

**STATE OF ALASKA
DEPARTMENT OF COMMERCE, COMMUNITY, AND ECONOMIC DEVELOPMENT
DIVISION OF CORPORATIONS, BUSINESS AND PROFESSIONAL LICENSING
BOARD OF CHIROPRACTIC EXAMINERS**

**MINUTES OF MEETING
SEPTEMBER 22, 2006**

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 State Board of Chiropractic Examiners was held on September 22, 2006 in Anchorage, Alaska.

Call to Order/Roll Call

The meeting was called to order by Dr. Gregory Culbert, President, at 8:20 a.m. Those present, constituting a quorum of the board, were:

Gregory M. Culbert, DC, President
R. Clark Davis, DC, Secretary
Jeff Garness, Public Member
David J. Mulholland, DC, Vice President
Rosemary Zimmerman, DC

Present from the Division of Corporations, Business and Professional Licensing was:

Cindy Roccodero, Licensing Examiner
Susan Winton, Investigator
Rick Younkings, Chief Investigator

Visitors present were:

John Shannon, DC

Agenda Item 1 Review Agenda

Dr. Culbert, President, asked if there were any changes to the agenda.

Dr. Culbert added to agenda item 7-Regulations, Continuing Education On-Line.

On a motion duly made by Dr. Mulholland, seconded by Dr. Zimmerman, and approved unanimously, it was

RESOLVED to approve the agenda, as amended.

Agenda Item 2 Investigative

At 8:23 a.m. Susan Winton, Investigator to the Board and Rick Younkens, Chief Investigator joined the meeting.

A -*Investigative Report*

Ms. Winton stated that there are two open cases, one closed case, and one license remains on probation until December 1, 2007.

B -*Discuss Advertising Practices*

Ms. Winton informed the Board that Dr. Pizzadili stated he would withdraw his advertising practice.

C -*Peer Review Committee*

Dr. Culbert stated to Mr. Younkens that the Board was sent a Peer Review Request October 2005 and that the request was only recently submitted to the Peer Review Committee for review.

Dr. Culbert stated that this 10 month delay by the Division in processing the request makes the Board look bad and asked Mr. Younkens to send the requestor a letter explaining the delay in processing their request.

Mr. Younkens said that he would send the requestor a letter explaining the circumstances that caused the delay.

Mr. Younkens apologized for providing the Board in April 2006 with a Peer Review Committee flow chart that did not coincide with the Boards Peer Review Committee laws.

Ms. Winton provided the Board with a new flow chart and the Peer Review Committee statutes and regulations. Ms. Winton asked if the Board had a timeline in which a request should be processed.

Ms. Roccodero stated that the Board had at one time proposed amending 12 AAC 16.420 to include a timeline for processing of Peer Review requests, which was struck by the Department of Law.

As the Liaison to the Peer Review Committee Dr. Mulholland asked Ms. Winton if she would work with him in creating a standard letter which would be mailed to the Lead Committee person explaining procedures. Ms. Winton agreed to assist Dr. Mulholland.

Dr. Mulholland requested Ms. Roccodero to send him the Board's Fee Facts.

Ms. Winton provided the Board with an e-mail correspondence from Lori O'Brien concerning self-referral, medical necessity of services and sending out x-rays to an out of state doctor for interpretation.

The Board decided to address Ms. O'Brien's letter later in the meeting.

The Board stated that the fees for rehabilitative medicine listed in the Fee Facts booklet changes annually. Since the fees change annually the Board requested the Division to purchase annually the Fee Facts booklet for use by the Peer Review Committee.

Agenda Item 3 Injectable Nutrients

A - Discuss Findings

At 8:47 a.m. Dr. Mulholland reviewed the information that he obtained when researching the utilization of injectable nutrients. The following is a summation of the information presented to the Board:

1. Research was done by contacting state boards, state associations, chiropractic colleges, and malpractice insurers. The letter asked for
 - course syllabus from chiropractic colleges that taught courses in the administration of injectable nutrients,
 - position statements, protocols and acceptable or approved courses of instruction,
 - number of hours recommended or required and any safety protocols unique to the performance of treatment, and
 - certification processes or certifying bodies.
2. Three malpractice insurers responded.
 - ChiroSecure will not cover doctors performing injectable nutrients.
 - Oum and NCMIC will cover doctors based on the scope of practice of that state.

