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CHIROPRACTIC PHYSICIANS' BOARD OF NEVADA

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

CINDY WADE
Executive Director

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

MINUTES OF MEETING

A meeting of the Chiropractic Physicians' Board of Nevada was held on Saturday, September 6, 2014 in Conference Room I204 of Kietzke Plaza, 4600 Kietzke Lane, Reno, Nevada 89502.

The following Board Member were present at the roll call at 10:20 AM:

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 Rovetti, DC, Secretary-Treasurer

Member Annette Zaro, DC, did not attend. 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. Shell Mercer led the Pledge of Allegiance and stated the purpose of the Board.

Agenda Item 1 Public Interest Comments - No action.

There were no public interest comments.

Agenda Item 2 Approval of agenda – For possible action.

Dr. Lurie stated that Agenda Items 16 and 3 will be addressed first to accommodate those present. Agenda Item 12 will be addressed at 2:00 PM and other items may be addressed out of order. Dr. Davis made a motion to approve the agenda. Dr. Nolle seconded and the motion passed unanimously.

Agenda Item 16 Board Counsel Report – No action

A. Opinion Regarding Whether Hypnotherapy and Biofeedback Therapy Are Within the Scope of Practice of Chiropractic

Louis Ling explained that a bulletin was sent to the Board's licensees in response to a letter received from the Board of Psychological Examiners regarding the practice of biofeedback and hypnosis by chiropractors. Both of these activities are within the scope of practice of psychology under NRS 641.025. He responded to questions from Board members. Ms. Mercer disclosed that she occasionally refers to the President of the Psychology Board in some cases when serving as a Pro Tem Hearing Master. This is not a conflict of interest.

Dr. Dale Kelly reviewed his documentation supporting his opinion that biofeedback is physiotherapy. Dr. Xavier Martinez, representing the Nevada Chiropractic Association, said the question is whether the intent is to use biofeedback to create a change in the physiological or mental state.

Mr. Ling stated that the Board of Psychological Examiners has requested an Opinion from the Attorney General. He advised that under NRS Chapter 0, the definition of “physician” does not include chiropractors. The Board agreed to wait until the AGO is issued and then address this matter for possible action.

B. Report on Nevada Telemedicine Conference

Mr. Ling reported that he will be monitoring telemedicine legislation during the coming session for all of his client boards. This will be a major issue because it may reduce costs and the insurance companies will be involved. He commended Senator Oscarson for the very open process he has conducted. A conference on this subject is scheduled to be held on September 23-24, 2014.

Agenda Item 3 Legislative Lobbyist report – For possible action

C. Discussion/approval of new contract with Capitol Partners, LLC

Mendy Elliott and Peter Krueger of Capitol Partners, LLC, were present. The contract with Forte, LLP, is no longer in effect and was not assignable due to the change in ownership of the business. Dr. Davis moved to approve the proposed contract with Capitol Partners, LLC, which offers the same terms as the Forte contract. Ms. DiFillippo seconded the motion and it passed with all in favor.

A. Report on current legislative activity

The BDRs that may affect chiropractic were discussed.

B. Update on status of Veterans issues

Mendy Elliott has been in contact with Caleb Cage, Director of Military & Veterans Policy for the State of Nevada, regarding legislation for improvement of employment opportunities for military veterans.

Agenda Item 8 Approval of May 31, 2014 meeting minutes – For possible action.

Dr. Rovetti questioned that Ms. DiFillippo voted against his proposed changes to the CA program under Agenda Item 14 of the minutes. Dr. Lurie moved to approve the May 31, 2014 minutes as written with the understanding that after listening to the Pencast the record of Ms. DiFillippo’s vote may be changed. Ms. DiFillippo seconded the motion. The motion did not pass with Ms. Mercer and Ms. DiFillippo in favor and Drs. Davis, Lurie, Nolle and Rovetti opposed. Dr. Lurie moved to table the matter until the audio can be reviewed. Ms. Mercer seconded and the motion passed unanimously.

Agenda Item 9 Ratification of granting of Doctor of Chiropractic licenses to applicants who passed the June 11, July 9 and August 13, 2014 examinations – For possible action

Dr. Davis moved to ratify granting of the DC licenses to the applicants who passed the June 11, July 9 and August 13, 2014 examinations. Ms. DiFillippo seconded and the motion passed with all in favor.

Agenda Item 10 Ratification of granting of Chiropractor’s Assistant certificates to applicants who passed the August 14, 2014 examinations – For possible action

Ms. Mercer moved to ratify granting of the CA certificates to the applicants who passed the August 14, 2014 examinations. Ms. DiFillippo seconded and the motion passed with all in favor.

