

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
June 18-19, 2010**

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 on June 18-19, 2010 in Homer, Alaska.

Friday, June 18, 2010

Agenda Item 1 – Call to Order/Roll Call

The meeting was called to order by Dr. Rosemary Zimmerman, President at 9:08 a.m. Those present, constituting a quorum of the Board were:

Rosemary Zimmerman, DC, President – Anchorage
James Heston, DC, Vice-President – Homer
Daniel Holt, DC, Secretary – Juneau
Walter L. Campbell, DC – Palmer
Verdie A. Bowen, Public member – Wasilla

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

Debora Stovern, Licensing Examiner – Juneau

Dr. Zimmerman welcomed new Board members, Dr. Campbell and Mr. Bowen.

Agenda Item 2 – Review Agenda

The Board reviewed the tentative meeting agenda

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

RESOLVED to approve the agenda, as presented.

Agenda Item 3 – Review Meeting Minutes

The Board reviewed the minutes of the February 26, 2010 meeting and made two minor edits.

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

RESOLVED to approve the minutes of the February 26, 2010 meeting, as amended.

Agenda Item 4 – Board Business

Ethics Reporting

There were no ethics conflicts to report.

Ms. Stovern distributed the Board's "General Information" sheet that is distributed to new Board members and noted the importance of Board members not representing their opinions or actions as those of the Board, unless there has been a specific Board determination on an issue.

Included in the Board packet for further review was a pamphlet "Ethics Act Procedures for Boards and Commissions" published on the website for the Governor's Office Boards and Commissions, as well as the contact information for the Executive Branch Ethics website. Ms. Stovern noted that their website contains a lot of valuable information regarding ethics, including the ethics video, a power-point presentation for self-guided ethics training, disclosure forms, frequently asked questions, and the statutes and regulations covering the Alaska Executive Branch Ethics Act.

View Ethics Video

In the interest of time, the Board determined to view the ethics video at the end of the meeting.

Ratification of New Licensees

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

RESOLVED to ratify the licenses issued to Frank L. Brach, Jr. #507, Joseph F. Anderson #508, Christopher J. Drotar #509, Bart T. Hunter #510, Cary Douglas Jones #511, Maurice Michael Michaud #512, Craig D. Brummert #513, Daryl S. Chalifour #514, and Jesse L. Webb #515.

Review Goals and Objectives

The Board reviewed their goals and objectives for Fiscal Year 2010:

Goal 1: The Board will continue to carry out their assigned duties, as outlined in Objectives 1 through 7. Objective 6, regarding reestablishing candidate oral interviews, has been accomplished; the Board will continue to administer the Jurisprudence exam concurrent with board meetings, and to include candidate interviews as part of the examination.

Goal 2: The Board will continue to provide information regarding Board activities to the profession and the public, as outlined in Objectives 1 through 9.

Goal 3: The Board will continue their affiliation with the Alaska Chiropractic Society (ACS) to work cooperatively in the best interest of the profession and the public, as outlined in Objectives 1 through 3. It was noted that Dr. Holt had previously been appointed to serve as the Board liaison to the ACS to facilitate effective cooperation.

Goal 4: The Board will continue to pursue statutory authority consistent with the practice of chiropractic to ensure the health and safety of the public, as outlined in Objectives 1 through 7. The Board reconfirmed their commitment to this goal and noted that all six objectives would be accomplished if the ACS is successful in securing the passage of the draft legislative project during the upcoming session.

Goal 5. The Board will continue to assess and evaluate regulations, as outlined in Objectives 1 through 5. It was noted that Objective 4 and 5, regarding developing regulations defining surgery and prescription drugs and establishing a late renewal penalty, would be addressed during agenda item 6.

Goal 6. The Board re-worded this goal to read: Assess and evaluate the review process available through the Peer Review Committee. They noted that the committee has already been established, but the review process needs to be further refined and made known to chiropractors, patients, and insurers. The Board determined that they were no longer interested in pursuing a change to the committee name.

Goal 7. The Board will 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), as outlined in Objectives 1 through 5.

Goal 8. The Board will continue to consider the sunset review process and to review and respond to sunset audit report recommendations. The next sunset review is scheduled for June 30, 2014.

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

RESOLVED to approve the Goals and Objectives, as amended.

