

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, November 22nd, 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, November 22nd, 2019

Agenda Item 1

Call to Order/Roll Call

Time: 10:07 a.m.

The meeting was called to order by Chairman, Brian Larson, at 10:07 a.m.

Board Members present, constituting a quorum:

Brian Larson, Doctor of Chiropractic (*Via Videoconference*)
Jeffrey Reinhardt, Doctor of Chiropractic (*Via Videoconference*)
Jonathan Vito, 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
Christianne Carrillo, Licensing Examiner
Jean Bennett, Licensing Examiner
Renee Hoffard, Records and Licensing Supervisor
Marilyn Zimmerman, Paralegal
Melissa Dumas, Administrative Officer
Sonia Lipker, Senior Investigator (*Via Videoconference*)

Present from the Public:

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

Agenda Item 2

Review/Approve Agenda

Time: 10:12 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, requesting unanimous consent, and approved unanimously without any objections, it was

RESOLVED to approve the agenda as written.

Agenda Item 3 Review/Approve Meeting Minutes Time: 10:13 a.m.

The board reviewed the meeting minutes from August 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 August 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: 10:13 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, is 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. He informed the board that they needed to write a letter to the Alaska Advisory Board on Alcoholism and Drug Abuse, asking who the board needs to talk to for inclusion into the statute. 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 agreed to have Dr. Larson write the letter.

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 Dr. Larson write a letter to the Alaska Advisory Board on Alcoholism and Drug abuse regarding inclusion of chiropractors into AS 08.01.050(d).

The board began discussion on objective #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. Mr. Bay informed the board that he had spoken to his supervisor, and she had told him that an advanced practitioner status would require a statute change, and doing so would open up their statutes, meaning that anything else in their statutes could be removed or added without the board's consent. The board discussed in detail the possibility of opening up their statutes, specifically the possible positive and negative outcomes that would come with doing it. Dr. Reinhardt cautioned the board on opening up their statutes before doing research into the negative effects it would have on what they are currently allowed to do. The board talked about the possibility of doing an electronic survey regarding an

advanced practitioner status and opening up their statute, and sending it out to all licensed chiropractors in Alaska.

Thomas Bay, Licensing Examiner, left the meeting at 10:51 a.m.

Renee Hoffard, Records and Licensing Supervisor, joined the meeting at 10:51 a.m.

Dr. Larson welcomed Renee Hoffard to the board meeting and asked her if it is within the purview of the board to send out the electronic survey. She said it is within the board's purview, and that they would need to make a motion if they wanted to send out the survey.

Thomas Bay, Licensing Examiner, joined the meeting at 10:55a.m.

Dr. Reinhardt suggested the board reach out to get some opinions on this topic before they send out an official survey. Dr. Morris asked Ms. Hoffard if it would be possible if the board reached out to chiropractic school presidents and/or the National Board of Chiropractic Examiners (NBCE) to get their opinions on the topic. Ms. Hoffard recommended the board designate someone to write a letter that could be distributed to chiropractic schools, through Mr. Bay, asking their opinions on the topic as it relates to the chiropractic profession and the education they teach. Dr. Larson asked if it would be appropriate to send out the same letter to specialty boards that offer diplomates, to see if they would be interested in offering certain advanced training. Ms. Hoffard suggested a letter to the specialty boards would be a better focus group than the chiropractic schools. Dr. Reinhardt did not think that a letter to the schools would be beneficial. Dr. Vito asked if it would be appropriate to reach out to other state boards to see if they have dealt with an advanced practitioner status and, if so, what the outcome was. Mr. Bay suggested the board utilize the Federation of Chiropractic Licensing Boards (FCLB) to do a PowerPoll, which is a survey of other state licensing boards, to get some feedback on how they may or may not have dealt with this topic in the past. The board agreed to poll the FCLB and chiropractic specialty boards regarding their input on allowing chiropractors to practice in full for their specialized training.

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

RESOLVED to poll other state boards, through the FCLB, and chiropractic specialty boards for their input on allowing chiropractors to practice in full for their specialized training.

