

**STATE OF NEW JERSEY  
DIVISION OF CONSUMER AFFAIRS  
BOARD OF CHIROPRACTIC EXAMINERS  
124 HALSEY STREET, 6TH FLOOR  
SOMERSET ROOM  
NEWARK, NEW JERSEY**

**PUBLIC SESSION MINUTES  
THURSDAY, JANUARY 19, 2006**

A meeting of the New Jersey Board of Chiropractic Examiners was held on January 19, 2006 at the State Office Building, 124 Halsey Street, 6th floor, Newark New Jersey. The meeting was convened in accordance with the provision of the Open Public Meetings Act with previous notification having been sent to the Secretary of State and the following publications: The Bergen Record, Newark Star Ledger, Camden Courier Post, Trenton Times and Asbury Park Press to advise of the scheduling of this meeting. The meeting was called to order by Joseph Murphy, D.C., President of the Board at 9:40 AM.

**ATTENDANCE**

**PRESENT:** Drs. Atkisson, Krouse, Kostinas, Calio, Murphy, Rada, Senatore and Stabile and Mr. Traier

**EXCUSED:** Dr. O' Connor, (attending F.C.L.B. Board of Directors Meeting), and Mr. Faulkner

**ALSO PRESENT:** DAG John Hugelmeyer, Executive Director Kevin Earle, Venus Hall, Paralegal and recording secretary Shekenna Brown.

**I. APPROVAL OF THE PUBLIC SESSION MINUTES OF DECEMBER 15, 2005**

A MOTION WAS MADE BY DR. RADA, WHICH WAS SECONDED BY DR. KOSTINAS, TO APPROVE THE PUBLIC SESSION MINUTES OF DECEMBER 15, 2005. A VOTE WAS TAKEN AND THE MOTION PASSED WITH ALL MEMBERS PRESENT VOTING IN FAVOR.

**II. OLD BUSINESS**

**A. PROPOSED REGULATIONS: PERMISSIBLE PRACTICE STRUCTURES**

The Board reviewed a redraft of the Permissible Practice Structures Regulation, that was reviewed by the Rules and Regulations Committee at its December meeting. Regulatory Analyst Patricia Schiripo was present during this portion of the meeting. Included in the language in the draft before the Board are the identification of those practice structures in which the incorporation of medical services are included. Specifically the regulations prohibit a sole proprietorship from employing a plenary licensed M.D. or D.O.. Other forms or practices including partnerships, professional service corporations, and limited liability companies may only employ an M.D. or D.O. if at least one partner or shareholder is a plenary licensed M.D. or D.O. in the State of New Jersey. The draft also now expressly includes a limited liability company as a Permissible Practice Structure, consistent with regulations adopted by the Board of Medical Examiners.

The Board also suggested a change in the section on permissible employment arrangements, and determined to remove the word "evaluate" from the section describing an arrangement where the chiropractor is an employee and is supervised by a plenary licensed physician.

A MOTION WAS MADE BY DR. RADA, WHICH WAS SECONDED BY DR. STABILE, TO APPROVE THE DRAFT LANGUAGE FOR PUBLICATION IN THE NEW JERSEY REGISTER AS A PROPOSAL. A VOTE WAS TAKEN AND THE MOTION PASSED WITH ALL MEMBERS PRESENT VOTING IN FAVOR.

## B. PROPOSED REGULATIONS: SUNSET

The Board of Chiropractic Examiners regulations will expire on June 26, 2006. On December 22, 2005, the Rules and Regulations Committee met to review the Board's entire regulations in preparation for the Sunset process. In addition to the recommended changes set by the Rules and Regulation committee, the Board was presented with a letter submitted by the Association of New Jersey Chiropractors with several suggestions for changes to be incorporated in the Sunset.

The Rules and Regulation Committee reported that two independent initiatives that had already been in the approval process have been incorporated into the Sunset proposal. The first would institute a change in the scope of practice to permit the ordering or administering of strengthening, rehabilitative or conditioning exercises as an addition to the physical modalities that may be administered in conjunction with chiropractic care to "facilitate, enhance and/or prolong the effects of the chiropractic adjustment."

