda Item 9** Discussion/possible action to grant continuing education credit to Board Members and licensees for attendance at FCLB Meetings.

Dr. Colucci advised that several states give 12 hours of CE credit to their Board members for attending an FCLB meeting. Dr. Davis made a motion that Board members may receive 12 hours of continuing education credit provided they personally pay for their registration fees and the FCLB agenda is approved by the Board for CE credit. Mr. Jackson seconded the motion. After discussion, Dr. Davis amended the motion to apply it to all licensees rather than just Board members. Mr. Jackson seconded the amended motion and it passed with all in favor.

**Agenda Item 15** 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 09-15S.

Dr. Davis advised that the patient who filed this complaint claimed injury to her shoulder from an extremity adjustment but this is not supported by the records. It appears that her attorney was ineffective and she wanted the Board to help her get money back from the DC. Dr. Nolle moved to dismiss Complaint No. 09-15S. Mr. Jackson seconded the motion and it passed with all in favor except Dr. Davis who recused.

**Agenda Item 13** Discussion/possible action regarding administrative hearing/granting of continuance/approval of proposed agreed settlement in the matter of Curtis Potts, DC, License No. B668, Case No. 08-09.

Dr. Potts was not present but was available by telephone. Louis Ling advised that the Notice of Charges was issued because Dr. Potts is in default of the June 14, 2008 Agreed Settlement. He has failed to pass the Nevada Law test after three attempts, none of which were timely. Mr. Jackson indicated that the Board has a longstanding policy that Respondents should be physically present for hearings. He moved that Dr. Potts be found in violation of the Agreed Settlement, that his license be immediately suspended, and that he be allowed to apply for reinstatement if he becomes fully compliant with the Agreed Settlement. Dr. Colucci seconded the motion. After discussion, Mr. Jackson amended the motion to include that Dr. Potts be required to pay the costs of today's hearing. The motion did not pass with Drs. Davis and Nolle and Mr. Jackson in favor and Drs. Colucci, Rovetti and Yamane opposed. Dr. Rovetti then moved to suspend Dr. Potts's license on Friday, June 18, 2010 unless he passed the Law Test and pays the costs for today's meeting in an amount not to exceed \$300 prior to June 18, and that he may only take the test once every 48 hours. The motion died for lack of a second.

Paul Jackson moved that Dr. Potts be found in violation of the previous Agreed Settlement, that his license be suspended effective June 18, 2010, that he be allowed to apply for reinstatement upon completion of all of the terms and conditions of the June 14, 2008 Agreed Settlement, that he must pay the costs incurred today, and that he must be physically present when the Board addresses his reinstatement or that he pay for the costs of a telephone conference call. Dr. Davis seconded and the motion passed with Drs. Davis, Nolle, Rovetti and Yamane and Mr. Jackson in favor and Dr. Colucci opposed.

**Agenda Item 8** Executive Director Performance Evaluation:

A. Review of evaluation results

Dr. Rovetti reviewed the results of the Board Members' evaluations of Cindy Wade's performance .

B. Discussion/possible action for determination of salary adjustment

C. Discussion/possible action for determination of longevity pay award

Executive Director Cindy Wade recommended that she should not be granted a raise or considered for longevity pay at this time due to the current budgetary considerations and the need to cut costs wherever possible. Dr. Nolle moved to maintain Ms. Wade's salary at the current rate and that these matters be reconsidered at the first meeting next year after the renewals have come in and the budget can be assessed. Dr. Rovetti seconded and the motion passed unanimously.

**Agenda Item 11** Discussion/possible action regarding all Board committees; election of committee chairs.

Dr. Colucci has been the Test Committee Chair for many years and will be off the Board this coming fall. She recommends that every Board committee should be comprised of at least the Chair and one other Board member and that Chairmanships be rotated every two years. She recommended that all Board members should serve on committees, as well as former Board members. Dr. Davis was appointed to serve as Test Committee Chair and Dr. Colucci will continue as a Test Committee member. Mr. Jackson will continue to Chair the Legislative Committee. Dr. Nolle will serve as a member of the Legislative Committee and will continue as Chair of the CE Committee. Committee membership should be revisited in June, 2012. Committee Chairs were requested to bring an outline of their committee's responsibilities to the September meeting.