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

RESOLVED to have Dr. Larson and Dr. Reinhardt prepare the poll that will be sent to other state boards, through the FCLB, and chiropractic specialty boards.

The board discussed their objective #3, which is to pursue authority under AS 08.20 to create a Clinical Chiropractic Nutritionist practitioner status. Dr. Larson informed the board that if the board wanted to include the word "nutritionist" they would need to get approved for an exemption from the Dietitians & Nutritionists program, and it would require a statute change. He acknowledged that the board already recognizes a diplomate in nutrition and that a Clinical Chiropractic Nutritionist practitioner status is probably not needed. The board agreed that the diplomate currently recognized by the board is adequate for advanced nutrition. The board decided to move ahead in the agenda to discuss injectable nutrients.

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 agenda by moving ahead to agenda item #4D regarding injectable nutrients.

Injectable Nutrients

Dr. Larson asked Ms. Hoffard to provide the board with her thoughts, concerns, and direction regarding injectable nutrients. Ms. Hoffard explained to the board that they need to begin the regulations project they spoke about at their last board meeting, regarding amending the definitions of “prescription drugs” and “surgery,” and fully get through the regulations process to allow for injectable nutrients, because the current definitions do not allow for it. Ms. Hoffard reminded the board that the recommendation from the Department of Law is that they are probably outside their scope of practice with injections of any kind, and the best resolution is to amend the aforementioned definitions in regulation before the board tells anyone they are allowed to perform injections. Dr. Larson mentioned that it was his understanding that the board had already begun the regulations project for amending those definitions. Mr. Bay reminded the board that, at their last board meeting, they spoke about the definitions at great length, but never officially started a regulations project. He let them know that it was not an issue, and that all the board needed to do was make a motion to start it.

Mr. Bay reminded the board that they are currently in contact with Dr. Rich Woolley, regarding the possible usage of prolotherapy, and that, since it is an injection-based procedure, they may want to address the situation after learning that injections of any kind are likely outside their scope of practice. The board agreed that it would be appropriate to let Dr. Woolley know that, at this time, injections of any kind are not within the current scope of practice for chiropractors, that the board has already begun a regulations project to address the situation, and that they will let him know when it is signed into effect. The board tasked Mr. Bay to respond to Dr. Woolley.

Dr. Reinhardt asked the board if they thought it would be appropriate for a chiropractor to take courses on, or similar to, prolozone, and to be able to utilize the courses for continuing education. The board agreed that someone taking such a course should submit an application for continuing education approval, and to make sure that they provide all of the required information asked for on the application. Ms. Hoffard let the board know that she was leaving the meeting and that she would be available if they needed her. The board thanked her for her time.

Renee Hoffard, Records and Licensing Supervisor, left the meeting at 11:46 a.m.

Ratify New Licenses

Dr. Larson asked Mr. Bay where they were at on the agenda. He let them know that they were still on board business, but that they only needed to ratify the new licenses from those who passed the last jurisprudence examination. Dr. Larson entertained a motion to address the ratification of licenses for applicants who sat for the August 23rd, 2019, examination.

On a motion duly made by Jonathan Vito, requesting unanimous consent, and approved unanimously without any objections, it was

RESOLVED to ratify the licenses for James Harris, Tami Hedges, Scott Maystrovich, and Kenneth Nutter.

TASK:

Dr. Larson will write a letter to the Alaska Advisory Board on Alcoholism and Drug abuse regarding inclusion of chiropractors into AS 08.01.050(d).

TASK:

Dr. Larson and Dr. Reinhardt will prepare a poll that will be sent to other state boards and chiropractic specialty boards for their input on allowing chiropractors to practice in full for their specialized training.

TASK:

Mr. Bay will relay the board's message to Dr. Rich Woolley regarding his inquiry into prolotherapy.

Agenda Item 5

Statutes and Regulations

Time: 11:47 a.m.

