

**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, JUNE 24, 2010

A meeting of the New Jersey Board of Chiropractic Examiners was held June 24, 2010 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 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 Michael Spadafino, D.C., Vice President of the Board, at 9:45 A.M..

ATTENDANCE

PRESENT: Drs. Stabile, O'Connor, Murphy, Calio, Senatore, Spadafino, Rada and Mr. Traier (arrived 10:15 am)

EXCUSED: Dr. Krouse

ALSO PRESENT: DAG John Hugelmeyer, Executive Director Jonathan Eisenmenger & Recording Secretary Sonya Liverpool

I. APPROVAL OF THE PUBLIC SESSION MINUTES OF MAY 27, 2010

A MOTION WAS MADE BY DR. RADA, WHICH WAS SECONDED BY DR. STABILE, TO APPROVE THE PUBLIC SESSION MINUTES OF THE MAY 27, 2010 MEETING AS AMENDED. A VOTE WAS TAKEN AND THE MOTION PASSED WITH ALL MEMBERS PRESENT VOTING IN FAVOR.

II. EXECUTIVE DIRECTOR'S REPORT

Executive Director Eisenmenger reported, by June 2010, the Board office received 18 applications and issued 4 licenses. To date in the fiscal Year 2009-2010, the Board received 123 applications and issued 127 licenses.

This was accepted as informational.

III. PIC SCHEDULE

Dr. Rada addressed the Board regarding scheduling members to attend the upcoming PIC meeting. Dr. Senatore, Dr. Stabile, and Dr. Spadafino volunteered to attend, if needed.

IV. NATIONAL BOARD OF CHIROPRACTICS EXAMINERS

This was accepted as informational.

V. RULES & REGULATIONS COMMITTEE

A. PROPOSED DRAFT REGULATIONS

Regulatory Analyst Deborah Shane-Held appeared before the board to discuss the draft regulations recommended by the rules and regulations committee. Several changes were made by unanimous consent, including: Retaining several sentences from 13:44E-1.1(a), after the new language that was added; breaking 13:44E-1.1(c)(1) into three distinct subsections, and renumbering subsections (2) as (5), and (3) as (6); adding “accredited” before “chiropractic schools” to 1A.5(c); and making “course” plural in 1A.5(f).

A MOTION WAS MADE BY MR. TRAIER, WHICH WAS SECONDED BY DR. RADA, TO HAVE THE BOARD VOTE TO MAKE THE FOLLOWING CHANGE TO THE PROPOSAL: 13:44E-1A.4(L)(2) - CHANGE THE MINIMUM TIME TO RETAIN CONTINUING EDUCATION RECORDS FROM FOUR YEARS TO FIVE YEARS. A VOTE WAS TAKEN AND THE MOTION PASSED WITH SIX (6) BOARD MEMBERS VOTING IN FAVOR AND TWO (2) BOARD MEMBERS OPPOSED (DRS.’ SPADAFINO & CALIO OPPOSED).

A MOTION WAS MADE BY DR. O’CONNOR, WHICH WAS SECONDED BY DR. RADA, TO HAVE THE BOARD VOTE TO MAKE THE FOLLOWING CHANGE TO THE PROPOSAL: 13:44E-1A.5 (C) – ADD “APPROVED BY PACE AND/OR” BEFORE “THE BOARD.” AND ADD, “; EXCEPT THAT THE BOARD MAY DECLINE TO APPROVE ANY INDIVIDUAL COURSE,” TO THE END OF THE SECTION. A VOTE WAS TAKEN AND THE MOTION PASSED WITH SIX (6) BOARD MEMBERS VOTING IN FAVOR AND TWO (2) BOARD MEMBERS OPPOSED (DRS.’ MURPHY & CALIO OPPOSED).

A MOTION WAS MADE BY DR. RADA, WHICH WAS SECONDED BY DR. O’CONNOR, TO HAVE THE BOARD VOTE TO MAKE THE FOLLOWING CHANGE TO THE PROPOSAL: ADD “THE BOARD WILL NOT LIMIT THE 26 CREDITS FROM ANY PARTICULAR CATEGORIES.” A VOTE WAS TAKEN WITH FOUR (4) BOARD MEMBERS VOTING IN FAVOR, THREE (3) BOARD MEMBERS OPPOSED (DRS.’ SPADAFINO, CALIO & MURPHY OPPOSED) AND ONE ABSTENTION (MR. TRAIER). THE MOTION DID NOT CARRY.

