

**BOARD OF CHIROPRACTIC EXAMINERS
MINUTES**

DATE: July 23, 2015

TIME: 9:00 AM CST

LOCATION: Poplar Conference Room
665 Mainstream Drive, 1st Floor
Nashville, TN 37243

MEMBERS PRESENT: Chris Alexander, D.C., President
Richard Cole, D.C., Board Member
Andrea Selby, D.C., Board Member
Cole Hosenfeld, D.C., Board Member
Sheila Fitzgerald, Consumer Member, Secretary

MEMBERS ABSENT: Craig Ratcliff, D.C. Vice President

STAFF PRESENT: Michael Sobowale, Unit Director
Lakita Taylor, Unit Manager
Zandra Pickett, Board Administrator
Mark Cole, Assistant General Counsel

GUESTS: Denise Moran, Director of the Office of Investigations
Rosemarie Otto, Health Related Boards Director
Vanessa Crutcher, DHLR Fiscal Office
John Williams, Lobbyist, Tennessee Chiropractic Association
Jeremy Davis, Department of Health Legislative Liaison

Call to Order

With a quorum present, Dr. Alexander called the meeting to order at 9:15 AM.

Minutes

During review of the minutes from the April 16, 2015 meeting, Dr. Alexander commented and requested that the following corrections be made:

- Page 3, last line under Office of General Counsel Report - change from “ for the Board secretary to be paid a monthly salary of \$100(“HB 0421”)” to “ increase all board members per diem to \$100.”
- Pages 4, under 2015 conference - add “Dr. Cole to attend the FCLB District meeting September 17-20 in Rhode Island.”

- Page 5 - omit second entry for Jennifer James and change first entry for Jennifer James gender from “his” to her. Also, change James Schroder’s gender from “her” to his.

There being no other observations or requests, Dr. Cole made a motion, seconded by Dr. Hosenfield, to accept the minutes of the April 16, 2015 meeting as amended. The motion carried.

Office of General Counsel Report

Mr. Cole, Assistant General Counsel, discussed the Open Meetings Act (Sunshine Law) and the Conflicts of Interest policy. Mr. Cole provided a current status on proposed chiropractic rule changes and the rulemaking hearing. He reported the rules are currently with Dr. Drezyzehner, Department of Health Commissioner, due to questions he has about the rule changes. Mr. Cole suggested Dr. Alexander and Dr. Cole be liaisons to assist with answering questions Dr. Drezyzehner may have regarding the proposed rules. Dr. Alexander inquired whether appointing a liaison would help for a rule making hearing to take place at the next board meeting in October. Mr. Cole responded that he did not think so because the next step is for the proposed rules to be forwarded to the governor’s office for review and approval. Mr. Cole stated, conceivably the rules may be ready next month or possibly by January 2016; however, currently he is unable to give an exact time. John Williams, representative for the Tennessee Chiropractic Association asked the board to consider a special meeting in December for the purpose of a rule making hearing on the rules.

Mr. Cole made a request to the Board to attend the Federation of Association of Regulatory Boards (FARB) conference in Denver, CO during October 1-4, 2015. Upon discussion, Dr. Cole made a motion, seconded by Ms. Fitzgerald, to nominate Mr. Cole to attend the FARB conference. The motion carried.

Consent Order – Shanuri Settles D.C. License No. 1982

Dr. Settles was not present. Mark Cole, Assistant General Counsel, presented the Consent Order for Shanuri Settles, DC, to the Board.

The Findings of Facts are as follows:

- 1) In 2010, Dr. Settles violated statutory provisions in T.C.A §63-4-114 regarding solicitation, and agreed to a Consent Order. Dr. Settles contacted a male who had a motor vehicle accident before the time period allow by the law.

Mr. Cole presented the following stipulations of the Consent Order:

- 1) Dr. Settles will be assessed five (5) Type A Civil Penalties in the amount of One Thousand Dollars (\$1,000) each, for a total amount of Five Thousand Dollars (\$5,000) in

accordance with TENN. COMP. R. & REGS. 1000-01-.04 (6), to be paid within twelve (12) months from the effective date of the Order. He will also pay the reasonable legal cost of prosecuting the case to be established by an assessment of costs prepared by counsel, not to exceed Five Thousand Dollars (\$5,000), which is separate from the civil penalties.

