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Consumer Member

CINDY WADE
Executive Director

CHIROPRACTIC PHYSICIANS' BOARD OF NEVADA

4600 Kietzke Lane, Suite M245
Reno, Nevada 89502-5000
Telephone (775) 688-1921

Website: <http://chirobd.nv.gov> Fax (775) 688-1920 Email: chirobd@chirobd.nv.gov

***AMENDED MINUTES OF MEETING**

A meeting of the Chiropractic Physicians' Board of Nevada was held on Saturday, June 1, 2013 in the Sierra Room of the Stratosphere Hotel, 2000 Las Vegas Blvd. South, Las Vegas, Nevada 89104.

The following Board Members were present at the roll call at 8:00 AM:

David G. Rovetti, DC, President
Benjamin S. Lurie, DC, Vice President
Jack Nolle, DC, Secretary-Treasurer
Lawrence Davis, DC, Member
Tracy DiFillippo, Esq., Consumer Member
Annette Zaro, DC, Member

Consumer Member Shell Mercer joined the meeting at 8:45 AM. Board Counsel Louis Ling and Executive Director Cindy Wade were also present.

Dr. Rovetti determined that a quorum was present and called the meeting to order. Tracy DiFillippo led those present in the Pledge of Allegiance and stated the purpose and mission of the Board.

Dr. Rovetti announced that there will be a short break around 10:00 AM and a break for lunch at approximately 12:00 Noon. The hearing that was noticed under Agenda Item 4 will not take place and there will be no meeting on Sunday, June 2. Today's meeting will end at approximately 2:15 PM unless we are able to make some flight changes for later return to Reno.

Agenda Item 1 Public Interest Comments - No action.

There was no public comment.

Agenda Item 2 Approval of agenda – For possible action.

Dr. Lurie moved to approve the agenda with Agenda Item 4 withdrawn. Dr. Nolle seconded and the motion passed unanimously.

Agenda items were taken out of order to allow time for finalization of negotiations of settlement agreements to be addressed under Agenda Item 3.

Agenda Item 6 Approval of April 6, 2013 meeting minutes - For possible action

Ms. DiFillippo made a motion to approve the April 6, 2013 meeting minutes. Dr. Lurie seconded the motion. Dr. Nolle questioned the wording regarding the Board's position regarding SB198 under Agenda Item 13. Ms. DiFillippo withdrew her motion and Dr. Lurie withdrew his second. This matter was tabled until the next meeting to afford Dr. Nolle an opportunity to listen to the tape of the April 6 meeting.

Agenda Item 7 Ratification of granting of DC licenses to applicants who passed the examinations on April 10 and May 8, 2013 – For possible action

Dr. Lurie moved to ratify the granting of DC licenses to the applicants who passed the April 10 and May 8, 2013 examinations. Dr. Nolle seconded and the motion passed with all in favor.

Agenda Item 13 Discussion/approval of scheduling board meetings by phone for one hour at 12:30 on the Tuesday two weeks after administration of the DC exam.

Dr. Davis recommended the Board hold monthly conference call meetings for granting of DC licenses to enable the new licensees to begin practicing right away rather than wait until the next Board meeting. Dr. Rovetti moved to hold conference call meetings on the second Tuesday of each month. Dr. Lurie seconded the motion. It was determined that currently pass/fail letters are mailed within five days after administration of the DC exams and those who passed are allowed to commence practicing upon their payment of the license fee. The Board ratifies granting of their licenses at the Board's next meeting. The motion failed with everyone opposed.

Agenda Item 5 Appeal of denial of application for CA certification of Justin Buenaventura – For possible action

Mr. Buenaventura was present. Ms. Wade explained that she denied Mr. Buenaventura's application and sent him a cease and desist letter because he failed to disclose his 2010 arrest and conviction. Mr. Buenaventura explained why he answered "No" to Questions 3 and 4 of the application and apologized for having done so. He asked that the denial be reconsidered and that he be allowed to correct his answers on the application. He responded to questions from Board members. Ms. DiFillippo moved to allow Mr. Buenaventura to amend his application. Dr. Rovetti seconded and the motion passed with all in favor except Dr. Lurie who recused because Mr. Buenaventura had been employed at one of his practices.

Agenda Item 19 Update on Mentor Program – No action

The program will be amended to include Ms. DiFillippo's recommendations that (1) the exclusion for prior disciplinary action should include disciplinary actions by all jurisdictions; (2) 6 CE credits will be given to a preceptor for 6 hours of face-to-face contact with the new licensee; and (3) the program will only be offered to new licensees who graduated from chiropractic college within the past three years. The program is not intended for experienced doctors moving to Nevada from other jurisdictions.