Agenda Item 5 – Alaska Chiropractic Society Update

Debbie Ryan, Executive Director, and Sheri Ryan, Executive Assistant, joined the meeting by to report on the following ACS activities:

- FCLB certification program for chiropractic assistants.
- Difficulties with the new administrator for the State health care program in interpreting covered services.
- ACS activities including journal clubs and “mini” CE seminars.
- American Chiropractic Association (ACA) is adding state associations as members.
- ACS Annual Convention, October 1-3, 2010, at the Anchorage Captain Cook Hotel – will feature seminars on professional boundaries, diversity, and ethics, as requested by the Board; also, nutrition, diabetes, and a chiropractic assistant program.
- The ACS will be pursuing the two statute projects supported by the Board (including the retroactive insurance review issue and regulating chiropractic assistants/preceptorships/massage therapists.) Ms. Ryan reported that she will be meeting with the ACS lobbyist and will have an update for the Board at their October meeting.

The Board noted their goal of working cooperatively with the ACS in the best interest of the profession and the public, including encouraging regular ACS participation at Board meetings, supporting ACS efforts to provide information to the profession and the public, and supporting ACS efforts in pursuing statutory changes relevant to the profession and public safety.

Agenda Item 6 – Statute/Regulations Projects

Discuss status of “omnibus bill”

The Board had previously been briefed on an Omnibus Bill by Investigative Staff Susan Winton. At that time, the bill was in draft form and had not been introduced in the legislature. Ms. Stovern reported that the bill had not been introduced during the past legislative session, as it had not been forwarded by our Department Commissioner as a project. It was unknown what may be intended for the upcoming legislative session, but it continues to have the support of the Investigative Unit.

Discuss upcoming statute projects – retroactive claim reviews

Retroactive insurance reviews: The Board had previously discussed the lack of a statutory limit to retroactive insurance reviews and reviewed information regarding other state’s requirements. They determined to support the Alaska Chiropractic Society (ACS) in their efforts to implement a statutory limit on such reviews. The ACS has reported that they will pursue this legislative project during the upcoming session.

Licensing: The Board had previously determined to expand the Board to include regulating massage therapists, as well as licensing of chiropractic assistants, technicians, interns/preceptors, licensing chiropractic facilities, regulating IMEs, regulating physical exams, increasing fines, and establishing an executive administrator to assist with these additional responsibilities. They determined to support the Alaska Chiropractic Society (ACS) in their efforts to implement these changes. The ACS has reported that they will pursue this legislative project during the upcoming session.

The Board determined to delete Section 11 on page 5 of the draft, as they have decided not to pursue changing the name of the Peer Review Committee. They directed Ms. Stovern to provide an updated copy of the draft to the ACS.

Review recently adopted regulations

The Board reviewed proposed changes to the following regulations, which were public noticed on November 25, 2009 and adopted by the Board at their February 26, 2010 meeting:

1. 12 AAC 16.030 Criminal background report required for licensure by examination.
2. 12 AAC 16.031 Criminal background report required for temporary permit for locum tenens practice.
3. 12 AAC 16.033 Criminal background report required for licensure by credentials.
4. 12 AAC 16.048 Chiropractic Sports Physician (DACBSP) program administered by the American Chiropractic Board of Sports Physicians.
5. 12 AAC 16.130 State Chiropractic Examination includes both written and oral examinations.
6. 12 AAC 16.200 Authority citation changed for temporary permits.
7. 12 AAC 16.205 Criminal background report required for application for a courtesy license.
8. 12 AAC 16.290 Two hours of continuing education credit allowed for completing a jurisprudence review; course approval number required on renewal applications.
9. 12 AAC 16.990 Definition of "criminal history record information."

Although the Board had previously adopted the proposed changes, there were some edits by the Department of Law, which required re-adoption by the Board.

The Board noted that, although no public comments were received, they paid special attention to the cost to private persons of the regulatory action being taken.

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

RESOLVED to adopt the regulation changes, as amended.

The adoption order was signed by the Chair.

Discuss new regulations projects

Definition for “prescription drug” and “surgery”: At the last Board meeting, Gayle Horetski, Assistant Attorney General with the Department of Law, joined the meeting to discuss the scope of practice for chiropractic physicians in the State of Alaska. During that discussion, Ms. Horetski recommended that the Board consider a regulations project to define “prescription drug” and “surgery” as used in the Chiropractic scope of practice. She suggested that the Board review the definition of “prescription drug” found under the Pharmacy Board, Alaska Statute (AS) 08.80.480(30, and the definition of “surgery” found under the Board of Naturopath, Professional Regulation 12 AAC 42.990(11).