The Committee also recommends a change in the sexual misconduct regulations to identify and clarify the means by which a chiropractor would terminate professional services. The new rule will require that written notice be made to the patient via certified mail return receipt requested, documentation made in the patient record, and more than three months having elapsed from the time of the rendering of the last professional service.

Under the section on delegable tasks or functions of unlicensed assistants, the Committee has recommended clarifying the types of mechanical traction that may be delegated to the unlicensed assistant. This is now limited to non-fulcrum mechanical traction without restraints (such as roller tables and roller chairs). The committee also recommends that a new section be added that will permit an unlicensed assistant to setup and prepare the patient for the administration of physical modalities.

The Board also discussed the issue of delegation of massage and determined to provide an exception if the individual to whom the massage is delegated is certified by the Massage, Bodywork and Somatic Therapy Committee under the Board of Nursing.

The Board also included several changes to the Board's diagnostic testing regulations that had previously been approved by the Board. The new language will also incorporate the training requirements for an electro-diagnostic testing permit of 120 hours of classroom and practical hands-on instruction with an examination demonstrating competency.

**A MOTION WAS MADE BY MR. TRAIER, WHICH WAS SECONDED BY DR. STABILE, TO APPROVE THE LANGUAGE INCLUDED IN THE DRAFT, AS WELL AS THE RECOMMENDED CHANGES CONSIDERED FOR PUBLICATION AS A PROPOSAL IN THE NEW JERSEY REGISTER. A VOTE WAS TAKEN AND THE MOTION PASSED WITH ALL MEMBERS PRESENT VOTING IN FAVOR.**

The Board reviewed the other recommended changes offered by the Association of New Jersey Chiropractors and noted that several of the recommendations have already been included within the Sunset proposal. The remainder of the recommendations will be referred to the Rules and Regulations Committee for their consideration.

**A MOTION WAS MADE BY DR. ATKISSON, WHICH WAS SECONDED BY DR. KROUSE, TO REFER THE A.N.J.C.. RECOMMENDATIONS TO THE RULES AND RECOMMENDATIONS COMMITTEE FOR THEIR CONSIDERATION. THE VOTE WAS TAKEN AND THE MOTION PASSED WITH ALL MEMBERS PRESENT VOTING IN FAVOR.**

## C. PETITION FOR RULEMAKING: NEEDLE ELECTROMYOGRAPHY

The Board was advised that on January 11, 2006, Governor Codey signed Senate Bill 188, which restricts the performance of needle electromyography to plenary licensed physicians in the State of New Jersey. An amendment was also included in this legislation that provided an exclusion for both audiologists and chiropractors to perform and interpret evoked potential and nerve conduction studies. The Board was advised due to the enactment of this new Statute, that the Board would need to act on the Petition for Rulemaking that was

requested by the Board to establish regulations for the performance of needle electromyography.

Jeffrey Randolph, Esq., on behalf of the petitioner, was present in the room and reported that the petitioner would be withdrawing the Petition for Rulemaking. Therefore, no action needed to be taken by the Board.

### **III. NEW BUSINESS**

#### **COUNCIL ON CHIROPRACTIC EDUCATION**

The Board reviewed a nomination form for a member of the Board of the CCE from a CCE accredited chiropractic program. This was accepted as informational.

### **IV. GENERAL INQUIRIES**

#### **A. JEFFREY RANDOLPH, ESQ. on behalf of Shar Dreicer, D.C.**

Mr. Randolph is requesting the Board's written approval for Dr. Dreicer to act in the position of clinical director for a pre-clinical Phase II study on the effectiveness of cold laser devices as an aid in the cessation of smoking.

