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## STATE OF NEVADA



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*Member*  
TRACY DiFILLIPPO, ESQ  
*Consumer Member*  
SHELL MERCER, ESQ  
*Consumer Member*

CINDY WADE  
*Executive Director*

### CHIROPRACTIC PHYSICIANS' BOARD OF NEVADA

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### MINUTES OF MEETING

A meeting of the Chiropractic Physicians' Board of Nevada was held on Saturday, January 10, 2015 in Meeting Room A of the Marriott's Courtyard at 3275 Paradise Road, Las Vegas, Nevada 89109.

The following Board Members were present at the roll call:

Margaret Colucci, DC, Member  
Lawrence Davis, DC, Vice President  
Tracy DiFillippo, Esq., Consumer Member  
Benjamin S. Lurie, DC, President  
Shell Mercer, Esq., Consumer Member  
Jack Nolle, DC, Member  
David G. Rovetti, DC, Secretary-Treasurer

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

President Dr. Ben Lurie determined that a quorum was present and called the meeting to order.

Dr. Jack Nolle led those present in the Pledge of Allegiance and stated the purpose of the Board.

#### **Agenda Item 1 Public Interest Comments - No action.**

On behalf of the Nevada Chiropractic Association, Dr. James Overland congratulated Dr. Lurie on his reappointment and Dr. Collucci on her new appointment to the Board. There was no other public comment.

#### **Agenda Item 2 Approval of agenda – For possible action.**

Dr. Lurie made a motion to approve the agenda. Dr. Davis seconded and the motion passed with all in favor.

Dr. Lurie announced that agenda items would be taken out of order to accommodate those present.

**Agenda Item 12 Introduction/presentation from Nevada Chiropractic Council – No action**

Dr. Bobby Moore, NCC President, and Dr. Jason Jaeger, introduced themselves. Along with Drs. Deed Harrison and Stephanie Youngblood, they are the founding members of the NCC. The primary goals of the NCC are to protect the right of chiropractors to adjust in the state of Nevada and deter other health care providers from performing Grade V mobilization, to increase reimbursement rates for Nevada chiropractors and allow them access to treat workers comp patients, and to unify the chiropractors in the state. The NCC will provide educational seminars and will have a lobbying presence. Their emphasis is on drug-free subluxation based health care which they feel is philosophically different from the NCA. Their website is up and the 501C is almost ready for filing. They distributed a flyer with the NCC Mission Statement and membership registration form. The NCC welcomes all chiropractors and is hopeful that NCA members will be interested in dual memberships.

Dr. Overland stated that the NCA has not been approached by any representatives of the NCC and the NCA is not proactive with respect to including prescriptive rights or going outside the scope of practice. He commented that other states have found that combining into one association is a better way to go.

**Agenda Item 11 Review/possible adoption of ICA Best Practice guidelines – For possible action**

Dr. Lurie observed that the Board's current policy is to not endorse any of the recognized guidelines. Dr. Jason Jaeger stated the ICA developed the Best Practices Guidelines due to the limitation of six visits for low back under current federally accepted guidelines. There was general agreement that the Board should continue its policy against adopting any guidelines but it may consider acknowledging or recognizing certain guidelines. Dr. Lurie announced that more information needs to be gathered and this matter will be addressed again at the next meeting.

**Agenda Item 5 Approval of Request for Extension of Payment Deadline from David Stella, DC – For possible action**

**(Note: The Board may go into closed session pursuant to NRS ch. 241 to consider the character, alleged misconduct, or professional competence of Dr. Stella.)**

Dr. Stella and Compliance Monitor Dr. Jo Briggs were present. Dr. Stella did not request to go into closed session. Dr. Stella has completed all of the terms and conditions of his settlement agreement except that he was unable to pay off the remaining \$11,500 balance of the fine by the deadline date and requests an extension. He plans to have the balance paid off by the end of 2015 if his collections increase as anticipated. Dr. Rovetti moved to accept Dr. Stella's plan to pay off the balance by the end of 2015. Dr. Lurie seconded the motion. After discussion, Dr. Rovetti withdrew his motion and Dr. Lurie withdrew his second. Dr. Rovetti moved that Dr. Stella should continue to make \$500 monthly payments until the balance is paid off. Dr. Davis seconded and the motion passed unanimously. Mr. Ling will prepare an Order modifying the settlement agreement.

