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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, September 10, 2011 in Kietzke Plaza Conference Room I204 at 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
Shell Mercer, JD, Consumer Member
Jack Nolle, DC, Member
Annette Zaro, DC, Member

Also present were Board Counsel Louis Ling and Executive Director Cindy Wade.

A quorum was present and President Dr. David Rovetti called the meeting to order at 9:00 AM. Dr. Jack Nolle led those present in the Pledge of Allegiance. Dr. Annette Zaro stated the purpose and mission of the Board.

Agenda Item 1 Approval of Agenda

Paul Jackson moved for approval of the agenda. Dr. Nolle seconded the motion and it passed with all in favor.

Agenda Item 2 Public Interest Comments

There were no public comments.

Agenda Item 3 Approval of Consent Agenda

CONSENT AGENDA

Agenda Item 4 Approval of previous minutes – For possible action:

- A. June 4, 2011 meeting
 - B. June 9, 2011 Legislative Committee meeting
- (cont'd)

Agenda Item 5 Approval of Board financial status report- No action:

- A. Bank balance as of September 1, 2011**
- B. Income/Expense Report: July 1, through September 1, 2010 and 2011**
- C. Accounts Receivable as of September 1, 2011**
- D. Accounts Payable as of September 1, 2011**
- E. Extraordinary Items/Items of Concern**

Agenda Item 6 Approval of Executive Director Reports – No action:

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

Agenda Item 7 Granting of Doctor of Chiropractic licenses to applicants who passed the August 10, 2011 examination – For possible action.

Agenda Item 8 Granting of Chiropractor's Assistant certificates to applicants who passed the August 18, 2011 examination – For possible action.

Dr. Nolle moved that the Consent Agenda be approved. Mr. Jackson seconded the motion and it passed unanimously.

REGULAR AGENDA

Some agenda items were addressed out of order to accommodate those present.

Agenda Item 10 Request from Drs. Jeff Burres and Greg Chech for approval to provide an alternative treatment for cancer – For possible action.

Drs. Burres and Chech informed the Board that their patients will be referrals from MDs and DOs and individuals seeking alternative forms of treatment and they will not be performing diagnoses. Their proposed treatment utilizes heat, presents no harm to the public, and NCMIC has indicated they will provide coverage provided the treatment is determined to be within the chiropractic scope of practice. Dr. Davis cited the scope of practice: **NRS 634.013** **“Chiropractic’ defined.** ‘Chiropractic’ is defined to be the science, art and practice of palpating and adjusting the articulations of the human body by hand, the use of physiotherapy, hygienic, nutritive and sanitary measures and all methods of diagnosis.” Dr. Lurie noted that the letter from NCMIC indicates that the proposed treatment is experimental and they have never provided coverage for anything like this. They requested to be informed of the Board’s position with respect to this matter. There was much discussion about the effectiveness of this treatment, legal ramifications and the legislative intent of the chiropractic scope of practice. Mr. Jackson made a motion to deny without prejudice this request for approval to perform this alternative form of medicine because it falls under the purview of physicians who are qualified to treat cancer. Dr. Lurie seconded. The motion passed with Mr. Jackson, Ms. Mercer, and Drs. Lurie, Zaro and Rovetti in favor, Dr. Nolle opposed and Dr. Davis abstained.

Agenda Item 9 Request from Bret Corbett, DC, to retain “Absolute Best Chiropractic” as his practice name – For possible action.

Dr. Rovetti explained that an advertising violation form letter was sent to Dr. Corbett because the name of his practice, “Absolute Best Chiropractic,” is self-laudatory. Dr. Corbett explained that he chose that name to secure an advantageous position in the Yellow Pages and that it would be costly for him to change it. Mr. Jackson moved that the name of Dr. Corbett’s practice, “Absolute Best,” violates NRS 634.018(4) and Dr. Lurie seconded the motion. After further discussion, Mr. Jackson restated the motion, moving to deny Dr. Corbett’s request to use the name “Absolute Best Chiropractic.” Dr. Lurie seconded the motion as restated by Mr. Jackson. The motion passed with all in favor except Dr. Rovetti who recused due to his previous involvement in this matter.

Agenda Item 11 Request from Clyde Porter, DC, License No. B115, for early termination of his probation – For possible action.

