

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, April 26<sup>th</sup>, 2019

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 in Conference Room A in the State Office Building, 333 Willoughby Avenue, 9<sup>th</sup> Floor, Juneau, Alaska.

Friday, April 26<sup>th</sup>, 2019

**Agenda Item 1**

**Call to Order/Roll Call**

**Time: 10:00 a.m.**

The meeting was called to order by Chairman, Brian Larson at 10:00 a.m. Jonathan Vito was not present at the board meeting; however, the rest of the board was present, constituting a quorum.

Board Members present, constituting a quorum:

Brian Larson, Doctor of Chiropractic (*Via Videoconference*)  
Jeffrey Reinhardt, Doctor of Chiropractic (*Via Videoconference*)  
James Morris, Doctor of Chiropractic (*Via Videoconference*)  
John Wayne Aderhold, Public Member (*Via Videoconference*)

Division Staff present were:

Thomas Bay, Licensing Examiner  
Renee Hoffard, Records and Licensing Supervisor  
Jasmin Bautista, Investigator (*Via Videoconference*)  
Marylene Wales, Accountant

Present from the Public:

Sheri Ryan, Chief Operating Officer, Alaska Chiropractic Society (*Via Videoconference*)

**Agenda Item 2**

**Review Agenda**

**Time: 10:02 a.m.**

After the Roll Call, Chair, Dr. Larson asked the board to review the agenda.

**On a motion duly made by John Wayne Aderhold, seconded by Jeffrey Reinhardt, and approved unanimously without any objections, it was**

**RESOLVED to approve the agenda as written.**

The board reviewed the meeting minutes from February 1<sup>st</sup>, 2019.

**On a motion duly made by John Wayne Aderhold, requesting unanimous consent, and approved unanimously without any objections, it was**

**RESOLVED to approve the meeting minutes for February 1<sup>st</sup>, 2019, as written.**

Mr. Bay asked the Chair, Dr. Larson, to sign a copy of the minutes and send it in the mail to the Division of Corporations, Business and Professional Licensing, so they could finalize the meeting minutes.

**Agenda Item 4****Board Business****Time: 10:06 a.m.**Ethics Report

Dr. Larson addressed ethics reporting. There were no ethical violations to report.

Review Goals and Objectives

With no ethical issues to report, Dr. Larson began conversation with the board on their goals and objectives. Mr. Bay reminded the board that their objective #1, under Goal #7, was to pursue inclusion into AS 08.01.050(d), for the purpose of providing licensed chiropractors the resources needed to address abuse of alcohol, drugs, or other substances. Dr. Larson provided an overview of the goal, citing that many professions are included in the statute, but not the chiropractic profession, and that he believed there was an oversight when the statute was created. The board decided to keep that objective for Fiscal Year 2020 (FY20). Having been updated on objective #1, Mr. Bay reminded the board that objective #2 had already been ruled on at the last board meeting, and resulted in the board no longer pursuing inclusion into AS 12.62.400, for national criminal history record checks. Mr. Bay read the board's last objective, objective #3, which is to pursue authority under AS 08.20 to create an advanced practitioner status for chiropractic physicians who pursue advanced training and certifications to utilize limited drugs, minor surgery, and other therapies and procedures commonly used by other Alaska health care professionals of physician status. The board discussed the objective. Mr. Bay reminded the board that at the last board meeting Harriet Milks, from the Department of Law, suggested that the board speak with the division's legislative liaison, Fred Parady, to change their current statutes, which might in the future allow for an advanced practitioner status for chiropractors. Having nothing left to discuss, the board moved to the next agenda item.

Ideas for Legislation

The board moved into discussion on ideas for possible legislation during FY20. Dr. Larson explained a situation where he had a conversation with a nurse practitioner who said she did not have to listen to him or consider his opinion. She explained that in the nursing statutes chiropractors are not a recognized healthcare profession. The board discussed the possibility of being added to the list of recognized healthcare professions in the nursing statutes. Mr. Bay explained that the board would need the specific statute in order to make a motion, which at the time they did not have. Dr. Larson said he would have it at a later time during the board meeting.

