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Vice President
BENJAMIN LURIE, DC
Secretary-Treasurer
JACK NOLLE, DC
Member

STATE OF NEVADA



SHELL MERCER, ESQ
Consumer Member
ANNETTE ZARO, 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, December 10, 2011 in Conference Room I204 at Kietzke Plaza, 4600 Kietzke Lane, Reno, Nevada 89502.

The following Board members were present at the roll call:

David Rovetti, DC, President
Lawrence Davis, DC, Vice President
Benjamin Lurie, DC, Secretary-Treasurer
Paul Jackson, Consumer Member
Jack Nolle, DC, Member
Annette Zaro, DC, Member

Consumer Member Shell Mercer was not present. Also present were Board Counsel Louis Ling and Executive Director Cindy Wade.

A quorum was present and Dr. Rovetti called the meeting to order at 9:15 AM. Dr. Annette Zaro led those present in the Pledge of Allegiance and stated the purpose and mission of the Board.

Agenda Item 1 Public Interest Comments - No action.

NCA President Dr. James Overland congratulated Dr. Nolle on his reappointment to the Board and presented a plaque to Consumer Member Paul Jackson in appreciation for his assistance in getting the NCA's bills passed at the last legislative session. Dr. Overland informed CPBN Executive Director Cindy Wade that the NCA has received many calls about a perceived misstatement in the Board's newsletter regarding CA renewal requirements.

Agenda Item 2 Approval of agenda – For possible action.

Mr. Jackson made a motion to approve the agenda. Dr. Lurie seconded and the motion passed unanimously.

Agenda Item 3 Approval of Consent Agenda – For possible action

CONSENT AGENDA

Agenda Item 4 Approval of October 15, 2011 minutes – For possible action.

Agenda Item 5 Ratification of granting of DC licenses to applicants who passed the November 9, 2011 examination – For possible action

Agenda Item 6 Approval of Executive Director Reports – No action

- A. Status of Complaints Received**
- B. Status of Current Probations**
- C. Legal/Investigatory Report**
- D. Calendar**

Dr. Nolle moved for approval of the items on the Consent Agenda with the exception of Agenda Item No. 4. Dr. Lurie seconded and the motion passed with all in favor

Agenda Item 4 Approval of October 15, 2011 minutes – For possible action.

Dr. Nolle indicated that his name should be removed from the names of those who voted for the motion under Agenda Item 4 because he was not present at that meeting. Dr. Davis referred to a comment that first appeared in the September 10 minutes and appeared again under Agenda Item 3 of the October 15 minutes which states that former Board member Dr. Clyde Porter should be held to a higher standard. He stated for the record that it is not established in policy that Board members are held to a higher standard. Dr. Nolle moved for approval of the October 15, 2011 minutes with his name deleted. Mr. Jackson seconded the motion and it passed unanimously.

Dr. Rovetti announced that some agenda items will be addressed out of order to accommodate those present.

Agenda Item 10 Approval of proposed lobbyist contract with Nevada Business Strategies– For possible action

Marsha Berkbigler and Mendy Elliott presented their lobbying strategies for the next six months. Dr. Rovetti reviewed the terms and conditions of their proposed contract. Paul Jackson moved to approve the six-month contract at the rate of \$1,000 per month and Dr. Lurie seconded. Upon discussion, it was determined that the total of \$6,000 for January through June, 2012 is within the budgeted amount. The motion passed with all in favor.

Dr. Rovetti is the Investigating Board Member for the Moriearty case. He asked Vice President Dr. Davis to preside over Agenda Items 8 and 9.

Agenda Item 8 Approval of exception to Policy 18 pursuant to proposed Settlement Agreement under Agenda Item 9 – For possible action

Mr. Jackson made a motion to make an exception to Policy 18 so that the next matter could be addressed without the respondent being present. Dr. Nolle seconded the motion. Dr. Lurie objected because of a previous similar situation for which the Board voted to not make an exception to the policy. He feels this creates a double standard and is adamantly against making an exception for this case especially because this respondent's license is being surrendered. After further discussion, the motion passed with Drs. Nolle and Zaro and Mr. Jackson in favor, Drs. Davis and Lurie not in favor and Dr. Rovetti abstained.

Agenda Item 9 Approval of proposed Settlement Agreement in the matter of Ned "Mike" Moriearty, DC, License No. B1440 – For possible action.

