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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 Saturday, May 15, 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 at 9:04 AM for the roll call:

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

Also present for the CPBN were Louis Ling, Esq., and Executive Director Cindy Wade.

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

Agenda Item 1 Approval of Agenda

Dr. Rovetti moved for approval of the agenda. Dr. Yamane seconded and the motion passed unanimously.

Agenda Item 2 Public Interest Comments

There were no public interest comments.

Agenda Item 4 Affiliated Monitors:

A. Presentation by Affiliated Monitors

Jim Anliot of Affiliated Monitors, Inc., presented an overview of his firm's services and responded to the Board's questions.

B. Discussion/possible action regarding utilization of services of Affiliated Monitors

Dr. Rovetti made a motion to accept Affiliated Monitors as a source of Compliance Monitors. Dr. Nolle seconded the motion. The motion passed with all in favor.

Agenda Item 3 Discussion/possible action regarding previous minutes:

A. Approval of March 13, 2010 Minutes

B. Approval of April 23, 2010 Minutes

Dr. Davis moved for approval of the March 13 and April 23, 2010 minutes. Dr. Nolle seconded and the motion passed unanimously.

Agenda Item 5 Discussion/possible action regarding request from Jamie Spickelmier, DC, for early termination of probation.

Dr. Spickelmier referred to the provision in the April 4, 2008 Agreed Settlement that states he may apply within six months for earlier termination of his probation and requested the Board's consideration. Dr. Rovetti moved for immediate termination of the remainder of Dr. Spickelmier's probation and Ms. Mercer seconded. The motion did not pass with Dr. Rovetti in favor, and Drs. Colucci, Davis and Yamane and Mr. Jackson and Ms. Mercer against. After further discussion, Ms. Mercer moved for termination of Dr. Spickelmier's probation at six months prior to the end of the three-year probation and Dr. Rovetti seconded. The motion did not pass with Drs. Nolle and Rovetti and Ms. Mercer in favor, and Drs. Colucci, Davis and Yamane and Mr. Jackson not in favor. Mr. Jackson moved to deny Dr. Spickelmier's request for early termination of his probation and Dr. Davis seconded. The motion passed with Drs. Colucci, Davis and Yamane and Mr. Jackson in favor, and Drs. Nolle and Rovetti and Ms. Mercer opposed.

Agenda Item 6 Discussion/possible action regarding request from Michael Krizan, DC, for approval of Application for Licensure.

A letter from Dr. Krizan explaining why he was not able to be present was presented to the Board. Cindy Wade explained that Dr. Krizan failed to disclose on his application that in 2006 he received a Stipulated Letter of Admonition from the Colorado Board which constitutes disciplinary action. Dr. Krizan's April 12, 2010 letter of explanation for his oversight was provided to the Board. Dr. Yamane moved to deny without prejudice Dr. Krizan's application for DC licensure. Ms. Mercer seconded and the motion passed with all in favor.

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

Agenda Item 7 Discussion/possible action regarding administrative hearing/granting of continuance/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 attorney were present. CPBN prosecuting attorney Elizabeth Foley presented Dr. Lin's request for a continuance and stated that she is in agreement. Ms. Mercer made a motion to grant the continuance until the June 11-12, 2010 meeting. Dr. Yamane seconded and the motion passed with all in favor except Dr. Colucci who recused.

Dr. Colucci resumed the Chair.

Agenda Item 8 Discussion/possible action regarding administrative hearing/granting of continuance/approval of proposed agreed settlement in the matter of Allen E. Stout, DC, License No. B542, Complaint Nos. 00-31, 00-36, 00-37, 01-05 and 01-13.

