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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, March 28, 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
Tracy DiFillippo, Consumer Member
Benjamin S. Lurie, DC, President
Jack Nolle, DC, Member
David G. Rovetti, DC, Secretary-Treasurer

Consumer Member Shell Mercer arrived at 2:20 PM. Vice President Dr. Lawrence Davis was not present. Also present were CPBN Counsel Louis Ling, current Executive Director Julie Strandberg and retiring Executive Director Cindy Wade.

President Dr. Ben Lurie determined that a quorum was present and called the meeting to order. He led those present in the Pledge of Allegiance and stated the purpose of the Board.

Agenda Item 1 Public Interest Comments – No action.

There was no public comment.

Agenda Item 2 Approval of Agenda

Dr. Colucci moved to approve the agenda. Dr. Nolle seconded and the motion passed with all in favor.

Agenda Item 3 Discussion/determination if a DC application can be approved if the applicant's license in another state is currently on probation until student loan is paid in full – For possible action

Cindy Wade requested clarification of the Board's position with respect to approval of an application of an applicant who is currently on probation in another state for a student loan default if a satisfactory payment plan has been accepted and the applicant is now in compliance. It has always been this board's position to not render discipline as long the licensee resolves the default and complies with the payment terms. The Board agreed this position should also apply to applicants.

Agenda Item 4 Discussion/approval of request from Lida Darvishan, DC, License No. B1421 or refund of late renewal fee – For possible action

Dr. Lida Darvishan did not timely renew her inactive license for 2015/16. She reinstated it on February 9, 2015 by paying the renewal fee and the \$250 reinstatement fee. She has requested a refund of the reinstatement fee due to medical problems she experienced in late 2014. Dr. Darvishan also renewed late for 2013/14. Dr. Lurie moved to deny Dr. Darvishan's request for refund of the reinstatement fee. Dr. Colucci seconded the motion and it passed unanimously.

Agenda Item 5 Discussion/determination of scope of practice issue regarding ultrasound fat cavitation, micro-current therapy and radio frequency therapy for weight loss – For possible action

This inquiry came from a licensee and Dr. Rovetti feels this all falls under physiotherapy. Following discussion, Dr. Rovetti made a motion that ultrasound fat cavitation, micro-current therapy and radio frequency therapy for weight loss are forms of physiotherapy. Dr. Nolle seconded. The motion passed with Drs. Rovetti, Lurie and Nolle in favor and Dr. Colucci and Ms. DiFillippo opposed.

Agenda Item 8 Ratification of granting of DC licenses to applicants who passed the examinations on January 14, February 11 and March 11, 2015 – For possible action

Dr. Colucci moved to approve ratification of granting of the DC licenses to those who passed the examinations on January 14, February 11 and March 11, 2015. Dr. Nolle seconded and the motion passed with all in favor.

Agenda Item 9 Ratification of granting of CA certificates to applicants who passed the examinations on March 19, 2015 – For possible action

Dr. Colucci moved to approve ratification of granting of CA certificates to those who passed the examinations on March 19, 2015. Dr. Rovetti seconded and the motion passed with all in favor.

Agenda Item 10 Approval of January 10 and March 10, 2015 Meeting Minutes– For possible action

Dr. Colucci moved for approval of the minutes of the January 10 and March 10, 2015 meetings. Dr. Lurie seconded and the motion passed unanimously.

Dr. Lurie welcomed CPBN's new Executive Director, Julie Strandberg. Dr. James Overland, Sr., welcomed Ms. Strandberg on behalf of the Nevada Chiropractic Association.

Agenda Item 19 Establish CPBN Facebook/Twitter accounts for posting of updates – For possible action

Dr. Lurie would like the Board to consider social media as an additional means of transmitting information regarding the Board's activities. There was discussion that a Facebook site should be set up for information only to avoid unwanted comments. Julie Strandberg was requested to find out how other boards are utilizing social media and report back to the Board at the next meeting.