Upon closer inspection coverage may be denied based on the companies' exclusions.

OUM exclusions states in section (r) that surgery is excluded, but not defined. Dr. Mulholland found that many states consider the piercing of skin for therapeutic purposes to be surgery.

NCMIC exclusion (k) and possibly (m) states, dispensing anything that requires state or federal regulation or prescription.

Dr. Mulholland stated he found that many states consider injectable nutrients to be legend drugs.

3. Oklahoma allows the use of injectable nutrients. The Oklahoma Board establish a certification system and standards for the education and training of chiropractic physicians who desire to administer injectable vitamins, minerals or nutritional supplements; and (2) establish various requirements and prohibitions related to the practice of chiropractic found by the Board to be in the best interest of the health, safety and welfare of the public.

Dr. Mulholland stated that does not appear to be comprehensive in regards to safety requirements by statute or regulation, and found no regulator direction regarding any criteria for the certification of the doctors either by education, training, or otherwise, nor did he find any regulatory direction regarding the certification of such programs.

Dr. Mulholland stated that he was not able to obtain the information by looking through the Oklahoma statutes and regulations or from the individuals he spoke with from the Oklahoma Board.

4. Dr. Michael Taylor, D.C. of Tulsa, Oklahoma teaches a course on the utilization of injectable nutrients. Dr. Taylor provided Dr. Mulholland with his curriculum vitae, course syllabus and tests.

Dr. Mulholland stated that the course material included general indications (conditions that respond to nutrient therapy), calculations for preparations of those solutions, as well as other general provisions for the use of injectable nutrients.

Dr. Mulholland stated that the overwhelming opinion, was that the utilization of injectable nutrients in the states that responded, with the exception of Oklahoma, was considered outside the scope of practice either because they considered this form of nutrient therapy a "legend drug" or the piercing of the skin for therapeutic purposes to be surgery in its strictest definition. The

chiropractic industry does not have a set standard regarding the utilization of injectable nutrients.

The primary concern for the Board is patient safety. Based on the information provided by Dr. Taylor it appears that the included safety protocols are really not much more than cursory attempts to cover this subject in a minimal fashion. While the risks associated with the utilization of injectable nutrients appears to be low, they are very real. If chiropractic is going to break new ground in this fashion with respect to our scope of practice, we have to be very careful to approach the issue of safety to the very highest level.

After much discussion the Board agreed that Dr. Shannon should suspend the practice of injectable nutrients.

On a motion duly made by Dr. Zimmerman, seconded by Dr. Mulholland, and approved by Jeff Garness, Dr. Davis, Dr. Culbert, Dr. Zimmerman, and Dr. Mulholland, it was

RESOLVED to request Dr. Shannon to suspend the practice of injectable nutrients.

Break 9:41 a.m. off record. Back on record at 9:58 a.m.

B - Discuss Terminology "Nutracueticals"

The reason the Board is discussing the terminology of "nutracueticals" is due to a correspondence between Heel, Inc. and the Board dated May 23, 2006, in which the term "nutracuetical" was used and Ms. Roccodero's e-mail dated June 8, 2006 in response to Heel, Inc. question of "nutracueticals."

Ms. Roccodero provided Heel Inc. with Dr. Stephen DeFelice's definition of "nutracueticals," in which Heel, Inc. responded by stating based on the definition Ms. Roccodero provided that Heel, Inc. could not legally sell prescription homeopathic drugs to a chiropractor licensed in Alaska.

Due to Heel, Inc.'s response to the definition of "nutracueticals" provided by Ms. Roccodero the Board felt it was necessary to have an opinion concerning the definition of "nutracueticals."

It is the opinion of the Board that the definition of "Nutracueticals" has the same meaning as Dr. Stephen DeFelice's 1990 definition as:

"A nutraceutical is any substance that is a food or a part of a food and provides medical or health benefits, including the prevention and treatment of disease. Such products may range from isolated nutrients, dietary supplements and specific diets to genetically engineered designer foods, herbal products, and processed foods such as cereals, soups and beverages. It is important to note that this definition applies to all categories of food and parts of food, ranging from dietary supplements such as folic acid, used for prevention of spina bifida, to chicken soup, taken to lessen the discomfort of the common cold. This definition also includes a bio-engineered designer vegetable food, rich in antioxidant ingredients, and a stimulant functional food or pharmafood."