SB 69 Regulations Project Update

Mr. Bay explained that there were no written comments received during the written comment period when the SB 69 regulations project went out for public notice. He informed the board that they can propose to adopt the amended regulations as publicly noticed or they can talk about the regulations and change anything, but that, if they did, it would require the regulations to go back out for public notice. Dr. Larson asked the board if any of them had anything specific that they wanted to add or remove that would require an amendment to the regulations project, to which the board did not. Dr. Larson entertained a motion to accept the regulations project as publicly noticed.

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

RESOLVED to adopt the proposed regulation changes, 12 AAC 16.030 through 12 AAC 16.990, relating to licensure requirements, examinations, specialty programs, continuing education requirements, scope of practice for chiropractic preceptors, interns, and clinical assistants, patient examinations for school and sports activities, peer review, courtesy license, definitions, and to implement changes made in Chapter 8, SLA 2016 (SB 69), as written and publicly noticed. No comments were received, and the board considered the cost to private persons of the regulatory actions being taken.

Statute Projects

Dr. Larson asked Mr. Bay what was next on the agenda. Mr. Bay informed the board that their next agenda items covered projects that require statute changes. The first project is for inclusion into being able to do acupuncture and the second is for the creation of a postgraduate preceptorship while recently graduated chiropractors wait for their board exam scores.

Acupuncture

Mr. Bay informed the board of the process that would need to take place in order for them to be allowed to perform acupuncture. Mr. Bay reminded the board that they would need to get statutes amended with both the acupuncture program and their own. He explained that the board would first need to write a letter to Director Sara Chambers, requesting inclusion into AS 08.06.080, which is an exemption list that currently includes Medicine and Dentistry. If that exemption was granted, after going through the legislation process, the chiropractic statutes would have to be opened and "needle acupuncture" would need to be removed from the list of things that are not incorporated into the definition of "chiropractic core methodology," as is defined in AS 08.20.900(6). Dr. Larson asked the board what their thoughts were on opening up their statutes for trying to incorporate acupuncture. The board agreed that they did not have any concerns about opening up their statute to include acupuncture.

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 Dr. Larson and Dr. Reinhardt write a letter to the division regarding inclusion into the acupuncture exemptions.

Postgraduate Preceptorships While Waiting for Board Exam Scores

Dr. Larson reminded the board of past conversations about possibly creating a postgraduate preceptorship for recently graduated chiropractors who are still waiting for board exam scores. Mr. Bay informed the board that NBCE board scores will be available approximately every month and a half moving forward, instead of the three months it has been in the past. The board agreed that a month and a half was ample time to wait for board scores, and that it did not merit a new license for a postgraduate preceptorship.

TASK:

Dr. Larson and Dr. Reinhardt will write a letter to the division regarding inclusion into the acupuncture exemptions.

Dr. Larson called recess for lunch at 12:08 p.m.

Off Record at 12:08 p.m.

On Record at 1:01 p.m.

Dr. Larson acknowledged that Dr. Reinhardt was not yet back from lunch, but that every other board member was in attendance, constituting a quorum. The board decided to jump ahead in the schedule and talk about the FCLB/NBCE/CCE update.

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 #5C to a later time in the day.

Agenda Item 7

FCLB/NBCE/CCE Update

Time: 1:01 p.m.

Mr. Bay reminded the board that he and Dr. Larson had attended the FCLB District Meeting that was held October 3rd, 2019, through October 6th, 2019, in Coeur d'Alene, Idaho. He informed the board that a lot of topics were discussed at the district meeting, and that he and Dr. Larson came out of it with two topics that the board may want to address. The first topic was the Ethics and Boundaries Assessment Services (EBAS) essay exam, which is owned and operated in whole by the National Board of Chiropractic Examiners (NBCE). Dr. Larson explained that the EBAS exam is an essay formatted examination designated for candidates who have disciplinary actions regarding fraud, sexual misconduct, boundary issues, etc. There are different categories of essay exams and they are specific to the type of disciplinary action. He explained that the exam is meant to educate the candidate and assess the candidate's understanding and commitment to maintain appropriate boundaries in their practice. He reminded the board that there are multiple testing centers located in Alaska, and that the exam itself currently costs \$1500 to the applicant.

