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SHELL MERCER, ESQ
Consumer Member

JULIE STRANDBERG
Executive Director

CHIROPRACTIC PHYSICIANS' BOARD OF NEVADA

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MINUTES OF MEETING/HEARING

A meeting of the Chiropractic Physicians' Board was held on Saturday, September 10, 2016 at the Grant Sawyer Building, 555 E. Washington St., Room 1100, Las Vegas, NV 89101.

The following Board Members were present at roll call:

Benjamin Lurie, President
Maggie Colucci, Vice President
Jason O. Jaeger, Secretary-Treasurer
Lawrence Davis, Member
David G. Rovetti, Member
Shell Mercer, Consumer Member
Tracy DiFillippo, Consumer Member

Also present were CPBN Counsel Mr. Ling and Executive Director Julie Strandberg.

President, Dr. Benjamin Lurie determined a quorum was present and called the meeting to order at 8:03 a.m.

Dr. Colucci led those present in the Pledge of Allegiance. Dr. Jaeger 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 – For possible action.

Dr. Davis moved to approve the agenda. Dr. Jaeger seconded, and the motion passed with all in favor.

Agenda Item 6 Approval of the March 5, 2016 Meeting Minutes and the June 4, 2016 Meeting Minutes - For possible action.

Dr. Colucci moved to approve the meeting minutes. Ms. DiFillippo seconded, and the motion passed with all in favor. Mr. Ling stated that with respect to hearings minutes can be summarized.

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Agenda Item 7 Ratification of granting of DC licenses to applicants who passed the examination on June 8, July 13, and August 10, 2016 – For possible action.

Dr. Davis moved to approve the ratification of granting of the DC licenses to those who passed the examination on June 8 and July 13, 2016. Dr. Lurie seconded, and the motion passed with all in favor.

Agenda Item 8 Ratification of granting of CA certificates to applicants who passed the examination on August 18, 2016. – For possible action

Dr. Davis moved to approve the ratification of granting of CA certificates to those who passed the examinations on August 18, 2016. Dr. Jaeger seconded, and the motion passed with all in favor.

Agenda Item 3 Discussion/possible action regarding the Application for Doctor of Chiropractic of Bret Brown, DC – For possible action. (Note: The Board may go into closed session pursuant to NRS 241 to consider the character alleged misconduct, or professional competence of Dr. Brown)

Dr. Lurie stated that this is the discussion/possible action regarding the application for Doctor of Chiropractic of Bret Brown, DC, for possible action. Dr. Lurie asked if Dr. Brown would like to go into closed session and he stated that he did not. Dr. Lurie began by summarizing the history of Dr. Brown's background. Dr. Brown's attorney, Mr. Murphy provided the Board with additional documents and began with his opening remarks. Dr. Brown's attorney requested to go into closed session. Dr. Colucci moved to approve the meeting go into closed session. Dr. Jaeger seconded, and the motion passed with all in favor.

Dr. Lurie opened up questioning to the Board. Conversation ensued between the Board and Bret Brown, DC and his attorney, Mr. Murphy.

Ms. DiFillippo moved to go back to an open meeting. Ms. Mercer seconded, and the motion passed with all in favor.

Ms. DiFillippo moved to deny the application for Bret Brown, DC. Ms. Mercer seconded, and the motion passed with all in favor. Mr. Ling stated that Bret Brown, DC shall be allowed to re-apply for DC licensure.

Agenda Item 4 Discussion/possible action regarding the Application for Chiropractor's Assistant of Charles Morgan – For possible action. (Note: The Board may go into closed session pursuant to NRS 241 to consider the character alleged misconduct, or professional competence of Mr. Morgan)

Dr. Lurie stated that Mr. Morgan is a former employee at Neck and Back and turned the chair to Dr. Colucci, Vice President. Dr. Colucci stated that this is the discussion/possible action regarding the application for Chiropractor's Assistant of Charles Morgan. Dr. Colucci asked Mr. Morgan if he would like to go into closed session and he stated that he did not. Mr. Morgan gave the Board a brief summary of his past history. The Board asked questions of Mr. Morgan.

Ms. DiFillippo moved to approve the application for Mr. Morgan. Ms. Mercer seconded, and the motion passed with all in favor. Dr. Lurie recused himself from this matter.