Agenda Item 13 Discussion/approval of proposed changes to advertising notice on CPBN's website
– For possible action

Dr. Rovetti reviewed his proposed changes. He reported that some licensees are using the word "credentialed," and it was agreed that it has the same status as "certified." Dr. Rovetti moved for approval of the changes as proposed with an addition that the designation "Chiropractic Specialist" may only be used if it is followed by the specific field, i.e., "Chiropractic Specialist in ...(field)...." Dr. Nolle seconded and the motion passed unanimously.

Agenda Item 18 FCLB/NBCE matters:

- A. Appointment of delegates, alternates and attendees for the October 9 Regional Meeting in Albuquerque, NM – For possible action

There is no need to appoint new delegates as Drs. Lurie and Zaro are already registered and will attend the Regional Meeting. Dr. Zaro will provide a written report. Dr. Davis will not be attending. Dr. Lurie moved to approve Executive Director Cindy Wade to attend. Ms. Mercer seconded and the motion passed with all in favor.

- B. Miscellaneous communications from FCLB

There was no discussion regarding the written FCLB communications.

Agenda Item 20 Determination of next CA examination date – For possible action

Dr. Lurie made a motion to schedule the next CA examinations on Thursday morning, March 12, 2015. Dr. Nolle seconded and the motion passed unanimously. Dr. Nolle reported that he is working with Dr. Robyn Mitchell to replace the oral x-ray test with a written one. It should be ready in time for the March 12, 2015 examinations.

Agenda Item 14 Financial status report – For possible action

- A. Current cash position
B. July 1–31, 2014 Income/Expense Actual to Budget Comparison
C. Fiscal Year 2013/14 Income/Expense Actual to Budget Comparison
D. Accounts Receivable Summary
E. Accounts Payable Summary
F. Extraordinary items

Dr. Rovetti gave a brief report on the Board's improved financial condition. Dr. Lurie moved to accept the financial reports. Dr. Nolle seconded and the motion passed unanimously.

Agenda Item 12 Board policies – For possible action

- A. Discussion/approval of request that CBP Certification be added to Policy No. 10

The Board reviewed the documents provided by Dr. Jason Jaeger who was present on the phone. The Board agreed that the Advanced Certification course and test meet the criteria of the Board's Specialty Advertising policy.

Dr. Lurie moved to accept the Advanced CBP Certification course and test for certification status under Policy 10. Dr. Rovetti seconded. Upon discussion, it was agreed that licensees who have completed the Advanced course and test may advertise that they are certified in Chiropractic BioPhysics, but the word "Advanced" may not be included in the advertising. The motion passed with all in favor.

- B. Discussion/approval of proposed new policy regarding advertising Board appointments by current and former Board members

This matter was discussed but no action was taken.

C. Discussion/approval of proposed amendment to Policy No. 22

The wording in Policy 22 regarding Self Inspection Reports was changed to "...to fully complete..." and the word "biennially" was changed to "annually."

D. Request for interpretation of Policy No. 10 with respect to use of the term "Chiropractic Specialist"

This issue was resolved under Agenda Item 13.

E. Review current policies for updating – For possible action

This agenda item was not addressed.

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 (Mercer)

This complaint was recently reassigned to Shell Mercer. She has reviewed it with Mr. Ling who has given her further direction and the investigation is ongoing.

C. Complaint 13-06N (Rovetti)

Dr. Rovetti reported that the massage therapist has left the site where he was performing adjustments. Dr. Lurie moved to dismiss the complaint. Ms. DiFillippo seconded and the motion passed with all in favor except Dr. Rovetti who recused.

D. Complaint 13-22S (Rovetti)

This advertising complaint was reassigned to Dr. Rovetti. He talked to the DC who said he will be changing his status to that of an adviser. This investigation is ongoing because Dr. Rovetti was recently told that the DC is now advertising without mentioning that he is a chiropractor.

J. Complaint 14-13S (Rovetti)

The DC named in this complaint was out of town when Dr. Rovetti visited his office last week. This investigation is ongoing.

K. Complaint 14-14S (Rovetti)

The allegations in this complaint that a DC codes improperly came from an insurance company through the National Insurance Crime Bureau. The doctor averages 25 visits per patient and uses the same treatment code for every patient. He was very cooperative and gave Dr. Rovetti access to his patient records. Dr. Rovetti had the records reviewed by a coding expert who advised that the code being used is not usually used with adjustments, but this is not criminal activity. The doctor is now using a more suitable code for manual therapy. The DC and his associate have agreed to take some billing and coding courses. Dr. Lurie made a motion to dismiss the complaint and Dr. Nolle seconded. The motion passed with all in favor with Dr. Rovetti recused.

