

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, August 23rd, 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, 9th Floor, Juneau, Alaska.

Friday, August 23rd, 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. James Morris and Jeffrey Reinhardt were not present at the beginning of 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 – Arrived at 10:21 a.m.*)
Jonathan Vito, Doctor of Chiropractic (*Via Videoconference*)
James Morris, Doctor of Chiropractic (*Via Videoconference – Arrived at 1:04 p.m.*)
John Wayne Aderhold, Public Member (*Via Videoconference*)

Division Staff present were:

Thomas Bay, Licensing Examiner
Renee Hoffard, Records and Licensing Supervisor
Marilyn Zimmerman, Paralegal
Sharon Walsh, Deputy Director (*Via Videoconference*)
Sonia Lipker, Senior Investigator (*Via Videoconference*)
Jasmin Bautista, Investigator (*Via Videoconference*)

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. Mr. Bay explained that he had to add a few things to the agenda directly before the board meeting.

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

RESOLVED to approve the agenda as amended.

Agenda Item 3

Review/Approve Meeting Minutes

Time: 10:04 a.m.

The board reviewed the meeting minutes from April 26th, 2019, and May 23rd, 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 April 26th, 2019, as written.

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 May 23rd, 2019, as written.

Mr. Bay asked the chair, Dr. Larson, to sign a copy of both minutes and send them 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: 10:05 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. Mr. Bay explained that the board would likely need to reach out to a representative who is willing to sponsor a bill regarding this topic. He informed the board that his supervisor, Renee Hoffard, would be attending the meeting shortly and would explain the process of getting statutes amended and/or added. He addressed objectives #2, 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 non-narcotic drugs, ancillary therapies, and procedures beyond chiropractic core methodology and commonly used by other Alaskan health care professionals and specialists, and #3, which is to pursue authority under AS 08.20 to create a Clinical Chiropractic Nutritionist practitioner status for chiropractic physicians to specifically resolve the question of injectable nutrients as part of chiropractic practice. He informed

the board that Renee could help address any questions they had regarding those objectives. Mr. Bay also informed the board that their objective #4, the board's request for regulation changes to clarify definitions of chiropractic practice under 12 AAC 16.990 to modify the definitions of surgery and prescription drugs, as well as adding a definition of nutrition or nutritional substance, was already on the board's agenda for that day, so they did not need to address it now. Having nothing left to discuss, the board moved to the next agenda item.

Ratify New Licenses

Dr. Larson entertained a motion to address the ratification of licenses for applicants who sat for the April 26th, 2019, examination.

On a motion duly made by John Wayne Aderhold, seconded by Jonathan Vito, and approved unanimously by a roll call, it was

RESOLVED to ratify the licenses for Alexander Ginzburg, Leah Humphries, Matthew Reilly, and Joseph Sullivan.

Renee Hoffard, Records and Licensing Supervisor, joined the meeting at 10:15 a.m.

Position Statements

Dr. Larson began discussion on injectable nutrients, a topic the board has been dealing with for a while. Mr. Bay reminded the board that they needed to have a stance on the topic following the board meeting. Dr. Larson gave an extensive overview of the history involving injectable nutrients. He reminded the board that they had issued a position statement on injectable nutrients back on January 20, 2017, and that although not all current board members were on the board at that time the current board still agreed with the position statement.

Jeffrey Reinhardt, Doctor of Chiropractic, joined the meeting at 10:21 a.m.

Dr. Reinhardt informed the board that he had been tasked with gathering information regarding non-prescription injectable nutrients and had drafted a letter on the topic, which he had provided to Mr. Bay prior to the board meeting so that he could get it to the Department of Law. Mr. Bay reminded the board that Dr. Reinhardt's letter was in response to an email from the Department of Law, asking for proof of non-prescription injectable nutrients. The board read his letter and modified it to include what is considered a prescription drug and what is considered a nutritional product, to clearly state that there is a difference between the two and that injectable nutrients are not considered prescription drugs. The board also decided to add, to the letter, the start of a regulations project that would amend 12 AAC 16.990 by adding a definition of nutritional products and amending the definition of surgery. Ms. Hoffard offered to draft an amended version of Dr. Reinhardt's letter and to have it for them following lunch. The board accepted her offer and decided to get back to the topic following lunch. Dr. Reinhardt left the meeting momentarily.

TASK:

Ms. Hoffard will draft an amended version of Dr. Reinhardt's letter regarding injectable nutrients and have it for them at this meeting, following lunch.

Renee Hoffard, Records and Licensing Supervisor, left the meeting at 11:29 a.m.

Jeffrey Reinhardt, Doctor of Chiropractic, left the meeting at 11:29 a.m.

SB 69 Regulations Project Update

Mr. Bay informed the board that Senior Assistant Attorney General Harriet Milks, from the Department of Law, had gone over their most recent version of the SB 69 regulations project and had recommendations and questions for the board to review. Mr. Bay asked the board to look over them so everybody was on the same page. Mr. Bay noticed that Dr. Larson had been disconnected from the videoconference software and explained that the board did not currently have a quorum, and that they should take a break until a third board member was available. The board called for a break.