Agenda Item 6 Legislative Matters – For possible action

A. Capitol Partners report on current legislative matters

Peter Krueger reported by telephone that they are tracking 25 bills for CPBN. He reviewed the current status of several bills including SB408 which would establish a board for naturopaths, AB300 which would create an inspector general for state agencies, AB269 which requires regulatory bodies of professions to prove why professional licensing is necessary, and AB295 which addresses unlicensed practice of alternative medicine.

B. CPBN Bill Status

AB231 was amended to require the Board to pay for the testing of suspected impaired licensees. It got out of committee with a do pass and no further issues are anticipated.

C. Other legislative bills

The NCA's bill, AB187, was heard on March 11 and was supported by CPBN. They will continue to track its progress. Louis Ling reviewed the issues related to the alternative health care bill, AB295. This would impact health care boards by allowing unlicensed practitioners to cross over into professions with statutorily established scopes of practice.

Agenda Item 14 FCLB/NBCE Matters – For possible action

J. Other FCLB/NBCE matters

Former Board Member Dr. Annette Zaro reported by phone on the recent FCLB activities, including the recent mid-year meeting in Las Vegas. Some of the topics of interest to the CPBN include a 5% increase in membership dues in 2016, FCLB's successful introduction of a social media site, and articles may be submitted for publication in the American Chiropractic Magazine by sending them to FCLB Executive Director Jon Schwartzbauer. The Model Practice Act was approved and will be available on the FCLB website under Publications. The Annual Conference will be in New Orleans in May. In 2016 the registration fee for the Annual Conference will increase by \$50. Please send suggestions for a site for the District IV meeting site to Dr. Zaro.

I. Selection of Board Member to participate in June, 2015 National Board Part IV Test Committee

Dr. Lurie has another commitment and cannot participate in the National Board Part IV Test Committee in June. Dr. Rovetti volunteered and Dr. Lurie made a motion for Dr. Rovetti to take his place and, if he becomes unavailable, Dr. Nolle will consider going. Ms. DiFillippo seconded the motion and it passed with all in favor.

A. Selection of Board's choice for FCLB President position

B. Selection of Board's choice for FCLB Vice President position

C. Selection of Board's choice for FCLB Treasurer position

D. Selection of Board's choice for FCLB Administrative Fellow Director

E. Selection of Board's choice for FCLB District IV Director position

F. Selection of Board's choice for FCLB District IV Alternate Director position

G. Selection of Board's choice for FCLB District V Director position

H. Selection of Board's choice for FCLB District V Alternate Director position

Dr. Lurie reviewed the open positions. The President and Vice President positions and the Administrative Fellow Director position are unopposed. The two District V positions under G and H should not have been listed because the CPBN delegate doesn't participate in the election of District V delegates.

Calls were made to the following who presented their qualifications to the Board:
Candidate for FCLB Treasurer Dr. Michael Coon, and Candidates for District IV Director Viki White and Cynthia Tays.

Dr. Lurie placed a call to Dr. Annette Zaro who verified her withdrawal as a candidate for the District IV Director position. She stated that she was nominated last year for the three-year position of District IV Alternate Director and she intends to continue serving in that position for two more years. She is currently serving temporarily as District IV Director until that position is filled at the Annual Conference in May.

Dr. Lurie is concerned about the confusion over the status of the District IV Director and Alternate Director positions. He feels there may be some very qualified candidates running from the floor and would like to keep the voting options open. He asked the Board to allow him the discretion to vote for the candidates that he deems to be the most qualified. As requested by Dr. Rovetti, Dr. Lurie said he will inform the Board who he voted for. Dr. Lurie also stated that he is considering running from the floor for either the District IV Director or Alternate Director position.

Dr. Colucci explained that the FCLB's bylaws don't address the issues that resulted when the District IV Alternate Director moved to South Carolina. Dr. Zaro no longer practices in Nevada and her license is currently on inactive status. The FCLB is drafting bylaws that will require a District Director or Alternate Director to live in the district he/she is representing. She said that Dr. Zaro feels she did not vacate the District IV Alternate Director position.