A MOTION WAS MADE BY DR. STABILE, WHICH WAS SECONDED BY DR. O’CONNOR, TO ACCEPT THE DRAFT FOR PUBLICATION AS A PROPOSAL, AS AMENDED. A VOTE WAS TAKEN WITH SEVEN (7) BOARD MEMBERS VOTING IN FAVOR AND ONE OPPOSED (DR. RADA OPPOSED).

VI. APPLICATIONS FOR LICENSURE

A. MARIO DUQUE, D.C. (INITIAL)

A MOTION WAS BY DR. O’CONNOR, WHICH WAS SECONDED BY DR. STABILE, TO APPROVE DR. DUQUE FOR LICENSURE, WITH A LETTER OF ADVICE TO REFRAIN FROM FURTHER CONDUCT THAT MAY RESULT IN CONTACT WITH THE CRIMINAL JUSTICE SYSTEM. A VOTE WAS TAKEN AND THE MOTION PASSED WITH ALL MEMBERS PRESENT VOTING IN FAVOR.

B. FRANCESCA M. MARINO, D.C. (INITIAL)

A MOTION WAS BY DR. O’CONNOR, WHICH WAS SECONDED BY DR. STABILE, TO APPROVE DR. MARINO FOR LICENSURE, WITH A LETTER OF ADVICE TO REFRAIN FROM FURTHER CONDUCT THAT MAY RESULT IN CONTACT WITH THE CRIMINAL JUSTICE SYSTEM. A VOTE WAS TAKEN AND THE MOTION PASSED WITH ALL MEMBERS PRESENT VOTING IN FAVOR.

C. STEPHEN M. MURPHY, D.C. (INITIAL)

A MOTION WAS MADE BY DR. O’CONNOR, WHICH WAS SECONDED BY DR. STABILE, TO SCHEDULE DR. MURPHY FOR A FULL BOARD APPEARANCE. A VOTE WAS TAKEN AND THE MOTION PASSED WITH ALL MEMBERS PRESENT VOTING IN FAVOR.

D. JENNIFER L. FINN, D.C. (ENDORSEMENT)

A MOTION WAS MADE BY DR. O’CONNOR, WHICH WAS SECONDED BY DR. RADA, TO APPROVE DR. FINN FOR LICENSURE. A VOTE WAS TAKEN AND THE MOTION PASSED WITH ALL MEMBERS PRESENT VOTING IN FAVOR.

E. ERIC J. VALINS, D.C. (ENDORSEMENT)

A MOTION WAS MADE BY DR. RADA, WHICH WAS SECONDED BY DR. STABILE, TO APPROVE DR. VALINS FOR LICENSURE. A VOTE WAS TAKEN AND THE MOTION PASSED WITH ALL MEMBERS PRESENT VOTING IN FAVOR.

F. MICHAEL W. GOLZ, D.C. (ELECTRO-DIAGNOSTIC)

G. DARREN PORCARO, D.C. (ELECTRO-DIAGNOSTIC)

H. JOSEPH J. YOUNG, D.C. (ELECTRO-DIAGNOSTIC)

I. JOHN PULEO, D.C. (ELECTRO-DIAGNOSTIC)

J. MICHAEL D. CHILLEMI, D.C. (ELECTRO-DIAGNOSTIC)

K. VICTOR N. NAUMOV, D.C. (ELECTRO-DIAGNOSTIC)

L. ROBERT C. ZUNIGA, D.C. (ELECTRO-DIAGNOSTIC)

A MOTION WAS MADE BY DR. RADA, WHICH WAS SECONDED BY DR. O’CONNOR, TO APPROVE ALL OF THE ELECTRO-DIAGNOSTIC PERMIT APPLICATIONS (ITEMS F-L), EXCEPT FOR DR. JOHN PULEO, WHO DID NOT FULLY COMPLETE THE APPLICATION AND MUST PROVIDE AN ADDRESS OF RECORD. VOTE WAS TAKEN AND THE MOTION PASSED WITH ALL MEMBERS PRESENT VOTING IN FAVOR.