**Agenda Item 4 Approval of Settlement Agreement in the Matter of Donald Miner, DC, License No. B202, Case No. 13-26N – For possible action**

**(Note: The Board may go into closed session pursuant to NRS ch. 241 to consider the character, alleged misconduct, or professional competence of Dr. Miner.)**

Dr. Miner and his attorney, Edgar Carranza, were present. Dr. Miner declined to go into closed session. Louis Ling explained that the investigation into this basically malpractice complaint was impeded by Dr. Miner's inability to access the complainant's electronic patient records due to a change in software. He reviewed the terms and conditions of the proposed settlement agreement.

Ms. Mercer moved to approve the settlement agreement. Dr. Rovetti seconded the motion. The motion failed with Dr. Rovetti, Ms. DiFillippo and Ms. Mercer in favor, Drs. Colucci, Lurie and Davis opposed, and Dr. Nolle recused as the Investigating Board Member. Dr. Davis moved to table this matter until the patient's records can be obtained. Dr. Colucci seconded. After discussion, Dr. Davis withdrew his motion and Dr. Colucci withdrew her second. Dr. Rovetti made another motion to accept the settlement agreement as proposed. Ms. DiFillippo seconded and the motion passed with Drs. Lurie and Rovetti, Ms. DiFillippo and Ms. Mercer in favor, Drs. Davis and Colucci opposed, and Dr. Nolle recused.

**Agenda Item 7 Review/possible approval of questionable advertising – For possible action**

**A. Appeal of Advertising Violation Notice – Dr. Brian Fife**

Dr. Brian Fife presented his objections to the form letter he received alleging a violation for using the word "Specialists" in his business name, "Advanced Chiropractic Specialists." He pointed out that "Chiropractic Specialists" does not specify a field as indicated in the Board's policy. Dr. Lurie made a motion to dismiss the form letter regarding the advertising violation. Dr. Davis seconded the motion. After discussion, Dr. Lurie withdrew his motion and Dr. Davis withdrew his second. Dr. Lurie then moved to retract the Notice of Advertising Violation and allow Dr. Fife to continue to use "Advanced Chiropractic Specialists" as his business name. Dr. Davis seconded and the motion passed unanimously.

**Agenda Item 6 Request from Joshua Purcell, DC, for modification of Settlement Agreement – For possible action**

**(Note: The Board may go into closed session pursuant to NRS ch. 241 to consider the character, alleged misconduct, or professional competence of Dr. Purcell.)**

Dr. Purcell and attorney Matt Wagner, who was filling in for Dr. Purcell's attorney, Ryan Dennett, were present. Dr. Purcell did not request to go into closed session. Dr. Rovetti moved to accept the proposed modification of Dr. Purcell's settlement agreement to terminate his probation upon receipt of payment in full of the remaining balance of the Board's costs. Ms. Mercer seconded. Dr. Lurie inquired if there has been enough time for Dr. Purcell to make the necessary corrections and assure sustainability. Dr. Davis reported that the one year of probation has gone well and Dr. Purcell has been very cooperative. The motion passed with Drs. Lurie, Nolle and Rovetti, Ms. DiFillippo and Ms. Mercer in favor, Dr. Colucci opposed, and Dr. Davis recused as the Investigating Board Member.

**Agenda Item 14 Ratification of granting of DC licenses to applicants who passed the examinations on September 10 and December 10, 2014 – For possible action**

Dr. Rovetti moved for ratification of the licenses of the doctors who passed the examinations on September 10 and December 10, 2014. Dr. Nolle seconded and the motion passed with all in favor.

**Agenda Item 15 Approval of May 31 and September 6, 2014 Meeting Minutes, and November 11, 2014 Regulation Workshop Minutes – For possible action**

Dr. Lurie moved for approval of the May 31 and September 6, 2014 Meeting Minutes and the November 11, 2014 Regulation Workshop Minutes. Ms. DiFillippo seconded and the motion passed with all in favor.