Agenda Item 5 Discussion/possible action in the Matter of Mark Rubin, DC, Complaint 15-06S – For possible action. (Note: The Board may go into closed session pursuant to NRS 241 to consider the character alleged misconduct, or professional competence of Dr. Rubin)

Dr. Lurie stated that this is the discussion/possible action regarding Mark Rubin, DC, Complaint 15-06S for possible action. Dr. Lurie asked if Dr. Rubin would like to go into closed

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session and Dr. Rubin stated that he did not. Mr. Ling stated that Ms. Sophia Long, Deputy Attorney General was in attendance to represent the Board since he will prosecute this matter. Mr. Ling summarized the charges against Dr. Rubin. Mr. Ling stated that a Notice of Charges was issued stating Four Causes of Action and Dr. Rubin's counsel answered. Mr. Ling stated that this brings us to the Settlement Agreement being presented today. Mr. Ling stated that Dr. Rubin admitted to the First Cause of Action, failure to make records and Second, failure to notify patients that he did not carry malpractice. Dr. Rubin did not contest the Fourth allegation that he gave false statements to the Board during the investigation. The third cause of action is that Dr. Rubin failed to notify the Social Security Administration that he was also earning income for practicing chiropractic. Dr. Rubin's license shall be on probation for three years, he shall pay the Boards' fees and costs of \$2,500.00 and pay a fine of \$1,500, and take and pass the Ethics and Boundaries exam and the Boards' jurisprudence exam. Dr. Rubin will be assigned a Practice Monitor and provide written evidence that he has contact the Social Security Administration to allow the IBM to request records from the Social Security Administration to verify compliance.

Dr. Rubin's attorney Mr. Roger Crouteau gave a brief summary of Dr. Rubin's background.

Dr. Lurie asked if there were any questions from the Board and there were none.

Dr. Davis made a motion to accept the Settlement Agreement. Dr. Colucci seconded. Dr. Lurie asked for discussion. Dr. Lurie asked Dr. Rubin if he would have a physical practice or mobile practice and advised that he notify the Board within 15 days of his physical location. Dr. Rubin stated that he will have a physical practice. Dr. Rovetti stated his concern regarding the limitations of what the assigned Monitor was allowed to monitor in Dr. Rubin's practice. Dr. Rovetti noted that the settlement agreement stated that basically the only things the Monitor could investigate and report back to the Board was on Dr. Rubin's records, his malpractice notification, and his malpractice purchase. Mr. Ling stated that it was understood that if the Monitor noticed any other violations by Dr. Rubin of any Nevada Chiropractic Laws, the Monitor would discuss with Dr. Rubin and also report that to the IBM. The motion passed with all in favor. Ms. DiFillippo recused herself as the Investigating Board Member.

Agenda Item 13 NCC Report – No action.

Dr. Stephanie Youngblood and Andrea Waller, Executive Director were present on behalf of the NCC. Dr. Youngblood stated that the NCC will be holding its first, one-day convention in Las Vegas on October 15, 2016 and will offer 10 hours of Continuing Education. Dr. Youngblood stated that the NCC will have four guest speakers and the focus will be on documentation, personal injury, spinal biomechanics, whiplash, and treatment of ligamentation. Dr. Lurie asked if the NCC had advertised the conference to CA's. Dr. Youngblood stated they had not, but will ensure that it is communicated. Ms. Waller stated that the NCA's membership is at approximately 20 members. Dr. Youngblood stated that the NCC is on probation with culinary for about one year prior to being accepted as a state association that a DC can be a member of. Dr. Colucci recommended that the NCC become PACE approved through the National Board.

Agenda Item 9 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 15-01S (Dr. Lurie)

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Dr. Lurie asked Mr. Ling if there had been any communication from the individual's attorney that the website would be taken down. Mr. Ling stated that he had not heard anything other than the individual nor the attorney have access to remove the website. Dr. Lurie asked Mr. Ling to communicate with the administrator of the website to have the website removed.

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

Ms. DiFillippo stated that this is the Settlement Agreement in the Matter of Mark Rubin, DC that was heard before the Board today.

C. Complaint 15-11S (Dr. Rovetti)

Dr. Rovetti stated that this is the continuation of the investigation conducted by the Federal Government due to Medicare billing. The DC entered into a Settlement Agreement with the Department of Justice and was fined \$150,000 and the MD was fined \$90,000 for alleged medicare fraud. Dr. Rovetti spoke to the DC and the DC stated that he would be willing to surrender his license. The Board received a letter from the DC stating that he was officially surrendering his license. The Board followed up with the DC with a letter outlining specific stipulations. This letter was brought before the Board for approval. Dr. Rovetti recommended to dismiss this case with the letter stating that the DC surrenders his license B00797.