Brian Larson, Doctor of Chiropractic, left the meeting at 11:32 a.m.

Off Record at 11:32 a.m.

On Record at 11:39 a.m.

SB 69 Regulations Project Update

Brian Larson, Doctor of Chiropractic, joined the meeting at 11:39 a.m.

Jeffrey Reinhardt, Doctor of Chiropractic, joined the meeting at 11:39 a.m.

Dr. Larson asked Mr. Bay where the board was currently at, to see if he had missed anything. Mr. Bay explained that he had not missed anything, and that the board was just about to begin conversation on the SB 69 regulations project update, specifically replying to recommendations and questions from Harriet Milks. Mr. Bay explained that her recommendations were up to the board to change, and that they would need to make a motion for any recommendation that was accepted. The board looked at Mrs. Milks' recommendations to 12 AAC 16.041(3) and (4), which read as follows:

12 AAC 16.041. Preceptor scope of practice. A chiropractic preceptor must

(3) ~~only~~ permit a chiropractic intern, ~~under personal supervision~~, to perform the practice of chiropractic as set out in 12 AAC 16.042 only under personal supervision;

(4) prior to any chiropractic manipulative therapy performed by the intern, provide a patient with an informed consent document that states that the chiropractic intern is a chiropractic student and not a licensed chiropractic physician in this state ~~prior to any chiropractic manipulative therapy performed by the intern~~;

The board approved Mrs. Milks' recommendations.

On a motion duly made by Jonathan Vito, seconded by Jeffrey Reinhardt, and approved unanimously by a roll call, it was

RESOLVED to approve the changes to 12 AAC 16.041(3) and (4).

Dr. Vito began discussion on the next section of recommendations, 12 AAC 16.042(b), (d), and (e). The board discussed Mrs. Milks' question of whether or not they wanted to keep "general" supervision as described:

12 AAC 16.042. Intern scope of practice. (b) A chiropractic intern may, under the **general** supervision of a chiropractic preceptor,

- (1) perform diagnostic imaging studies;
- (2) perform examination procedures;
- (3) use ancillary methodologies as defined in AS 08.20.900(1).

The board discussed her concerns but decided to keep the regulations as written.

On a motion duly made by Jonathan Vito, seconded by Jeffrey Reinhardt, and approved unanimously by a roll call, it was

RESOLVED to keep 12 AAC 16.042(b) as written.

The board moved on to Mrs. Milks' recommendations for 12 AAC 16.042(d), which read as follows:

12 AAC 16.042. Intern scope of practice.

(d) An intern must ~~be of graduate-level enrollment~~ be enrolled in a graduate-level course of study at a chiropractic institution located in this state and accredited by the Council on Chiropractic Education (CCE), and be accepted into and approved to participate in an internship program by that their accredited chiropractic college in this state educational institution. Internship placement in this state will be made by and overseen by the accredited chiropractic college program.

Mr. Bay informed the board that they had accidentally skipped public comment, which was scheduled for 11:45 a.m.

Agenda Item 6 Public Comment/Correspondence Time: 12:02 p.m.

Public Comment

Dr. Larson asked if there was anybody on the videoconference line, to which there was not. Dr. Larson closed public comment at 12:02 p.m. Having nobody present for public comment, the board continued their conversation regarding the SB 69 regulations project update.

SB 69 Regulations Project Update

The board, after going over Mrs. Milks' recommendations, decided to amend 12 AAC 16.042(b) to read as follows:

12 AAC 16.042. Intern scope of practice.

(d) An intern must be enrolled in a graduate-level course of study at a chiropractic institution accredited by the Council on Chiropractic Education (CCE), and be accepted into and approved to participate in an internship program. Internship placement will be made by and overseen by the accredited chiropractic college program.

On a motion duly made by Jeffrey Reinhardt, seconded by Jonathan Vito, and approved unanimously by a roll call, it was

RESOLVED to approve 12 AAC 16.042(d) as discussed.

Dr. Larson called recess for lunch at 12:05 p.m.

Off Record at 12:05 p.m.

On Record at 1:04 p.m.

Renee Hoffard, Records and Licensing Supervisor, joined the meeting at 1:04 p.m.

James Morris, Doctor of Chiropractic, joined the meeting at 1:04 p.m.

Back from lunch, Dr. Larson acknowledged that board member James Morris had joined the meeting, and that the entire board was in attendance. Ms. Hoffard was also in attendance to provide the board with her amended version of Dr. Reinhardt's letter regarding injectable nutrients. Mr. Bay informed the board that they would need to make a motion to amend the agenda if they wanted to go back to agenda item #4 regarding their position statement on injectable nutrients.

On a motion duly made by Jonathan Vito, seconded by Jeffrey Reinhardt, and approved unanimously by a roll call, it was

RESOLVED to amend the agenda by moving back to agenda item #4 regarding injectable nutrients.

