

State of Alaska
Department of Commerce, Community and Economic Development
Division of Corporations, Business and Professional Licensing

BOARD OF CHIROPRACTIC EXAMINERS

MINUTES OF THE MEETING

Friday, June 6, 2014

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 Board of Chiropractic Examiners was held Friday, June 6, 2014, beginning at 9:09 a.m. The meeting was held at the Atwood Building, 550 W 7th Avenue, Conference Room 1270, Anchorage, Alaska.

Agenda Item 3 Call to Order/Roll Call

The meeting was called to order by Chair James Heston at 9:09 a.m.

Board Members Present, constituting a quorum:

James Heston, Doctor of Chiropractic
Daniel Holt, Doctor of Chiropractic
Walter Campbell, Doctor of Chiropractic
Edward Barrington, Doctor of Chiropractic

Board Members not Present:

Christine Hill, Public Member

Attending from the Division of Corporations, Business and Professional Licensing were:

Tawna Curry, Licensing Examiner
Brian Howes, Investigator
Todd Araujo, Assistant Attorney General (*via telephone*)
Sara Chambers, Director
Martha Hewlett, Administrative Officer (*via telephone*)
Dr. Todd Curzie, President Alaska Chiropractic Society (*via telephone*)

Agenda Item 4 Review Agenda

The Board reviewed the agenda and James Heston added an item under Board Business to call Assistant Attorney General Todd Araujo to discuss fee splitting and the national background checks.

On a motion duly made by Daniel Holt, seconded by Edward Barrington, and approved unanimously, it was

RESOLVED to accept the amended agenda.

Agenda Item 5 Review Minutes

The Board reviewed the minutes from the January 24, 2014 meeting and the March 21, 2014 teleconference.

On a motion duly made by Edward Barrington, seconded by Daniel Holt, and approved unanimously, it was

RESOLVED to approve the minutes of the January 24, 2014 and March 21, 2014 meetings.

Agenda Item 6 Board Business

Ethics Report

There were no ethics violations to report.

Ratify New Licenses

The Board discussed how the exams were scored and decided to add that discussion under Agenda Item 14.

Review Goals and Objectives FY 2015

James Heston mentioned that the sunset audit talked about the fact that the goals and objectives have not changed over time. Walter Campbell did not think that this should be given much merit. The Board discussed the changes to the Goals and Objectives for FY 15.

The Board discussed the current consequences of unlicensed practice and whether or not the Board could increase the fines. It was suggested that the Board talk to Investigator Brian Howes regarding the current limits of fines set in centralized statutes and how they can enforce unlicensed practice and create a deterrent for future unlicensed practice.

The Board also discussed how many of the goals and objectives that were linked with ACS that ACS was currently working on or if the Board should pursue them through their own legislative and regulation changes.

TASK:

James Heston also wants the Board of Chiropractic Examiners to be added to the list in AS 08.01.050. This should be added to the statute and regulation change project.

TASK:

The Board discussed the Peer review committee and the process. Daniel Holt, as Board liaison, will talk to the lead committee member regarding the process. The Board will look at the committee members and when their terms expire.

Investigator Brian Howes joined the meeting at 10:49 a.m.

Web Page

The web page needs updated. Tawna Curry advised that some things recently have been updated, but please advise if there are other things that the Board would like changed.

Massage Therapy Board

The legislation passed and they have their own board now.

Annual Report Review

James Heston is working on the annual report and will clean up the goals and objectives from today's discussion and write the narrative statement. James Heston expressed his frustration at the rapid turnover of examiners and the job classification system.

Oregon Board Discipline Model

The Board members were directed to the chart. It would be a good tool on deciding how to sanction. Brian Howes explained a little more on the tool. Alaska right now does not have a huge problem with discipline issues.