Dr. Stout was present and was not represented by counsel. Ms. Foley explained that Dr. Stout did not comply with the Board's intent with regard to the hiring of an appropriate Compliance Monitor pursuant to the provisions of the December 12, 2008 Agreed Settlement. Dr. Stout was sworn in and explained his position in this matter. He stated that he has relocated his practice to Arizona and is planning to either allow his Nevada license to lapse or he may renew it on inactive status for the 2011-12 biennium. Dr. Stout was cross examined by Ms. Foley and answered questions from the Board. Investigating Board Member Dr. Ian Yamane was sworn in. He provided testimony and answered questions from the Board and from Dr. Stout. Dr. Colucci called for a brief break and requested negotiation of a settlement of this matter.

Following the break and upon further discussion, the following terms and conditions were offered: Dr. Stout will engage Affiliated Monitors, Inc. at his expense with quarterly reporting; their first report is to be submitted within three months and all terms and conditions are to be satisfied within one year; Dr. Stout will maintain his Nevada license on active or inactive status; if Dr. Stout fails to comply he will be subject to a \$5,000 fine. Ms. Mercer moved to accept the proposed settlement. Dr. Rovetti seconded the motion. During discussion, it was agreed that Dr. Stout must enter into an agreement with Affiliated Monitors, Inc. within ten days of the effective date of the settlement agreement which will include an audit of Dr. Stout's practice from December 13, 2008 to the present. The motion passed with Drs. Colucci, Davis, Nolle, Rovetti and Yamane and Ms. Mercer in favor and Mr. Jackson opposed.

Agenda Item 9 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.

This matter was postponed until the June 11-12, 2010 meeting.

Agenda Item 10 Discussion/possible action regarding administrative hearing/granting of continuance/approval of proposed agreed settlement in the matter of Derek Foreman, DC, License No. B810, Case Nos. 09-17S and 09-025S.

Dr. Foreman and his attorney, John Hunt, Esq., were present. Deputy Attorney General Daniel Ebihara was present as Board Counsel. CPBN attorney Louis Ling presented the proposed settlement agreement and reviewed its terms and conditions. He and Mr. Hunt responded to questions from the Board. Mr. Jackson made a motion to deny the proposed settlement and to bring this matter to hearing. Dr. Davis seconded the motion. After further discussion, Mr. Jackson withdrew his motion and Dr. Davis withdrew his second. Dr. Colucci moved to accept the settlement with the following changes: In lieu of 80 hours of community service Dr. Foreman will be required to take and pass within one year the billing and coding section (which is currently in the development stage) of the National Board Ethics and Boundaries examination, and the compliance monitoring period will be for three years rather than eighteen months. Dr. Yamane seconded the motion. Upon discussion, it was agreed that the Compliance Officer will be appointed by the Investigating Board Member. The motion passed with all in favor.

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

Agenda Item 11 Discussion/possible action regarding administrative hearing/granting of continuance/approval of proposed agreed settlement in the matter of Keith Quisberg, DC, License No. B993, Case No. 08-37S.

Dr. Quisberg and his associate, Dr. Ryan Kissling, were present with no legal counsel. Deputy Attorney General Daniel Ebihara was present as Board Counsel. CPBN attorney Louis Ling stated that he and Dr. Colucci have agreed to dismiss the First Cause of Action in the Notice of Charges. Exhibits 1 through 5 were marked and copies distributed to the Board members. He commented that one redacted copy of Dr. Quisberg's Answer to the complaint will be the Board's official record. Mr. Ling and Dr. Quisberg made their opening statements. Witnesses for the prosecution, Cynthia Bazin and Barbara VanSinderen, were sworn in, provided testimony and were cross examined by Dr. Quisberg. At the conclusion of Ms. VanSinderen's testimony it was noted that the exclusionary rule had not been invoked and Ms. VanSinderen was present during Ms. Bazin's testimony.

This hearing was not concluded and will resume at the September 10-11, 2010 meeting.

Dr. Colucci resumed the Chair.

Agenda Item 14 Discussion/possible action for granting of DC licenses to applicants who passed the May 12, 2010 examination.

Dr. Rovetti moved to grant DC licenses to the applicants who passed the May 12, 2010 examination. Mr. Jackson seconded and the motion passed unanimously.