L. Complaint 14-15N (Davis)

Dr. Davis reported that he and Louis are still working on this case.

E. Complaint 14-07S (DiFillippo)

This complaint was filed because a DC did not disclose an arrest on his Self-Inspection Report. At that time he had not been convicted and he answered the question upon the advice of his attorney. Ms. DiFillippo contacted the DC who was very cooperative. He agreed to amend his Self-Inspection Report. He provided the background of the incident and disclosed that he pled guilty to misdemeanor domestic violence. Ms. Mercer moved for dismissal of the complaint. Dr. Nolle seconded and the motion passed with all in favor except Ms. DiFillippo who recused. A reminder that providing false information to the Board is unprofessional conduct will be included in the letter notifying him of the dismissal.

B. Complaint 12-20S (Lurie)

This complaint was reassigned to Dr. Lurie. A patient complained that a DC provided her medical records to other physicians as well as an attorney. Her records contain several signed forms giving the DC permission to obtain and send out her records. Dr. Lurie determined there was no violation. Ms. Mercer moved to dismiss the complaint. Second was by Ms. DiFillippo and the motion passed with all in favor except Dr. Lurie who recused.

F. Complaint 14-08S (Lurie)

The complainant in this case has hired an attorney. Dr. Lurie is working on it with Louis and they should have it resolved by the next meeting.

H. Complaint 14-11S (Lurie)

This complaint involves a chiropractor's advertisement and treatment protocol. The complainant was also upset over x-ray charges and non-payment for medicine. After the treatment plan was described to the patient, a discount was given in compliance with Medicare and this doctor's practice. The DC refunded \$200 for x-rays and the exam, and the patient was satisfied. Dr. Davis questioned the Medicare discount. Dr. Rovetti moved to dismiss the complaint. Ms. DiFillippo seconded and the motion passed with Drs. Nolle and Rovetti and Ms. DiFillippo and Ms. Mercer in favor, Dr. Davis not in favor and Dr. Lurie recused.

M. Complaint 14-16S (Lurie)

The complainant attended a "diabetes seminar" advertised by a DC. He signed up for the doctor's program "to live without diabetes" and paid \$6,000 for which he received supplements and a portfolio of recipes. He terminated his program, requested a refund, and was refunded "the bulk" of the \$6,000. He suggested that the Board should conduct an investigation into the licensee's advertising claims and his programs. Dr. Lurie contacted the licensee who agreed to reimburse the complainant for the remainder of the fee. The complainant is satisfied and rescinded his complaint. There was no advertising violation. Ms. Mercer moved for dismissal of the complaint. Ms. DiFillippo seconded and the motion passed with all in favor with Dr. Lurie recused.

G. Complaint 14-10S (Lurie)

Dr. Lurie reported that this complaint was filed based on information received that an unlicensed person has been adjusting people in Las Vegas. He advertises that he is a licensed DC on a website. An investigator was hired who tracked this person down and was adjusted by him. There was discussion about the best way to prosecute this case which is ongoing.

I. Complaint 14-12S (Lurie)

This complaint alleged that a DC's office is dirty and his equipment unsanitary because the laser was not properly cleaned where it touched the skin. Upon Dr. Lurie's advice, the doctor resolved the issues with respect to cleanliness and proper equipment sanitation methods. Dr. Lurie reviewed the doctor's patient charts and determined that they meet the statutory and regulatory requirements. Ms. DiFillippo moved to dismiss the complaint. Ms. Mercer seconded and the motion passed with all in favor except Dr. Lurie who recused.

Agenda Item 19 NCA report – No action

Dr. James Overland stated that the NCA is considering a nationally recognized seminar on coding and compliance certification. He asked if a licensee who completes the course will be able to advertise as a Medical Compliance Specialist Physician. Dr. Rovetti advised that this is not a field of chiropractic and does not fall under the Board's Specialty Advertising Policy. He referred to a similar situation that was previously addressed by the Board. Dr. Rovetti will send the Pencast to Dr. Overland and they will confer on this. Dr. Davis will let Dr. Overland know if the NCA's September 27-28, 2014 Annual Seminar is approved.

The NCA is working with the Nevada Justice Association on an advocacy bill for workman's comp. The language is not yet available, but it will allow injured workers to choose their physician. He hopes the Board will support the bill. The NCA is considering putting together a bill to address the "silent PPO." They have no other bills under consideration at this time but will share with the Board any new bill that materializes.

Agenda Item 4 Consideration of potential additions, deletions and/or amendments to NRS Chapter 634. – For possible action

Dr. Lurie moved to accept Section 1 as written with the word "questions" on Line 3 in (1) corrected to singular. Dr. Rovetti seconded. The motion passed with all in favor except Dr. Davis who was not in favor.

