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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, March 12, 2011 in Conference Room I204 at Kietzke Plaza, 4600 Kietzke Lane, Reno, NV 89502.

The following Board members were present at the roll call:

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

Also present were CPBN lobbyists, Marsha Berkbigler and Mendy Elliott, Board Counsel Louis Ling and CPBN Executive Director Cindy Wade.

President Dr. David Rovetti determined that a quorum was present and called the meeting to order at 9:50 AM. Dr. Ben Lurie led those present in the Pledge of Allegiance.

Agenda Item 1 Approval of agenda

Dr. Lurie stated that he will be abstaining from voting on Agenda Item No. 12C due to his prior knowledge of the matter. Ms. Mercer requested that Agenda Item No. 8 be addressed after we have had a break. Dr. Nolle moved for approval of the agenda. Dr. Zaro seconded and the motion passed unanimously.

Agenda Item 2 Public Interest Comments

Dr. James Overland requested input from the Board for the NCA's newsletter and offered to print any Board information in it that is deemed appropriate.

Agenda Item 3 Discussion/possible action regarding approval of minutes of December 4, 2010 meeting.

Dr. Zaro moved to amend the last sentence under Agenda Item 14 to replace the phrase "... the Board agreed to also support it" with "...the Board agreed to consider the BDR." Dr. Lurie seconded the motion. Dr. Zaro requested the change because there was no vote taken and the BDR was not available to read. After much discussion, the motion did not pass with Drs. Zaro and Rovetti in favor, Drs. Davis, Lurie and Nolle and Mr. Jackson opposed and Ms. Mercer abstained. Dr. Zaro then moved to change the language to "the Board agreed to support 12 hours of CE for CAs." After further discussion, Dr. Zaro withdrew her motion and moved to table approval of the minutes until the tape can be reviewed. Dr. Lurie seconded and the motion passed with all in favor except Mr. Jackson who was opposed and Ms. Mercer abstained.

Agenda Item 32 Discussion/possible action to establish date for next meeting and CA examinations.

The established June 11, 2011 meeting date conflicts with the NBCE Part IV Test Committee meeting. The CPBN meeting date was changed to June 4 and it will be held in Las Vegas. The next CA tests will be administered the afternoon of Thursday, August 18.

Agenda Item 5 Discussion/possible action regarding request from Rodney Shoemaker, DC, for clarification of chiropractic scope of practice with respect to homeopathic supplements.

Following considerable discussion Dr. Rovetti moved that a Board policy on the use of homeopathic supplements should be developed for consideration at the next meeting. Dr. Nolle seconded and the motion passed unanimously.

Agenda Item 7 Current legislation:

A. Nevada Business Strategies report (Discussion only)

B. Establishment/approval of Board's position regarding various legislative bills.

Ms. Berkbigler and Ms. Elliott presented an overview of the pending legislative bills. Upon review of SB37, Dr. Zaro made a motion that the Board support SB37. Ms. Mercer seconded the motion. The motion passed with all in favor.

There was much discussion of SB215 which requires chiropractor's assistants to complete 12 hours of continuing education biennially. CA Melissa Malailua presented a letter and testified regarding her position that if training, certification and continuing education is mandated for CAs they should be allowed to work and bill independently. Letters in opposition of SB215 from CAs Monika Adams and Maureen Denman were read for the record. Dr. Overland described the FCLB CA certification program which suggests six hours of continuing education per year. Dr. Lurie moved to accept the concept of SB215. Mr. Jackson seconded and the motion passed unanimously. After further discussion, Dr. Rovetti made a motion to support the concept of continuing education for chiropractor's assistants if the bill can be revised to provide more flexibility as to the selection of the type of continuing education and if the first CE requirement is effective upon a biennial renewal period for CAs ending December 31, 2013. Mr. Jackson seconded the motion. The motion passed with all in favor.

It was further clarified that SB215 should include the provision that the current CA certificates are good through December 31, 2012 and the next renewals will be for the one year, January 1 through December 31, 2013, with 12 hours of continuing education due by the December 31, 2013 renewal date. (cont'd)

Agenda Item 7 Current legislation:

- A. Nevada Business Strategies report (Discussion only)**
- B. Establishment/approval of Board's position regarding various legislative bills.**
(cont'd)

Several other bills were reviewed. Dr. Rovetti made a motion that the CPBN remain neutral on AB240 unless the CPBN is included. If we become included in the bill, our position should be to oppose it. Mr. Jackson seconded. The motion passed with all in favor. Dr. Overland said that the language for the NCA bill to establish chiropractic preceptorship is not yet in place. He also stated that the NIAA regulation to allow chiropractors to perform school sports physicals is still pending LCB approval.