Agenda Item 18 Discussion/possible action for approval of renewal of lobbyist contract.

Mr. Jackson stated that as Legislative Committee Chair he should have been involved in the decision to place this matter on the agenda. He moved to address the lobbyist contract at the next meeting and to seek other candidates in the meantime. Dr. Davis seconded the motion. Following discussion, this matter was tabled until the next meeting.

Agenda Item 12 PUBLIC WORKSHOP: Discussion/possible action to consider amendments to Nevada Administrative Code 634.

Ms. Berkley reviewed the current proposed revisions to NAC 634. Copies of written public comments were distributed to the Board. Drs. James Overland, Sr., Jo Briggs and Annette Zaro made public comment. The regulation changes will be re-drafted to incorporate the changes that were agreed to during this Workshop and submitted to the Legislative Committee for their review and approval.

Agenda Item 13 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 08-29S

Dr. Rovetti reported that this complaint was filed in 2008 by a patient who claimed injury from the doctor's treatment. The doctor has moved out of state, he is not practicing and has allowed his license to lapse. The Board agreed with Dr. Rovetti's recommendation that this complaint remain dormant and should be revisited only if and when the doctor reactivates his Nevada license.

Agenda Item 13 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 (cont'd):

B. Complaint 09-15S

Dr. Davis has received new information from the complainant and the Board agreed to continue this matter.

C. Complaint 09-27(a)&(b)S

Mr. Jackson stated that these complaints have been thoroughly investigated and found to be unsubstantiated. The Board agreed to dismiss the complaints.

D. Complaint 10-05S

Dr. Davis advised that the complainant is an attorney who is going to file a complaint with the Police. The Board agreed that this complaint should not be addressed until the legal issues have been resolved.

E. Complaint 10-06S

Mr. Ling advised that this complaint was filed against a licensee who reported his arrest and conviction for a DUI, a misdemeanor. This is his first such offense and it was not related to his chiropractic practice. The Board agreed with Mr. Ling's recommendation for dismissal with a warning letter.

F. Complaint 10-07N

Mr. Ling advised that this complaint was filed against a licensee who reported his arrest and conviction for a DUI, a misdemeanor. This is his first such offense and it was not related to his chiropractic practice. The Board agreed with Mr. Ling's recommendation for dismissal with a warning letter.

Agenda Item 15 Discussion/possible action to grant continuing education credit to Board Members for attendance at FCLB Meetings.

This matter was postponed until the June 11-12, 2010 meeting.

Agenda Item 16 Staff attorney report.

This matter was postponed until the June 11-12, 2010 meeting.

Agenda Item 17 Discussion/possible action for approval to place Jones-Vargas law firm on a preferred attorney list for a six month period.

This matter was postponed until the June 11-12, 2010 meeting.

Agenda Item 19 DISCUSSION/APPROVAL OF BOARD FINANCIAL STATUS REPORT:

A. Bank balance as of May 1, 2010

B. Extraordinary Items/Items of Concern

This matter was postponed until the June 11-12, 2010 meeting.

Agenda Item 20 DISCUSSION/APPROVAL OF EXECUTIVE DIRECTOR REPORTS:

A. Status of Complaints Received

B. Status of Current Probations

C. Legal/Investigatory

This matter was postponed until the June 11-12, 2010 meeting.

Agenda Item 21 Executive Director Performance Evaluation:

- A. Review of evaluation results**
- B. Discussion/possible action for determination of salary adjustment**
- C. Discussion/possible action for determination of longevity pay award.**

This matter was postponed until the June 11-12, 2010 meeting.

Agenda Item 22 Correspondence Report

This matter was postponed until the June 11-12, 2010 meeting.

Agenda Item 23 Board Member Comments

There were no Board Member comments.

Agenda Item Public Comment

There was no public comment.

Agenda Item 25 Adjournment

Dr. Nolle moved for adjournment of the meeting. Dr. Yamane seconded and the motion passed unanimously.

Approved: June 11, 2010



David G. Rovetti, DC, Secretary