The board read over Ms. Hoffard's letter and approved it to go to SAAG Harriet Milks for review.

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

RESOLVED to adopt Ms. Hoffard's letter on injectable nutrients and to have it sent to Senior Assistant Attorney General Harriet Milks for the Department of Law's review and approval.

Dr. Larson asked where the board was following their conversation on injectable nutrients. Mr. Bay let the board know that they had a few minutes to discuss a portion of the SB 69 regulations project update, and that they had their investigative report shortly.

Renee Hoffard, Records and Licensing Supervisor, left the meeting at 1:11 p.m.

TASK:

Mr. Bay will send the board's letter on injectable nutrients to Senior Assistant Attorney General Harriet Milks for the Department of Law's review and approval.

Agenda Item 5

Old Business

Time: 1:12 p.m.

SB 69 Regulations Project Update

Mr. Bay reminded that board that they needed to discuss a recommendation from SAAG Milks regarding 12 AAC 16.042(e), which read as follows:

12 AAC 16.042. Intern scope of practice.

(e) An intern may practice under a chiropractic preceptor for a period of no more than six months or the **approved** time period **approved** by their accredited chiropractic college, whichever **comes** first. Written extensions of an internship may be granted by the board.

Mrs. Milks had asked what the board meant by "comes" first. The board clarified that they meant an intern may practice under a chiropractic preceptor for a maximum of six months or the time period that was approved by their accredited chiropractic college, but that the time period could not exceed six months. Dr. Reinhardt suggested removing, "whichever comes first."

Sheri Ryan, COO, Alaska Chiropractic Society, joined the meeting at 1:18 p.m.

Mr. Bay noticed that Sheri Ryan, COO for the Alaska Chiropractic Society (ACS) and a subcommittee member on the SB 69 regulations project, had shown up early for the ACS update and welcomed her to the board meeting. Mr. Bay suggested that the board bring Ms. Ryan into the conversation since she was a subcommittee member and could help address questions from SAAG Harriet Milks. Dr. Larson informed Ms. Ryan of the SB 69 regulations project update, and where they were at with it.

Mr. Bay noticed someone else was on the videoconference line and, after asking who it was, found out it was Sonia Lipker, Senior Investigator for the division. She was in attendance for the board's investigative report, which was next on their agenda.

Agenda Item 9

Investigative Report

Time: 1:20 p.m.

Sonia Lipker, Senior Investigator, joined the meeting at 1:20 p.m.

Ms. Lipker began the investigative report by informing the board that between April 18th, 2019, and August 9th, 2019, the investigations unit opened four matters, closed four matters, and that two matters remained ongoing. Ms. Lipker informed the board that Jasmin Bautista, the board's investigator, was now in attendance as well.

Jasmin Bautista, Investigator, joined the meeting at 1:21 p.m.

Ms. Bautista continued with the investigative report. She asked the board if they had any questions with the report. Dr. Larson asked her what information she could provide regarding any of the cases mentioned by Ms. Lipker. Ms. Bautista reminded the board that she could not discuss the open cases, but that they could discuss specific closed cases. Dr. Larson asked her to discuss case #2019-000180, which was a matter regarding criminal charges and ended in a license action and suspension. Ms. Bautista informed the board that this case was presented to the board at their last board meeting, and that it was regarding a chiropractor who was charged criminally and had agreed to a voluntary license suspension until the criminal case was concluded. She explained that the criminal case in that matter was still ongoing, that the chiropractor would need to apply for reinstatement if that person planned to work again as a chiropractor, and that the board would be able to determine whether or not to issue the license following an application for reinstatement. Dr. Larson asked Ms. Bautista to inform the board of case #2019-000462, which resulted in no license action. She reminded the board that she could not discuss closed cases that have an outcome that results in no license action, to protect the privacy of the licensee and the complainant. She also let the board know that the other two cases that were closed could not be discussed. Dr. Larson asked if Ms. Bautista had anything else for the board, to which she did not. Ms. Bautista and Ms. Lipker left the meeting.

Sonia Lipker, Senior Investigator, left the meeting at 1:27 p.m.

Jasmin Bautista, Investigator, left the meeting at 1:27 p.m.

Dr. Larson asked what was next on the agenda. Mr. Bay reminded the board that Sheri Ryan was in attendance for the ACS update and that they had a meeting with the division paralegal that would require them to go into executive session, meaning that Ms. Ryan would not be allowed to be in the videoconference room at that time. The board gave the floor to Ms. Ryan.

Agenda Item 10

ACS Update

Time: 1:29 p.m.

Ms. Ryan began discussion on discount services such as Groupon, Facebook, and “deal of the day” discounts that are being offered by licensed chiropractors in Alaska. She said that it is ACS’s concern that deep discount sales are detrimental to practices in the state by creating disruptions in the quality of care and devaluing the profession. Ms. Ryan asked if it was possible for the board to have the Department of Law look into discount services to see if such discounts are in violation of any Alaska statutes or regulations regarding anti-kickback laws and inducements. Dr. Larson asked Mr. Bay if that was a possibility. Mr. Bay informed the board that he did not know if the Department of Law was the correct department to deal with discount services, and suggested having him find out the appropriate entity to get an opinion on the topic, to which the board agreed.