Dr. Rovetti moved to approve Section 2 as written. The motion was seconded by Shell Mercer and passed with all in favor except Ms. DiFillippo and Dr. Lurie who were opposed.

Dr. Rovetti moved for approval of Section 3 as written. Dr. Nolle seconded and the motion passed with all in favor.

Dr. Rovetti moved for approval of Section 4 as written. Dr. Lurie seconded and the motion passed with all in favor except Dr. Davis who was opposed.

Dr. Lurie moved to approve Section 5 as written. Ms. DiFillippo seconded the motion and it passed with all in favor.

Dr. Lurie moved to approve Section 6 as written. Ms. DiFillippo seconded the motion and it passed with all in favor.

Agenda Item 5 Consideration of potential additions, deletions and/or amendments to NAC Chapter 634 – For possible action

The proposed regulation change to resolve the PT issue is ready for a workshop. Louis Ling described the various ways a workshop may be held.

Dr. Rovetti presented his suggestions for proposed fines under our citation authority. After discussion he made a motion to start drafting the proposed language with his proposed fines. A fine for not reporting changes of address will be added. Dr. Lurie seconded and the motion passed with all in favor.

Dr. Lurie made a motion to revise NAC 634.210 to provide for all methods of payment. Ms. Mercer seconded and the motion passed unanimously.

Dr. Lurie made a motion to revise NAC 634.220 to require one fingerprint card. Dr. Nolle seconded and the motion passed with all in favor.

There was discussion regarding a previously approved proposed change to NAC 634.330 that would provide that a Chiropractor's Assistant applicant who is caught cheating may continue to work in a chiropractor's office but may not perform CA services.

Dr. Lurie expressed his concern that the current wording of NAC 634.390 makes it appear that a person who voluntarily surrenders his license may have been sanctioned by the Board. He made a motion to look for better language regarding forfeiture of a license. Dr. Nolle seconded. The motion passed with all in favor except Dr. Rovetti who was opposed and Dr. Lurie recused.

As discussed at the last meeting, Dr. Lurie would like endorsement and/or reciprocity to be considered. This would require a statutory change. Louis Ling advised that there will be a bill coming from the Governor's office that will address reciprocity for all boards.

Agenda Item 7 Request for Board's position regarding licensees performing urine drug and breath alcohol testing – For possible action

The Board agreed that urine drug and breath alcohol testing falls under the chiropractic scope of practice.

Agenda Item 17 Executive Director Reports– No action

- A. Status of Complaints Received
 - B. Status of Current Probations
 - C. Legal/Investigatory
 - D. Status of website update and preparations for 2015-16 DC online renewals
- There were no questions with respect to the Executive Director's Reports.

Agenda Item 6 Request for determination of appropriate licensing/certification required to perform detox body wraps – For possible action

Dr. Lurie made a motion that the performance of body wraps for detox purposes is within the chiropractic scope of practice. Dr. Rovetti seconded. The motion passed with all in favor except Shell Mercer who abstained.

Agenda Item 15 Committee reports – No action

- A. Continuing Education Committee – Dr. Davis

Dr. Davis stated that the CE approvals are going well and are up to date.

- B. Legislative Committee – Dr. Lurie

The Board's bill draft is ready to send to Mendy Elliott.

- C. Test Committee – Dr. Nolle

Dr. Nolle reported that he and Dr. Mitchell are working on converting the CA x-ray test to written form. They will be searching for new x-ray reference material as the Yoakum material is very expensive. Dr. Nolle will also be looking into CEvative and other programs for future online testing.

- D. Preceptorship Committee – Dr. Rovetti

Dr. Rovetti reported that since the last meeting four preceptorships have been approved, two applications are pending and one was just received. He said that one student has requested to have more than one preceptor and that it would be helpful to the students to be allowed to commence working pending clearance of their background checks. There were no objections.

Agenda Item 23 Public Interest Comments – No action.

There were no public interest comments.

Agenda Item 21 Correspondence Report – No action

Dr. Lurie stated that Agenda Item 12E and the Correspondence Report will be addressed at the next meeting due to lack of time.

Agenda Item 22 Board Member Comments – No action

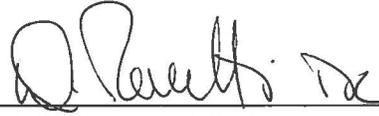
Dr. Davis commended departing Board member Dr. Annette Zaro for her contributions and dedication to the Board.

Dr. Lurie requested that all Board members contribute agenda items for meetings. The next meeting will be in Las Vegas on January 10, 2015.

Agenda Item 24 Adjournment – For possible action

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

Approved: January 10, 2015



David G. Rovetti, DC, Secretary-Treasurer