Dr. Rovetti described the events that led to filing of the charges against Dr. Moriearty and reviewed the terms and conditions of the proposed Settlement Agreement. Mr. Jackson moved to approve the Settlement Agreement and Dr. Zaro seconded the motion. Following much discussion, the motion did not pass with Dr. Nolle and Mr. Jackson in favor, Drs. Davis, Lurie and Zaro not in favor and Dr. Rovetti recused. This case will be addressed at the next meeting.

Dr. Rovetti resumed the Chair.

Agenda Item 7 Board Financial Status Report – No action:

- A. Cash position report**
- B. Income/Expense Report: July 1 through November 30, 2011**
- C. Accounts Receivable as of November 30, 2011**
- D. Accounts Payable as of November 30, 2011**
- E. Extraordinary Items**

Dr. Lurie and Cindy Wade reviewed the highlights of the financial reports.

Agenda Item 16 Secretary-Treasurer's Report:

- A. Current financial status – No action**
- B. Extraordinary Items/Items of Concern – For possible action**

Dr. Lurie stated that the money is tight but we are within the current fiscal year's budget. He presented a report on "worst case/best case" projections. If we continue to adhere to the budget we should be able to end the fiscal year with enough reserves to make it through October when the renewals starting coming in without the need to liquidate any more of the EIG stock.

Agenda Item 11 NCA Report :

- A. Chiro Health USA – No action**

Dr. Overland described two programs that allow chiropractors to have legal contractual fee schedules for their uninsured, underinsured or partially insured patients.

- B. Monthly DC and CA Testing – No action**

Dr. Overland requested the Board's assistance in providing NCA new member packets to examinees at the test sites. It was agreed to place the packets where examinees will have access to them when they leave the test sites.

Agenda Item 17 Board Counsel Report

- A. Approval of proposed letter responding to Governor's Executive Order – For possible action**

Dr. Davis commented that the letter drafted by Louis Ling is very well done and moved for its approval. Dr. Lurie seconded and the motion passed unanimously.

- B. Report on current legal matters - No action**

Louis Ling reported that the Nassiri/Johnson decision is still pending. The Judge will probably ask the prevailing party to write the Order.

Mr. Ling has contacted Dr. Lin's attorney who agreed to make a joint attempt to get a hearing date set as soon as possible. He will advise everyone of the date and encouraged Board members to attend.

Agenda Item 12 PUBLIC WORKSHOP to consider proposed amendments to Nevada Administrative Code 634 regarding preceptorships - For possible action

Louis Ling reviewed the revisions to the proposed regulation that resulted from the October 15 Workshop. Drs. Jim Overland and Susan Barry and Lobbyist Marlene Lockard made public comment on behalf of the NCA. They stressed that the regulations should stay in focus with the legislative intent. There was much discussion regarding appropriate criteria for approving preceptors. Dr. Lurie has researched this issue through the FCLB. He determined that there are no defining guidelines in other states with respect to approving preceptors with disciplinary action.

Agenda Item 12 PUBLIC WORKSHOP to consider proposed amendments to Nevada Administrative Code 634 regarding preceptorships - For possible action (cont'd)

The Board agreed to require a minimum of two years of practice in Nevada and at least five years of practice in another state. Several other changes were proposed. Paul Jackson moved to accept the document with the proposed amendments. Dr. Lurie seconded the motion and it passed with all in favor. Louis will prepare the revised regulation for adoption at the March 10, 2012 meeting in Las Vegas.

Agenda Item 13 Consideration of time frame and potential additions and/or amendments to NAC chapter 634 - For possible action

Mr. Ling advised that regulation changes need to be completed by September, 2012 or they can only be adopted as temporary regulations until after the 2013 Legislature. Cindy Wade pointed out that SB215 did not include an exemption from the CE requirements for new CAs for their first renewal as is provided for newly licensed DCs in NRS 634.130(4). Louis will find out if this can be fixed by regulation. Dr. Rovetti will research criteria with regard to remuneration for referrals. Louis will research the possibility of establishing a repository for patient record discs. Any additional proposed changes should be sent to Louis who will prepare a revised mock-up for the March meeting.

Agenda Item 14 Consideration of proposed statutory changes for potential 2013 legislative bill - For possible action

Dr. Rovetti recommended against submitting a bill for the 2013 Legislature. The advisability of submitting a bill at the next Legislature was considered and will be an action item on the agenda for the March, 2012 meeting.