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

RESOLVED to have Thomas Bay reach out to the appropriate entity within the State of Alaska to get an opinion regarding discount services for the purpose of the board eventually writing a position statement in response to the Alaska Chiropractic Society’s request.

Ms. Ryan continued with the ACS update. She asked the board if there was anything within the Alaska chiropractic scope of practice that would preclude a Doctor of Chiropractic from using an

Osteopathic Manipulative Treatment (OMT) CPT code versus a Chiropractic Manipulative Treatment (CMT) CPT code. She explained that there was a chiropractor in Alaska that had been billing OMT CPT codes and getting reimbursed, and that it was her concern that if this was in fact allowable it would be devastating to offices in regard to clawbacks and/or fraud cases. Mr. Bay asked if this was a Department of Insurance issue, to which Dr. Vito agreed. Mr. Aderhold and Ms. Ryan disagreed and thought it was a scope of practice issue. Ms. Ryan explained that what needed to be addressed was the definition of an OMT CPT code and if performing the OMT CPT code was within in a chiropractor's scope of practice. Mr. Bay asked Ms. Ryan if she could write an email in defense of why it is a scope of practice issue so that he could present it to his supervisor and get some clarification on the issue, to which she agreed.

Ms. Ryan ended the ACS update by informing the ABOCE that the ACS Executive Board met to discuss the ABOCE's request of the ACS's interest in taking up legislative efforts to establish advanced chiropractic designations for Chiropractic Physician Certified Clinical Nutritionists and an Advanced Practice Chiropractic Certification. She let the board know that given the current insurance climate and limited resources available to their association, they are not interested at this time in the intensive legislative efforts that would be required for those particular advanced chiropractic designations. Mr. Bay reminded Sheri that the board would be discussing the SB 69 regulations project update following the division update and presentation on regulatory reform, and that since she was a subcommittee member on the project she may want to be there for it. Ms. Ryan said she would do her best to be in attendance. Having nothing left to discuss the board moved to their next agenda item.

Sheri Ryan, COO, Alaska Chiropractic Society, left the meeting at 2:00 p.m.

TASK:

Mr. Bay will reach out to the appropriate entity within the State of Alaska to get an opinion regarding discount services.

TASK:

Mr. Bay will present Ms. Ryan's email regarding OMT CPT codes to his supervisor to find out if using OMT CPT codes is a scope of practice issue.

Agenda Item 11

Paralegal Report

Time: 2:00 p.m.

Marilyn Zimmerman, Paralegal, joined the meeting at 2:00 p.m.

Chairman Larson began discussion on the board's paralegal report. Mr. Bay reminded the board that they would be going into executive session regarding the paralegal report. The board motioned to go into executive session to discuss the paralegal report.

On a motion duly made by John Wayne Aderhold, seconded by James Morris, and approved unanimously by a roll call, 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 and Marilyn Zimmerman remained during the session.

The board entered executive session at 2:01 p.m.

The board left executive session at 2:33 p.m.

Marilyn Zimmerman, Paralegal, left the meeting at 2:33 p.m.

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

On a motion duly made by John Wayne Aderhold, seconded by Jeffrey Reinhardt, and approved by a roll call, it was

RESOLVED to accept the consent agreement in case #2019-000416 as written.

Roll call vote:

| Board Member | Approve | Deny | Recuse |
|--------------------------------|----------|------|----------|
| Dr. Brian Larson | X | | |
| Dr. Jeffrey Reinhardt | | | X |
| Dr. Jonathan Vito | X | | |
| Dr. James Morris | X | | |
| Mr. John Wayne Aderhold | X | | |

Having finished with the paralegal report the board moved to the FCLB/NBCE/CCE update.

Renee Hoffard, Records and Licensing Supervisor, joined the meeting at 2:35 p.m.

Agenda Item 12

FCLB/NBCE/CCE Update

Time: 2:36 p.m.

FCLB Update

Mr. Bay informed the board that he and Dr. Larson received approval for travel to the upcoming FCLB District Meeting that would be held October 3rd, 2019, through October 6th, 2019, in Coeur d'Alene, Idaho, and that they would have information for the board at their next board meeting.

NBCE Update

Mr. Bay informed the board that he just received an email that might make it possible for board members to receive the honorarium that is provided to chiropractors that attend the NBCE Part IV exams and test committee schedule. The board had not been attending the NBCE Part IV exams and test committee schedule because Alaska is the only state that does not allow board members to receive honorariums, which is the only cost-effective way of attending the exam and/or test committee schedule. Dr. Larson asked if there were any board members that would be interested in attending. Depending on the honorarium, Dr.'s Morris, Reinhardt, and Vito were interested in attending. Mr. Bay said he would find out if the honorarium is now allowable and get back to the board.