Dr. Larson began discussion on the definition of chiropractic, specifically the definition in statute, pertaining to how chiropractic does not use prescription drugs, and how the chiropractic regulation's definition of prescription drugs may cause a problem for the profession. He went on to read the regulation, which states the following:

**12 AAC 16.990. DEFINITIONS.** (b) In AS 08.20.900,

(1) "prescription drug" means a drug that

(A) under federal law, before being dispensed or delivered, is required to be labeled with either of the following statements:

(i) "Caution: Federal law prohibits dispensing without prescription";

(ii) "Caution: Federal law restricts this drug to use by, or on the order of, a licensed veterinarian"; or

(B) is required by an applicable federal or state law or regulation to be dispensed only under a prescription drug order or is restricted to use by practitioners only;

He explained that his worry is that certain nutritional substances may constitute an issue because they have labels that say, "for professional use only," and that many chiropractors have them in their clinics. Dr. Morris explained that he did not believe the nutritional substances with those labels were government regulated, and that he thought they were instead a policy, for marketing purposes, that companies put out so the only access anybody would have to the nutritional substances was through a professional. Dr. Reinhardt and Mr. Aderhold agreed with Dr. Morris. Dr. Larson mentioned that although that may be true, he could see someone getting in trouble if it were challenged. He said that he wanted to bring the topic up to be proactive, and to possibly review and change the regulation to specifically state that certain nutritional substances are not considered prescription drugs. Mr. Bay reminded the board that they were discussing a topic that most likely was not going to be addressed anytime soon because the topic of discussion had gone in the direction of a regulations project, which also required additional information. Mr. Bay suggested that the board have him find the appropriate route to take regarding the conflict between statute and regulation concerning prescription drugs.

**On a motion duly made by Jeffrey Reinhardt, seconded by James Morris, and approved unanimously by a roll call, it was**

**RESOLVED to have Mr. Bay explore the process of resolving the conflict between statute and definition regarding prescription drugs and practitioner use.**

**Dr. Larson called for a break at 11:09 a.m.**

*Off Record at 11:09 a.m.*

*On Record at 11:16 a.m.*

**On a motion duly made by Brian Larson, seconded by Jeffrey Reinhardt, and approved unanimously by a roll call, it was**

**RESOLVED to temporarily table discussion of legislative and regulation projects to a later time in the day, specifically the discussion on attaining recognition as a health care provider in nurse practitioner statutes, and other topics as discussed.**

**TASK:**

**Mr. Bay will explore the process of resolving the conflict between statute and definition regarding prescription drugs and practitioner use.**

### Annual Report

Dr. Larson asked Mr. Bay to begin discussion on the annual report. Mr. Bay provided a brief overview of the process, explaining that a board member needed to complete the annual report and have it ready to be voted on at the upcoming teleconference.

**On a motion duly made by John Wayne Aderhold, requesting unanimous consent, and approved unanimously without any objections, it was**

**RESOLVED to have Dr. Morris and Dr. Larson complete the annual report and that the board will vote at the upcoming teleconference to approve it.**

### **TASK:**

**Dr. Morris and Dr. Larson will complete the annual report and have it ready to be voted on at the upcoming teleconference.**

*Renee Hoffard, Records and Licensing Supervisor, joined the meeting at 11:23 a.m.*

### Ratify New Licenses

Hearing nothing further on the annual report, John Wayne Aderhold moved to address the ratification of licensees for applicants who sat for the February 1<sup>st</sup>, 2019, examination.

**On a motion duly made by John Wayne Aderhold, seconded by James Morris, and approved unanimously by a roll call, it was**

**RESOLVED to ratify the licenses for Monica Allen, Tapiwa Chiwawa, Anton Keller, Michael Martin, Anthony Odney-Pacheco, Jordan Oslan, Karlee Simkowski, William Voges, Jake Walden, and Brent Wise.**

### Position Statements

Dr. Larson began discussion on a possible position statement regarding the definition of surgery in regulation, specifically the removal of foreign objects from living tissue. He asked if the board would like to address the topic as a position statement.

*Jasmin Bautista, Investigator, joined the meeting at 11:30 a.m.*

Dr. Morris suggested that there is a difference between basic first aid and the removal of objects, such as suturing, and that he did not condone moving towards the next step of removing foreign objects from the body. Dr. Reinhardt suggested that the board make a motion to table the current discussion so that investigator Jasmin Bautista could provide the board with the investigative report.