Agenda Item 14 NCA issues:

- A. Dieticians' bill**
- B. NCA Proposed (BDR) bill:**
 - (1) Lien privilege**
 - (2) CEs for CAs**
 - (3) Preceptorship**

The above issues were addressed under previous agenda items.

C. Externship program from Medical Assistant training schools

Dr. Overland reported that trade schools are not aware that externs must submit chiropractor's assistant applications. He requested establishment of a modified program for trade school externships only. This should be addressed at the next CPBN rule-making session.

Agenda Item 4 Public Hearing for the Adoption of Regulations of the Chiropractic Physicians' Board of Nevada.

The Public Hearing commenced at 1:00 PM. Board Counsel Louis Ling reviewed the proposed regulations. There were no public comments. Dr. Zaro moved to approve the proposed regulations with No. 10 on Page 8 stricken in its entirety. Ms. Mercer seconded the motion. Dr. Rovetti voiced his concerns regarding allowing CE for billing and coding. The motion passed unanimously.

Agenda Item 6 Discussion/possible action regarding request from Thor Mongie, DC, for refund of reinstatement fee.

It was determined that the Board has no statutory authority to grant Dr. Mongie's request. Dr. Lurie moved that his request be denied. Dr. Nolle seconded and the motion passed unanimously.

Agenda Item 8 Discussion/possible action regarding recommendations and suggestions for procedures for more effective, efficient, and amiable meetings.

Dr. Rovetti distributed an updated version of his "Ground Rules for a more efficient, effective, and friendly meeting" and reviewed them with the Board members. It was generally agreed that the dress code for meetings should be business casual except for hearings. Dr. Rovetti also passed out and reviewed proposed "Ground Rules for phone meetings." A Consent Agenda will be added to meeting agendas. Roberts Rules will be reviewed at the next meeting.

Agenda Item 9 Discussion/possible action for granting of Doctor of Chiropractic licenses to applicants who passed the February 9, 2011 examination.

Dr. Nolle moved to grant licenses to the DC applicants who passed the February 9 examination. Ms. Mercer seconded and the motion passed unanimously.

Agenda Item 10 Discussion/possible action for granting of Chiropractor's Assistant certificates to applicants who passed the February 18, 2011 examinations.

Dr. Lurie moved to grant certificates to the CA applicants who passed the February 18 examinations. Ms. Mercer seconded and the motion passed unanimously.

Agenda Item 11 Discussion/possible action regarding request to be approved as seminar sponsor from Marcus S. Strutz, DC.

Continuing Education Committee Chair Dr. Zaro has discussed Dr. Strutz's application with him. She stated that she is concerned about the lack of oversight in this situation. Dr. Overland stated that the NCA offers reasonable terms for seminar sponsorship and they are negotiable. Dr. Zaro moved to deny Dr. Strutz's request and that he be referred to the NCA for sponsorship of his seminar. Dr. Davis seconded. The motion passed with all in favor. There should be an agenda item at the next meeting to clarify the definition of "educational entity" with regard to requests for self-sponsorship.

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:

A. Complaint 08-30S

Dr. Zaro explained that this complaint goes back to when massage therapists were required to be registered as CAs for massage. Although the DC was not in compliance at that time, she has determined that he is now compliant. Dr. Zaro moved that the complaint be dismissed with a letter of instruction sent to the doctor with guidelines for proper registering of CAs. Dr. Lurie seconded and the motion passed unanimously.

B. Complaint 10-5S

Mr. Jackson stated that this complaint was filed because two years ago a flyer was circulated referring to an attorney and patient of the DC. The attorney mentioned in the flyer has attributed the flyer to the DC. The DC had filed a complaint with the BAR Association against the attorney for non-payment of a bill. Mr. Jackson has determined that there is complete lack of evidence to substantiate the complaint and moved to dismiss it. Dr. Zaro seconded. The motion passed with all in favor except Dr. Davis who recused because he has prior knowledge of the complaint.