Dr. Larson asked if they should move on to the next agenda item. Mr. Bay informed the board that the next agenda item was the budget report/division update and they were currently waiting on Deputy Director Sharon Walsh, who would be doing a presentation on regulatory reform. He reminded the board that she had accidentally joined the meeting during executive session and was required to leave the meeting, but that she had planned to join it shortly. In the meantime, he suggested the board continue their discussion regarding old business, specifically topics that were not discussed yet, to which the board agreed.

TASK:

Mr. Bay will find out if board members are now allowed to receive honorariums for going to the NBCE Part IV exams and test committee schedule.

Agenda Item 5**Old Business****Time: 2:44 p.m.****Seat on Professional Panel for Drug Addiction**

The board began discussion on getting a seat on Alaska's professional panel for drug addiction. Renee Hoffard explained that if the board was interested in getting a chiropractic seat on the panel it would require a statute change and they would need to contact the Governor's Office and talk to their point of contact, who was currently Deputy Attorney General John Skidmore. She explained that a member of the chiropractic board may meet the requirements and be able to sit on the panel as a public member, but that they could not sit on that board as a representative of the Alaska Board of Chiropractic Examiners.

Postgraduate Preceptorships While Waiting for Board Exam Scores

Ms. Hoffard informed the board that this topic would also require a statute change because there was no license type for it. She told the board that it would be a legislative change so they would need to find a sponsor to add the license type in their statutes. She explained that the board could designate board members as representatives, on behalf of the board, to speak to possible sponsors, but that if more than three board members were designated it would constitute any meeting between the three of them as an official board meeting and would have to be publicly noticed. The board decided to maybe bring this topic up after the budget report/division update, as Deputy Director Sharon Walsh had joined the meeting.

Agenda Item 13**Budget Report/Division Updates****Time: 2:47 p.m.**

Sharon Walsh, Deputy Director, joined the meeting at 2:47 p.m.

The board began discussion on the division update. Ms. Walsh informed the board that she was in attendance to provide a presentation on regulatory reform. She explained that Governor Dunleavy was asking for state boards to look at rethinking regulations and streamlining by putting Alaskans back to work. She also explained that Director Sara Chambers had put a presentation together for all State boards and had labeled it, "Right-Touch Regulation." Ms. Walsh began her presentation. She explained that the division was asking boards to rethink options to manage risk, break out of their comfort zone, and be willing to hear different perspectives that enable them to evaluate current and proposed management strategies, as well as propose statute, regulation, or administrative changes to the existing regulatory landscape. She informed the board of an evaluation tool that was created by the division that is based on the principles of right-touch regulation, and that the exercise does not prescribe an outcome, but leads to the exploration of characteristics of oversight that properly limit or address any problems with the activity in question. She informed the board that the presentation and workbook was not meant to force changes upon them, but rather presented an opportunity to think about it. Dr. Larson informed Ms. Walsh that the board is currently working on the possibility of statute and regulation changes that are outdated, and that they would welcome any help the division was willing to provide. Mr. Bay informed Ms. Walsh that the board had an understanding of what they needed to accomplish regulation wise, but that their biggest issues revolved around statute changes. Ms. Walsh explained that if the board could identify those statute changes, and provide a list, the division could work with them on getting them changed. Dr. Larson informed Ms. Walsh that the board's biggest need is to streamline statute and regulation changes in a timely manner.

After looking over the workbook, Ms. Hoffard let the board know that she was currently using it in several of her programs and that her, Mrs. Chambers, and Ms. Walsh are available to answer any questions the board may have once they get to the point of using it. Mr. Bay informed the board that he would be sending the PowerPoint presentation and the accompanying workbook to them shortly following the board meeting.

Dr. Larson asked Ms. Walsh when would be a good time for the board to reach out to sponsors in order to get statute changes on next year's legislative schedule. Ms. Walsh recommended getting it done sooner than later, but that she was not certain on a timeline. She suggested getting a hold of sponsors and getting them thinking about drafting language. Ms. Hoffard said that she believed legislators could do prefiles in November or December. She informed the board that usually the legislators and their staff write the language with assistance from a subject matter expert, meaning that one of the board members could assist them in drafting language. Mr. Bay asked Ms. Walsh if there was anything else she had for the board, to which she did not. The board thanked her for her time and she left the meeting.

Sharon Walsh, Deputy Director, left the meeting at 3:10 p.m.

Renee Hoffard provided the board with their budget report. She informed them that the 4th quarter report was not available yet, but that at the end of the 3rd quarter they were in a very good surplus. She also informed them that their 4th quarter report should be available at their next board meeting. Having nothing left to discuss on the budget report/division update, the board began discussion on correspondence from the public.

TASK:

Mr. Bay will send the PowerPoint presentation on right-touch regulation and the accompanying workbook to the board following the board meeting.

Agenda Item 6

Public Comment/Correspondence

Time: 3:11 p.m.