A MOTION WAS MADE BY DR. RADA, WHICH WAS SECONDED BY MR. TRAIER, TO INFORM MR. RANDOLPH THAT THE BOARD HAS LIMITED THE USE OF COLD LASER DEVICES FOR SPECIFIC PHYSICAL MODALITIES TO BE USED IN CONJUNCTION WITH A CHIROPRACTIC ADJUSTMENT. THE USE OF THE DEVICE IS NOT APPROVED FOR THE PURPOSES OF SMOKING CESSATION THERAPY. A VOTE WAS TAKEN AND THE MOTION PASSED, WITH ALL MEMBERS PRESENT VOTING IN FAVOR.

#### **B. INQUIRY OF ROBIN WILLIAMS, D.C.**

Dr. Williams is inquiring whether visceral manipulation is within the scope of practice for chiropractors in the State of New Jersey. The Board reviewed some background information concerning this procedure which apparently was developed by a French Osteopath. Dr. Williams was present to answer questions regarding this matter. Deputy Attorney General Hugelmeyer asked the Board to consider the statutory definition of the practice of chiropractic which includes the manipulation of the articulation of the spine and related structures. Several questions were raised whether such a visceral manipulation would be done in conjunction with a spinal adjustment.

The Board determined that there was insufficient basis to make a determination on this issue and requested Dr. Williams to produce additional data and information concerning this procedure for the Board's consideration. Specifically, that it should identify the nexus between the chiropractic adjustment of the spine and the manipulation that might be performed using these procedures.

#### **C. INQUIRY OF KEVIN I. ASADI, ESQ. on behalf of Pamela E. Wilson, D.C.**

Mr. Asadi is requesting that the Board "vacate" a temporary administrative suspension of Dr. Wilson's license due to having missed a renewal deadline. Board members were advised by Executive Director Earle that once the license is reinstated the record of the suspension associated with such a lapse does not appear in the Boards' record and would not be reported to an individual making such an inquiry. Mr. Earle was requested to respond to Mr. Asadi's inquiry accordingly.

### **V. ELECTRODIAGNOSTIC TESTING PERMIT**

#### **JAY M. COHEN, D.C.**

A MOTION WAS MADE BY DR. ATKISSON, WHICH WAS SECONDED BY DR. STABILE, TO APPROVE DR. COHEN'S APPLICATION FOR AN ELECTRODIAGNOSTIC PERMIT. A VOTE WAS TAKEN AND THE MOTION PASSED WITH ALL MEMBERS PRESENT VOTING IN FAVOR.

## **VI. DISCIPLINARY MATTERS**

SCOTT WHITE, D.C.

Dr. White was a subject of a Final Order entered on March 21, 2002 based upon a conviction for criminal sexual contact. The license was revoked and the Board was not to entertain an application for reinstatement sooner than three years from the date of entry of the Order. The order also required proof of the successful completion of a program of therapeutic education in the area of sexual boundaries for professionals, which was to be approved in advance by the Board. Dr. White completed the ProBE program on November 18-20, 2005. A copy of the report of his attendance was attached as well as a copy of Dr. White's final essay.

The Board noted that the final report issued by Joseph C. D'Oronzio, PhD, of The Ethics Group LLC, noted that Dr. White's demonstration of his capacities for ethical reasoning in insight was considered "conditional."

The Board accepted this report as informational noting that Dr. White has not as yet made a specific petition for reinstatement to the active practice of chiropractic.

## **VII. DISCIPLINARY HEARINGS**

HEARING IN MITIGATION OF PENALTY I/M/O CRAIG KLEIN, D.C.

John Hugelmeyer, DAG for the Attorney General  
Anthony J. Den Uyl, Esq. on behalf of Dr. Klein  
Nancy Costello-Miller, DAG counsel for the Board

On July 13, 2005 a Provisional Order of Discipline was filed with the Board of Chiropractic Examiners based upon Dr. Klein's arrest and appearance in Superior Court where he waived indictment and consented to be charged by accusation with the use of a runner. Dr. Klein was admitted into Pre-Trial Intervention and agreed to pay a fine of \$5,000 to the Office of the Insurance Fraud Prosecutor. Subsequent to Dr. Klein's entry into PTI, Dr. Klein appeared before the Preliminary Investigation Committee of the Board of Chiropractic Examiners where he testified under oath that he had paid \$900 to a confidential informant, for each of the several patients that were referred to his practice.

