

ALASKA STATE BOARD OF CHIROPRACTIC EXAMINERS

MINUTES OF MEETING
JULY 12, 2013

These are DRAFT minutes prepared by the staff of the Division of Corporations, Business and Professional Licensing. These minutes have not been reviewed or approved by the Board

By authority of AS 08.01.070(2) and in compliance with the provisions of AS 44.62, Article 6, a scheduled meeting of the Alaska State Board of Chiropractic Examiners was held July 12, 2013 in Fairbanks, Alaska.

Call to Order

The meeting was called to order by Dr. Heston, Chair, at 10:32 a.m.

Roll Call

Board members present, constituting a quorum of the Board:

James Heston, DC, Chair – Homer
Daniel Holt, DC, Vice-Chair – Juneau
Walter Campbell, DC, Secretary – Palmer
Edward Barrington, DC – Anchorage
Renee Robinson, Public Member – Anchorage

In attendance from the Department of Commerce, Community and Economic Development, Division of Corporations, Business and Professional Licensing:

Michelle Johnston, Records and Licensing Supervisor
Susan Johnson, Licensing Examiner
Todd Araujo, State of Alaska Attorney – via teleconference
Debbie Ryan, Executive Director Alaska Chiropractic Society – via teleconference
Don Habeger, CCED Division Director – via teleconference

Agenda Item 1 – Review Agenda

The Board reviewed the draft agenda. Dr. Heston noted that items #13 and #15 were marked “a.m.” and should be changed to “p.m.”

Upon a motion duly made by Dr. Barrington, seconded by Dr. Holt and approved unanimously, it was:

RESOLVED to approve the agenda, as amended.

Agenda Item 2 – Review Meeting Minutes

The Board reviewed the minutes of the March 22, 2013 minutes. The following changes were made:

- Page 2 talks about Dr. Heston request clarity for item 5. Staff to review recording.
- Dr. Heston requested clarification regarding goal 8.
- Dr. Heston noted typing errors under Agenda Item 6, page 5. Items to be corrected: (Myovision, paradigm, corrected FCLB May 1-5, Lisa McGuire spelling)

Upon a motion duly made by Dr. Campbell, seconded by Dr. Holt and approved unanimously, it was:

RESOLVED to approve the minutes of the March 22, 2013 meeting, as amended.

Agenda Item 3 – Board Business

Ethics Reporting

Ethics Video is available online for Board members to view. The Board discussed clarification of what is considered a gift and the monetary limits of gifts.

Ratification of New Licensees

The Board reviewed the list of new licenses for ratification:

- Barbara Bifelt #571
- Lindsay Browning #572

The Board reviewed the list of reinstated licenses for ratification:

- Timothy Allen #173

The Board reviewed the list of temporary licenses for ratification:

- Lauren A. Crone #64
- Maria Angel #65

Review Goals and Objectives

The Board reviewed their goals and objectives for Fiscal Year 2014:

Goal 1: Carry out assigned duties of the board:

- Objective 1:* Conduct a minimum of three board meetings a year and to rotate the location of the meetings between different regions of the state.
- Objective 2:* Continue licensing chiropractic physicians and processing applications in a timely manner.
- Objective 3:* Review investigative reports, monitor disciplinary actions, and provide professional direction to Division investigative staff regarding disciplinary actions, probation matters, criminal history record information, and chiropractic practice.
- Objective 4:* Utilize the National Board of chiropractic Examiners (NBCE) Special Purposes Examination for Chiropractic (SPEC) and Ethics & Boundaries Examination (E&B) in memorandum of agreements.
- Objective 5:* Continue to review and process requests for continuing education credit approval in a timely manner.
- Objective 6:* Continue to administer the Jurisprudence exam concurrent with Board meetings, and to include candidate interviews as part of the examination.
- Objective 7:* Make Board determinations and Position Statements, as appropriate, regarding issues affecting the safety of the public.
- Objective 8:* ***Archive any Position Statements so that they are easily accessible to the public.***

****Addition***

Add Objective 8 to Goal 1: Archive any Position Statements so that they are easily accessible to the public.

Goal 4: Pursue statutory authority consistent with the practice of chiropractic to ensure the health and safety of the public.

