

**STATE OF NEW JERSEY
DIVISION OF CONSUMER AFFAIRS
BOARD OF CHIROPRACTIC EXAMINERS**

**PUBLIC SESSION MINUTES
NOVEMBER 17, 2005**

A meeting of the New Jersey Board of Chiropractic Examiners was held on November 17, 2005 at the State Office Building, 124 Halsey Street, 3rd 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 Louro, D.C., President of the Board at 10:00 AM.

ATTENDANCE

PRESENT: Drs. Atkisson, Calio, Louro, Kostinas, Murphy, O'Connor, Rada, Senatore, Stabile and Mr. Traier

ALSO PRESENT: DAG John Hugelmeyer, Executive Director Kevin B. Earle, Recording Secretary Maria Lado, Government Representative Venus Hall

EXCUSED: Mr. Faulkner

I. APPROVAL OF THE PUBLIC SESSION MINUTES OF OCTOBER 20, 2005

A MOTION WAS MADE BY DR. O'CONNOR WHICH WAS SECONDED BY DR. KOSTINAS TO ACCEPT THE PUBLIC SESSION MINUTES OF OCTOBER 20, 2005 AS AMENDED. A VOTE WAS TAKEN AND THE MOTION PASSED WITH ALL MEMBERS PRESENT VOTING IN FAVOR.

II. PROPOSED REGULATIONS

A. N.J.A.C. 13:44E-2.15 - PERMISSIBLE PRACTICE STRUCTURES

Regulatory Analyst Patricia Schiripo was available to discuss this draft regulation which followed a meeting with the Rules & Regulations Committee meeting. The Board reviewed the draft. The proposed regulation is meant to mirror recent changes in the Professional Practice Structure Regulations of the Board of Medical Examiners which was recently amended to include limited liability companies as a permissible practice form. Considerable discussion ensued as to identifying language that would establish those types of licensed health care professionals who could be employed by chiropractors, and the relationship between chiropractors and plenary licensed physicians licensed by the Board of Medical Examiners. The Board discussed whether it was necessary to identify a hierarchy of licenses under the category of sole proprietorship (such as nurses, physical therapist, x-ray technologist or occupational therapist or acupuncturists) or whether such an employment arrangement needed to be listed separately in all of the various permissible practice structures delineated in the regulations.

Further discussion ensued over the role of plenary licensed physicians in such practices. Attorney General Hugelmeyer noted that this Board's regulations would be subject to some limitation with respect to plenary licensed physicians. Licensees of the Board of Medical Examiners would need to abide by that Board's regulations.

A MOTION WAS MADE BY MR. TRAIER WHICH WAS SECONDED BY DR. KOSTINAS TO REFER THIS MATTER BACK TO THE COMMITTEE FOR RECONSIDERATION GIVEN THE LENGTH OF THE DISCUSSION. A VOTE WAS TAKEN AND THE MOTION FAILED TO PASS.

A limited further discussion was permitted by the President to continue. Several suggested options were reviewed

and it was finally determined that Deputy Attorney General Hugelmeyer would work with Regulatory Analyst Schiripo with recommended changes in the language to accommodate the Board's concerns. A new draft will be given to the Rules & Regulations committee for discussion at the December meeting with a revised draft to be considered at the January Board meeting.

B. SUNSET OF BOARD REGULATIONS

The Board members were reminded that it will need to consider the Sunset of its regulations which are set to expire in June 2006. Members of the Rules and Regulations committee should check their availability for a meeting to consider whether any changes in the language of the regulations should be made during the sunset adoption process to be approved at the January Board meeting.

III. ANNOUNCEMENTS

COUNCIL ON CONTINUING EDUCATION

The Board reviewed the results of the recent elections for positions open on the Board of Directors and the Commission on Accreditation of the Council on Chiropractic Education .

THIS WAS ACCEPTED AS INFORMATIONAL.

VI. NATIONAL BOARD OF CHIROPRACTIC EXAMINERS

Dr. Rada submitted a written report on the National Board issues that were discussed at the FCLB District meeting held on September 29 - October 2, 2005.

THIS WAS ACCEPTED AS INFORMATIONAL.

V. GENERAL CORRESPONDENCE

A. ANDREW J. BLAIR, ESQ.

Mr. Blair submitted several inquiries concerning issues involving delegation to unlicensed assistants.

Mr. Blair questioned the Board's definition of the term "licensed." The Board defined that as an individual who is licensed by a health care licensing Board under the New Jersey Division of Consumer Affairs. He also inquired whether a certified medical assistant or nurse aide qualified under the regulation. Mr. Blair will be advised that neither of these individuals are licensed by the Division

He further inquired as to whether a chiropractic assistant may apply the following modalities:

1. Mechanical Percussive Vibratory Massage - cannot be delegated to an unlicensed assistant
2. Application of pads for electrical stimulations - can be delegated as supervised by a chiropractor.
3. Placing patient on "Anatomotor" type tables, adjusting settings and turning the unit on - permissible as delegated by a chiropractic physician.
4. Application of hot and cold packs - permissible as directed by a licensed chiropractor.