Late renewal penalty: The Board had previously considered establishing a penalty fee for late renewals. They determined that late renewals cost the Board in terms of staff time and additional paperwork. They noted that the cost to process reinstatement applications may be covered by the examination fee, which is required for licenses that have lapsed for two years or more. Alaska Statute (AS) 08.01.100(b) provides authority for a delayed renewal penalty. The Board reviewed a draft regulation change that establishes a \$50 late renewal penalty for renewal of a license that has lapsed for more than 60 days.

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

RESOLVED to approve the draft regulations regarding definition of “prescription drugs” and “surgery” and establishing a late renewal penalty fee.

Agenda Item 7 – Investigative Report

Investigator JoAnna Williamson joined the meeting by teleconference to review the investigative report she had provided to the Board. She reported that there are three open complaints, no open investigations, and three complaints/cases closed since the last Board meeting.

Agenda Item 8 – Disciplinary Guidelines

Guidelines for CE Audits (used by the Division Paralegal)

Ms. Stovern briefly discussed the continuing education (CE) audit process and noted the Division Paralegal uses Board guidelines when negotiating agreements with licensees who have not complied with the CE audit requirements. The Board reviewed a copy of the current guidelines, which include the following requirements:

- Requirement for completing deficient CE.
- Mandatory audit for two future renewals.
- License suspension until CE is made up or satisfied.
- Civil fines – \$3,500 maximum to include \$2,500 for falsification (all or part may be suspended depending on the gravity of the offense) PLUS \$200 per credit hour lacking (\$1,000 maximum).

The Board determined the current guidelines were appropriate and recommended no changes.

Guidelines for Investigations

The Board had previously determined to establish guidelines for investigators to use when negotiating agreements with licensees facing disciplinary issues. They would also like to start including the National Board of Chiropractic Examiners (NBCE) post licensure examinations: Special Purposes Examination for Chiropractic (SPEC), which assesses clinical competency, and the Ethics and Boundaries Examination (E&B), which tests knowledge of professional ethics and standards.

The Board reviewed the disciplinary matrix established by the Washington Board and would like to also review the guidelines established by other Alaska health care Boards. They determined to work with the Investigative Unit to establish appropriate and useful guidelines.

It was noted that such guidelines would not take the place of consulting with the designated Board liaison during the investigative process. Dr. Heston is the designated Board liaison, which allows Board participation in investigating cases, with only one Board member potentially required to recuse from voting when the case is eventually brought before the Board.

Agenda Item 8 – Public Comment

There were no members of the public present. Public comment was closed at 12:00 p.m.

Recess for lunch

The Board recessed for lunch at 12:00 p.m.

The Board resumed the meeting at 1:30 p.m. All members were present.

Agenda Item 10 – Division Updates

Budget Report

The Board reviewed the Budget Report prepared by the Division Administrative Officer. Expenditures and revenues appear to be as expected, and appear to support the current licensing fees and/or a reduction in licensing fees.

Discuss Annual Report

The Fiscal Year 2009 Annual Report was included in the Board packet for review. Ms. Stovern will work with Dr. Zimmerman to prepare the FY 2010 Annual Report.

Board Website

The Board had previously directed Ms. Stovern to have the Board website updated. They noted that the website has been kept current. She encouraged Board members to continue to monitor the site and provide feedback.

Online Jurisprudence Review

The Board had previously determined to begin administering an online jurisprudence review to renewal applicants wishing to earn continuing education credit for reading the statutes and regulations. Ms. Stovern has been working on a demonstration version of the review on www.myicourse.com (the web-based resource used by the Minnesota Board). Board members have been experimenting and will develop the review during the next agenda item.

Agenda Item 11 – Exam Review/Update

This agenda item includes the following items:

- Review question/comment forms from the last exam
- Update the State Chiropractic Examination (both written and oral questions)
- Develop the online jurisprudence review for continuing education credit

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

RESOLVED to enter into executive session in accordance with AS 44.62.310(c)(2) and (3), and Alaska Constitutional Rights to Privacy Provisions for the purpose of discussing exams.

The Board entered executive session at 1:35 p.m.

The Board went back on the record at 2:05 p.m.

Agenda Item 12 – Application Review

Review application process

The updated license instruction sheet and application checklists were included in the Board packet for review. It was noted that the checklists includes references to the applicable statutes and regulations.

The Board discussed the references that are required on the application for licensure and determined that they should be contacted during the process of reviewing any “yes” answers. They will consider it further as investigative guidelines are developed.

The Board discussed their “mail ballot” process and clarified that in the event one member votes to table an application, then the “mail ballot” process ends and the application is presented for full Board review at the next meeting.

Continuing education audit review

The Board reviewed continuing education documentation provided during the license reinstatement process by Nicholas Morris.