**Agenda Item 12** Discussion/possible action regarding clarification of role of Staff Attorney.

The role of the Staff Attorney was discussed. Mr. Jackson moved to retain the Staff Attorney as the Board's prosecutor with his primary focus to be on prosecuting cases and a Deputy Attorney General will be utilized as the Board's counsel. Dr. Yamane seconded the motion. After further discussion, Mr. Jackson withdrew his motion and Dr. Yamane withdrew his second. There was no action taken.

**Agenda Item 17** Discussion/possible action to establish date and location of next Board meetings.

The September meeting was scheduled for three days on Friday, September 10 through Sunday, September 12, 2010.

**Agenda Item 19** Board Member Comments

There were no Board member comments.

**Agenda Item 18** Correspondence Report

A licensee has expressed his concern that some licensees charge their patients beyond the capitated rates of the panels with whom they are contracted. This topic might be addressed in the next Newsletter by advising that this may not be a direct violation of the chiropractic statutes or regulations, however, licensees are required to abide by the contracts they have entered into with the panels and they are putting themselves at risk if they are charging beyond what their contracts allow.

**Agenda Item 20** Public Comment

There was no public comment.

**Agenda Item 21** Adjournment

Dr. Colucci moved to recess the meeting until Saturday morning. Dr. Nolle seconded and the motion passed with all in favor.

The meeting reconvened on Saturday, June 12, 2010 at 9:00 AM in Room 4412 of the Grant Sawyer State Office Building at 555 E. Washington, Las Vegas, Nevada 89101. The following Board members were present at the roll call:

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

Consumer Member Paul Jackson arrived at 9:13 AM. Also present were Staff Attorney Louis Ling and CPBN Executive Director Cindy Wade. Dr. Nolle led those present in the Pledge of Allegiance.

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

**Agenda Item 3** PACE Program:

A. Presentation of PACE Program by Oliver "Bud" Smith, DC

Dr. Smith presented a comprehensive overview of the PACE Program which may be utilized at no cost to the Board and the professional associations may partner with PACE. It will require new language in the regulations.

B. Discussion/possible action regarding utilization of PACE Program

Dr. Rovetti made a motion to amend NAC 634 to provide for PACE approved courses for Nevada continuing education credit and change the fee language to "registration fee" for seminars to be presented in Nevada. There was no second and, after further discussion, Dr. Rovetti withdrew the motion. Paul Jackson moved to accept PACE as a provider of approvals for continuing education and that we would automatically approve any PACE approved CE with the \$25 registration fee for seminars to be presented in Nevada. Dr. Davis seconded. The motion passed with all in favor except Dr. Rovetti who was opposed.

Dr. Colucci turned the Chair over to Vice President Dr. Davis.

**Agenda Item 14** Discussion/possible action regarding administrative hearing/approval of proposed agreed settlement in the matter of Michael Lin, DC, License No. B744, Complaint Nos. 08-5S and 08-10S.

Dr. Lin and his attorneys, Edgar Carranza and Dr. Jeffrey Andrews were present. Attorney Elizabeth Foley was present as prosecutor for this case. Ms. Foley advised that on May 15, 2010 this case was continued until today. She and Investigating Board Member Dr. Margaret Colucci explained that an amended complaint was issued because Dr. Lin did not comply with their subpoenas, however, Ms. Foley stated that the Respondent's side is not prepared to address the added charges in the Amended Complaint.

Dr. Davis stated that the Board is prepared to go forward with the hearing to address the three charges in the original complaint and that the Board will retain the ability to address the additional charges in the Amended Complaint at a later date. Ms. Foley presented her opening statement. All witnesses except CPBN Investigator Cynthia Bazin were excluded. Mr. Carranza made his opening statement. He then moved to eliminate Charges 2 and 3 in the Complaint regarding referrals. A poll of the Board resulted in the decision to move forward.

The following witnesses were sworn in and provided testimony: Cynthia Bazin, Dr. Sandra Swan, Dr. Corazon Murillo and Dr. Michael Lin.

This hearing was not concluded and was scheduled to continue on Saturday, July 10 and Sunday, July 11, 2010.

**Agenda Item 21** Adjournment

Dr. Rovetti moved for adjournment. Mr. Jackson seconded and the motion passed unanimously.

Approved: September 9, 2010

  
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David G. Rovetti, DC, Secretary