Acupuncture

The board began discussion on a letter from Dr. Jason Nardi, which inquired about the possibility of adding acupuncture to the chiropractic scope of practice in Alaska. Mr. Bay reminded the board that it is written in statute that chiropractic core methodology does not incorporate acupuncture. Furthermore, he informed the board that the acupuncture statutes only allow two professions to do acupuncture outside of an acupuncturist, and that those professions are dental and medical. He reminded the board that if they wanted to add acupuncture to the chiropractic scope of practice it would require statute changes from both the acupuncture program and chiropractic program. Ms. Hoffard informed the board that the acupuncture change in statute would be required to be finished first, or at the same time as the chiropractic change. She explained that the acupuncture program is not a boarded program and is overseen by the division, and that they would need to write a proposal letter to Director Sara Chambers informing her that they are planning to seek legislative sponsorship to make updates to their statutes, and in doing so will be requesting an update to the acupuncture statutes to permit chiropractors, with the appropriate training, to perform acupuncture as dental and medical are allowed. The board agreed that they would like to move forward with the possibility of adding acupuncture to the chiropractic scope of practice in Alaska.

On a motion duly made by Jonathan Vito, seconded by Jeffrey Reinhardt, and approved unanimously by a roll call, it was

RESOLVED to allow Renee Hoffard or Thomas Bay speak to Dr. Jason Nardi to let him know that the board is looking into his inquiry and relay to him the steps that are required.

Prolotherapy

The board received an inquiry from Dr. Rich Woolley, asking for the board's stance on prolotherapy. Dr. Reinhardt provided an overview of what prolotherapy comprises of. Dr. Larson suggested having a board member contact Dr. Woolley to explain that the board is looking at a lot of different options, including ways to appropriately expand practice, and to ask for his intent on using prolotherapy. Dr. Reinhardt volunteered to contact Dr. Woolley to find out his intent regarding prolotherapy and to get that information back to the board.

On a motion duly made by Jonathan Vito, seconded by James Morris, and approved unanimously by a roll call, it was

RESOLVED to allow Dr. Reinhardt to speak with Dr. Woolley on his intent regarding prolotherapy and to get that information back to the board.

Sheri Ryan, COO, Alaska Chiropractic Society, joined the meeting at 3:29 p.m.

Restriction on Referrals

The board received an email from Carolyn Heyman, a healthcare attorney, asking if 12 AAC 16.920(a)(12) restricted referral fees within an organization. The regulation reads as follows:

12 AAC 16.920. MINIMUM PROFESSIONAL STANDARDS. (a) Chiropractic care that may adversely affect the health and welfare of the public constitutes conduct that does not conform to minimum professional standards established under AS 08.20.170(a)(5) and this section. Conduct that does not conform to minimum professional standards in this chapter includes

(12) exploiting a patient for financial gain or offering, giving, soliciting, or receiving fees for referral of a patient;

After discussion, the board concluded that 12 AAC 16.920(a)(12) prohibits referrals for compensation of any kind, be it between unrelated entities or related entities. The board motioned to have Mr. Bay reply to Ms. Heyman with their determination.

On a motion duly made by Jonathan Vito, seconded by John Wayne Aderhold, and approved unanimously by a roll call, it was

RESOLVED to have Thomas Bay reply to Carolyn Heyman's inquiry on behalf of the board's determination.

TASK:

Ms. Hoffard or Mr. Bay will contact Dr. Nardi to let him know the board is looking into his inquiry and relay to him the steps that are required in the process.

TASK:

Dr. Reinhardt will contact Dr. Woolley to find out his intent regarding prolotherapy and get that information back to the board.

TASK:

Mr. Bay will contact Carolyn Heyman and relay the board's determination regarding referrals for compensation.

Agenda Item 5

Old Business

Time: 3:47 p.m.

SB 69 Regulations Project Update

The board welcomed Sheri Ryan back to the meeting. Mr. Bay explained that the SB 69 regulations project had been sent back to the board with recommendations and questions from Senior Assistant Attorney General Harriet Milks, who works for the Department of Law. He also explained that the board had already gone over a few of her recommendations/questions, but that, if the board would like, they could go over them again to ensure that everything was in line with what the subcommittee was trying to accomplish. The board agreed to go over the recommendations/questions that they had previously worked on. Mr. Bay explained to Ms. Ryan the board's responses to Mrs. Milks' recommendations/questions regarding 12 AAC 16.042(b), (d), and (e), to which she agreed. In that conversation Ms. Ryan offered to write a response clarifying the intent of "general" supervision, as requested by Mrs. Milks, and to get it to Mr. Bay so that he could get it to Mrs. Milks. Mr. Bay explained the board's responses to recommendations/questions regarding 12 AAC 16.041(3) and (4). After discussion, the board decided to amend their motion made earlier in the day by amending 12 AAC 16.041(3) to read as follows:

12 AAC 16.041. Preceptor scope of practice. A chiropractic preceptor must

(3) permit a chiropractic intern to perform the chiropractic adjustment as set out in AS

08.20.900(4) only under personal supervision;

On a motion duly made by Jonathan Vito, seconded by John Wayne Aderhold, and approved unanimously by a roll call, it was

RESOLVED to amend the board's previous motion to approve the changes to 12 AAC 16.041(3) and (4), by amending 12 AAC 16.041(3) as discussed.