Ms. Fitzgerald made a motion, seconded by Dr. Cole, to accept the Consent Order as presented. The motion carried.

Investigative and Disciplinary Reports

Denise Moran, Office of Investigations Director presented the investigative and disciplinary reports. She reported the Office of Investigations currently has twenty-three (23) complaint cases opened. Ms. Moran stated the Office just completed a review in May and is planning other review for next month in August. She provided a list of chiropractic physicians being currently monitored, and stated a second audit has been completed and the list provided is accurate and up to date.

Dr. Alexander inquired about previous information the board received on the number of active investigators, which indicated the office was short two (2) investigators. Ms. Moran informed the Board that these positions have been filled.

Administrative Report

Ms. Zandra Pickett, Board Administrator, presented the administrative report. As of July 14, 2015, there were 1144 active Chiropractic Physicians licensees, 477 Chiropractic Therapist Assistants, and 113 Chiropractic X-Ray Technologists.

APRIL 2, 2015 THROUGH JULY 14, 2015

Chiropractic Physician	
New Applications Received – 33	
New Licenses Issued – 20	Renewal Total – 123
Reinstatements – 4	Online Renewals – 70
Licenses Retired – 22	Paper Renewals – 53
Failed to Renew/Expired – 16	
Chiropractic Therapist Assistant	
New Applications Received – 19	
New Licenses Issued – 16	Renewal Total – 44
Reinstatements – 3	Online Renewals – 17
Licenses Retired – 2	Paper Renewals – 27
Failed to Renew/Expired – 21	

Chiropractic X-Ray Technologist	
New Applications Received – 6	
New Licenses Issued – 5	Renewal Total – 17
Reinstatements – 0	Online Renewals – 5
Licenses Retired – 0	Paper Renewals – 12
Failed to Renew/Expired – 4	

For this reporting period, online renewals for Chiropractic Physicians constituted a usage rate of 57 %. For Chiropractic Therapist Assistants, it is 39 %, and for Chiropractic X-Ray Technologists, it is less than 29 %.

TSAC ORDERS

None to report at this time.

CE AUDIT

Upon discussion, the board voted to extend the deadline for completing the 2014 CE requirements until the October 8, 2015 Board meeting. Dr. Cole made a motion, seconded by Dr. Hosenfeld, for the extension on the 2014 CE deadline to be approved. The motion carried

Ms. Pickett informed board members that a qualification will be added to the license application, to identify Chiropractic Physicians qualified to practice chiropractic acupuncture. The identifier would also be used to verify the Board’s CE requirements are being met by a Chiropractic Physician qualified to practice chiropractic acupuncture. Ms. Pickett provided the board members with a current copy of the Acupuncture policy. Dr. Cole noted the current policy was changed last year under the previous administration. He stated he would provide a copy of the updated policy, which clarifies the current academic requirement and the certifying agencies for Acupuncture.

BOARD MEMBERS

Currently, one (1) Board vacancy is open. Dr. Cole inquired about the current open board vacancy. Ms. Pickett informed him the board is required by statutes to have five (5) board members and two (2) consumer members and currently the board only has one (1) consumer member position filled. Mr. Sobowale addressed Dr. Cole’s inquiry; informing him the department liaison to the governor’s office is aware of the vacancy and is working with the governor’s office on this matter.

Dr. Cole addressed the board staff, stating “he was grateful working with Ms. Taylor and Ms. Pickett.” He stated that since the current administrative staff has been working on the board, lingering board issues have been cleaned up and board operation is working more efficiently and smoothly.

Ratifications

CHIROPRACTIC PHYSICIANS

Dr. Cole made a motion, seconded by Ms. Fitzgerald, to approve the list of the following newly-licensed Chiropractic Physicians:

BUNGE, MIRANDA JO
COOPER, ALISON RENEE
FORD, BRIANNA DANIELLE
JACKSON, BLAKE ANDREW
KEES, SUSAN
MONTELIONE, ERICKA
PALMER, MEGHAN
SCHANUEL, JOSHUA AARON
VANHOOSER, JACOB
WOODSON, ANGELA MARIE

CHAPPA, JOSHUA MICHAEL
ENRICO, DAVID
HOWELL, DANIQUE MARIE
KASPRACK, BRITTANY ANN
MCMILLEN, BRITTANY
MONTELIONE, MICHAEL
PHILLIPS, JEFFREY P
SIPES, MACKENZIE
WHITEHEAD, RANDEL EVERETTE

The motion carried.