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

RESOLVED to approve the continuing education audit review documentation, as provided by Dr. Morris.

License Application

The Board reviewed applications for licensure by examination from Gwendolyn L. Willmon and Alan L. Burke.

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

RESOLVED to enter into executive session in accordance with AS 44.62.310(c)(2) and (3), and Alaska Constitutional Rights to Privacy Provisions for the purpose of discussing confidential application information.

The Board entered executive session at 2:30 p.m.

The Board went back on the record at 3:40 p.m.

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

RESOLVED to deny the application for licensure by Alan L. Burke under Alaska Statute 08.20.170(a)(4)(A), due to his felony conviction.

The Board did not take any action on the application for licensure by Gwendolyn L. Willmon.

Continuing Education Review

The Board has been regularly reviewing applications for continuing education course approval by mail vote. There were no additional courses for review at the meeting.

The Board also expressed their gratitude to Dr. Risch for his continuing work in reviewing the CE applications and making approval recommendations to the Board. They directed Ms. Stovern to invite him to the next meeting so they may thank him publicly.

Agenda Item 13 – Peer Review Committee

Committee update

The Board reviewed the current committee roster: Dr. Mark Barbee (term expires 1/18/11), Dr. Gregory Culbert (term expired 1/18/12), Dr. Steven Messerschmidt (term expired 1/18/12), and Martha Summerfield, public member (term expires 1/18/11).

It was noted that there has been little or no activity by the committee for a number of years. The Board would like to encourage membership on the committee, as well as to promote use of the Peer Review process by chiropractors, patients, and insurers. They suggested contacting the Bar Association and the Department of Law to let them know that the reviews may be a useful tool in settling cases.

Discuss committee name change

During Agenda Item 4, the Board had determined they are no longer interested in pursuing a name change for the committee. Although they do wish to eliminate potential confusion with the peer review process under the court system, they do not want to undermine the authority of the committee.

Review peer review guidelines

An updated version of the Peer Review Committee Information booklet was provided in the Board packet for review. The booklet includes the Peer Review process, resources, and sample documents. Dr. Heston had previously volunteered to serve as the Board liaison to the committee; he will work with the committee to continue updating the review process.

The Board directed Ms. Stovern to invite Dr. Ireland to the next meeting to discuss the background and intent of the Board when establishing the committee.

Agenda Item 14 – Federation of Chiropractic Licensing Boards

Report on recent meetings

Dr. Zimmerman and Ms. Stovern attended the FCLB annual conference and concurrent NBCE annual meeting, April 28-May 2, 2010, in Baltimore. Topics of the meeting included international mobility, federal data reporting requirements, documentation and recordkeeping, licensing or reinstating sexual felons, examinations, Board member development, prescriptive authority, policy of successful regulation, decompression issues, facilities licensing, and regulation of chiropractic assistants. In addition, they were invited to attend a seminar regarding FCLB progress on certification of chiropractic assistants.

Ms. Stovern attended the concurrent Association of Chiropractic Board Administrators (ACBA) annual meeting. She reported that they group had voted to dissolve the organization and reorganize as a committee of the FCLB. She also reported that she had discussed the licensing of chiropractic assistants and massage therapists with other state Board administrators who had those licensing programs, learned about their programs, and was assured that those Boards would be happy to serve as resources to the Alaska Board as they pursue their new licensing programs.

Additional information from the conference was included in the Board packet for further review.

Upcoming meetings

Dr. Zimmerman and Ms. Stovern will be attending the October 2010 FCLB District I meeting in Sedona, AZ.

The Board noted that FCLB is a good resource as they consider licensing chiropractic assistants, technician, interns/preceptors, and facilities in Alaska, and as they implement criminal background checks and research animal chiropractic. All of these topics continue to be considered by the FCLB.

District Director update

Dr. Carol Davis, the FCLB District I Director, was unable to participate in the meeting. A copy of her newsletter was included in the agenda packet for further review.

Agenda Item 15 – National Board of Chiropractic Examiners

Annual participation in both Part IV exams and the Part IV test committee meetings, as well as periodic participation in other exams, is contractual obligation of the Board. Such participation also keeps the Board involved and aware of the defensibility of the exams required for licensure in the State of Alaska.

Dr. Zimmerman attended the Part IV test committee meeting, June 11-12, 2010 in Greeley, CO. Drs. Zimmerman and Heston will be participating as examiners for the Part IV examination November 12-14, 2010.