Agenda Item 3 Discussion/possible approval of settlement agreements in the Matter of Devin Luzod, DC, License No. B846, Loren Grover, DC, License No. B1398, Daniel Hecker, DC, License No. B1400, Collin Higo, DC, License No. B1464 and Mark Gutierrez, DC, License No. B1480; Case Nos. 12-11S, 12-13S, 12-17S, 12-21S, 12-22S and 13-01S – For possible action

Dr. Luzod and his attorney, Jennifer Gatewood, Drs. Grover and Hecker and their attorney, Edgar Carranza, Dr. Higo and his attorney, David Klink, and Dr. Gutierrez and his attorney, Janice Jensen, were present. CPBN Board Counsel Louis Ling stated that settlements with all five respondents have been finalized. He complimented his fellow counsels and Investigating Board Member Dr. Lurie for this accomplishment. Mr. Ling reviewed the charges in the eight Causes of Action and described the process that was followed in attaining the settlements. He indicated that the intention and design of the settlements are primarily remedial rather than punitive.

Mr. Ling presented copies of the signed settlement agreements. He reviewed the terms and conditions of the agreement with Dr. Luzod which is substantially different from those of the other four respondents. He noted that Dr. Luzod has been very cooperative and accepts responsibility for the structure he established in his practices. Mr. Ling responded to questions from Board members. Dr. Zaro made a motion, and Ms. Mercer seconded, to accept the settlement agreement with Dr. Luzod. The motion passed with Drs. Nolle, Rovetti and Zaro and Ms. DiFillippo and Ms. Mercer in favor, Dr. Davis opposed, and Dr. Lurie recused.

Mr. Ling reviewed the terms and conditions of the settlement agreements with Drs. Grover, Hecker, Higo and Gutierrez. He noted that in the agreements with Drs. Grover, Hecker and Higo, they have admitted to the third Cause of Action and will each pay a \$500 fine in addition to complying with the other terms and conditions. In the agreement with Dr. Gutierrez, he has admitted to the third and seventh Causes of Action and will pay a total \$2,500 fine in addition to complying with the other terms and conditions. Ms. Mercer moved to accept the settlement agreements with Drs. Grover, Hecker and Higo as written. Dr. Zaro seconded and the motion passed with Drs. Rovetti and Zaro, Ms. DiFillippo and Ms. Mercer in favor, Drs. Davis and Nolle opposed and Dr. Lurie recused. Ms. Mercer moved to accept the settlement agreement with Dr. Gutierrez as written. Dr. Zaro seconded and the motion passed with Drs. Rovetti and Zaro, Ms. DiFillippo and Ms. Mercer in favor, Drs. Davis and Nolle opposed and Dr. Lurie recused.

Ms. Mercer made a motion that the letters of reprimand should not address the allegations that were not admitted to in the settlement agreements. Dr. Zaro seconded. The motion passed with all in favor except Dr. Lurie, who recused.

Agenda Item 4 Hearing in the Matter of Devin Luzod, DC, License No. B846, Loren Grover, DC, Licensee No. B1398, Daniel Hecker, DC, License No. B1400, Collin Higo, DC, License No. B1464 and Mark Gutierrez, DC, License No. B1480; Case Nos. 12-11S, 12-13S, 12-17S, 12-21S, 12-22S and 13-01S – For possible action

There was no hearing due to settlements with all of the respondents.

Agenda Item 8 Legislative Report – No action

Dr. Lurie reported that the Board's bill, AB73, was signed by Governor Sandoval on May 27. The NCA bill, SB198, was vetoed by the Governor and has been returned to the Senate. Dr. Lurie provided a synopsis of the progression of SB198 through the Legislature. Dr. Rovetti expressed his complete confidence in Dr. Lurie's representation during the session and said he did a great job as Legislative Chair. He asked for public comment. There was no public comment.

Agenda Item 9 NCA Report – No action

Dr. James Overland reported that this year is the 20th anniversary of the NCA. Their annual meeting will be in Reno on October 19-20. **He said, "The keynote speaker will be Dr. Mike Megehee who is the national leader in the Department of Transportation for the seminars to get the individuals qualified to be able to take the exam. They now require a national mandated certification program that will be effective in April of next year for anyone doing CDL Class II exams or any other examinations that require DOT supervision. So, we'll be putting that on up there and it will allow any chiropractor to actually take the examination."*

Agenda Item 10 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. Complaint 10-13S

Dr. Davis reported that this investigation is in its final stages. He anticipates there will be a hearing to resolve this complaint.

B. Complaint 11-21S

Ms. Mercer stated that this complaint will be resolved and ready for disposition at the next meeting.

C. Complaint 12-04S

Ms. Mercer has obtained additional information and will be ready to address disposition of this complaint at the next meeting.

