

STATE OF ALASKA
DEPARTMENT OF COMMERCE, COMMUNITY AND ECONOMIC DEVELOPMENT
DIVISION OF CORPORATIONS, BUSINESS AND PROFESSIONAL LICENSING

ALASKA STATE BOARD OF CHIROPRACTIC EXAMINERS

MINUTES OF MEETING
October 4, 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 October 4, 2013 in Anchorage, Alaska.

Call to Order

The meeting was called to order by Dr. Heston, Chair, at 9:38 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

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

Susan Johnson, Licensing Examiner, Juneau
Todd Araujo, Department of Law – via teleconference
Brian Howes – Investigator, Anchorage – via teleconference

In attendance from the public:

Debbie Ryan, Executive Director Alaska Chiropractic Society – via teleconference
Dr. Miranda Montejo, Anchorage
Amanda Unser, Anchorage, Alaska

Agenda Item A – Review Agenda

The Board reviewed the draft agenda. Dr. Heston noted that Denali Daniels would be unable to join the board for the meeting however Amanda Unser,

President of the Massage Coalition of the State of Alaska would join the meeting around 1:30p.m. Staff noted that the division update had to be changed to 1:30 and that Director Habeger would provide the update rather than Sara Chambers.

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

RESOLVED to approve the agenda, as amended.

Agenda Item B – Review Meeting Minutes

The Board reviewed the minutes of the July 12, 2013 minutes. The following changes were made:

- Agenda item 7, John Murphy is not a doctor, staff to correct;

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

RESOLVED to approve the minutes of the July 12, 2013 meeting, as amended.

Agenda Item C – Board Business

Ethics Reporting

Staff reported that there were no ethics violations to discuss.

Dr. Heston stated that there were some Chiropractic offices that were upset with an ad Dr. Campbell's office placed in the phone book regarding free x-rays and exams. Dr. Campbell stated that there was nothing in the statutes that prevented this type of ad. Dr. Barrington received a call regarding the ad and that the concerns were that providing free services demeaned the procedures. Dr. Barrington stated that some people may be concerned about *bait and switch* and that patient's insurance or patients might be billed.

Dr. Holt showed concern over inducement. Dr. Campbell stated that most advertisements are noted in office that the free services cannot be used in conjunction with Medicaid/Medicare. Dr. Barrington stated that public perception is the issue at hand. Dr. Campbell stated that he operates offices across the state and is aware of the markets in which he operates and finds no conflict. Dr. Campbell stated that people that respond to those types of ads are typically unable to afford care otherwise and that it is an opportunity to reach out to the community, essentially good will. Dr. Barrington has created a position statement regarding this issue. The conversation was tabled for later discussion.

Dr. Campbell stated that he would like to see a position statement created regarding Chiropractic office staff contacting other Chiropractic offices pretending to be patients to fish out information.

Ratification of New Licensees

The Board reviewed the list of new licenses for ratification:

- Samuel P. Woolfenden #573
- Lauren A. Crone #574
- Maria C. Angel #575
- Corey J. Modrell #576
- Scott A. Folsom #577
- Charles P. McGrath #578

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

RESOLVED to ratify new licenses.

Review Goals and Objectives

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

Under Goal 4, Objective 4, Dr. Barrington will ensure that the word *apparently* is removed from the Alaska Chiropractic Society amendment draft.

Dr. Heston briefly discussed the new secure website. Dr. Campbell stated that he cannot access it. Staff advised Dr. Campbell that he probably would be unable to access the site using Apple products.

**Off the record at 10:08 AM for a break
On the record at 10:13 AM**

There was a request to establish reciprocity with Arizona, which was reviewed at the last board meeting. The state of Arizona does not require two years of pre-chiropractic education that is required by Alaska. AS 08.20.120 (qualifications for licensure), the qualifications are two years of pre-chiropractic education or practiced chiropractic for three of the last four years, therefore the two years of pre-chiropractic education is not required. Alaska has a physiotherapy requirement that Arizona does not require.

Alaska and Arizona laws are similar and both President Heston and Arizona's Chiropractic board President Jim Badge believe that reciprocity can be accomplished. Dr. Heston will complete a letter to the Arizona Chiropractic Board that will outline Alaska's requirements for reciprocity. The board will approve the letter prior to it being sent. Applicants will still be required to test on Alaska's statutes to obtain licensure. Dr. Campbell inquired about the benefits of reciprocity. Dr. Heston stated that applicants

would still be required to complete most of the application process, but the reciprocity agreement would lessen the requirements of the applicant slightly.

The board discussed internship for Chiropractic student interns. The legislative committee and the Alaska Chiropractic Society are working on this. Dr. Heston presented the Minnesota statutes which provide an excellent example of where the student intern fits into the licensure process.