Dr. Colucci moved to accept the surrender of the DC's license. Dr. Lurie seconded for discussion. Dr. Lurie asked that the letter be modified to include if the DC plans to obtain a license in another state that he notify the Chiropractic Physicians' Board of Nevada.

Dr. Colucci amended her motion to accept the modification. Dr. Lurie seconded, and the motion passed with all in favor with the exception of Dr. Davis, who opposed.

D. Complaint 15-18N (Dr. Lurie)

Dr. Lurie stated that he is still gathering information, so this complaint is on-going.

E. Complaint 15-27S (Dr. Lurie)

Dr. Lurie stated that this complaint is against a DC who cannot be located. Mr. Ling stated that he would prepare a citation for the January 13, 2016 Board meeting. Dr. Lurie stated to move this complaint to the dormant section until the DC re-appears.

F. Complaint 15-29S (Dr. Colucci)

Dr. Colucci stated that this complaint was received from the National Insurance Crime Bureau regarding billing, coding, and diagnostic procedure codes. Dr. Colucci reviewed the diagnosis and procedure codes of several patient files and found that the codes matched the procedure(s) and Dr. Colucci recommended dismissal. Ms. Mercer moved to dismiss complaint 15-29S. Dr. Rovetti seconded, and the motion passed with all in favor. Dr. Colucci recused herself as the Investigating Board Member.

G. Complaint 15-33S (Colucci)

Dr. Colucci stated that this complaint was received from an anonymous individual regarding a DC's office advertising as specialists. Dr. Colucci spoke with the DC's who own the practice who advised that the advertisement had been removed. Dr. Colucci recommended dismissal with a letter of instruction.

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Dr. Jaeger moved to dismiss complaint 15-33S with a letter of instruction. Ms. Mercer seconded, and the motion passed with all in favor with the exception of Dr. Davis, who opposed. Dr. Colucci recused herself as the Investigating Board Member.

H. Complaint 16-01S (Jaeger)

Dr. Jaeger stated that there were allegations that a DC was practicing while under the influence of marijuana. Dr. Jaeger stated that the DC is in compliance with the voluntary drug testing, however, recommended that the monitoring continue for six more months.

I. Complaint 16-02S (Lurie)

Dr. Lurie stated that this complaint was submitted by an individual who indicated that they were injured by a Physical Therapist who allegedly performed a chiropractic technique. Dr. Lurie stated that he had not been able to make contact with the complainant. Dr. Lurie will continue to attempt to make contact with the complainant. If there is no contact prior to the January 13, 2017 Board meeting the complaint will be dismissed.

J. Complaint 16-04S (Colucci)

Dr. Colucci stated that this complaint was received from the National Insurance Crime Bureau regarding billing, coding, and diagnostic procedure codes. Dr. Colucci reviewed the diagnosis and procedure codes of several patient files and found that the codes matched the procedure(s) and recommended dismissal. Dr. Jaeger moved to dismiss complaint 16-04S. Dr. Rovetti seconded, and the motion passed with all in favor. Dr. Colucci recused herself as the Investigating Board Member.

K. Complaint 16-05S (Colucci)

Dr. Colucci stated that this complaint was received from the National Insurance Crime Bureau regarding billing, coding, and diagnostic procedure codes. Dr. Colucci reviewed the diagnosis and procedure codes of several patient files and found that the codes matched the procedure(s) and recommended dismissal. Dr. Rovetti moved to dismiss complaint 16-05S. Dr. Jaeger seconded, and the motion passed with all in favor. Dr. Colucci recused herself as the Investigating Board Member.

L. Complaint 16-07N (Jaeger)

Dr. Jaeger stated that the complainant is asking the Board to get his money back, because he didn't receive the "guaranteed" results that he was told he would receive by the DC. Dr. Jaeger spoke to the DC who stated that the appointment was a nutraceutical/weight loss intervention. Dr. Jaeger stated that the DC was well within the scope and the patient appears to be unhappy since he did not get the results that he wanted.

Dr. Jaeger noted that the DC's literature, however did not disclose that he is a chiropractor. Dr. Jaeger explained to the DC that he is required to state that he is a chiropractor and recommended dismissal.