The board continued with Harriet Milks' next recommendations/questions, which were to 12 AAC 16.052(a) and (a)(3). The board briefly discussed her recommendation to clarify "general" supervision of 12 AAC 16.052(a), which was the same recommendation that had been discussed earlier. The board already addressed this issue and moved forward with 12 AAC 16.052(a)(3), which was Ms. Milks' recommendation to remove the word "use" from the regulation to read as follows:

12 AAC 16.052. Chiropractic clinical assistant scope of practice. (a) Only a chiropractic clinical

assistant may, under the general supervision of a licensed chiropractic physician, perform the following

procedures:

(3) ~~use~~ ancillary methodologies as defined in AS 08.20.900(1).

The board approved of Mrs. Milks' recommendation.

On a motion duly made by Jonathan Vito, seconded by Jeffrey Reinhardt, and approved unanimously by a roll call, it was

RESOLVED to accept the removal of the word "use" in 12 AAC 16.052(a)(3).

The board continued with Harriet Milks' next recommendations/questions, which were to 12 AAC 16.052 (d) – (i) and read as follows:

12 AAC 16.052. Chiropractic clinical assistant scope of practice. (d) In order to meet the initial certification requirements of AS 08.20.168 and practice as a chiropractic clinical assistant in this state, a currently employed chiropractic clinical assistant with 2,000 hours or more experience ~~is required to~~ must complete the requirements as set forth by the Certified Chiropractic Clinical Assistant Program (CCCA) administered by the Federation of Chiropractic Licensing Boards (FCLB), or the CTA Program administered by the Tennessee Chiropractic Association or an equivalent nationally recognized program as determined by the board in accordance with AS 08.20.055(4) by May 15, 2020.

(e) In order to meet the initial certification requirements of AS 08.20.168 and practice as a chiropractic clinical assistant in this state, a currently employed chiropractic clinical assistant with less than 2,000 hours of experience ~~is required to~~ must complete the requirements as set forth by the Certified Chiropractic Clinical Assistant Program (CCCA) administered by the Federation of Chiropractic Licensing Boards (FCLB), or the CTA Program administered by the Tennessee Chiropractic Association or an equivalent nationally recognized program as determined by the board in accordance with AS 08.20.055(4) by November 15, 2020.

(f) In order to meet the certification requirements of AS 08.20.168 and practice as a chiropractic clinical assistant in this state, a newly hired chiropractic clinical assistant ~~is required to~~

must complete the requirements as set forth by the Certified Chiropractic Clinical Assistant Program (CCCA) administered by the Federation of Chiropractic Licensing Boards (FCLB), or the CTA Program administered by the Tennessee Chiropractic Association or an equivalent nationally recognized program as determined by the board in accordance with AS 08.20.055(4) within twelve months of hire date.

(g) A person enrolled in an educational program recognized by the board that leads to certification as a chiropractic clinical assistant ~~shall will~~ be allowed to ~~lawfully~~ provide clinical services under the **general** supervision of a chiropractic physician to gain the necessary practical clinical experience.

(h) No person ~~shall may~~ use the title “Certified Chiropractic Clinical Assistant” or another designation indicating status, including abbreviations, or hold themselves out directly or indirectly as a certified chiropractic clinical assistant, unless ~~having that person has completed met~~ the requirements under (d), (e), or (f) of this section.

(i) After completing the initial certification requirements under (d), (e), or (f) of this section, ~~a~~ chiropractic clinical assistants must maintain current certification per the requirements ~~set forth by of~~ the Certified Chiropractic Clinical Assistant Program (CCCA) administered by the Federation of Chiropractic Licensing Boards (FCLB), or the CTA Program administered by the Tennessee Chiropractic Association or an equivalent nationally recognized program as determined by the board in accordance with AS 08.20.055(4).

The board accepted Mrs. Milks’ recommendations but decided to keep “general” supervision in 12 AAC 16.052(g) for the same reasons mentioned earlier regarding “general” supervision.

On a motion duly made by Jonathan Vito, seconded by John Wayne Aderhold, and approved unanimously by a roll call, it was

RESOLVED to accept Harriet Milks’ changes to 12 AAC 16.052(d) – (i), but keep “general” supervision in (g).

The board continued with Harriet Milks’ next recommendations, which were to 12 AAC 16.290(a)(1) and (b), and read as follows:

(Words in **boldface and underlined** indicate language being added; words [CAPITALIZED AND BRACKETED] indicate language being deleted. Complete new sections are not in boldface or underlined.)