Dr. Lurie turned the Chair over to Dr. Davis for the following matter.

**Agenda Item 10 Review/determine action with respect to citation of Budweiser Hawkins for unlicensed practice – For possible action**

Louis Ling said that in the course of the investigation into a complaint alleging unlicensed practice, Budweiser Hawkins, who is not a Nevada licensed chiropractor, was videotaped performing chiropractic, including adjustment, assessment, diagnosis and treatment. A citation was subsequently served on Mr. Hawkins. Upon ratification by the Board, steps will be taken to collect on the citation. This matter will also be turned over to the District Attorney for prosecution. Ms. Mercer moved to ratify the citation. Ms. DiFillippo seconded and the motion passed unanimously.

Dr. Lurie resumed the Chair.

**Agenda Item 17 Approval of Board Member to attend FARB Forum on January 22-25, 2015 in Tucson – For possible action**

Dr. Lurie made a motion for Shell Mercer to attend the FARB Forum. Dr. Colucci seconded the motion and it passed unanimously.

**Agenda Item 8 Legislative Matters – For possible action**

- A. Capitol Partners Report on current legislative matters, BDRs and correspondence**
- B. CPBN Bill Draft**

Mendy Elliott and Lauren Tevis reviewed the current legislative activities with respect to makeup of committees and various bills that may affect chiropractic, including AB72, AB59 and SB70. Assemblyman Oscarson, who is Chair of Health and Human Services, is sponsoring the Board's bill, BDR 701. BDR 899 is the "Choose My Doctor" bill that is strongly supported by the NCA. Dr. Lurie made a motion to support BDR 899. Dr. Davis seconded and the motion passed with all in favor.

**Agenda Item 9 Request from Nevada Association of Naturopathic Physicians to combine Naturopathic Board with Chiropractic Physicians' Board of Nevada – For possible action**

Alexandra Reimann, ND, her associates and lobbyist Garrett Gordon presented the particulars of their association's bill to establish their own self-regulated, self-funded board. A dangerous situation currently exists with unlicensed practice of naturopathy in Nevada, which is the only western state that doesn't license naturopathic practitioners. Louis Ling related the derogatory history of the Naturopathy Board that previously existed in Nevada.

The NANP requested the CPBN to support the bill to create a Naturopathy Board. If that does not materialize, they would like the CPBN to consider accepting them in a combined board. There was much discussion concerning the potential effect a combined board would have on the CPBN. Dr. Lurie recommended the NANP proceed with their bill at the Legislature. If unsuccessful, the CPBN may entertain the concept of a combined board.

**Agenda Item 3 PUBLIC HEARING for the Temporary Adoption of a Regulation of the Chiropractic Physicians' Board of Nevada – For possible action**

Dr. Lurie opened the hearing and asked for public comment. Dr. James Overland commented that the second paragraph needs more definition as there is no mention of extremities with regard to the resistive movement terminology. He feels there is a need for more research and to find out what other states are doing. Dr. Davis asked if there is anything in the FCLB Model Practice Act that might be helpful. Dr. Colucci said the Model Practice Act can be accessed on the FCLB's website. Dr. Lurie declared the public comment portion of the Public Hearing to be closed.

Dr. Rovetti commented that this regulation will apply to anyone who performs a Grade V mobilization and claims they are not applying a precisely controlled force. Dr. Lurie said he reviewed the proposed regulation in depth with Dr. Overland and has concluded that the second paragraph does need additional work. Mr. Ling advised the regulation may be adopted with an amendment deleting the second paragraph. In the interim, the second paragraph can be revised for inclusion when the temporary regulation is adopted as a permanent regulation. Dr. Lurie moved to adopt the temporary regulation with the second paragraph deleted. Dr. Rovetti seconded and the motion passed unanimously.