Dr. Colucci asked if there was a contract signed between the patient and the DC and if the patient completed the entire program. Dr. Lurie asked if the treatment was set up on a pre-payment plan. Dr. Jaeger stated that he did not have the answers to those

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questions and would recommend bringing the answers back to the Board at its next meeting. Dr. Lurie stated to table complaint 16-07N until the January 13, 2017 meeting.

M. Complaint 16-08S (Jaeger)

Dr. Jaeger stated that he has reviewed the documentation and reached out to the complainant, but has not heard back. This complaint will continue to be investigated.

N. Complaint 16-09S (Lurie)

Dr. Lurie stated that a DC republished an article originally published in a national publication. The DC changed the title and the author to themselves and had the article published in another magazine. Dr. Lurie stated that this complaint is still under investigation.

O. Complaint 16-10S (Colucci)

Dr. Colucci stated the complainant received a treatment known as long access traction and left the office feeling fine. The patient stated that a few days later he was chewing on food and fractured his tooth and attributed it to the treatment provided. The patient communicated this to the DC who recommended that the patient complete an incident report. The patient submitted the incident report, but received no response. Dr. Colucci instructed the chiropractor to talk with their malpractice insurance carrier and provide a response to the patient, which was done. Dr. Colucci recommended dismissal of this complaint.

Ms. Mercer moved to dismiss complaint 16-10S. Dr. Lurie seconded, and the motion passed with all in favor. Dr. Colucci recused herself as the Investigating Board Member.

Agenda Item 10 FARB Forum – For possible action.

A. Update on January 2016 FARB Forum – Orlando, FL – Ms. Mercer

Ms. Mercer stated that she was unable to attend FARB.

B. 41st FARB Forum, San Antonio, TX – January 26-29, 2017

Dr. Lurie asked if anyone was interested in attending. Ms. Mercer requested to attend and it was approved.

Agenda Item 11 FCLB/NBCE Matters – For possible action.

Dr. Colucci reported that the FCLB District meeting will be held in Colorado Springs, CO, October 13-16 and she will be in attendance. Dr. Colucci reported that the National Board is in the process of pulling back on the computer-based testing and going back to paper and pencil until they get new IT formats.

Agenda Item 12 NCA Report – For possible action

There was nobody in attendance to report on the NCA.

Agenda Item 14 Board Counsel Report – No action.

Mr. Ling stated that he attended the Governor's Drug Abuse Prevention Summit and it was a success with over 500 attendees. The Governor focused on how policy makers can assist in helping the opioid abuse in the state. There was discussion with respect to chiropractors getting

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paid as part of a larger pain management strategy. Mr. Ling stated that the Centers for Disease Control discussed looking at other modalities besides writing prescriptions for pain medications.

Dr. Lurie requested an update on Agenda Item 13 from the June 5th Board meeting agenda regarding revisions to NAC 634 and Agenda Item 11 regarding discussion with the Attorney General's office with respect to the Physical Therapy Board. Mr. Ling stated that there appeared to be an oversight with respect to finalizing the Administrative Code. Mr. Ling stated that the Physical Therapy Board is no longer being represented by the Attorney General's office and are now being represented by a Private Attorney, Hal Taylor. Dr. Lurie stated that the Boards' bill has been submitted to Capitol Partners and Randy Kirner is holding our position

Agenda Item 9L

Dr. Lurie recommended that the Board go back to Agenda Item 9L, Complaint 16-07N. Dr. Jaeger indicated that he was able to obtain additional information to clarify questions from the Board during the previous discussion. Dr. Jaeger stated that the patient entered into a pre-payment plan and the program was completed. Dr. Jaeger recommended dismissal with the advertisement letter to the DC instructing that they correct the flyer to indicate DC. Ms. DiFillippo moved to dismiss complaint 16-07N. Ms. Mercer seconded, and the motion passed with all in favor. Dr. Jaeger recused himself as the Investigating Board Member.

Agenda Item 15 Executive Director Reports:

- A. Status of Pending Complaints – No action.
- B. Status of Current Disciplinary Actions – No action.
- C. Legal/Investigatory Costs – No action.
- D. Boards' Financial Institution – For possible action

Julie Strandberg summarized each of the Executive Director reports. She stated that the quarterly reports for Dr. Luzod, Dr. Raines, and Dr. Stella are included in the Board packets.