**On a motion duly made by Jeffrey Reinhardt, seconded by James Morris, and approved unanimously by a roll call, it was**

**RESOLVED to table the current discussion on position statements until such a time that the investigative report is finished.**

The board had nothing to address for the FCLB/NBCE/CCE update and will wait to hear about the highlights from the FCLB/NBCE conference.

## Agenda Item 6

Investigative Report

Time: 11:33 a.m.

Chairman Larson began discussion on the board's investigative report by giving the floor to the board's investigator, Jasmin Bautista. Ms. Bautista presented to the board their investigative report, which is dated from January 26<sup>th</sup>, 2019, through April 17<sup>th</sup>, 2019. She informed the board that she opened two matters, closed two matters, and that two matters remained ongoing. Dr. Larson asked if the board was allowed to hear about open cases. Ms. Bautista reminded the board that she could not speak about open cases, but that there was one case that they could talk about in executive session. The board decided to go into executive session to discuss the matter.

**On a motion duly made by John Wayne Aderhold, requesting unanimous consent, and approved unanimously without any objections, it was**

**RESOLVED to enter into executive session in accordance with the provisions of Alaska Statute 44.62.310(c), for the purpose of discussing, "subjects that tend to prejudice the reputation and character of any person, provided the person may request a public discussion." Board staff members Thomas Bay, Renee Hoffard, and Jasmin Bautista remained during the session.**

*The board entered executive session at 11:36 a.m.*

*The board left executive session at 12:14 p.m.*

*Renee Hoffard, Records and Licensing Supervisor, left the meeting at 12:14 p.m.*

The board's chair, Brian Larson, entertained a motion regarding matters discussed in executive session.

**On a motion duly made by James Morris, seconded Jeffrey Reinhardt, and approved unanimously by a roll call, it was**

**RESOLVED to accept the voluntary suspension of case #2019-000180.**

Mr. Bay asked Ms. Bautista if there was anything else she wanted to discuss with the board, to which she responded no. With nothing left to discuss, Ms. Bautista left the meeting.

*Jasmin Bautista, Investigator, left the meeting at 12:16 p.m.*

**Dr. Larson called recess for lunch at 12:18 p.m.**

*Off Record at 12:18 p.m.*

*On Record at 1:04 p.m.*

Scope of Practice

Dr. Larson asked Mr. Bay to update the board on where they were at on the agenda. Mr. Bay informed the board that they were currently on agenda item #8, which was old business, and that the first topic of discussion was scope of practice. He reminded the board that he had reached out to the Department of Law to get a determination on whether or not injectable nutrients are within the scope of practice of chiropractic. The Department of Law, through Senior Assistant Attorney General, Harriet Milks, responded that injectable nutrients are not within the scope of practice of chiropractic if those injectable nutrients require a prescription. In her response, Harriet went on to say that if the board knew of any nutrients formulated for injection that did not require a prescription then the Department of Law's analysis would be different. She suggested the board provide factual documentation for any such nutrients, and that the Department of Law would look at the issue again if there was any. The board discussed possible nutrients that were known to be injectable, but that did not require a prescription. After a thorough discussion the board decided to have Dr. Reinhardt contact another practitioner regarding non-prescription injectable nutrients and to get that information to Mr. Bay so he could send it to the Department of Law.

**On a motion duly made by James Morris, seconded by John Wayne Aderhold, and approved unanimously by a roll call, it was**

**RESOLVED to allow for Dr. Reinhardt to investigate further the language behind injectable nutrients and approach another practitioner regarding scope of practice for non-prescription injectable nutrients.**

**TASK:**

**Dr. Reinhardt will gather information regarding non-prescription injectable nutrients and get it to Mr. Bay so he can provide it to the Department of Law.**

SB 69 Regulations Project

Mr. Bay explained that the subcommittee for the regulations project had a publicly noticed meeting for Tuesday, April 30<sup>th</sup>, 2019, and that the board needed to set a date for an emergency teleconference/videoconference following that date where they could discuss the subcommittee's version of the regulations project.