**Agenda Item 25 NCA Report – No action**

NCA President Dr. Overland requested that the revised language for Paragraph 2 of the proposed regulation be submitted in advance to the NCA for its input. He reported that there were over 100 attendees at the NCA's 2014 annual seminar. Dr. Jack Nolle was named Chiropractor of the Year. The NCA and the University of Bridgeport will co-sponsor a lecture/online seminar, Advanced Clinical Training in Orthopedics and Neuromuscular Medicine, starting the end of May or early June. The NCA will also sponsor an ICD10 seminar in Reno in early May. The NCA's annual seminar will be in Reno in September or October this year. Dr. Overland is concerned that there is no identifiable radiographic reference source other than Yoakum. He said Tennessee provides a chiropractic radiologic study guide for study by CAs and he has given a copy to Dr. Nolle. He advised the Board to establish some direction for licensees who encounter problems retrieving electronic records when their software fails. Louis Ling advised that the Board should be notified when this happens, the records should be supplemented, initialed and dated, and electronic records should be backed up and also stored off-site. Dr. Lurie added that the patients whose records are lost must be notified. Dr. Overland requested a letter to this effect which will be prepared by Mr. Ling.

**Agenda Item 18 FCLB/NBCE Matters:**

**B. Report re: September 10-11, 2014 Regional Meeting in Albuquerque – No action**

Former Board Member Dr. Annette Zaro was present. She reported that Dr. Gary Councilman passed away just prior to the meeting. As the Alternate District IV Director she had to chair the meeting. She noted that Dr. Lurie and Cindy Wade attended the meeting, as well as Dr. Colucci, who is the FCLB Secretary-Treasurer. She recommended the Executive Director should always attend the district meetings. The topics discussed at the meeting included regulation updating, social media, medical marijuana, administrative procedures, board attorney training and the Ethics and Boundaries examination. The new FCLB Executive Director Dr. Jon Schwartzbauer was introduced. The next Annual Conference will be in New Orleans in May. Dr. Zaro recommended reserving hotels rooms as soon as possible. She requested to be placed on the agenda of the next meeting to request the Board's vote for her candidacy for District IV Director.

**D. Appointment of Board Member(s) to participate in June 6-7, 2015 NBCE Test Committee in Greeley, Colorado – For possible action**

Dr. Lurie will participate in the NBCE Test Committee meeting which will be on June 12-13, 2015.

**C. Appointment of Board Member(s) to participate in May and November, 2015 NBCE Examinations – For possible action**

Drs. Lurie and Rovetti will participate in the May and November, 2015 Part IV exams.

**A. Appointment of voting delegates, alternates and attendees for the Annual Conference May 6-10, 2015 in New Orleans – For possible action**

Dr. Lurie will serve as the FCLB Delegate and NBCE Alternate Delegate. Dr. Davis will serve as the NBCE Delegate and FCLB Alternate Delegate. They will both pay for their registrations to attain CE credit.

**Agenda Item 16 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 11-8S (Ms. Mercer)**

Shell Mercer has recently obtained the depositions relevant to this case and will proceed with the investigation.

**B. Complaint 13-22S (Dr. Rovetti)**

A DC advertised questionable claims about his office's laser therapy protocol. His website has been re-vamped and no longer includes the non-substantiated or self-laudatory claims. Investigating Board Member Dr. Rovetti recommended dismissal of the complaint. Ms. DiFillippo moved to dismiss Complaint 13-22S. Dr. Nolle seconded and the motion passed with all in favor except Dr. Rovetti who recused.

**D. Complaint 14-13S (Dr. Rovetti)**

This informal complaint was filed in an insurance report format and concerned possible coding/billing improprieties. Upon investigation, Dr. Rovetti detected no significant violation and recommended dismissal. Ms. DiFillippo moved to dismiss Complaint 14-13S. Dr. Lurie seconded and the motion passed with all in favor except Dr. Rovetti who recused as the Investigating Board Member.

**F. Complaint 14-17S (Dr. Rovetti)**

A patient thought the \$1,000 he initially paid for an IME for VA disability was the total charge and filed the complaint upon receipt of an additional bill for \$1,100 for the balance of the cost of the services rendered. The DC stated the \$1,000 was a retainer and this was explained to the patient and his attorney. Dr. Rovetti recommended the complaint be dismissed. Ms. DiFillippo moved to dismiss Complaint 14-17S. Dr. Lurie seconded and the motion passed with all in favor except Dr. Rovetti who recused as the Investigating Board Member.