Dr. Nolle stated he would support Dr. Lurie for Alternate Delegate and Dr. Tays for Director. Dr. Rovetti said he would support Viki White's candidacy and he is also in favor of Dr. Lurie if he decides to run. He also said he doesn't have a problem with Dr. Zaro representing Nevada if FCLB decides she did not vacate the Alternate Director position.

The Board agreed to allow Dr. Lurie the discretion of voting for the candidates he feels are the most qualified for each position.

Agenda Item 21 NCA Report – No action

Dr. Overland reported that the NCA is offering an 8 hour seminar on ICD10 in Reno on May 2, which will probably be implemented in October, 2015. The NCA is moving forward with the University of Bridgeport on an Integrative Medicine seminar starting in May that will be of benefit to multidisciplinary practices. It will consist of ten seminars over the next two years at a cost of \$300 per seminar unit and will offer Masters degrees in orthopedics and neurology. Dr. Overland warned that there is a growing concern across the country about possible HIPAA violations due to texting of patient's names and information between attorneys and DCs. He advised the Board to address this issue. The Board also needs to do something about the seminar that is coming to Las Vegas in September at which PT/DC Ken Cooper will teach athletic trainers to manipulate.

Regarding manipulation by physical therapists, Dr. Overland said that it is the position of Dr. Michael Lehman of Tauro University that the expertise of chiropractors is with the spine while the concern of physical therapists is with extremities. Dr. Overland offered to work with the CPBN on the additional language that needs to be added to the regulation that was temporarily adopted. The NCA will be addressing the issue of allowing athletes who have suffered concussions to return to the playing field with the NIAA and would like a letter from the CPBN stating that DCs are well educated and qualified to assess athletes with concussions for return to the playing field. Dr. Overland stated he is concerned about the lack of progress in CA testing and training, and that CA trainees are able to continue performing the same work as certified CAs for several years.

Dr. Overland said AB 187, the “choose your own doctor bill,” was not originally their bill but the NCA took it on because it was not going anywhere. Assemblyman Kirner agreed to sponsor it but backed off when mining, trucking, retail, the insurance industry, etc., opposed it, so it is not progressing in the Legislature. However, one result is that it has made people aware they do not have the ability to choose a doctor. The NCA will work on this bill for the next Legislature. The NCA is tracking several other bills at the Legislature, including SB 408, AB 295 and SB 291.

Dr. Lurie advised Dr. Overland that he should consult with Test Committee Chair Dr. Nolle regarding the CA testing and training.

Agenda Item 11 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)

This complaint will be addressed when Ms. Mercer is present.

B. Complaint 14-19S (Dr. Nolle)

Dr. Nolle reported that the complainant is not interested in pursuing this matter. There does not appear to be a violation and he recommended dismissal of the complaint. Dr. Lurie moved to dismiss Complaint 14-19S. Ms. DiFillippo seconded and the motion passed with all in favor except Dr. Nolle who recused as the investigating board member.

D. Complaint 14-22N (Dr. Davis)

Cindy Wade presented Dr. Davis’s written recommendation that this complaint be dismissed due to non-response from the complainant to numerous requests by telephone and e-mail for a signed records release authorization. Ms. DiFillippo made a motion to dismiss Complaint 14-22N. Dr. Colucci seconded the motion and the motion passed unanimously.

A. Complaint 15-04N (Dr. Davis)

The complainant claims that a licensee is practicing outside of the chiropractic scope of practice by treating allergies with laser therapy. Cindy Wade presented Dr. Davis’s written recommendation that this complaint has no merit and should be dismissed. Ms. DiFillippo moved for dismissal of Complaint 15-04N. Dr. Colucci seconded and the motion passed unanimously.

C. Complaint 14-23S (Ms. DiFillippo)

Ms. DiFillippo reported that this complaint needs further investigation.

A. Complaint 15-06S (Ms. DiFillippo)

Ms. DiFillippo is currently reviewing this new complaint.