C - Review and Respond to Correspondence-Injectable Nutrients

The Board received correspondences from the following individuals concerning injectable nutrients:

- Heel, Inc: Mr. Bustos and Ms. Raish-June 12, 2006
Question: What is the Board's interpretation of nutraceuticals?
- Troy Sammons-July 18, 2006
Question: Does Alaska presently, or have plans in the near future, to allow chiropractors to administer nutrient therapy via IV or IM injections?
- Louisiana Board of Chiropractic Examiners September 5, 2006
Inquiry: The Louisiana Board is interested in knowing if the Alaska Board has ever made any formal recommendation on this issue.

Dr. Mulholland was assigned the task to respond to Heel, Inc. and carbon copy Mr. Sammons and the Louisiana Board of Chiropractic Examiners, to include a copy of the minutes concerning the Boards discussion of agenda item 3A and 3B.

Dr. Davis was assigned the task of writing to Dr. Shannon regarding the Boards request for Dr. Shannon to suspend the practice of injectable nutrients.

Dr. Culbert requested Ms. Roccodero to add injectable nutrients as a topic to the January 26, 2007 agenda.

Agenda Item 4

Examinations

B -Update Examinations

In accordance with AS 44.62.310(c) the Board entered executive session for the purpose of updating the State Chiropractic examination.

10:23 a.m. enter into executive session. Back on record at 1:19 p.m.

The Board requested Ms. Roccodero to:

1. add revised and new questions to both examinations,
2. allow three to four hours for additional examination to the January 2007 agenda.

Dr. Culbert assigned the task to each Board member to think of additional questions to add to the State Chiropractic examination for the January 27, 2007 meeting.

A -Set 2007 Examination Dates

The State Board Chiropractic Examination dates are set for

- January 26, 2007
- June 8, 2007
- October 12, 2007

C -In-Home Examination Discussion

While attending the Federation of Chiropractic Licensing Boards Annual Meeting this year Dr. Davis was informed that the Minnesota Board of Chiropractic Examiners allows applicants to take the test at home and changed the formatting of its questions.

A report presented by the Minnesota Board reflects that the Minnesota Board attributes the higher passing rate, a decrease in the number of complaints, and the decrease in the number of new licensees committing violations from the two changes to its new examination.

The Minnesota Board updated examination requires significant in home reading and comparison of their statutes and regulations by applicants to achieve a passing score.

Dr. Davis provided this as information only for Board discussion. He does not advocate one way or the other.

Agenda Item 5 **Continuing Education (CE) Requests for Approval** 1:20 p.m.

A - The Board reviewed and took action on the following requests for continuing education approval:

- i. **Life Chiropractic College West**

The Masters Circle Summer 2006

On a motion duly made by Dr. Zimmerman, seconded by Dr. Mulholland, and unanimously approved, it was

RESOLVED to deny the request for continuing education credit for Life Chiropractic College West-The Masters Circle Summer 2006.

ii. **Palmer Institute for Professional Advancement**
The Role of the Chiropractor in the Legal Process

On a motion duly made by Dr. Zimmerman, seconded by Dr. Davis, and approved by Jeff Garness, Dr. Davis, Dr. Culbert, Dr. Zimmerman, it was

RESOLVED to approve the request for continuing education credit for Palmer Institute for Professional Advancement-The Role of the Chiropractor in the Legal Process.

Nea vote from Dr. Mulholland.

Agenda Item 6 Public Comment

Public comment was scheduled for 1:30 p.m.
There were no visitors present.

Agenda Item 5 Continued 1:30 p.m.

iii. **University of Bridgeport College of Chiropractic**
Breakthrough Coaching Symposium

On a motion duly made by Dr. Zimmerman, seconded by Dr. Mulholland, and approved unanimously, it was

RESOLVED to approve the request for continuing education credit for University of Bridgeport College of Chiropractic-Break Through Coaching Symposium.

iv. **Texas Chiropractic College**- Karl Parker Seminar

The Board denied continuing education credit for the Karl Parker Seminar because record attendance of participants is not satisfactory.