**G. Complaint 14-18S (Dr. Rovetti)**

This informal complaint was filed in an insurance report format and concerned possible coding/billing improprieties. Upon investigation, Dr. Rovetti detected no significant violation and recommended dismissal. Ms. DiFillippo made a motion to dismiss Complaint 14-18S. Dr. Nolle seconded and the motion passed with all in favor except Dr. Rovetti who recused as the Investigating Board Member.

**O. Complaint 14-26S (Dr. Rovetti)**

This was another informal complaint filed in an insurance report format concerning possible coding/billing improprieties. The DC relocated out-of-state a year ago and his license is expired. Investigating Board Member Dr. Rovetti recommended the complaint be dismissed. Dr. Nolle moved to dismiss Complaint 14-26S. Ms. DiFillippo seconded and the motion passed with all in favor except Dr. Rovetti who recused.

**E. Complaint 14-15N (Dr. Davis)**

This complaint concerned cleanliness issues which have been corrected by the doctor. Dr. Davis recommended the complaint be dismissed. Ms. Mercer moved to dismiss Complaint 14-15N. Dr. Rovetti seconded and the motion passed with all in favor except Dr. Davis who recused as the Investigating Board Member.

**I. Complaint 14-20S (Dr. Davis)**

Investigating Board Member Dr. Davis explained that the complainant alleged a licensee treated patients during the two-week periods while his license was suspended. The DC provided copies of cancelled checks payable to the relief doctor who treated his patients during the two suspension periods. He also provided letters from his staff substantiating that he was not present in the office during the suspension periods and that the handwritten notes were scribed by staff. Dr. Davis recommended the complaint be dismissed. Ms. Mercer moved for dismissal of Complaint 14-20S. Dr. Lurie seconded and the motion passed with all in favor except Dr. Davis who recused.

**K. Complaint 14-22N (Dr. Davis)**

Dr. Davis reported that this complaint is still being investigated.

**H. Complaint 14-19S (Dr. Nolle)**

Dr. Nolle reported that this complaint was filed by a patient who feels he is getting “the runaround” from a multi-disciplinary practice. It is under investigation.

**L. Complaint 14-23S (Ms. DiFillippo)**

Ms. DiFillippo reported that this complaint is still being investigated.

**M. Complaint 14-24S (Dr. Colucci)**

Dr. Colucci is still investigating this complaint.

**C. Complaint 14-08S (Dr. Lurie)**

Dr. Lurie reported that this investigation is progressing. The patient and the doctor both have attorneys. He is working with Louis on attaining a settlement agreement or it will go to hearing.

**J. Complaint 14-21S (Dr. Lurie)**

Dr. Lurie is still investigating this complaint.

**N. Complaint 14-25S (Dr. Lurie)**

Dr. Lurie reported that this complaint is still being investigated but should be ready for dismissal at the next meeting.

**Agenda Item 20 Board Counsel Report – No action**

Mr. Ling had nothing to report.

**Agenda Item 22 Financial Status Reports – No action**

**A. Current cash position**

**B. July 1, 2014 – November 30, 2014 Income/Expense Actual to Budget Comparison**

**C. Accounts Receivable Summary**

**D. Accounts Payable Summary**

**E. Extraordinary Items**

Dr. Rovetti briefly reviewed the Board’s financial status. Cash position at our lowest point in October, 2014 has considerably improved over the previous comparable period. We have stayed well within our current budget in all areas. Cindy Wade reported that approximately 80% of active and 55% of inactive licensees renewed online, and we did not have to bring in temporary staff to assist with renewals in December.

**Agenda Item 19 Committee Reports – No action**

**A. Continuing Education Committee – Dr. Davis**

Dr. Davis reported that the CE application approvals are going well.

**C. Preceptorship Committee – Dr. Rovetti**

Dr. Rovetti stated the preceptorships are going well. He will present a proposal for a few minor changes to the program at the next meeting.