VII. OPEN DISCIPLINARY MATTERS

A. ANTHONY CARABASI, D.C.

The Board reviewed a Consent Order filed by the Board office on June 2, 2010.

This was accepted as informational.

B. ROBERT VALINOTI, D.C.

The Board reviewed an Amended Final Decision & Order After UPL Hearing filed by the Board office on June 2, 2010.

This was accepted as informational.

VIII. INQUIRIES

A. MARCO FERRUCCI, D.C.

Dr. Ferrucci inquired about whether it is permitted to hire a phlebotomist or a nurse to work with his patients.

A MOTION WAS MADE BY DR. RADA, WHICH WAS SECONDED BY DR. STABILE, TO REFER DR. FERRUCCI TO THE BOARD OF NURSING WITH RESPECT THAT THE ISSUES RELATED TO WHAT LICENSED NURSES ARE PERMITTED TO DO. HE SHOULD ALSO CONSULT WITH A PRIVATE ATTORNEY IN RELATION TO THE FACILITY REQUIREMENTS FOR HANDLING BLOOD. A VOTE WAS TAKEN AND THE MOTION PASSED WITH ALL MEMBERS PRESENT VOTING IN FAVOR.

B. GERARD KRAMER, D.C.

Dr. Kramer inquired about the regulations governing the selling of supplements by chiropractors.

The Board has not yet promulgated regulations dealing with this recent statutory amendment, and advises Dr. Kramer to consult with a private attorney concerning the statutory requirements involved, including those governing the referral of patients.

C. VENTRESCA JAMES

Ms. James inquired about whether New Jersey chiropractors are permitted to practice acupuncture or dry needling.

A MOTION WAS MADE BY DR. RADA, WHICH WAS SECONDED BY DR. O'CONNOR, TO REFER MS. JAMES TO THE NEW SCOPE OF PRACTICE LAW FOR CHIROPRACTORS AND THE BOARD OF ACUPUNCTURE FOR RULES ABOUT ACUPUNCTURE. A VOTE WAS TAKEN AND THE MOTION PASSED WITH ALL MEMBERS PRESENT VOTING IN FAVOR.

D. GEORGE L. FARMER, ESQ.

Mr. Farmer inquired about the Board's opinion about whether a "retired" chiropractor may testify in court or offer an expert opinion in court.

A MOTION WAS MADE BY DR. RADA, WHICH WAS SECONDED BY DR. CALIO, TO RESPOND THAT A CHIROPRACTOR WHOSE LICENSE IS RETIRED MAY NOT ENGAGE IN THE "PRACTICE OF CHIROPRACTIC," UNLESS AND UNTIL THE LICENSE IS REINSTATED TO "ACTIVE" STATUS. WHETHER OFFERING AN OPINION IS ENGAGING IN THE PRACTICE OF CHIROPRACTIC DEPENDS UPON THE NATURE AND PURPOSE OF THE OPINION TO BE RENDERED. THE STATUS OF AN "EXPERT" IS UP TO THE COURT TO DECIDE. A VOTE WAS TAKEN AND THE MOTION PASSED WITH ALL MEMBERS PRESENT VOTING IN FAVOR.

E. FUTURE OF HEALTHCARE

Question about the mechanism for reimbursement of chiropractors who sell or distribute juice supplements. After discussing the matter, the Board determined to make the following response:

The Board has not yet promulgated regulations concerning this recently enacted statutory amendment; however, to avoid violations of New Jersey's statutory self-referral restrictions, a chiropractor will need to purchase an inventory of nutritional supplements for his or her practice in order to offer them for sale to patients with need of them at a reasonable markup, rather than referring patients to a third party in which the chiropractor has a significant financial interest.

F. KEVIN L. ESPOSITO

Dr. Esposito inquired about what training is required in order to perform MUAs in the State of New Jersey.