Agenda Item 15 Status report regarding anonymous profiles of possible disciplinary actions. Board action will be limited to either dismissing the matter if the Board determines there is no violation, it has no jurisdiction over the subject, or providing direction to pursue the matter further – For possible action:

A. Complaints 08-033S, 08-35S, 09-26S & 09-33S

Dr. Lurie is working with Louis Ling to resolve this complaint.

B. Complaints 09-22S & 11-8S

Dr. Zaro reported that her requests to dissolve and cease advertising as a medical center, pass the CPBN jurisprudence test and provide updated Practice Self-Inspection forms have been complied with and recommended dismissal of complaint 09-22S. Dr. Lurie seconded and the motion passed with all in favor except Dr. Zaro who recused as the IBM. The investigation of 11-8S is ongoing.

C. Complaint 10-13S

Dr. Davis reported that this investigation is almost concluded and may go to hearing at the next meeting.

D. Complaint 10-19S

Dr. Davis reported that this investigation is almost concluded and may go to hearing at the next meeting.

E. Complaint 11-9S

Dr. Nolle reported that this investigation is still ongoing.

F. Complaint 11-11S

Dr. Zaro reported that resolution of this complaint is pending the ability of the DC to be present at a Board meeting.

Agenda Item 15 Status report regarding anonymous profiles of possible disciplinary actions. Board action will be limited to either dismissing the matter if the Board determines there is no violation, it has no jurisdiction over the subject, or providing direction to pursue the matter further – For possible action: (cont'd)

G. Complaint 11-13N

Dr. Lurie advised that this complaint alleges malpractice, however, he has been unable to get it resolved because of missing records. He plans to visit the DC's office and if the records cannot be produced a separate complaint will be filed.

H. Complaint 11-14N

Dr. Nolle reported that the DC did a good job managing this complainant's case, the patient records were good and the allegations were not supported. He recommended that this complaint be dismissed. Mr. Jackson moved for dismissal of Complaint 11-14N. Dr. Zaro seconded and the motion passed with all in favor except Dr. Nolle who recused as Investigating Board Member.

I. Complaint 11-16S

Dr. Rovetti will report on the progress of this investigation at the next meeting.

J. Complaint 11-18N

The DC advertised that there was a massage therapist on staff but his only relationship with her was as a landlord. He referred patients to her but did not bill. Dr. Davis recommended dismissal of this complaint with a letter of instruction regarding advertising and a request for a copy of the doctor's revised Yellow Pages advertisement. Dr. Rovetti seconded and the motion passed with all in favor except Dr. Davis who recused as the IBM.

K. Complaint 11-19N

Dr. Davis reported that this investigation is ongoing.

L. Complaint 11-20S

Dr. Lurie is working with Mr. Ling on this complaint which is ongoing.

M. Complaint 11-21S

Ms. Mercer is currently investigating this complaint.

N. Complaint 11-22S

Dr. Rovetti is the IBM for this complaint which was addressed under Agenda Item 9 and will be on the next meeting agenda.

O. Complaint 11-23S

This complaint was filed by a business person who has been unable to recover the funds for an NSF check written by a DC whose license was current at the time but is no longer active. Dr. Rovetti recommended that this complaint be placed in abeyance until the DC applies for license activation. Dr. Zaro moved to accept Dr. Rovetti's recommendation. Dr. Lurie seconded and the motion passed with all in favor except Dr. Rovetti who recused as the IBM.

P. Complaint 11-24S

Dr. Lurie is working with Louis on this complaint which alleges unlicensed practice.

Agenda Item 18 Approval to send representative(s) to FCLB/NBCE Annual Meetings May 2-6, 2012 in San Antonio, Texas – For possible action

There is approximately \$3,700 remaining in the budget for out-of state travel. Drs. Davis and Zaro indicated that they would like to attend. Dr. Davis offered to pay for his registration and per diem. Dr. Lurie made a motion to send Drs. Davis and Zaro and Mr. Jackson seconded the motion. Upon discussion, Dr. Zaro stated that she will acquiesce to Ms. Mercer if she wants to go. It was agreed that they will decide among themselves on who will be the voting and alternate delegates. The motion passed unanimously.