**On a motion duly made by Jeffrey Reinhardt, requesting unanimous consent, and approved unanimously without any objections, it was**

**RESOLVED to have a special meeting of the board take place on Thursday, May 16<sup>th</sup>, 2019, through teleconference for finalizing the SB 69 Regulations Project.**

**TASK:**

**Mr. Bay will get the teleconference publicly noticed for Thursday, May 16<sup>th</sup>, 2019.**

Seat on Professional Panel for Drug Addiction

Dr. Larson asked Mr. Bay to continue on to the next agenda item. Mr. Bay provided the board with an update on his findings in regard to a possible seat for chiropractors on the State of Alaska's opioid task force. He informed them that the opioid task force had been put on hold indefinitely, but that he had found something similar that the board may be interested in. Mr. Bay explained that there was a board called the Controlled Substances Advisory Committee, and that it consisted of nine members, one of

which is a physician and two that are individually appointed by the governor. The board was indeed interested in getting a chiropractor on the board. Mr. Bay, citing lack of information, told the board that he would gather more information and have something for them at the next board meeting. Mr. Bay acknowledged that Sheri Ryan was not present for the ACS Update and asked the board if they wanted to go back to board business on the agenda, specifically reviewing their ideas for future legislation, which had been tabled to a later time in the day. The board agreed to continue their conversation on ideas for future legislation.

**TASK:**

**Mr. Bay will gather more information regarding seats on the Controlled Substances Advisory Committee and have something for the board at their next meeting.**

**Agenda Item 4**

**Board Business**

**Time: 1:43 p.m.**

Ideas for Legislation

Dr. Larson continued discussion on the issue regarding the exclusion of chiropractic as a recognized healthcare provider in the nursing profession's statutes. He shared the following statute with the board:

**12 AAC 44.945. ADMINISTRATION OF A NON-HERBAL NUTRITIONAL SUPPLEMENT.** (e) As used in this section,

- (1) "administer" means to provide a nutritional supplement to a patient for ingestion by the patient;
- (2) "compounded" means the preparation, mixing, assembling, packaging, or labeling of a nutritional supplement;
- (3) "health care provider" includes a licensed
  - (A) advanced practice registered nurse;
  - (B) doctor of medicine;
  - (C) doctor of osteopathy;
  - (D) physician assistant; and
  - (E) dentist;

Dr. Larson again mentioned that he believed it was an oversight not to include chiropractic in the above regulation, and that he believed it should be the board's goal to be included, as chiropractors are very well versed in non-herbal nutritional supplements. Mr. Bay explained that the board could make a motion to include it in their annual report, or they could add it in their annual report when it is created. The board could then have it approved at the same time the annual report is voted on. The board decided to include it in their annual report and have it approved at the same time as the annual report. The board moved into discussion on their position statements, which also had been tabled to a later time in the day.

Position Statements

Dr. Larson continued discussion on the possibility of having a position statement regarding the definition of surgery in regulation, specifically the removal of foreign objects from living tissue. Mr. Bay acknowledged that it sounded like this discussion was heading in the direction of a regulations project and not a position statement. Mr. Bay suggested that the board take care of this issue at the same time they deal with the definition of prescription drugs, as they are in the same regulation and it would make sense to get them done at the same time, to which the board agreed. Dr. Larson said that the American Academy of Orthopedic Surgeons had a great definition of surgery and that he will find

it and present it to the board at the next board meeting. Having nothing left to discuss on position statements the board moved their budget report.

**TASK:**

**Dr. Larson will find the definition of “surgery” as defined by the American Academy of Orthopedic Surgeons, and present it to the board at the next board meeting.**

*Marylène Wales, Accountant, joined the meeting at 2:00 p.m.*

**Agenda Item 10**                      **Budget Report/Division Updates**                      **Time: 1:59 p.m.**

The board welcomed Marylene Wales for being present at the meeting and asked her to proceed with the budget report. Ms. Wales began with the board’s budget report from the 3<sup>rd</sup> quarter of FY19. She broke down total revenue and total expenditures, which ultimately came to a surplus. She assured the board that they were right at where they were supposed to be, financially. Mr. Bay reminded the board that travel costs have gone way down as a result of being able to conduct board meetings by videoconference. He noted that their financial status was better than a few years ago, to which Ms. Wales explained that it was because of a fee increase for the program. Ms. Wales asked the board if they had any questions, to which they did not. Having nothing left to discuss, Ms. Wales left the meeting.