On a motion duly made by Dr. Zimmerman, seconded by Dr. Davis, and approved unanimously, it was

RESOLVED to deny the request for continuing education credit for Texas Chiropractic College-Karl Parker Seminar.

v. **Biotics Research NW**

Mastering the Arts and Skills of Biodetoxification

On a motion duly made by Dr. Culbert, seconded by Dr. Davis, and approved unanimously, it was

RESOLVED table the continuing for education credit for Biotics Research NW until the Board receives a course syllabus.

Ms. Roccodero was assigned the task of informing each college of the Board's decision.

Ms. Winton returned briefly to inform that Board that it may want to utilize the Divisions, Assistant Attorney General (AAG) in Anchorage, to verify if the Board has authority to request Dr. Shannon to suspend practice of injectable nutrients.

Ms. Winton stated she would inform Dr. Davis of the AAG's response.

Agenda Item 8 **Board Business** 2:00 p.m.

A – Review April 14, 2006 Minutes

The Board reviewed the April 14, 2006 minutes and requested Ms. Roccodero to amend the minutes as follows:

-Page 2, Agenda Item 3, third paragraph - change "could" to "would" and add to last sentence: Due to an administrative error the room was scheduled to another group at 2:30 p.m. ending the meeting prematurely.

-Page 7, second paragraph - correct typographical errors.

-Page 11 first and second paragraph – correct typographical errors.

-Page 13, agenda item 14, last paragraph – add, "When the meetings are compressed from three to two the Board is unable to fully address concerns at its meetings. Meetings have been running from 8:00 a.m. to 6:00 p.m. without lunch. No talks have occurred regarding sports physicals or IMEs. Information from the Department of Law Ms. Strickler is relying on is incorrect."

On a motion duly made by Dr. Zimmerman, seconded by Dr. Davis, and approved unanimously, it was

RESOLVED approve the April 14, 2006 minutes as amended.

B – Set Meeting Dates

The Board approved the following tentative meeting dates and locations:

- January 26, 2007 – Anchorage
- June 8, 2007- Juneau

C – Review Renewal Application

The Board reviewed the 2007/2008 Biennial License Renewal application. There were no changes made.

D – Board Organization

Alaska Statute 08.20.040 requires that every two years the Board elects a president, vice-president and secretary.

No members of the Board contested the current positions. Therefore, Dr. Culbert remains as the president, Dr. Mulholland remains as the vice-president, and Dr. Davis remains as the secretary.

E – Annual Report

Dr. Culbert stated that some information in the Annual Report he had requested to be corrected prior to submission to the Director was not changed.

Additionally, Dr. Culbert noted that the Budget Recommendation section of the Annual Report is misleading and that the Board's total budget for meetings per year is a very minimal portion of costs and sees no reason why the Board can not meet three times a year, instead of being held to two meetings a year as recommended by Legislative Audit.

F – Review Budget Report

Ms. Roccodero informed the Board that the budget report in the Board packet is the same report from the April 14, 2006 meeting.

The Board asked Ms. Roccodero why was the March budget report inserted into the Board packet instead of a more current one.

Ms. Roccodero stated that she had been informed by a previous supervisor that if the accounting technician is not able to have a budget report available for Board review that she was to use the report from the last meeting.

Dr. Culbert asked, how is the Board supposed to keep its budget in mind without a current report? Ms. Roccodero did not have an answer.

G – Watch Ethics Video

There was not enough time for Mr. Garness to watch the ethics video. Dr. Culbert requested Ms. Roccodero to add this as a subtopic under Board Business to the January 27, 2007 agenda.

Agenda Item 9 Office Business 2:30 p.m.

Sign Wall Certificates

The Board signed wall certificates for Christopher Twiford, Heather Gappert, Sara Sloan, and Attila Sipos.

Collect Signed Travel Authorizations and Receipts

Ms. Roccodero collected signed travel authorizations from Dr. Culbert, Dr. Mulholland, Dr. Davis, Dr. Zimmerman, and Jeff Garness.

