

**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, JULY 20, 2006**

A meeting of the New Jersey Board of Chiropractic Examiners was held on June 15, 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 Lawrence O'Connor, D.C., President of the Board, at 9:30 AM.

**ATTENDANCE**

**PRESENT:** Drs. Calio, Stabile, Rada, Kostinas, Krouse, O' Connor, Senatore, Spadafino, Murphy, and Mr. Traier

**EXCUSED:** None

**ALSO PRESENT:** DAG John Hugelmeyer, Executive Director Kevin Earle, Government Representative Venus Hall and Recording Secretary Sonya Liverpool.

**I. APPROVAL OF THE PUBLIC SESSION MINUTES OF JUNE 15, 2006**

A MOTION WAS MADE BY DR. KOSTINAS, WHICH WAS SECONDED BY DR. RADA, TO APPROVE THE PUBLIC SESSION MINUTES OF JUNE 15, 2006 AS AMENDED. A VOTE WAS TAKEN, AND THE MOTION PASSED WITH ALL MEMBERS PRESENT VOTING IN FAVOR.

**II. NEW BUSINESS**

**1. COUNCIL ON CHIROPRACTIC EDUCATION - PROPOSED REVISIONS TO CCE STANDARDS**

The Board reviewed a notice from the CCE seeking proposals for consideration by the CCE Board of Directors for revisions to the CCE standards.

THIS WAS ACCEPTED AS INFORMATIONAL.

**2. CCE COMMISSION ON ACCREDITATION**

The Board of Directors of the CCE is seeking nominations to the Commission on Accreditation for individuals to fill four positions on the Commission on Accreditation. The positions will be filled at the conclusion of the CCE Commission on Accreditation meeting on January 2007.

THIS WAS ACCEPTED AS INFORMATIONAL.

**3. COUNCIL ON CONTINUING CHIROPRACTIC EDUCATION - NOTICE OF U.S. DEPARTMENT OF EDUCATION RECOGNITION**

The Board reviewed a copy of a notice reporting that the National Advisory Committee on Institutional Quality and Integrity has recommended to the Secretary of Education a renewal of the recognition for the Council on

Chiropractic Education, Commission on Accreditation, for a period of five years.

THIS WAS ACCEPTED AS INFORMATIONAL.

### **III. GENERAL INQUIRIES**

#### **A. THERESA M. DiGUGLIELMO, ESQ.**

Ms. DiGuglielmo is requesting guidance regarding a Chiropractor's use of publicly available data such as Motor Vehicle accident reports to identify prospective patients. Specifically, the inquirer asked whether such accident reports could be used to identify prospective patients and send circulars, flyers or other print media regarding chiropractic services to such individuals via U.S. mail. Reference was made to the Board's advertising regulations at N.J.A.C. 13:44E-2.1, which prohibits a chiropractor from engaging in "directly or indirectly in uninvited, in-person solicitation of actual or potential patients who, because of their particular circumstances, are vulnerable to undo influence." Ms. DiGuglielmo noted that the term "in-person" implies that licensees and their representatives may not physically confront prospective patients. She further noted that solicitations by mail are not "in-person" and that the recipient of such solicitations may freely act upon or discard such information.

The Board noted that questions regarding an interpretation of this regulation have been made to the Board on a fairly regular basis. Executive Director Earle also reported that the Board often receives telephonic inquiries from chiropractors regarding the Board's interpretation of this regulation under these circumstances. Upon further discussion it was noted that some chiropractors or their representatives make telephonic contact with individuals using information obtained from publicly available accident reports.

After discussion, the Board opined that the automobile accident reports must be obtained in a legal way. Further, the Board opined that solicitation by mail does not, on its face, meet a standard that would be considered "in-person" solicitation as contemplated in the Rule. The Board noted that Chiropractors should be mindful that uninvited, unsolicited telephonic contact with an auto accident victim can be interpreted as violative of the spirit of the rule, due to the person's individual circumstances that may make him/her "vulnerable to undo influence." Further, Chiropractors should be mindful of the provisions of both Federal & State laws and regulations that prohibit telephonic contact with individuals who have registered a telephone number on the "Do Not Call" list. The Division of Consumer Affairs is aggressively prosecuting violators of these regulations.