Dr. Porter stated that he has completed all of the terms and conditions of his settlement agreement except for approximately one-half of his three year probation. This disciplinary action has caused his removal from insurance panels and has resulted in substantial loss of income. Dr. Zaro commented that as a former Board member Dr. Porter should be held to a higher standard with regard to his knowledge of and obeying the laws. Dr. Nolle made a motion to grant Dr. Porter’s request. Ms. Mercer seconded and the motion passed with Drs. Nolle and Lurie, Ms. Mercer and Mr. Jackson in favor, Dr. Zaro opposed, and Drs. Davis and Rovetti recused.

Agenda Item 12 Approval of proposed contract with Nevada Business Strategies for government relations consulting services – For possible action.

Marsha Berkbigler and Mendy Elliott presented their proposed strategy with regard to lobbying for the Board through the next Legislative session. There was no action taken in this matter. The Board will proceed with the proper contracting procedures, beginning with issuance of RFPs.

Agenda Item 13 Administrative hearing in the Matter of Corazon Murillo, DC, License No. B647, Case No. 11-12S – For possible action.

Louis Ling informed the Board that Dr. Murillo has retained counsel and he was unavailable to be present today. This matter was continued until October 15, 2011.

Agenda Item 14 Request that participation on NBCE Test committee be approved for 12 hours of continuing education for license renewal – For possible action.

Dr. Lurie stated that continuing education credit should be given for NBCE Test Committee participation because it is more educational than most seminars. He made a motion to approve CE credit for NBCE Test Committee participation with the number of hours to be provided by letter from the NBCE. Dr. Zaro seconded the motion. Dr. Davis observed that this appears to be self-serving because only Board members may participate. Dr. Nolle recommended imposition of a limit to the number of hours that may be credited. After further discussion Dr. Lurie withdrew his motion and Dr. Zaro withdrew her second. This matter will be revisited at a future meeting.

Agenda Item 16 NCA matters:

D. Wrap-up on bills/session to be presented by Marlene Lockard, NCA Lobbyist – No action.

Ms. Lockard reviewed the relevant bills that were passed by the Legislature and those that did not pass. She mentioned some topics for the Board's consideration at its next rule-making session. Dr. Overland will provide a list.

A. Discussion of alternative pathway for Chiropractor's Assistant certification under NAC 634.355(2)(a(1) and (2) and (b) – No action.

Dr. Overland suggested that the local community colleges might offer courses that would provide appropriate training for CAs. The Board agreed that this should be pursued.

B. Request by numerous DCs to increase the number of DCs allowed to supervise Chiropractor's Assistants under NRS 634.127 – For possible action.

Dr. Overland recommended that DCs should be allowed to supervise 6 CAs at a time. This would require a statutory change and will be considered if the Board decides to submit a bill for the next Legislative session.

C. Definition of manipulation, NRs 634.105(2) – For possible action.

The physical therapists and osteopaths want to be on the record that the current definition of manipulation applies to chiropractors only. Dr. Overland recommended that the phrase, "with or without a thrust" should be added. He will gather more information and this will be addressed again at a future meeting.

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 – For possible action:

A. Complaint 09-22S

The DC who owns the practice advertises as a medical center but there is no MD on site. He has advised that he is in the process of dissolving the medical center practice. Dr. Zaro recommended that he be requested to stop advertising as a medical center, take and pass the CPBN law test, and that he and his associate DC amend their self-inspection forms. Dr. Zaro recommended that the complaint be considered for dismissal if and when he complies with these requests and the medical center company has been dissolved.

B. Complaint 11-4S

Dr. Zaro explained that Complaint Nos. 11-4S and 11-5S are connected. The DC in Complaint 11-5S is an employee of the DC in Complaint 11-4S. The DC in Complaint 11-5S performs diagnosis and treatment, creates the records and sends them to the DC in Complaint 11-4S who oversees the billing. Dr. Zaro has determined that the services in question were actually performed but were billed under antiquated billing codes.

C. Complaint 11-5S

Dr. Zaro has determined that the doctor's records are illegible.