The board placed a phone call to Assistant Attorney General Todd Araujo. Injectable Nutrients were discussed at the last meeting. Dr. Heston inquired if Mr. Araujo had completed the letter that Gail Horenski began before she left the position. The letter has not been signed but it may be completed soon. Mr. Araujo inquired as to what else the board would like regarding the issue. Dr. Heston answered that the board is looking for clarity on how the law is interpreted because it is being interpreted differently than some chiropractors that are practicing in the state. Mr. Araujo stated that guidance has been provided orally and inquired if something more is required. Dr. Campbell pointed out that if the board is challenged on the issue, it would be good to be able to provide a copy of the letter that Ms. Horeski began. Mr. Araujo stated that he has not been authorized to sign the letter at this time and that in the future the board should expect to receive a signed copy of that advice. Mr. Araujo stated that because of the high turnover rate in the Attorney General's office, he has to pick up the process in the middle and back track in order to ensure that the process is complete.

Dr. Heston began dialog on criminal background checks for applicants. Mr. Araujo stated that the statutes do not require an applicant to provide a background check from every state that they have been in, specifically where the applicant attended school. Dr. Heston stated that the intent of a background check is to look at someone's background and the statute does not seem very clear. He also pointed out that an applicant could have spent several years in a state other than his or her home state and might have had many issues that the board would never know about without a background check from that state. Mr. Araujo stated that this was a legitimate hole in the information that the board looks at. Dr. Heston inquired if there was a solution. Mr. Araujo stated that other boards that make use of the national criminal history background check. He stated that there is no fool-proof background check because the national check relies on each state to update information in an accurate and timely manner.

Mr. Araujo looked into the nursing program to see how they conduct background checks. He suggested that the board may exercise prerogative to change the wording of the application to suit their needs regarding the location of the school that the applicant attended. Mr. Araujo stated that he would be happy to investigate further to see how the board may accomplish this. Dr. Heston replied that he thought this was a good idea, but questioned whether going to the national criminal history check would circumvent the individual state background checks. Mr. Araujo stated that he will look into the upside and downside might be to using the national background check. Mr. Araujo will check other boards to see what background check scenario they use and present them to the Chiropractic board to determine which background check will work best.

Dr. Heston stated that he is bothered by the state requirement that an applicant submits an Alaska background check, even if they have never been to Alaska prior. Mr. Araujo stated that the requirement seems frivolous, and that the requirements may need to be looked at and revised. Dr. Heston stated that going to the national criminal history check would circumvent this requirement as well. Mr. Araujo will check into the usefulness of the national criminal history background check and get back to the board on the matter. After the call ended, Dr. Campbell stated that by requiring the Alaska background check, it is redundant but it is ensuring that the applicant is being truthful on their application. Dr. Heston stated that he liked the idea of doing one background check. Dr. Campbell agreed as long as the check was thorough.

Dr. Barrington indicated that the Alaska Chiropractic Society will be pushing legislation to clarify the issue of injectable nutrients. Alaska Chiropractic Society is concerned that prescriptive labeling and pharmaceutical companies are pushing legislation that will make prescribing nutritionals and the application of such will be changed in the future. Dr. Barrington believes that the board can obtain support for their position on these items.

Dr. Heston suggested that perhaps it would be a good idea to assist the Naturopaths by adding them to the Chiropractic board and with the legislative proposals upcoming, both Chiropractic and Naturopaths will be on level playing ground. Dr. Heston stated that it was not his goal to regulate the naturopaths but they are an allied profession. Dr. Barrington will contact Cary Jasper, a naturopath and will ask him to provide feedback on this idea. Dr. Barrington said that the injectable issue is being driven nationally by Dick Durbin and John McCain who have been attempting to put vitamins under prescriptive authority for years.

Dr. Campbell stated that it is completely reasonable that the board obtain a statement from the Alaska Department of Law regarding the injectable nutrient issue. The board's position is that injectable nutrients are not allowed.

Agenda Item D – Investigative Report

The board contacted Investigator Brian Howes via telephone. Investigator Howes stated that there were two (2) ongoing cases and would need to speak with a board member about another matter. Dr. Heston provided his contact information for this matter.

Agenda Item E – Alaska Chiropractic Society Update

The board contacted Debbie Ryan for an update from the Alaska Chiropractic Society. Ms. Ryan inquired how many applicants tested and passed. Dr. Heston reported that six (6) people tested and passed. Ms. Ryan stated that there is a need for more education in Alaska. She attended the Alaska Worker's Compensation board meeting on September 26-27, 2013, where she attended a meeting where Shannon Filchin, a nurse practitioner from Anchorage Neurosurgical Associate, presented information on cervical lumbar and shoulder injury for patients. It was a good presentation. When the

presentation was complete, it became apparent that the board is taking time out of their meeting in order to train their board members on the things that they are making decisions on. Ms. Ryan asked the director if he would be agreeable to a Chiropractic presentation, to which he was agreeable.