- Objective 1:* Support the Alaska chiropractic Society (ACS) in pursuing statutory authority for regulation of Independent Medical Examinations (IMEs).
- Objective 2:* Support the Alaska Chiropractic Society (ACS) in pursuing an increased fine for unlicensed practice under AS 08.20.200.
- Objective 3:* Support the Alaska chiropractic Society (ACS) regarding the subject of physical exams for school, sports activities, pre-employment, workplace fitness, impairment rating evaluations, FAA and DOT specialties, etc.
- Objective 4:* Support the Alaska Chiropractic Society (ACS) in amending Alaska Statute 018.20.160 by removing “apparently” from verbiage.
- Objective 5:* Support the Alaska Chiropractic society (ACS) in pursuing statutory authority for licensing chiropractic assistants, technicians, and interns/preceptors.
- Objective 6:* Support the Alaska chiropractic Society (ACS) efforts in pursuing a statutory change to allow animal chiropractic. Work in conjunction with the Veterinary Board.

Goal 5: Access and evaluate regulations.

- Objective 1:* Continue to assess and evaluate continuing education requirements.
- Objective 2:* Continue to assess and evaluate radiological safety, professional *ethics and* boundaries, public health, *and* emergency training.
- Objective 3:* Proactively make recommendations through regulations to anticipate changes in the health industry.

***Addition**

The Board added “professional ethics and boundaries” to objective 2.

***Addition**

The Board discussed suggested adding “and” in front of *emergency training* in objective 2.

Goal 6: Assess and evaluate the review process available through the Peer Review Committee.

- Objective 1:* Refine procedures for committee review of cases and the reporting process; consider establishing criteria (guidelines) for utilization review under 12 AAC 16.430.
- Objective 2:* Direct review inquiries to the committee.
- Objective 3:* Keep the committee roster fully staffed with three chiropractors and one public member at all times.

Goal 7: Continue affiliation with the Federation of chiropractic Licensing Boards (FCLB), the National Board of Chiropractic Examiners (NBCE), the Association of Chiropractic Board Administrators (ACBA), and the Council on Chiropractic Education (CCE), as well as the Council on Licensure, Enforcement and Regulation (CLEAR) and the Federation of Associations of Regulatory Boards (FARB):

- Objective 1:* Promote attendance of continuing Board members *and staff* at district and annual meetings of the FCLB; to provide input and obtain information at both national and state levels regarding matters impacting Alaska Chiropractors.
- Objective 2:* Work with the FCLB on maintaining a listing of Alaskan Chiropractors on the National Database (CIN-BAD).
- Objective 3:* Promoted attendance of Board members at the semi-annual NBCE Part IV Examinations and Part IV Examination Review committee meetings of the NBCE to provide input and obtain information on the Exams required for chiropractic licensure in Alaska.

Objective 4: Promote attendance of the Licensing Examiner at the annual meetings of the ACBA and FCLB to provide input and obtain information at both national and state levels regarding matters impacting the regulation and licensure of Alaskan Chiropractors.

Objective 5: Promote attendance by Board members and staff at the annual CLEAR and/or FARB conferences.

****addition***

- Add “and staff” to Objective 1.
- Add “who have been sanctioned” after *Alaskan Chiropractors* in Objective 2.
- Add “Part III Examination Review Committee” after *semi-annual NBCE* in Objective 3.

Upon a motion duly made by Dr. Campbell, seconded by Dr. Holt and approved unanimously, it was:

RESOLVED to approve the changes and additions to their goals and objectives for Fiscal Year 2014.

The Board discussed the election of Board Officers.

Upon a motion duly made by Dr. Barrington, seconded by Ms. Robinson and approved unanimously, it was:

RESOLVED to elect Dr. Heston as President, Dr. Holt as Vice-President and Dr. Campbell as Secretary for Fiscal Year 2014.

Agenda Item 4 – Application Review

Dr. Barrington moved that the Board enter into Executive Session, seconded by Dr. Campbell at 11:10 a.m.

On the record at 11:14 a.m.

The Board went off the record at 11:19 a.m. for a short break.

On the record at 11:27 a.m.

Agenda Item 5 – ACS Update

The Board discussed the Annual Report Review. Dr. Barrington will take the recommendation to the ACS Legislative Committee and collaborate with them to ensure that the Board and the

Legislative Committee are on the same page as far as what both are trying to accomplish legislatively. Dr. Heston provided a narrative statement to include in the recommendation.