Agenda Item 16 Financial Status Reports:

- A. Current cash position & projections – No action.
- B. Accounts Receivable Summary – No action.
- C. Accounts Payable Summary – No action.
- D. Employee Accrued Compensation – No action.
- E. Income/Expense Actual to Budget Comparison as of July 31, 2016 – No action.

Julie Strandberg summarized the financial status reports. Julie Strandberg stated that the Board will be changing from Wells Fargo Bank to Nevada State Bank. Julie Strandberg confirmed an error in the total cash balance date. The date printed states 4/30/16 and it should be 7/30/16.

Agenda Item 17 Committee Reports

- A. Continuing Education Committee (Dr. Davis) – For possible action.
Dr. Davis stated that CE applications are getting approved quickly. The only issue that continues to come up is organizations not providing a co-sponsor.
- B. Legislative Committee (Dr. Lurie) – For possible action.
Dr. Lurie stated that he spoke with Capitol Partners and they are watching the elections. The Boards' BDR is in place. Mendy Elliott will be meeting with the Physical Therapists lobbyist to discuss the BDR they have submitted.

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- C. Preceptorship Committee (Dr. Rovetti) – For possible action.
Julie Strandberg stated that two students just completed the Preceptor Program and one application has been received.

- D. Test Committee (Dr. Colucci) - For possible action.
Dr. Colucci stated that the CA failure rate remains high, however the test remained the same. Dr. Colucci stated that it's imperative that the exam is offered online. Julie Strandberg stated that the DC exam has been launched and is available online through Mycourse.

Agenda Item 18 Consideration of possible revisions of the Preceptor laws and regulations - For possible action.

Dr. Rovetti stated that Dr. Jaeger provided some revisions to NAC 634.341. Following discussion Ms. DiFillippo moved to approve the revised language. Dr. Lurie seconded, and the motion passed with all in favor.

Agenda Item 19 Continuation of chiropractic college presentations – For possible action.

Dr. Rovetti stated that he travels to Palmer West to educate the chiropractic students on what the Board is about and how to stay out of trouble. Dr. Rovetti requested that the Board continue to pay him \$150.00 per quarter upon his departure from his position on the Board. Mr. Ling stated that the Board would need to contract with Dr. Rovetti if this were to continue. Following discussion, there was no motion by the Board.

Agenda Item 20 Establish dates for the next Chiropractor's Assistant examination and Board meetings – For possible action.

Dr. Lurie clarified that the Chiropractor's Assistant examination will be administered in person, paper and pencil on Thursday, February 16, 2017 at CSN in Las Vegas and at the Board complex in Reno.

Dr. Lurie recommended that Board meetings be held on Fridays. The Board agreed, and set the following dates for 2017: Friday, January 13, 2017 in Las Vegas, Friday, April 21, 2017 in Reno, and Friday, July 14, 2017 in Reno.

Agenda Item 21 New Board Member Training – Nevada Leadership Program through UNR – For possible action.

Dr. Rovetti stated that UNR administers a Nevada Leadership program that would be beneficial for new Board Members. Dr. Lurie moved to approve optional Board Member training through UNR and stated that the Board would cover the cost. Dr. Davis seconded, and the motion passed with all in favor.

Agenda Item 22 Correspondence Report – No action.

Dr. Lurie stated that there were no correspondence to report.

Agenda Item 23 Outstanding Staff/Board Items – For possible action.

Dr. Lurie stated that there were no outstanding items other than those he mentioned during the Board Counsel report.

Agenda Item 24 Board Member Comments – No action.

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Dr. Davis stated that this is his last meeting and gave his thanks and appreciation to the Board. Dr. Rovetti gave his thanks and appreciation to all the Board members. Each Board member acknowledged their appreciation and guidance from Dr. Davis and Dr. Rovetti.

Agenda Item 25 Public Interest Comments – No action.

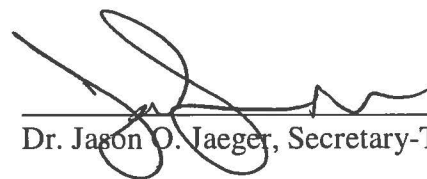
This portion of the meeting is open to the public to speak on any topic NOT on today's agenda and may be limited to 3 minutes.

There were no public interest comments.

Agenda Item 26 Adjournment – For possible action.

Dr. Davis moved to adjourn the meeting. Dr. Rovetti seconded, and the motion passed unanimously.

Approved January 13, 2017



Dr. Jason O. Jaeger, Secretary-Treasurer