The Board was provided with the copy of the Provisional Order of Discipline and the transcript of Dr. Klein's appearance before the Preliminary Investigation Committee on June 17, 2004.

Deputy Attorney General placed his appearance on the record. Deputy Attorney General Hugelmeyer reported that he was advised by Mr. Den Uyl by telephone that neither Dr. Klein nor Mr. Den Uyl would be appearing before the Board at this hearing. Mr. Den Uyl reported that Dr. Klein would consent to the entry of a final order incorporating the terms of the Provisional Order of Discipline.

Deputy Attorney Hugelmeyer offered the following item into evidence:

Item P-1: December 21, 2005 letter from Executive Director Earle to Anthony Den Uyl, Esq., setting the date and time for the hearing at 1:30 p.m. today.

It was noted for the record that neither Dr. Klein nor Mr. Den Uyl were physically present.

Item P-2: January 4, 2006 letter from John D. Hugelmeyer, Deputy Attorney General to Attorney Anthony Den Uyl attaching a transcript of the proceedings of June 17, 2004. The letter noted that the Board would rely upon the sworn testimony of Dr. Klein as admissions.

Item P-3: January 11, 2006 letter from Deputy Attorney General Hugelmeyer to the Board in response to a certification submitted by Anthony J. Den Uyl, Esq., on behalf of Dr. Klein.

Deputy Attorney General Hugelmeyer requested that the Board move the aforementioned items into evidence. The President so ordered.

A MOTION WAS MADE BY DR. RADA, WHICH WAS SECONDED BY MR. TRAIER, TO ISSUE A FINAL ORDER IN THIS MATTER CONCLUDING THAT DR. KLEIN ENGAGED IN ACTS CONSTITUTED A CRIME OF MORAL TURPITUDE WHICH RELATED ADVERSELY TO THE PRACTICE OF CHIROPRACTIC, PURSUANT TO N.J.S.A. 45:1-21(f); AND PURSUANT TO N.J.S.A. 45:1-21(h), RESPONDENT HAS REPEATEDLY VIOLATED THE PROVISIONS OF N.J.S.A. 13:44e-2.6, A REGULATION ADMINISTERED BY THE BOARD WHICH PROHIBITS THE PAYMENT BY CHIROPRACTORS OF A REFERRAL FEE FOR PATIENTS.

RESPONDENT'S LICENSE TO PRACTICE CHIROPRACTIC IN THE STATE OF NEW JERSEY SHALL BE SUSPENDED FOR A PERIOD OF FIVE YEARS, EXCEPT THAT THE FIRST TWO YEARS SHALL BE AN ACTIVE SUSPENSION

AND THE FINAL THREE YEARS OF THE SUSPENSION SHALL BE STAYED AND SHALL BECOME A PERIOD OF PROBATION. RESPONDENT SHALL SUCCESSFULLY COMPLETE AND UNCONDITIONALLY PASS THE ProBE OR PRIME COURSE IN ETHICS, AND SHALL PAY A CIVIL PENALTY IN THE AMOUNT OF \$10,000 COMPRISED OF \$7,500 FOR ENGAGING IN ACTS CONSTITUTING A CRIME OF MORAL TURPITUDE AND \$2,500 FOR REPEATED VIOLATIONS OF THE BOARD'S REGULATIONS. RESPONDENT IS ALSO ASSESSED COSTS TO THE STATE FOR THE INVESTIGATION OF THIS MATTER IN THE AMOUNT OF \$427. BEFORE RESUMING THE ACTIVE PRACTICE, RESPONDENT SHALL BE REQUIRED TO APPEAR BEFORE THE BOARD TO DEMONSTRATE FITNESS TO PRACTICE.

A VOTE WAS TAKEN AND THE MOTION PASSED WITH ALL MEMBERS VOTING IN FAVOR.

The hearing was then adjourned.

Respectfully Submitted,

Kevin B. Earle, M.P.H.  
Executive Director