The Board contacted ACS for an update. Debbie Ryan addressed the Board regarding concerns about a visit to the ACS offices by a GEICO Insurance representative.

Ms. Ryan discussed an email that she received from the ACS Lobbyist regarding the Alaska Worker's Compensation Board work-group meeting. Ms. Ryan expressed concern that there may be a Board that will exclude treatment provided by chiropractors.

Ms. Ryan attended a meeting held by Commonwealth Northwest regarding Obamacare and how it will affect private providers and their organizations.

ACS may have a seminar coming up, information to follow.

Ms. Ryan had a conversation with Laura Hunter Premera-Blue Cross/FUP regarding the Self-Audit request. ACS will send a formal letter to Premera/Blue Cross for further information on the Self-Audit.

Agenda Item 6– Investigative Report

No new cases at this time.

Agenda Item 7 – Peer Review Committee

Dr. Holt contacted the following providers to inquire if they were willing to participate on the Peer Review Committee:

- Dr. Todd Lovell
- Dr. John Murphy
- Dr. Pontius
- Dr. Evan Frisk

There are two peer review requests waiting, one which has been waiting for quite a while.

Agenda Item 8 – Position Statements

Dr. Barrington provided a sample Position Statement for the Board's review. The Board approved the format. Dr. Barrington will send out possible Position Statements prior to the next Board meeting to see if any need to be included in the next meeting.

Agenda Item 9 – Massage Therapy Board Formation

There has been no new progress to report on the Massage Therapy Board formation. They continue to revise their draft statute proposal.

Off the record at 12:14 p.m.
On the record at 1:49 p.m.

NOTE: The Board was delayed during lunch. Hampton Inn front desk staff was notified of the delay and asked to monitor the meeting room for anyone wishing to make a public comment. Upon the Board's arrival, it was reported that no one showed up for public comment and no one was waiting.

Agenda Item 12 – Division Updates

Don Habeger joined the meeting via teleconference. HB187 is the Department's request of the Legislature to consider changing how fees are calculated and using general funds as a portion of public protection for professional licensing investigative activity. Section 3 and 4 of the bill address central licensing statute, particularly how the division looks at fee calculations. Director Habeger requested the Board look at the Bill and ultimately, at the next meeting, to issue a resolution or support of this bill. The support of the Board is important.

There are three goals that are to be accomplished with this legislation:

- The Department would like additional biannual cycles to recoup costs or to reduce expenses. Every two years, licenses are renewed. Current statute asks the division to look annually to look at revenue expenses and make them approximately equal. This bill would allow the division and Board to extend the time to recoup a loss to extend over three (3) two-year licensing cycles;
- This bill would allow the division to consolidate fees;
- Public protection is a shared responsibility of the State of Alaska and should not fall solely on the licensees. We are asking the Legislature to consider funding investigative time. The Board would still be responsible for the costs associated with an investigation, but this approach is easier to quantify costs. Investigative time is approximately 60% to 65% of all investigative costs on an annual basis. Under this bill, the general fund would pick up those costs.

Travel

Director Habeger stated that HB 65 added \$200,000 to CBPL travel. The bill also included \$20,000 for third party reimbursement for out of state travel and becomes a mechanism that allows the Division to recognize the reimbursement as revenue. Essentially, it is an offset to that expense.

HB 84 requires any Board that has a temporary license to consider promulgating regulations so that they can accept military training and credit for licensure. It also requires expedition of a license of qualified military personnel. Sara Chambers will be sending out additional information in the near future.

Agenda Item 13 – Injectable Nutrients

Todd Araujo joined the Board via teleconference regarding Injectable Nutrients. There was an informal letter written in 2008 by Gail Horeski which was never signed. Dr. Heston asked if Mr. Araujo had rendered an opinion on the topic. Mr. Araujo stated that he had an opinion and further stated the underlying question regarding Injectable Nutrients was if the Board could discipline a licensed Chiropractor for injecting nutrients into a patient; whether it was permissible or something that is outside the scope of a licensed Chiropractor.

The opinion of Mr. Araujo is that Injectable Nutrients and vitamins, as currently analyzed in the regulations and statutes, is outside the scope of a Chiropractor even though it is not explicitly stated in the statutes. There have been other states that have dealt with this issue. Some states have outlawed Injectable Nutrients all together while other states have embraced them. Mr. Araujo stated the Board is empowered with authority to discipline and impose sanctions on licensees that are engaged in patient care outside of the Chiropractic practice, mainly because Injectable Nutrients are almost without exception considered prescription drugs.