*Marylène Wales, Accountant, left the meeting at 2:06 p.m.*

**Agenda Item 4**                                      **Board Business**                                      **Time: 2:06 p.m.**

Position Statements

Mr. Bay informed the board that they actually needed to make a motion for Dr. Larson to get the definition of surgery from the American Academy of Orthopedic Surgeons.

**On a motion duly made by James Morris, seconded by John Wayne Aderhold, and approved unanimously by a roll call, it was**

**RESOLVED to have Dr. Larson find the definition of surgery as defined by the American Academy of Orthopedic Surgeons, and present it at the next board meeting.**

**Task:**

**Dr. Larson will find the definition of “surgery” as defined by the American Academy of Orthopedic Surgeons, and present it to the board at the next board meeting.**

**Agenda Item 11**                                      **New Business**                                      **Time: 2:08 p.m.**

Postgraduate Preceptorships While Waiting for Board Exam Scores

Dr. Larson brought up the topic of postgraduate preceptorships while waiting for board exam scores because individuals who have graduated may not work until they receive their board exam scores. He also stated that there is nothing in statute or regulation that pertains to this, and that even the definition of chiropractic intern is vague, and allows for anyone, at any age, to become an intern. The board was worried about this and had a brief discussion on the matter. Mr. Bay reminded the board that this topic was most likely going to be addressed in the SB 69 regulations project, and that they should wait until after the upcoming subcommittee meeting to address it. The board agreed with Mr. Bay and tabled the discussion.

**On a motion duly made by Jeffrey Reinhardt, seconded by James Morris, and approved unanimously by a roll call, it was**

**RESOLVED to table the discussion on interns until the subcommittee furnishes their updated version of the SB 69 Regulations Project.**

*Sheri Ryan, COO, Alaska Chiropractic Society, joined the meeting at 2:25 p.m.*

The board moved to go back on the agenda, to the ACS Update, when Sheri Ryan joined the meeting.

**On a motion duly made by John Wayne Aderhold, requesting unanimous consent, and approved unanimously without any objections, it was**

**RESOLVED to amend the agenda by moving agenda item #9 in front of agenda item #12.**

**Agenda Item 9**

**ACS Update**

**Time: 2:25 p.m.**

The board welcomed Ms. Ryan and asked her to provide them with the ACS update. She began by letting the board know that there has been a problem with an Aetna algorithm that has been creating computer problems and has resulted in a lot of denials. She informed them that Aetna is working closely with ACS to fix the problem, so they are headed in a positive direction. Ms. Ryan informed the board that they have been talking with the State of Alaska regarding claim issues and that things are working very well between them.

Ms. Ryan mentioned that ACS has been following nationwide legislation, specifically legislation towards the opioid epidemic. They are likely going to mirror the legislation regarding conservative care, and plan to get something similar passed in Alaska at a later time.

Ms. Ryan asked if there was anything ACS could do for the board. While Mr. Bay was pulling up the board's goals and objectives to the monitor, Ms. Ryan asked if the board still had the topic of supporting animal chiropractic in their goals and objectives, as it was something that had never really gone anywhere, and that she did not think it would in the future. The board informed her that it was still in their goals and objectives. After a brief discussion, the board asked Ms. Ryan to speak with the ACS board to see if they wanted to remove it, which they could do at a later time. Having brought up the board's goals and objectives to the monitor, Mr. Bay reiterated Ms. Ryan's question and asked the board if there was anything that ACS could do for them, specifically legislature wise. Dr. Larson asked Ms. Ryan if ACS was interested in putting forth and promoting an advanced practitioner status that would allow for certain injectable nutrients, or possibly even doing what the State of Idaho has done and create a statutory designation of a clinical chiropractic nutritionist that specifically gives permission for certain chiropractors to administer specific legend drugs for injection that are nutritional. Ms. Ryan informed the board that this topic had not been discussed at great lengths with the ACS board and its membership, but that she could bring it before the board.