**D. Test Committee – Dr. Nolle**

Dr. Nolle reported that he is working with DACBR Dr. Robyn Mitchell to make some changes to the CA test with emphasis in the radiology area. They are considering that a separate certification/designation for CAs who perform x-ray might be better. They will have a proposal to present to the Board at the next meeting. The next CA exams will be administered on March 19.

**B. Legislative Committee – Dr. Lurie**

Dr. Lurie referred to the Capitol Partners' report earlier in the meeting. He will be working closely with them and he will call a special meeting if there is a need for guidance from Board members.

**Agenda Item 7 Review/possible approval of questionable advertising – For possible action**

**B. Advertisement stating: "Diabetes can be reversed"**

Dr. Rovetti has obtained a copy of the study on which this claim is factually based. It was agreed that there is nothing to be done at this time.

**Agenda Item 13 Consideration of potential additions, deletions and/or amendments to NAC Chapter 634 – For possible action**

Mr. Ling reviewed the proposed revisions. The amounts set for fines for violations should be established in ranges. Dr. Rovetti will have a proposal for suggested ranges at the next meeting.

**Agenda Item 23 Review previous minutes for action items that have not been completed – For possible action**

Dr. Lurie suggested that a tickler file be created to avoid missing action that needs to be taken on Board decisions.

**Agenda Item 26 Correspondence Report – No action**

A letter from the Board of Psychological Examiners regarding their latest position on practice of hypnosis and biofeedback by other practitioners will be discussed at the next meeting. A bulletin should be sent to licensees in the meantime.

**Agenda Item 21 Executive Director Reports:**

**A. Approval of June 30, 2014 Audit results and recommendations – For possible action**

Dr. Lurie made a motion to accept the audit results and recommendations. Dr. Rovetti seconded and the motion passed unanimously.

**B. Ratification of acceptance of Bertrand & Associates, LLC Proposal and Engagement Letter for June 30, 2015, 2016 and 2017 – For possible action**

Dr. Lurie commented that the engagement for audits for the next three years is a very good deal. Ms. DiFillippo moved to ratify acceptance of the engagement with Bertrand & Associates, LLC for June 30, 2015, 2016 and 2017. Dr. Lurie seconded and the motion passed with all in favor.

**C. Status of Pending Complaints – No action**

**D. Status of Current Disciplinary Actions – No action**

**E. Legal/Investigatory Costs – No action**

There were no comments with respect to the Executive Director Reports. Cindy Wade announced that she plans to retire at the end of March this year. Drs. Lurie and Rovetti will conduct the recruitment for her replacement.

**Agenda Item 24 Establish CPBN Facebook/Twitter accounts for posting of updates – For possible action**

This matter was postponed until the next meeting.

**Agenda Item 27 Board Member Comments – No action**

Dr. Davis and Ms. DiFillippo welcomed Dr. Colucci back to the Board.

Dr. Rovetti recommended that agenda items with proposed settlement agreements should begin with an up or down vote to possibly avoid so much discussion.

Dr. Colucci recommended formation of a committee and sending out a job notice for the Executive Director position.

Ms. Mercer stated that she has been appointed Training Officer for the Department of Family Services. Her first case involved administrative law and the Nassiri case was referred to.

Dr. Lurie expressed his thanks to Dr. Zaro for her service to the Board and to Dr. Overland for their meetings. He welcomed Dr. Colucci back to the Board. He stated that he appreciates everything Louis, Cindy and the Board members do.

The next meeting will be in Las Vegas on March 28. The following meeting will be in Reno on July 18.

**Agenda Item 28 Public Interest Comments – No action.**

**This portion of the meeting is open to the public to speak on any topic NOT on today's agenda and may be limited to 3 minutes.**

Dr. Overland offered the NCA's thanks to Cindy Wade for her work.

Dr. Zaro expressed her appreciation to the Board, Cindy Wade, Dr. Colucci and Dr. Overland.

**Agenda Item 29 Adjournment – For possible action**

Ms. DiFillippo moved for adjournment. Dr. Nolle seconded and the motion passed unanimously.

Approved March 28, 2015

  
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David Rovetti, DC, Secretary-Treasurer