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 – For possible action: (cont'd)

Dr. Zaro made a motion for dismissal of **Complaint 11-4S** with a letter of instruction to the doctor to review NAC 634.430 and take a two-hour Board approved billing course which may be applied toward his continuing education requirements for license renewal, and dismissal of **Complaint 11-5S** with a letter of instruction to the doctor to take a two-hour Board approved billing course and a two-hour Board approved record keeping course and the hours may be applied toward his continuing education requirements for license renewal. Dr. Lurie seconded and the motion passed with all in favor except Dr. Zaro who recused as the IBM.

D. Complaint 10-20N

Dr. Rovetti has thoroughly investigated this complaint which was re-filed against a licensee who was previously investigated for the same allegations. The first complaint was dismissed with a Letter of Instruction. Dr. Rovetti found no evidence that would substantiate the complainant's claims of billing fraud and he moved to dismiss the complaint. Dr. Lurie seconded and the motion passed with all in favor except Dr. Rovetti who recused as the IBM.

E. Complaint 11-15S

The complainant claimed that he became acquainted with one of our licensees while on vacation in Mexico and had observed the doctor abusing drugs and alcohol. Mr. Jackson has interviewed the complainant and the doctor and determined that there is no evidence to support the complaint. The DC agreed to go to a substance abuse counselor who reported that there is no appearance of a substance abuse problem. Mr. Jackson moved to dismiss the complaint. The motion was seconded by Shell Mercer and passed with all in favor.

Agenda Item 18 Request from Jason O. Jaeger, DC, that the CPBN review and adopt the ICA Best Practices Guidelines – For possible action.

This matter was tabled until the December 10 meeting when Dr. Jaeger can be present. Dr. Rovetti recommended that everyone read the guidelines in the meantime.

Agenda Item 19 Request from Council on Extremity Adjusting for recognition in Board policy of the CCEP (Certified Chiropractic Extremity Practitioner) certification program – For possible action.

Dr. Rovetti has reviewed this program and feels it is comparable to the other certification programs that have been approved. He made a motion to approve the CCEP program for inclusion in the Board's policy. Dr. Davis seconded. The motion passed with all in favor except Ms. Mercer who abstained because she feels she is not qualified to vote on this matter.

Agenda Item 20 Proposed CPBN policy revisions – For possible action:

A. Policy 2

Dr. Lurie pointed out that the "Applicant Fingerprints" policy does not include reference to applicants for CA certification and moved to add this reference to the policy. Dr. Davis seconded the motion and it passed unanimously.

Agenda Item 20 Proposed CPBN policy revisions – For possible action: (cont'd)

B. Policy 4

Dr. Lurie made a motion to add the following to Policy 4 – Confidentiality of Testing Material: “Test Committee members and board staff” to those who may be designated by the Board to assist in the preparation, evaluation and/or administration of the examinations and have access to the testing material and that a sample of the Confidentiality Agreement form be attached to the policy. Dr. Zaro seconded and the motion passed with all in favor.

C. Policy 11

Dr. Lurie moved to change the wording in Policy 11 – Test Guest Examiners to include that a “licensed Nevada Doctor in good standing approved by the Test Committee Chair or Board” must be present during the administration of a practical test, and to add “Grading of written examinations must be performed by a Board member or Board staff.” Dr. Davis seconded and the motion passed unanimously.

D. Policy 17

Dr. Lurie made a motion to add the following to Policy 17 – Monitoring of Compliance of Disciplined Licensees: “In the event the Investigating Board Member is no longer on the Board, the President of the Board shall appoint a new Investigating Board Member to assist the Compliance Officer with any questions or problems that may arise during the compliance period.” Dr. Zaro seconded the motion and it passed with all in favor.

E. Policy 18

Dr. Lurie proposed that Policy 18 – Appearance at Meeting by Respondent Required for Approval of Agreed Settlement be revised to require that the respondent(s) “be in attendance at the Board meeting if requested or available via telephone when approval of the agreement by the Board is to be addressed.” Dr. Zaro seconded the motion. After discussion, the motion did not pass with Dr. Lurie in favor and Drs. Davis, Nolle, Rovetti and Zaro and Mr. Jackson and Ms. Mercer opposed.

Agenda Item 21 Approval of proposed Settlement Agreement in the Matter of Don Vuong, DC, License No. B1097, and Jill Vuong, DC, License No. B1098, Case No. 11-10S – For possible action.

The respondents were not present. Mr. Jackson made a motion to table this matter until the October 15 meeting. Dr. Davis seconded the motion and it passed with all in favor.