Agenda Item 19 Approval to send representative(s) to the 36th Annual FARB Forum January 27-29, 2012 in Sarasota, Florida – For possible action.

Shell Mercer will be contacted about her possible interest in attending the Forum. Cindy Wade indicated she might be interested in going. Dr. Rovetti moved to approve sending one person to the FARB Forum. Dr. Davis seconded and the motion passed unanimously.

Agenda Item 20 Approval of proposed Information Document to be available to licensees regarding advertising – For possible action.

Dr. Rovetti proposed that the document be utilized as a reference in the Board office and posted to the Board's website. He suggested it might be good to include it with a mailing. The document was reviewed and several changes were suggested. Dr. Rovetti made a motion to approve the document with the suggested changes upon Louis Ling's approval. Dr. Davis seconded and the motion passed unanimously.

Agenda Item 21 Approval of 12 hours of continuing education for participation in NBCE Part IV Testing Examiners – For possible action

Dr. Lurie has confirmed with the NBCE that any licensed DC may participate as a Part IV Testing Examiner. Any licensee who applies and is chosen could attain up to 18.75 hours of CEUs. Dr. Lurie made a motion that Nevada licensees may receive 12 hours for participating in the NBCE Part IV Testing Examiners. Dr. Rovetti seconded. The motion passed with all in favor except Paul Jackson who abstained.

Agenda Item 22 Approval of proposed CEU Guidelines – For possible action

This matter was postponed until the March, 2012 meeting.

Agenda Item 23 Report on October 20-21, 2011CAC Webinar – No action

This matter was postponed until the March, 2012 meeting.

Agenda Item 24 Committee reports – No action

A. Continuing Education Committee

Dr. Zaro reported that there are now separate applications and lists of seminars for DCs and CAs posted on the Board's website. WiseDC.com has never responded regarding modifications to their website, but they also have not submitted any more seminars for approval.

B. Legislative Committee

Mr. Jackson had nothing to report in addition to what was covered under Agenda Item 10.

C. Test Committee

Dr. Davis has written a new DC test which will be administered to re-take examinees and the old test will be administered to the first-time examinees.

Agenda Item 25 Report on November AG Training class for Board and Commission Members – No action.

This matter was postponed until the March, 2012 meeting.

Agenda Item 26 Discussion of effective investigation and investigation management strategies – No action.

This matter was postponed until the March, 2012 meeting.

Agenda Item 27 Correspondence Report – No action.

There was no discussion regarding the correspondence reported by Cindy Wade and Dr. Rovetti.

Agenda Item 28 Board Member Comments – No action.

Dr. Zaro announced that she is now the Nevada Delegate for the ICA. She suggested that there be an agenda item for the next meeting to consider formation of a committee to evaluate the Board's disciplinary procedures for formulation into a publication. She also expressed her pleasure at Dr. Nolle's reappointment to the Board.

Dr. Nolle stated that it would be beneficial if the Board Members' work products could be distributed among the Board members, i.e., the information that Dr. Lurie gathered from the FCLB about the issue of preceptor backgrounds. Drs. Davis and Lurie commented on the coalescence of the Board over the past year.

Dr. Lurie requested that when a disciplinary matter is on the agenda he would like to receive a copy of the proposed Settlement Agreement or any other information that is available as much in advance of the meeting as possible.

The next meeting is scheduled for March 10, 2012 and will probably be for two days as there are several potential hearings coming up.

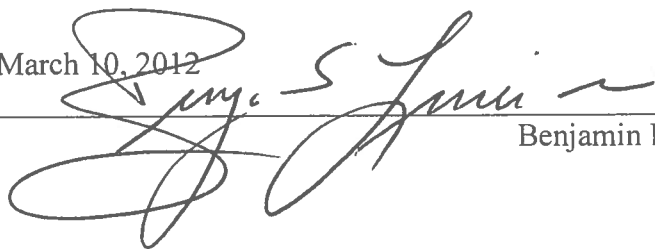
Agenda Item 29 Public Comment – No action.

Dr. Overland distributed copies of a Proclamation by the Governor declaring October 2011 as Nevada Chiropractic Month to the Board members.

Agenda Item 29 Adjournment – For possible action.

The meeting adjourned at 3:55 PM.

Approved: March 10, 2012



Benjamin Lurie, DC, Secretary-Treasurer