Alaska Chiropractic Society has been doing more outreach with political groups and politicians in order to meet the candidates.

Membership for Alaska Chiropractic Society is at 150 members with 23 new members and an 85% retention rate. The convention will be held at the Hilton in Anchorage next year during the first weekend in October. Alaska Chiropractic Society will attempt to get the convention PACE approved in order to invite attendees from other states. Ms. Ryan stated that she is concerned that many of the states are going to PACE approved continuing education courses only and hoped that Alaska was not going to follow suit. Dr. Campbell assured her that Alaska will not be pursuing this. Dr. Heston will double check on the fee structure with PACE.

Agenda Item F – Position Statements

Dr. Barrington provided several position statements for the board to review. Position statements include: Diagnostic Imaging, Ambulance Chasing, Ancillary Therapies, Advertisement of Free Services and Injectable Nutrients. The board will discuss the position statements at the next board meeting.

Agenda Item G – Peer Review Committee

Dr. John Lovell and John Murphy, public member were presented to the board for consideration to join the Chiropractic Peer Review Committee. There will be an additional application voted on via mail ballot once the application has been received by staff.

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

RESOLVED to approve Dr. John Lovell and John Murphy as members of the Chiropractic Peer Review Committee.

The board went off the record for lunch at 11: 57 AM.
The board went back on record at 1:15 PM

Agenda Item H – FCLB Update

Dr. Heston attended the Annual Conference of the FCLB and shared his notes with the board.

- Licensing actions must be reported to the FCLB within 30 days of the action to be on the HIPDP list;
- Regarding criminal reporting, most states have self-reporting in the renewal period; Some states run their licensees through a database to check for criminal activity at a renewal period;
- Some states require reporting if something is expunged from the criminal record;
- Oregon requires that a practitioner reports a conviction within 14 days;
- CIN-BAD only knows what has been reported;
- Some states issue a press release when action is placed on a doctor's license;
- Oregon has been regulating their CA's for more than 15 years;
- Groupon is considered to be fee-splitting; some states have outlawed Groupon completely;
- Regarding licensing foreign trained chiropractors, the board will have to look at the CCE and the CCEI (Council for Chiropractic Education International) to determine what will be adequate training
- North Dakota has consent in writing when a patient presents an issue. If a patient develops a new complaint, a new consent is signed;
- In advertising, it is important to identify a DC as a chiropractor and then move forward with an ad;
- Most states have an executive director and have the AG working for them for no additional fee;
- Most states allow online renewals;
- Oregon has a two day retreat to establish new goals for the board;
- Several states have more than one association.

Agenda Item I – NBCE Update

Dr. Heston is the chairman of the meeting minutes committee.

Agenda Item J – Division Update

There was no division update available during this board meeting due to technical difficulties.

Agenda Item K – Public Comment

There were no members of the public present.

Agenda Item L – Massage Therapy Board Formation

Amanda Unser joined the board to provide an update on the Massage Therapy Board formation. The Massage Therapy Board has come quite a long way since the last time they provided an update. There has been a state coalition created. The coalition has traveled to several towns to have meetings to present a draft of the bill and requested feedback from those attending. There is an 80% approval from the massage community in support of the formation of a board. Denali Daniels is the contracted

lobbyist and Sam Keto is a sub-contracted lobbyist in Juneau. Ms. Unser is hoping that it will pass legislation during this upcoming session.

Agenda Item M – Animal Chiropractic

During the last meeting, it was agreed that this topic would be moved over to the Alaska Chiropractic Society. Dr. Campbell questioned why this was something that the Chiropractic board was undertaking when it has nothing to do with humans, but rather animals. Dr. Heston suggested contacting the Veterinary Board. Dr. Holt will write a letter to the Veterinary Board.

Agenda Item N – New Business

There was no new board business presented.

Agenda Item O – Correspondence

The board discussed correspondence from the Board of Physical Therapy and Occupational Therapy. Dr. Heston volunteered to create a letter in response.

Dr. Miranda Montejo, a physical therapist, joined the meeting. She was asked about the term *physiotherapy* in describing modality. She stated that she didn't know if it was a protected term in the United States.

Regarding a letter from the Department of Transportation, the board stated that it was acceptable for a Chiropractor to complete physical examinations for commercial motor vehicle drivers.

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

RESOLVED to adjourn the meeting at 2:31 PM.

Respectfully Submitted:


Susan Johnson
License Examiner

Approved:


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

Date: 1/24/14