The use of prescription drugs is excluded from the definition of Chiropractic in the statutes as well as the definition of Chiropractic Core Methodology. The administration of prescription drugs is excluded. An injected substance is a prescription drug. The Dietary Supplement, Health and Education Act (DSHEA) was written in 1994 and defines a dietary supplement as a product, that as a threshold matter, must be taken by mouth that contains a dietary ingredient that is intended to supplement a diet, such as vitamins, minerals, herbs or other botanicals, amino acids, enzymes, organ tissues, glandular and metabolites. It is Mr. Araujo's opinion that Injectable Nutrients are outside the scope of practice of a Chiropractor.

Missouri recently addressed a very similar issue and after reviewing their current statutes, they arrived at almost the same conclusion, that Injectable Nutrients are outside the scope of practice of a chiropractor. Per Mr. Araujo, the Board may want to consider a position statement regarding Injectable Nutrients and perhaps an advisory letter to the regulated licensed community that Injectable Nutrients are not permissible under the current statutes.

Agenda Item 10 – FCLB Update

Dr. Heston discussed the FCLB event and presented his notes from the lectures that he attended.

Agenda Item 11 – NBCE Update

No new business to discuss

Agenda Item 14 – Reciprocity/License by Credentials

Dr. Heston reported that he has been in contact with the Arizona Board and was put in touch with the Executive Director. Arizona does not have pre-Chiropractic college requirements. In

order to have reciprocity, Alaska would have to change their statutes and regulations currently requiring two years of prior education.

Agenda Item 15 – Animal Chiropractic

Stephanie Jones compiled state regulations and statutes from Missouri, Oklahoma, Minnesota and Colorado. Minnesota, Colorado and Oklahoma requires at least 210 hours of training through The American Veterinary Chiropractic Association and The International Veterinary Chiropractic Association (IVCA/AVCA). Dr. Heston suggested creating a document to present to the Veterinary Board and ask if there are any problems with it. The Board is leaving it in the hands of the ACS at this time and will discuss it further during the next Board meeting.

Agenda Item 16 – New Business

Due to recent regulation changes regarding continuing education, the first question on the State Chiropractic exam needs to be updated. Dr. Heston proposed changing 24 hours to 32 hours for every re-licensure period. The current answer is 12 and should be changed to 16.

Upon a motion duly made by Dr. Barrington, seconded by Dr. Campbell, and approved unanimously, it was:

RESOLVED to change the exam question to comply with current regulation.

Agenda Item 17 – Correspondence

Linda Hvidsten, Professor and Associate Dean of Clinical Education at Northwestern Health Sciences University inquired if Alaska offered a chiropractic student externship.

Upon a motion duly made by Dr. Heston, seconded by Dr. Barrington, and approved unanimously, it was:

RESOLVED to table the internship, gather information and discuss at the next meeting.

Agenda Item 18 – Administrative Business

The exam and Board meeting schedule will be:

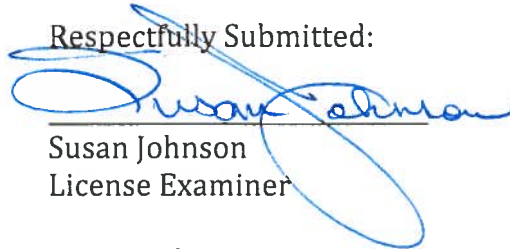
- October 4th – Anchorage
- January 24th – Juneau
- June 6 – Anchorage

Upon a motion duly made by Dr. Holt, seconded by Dr. Barrington, and approved unanimously, it was:

RESOLVED to adjourn the meeting.

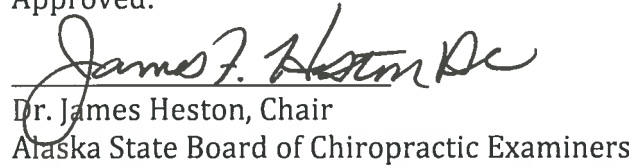
The meeting adjourned at 4:15 PM

Respectfully Submitted:



Susan Johnson
License Examiner

Approved:



Dr. James Heston, Chair
Alaska State Board of Chiropractic Examiners

Date: 10-4-13