C. Complaints 10-14S and 10-15S

These complaints were thoroughly investigated by former Board member Dr. Bill Bailey who provided a detailed written report of his investigation. Cindy Wade summarized his report which indicated that the two DCs had a method of record-keeping on their computers which are not always readily accessible. Because neither doctor could recall the specifics of the complainant's case, her claim of inaccurate records is credible, although it does not appear to have been intentional. Also, because the patient's recollection of the exercises she was given is not clear, the CAs may not have been given specific personalized instruction.

Dr. Rovetti moved to dismiss the complaint with a letter of instruction to the doctors to develop written record keeping procedures designed to avoid similar problems, to better train their CAs with regard to patient communication and instruction of therapeutic exercise, and also, that they become more involved with respect to how the exercises are given to, and performed by, the patient. Dr. Zaro seconded the motion. The motion passed with all in favor except Dr. Lurie who abstained because he has prior knowledge of the complaints.

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: (cont'd)

D. Complaint 10-20N

Dr. Rovetti is not finished with his investigation of this complaint. He will have a recommendation to present at the next meeting.

E. Complaint 10-21S

Dr. Lurie has not been able to complete his investigation of this complaint because he has been unable to contact the complainant. He will have a recommendation for disposition of this complaint at the next meeting.

Agenda Item 13 Discussion/possible action for reconsideration of Board's September 10, 2010 decision to go to hearing on Complaints 10-17S and 10-18S.

Dr. Rovetti explained that on September 10, 2010 the Board voted to go to hearing on two CAs who have allegedly practiced beyond the scope of practice of Chiropractor's Assistants. The CAs have surrendered their certificates. It is questionable whether disciplinary action at this point will further protect the public. Mr. Ling concurred and suggested that reconsideration of the previous action will also help to conserve expenses. Dr. Rovetti moved to accept the surrender of these two CA certificates and to place a note in their files to revisit this issue before any future applications for CA certification, on the job training, or any other CA duties under NRS 634 or NAC 634, can be accepted. Dr. Zaro seconded the motion. The motion passed with Drs. Rovetti, Zaro, Lurie and Nolle and Ms. Mercer in favor and Dr. Davis and Mr. Jackson opposed.

Agenda Item 16 Report on Dr. Lurie's audit of Parker Seminar

Dr. Lurie reported on his audit of participants performing adjustments at the Parker Seminar. He observed approximately 10 or 12 chiropractors performing adjustments with temporary licenses and approximately 10 who were adjusting without temporary licenses. He met with Dr. Glenn to discuss how this problem can be dealt with appropriately. They discussed the possibility of including temporary license information and applications with the seminar application packets. He also talked to the person at the NCMIC exhibit who indicated that coverage would not be provided if an injury was caused by an unlicensed seminar participant. Dr. Overland reported that on the evening of the VIP presentation he was approached by the President of Parker College, the Executive Director of the Parker seminars who is also the Vice President of Parker College, Dr. Wasselman from ICA, and Dr. Cuneo from the Foundation for Chiropractic Progress who asked why we are doing this. He explained to them that this is a CPBN issue, not an NCA issue. He said they were not happy about the temporary license issue and considered it to be a joke because there is no set policy for monitoring or enforcement of the statutes.

Agenda Item 15 Discussion/possible action regarding monitoring of chiropractors performing adjustments at seminars and/or classes as instructors, students, vendors, and chiropractors adjusting chiropractors.

Louis Ling passed out copies of the relevant statutes and regulations. Dr. Rovetti moved to adopt a policy that chiropractors adjusting chiropractors in a formal education setting do not have to obtain a temporary license. Dr. Zaro seconded the motion. After much discussion, the motion did not pass with Dr. Rovetti in favor, Drs. Nolle, Zaro, Lurie and Davis and Mr. Jackson opposed and Ms. Mercer abstained.

Dr. Zaro moved to establish a policy that doctors who demonstrate chiropractic technique on other doctors in a formal educational setting not be required to obtain temporary licensure unless they go to the next step and apply force on attendees which would constitute treatment and, therefore, a temporary license would be required. Dr. Rovetti seconded the motion. Upon further discussion it was determined that this is already addressed under NAC 634.367(3). Dr. Zaro withdrew her motion and Dr. Rovetti withdrew his second.