Agenda Item 7 Investigative Report

The Board's investigator, Brian Howes, presented and explained his investigative report, which included activity up to May 20, 2014. Brian Howes was asked by the Board about the fine limits for unlicensed practice. Brian Howes explained the different processes between the criminal actions through the district attorney's office and the civil actions through the attorney general's office. A civil action through a cease and desist order can be done through the investigator's office. The fees collected do not go directly back to the Board.

The Board is charged to pursue the investigation even if the person is not licensed by the Board. Brian Howes explained the litigation process in getting a consent agreement before the Board or filing a complaint.

Agenda Item 6 Board Business Continued

Discussion with Todd Araujo

Todd Araujo joined the meeting telephonically at 11:10 a.m. Todd Araujo discussed the issue of fee splitting. Other states prohibit this but Alaska has not prescribed this conduct. There is no limit to this activity and no Alaska law addresses this. The Board can look at this conduct and make a policy with regard to the issue.

James Heston alerted Todd Araujo that the Board is going to move forward with the national background check.

Director Sara Chambers joined the meeting at 11:10 a.m.

Agenda Item 8 Budget Report/Division Updates

Martha Hewlett joined the meeting telephonically at 11:15 p.m. and explained the expense report for the Board.

Sara Chambers advised the Board of her new role as director. Ms. Chambers assured the Board that she will continue to work to resolve the Board's issues. Ms. Chambers will have a greater role in the budget and she gave an update on HB 187. Currently HB 187 is dead but a discussion will start in July to work towards a solution to the issues raised in HB 187.

There was a discussion of the specific financial status of the Chiropractic Board. The Board has been fairly consistent with their surplus amount. The draft fee review was presented and discussed. With this draft, there would be no fee change. The current surplus is reasonable if there are future legal fees.

The Board expressed concern about the turnover of licensing examiner staff and the need to reclassify the position. Sara Chambers updated the Board on the Division's efforts to reclassify the licensing examiner's position. Changes are also happening within the Division to provide the supervisors with more assistance.

Sara Chambers addressed the travel process and how the Division is looking at possible changes to board member travel versus how staff travel is handled. The Division is looking at solutions and hopefully moving towards a solution.

Finally, future training for Board members was also discussed. The trainings would be directed specifically for chairs, basic information and more in depth information. Board members can have input on topics that need to be addressed.

Agenda Item 10 Lunch Break

On a motion duly made by Edward Barrington, seconded by Walter Campbell, and approved unanimously, it was

RESOLVED to break for lunch.

Off record at 12:05 p.m.

On record at 1:15 p.m.

Agenda Item 9 ACS Update

Dr. Todd Curzie joined the meeting telephonically at 1:15 p.m. The Board discussed Aetna's policies and recommended to the ACS that the ACS talk to Barnhill. The upcoming convention was discussed. Only 24 continuing education credits will be available at the convention. Dr. Curzie's letter to the Board was discussed regarding modifying the definition of "prescription drug". The ACS does not anticipate submitting any legislation in the upcoming session. The Board has a few legislative changes they would like to propose and invited the ACS to collaborate with the Board on these changes.

TASK:

After Dr. Todd Curzie left the meeting, James Heston pointed out that the statute in Dr. Curzie's letter was incorrect. Instead of 08.20.990, it should be 08.20.900. Dr. Heston will put some thought into the request and possibly a teleconference can be set up to discuss this further.

Walter Campbell left the meeting at 1:25 p.m. and returned at 1:32 p.m.

Agenda Item 11 FCLB Update

James Heston gave an update on the FCLB meeting. Licensing and enforcement issues were discussed at the FCLB meeting. Different scenarios regarding licensing and enforcement were discussed by the Board.

Some general notes from the conference: some states do not require a high school education; CCE accreditation from the USA, Canada, Australia, Asia and Europe can be accepted; and states are turning to the FBI checks.

Agenda Item 12 NBCE Update

James Heston gave an update on the NBCE meeting. Our ethics and boundary examination is now being used by other professions.

Agenda Item 13 Public Comment

No one from the public was present for public comment.