CHIROPRACTIC THERAPY ASSISTANTS

Dr. Cole made a motion, seconded by Ms. Fitzgerald, to approve the following list of newly-licensed Chiropractic Therapy Assistants:

ARCHIBALD, ANGELA MARIE
COLEMAN, KALA
GRAHAM, KATIE ELAINE
KNAPP, KRISTAN BETH
LARSON, KATHRYN
MORRISON, STEPHANIE DEE
SHAW, HEATHER
WOODY, JESSICA

BONILLA, ASHLEY NICOLE
COLLINS, TERESA
HUMPHREY, JESSICA
KUENZER, DIETRA
MORRISON, ANGELA PATE
OVERALL, FRANCES
WERNING, MITCHELL

The motion carried.

CHIROPRACTIC X-RAY TECHNOLOGISTS

Dr. Cole made a motion, seconded by Ms. Fitzgerald, to approve the following list of newly-licensed Chiropractic X-Ray Technologists:

MERRIFIELD, CHRISTOPHER
THOMPSON, ADAH
WARRINGTON, LEIGH ANNE

MOGHADDAM, TIFFANY DAWN
WALDRON, KIMBERLY R

The motion carried.

Reinstatements

CHIROPRACTIC PHYCISIANS

Dr. Cole made a motion, seconded by Ms. Fitzgerald, to approve the following list of reinstated Chiropractic Physicians:

ALLEN, WILLIAM LAWTON (retired) DONNELLY, THOMAS PATRICK
FLAGG, MALISSA CARNELL (retired) JAMES, JENNIFER (retired)

CHIROPRACTIC THERAPY ASSISTANTS

Dr. Cole made a motion, seconded by Ms. Fitzgerald, to approve the following list of reinstated Chiropractic Therapy Assistants:

THOMPSON, ADAH E

The motion carried.

Correspondence Review

John Dandelski, DC, submitted a letter requesting an extension, due to hardship of the required continuing competence hours for 2014. Upon board discussion and review, the board voted to accept the continuing competence hours completed in calendar year 2013 to satisfy the continuing competence requirement for calendar year 2014. Dr. Cole made a motion, seconded by Dr. Hosenfeld, to accept Dr. Dandelski's request for an extension on the 2014 continuing competence requirement. The motion carried.

Alicia Irwin, DC, submitted a letter requesting an extension on the Jurisprudence, Ethics and Boundaries requirement. Upon board discussion and review, Dr. Hosenfeld made a motion, seconded by Ms. Fitzgerald, for the board to approve this request. Thereafter, the board voted to grant Dr. Irwin an extension and require completion of the six (6) continuing competence hours by December 31, 2015. The motion carried.

Ms. Angela Murphy, CXT, submitted a letter requesting an extension for the required six (6) continuing competence hours for 2015 to be completed with the 2016 requirements. Upon board discussion and review, Dr. Cole made a motion, seconded by Dr. Hosenfeld, for the board to approve this request. Thereafter, the Board voted to grant Ms. Murphy an extension and require completion of the six (6) continuing competence hours by April 1, 2016. The motion carried.

Ms. Jessica Scott, CTA, submitted a letter requesting a waiver of the fee assessed in the Agreed Citation issued to her for practicing on a lapsed license, due to a system error. Upon board discussion and review, Ms. Fitzgerald made a motion, seconded by Dr. Hosenfeld, to approve this request. Thereafter, the board voted to grant Ms. Scott a waiver for the fees assessed in her Agreed Citation for practicing on a lapsed license. The motion carried.