Dr. Davis will send Ms. Roccodero his airline receipt/itinerary and hotel receipts upon his return to Ketchikan.

Agenda Item 7 Regulations 2:35 p.m.

Amend/Create

1. Continuing Education Fee: At the April 14, 2006 meeting Dr. Zimmerman was assigned the task of compiling a list of state boards that charge a fee for application of continuing education credit approval.

After some discussion and research the Board found that a significant portion of its operating costs are due to the processing of requests for continuing education credit approval. The cost of processing these requests is seen in an increase of license fees.

In an effort to offset the operating costs, the Board will be requiring applicants who are requesting continuing education credit approval to pay a fee.

On a motion duly made by Dr. Zimmerman, seconded by Dr. Davis, and approved by Jeff Garness, Dr. Zimmerman, Dr. Davis, and Dr. Mulholland, it was

RESOLVED set a fee of \$50 for each request for continuing education approval.

Nea vote from Dr. Culbert.

2. Code of Ethics: At the April 14, 2006 Board determined that further clarification is required concerning the code of

conduct for licensed chiropractic physicians. Dr. Zimmerman was assigned the task of creating regulatory wording for chiropractic code of ethics.

For the Boards consideration Dr. Zimmerman presented the American Chiropractic Associations and the International Chiropractors Association Code of Ethics.

On a motion duly made Dr. Zimmerman, seconded by Dr. Mulholland, and approved unanimously, it was

**RESOLVED to amend 12 AAC 16.010 (b) as follows:
"It is the objective of the board and its licensees to adhere to the Code of Ethics of"**

On a motion duly made by Dr. Culbert, seconded by Dr. Zimmerman, and approved unanimously, it was

RESOLVED to create a new subsection of 12 AAC 16.920 as follows:(15) failing to adhere to the Code of Ethics of the American Chiropractic Association or the International Chiropractic Association. Unless preempted specifically by state or federal law.

The Board requested Ms. Roccodero to submit the proposed regulatory amendments to the Divisions Regulation Specialist.

The Board requested Ms. Roccodero to add to its webpage link titled "National Organizations." This will link to all of the organizations listed under 12 AAC 16.430.

The Board reviewed an e-mail correspondence Ms. Winton presented to it earlier during the meeting from Lori O'Brien.

The Board stated that Ms. O'Brien is concerned about:

- A licensed chiropractor who has a business and is also the sole shareholder of a corporation that has a DMX Imaging machine. The doctor refers his patients to the corporation for DMX imaging. Ms. O'Brien is concerned that this might be a self referral.
- The DMX image(s) are sent to a doctor who is licensed in New York and not licensed Alaska to interpret the image(s).
- The doctor is advertising himself as "specializing in the research diagnosis and treatment of auto crash injuries."
- Is DMX imaging medically necessary?

Ms. O'Brien also notes that the specialized treatment may or may not be beneficial or medically necessary.

The Board discussed Ms. O'Brien's e-mail and determined the following:

1. Yes it is ethical to use DMX imaging.
2. Medical necessity is determined on a case by case basis.
3. It is the board opinion the evaluation of x-ray and radiographs can be reviewed by outside physicians.
4. Questions regarding corporations and self referral will be referred to the department of law for opinion.

Dr. Clark was assigned the task of writing a letter in response to Ms. O'Brien's concerns and comment. Ms. Roccodero was asked to send the e-mail message to the Department of Law for an opinion concerning corporations and self referral.

Agenda Item 10 **Goals and Objectives**

The Board did not have time to address this topic. Dr. Culbert requested Ms. Roccodero to allow two hours for this topic on the January 26, 2007 agenda.

Dr. Culbert reminded the Board that it was their assigned task from the April 14, 2006 meeting to come up with additional goals for objective four and to have the goals ready for the January 26, 2007 meeting.

Agenda Item 11 **Federation of Chiropractic Licensing Boards**

The Board did not have time to address this topic. Dr. Culbert requested Ms. Roccodero to place this topic on the January 26, 2007 agenda.


The meeting was adjourned at 5:03 p.m.

Respectfully submitted:



Cindy Roccodero, Licensing Examiner

Approved:



Dr. Gregory Culbert, DC, President
Board of Chiropractic Examiners

Date: 1/26/07