I. Complaint 15-02N (Dr. Rovetti)

A patient complained that the DC tried to charge \$1.00 per page and \$100 for copying medical records. Dr. Rovetti called the doctor’s office and asked for a copy of “his patient records” and the receptionist said it would cost 60 cents per page. The doctor has responded that he has always charged 60 cents per page and produced a form that he has been using for years with that amount on it. Dr. Rovetti recommended this complaint be dismissed. Dr. Lurie moved to dismiss Complaint 15-02N. Ms. DiFillippo seconded and the motion passed with all in favor except Dr. Rovetti who recused as investigating board member.

D. Complaint 14-24S (Dr. Colucci)

This complaint is against a licensee who has not released patient records to an attorney who has requested them. Dr. Colucci called the DC and requested that he produce the records and deliver them to her here today. This complaint will be addressed again at the next meeting.

J. Complaint 15-03S (Dr. Colucci)

Dr. Colucci recommended this complaint be dismissed because it refers to treatment received in 2009 and is too old to conduct a proper investigation, the doctor has relocated to another state and his license, which was in good standing, has expired. Ms. DiFillippo moved to dismiss Complaint 15-03S. Dr. Rovetti seconded and the motion passed with all in favor except Dr. Colucci who recused as the investigating board member.

L. Complaint 15-05S (Dr. Colucci)

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

N. Complaint 15-07S (Dr. Colucci)

The complaint is six pages long and claims the DC damaged him by using an activator without first telling him. Dr. Colucci has reviewed the doctor's records and they are good. The doctor says he did tell the patient he was going to use the activator on him. Even if this turns out to be a malpractice issue, it would be the first one against this DC and therefore not within our jurisdiction. Dr. Lurie made a motion to dismiss Complaint 15-07S. Ms. DiFillippo seconded and the motion passed with all in favor except Dr. Colucci who recused as investigating board member.

H. Complaint 15-01S (Dr. Lurie)

Dr. Lurie has hired an investigator and is also working with the F.B.I. on this case, which is ongoing.

G. Complaint 14-25S (Dr. Lurie)

This is an Insurance Crime Bureau complaint. Dr. Lurie has reviewed 40 of the DC's files and found that they are up to standard. He recommended the complaint be dismissed. Dr. Rovetti made a motion to dismiss Complaint 14-25S. Ms. DiFillippo seconded and the motion passed with all in favor except Dr. Lurie who recused as the investigating board member.

E. Complaint 14-21S (Dr. Lurie)

Dr. Lurie has consulted with Mr. Ling on this complaint about a DC who referred business to his new wife who operates a massage therapy business nearby. He has tried unsuccessfully to contact the complaint. A letter was received from the DC's attorney who says immediate action was taken to correct the possible conflict. The DC's practice is up for sale and he intends to get out of chiropractic. Dr. Rovetti moved to dismiss Complaint 14-21S. Ms. DiFillippo seconded and the motion passed with all in favor except Dr. Lurie who recused as investigating board member.

Agenda Item 18 Financial Status Reports – No action

A. Current cash position

B. November 30, 2014 – February 28, 2015 Income/Expense Actual to Budget Comparison

C. Accounts Receivable Summary

D. Accounts Payable Summary

E. Extraordinary Items

Cindy Wade reported that the financial statement are not yet available due to problems with reconciliation of the year-end renewals. Julie Strandberg has assisted the bookkeeper in reconciling the credit card statements and the reconciliation is very near completion. Ms. Wade distributed an accounting of the current bank account balances and said that the statements will be sent to board members as soon as they are available which should be within the next couple of weeks.

Agenda Item 13 Report on FARB Form – Ms. Mercer – No action

This report was tabled until the next meeting.

Following a break for lunch, the meeting reconvened with Consumer Member Shell Mercer present.

Agenda Item 22 NCC Report – No action

NCC representative Dr. Gary Wagoner presented a brief report on the current activities of the Nevada Chiropractic Council.

Agenda Item 20 Establish dates for next meeting/hearing and CA examinations – For possible action

The next CA examinations will be administered on Thursday, August 27, 2015. Check-in will be at 8:30 AM and the exams will start at 9:00 AM.