D. Complaint 12-18S

Ms. DiFillippo reported that this complaint is still under investigation.

E. Complaint 12-19S

Dr. Davis will send the complainant a letter via certified mail as he is not cooperating with the investigation.

F. Complaint 12-20S

Dr. Zaro has not been successful in contacting the complainant. She will continue her investigation without the complainant's input because she has detected violations.

G. Complaints 13-02N & 13-03N

These complaints are from one patient against two doctors. Her concerns appear to be issues outside of the chiropractic scope of practice. Dr. Nolle will arrange with Ms. Wade to meet with the complainant and Mr. Ling at the Board's office.

H. Complaint 13-04N

Dr. Davis has completed his investigation into this complaint and will address its disposition at the next meeting.

I. Complaint 13-05N

Dr. Rovetti is still attempting to contact this person who has been performing adjustments without a license. He will keep trying.

J. Complaint 13-06N

Dr. Rovetti is still investigating this matter.

K. Complaint 13-07S**L. Complaint 13-08S(A&B)**

Dr. Lurie reported that Complaints 13-07S and 13-08S(A&B) are connected and are also being investigated by several other regulatory boards. He is tracking their progress and will address our issues as he deems appropriate.

M. Complaint 13-10S

Dr. Zaro just received this complaint and has reviewed it with Mr. Ling. She will have Ms. Wade contact the complainant's attorney regarding some of the issues.

Dr. Rovetti requested that conference call meetings be penciled in for 12:00 Noon on Tuesday, July 2 and Tuesday, August 6. Meetings with possible hearings were scheduled for October 5-6 in Reno and October 26-27 in Las Vegas. Drs. Davis, Lurie and Zaro confirmed that they will attend the September 19-22, 2013 FCLB District Meeting in Vancouver, Washington.

Agenda Item 18 Report on FCLB Conference in San Francisco – No action

The Board members who attended the FCLB Conference discussed the events during lunch in the conference room which remained open to the public.

Agenda Item 11 Discussion and determination regarding course content and other criteria required for approval of continuing education seminars for Chiropractor's Assistants – For possible action.

Appropriate continuing education topics for CAs need to be specified for adoption as regulation. Dr. Rovetti recommended CAs be given credit for attending DC courses. Dr. Nolle moved that continuing education that is approved for DCs should also be approved for CAs. Dr. Rovetti seconded the motion. Educating Chiropractors' Assistants in chiropractic techniques, diagnosis, etc., would expand their knowledge and understanding and the doctors are still responsible for supervising the work of their CAs. The motion passed with all in favor.

Agenda Item 12 Approve resumption of past practice of conducting Legislative Committee board business and interactions with lobbyists and legislature – For possible action

Dr. Nolle said that he felt there was a lack of communication and some miscommunication during the legislative session, and that having a Chair and Co-Chair during the previous session worked better. He made a motion to resume immediately the precedence of the Legislative Committee being comprised of Chair and Co-Chair. During any legislative session, the Committee will have frequent and regularly scheduled board meetings to keep the full board current on development and issues and to have board direction for the Committee and Lobbyists' actions and communications with the legislative processes. Second was by Ms. DiFillippo. Ms. Mercer commented that bigger is not necessarily better and the communication problems Dr. Lurie encountered were with non-Board entities. Ms. DiFillippo questioned whether or not a committee of one is too much for one person. Dr. Lurie stated that SB198 was not brought to the Board's attention until too late for the Board to meet to establish its position. He recommended that if more than one person is needed on a committee, then this should apply to all committees. Dr. Rovetti expressed his concern about possible Open Meeting Law violations if too much communication passes between committee members and others. The motion failed with Drs. Davis, Lurie and Nolle in favor and Drs. Rovetti and Zaro, Ms. DiFillippo and Ms. Mercer opposed.

Agenda Item 14 Committee Reports – No action**A. Continuing Education Committee**

Dr. Nolle had a lengthy discussion with Dr. Paul Powers of Chirocredits.com and would like to follow his online presentation techniques. Dr. Powers indicated to him that the PACE program has some weaknesses and feels his technology is superior to that of PACE. Dr. Nolle definitely recommends that the number of online hours for license renewal credit be limited by regulation.

B. Legislative Committee

Dr. Lurie had no further comment about the legislative session.

C. Test Committee

Dr. Zaro reported that with passage of the Board's bill we can start moving toward online testing of DCs and CAs, including the CA x-ray test. The online tests will be administered through test centers and can be tiered, i.e., modalities only and x-ray only. She will be looking into utilizing FCLB's Triple CA program. Portions of it may be waived at our discretion.