12 AAC 16.290. Hours of continuing education required. (a) **An** [EXCEPT AS PROVIDED IN (b) OF THIS SECTION, AN] applicant for renewal of a chiropractic license **who has been licensed at least two years** must **complete** [OBTAIN AND DOCUMENT SUCCESSFUL COMPLETION OF THE FOLLOWING:

(1) FOR AN APPLICANT WHO FILES A COMPLETE RENEWAL APPLICATION WITH THE DEPARTMENT FOR A LICENSE PERIOD THAT CONCLUDES ON OR BEFORE DECEMBER 31, 2012, 24 CREDIT HOURS OF APPROVED CONTINUING EDUCATION DURING THE CONCLUDING LICENSING PERIOD; AT LEAST ONE-THIRD AND NO MORE THAN ONE-HALF OF THE TOTAL HOURS REQUIRED UNDER THIS PARAGRAPH MUST BE DEVOTED TO

- (A) RADIOGRAPHIC SAFETY;
- (B) RADIOGRAPHIC TECHNIQUES AND INTERPRETATION; OR
- (C) DIAGNOSTIC IMAGING;

(2) FOR AN APPLICANT WHO FILES A COMPLETE RENEWAL APPLICATION WITH THE DEPARTMENT FOR A LICENSE PERIOD THAT CONCLUDES AFTER JANUARY 1, 2013,] 32 credit hours of approved continuing education **that was earned** during the concluding licensing period **including at least** [, AS FOLLOWS:]

(1) [(A)] eight hours of the total hours required under this **subsection** [PARAGRAPH] ~~must be~~ devoted to

- (A)** [(i)] radiographic safety;
- (B)** [(ii)] radiographic techniques and interpretation; or
- (C)** [(iii)] diagnostic imaging;

(2) [(B)] two hours of the total hours required under this **subsection**

[PARAGRAPH] must be devoted to coding and documentation;

(3) [(C)] two hours of the total hours required under this **subsection**

[PARAGRAPH] must be devoted to ethics and boundaries; **and**

(4) [(D)] two hours of the total hours required under this **subsection**

[PARAGRAPH] must be devoted to cardiopulmonary resuscitation (CPR) training.

The board was curious as to why Mrs. Milks removed “must be” from 12 AAC 16.290(a)(1) but not sections from 12 AAC 16.290(a)(2)-(4). The board motioned to remove “must be” as needed.

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

RESOLVED to remove the words “must be” from sections in 12 AAC 16.290(a)(1)-(4) as needed.

The board noticed that they did not address 12 AAC 16.290(b), which was a recommendation to remove the words “that was” and read as follows:

(b) An applicant for renewal of a chiropractic license **who has been licensed at least one year but less than two years of the concluding license period** [FOR THE FIRST TIME] must **complete** [OBTAIN AND DOCUMENT SUCCESSFUL COMPLETION OF THE FOLLOWING:

(1) FOR A LICENSE PERIOD THAT CONCLUDED ON OR BEFORE DECEMBER 31, 2012, 12 CREDIT HOURS OF APPROVED CONTINUING EDUCATION FOR EACH COMPLETE CALENDAR YEAR THE APPLICANT WAS LICENSED DURING THE CONCLUDING LICENSING PERIOD;

(2) FOR A LICENSE PERIOD THAT CONCLUDES AFTER JANUARY 1, 2013,] 16 credit hours of approved continuing education [FOR EACH COMPLETE CALENDAR YEAR THE APPLICANT WAS LICENSED] ~~that was~~ **earned** during the concluding licensing period **including at least...**

The board decided to amend their previous motion to include the removal of “that was” from 12 AAC 16.290(b).

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

RESOLVED to amend his previous motion by adding the removal of “that was” from 12 AAC 16.290(b).

The last recommendation/question Harriet Milks had was in regard to 12 AAC 16.990(a)(8) and read as follows:

12 AAC 16.990(a) is amended by adding new paragraphs to read:

(8) "**personal supervision**" means that the licensed chiropractic physician must be physically present at the same office location where the services are being furnished.

Mrs. Milks asked if this was really what the board was okay with for their definition of “personal supervision.” The board agreed that it was and decided not to change it.

The board informed Sheri Ryan that the board was finished with the SB 69 regulations project update and asked if she had any questions. She did not and left the meeting.

Sheri Ryan, COO, Alaska Chiropractic Society, left the meeting at 4:41 p.m.

TASK:

Sheri Ryan will write a response clarifying the intent of “general” supervision, as requested by Mrs. Milks.

Agenda Item 14

Administrative Business

Time: 4:41 p.m.

Set Meeting Dates

The board proceeded to set their next meeting date. The board decided to set a hard date of November 22nd, 2019, for their next meeting.

Dr. Larson asked if the board needed to do anything else regarding a possible position statement on injectable nutrients.

Agenda Item 4

Board Business

Time: 4:44 p.m.

Position Statements

Mr. Bay informed the board that he received a request from Assistant Attorney General Adam Franklin, an attorney for the Workers’ Compensation Board, to get a position statement from the board regarding injectable nutrients. Mr. Franklin informed Mr. Bay that he was currently in litigation involving a chiropractor and injectable nutrients. Mr. Bay informed the board that he told Mr. Franklin that he would try to get a definitive stance from the board and have it for him following the board meeting.