Agenda Item 22 Discussion of effective investigation and investigation management strategies – No action.

This matter was tabled due to lack of time.

Agenda Item 23 Request for approval of proposed definition of “educational entity” – For possible action.

Dr. Zaro moved that the following definition be added to NAC 634: “An educational entity that may be approved by the Board is an institution accredited by a nationally recognized accrediting agency. In addition, the Board may approve corporate universities and hospitals as defined by NRS 439B.115.” The motion was seconded by Mr. Jackson and passed with all in favor.

Agenda Item 24 Establish fee for processing renewal paperwork – For possible action.

Dr. Lurie made a motion to establish a \$25.00 charge as a pass-along cost for processing of paper renewals. Paul Jackson seconded and the motion passed with all in favor except Dr. Nolle who was not in favor, and Dr. Davis abstained.

Agenda Item 25 Board Counsel Report – No action.

Mr. Ling reported that the Nassiri/Johnson petition for judicial review is set for September 28, 2011 at 9:00 AM in Department 4. He encouraged Board members to attend if possible. There still is no date set for the Lin petition for judicial review.

Agenda Item 26 Committee Reports – No action.

A. Continuing Education Committee

Dr. Zaro reported that 70 DC seminar applications and 12 CA seminar applications have been approved. She discovered that a doctor was credited with 26 hours for attending two online seminars simultaneously in one day and has denied him credit for the hours. She has notified the seminar principals and the sponsoring chiropractic college that we are no longer accepting their applications without prejudice. There also are incidences of doctors showing up late or leaving early who have received full credit for attending the seminar. Dr. Zaro encouraged Board members to audit the seminars.

B. Legislative Committee

Mr. Jackson discussed the lobbyist contract situation and the need to send out RFPs. Dr. Rovetti suggested that we consider hiring the lobbyists on an hourly basis in the interim to cover the committee meetings.

C. Test Committee

Dr. Davis will be reviewing the results of the recent tests. He plans to rewrite the CA Law Test and freshen up the CA Test for the February, 2012 examinations. He requested that Board members contribute test questions for the question pool. Test questions may be reviewed in closed session.

Agenda Item 17 Review of possible revisions to NAC 634 – For possible action.

Numerous possible regulation changes were reviewed. AB382, which established a preceptor program, will become effective on October 1, 2011. Mr. Ling determined that we must have regulations in place before we can develop and start processing applications. In response to an inquiry from Mr. Jackson, Mr. Ling stated that the term “student” cannot be redefined because it is established in statute. He also stated that on the effective date of the statute, “DCs Waiting to Take Exam,” may adjust but we still need to revise the regulation. SB215, which requires continuing education for Chiropractor’s Assistants, must be addressed in the regulations. Also to be addressed by rule-making are Dr. Lurie’s requests for an addition to NAC 634.435(3) to require a licensee who closes his practice to notify the Board of the location at which his patients’ records may be obtained, and to include Chiropractor’s Assistants in NAC 634.330.

Agenda Item 27 Correspondence Report – No action.

There were no comments regarding the Correspondence Report.

Agenda Item 28 Board Member Comments – No action.

Dr. Rovetti has the staff looking into remodeling the Board's website to make it more attractive and user-friendly. We can do one major project at no additional cost. The Board's policies should be posted on the website.

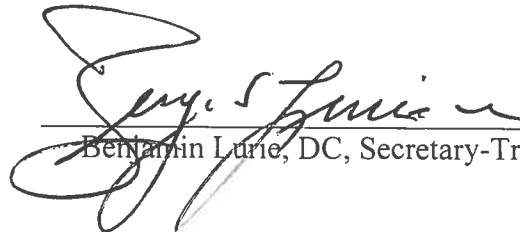
Agenda Item 29 Public Comment – No action.

Dr. Overland requested clarification of "right vs wrong" advertising with regard to the advertising violation letters that were recently sent out. Dr. Rovetti will write a letter for publication in the NCA Newsletter and possibly for the CPBN website with examples of advertising violations.

Agenda Item 30 Adjournment

Mr. Jackson moved for adjournment. Dr. Nolle seconded and the motion passed with all in favor.

Approved: October 15, 2011


Benjamin Lurie, DC, Secretary-Treasurer