Agenda Item 17 Discussion/possible action regarding establishing a requirement for display of temporary license.

Dr. Lurie moved to establish that applicants for temporary licensure must be reminded to comply with NRS 634.120 which requires that licenses must be displayed. Mr. Jackson seconded and the motion passed with all in favor.

Agenda Item 18 Discussion/possible action to approve CPBN's support at the May4-8, 2011 Annual Meetings of FCLB and NBCE

A. Dr. Margaret Colucci's candidacy for FCLB Treasurer

B. Dr. Ron Tripp's candidacy for NBCE District IV Director

Dr. Zaro moved to allow the voting delegates to decide who they will vote for. There was no second. Dr. Zaro withdrew her motion and moved that the Board's NBCE voting delegate be directed to vote for Ron Tripp, DC, for NBCE District IV Director. Dr. Davis seconded and the motion passed with all in favor. Dr. Lurie made a motion that the CPBN support Dr. Margaret Colucci's candidacy for FCLB Treasurer at the meeting in May at Marco Island, Florida. Dr. Davis seconded and the motion passed unanimously.

Agenda Item 19 Discussion/possible action for establishment of Board's position regarding electronic patient records.

As requested by Dr. Lurie, Mr. Ling clarified that under NRS 629.061(2) the cost of furnishing copies of electronic patient records by methods such as scanning, including scanning into a PDF file or burning a CD, may be charged the same as if they are copies of paper records.

Agenda Item 22 Discussion/possible action regarding Legislative Liaison/Legislative Committee.

There was discussion regarding the efficacy of having a Legislative Liaison rather than a Legislative Committee. Dr. Rovetti moved to dissolve the Legislative Committee and assign a Legislative Liaison to work with the lobbyists, with possible reinstatement of the Legislative Committee after the lobbyists are no longer under contract. Dr. Zaro seconded the motion. The motion did not pass with Dr. Rovetti in favor, Drs. Davis, Lurie, Nolle and Zaro opposed and Ms. Mercer abstained. There was discussion about who should represent the Board with testimony before the Legislative committees. It was determined that the lobbyists should testify, and a Board DC, preferably from northern Nevada, should be available to testify on short notice if needed.

Agenda Item 20 Discussion/possible action for approval of proposed Mission Statements for following committees:

- A. Continuing Education Committee**
- B. Legislative Committee**

The board members were asked to make written comments/suggestions on the proposed mission statements and submit them to the originator. This matter will be addressed later if time allows.

Agenda Item 21 Discussion regarding effectiveness and future direction of committees based on following reports submitted:

- A. Continuing Education Committee**
- B. Legislative Committee**
- C. Test Committee**

CE Committee Chair Dr. Zaro gave an oral progress report and responded to questions. Legislative Committee progress was addressed previously. Test Committee Chair Dr. Davis distributed his written report. There was discussion about the new CA test.

Agenda Item 23 Board Counsel Report.

- A. Lin v. CPBN**
- B. Nassiri/Johnson v. CPBN**

Mr. Ling reviewed the current status of Ms. Mercer's and his settlement negotiations with Dr. Lin's attorneys. The hearing will probably be in April. He reported the Nassiri/Johnson case was assigned to a new Judge who has ruled in the Board's favor on their Motion for Stay of the Board's Order revoking Dr. Nassiri's license and suspending Dr. Johnson's license. Their appeal will probably be addressed in approximately four months.

Agenda Item 24 Discussion/approval of Board financial status report:

- A. Bank balance as of March 1, 2011**
- B. Income/Expense Report: July 1 through March 1, 2011**
- C. Accounts Receivable as of March 1, 2011**
- D. Accounts Payable as of March 1, 2011**
- E. Extraordinary Items/Items of Concern**

The financial reports were reviewed. Possible ways to reduce credit card fees will be explored as well as methods for reducing other costs. Dr. Lurie made a motion to approve the financial reports. Mr. Jackson seconded and the motion passed with all in favor.

Agenda Item 25 Discussion/approval of Executive Director Reports:

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

Cindy Wade provided updates of the reports since they were printed. She was requested to send a list of suspended licensees to Dr. Lurie and to report to the Arizona Board that a suspended licensee who practices in Arizona has defaulted on the Board's Order. Mr. Ling will prepare a modification of a Board Order for a licensee because the National Board Ethics Examination does not offer a billing/coding segment by itself, that subject must be taken along with four other subjects that are not relevant.