THE BOARD HAS NOT YET PROMULGATED REGULATIONS TO DEFINE THE TRAINING NEEDED TO PERFORM MUAS IN THE STATE OF NEW JERSEY. THE BOARD DETERMINED TO RESPOND THAT, AT THIS POINT, THE BOARD WILL EVALUATE THE TRAINING OF LICENSEES ON A CASE-BY-CASE BASIS TO ASSESS THEIR CREDENTIALS AND TRAINING. GENERALLY SPEAKING, THE BOARD WOULD BE INCLINED TO ACCEPT TRAINING THAT IS

**OBTAINED FROM A CHIROPRACTIC COLLEGE OR ANOTHER
INSTITUTION THAT IS ACCREDITED BY THE CCE.**

IX. MISCELLANEOUS

A. GUNNAR HENNING, D.C.

The Board reviewed a disciplinary action taken in the Commonwealth of Virginia based on the Consent Order that was previously signed in New Jersey.

This was accepted as information only.

X. APPEARANCES

A. JAY PLOTKIN, D.C. (10:00 AM)

Reinstatement hearing following the suspension of his license upon issuance of a Final Order of Discipline on December 3, 2008. Dr. Plotkin is now making an application for reinstatement, and thought that the suspension would be automatically lifted after he paid the penalty in early 2009. Dr. Plotkin testified about his current employment, and his plans for future practice as a chiropractor in New Jersey.

**A MOTION WAS MADE BY MR. TRAIER, WHICH WAS
SECONDED BY DR. RADA, TO HAVE THE BOARD MOVE TO
EXECUTIVE SESSION FOR DELIBERATION. A VOTE WAS
TAKEN AND THE MOTION PASSED WITH ALL MEMBERS
PRESENT VOTING IN FAVOR.**

**A MOTION WAS MADE BY MR. TRAIER, WHICH WAS
SECONDED BY DR. SENATORE, TO HAVE THE BOARD MOVE
BACK INTO PUBLIC SESSION. A VOTE WAS TAKEN AND THE
MOTION PASSED WITH ALL MEMBERS PRESENT VOTING IN
FAVOR.**

**A MOTION WAS MADE BY DR. STABILE, WHICH WAS
SECONDED BY DR. SENATORE, TO REINSTATE DR.
PLOTKIN'S LICENSE BY CONSENT ORDER, PURSUANT TO
THE SAME CONDITIONS HE WAS ISSUED IN THE FINAL
ORDER OF 2008, WITH THE CONDITION THAT HE NOTIFY
THE BOARD WHEN HE BEGINS PRACTICE AS AN ASSOCIATE
IN NEW JERSEY, AND ONLY PRACTICE AS AN ASSOCIATE**

FOR THE FIRST 21 MONTHS, AS OUTLINED IN THE ORIGINAL ORDER. AFTER THE 21 MONTH PERIOD, AND PRIOR TO WORKING AS A SOLO PRACTITIONER, DR. PLOTKIN MUST RE-APPEAR BEFORE THE BOARD IN ORDER TO REMOVE THAT RESTRICTION. A VOTE WAS TAKEN AND THE MOTION PASSED WITH ALL MEMBERS PRESENT VOTING IN FAVOR.

PUBLIC COMMENT

Former Board members Dr. Anthony DeMarco, Dr. Robert Tarantino, Dr. Thomas Sidoti, and Dr. Gregory Stetzel presented a statement to the Board about the proposed continuing education regulations.

Dr. Gregory Stetzel posed a question about whether chiropractors will be held responsible for completing 30 credits during the current licensing period, since the regulations have not been promulgated yet. The proposed regulations contain a reference to requiring licensees to complete 24 credits during this period, but no courses have been approved yet, and there are no regulations that describe the approval process. After discussing the issue, the Deputy Attorney General stated that the statute requires licensees to complete the courses, so chiropractors should make plans to complete continuing education courses. The Board has the authority to approve continuing education courses, even after they have been completed.

A MOTION WAS MADE BY MR. TRAIER, WHICH WAS SECONDED BY DR. O’CONNOR, TO GO INTO EXECUTIVE SESSION AT 12:40 P.M., TO CONSIDER NINE OPEN COMPLAINTS, THREE REFERRALS FROM OTHER AGENCIES, ONE MISCELLANEOUS & ONE HAND-OUT. A VOTE WAS TAKEN AND THE MOTION PASSED WITH ALL MEMBERS PRESENT VOTING IN FAVOR.

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