Ms. Ryan informed the board that ACS has been working on a bridge program with the University of Alaska Anchorage to help chiropractors who might be interested in becoming a physician assistant, which would eliminate a lot of the required education. She reminded the board that this would not be under the chiropractic scope of practice, but create an avenue for a chiropractor to administer full

scope prescription. Mr. Bay asked Ms. Ryan if there was anything else she wanted to address with the board, to which she did not.

*Brian Larson, Doctor of Chiropractic, left the meeting at 2:57 p.m.*

*Sheri Ryan, COO, Alaska Chiropractic Society, left the meeting at 2:58 p.m.*

Mr. Bay acknowledged that Dr. Larson had dropped from the videoconference, but that there was still a quorum. Dr. Reinhardt, the board's vice chairman, ran the board meeting in Dr. Larson's absence.

Mr. Bay informed the board that there were some cleanup items that the board had to address, and told them that they would need to move back to agenda item #8B.

**On a motion duly made by John Wayne Aderhold, requesting unanimous consent, and approved unanimously without any objections, it was**

**RESOLVED to amend the agenda by moving agenda item #8B in front of #12.**

**Agenda Item 8**

**Old Business**

**Time: 2:59 p.m.**

SB 69 Regulations Project Update

The board was about to start conversation on the SB 69 regulations project but had to pause because of public comment.

**Agenda Item 12**

**Public Comment/Correspondence**

**Time: 3:00 p.m.**

*Brian Larson, Doctor of Chiropractic, joined the meeting at 3:00 p.m.*

Public Comment

Dr. Larson joined the meeting at the very start of public comment. There was no one present for public comment. Dr. Larson closed public comment at 3:01 p.m. Having nobody present for public comment, the board continued with their conversation regarding the SB 69 regulations project.

**Agenda Item 8**

**Old Business**

**Time: 3:02 p.m.**

Mr. Bay reminded the board that they had already approved the removal of the oral part of the state chiropractic examination, and that they needed to make a motion to add to it the SB 69 regulations project, so it could be removed from regulation.

**On a motion duly made by John Wayne Aderhold, seconded by James Morris, and approved unanimously by a roll call, it was**

**RESOLVED to add to the SB 69 regulations project the removal of the words "and oral" from 12 AAC 16.130(a).**

With nothing left to discuss concerning old business the board began discussion on correspondence from the public.

Correspondence – Dr. Walter Campbell’s Letter to Board

Mr. Bay informed the board that they only had one piece of correspondence from the public, and that it was a letter from a past board member, Dr. Walter Campbell. His letter asked if the board would be willing to write a letter to the governor, encouraging him to open up Medicaid for adults over the age of 21, which is the current cutoff age. Adults aged 22 and up are not covered through the Alaska Medicaid program. The board discussed this and agreed that a letter would be a good idea because if Medicaid were approved for adults over 21 it would highly benefit the people of Alaska, specifically because chiropractic is an alternative to the opioid crisis that is currently devastating the State of Alaska, as they do not deal in prescription drugs.

**On a motion duly made by James Morris, seconded by Brian Larson, and approved unanimously by a roll call, it was**

**RESOLVED to have Dr. Reinhardt meet with Dr. Campbell to consult with and draft a letter to the governor regarding expansion of adult Medicaid benefits in the State of Alaska.**

**TASK:**

**Dr. Reinhardt will meet with Dr. Campbell and write a letter to the governor regarding expansion of adult Medicaid benefits in the State of Alaska.**

Set Meeting Dates

The board proceeded to set their next meeting date. The board decided to set a hard date of August 23<sup>rd</sup>, 2019, for their next board meeting. They also set a tentative date for November 22<sup>nd</sup>, 2019, for the following meeting.

**Having nothing left to address, the Alaska Board of Chiropractic Examiners’s Chair, Brian Larson, adjourned the meeting at 3:30 p.m.**

Respectfully Submitted by:

  
\_\_\_\_\_  
Thomas Bay  
Licensing Examiner

09/17/2019  
Date

Approved by:

  
\_\_\_\_\_  
Dr. Brian Larson  
Alaska State Board of Chiropractic Examiners

9/04/19  
Date