Devan Arman, DC, submitted a letter requesting an extension to complete the Jurisprudence, Ethics and Boundaries continuing competence requirement. Upon board discussion and review, Dr. Hosenfeld made a motion, seconded by Ms. Fitzgerald, for the board to approve this request. Thereafter, the board voted to grant Dr. Arman an extension and require completion of the six (6) continuing competence hours by December 31, 2015. The motion carried.

Carol Wright-Smith, DC, submitted a letter requesting a waiver for working on lapsed license due to a system error. Upon board discussion and review, Ms. Fitzgerald made a motion, seconded by Dr. Selby, for the board to approve this request. Thereafter, the board voted to reinstate Dr. Wright-Smith's license upon submission of a new application, and without penalty or issuance of an Agreed Citation due to occurrence of a system error. The motion carried.

Other Board Business

A. LEGISLATIVE UPDATES

Jeremy Davis, Department of Health Legislative Liaison, presented the board with legislative updates for 2015:

Public Chapter 154 – allows the Commissioner of Health to have access to electronic medical records in order to facilitate investigations when responding to an immediate threat to public health.

Public Chapter 94 – defines “abuse” and “neglect” in the State and increased the time to appeal an adverse decision from 30 to 60 days prior to being placed on the abuse registry.

Public Chapter 502 – allows the legislative committee that reviews all rules to stay a rule up to 75 days instead of 60 days. This act also added arbitrariness and capriciousness as two new factors for the committee to consider when reviewing rules.

Public Chapter 268 – allows PHI (protected healthcare information) permissible in medical malpractice lawsuits.

Public Chapter 121 - allows the Board of Chiropractic Examiners to petition a court to require a person to Cease and Desist in solicitation or telemarketing during the 30 day time period after an accident.

Public Chapter 261 – allows for the practice of telehealth and that no separate telehealth license will be required by the Board of Medical Examiners. Also a person intending to practice in telehealth must be licensed in a medical health profession in the state of Tennessee to practice.

Public Chapter 475 - changes the requirement for who can become a certificate holder of a pain clinic. This legislation no longer allows pain clinics to be owned, in whole or in part, by chiropractors.

B. SOCIAL MEDIA POLICY

Dr. Cole stated that he will provide information in this area for discussion during the next board meeting.

C. POLICY STATEMENT ON PRECEPTORSHIP

Ms. Pickett presented the board with changes made to the preceptorship policy. Upon board discussion and review, Dr. Cole made a motion, seconded by Ms. Fitzgerald, to accept the changes made to the preceptorship policy. Thereafter, the board voted to approve the changes to the new policy statement on preceptorship as follows: “Preceptors shall function under direct supervision of the sponsoring chiropractic physician and scope of practice shall mirror the scope of the sponsoring physician”. The motion carried.

D. D.O.T. EXAM DISCUSSION

Ms. Pickett presented the board with correspondence from Ms. Sandra Bogard, CLIA Manager, responding to the correspondence sent to the Medical Laboratory Board

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regarding clarification on whether a CLIA waiver is required for Chiropractors to perform simple collection and testing on Urinalysis. Mr. Cole advised the board to discuss the correspondence at the next board meeting, allowing time for more research on the matter. Upon discussion, the board agreed that the correspondence be placed on the agenda for the next board meeting.

E. CE BROKER PRESENTATION

Mr. Shane Hall, CE Expert from CE Broker, presented a video meeting presentation to the Board on background information about CE Broker and the benefits this program will provide to the Board in managing its continuing education requirements for licensees. Ms. Rosemarie Otto, Health Related Boards Director, addressed the board on her research of CE Broker references regarding their performance, and reported her findings about this company were outstanding. She also discussed using the Board of Chiropractic Examiners as a pilot project with CE Broker, in conjunction with another health related board. Upon discussion, Dr. Cole made a motion, seconded by Dr. Selby, for the board voted to proceed on the pilot project with CE Broker. The motion carried.

D. EBAS presentation on Ethics Course Services for Practitioners

Mr. Sobowale stated that he reached out to Dr. Judi Gerstung, EBAS Executive Director, regarding her proposal to make a presentation to the Board, but has yet to receive a response. The Board decided to place this matter on the agenda for the next board meeting.

Adjournment

There being no other business, the meeting adjourned at 12:13 pm.

These minutes were ratified by the Board at the October 8, 2015 meeting.