Finally, Mr. Blair asked whether chiropractic assistants need to be certified or have completed a course of study or can they be trained by a doctor. Mr. Blair is to be advised that chiropractic assistants are not regulated by the New Jersey Board of Chiropractic Examiners. Their duties fall under the classification of "unlicensed assistants" under the Board's delegation regulations at N.J.A.C. :13:44-E -2.7.

B. ROY R. JACKSON, D.C.

Dr. Jackson has inquired whether it is within the scope of chiropractic to perform Vascular Testing (doppler ultrasound and plethysmography). He also inquires whether it is within the scope to perform biofeedback as a treatment for various spinal pain disorders such as headache and radiculopathy.

The Board opined that insufficient information was supplied with the inquiry with respect to the need for vascular testing and its connection to chiropractic treatment. The Board's initial opinion would be that the use of such testing would not be appropriate. With respect to the issue of biofeedback, the Board opined that biofeedback in this circumstance would be within the scope of chiropractic.

The Board suggested that a follow up letter be directed to Dr. Jackson to obtain more information concerning the issue of vascular testing.

A MOTION WAS MADE BY DR. ATKISSON WHICH WAS SECONDED BY DR. SENATORE TO DIRECT A LETTER TO DR. JACKSON TO REQUEST MORE EXPLICIT INFORMATION CONCERNING THE APPLICATION OF THE VASCULAR TESTING. IN THE BOARD'S RESPONSE, THE BOARD'S LETTER SHOULD MAKE IT CLEAR THAT IT IS NOT ADDRESSING THE COMPENSABILITY OF SUCH TESTING IN A CHIROPRACTIC OFFICE. A VOTE WAS TAKEN AND THE MOTION PASSED WITH ALL MEMBERS PRESENT VOTING IN FAVOR.

C. MICHAEL K. CARBONE, D.C.

Dr. Carbone faxed a request asking if chiropractors can do collection of urine, hair follicles and saliva for drug or alcohol compliance testing.

A MOTION WAS MADE BY DR. O'CONNOR WHICH WAS SECONDED BY DR. CALIO TO RESPOND TO DR. CARBONE THAT IT IS PERMISSIBLE FOR LICENSED CHIROPRACTORS TO PERFORM THIS FUNCTION. A VOTE WAS TAKEN AND THE MOTION PASSED WITH ALL MEMBERS PRESENT VOTING IN FAVOR.

VI. DISCIPLINARY MATTERS

IMO SUSPENSION OR REVOCATION OF CHARLES G. NISIVOCCIA, D.C. TO PRACTICE CHIROPRACTIC IN THE STATE OF NEW JERSEY Jay V. Surgent, Esq, on behalf of Respondent Siobhan B. Krier, DAG for the State of New Jersey

Deputy Attorney General Siobhan Krier reported to the Board that a resolution of this disciplinary matter had been agreed upon in the form of a Consent Order. The Consent Order makes a finding that Dr. Nisivoccia violated the Board's regulations for the payment of referral fees by offering to pay an individual for the referral of patients. A further finding that he was dishonest with regard to this matter while testifying under oath before a committee of the Board. The Consent Order imposes a five year suspension, 24 months of which will be active and the balance to serve as a period of probation. The suspension becomes active within 30 days of the signing of the Order to allow for the orderly transfer of patients. Respondent will also be required to complete a Board approved ethics course; pay \$8,560 in costs and a civil penalty of \$10,000 within 30 days of the filing of the Order.

A MOTION WAS MADE BY DR. STABILE WHICH WAS SECONDED BY DR. CALIO TO ACCEPT THE TERMS OF THE CONSENT ORDER AS OFFERED. A VOTE WAS TAKEN AND THE MOTION PASSED WITH ALL MEMBERS PRESENT VOTING IN FAVOR.

ADJOURNMENT

A MOTION WAS MADE BY DR. MURPHY WHICH WAS SECONDED BY DR. O'CONNOR TO GO INTO EXECUTIVE SESSION TO CONSIDER PENDING BOARD INVESTIGATIONS, CONSUMER COMPLAINTS AND DISCIPLINARY MATTERS. A VOTE WAS TAKEN AND THE MOTION PASSED

WITH ALL MEMBERS PRESENT VOTING IN FAVOR.

Respectfully Submitted,

Kevin B. Earle, MPH
Executive Director