**A MOTION WAS MADE BY DR. STABILE, WHICH WAS SECONDED BY DR. KOSTINAS, TO RESPOND TO THE INQUIRY AS NOTED ABOVE. A VOTE WAS TAKEN AND THE MOTION PASSED WITH NINE MEMBERS VOTING IN FAVOR AND ONE OPPOSED (DR. SPADAFINO).**

#### **B. INQUIRY OF DAVID L. STEPHENS, D.C.**

Dr. Stephens is seeking guidance on an interpretation of the Board's position with respect to the delegation to unlicensed assistants, particularly as it relates to unlicensed staff setting up a patient and preparing them for the administration of electric stimulation. In addition, Dr. Stephens requests guidance on roller traction. The Board opined that the delegation of roller traction is a permissible delegation to unlicensed individuals, both under current regulations and under the Board's proposed new regulations that are under consideration during Sunset. Based upon the description given in the letter and consistent with the Board's current thinking as articulated in the Sunset proposal, the delegation to an unlicensed assistant to set up the patient, including the placement of pads, is permissible as long as the positioning and placement is checked by the chiropractor. The chiropractor is responsible to assure that the pads are correctly placed and would then be responsible to turn on and monitor the operation of the unit. This delegation of the task as described above would appear to be permissible under the rule.

**A MOTION WAS MADE BY DR. CALIO, WHICH WAS SECONDED BY DR. STABILE, TO APPROVE THE RESPONSE AS NOTED ABOVE. A VOTE WAS TAKEN AND THE MOTION PASSED WITH ALL MEMBERS PRESENT VOTING IN FAVOR.**

#### **IV. LICENSURE**

##### **A. ROBERT E. QUARRY, JR., D.C.**

Dr. Quarry has submitted an application for licensure by endorsement and has requested the Board's guidance on an issue relating to his pre-chiropractic education. Dr. Quarry reports that he can only demonstrate fifty-three pre-chiropractic credits rather than sixty as required by the statute and only thirty-five of those credits were earned prior to the commencement of an approved Chiropractic college program. The Board noted that the period in question dates back to 1971.

The Board was directed to the provisions of Board regulations at N.J.A.C 13:44E-1A.3©, which provides that a licensee who holds a license in good standing to practice in another state who has five years of post graduate chiropractic clinical experience and does not satisfy the prerequisite educational requirements may be granted a license to practice chiropractic in New Jersey provided that the applicant has passed the National Board of Chiropractic Examiners, Special Purposes Examination for Chiropractic (SPEC).

**A MOTION WAS MADE BY DR. KOSTINAS, WHICH WAS SECONDED BY DR. RADA, TO COMMUNICATE TO DR. QUARRY THAT HE IS REQUIRED TO TAKE THE SPEC EXAMINATION IN ORDER TO BE QUALIFIED FOR LICENSURE IN THIS STATE. A VOTE WAS TAKEN AND THE MOTION PASSED WITH ALL MEMBERS PRESENT VOTING IN FAVOR.**

##### **B. DUNCAN HALES, D.C.**

Dr. Hales is currently practicing in England and holds licenses in California as well as under the Government Chiropractic Council in the United Kingdom. He requested guidance with respect to qualifications for licensure in New Jersey. It was recommended that Dr. Hales be provided with a copy of the Board's regulations on licensure by endorsement.

##### **C. MARK MONIR DAWOUD, D.C.**

Dr. Dawoud is an applicant for licensure by examination. His application noted the existence of an incident in the past, for which Dr. Dawoud has supplied an explanation.