D. Preceptorship Committee

Dr. Davis reported that to date three preceptorships have been approved and there is one pending. Dr. Zaro recommended that guidelines need to be established to prevent approval of any preceptor who has had disciplinary action without being submitted to the full Board.

Agenda Item 15 Board Counsel Report – No action

Mr. Ling informed the Board that the Nassiri-Johnson civil trial will commence in Federal Court in July. Allstate Insurance wants CPBN's Order and the District Court's Order affirming the CPBN Order, and may want to use portions of Liz Rowan's power point testimony. Mr. Agwara is still representing Drs. Nassiri and Johnson. Mr. Ling advised that we should begin the rule-making process at the next meeting now that the Legislature is about over.

Agenda Item 16 Financial Status Report – No action**A. Current cash position****B. Income/Expense Budget to Actual/F/Y 2012 to 2013 Comparison****C. Accounts Receivable Summary****D. Accounts Payable Summary****E. Extraordinary items**

Ms. Wade briefly reviewed the Board's financial status. The value of the EIG stock has increased to approximately \$100,000. She asked that expense accounts be submitted as soon as possible. The annual audit will start in July and the books have to be closed at the end of June.

Agenda Item 17 Executive Director Reports – No action**A. Status of Complaints Received****B. Status of Current Probations****C. Legal/Investigatory**

There were no questions or comments.

Agenda Item 20 Correspondence Report – No action

Ms. Wade provided a partial list of Newsletter topics and requested input from Board Members. We will try to publish the Newsletter by the end of June. It will be mailed in print form and also e-mailed. A notice will be included that anyone who wishes to continue receiving it by U.S. Mail must notify the Board staff.

Agenda Item 21 Public Interest Comments – No action

Dr. Overland commented that very soon he will be providing a timeline of what happened during the Legislature from the NCA's perspective which doesn't necessarily agree with what was heard today. With regard to Dr. Nolle's recommendation to establish a Legislative Committee Chair and Co-Chair and regularly scheduled phone meetings, he believes this worked very well during the previous session and asked that the Board consider this. Dr. Overland stated that toward the end of the session Dr. Lurie and he, for whatever reason, were unable to communicate regularly because Dr. Lurie sent a message that "we had nothing further to discuss and thank you for your time." He feels that was difficult for the Association and unfortunate, and it would be advantageous from the Association's standpoint to have more than one member on the Legislative Committee.

Agenda Item 22 Board Member Comments – No action

Dr. Zaro highly commended Louis Ling on the great job with the settlement agreements today which she feels achieved the Board's goals and appears to be a model for future cases. She complimented Dr. Lurie on all the work he did on the cases and also the great job he did as Legislative Chair. She thanked Cindy Wade for all of her hard work and stated that her award was well-deserved. She expressed her appreciation to the NCA for the work they do for the betterment of the profession and the hope that in the future we can have a better and quicker flow of information during the Legislature.

Dr. Lurie stated that in response to Dr. Overland's comments he looks forward to receiving his timeline as obviously this matter is not over. He read the text that was sent on May 10, 2013 at 5:23 PM: "Dr. Overland, apparently your lobbyist has made it clear to Mendy Elliott, (*who called me*), that we have nothing further to discuss at this time. Thank you for your time."

Ms. Mercer congratulated Cindy Wade for her award. She recognized Dr. Lurie's hard work and said she feels the Board has done an amazing job.

Dr. Nolle expressed his disappointment in the manner in which the Board's neutral with concerns position was presented and, in light of the recent newspaper article, we appear to be warring with the NCA. This looked bad to the Legislature. Some Board Members took action as a Board issue, not as a personal issue. When there is a Board position every Board Member is obligated to uphold that position.

Dr. Zaro stated that she will continue to testify as a citizen.

Dr. Rovetti's view is that the Board was essentially against the NCA's bill and should have agreed to go in with that position, but voted to go in neutral.

Agenda Item 23 Workshop for review and revision of Chiropractor's Assistant test material – For possible action

NOTE: The workshop session may be closed. Any formal action regarding the examination shall be taken in open session.

Ms. Mercer moved to go into closed session for the purpose of reviewing and revising the CA test material. Dr. Lurie seconded and the motion passed with all in favor except Dr. Nolle who was not present.

At the close of the workshop, the Board reopened the meeting. Dr. Davis moved to go out of closed session. Dr. Nolle seconded and the motion passed with all in favor.

Agenda Item 21 Public Interest Comments – No action

There was no public comment.

Agenda Item 24 Adjournment – For possible action

Dr. Nolle moved to adjourn the meeting. Ms. Mercer seconded and the motion passed unanimously.

Approved as amended: September 10, 2013



Jack Nolle, DC, Secretary-Treasurer