Agenda Item 26 Discussion/possible action for establishment of policy regarding the details and protocols of meetings held by telephonic or other electronic means.

This matter was postponed until later if time allows.

Agenda Item 27 Discussion/possible action for approval of hiring a full or part-time staff investigator.

Mr. Jackson moved to form a committee to research Private Investigators for applicants to be considered for employment as a part-time investigator for the Board. Dr. Davis seconded the motion. After discussion about the need for budgetary considerations, job description, etc., Mr. Jackson withdrew his motion and Dr. Davis withdrew his second. A task force consisting of Dr. Lurie and Mr. Jackson was proposed to look further into this matter and it will be on the next meeting agenda.

Agenda Item 28 Discussion/possible action regarding Executive Director Performance Evaluation.

Dr. Lurie reported that a synopsis of the Executive Director's performance evaluations was favorable. Dr. Rovetti moved for a 2% increase of Cindy Wade's salary effective April 1. Ms. Mercer seconded the motion. Following discussion, Dr. Rovetti amended his motion to award Cindy a 3% increase. Ms. Mercer seconded the amended motion and it passed unanimously.

Agenda Item 29 Discussion/possible action for approval of Board-conducted seminar and/or other proactive ways to effect decrease in complaints.

Several suggestions for proactive ways to decrease the volume of complaints included the following: Dr. Davis recommended that CAs be better educated on the laws; Ms. Mercer suggested a review with question and answer interaction on the chiropractic statutes; Dr. Zaro suggested round tables via Skype at no cost with questions submitted in advance and, also, try to get some of the large insurance companies to co-sponsor free seminars on billing and coding; Dr. Lurie recommended a review of case studies on previous disciplinary actions; Dr. Rovetti suggested developing brief sessions on the CA registration process, advertising regulations, etc., via YouTube.

Agenda Item 30 Discussion/possible action to establish a committee for review of regulations as mandated by Executive Orders of the Governor.

Drs. Davis and Rovetti will assist Louis Ling in developing a report to the Governor which is due by the end of the year.

Agenda Item 31 Discussion/possible action to approve Executive Director's participation in GLSuite's Leadership/Planning Conference in Bend, Oregon, August 17 - 19, 2011.

It was determined that there are no funds available in the budget for Cindy Wade to participate in the GLSuite Leadership/Planning Conference in Oregon. Ms. Mercer moved to deny Cindy's participation in this event. Dr. Nolle seconded and the motion passed unanimously.

Agenda Item 33 Correspondence Report (NON-ACTION)

In response to a letter from the National Board of Chiropractic Examiners, Dr. Zaro will participate in the Spring Part IV exam in May, 2011 and Dr. Lurie will participate in the Fall Part IV exam in November, 2011.

Agenda Item 34 Board Member Comments (NON-ACTION)

Dr. Rovetti will draft an article for publication in the NCA newsletter for everyone's input before he submits it. Amendments and suggestions regarding Committee Mission Statements should be sent to Cindy. Dr. Nolle acknowledged his appreciation of Dr. Rovetti's proposals for improving our Board meetings. Mr. Jackson recommended that potential conflicts of interest be addressed at the next meeting. Cindy will order business cards for Board members. Dr. Rovetti thanked everyone for a good meeting and for accepting his proposals for improving our meetings.

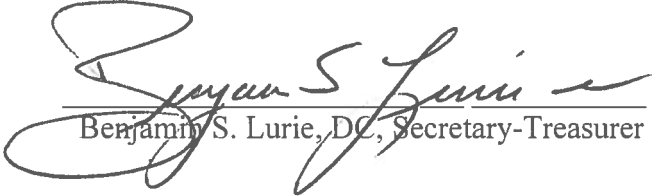
Agenda Item 35 Public Comment (NON-ACTION)

There was no public comment.

Agenda Item 36 Adjournment

Dr. Zaro moved to adjourn the meeting. Dr. Nolle seconded and the motion passed with all in favor.

Approved: June 4, 2011


Benjamin S. Lurie, DC, Secretary-Treasurer