Ms. Stovern distributed a three-year schedule of exam and test committee dates obtained from NBCE for Board consideration. The Board has participated regularly in the administration of the Part IV exam, but has been unable to commit to test committee meetings. Travel expenses to participate as examiners and attend test committee meetings are covered by NBCE. The Board determined to review the schedule at the October meeting and appoint members to attend the various examinations and test committee meetings for 2011.

The meeting was adjourned at 5:30 p.m., until Saturday, June 19, 2010.

Saturday, June 19, 2010

Call to Order/Roll Call

The meeting was called to order by Dr. Rosemary Zimmerman, President at 12:10 p.m.

Those present, constituting a quorum of the Board were:

Rosemary Zimmerman, DC, President – Anchorage
James Heston, DC, Vice-President – Homer
Daniel Holt, DC, Secretary – Juneau
Walter L. Campbell, DC – Palmer
Verdie A. Bowen, Public member – Wasilla

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

Debora Stovern, Licensing Examiner – Juneau

There were no changes to the approved agenda.

Agenda Item 16 – Discuss Animal Chiropractic

The Board determined that they would like to research and pursue the issue of animal chiropractic in the State of Alaska. Dr. Zimmerman recommended that the Board review the statutes of Oklahoma, Oregon, and Nebraska for guidance; she noted that the statutes for all state Boards are published on the FCLB website. She reported that the practice of animal chiropractic in these states requires supervision by a licensed veterinarian, which is what the Board would like to pursue. Dr. Zimmerman will contact the Board of Veterinary Examiners for further information.

A copy of the FCLB Power Poll from November 2008 regarding Animal Chiropractic was included in the Board packet for further review.

Agenda Item 17 – Continuing Education Requirements

Specific subject areas

The Board had previously considered changing the continuing education (CE) requirements, including:

- Increasing the number of CE hours required
- Increasing the percentage of hours allowable as distance or internet programs
- Requiring specific subject areas, such as ethics/boundaries, diversity, documentation
- Changing the x-ray requirement

They do not wish to make changes at or near a renewal period, so they tabled the discussion until the next meeting.

ACA webinar on documentation

Information about the American Chiropractic Association webinar was included in the Board packets for review. The Board determined that the course meets the CE

requirements as a distance education course. However, they were unable to determine the number of hours that would be approvable. They directed Ms. Stovern to obtain additional information and to include the course on the next CE mail vote.

Agenda Item 18 – New Business

There was no new business.

Agenda Item 19 – Correspondence

The Board reviewed the following items of correspondence:

FCLB – report on 2010 annual meeting

NBCE – press release re: service awards

NBCE – press release re: new meeting facility

NBCE – press release re: elections at annual meeting

NBCE – press release re: Part I test committee meeting

NBCE – press release re: changes to exams

NBCE – press release re: Part III test committee meeting

NBCE – press release re: social media sites

NBCE – press release re: student pages on website

ACS – 2010 schedule update

ACS – press release re: appointment of ACA liaison, Dr. Patricia Conners-Allen, previous member of the Alaska State Board and previous FCLB District 1 Director. The Board directed Ms. Stovern to write a letter congratulating her on her appointment and offering any assistance she may need with her work.

ACS – notice re: ACA issue brief regarding Medicare and the Health Care Reform Act. The Board directed Ms. Stovern to invite ACS President Dr. Kurt Hediger to the next meeting to provide an update on healthcare issues.

ACA – press release re: expanding VA chiropractic care

ACA – update on national health care reform

MLN Matters – newsletter on Medicare issues

Agenda Item 20 – Administrative Business

View Ethics Video

The Board viewed the ethics video.

Confirm 2010 Meeting and Exam Schedule

The Board confirmed next meeting and exam scheduled for October 15-16 in Anchorage
The Board will set the 2011 schedule at the October meeting.

Sign wall certificates

Board members signed wall certificates for Kelly B. Ryan, Frank L. Brach, Jr., Joseph F. Anderson, Bart T. Hunter, Cary D. Jones, Maurice Michael Michaud, Craig D. Brummert, Daryl S. Chalifour, and Jesse L. Webb.

Sign minutes

The chair signed the approved minutes from the February 26, 2010 meeting.

Sign TAs and collect receipts

Board members signed Travel Authorization forms and submitted receipts.

There being no further business,

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

RESOLVED to adjourn the meeting of the Alaska State Board of Chiropractic Examiners.

The meeting adjourned at 1:15 p.m.

Respectfully Submitted:

Debora Stovern,
Licensing Examiner

Approved:

Dr. Rosemary Zimmerman, Chair
Alaska State Board of Chiropractic Examiners

Date: _____