**A MOTION WAS MADE BY DR. RADA, WHICH WAS SECONDED BY DR. MURPHY, TO APPROVE DR. DAWOUD'S APPLICATION FOR LICENSE BY EXAMINATION SUBJECT TO THE SUCCESSFUL COMPLETION OF THE JURISPRUDENCE EXAMINATION. A VOTE WAS TAKEN AND THE MOTION PASSED WITH ALL MEMBERS PRESENT VOTING IN FAVOR.**

##### **D. DAVID FRANCIS ARPIN, D.C.**

Dr. Arpin is an applicant for licensure by endorsement and has completed Parts I-III of National Boards. He is currently licensed in both North Carolina and Texas, both licenses are active with no disciplinary record.

**A MOTION WAS MADE BY DR. KROUSE, WHICH WAS SECONDED BY DR. KOSTINAS, TO APPROVE DR. ARPIN FOR LICENSURE BY ENDORSEMENT SUBJECT TO THE SUCCESSFUL COMPLETION OF THE JURISPRUDENCE EXAMINATION. A VOTE WAS TAKEN AND THE MOTION PASSED WITH ALL MEMBERS PRESENT VOTING IN FAVOR.**

#### **V. DISCIPLINARY MATTERS**

##### **A. LOUIS D'AGOSTINO, D.C.**

Dr. D'Agostino's application for licensure in the state of New Jersey by endorsement was denied by a Final Order entered on June 17, 2002. The Board has received an inquiry from Keith J. Roberts, Esq., on behalf of Dr. D'Agostino, requesting that the Board reconsider Dr. D'Agostino's application. Dr. D'Agostino has not practiced

chiropractic for more than five years and has requested to take the Special Purposes

Examination in Chiropractic. The National Board of Chiropractors Examiners require the Board's permission to take the SPEC examination. After successful completion of the SPEC examination, he may apply for reinstatement.

A MOTION WAS MADE BY DR. MURPHY, WHICH WAS SECONDED BY DR. KOSTINAS, TO APPROVE DR. D'AGOSTINO TO TAKE THE SPEC EXAMINATION. A VOTE WAS TAKEN AND THE MOTION PASSED WITH ALL MEMBERS PRESENT VOTING IN FAVOR.

B. I/M/O BRIAN KLAPPHOLZ, D.C.

This matter was moved to Executive Session for consideration.

C. I/M/O GREGORY TRENTACOSTA, D.C.

The Board received correspondence from Joseph Portelli, Esq., which provides a copy of filed Order in New Jersey Superior Court which terminates Dr. Trentacosta's enrollment in pre-trial intervention. Mr. Portelli seeks reinstatement of Dr. Trentacosta's license to practice. Dr. Trentacosta's license was actively suspended for a minimum period of three years commencing on January 29, 2004. The Board reviewed a copy of the Final Consent Order. The Board was directed to paragraph six of the Order which indicates that Dr. Trentacosta could apply earlier if he provides the Board with psychiatric reports including a discharge report from the psychiatrist. If approved by the Board, Dr. Trentacosta can practice with the remaining period of his suspension served as a period of probation.

A MOTION WAS MADE BY DR. RADA, WHICH WAS SECONDED BY DR. KOSTINAS, TO COMMUNICATE WITH THE ATTORNEY FOR DR. TRENTACOSTA TO OBTAIN THE INFORMATION SO THAT THE BOARD CAN GIVE THIS MATTER FURTHER CONSIDERATION. A VOTE WAS PASSED AND MOTION GRANTED WITH ALL MEMBERS PRESENT VOTING IN FAVOR.

## **ADJOURNMENT**

A MOTION WAS MADE BY DR. KOSTINAS, WHICH WAS SECONDED BY DR. MURPHY, TO GO INTO EXECUTIVE SESSION TO CONSIDER PENDING DISCIPLINARY MATTERS, ENFORCEMENT BUREAU REPORTS AND CONSUMER COMPLAINTS. A VOTE WAS TAKEN AND THE MOTION PASSED WITH ALL MEMBERS PRESENT VOTING IN FAVOR.

Respectfully Submitted,

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