Agenda Item 14 Jurisprudence Exam Review

The examination is not public and shall not be distributed as part of this meeting minutes. The questions that need changing were discussed. (#19, #42/45 and #32 (add locum tenens))

It was determined that Mr. McClaskey did actually pass the examination and Tawna Curry will contact him first thing Monday morning and advise him of this.

TASK:

Each board member shall read through the examination and come up with questions to replace certain questions.

Agenda Item 15 New Business

Staffing Issues

This issue was discussed earlier in the meeting.

Daniel Holt left the meeting at 2:08 p.m. and returned at 2:10 p.m.

Position Statements

Walter Campbell dissents with Position Statement #1. The language would need to be changed for him to agree with it. This statement is tabled.

Position Statement #2 needs to be amended. Position Statement #5 is tabled. An additional position statement needs to be added to the packet as well.

TASK:

The changes to the position statements need to be sent to the Licensing Examiner.

The Board would like to do a mail vote on all the statements after changes are made and sent out for review.

Amend 12 AAC 16.290 and Licensure Requirements

The regulations need to be cleaned up. The Board discussed the regulation project. A copy of the draft is attached to these minutes.

TASK:

The application needs to have a question regarding the applicant's primary state of residence since that is where the criminal history report needs to come from.

Agenda Item 16 Peer Review Committee

In accordance with the provisions of Alaska Statute 44.62.310 (c) (2), I, Edward Barrington, move to go into executive session for the purpose of discussing peer review.

Board staff to remain during the session

Off record at 2:41 p.m.

On record at 3:10 p.m.

On a motion duly made by Edward Barrington, seconded by Daniel Holt and approved unanimously, it was

RESOLVED that the position statements in the packet, with the addition of the physical therapy, be sent electronically to all members for their scrutiny and then sent back to the Department and have a mail vote on each one of them.

On a motion duly made by Daniel Holt, seconded by Walter Campbell and approved unanimously, it was

RESOLVED to accept the Peer Review's findings on both files.

On a motion duly made by Daniel Holt, seconded by Walter Campbell and approved unanimously, it was

RESOLVED to send the second file reviewed today (Yang) by the Peer Committee on to investigations for their review.

Agenda Item 17 Correspondence

Letter from Dr. Messercshmidt

The Board discussed the attachment regarding advertising by chiropractic physicians. This letter is taken under advisement, in addition to looking at other state's laws.

TASK:

Board members to come back with examples of other state's advertising laws.

Letter from Nicholas Wolf

Preceptorships are allowed but there is no ability for hands on adjustments. We would like to change this. Licensing Examiner will respond to this email.

Edward Barrington left the meeting at 3:20 p.m. and returned at 3:22 p.m.

Letter from CCE

No issues in Alaska to address at this time.

Agenda Item 18 Administrative Business

One CEU file was reviewed because of a denial. The denial was changed to approved after further review (Life Chiropractic College West – *California Jam*).

FY 2015 Meeting/Exam Schedule:

The October 2014 meeting can be scheduled at the Hilton Hotel with the convention.

January 23, 2015 in Juneau

May 15, 2015 in Anchorage

September 18, 2015 in Fairbanks

Wall Certificates were signed. Meeting Minutes for January 24, 2014 and March 21, 2014 were signed by James Heston and Tawna Curry. TA's and Receipts were verified and collected. Board Travel/Conferences was discussed and will be added to the annual report. The Board Task List was reviewed.

Review Goals and Objectives FY 2015 Continued

The Board clarified the changes to the goals and objectives to be finalized in the annual report.

Agenda Item 19 Adjourn

On a motion duly made by Edward Barrington, seconded by Walter Campbell and approved unanimously, it was

RESOLVED to Adjourn the meeting at 3:44 p.m.

Respectfully Submitted:

Tawna Currie for Tawna Curry

Tawna Curry

License Examiner

Approved:

James F. Heston

Dr. James Heston, Chair

Alaska State Board of Chiropractic Examiners

Date: 10-2-14