The hearing on Complaint 14-08S will be held in Las Vegas on Friday and Saturday, May 29 and 30, 2015 starting at 8:00 AM both days. These two days will be for the hearing only.

Agenda Item 16 Board Counsel Report – No action

A. Discussion regarding North Carolina Dental Board case

Mr. Ling reviewed the highlights of his memorandum regarding the North Carolina Dental Board case. Examples of cases that might impact CPBN would be unlicensed practice and the osteopathic issue. The board needs to establish more regulations in order to establish the chiropractic scope of practice in detail, i.e., the board's recent temporary regulations.

B. Other current Board Counsel matters

Mr. Ling told everyone to be very cautious about the content of their e-mail communications. He cited the recent issue with Hillary Clinton's use of her personal e-mail account. He recommended board members use only their board e-mail solely for board business, and for protection of their personal e-mails. The board must have an official public records person and that will be the new Executive Director Julie Strandberg. He advised that routine correspondence may be destroyed after one year.

Agenda Item 11 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)

Ms. Mercer is still reading the depositions. She will print out the approximately 1,000 pages from the flash drive for which the board will bear the cost and will continue her investigation.

Agenda Item 17 Executive Director Reports:

A. Status of Pending Complaints – No action

B. Status of Current Disciplinary Actions – No action

C. Legal/Investigatory Costs – No action

This matter was not addressed.

Agenda Item 15 Committee Reports

B. Legislative Committee (Dr. Lurie) – No Action

Dr. Lurie referred to Agenda Item 6 – Legislative matters.

A. Continuing Education Committee (Dr. Davis) – No action

Dr. Davis was not present.

C. Preceptorship Committee (Dr. Rovetti) – No action

Dr. Rovetti learned a lot from his daughter's preceptorship in his office. He recommends a statutory change to allow preceptors to take the law test as soon as they have graduated so they can get licensed right away as their background checks have already cleared.

D. Test Committee (Dr. Nolle): Review/possible approval of proposed revised CA examinations – For possible action

Dr. Nolle reviewed Dr. Robyn Mitchell's recommendations with respect to the CA testing. After much discussion, following are the options to be considered:

1. Continue to administer testing in-house and move the existing test to a digital platform with revised questions and an expanded question bank with redistributed weighting of topics to better represent radiation.
2. Adopt the CCCA program form FCLB designed by NBCE to cover the general clinical competency and safety portion. We would then only administer the radiology and Nevada law portions.
3. Discontinue the testing of CAs and require CAs to "register" with the CPBN.

The following should be considered when deciding which option to pursue: Public safety, easy accessibility to an offsite location "365", fast certification, maintain CPBN revenue, possible lowering of Nevada's high standard, and simplified process for staff possibly requiring less manpower. Dr. Nolle will assume this project and will make his recommendation at the July meeting.

The X-ray reference recommended in Dr. Mitchell's report will be used and notification will be sent to the DCs and CA applicants recommending it. The test will be updated with new weighting of questions for use at the first CA examinations in 2016.

Agenda Item 23 Correspondence Report – No action

The Supreme Court ruling on the North Carolina Dental Board matter and a cease and desist letter from the Board of Oriental Medicine to the Physical Therapy Board regarding dry needling were discussed.

Agenda Item 24 Board Member Comments – No action

Dr. Nolle suggested that the next time the Board addresses statutory changes, adding a CA to the Board should be considered.

Dr. Rovetti recommended establishing a sample Facebook page.

Dr. Colucci said assigning chirobd e-mail accounts to board members is excellent and she looks forward to using hers.

Dr. Lurie expressed his appreciation to the board and staff for all of their efforts.

Agenda Item 7 Consideration of potential additions, deletions and/or amendments to NAC 634 – For possible action

Dr. Rovetti briefly reviewed his recommended maximum fines for issuance of citations.

Agenda Item 25 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.

There was no public comment.

March 28, 2015 Meeting Minutes

Agenda Item 26 Adjournment – For possible action

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

Approved May 29, 2015



David Rovetti, DC, Secretary-Treasurer