Jeffrey Reinhardt, Doctor of Chiropractic, joined the meeting at 1:10 p.m.

The board acknowledged that this exam would be a useful tool that provides an educated unbiased opinion on whether the chiropractic candidate can safely return to treating patients. Mr. Bay informed the board that if they wanted to move forward with trying to implement the EBAS exam, they would

if this process would open up licensure year-round, as opposed to the current system that is only quarterly. Mr. Bay explained that it would be possible to hold the jurisprudence examination more year-round, but that it would likely require a regulations project to amend regulations that currently require a 45-day deadline for complete applications ahead of the next scheduled examination, as well as additional public notices. Dr. Vito asked if it would work better if they just offered the exam at the testing centers on the same day as the normally scheduled exams that are offered in Alaska. Mr. Bay agreed that offering the exam on the same day as the normally scheduled exams would work better. He explained that this route would likely not require a regulations project, and also would not create additional public notices. The problem, Mr. Bay explained, is the examination fee, which is appropriated by the division. He informed the board that he was unsure if the board could split fees with the NBCE and/or require an examination fee if it was entirely done by a 3rd party organization. The board tasked Mr. Bay with finding out the steps it would take to implement national testing of the state jurisprudence examination, including the appropriation of examination fees

TASK:

Mr. Bay will find out the steps it would take to implement national testing of the state jurisprudence examination, including the appropriation of examination fees.

Dr. Larson called for a break.

Off Record at 1:32 p.m.

On Record at 1:39 p.m.

Agenda Item 9

ACS Update

Time: 1:39 p.m.

Sheri Ryan, COO, Alaska Chiropractic Society, joined the meeting at 1:39 p.m.

The board welcomed Sheri Ryan to the meeting and asked her to begin the ACS update. Ms. Ryan informed the board that Premera Blue Cross recently sent out information that eviCore healthcare will be gone and that they are going with another company called Evolent Health. She explained that, effective January 1st, 2020, eviCore is gone for preauthorization for all massage and physical therapy services for their plans, and, effective February 21st, 2020, Evolent Health is in. Ms. Ryan said that she just received this information and has not had the chance to go over it in detail. She explained that, at first glance, Evolent Health's parameters will move from preauthorization to retrospective review, which seems to be a change in terminology to get around some state's statutes in regard to preauthorization review. Ms. Ryan voiced her concern with this change, citing that preauthorization guarantees payment, whereas retrospective review could deem already provided services as something "not medically necessary" and not be able to balance bill the patient. She said that she would get more information out to chiropractors in the state once she was able to speak with Premera.

Ms. Ryan informed the board that the Alaska Chiropractic Society (ACS) met with the State of Alaska regarding Alaska Care and Aetna. She also informed the board that the State of Alaska is directing Aetna to automatically reprocess all of the outstanding claims that were denied, and subsequently denied upon appeal, based on a Cotiviti edit, and that this should help with many denied claims that offices have been sitting on.

Ms. Ryan informed the board that the State of Alaska is changing the parameters for retirees. She explained that Aetna currently has a policy for retirees, that on their 26th chiropractic visit they go into a "medically necessary" review. She went on to say that the State of Alaska has determined, through negotiations with the retiree board, and a lot of analysis, as of January 1st, 2020, they are going to be resetting the diagnosis treatment maximum every year so that it equates to retirees having access to chiropractic care while not having to go into the "medically necessary" review. She explained that the State of Alaska is also extending their hotline email address, which was due to expire on November 15th, 2019, and are extending it until the end of February 2020, which will help keep a careful monitoring on Aetna's processing of chiropractic claims. Ms. Ryan summed it up by saying that

chiropractic as a whole is making advancements with its largest payers in Alaska, as far as chiropractic claims are concerned.

Ms. Ryan asked if the board had heard back from the Department of Law regarding a position statement request in regard to discount services, such as Groupon, to see if there were any violations chiropractors were committing by using them in the State of Alaska. Mr. Bay acknowledged that he thought he had already talked to his supervisor and reached out to Ms. Ryan regarding discount services. Having thought this discussion had already taken place, Mr. Bay told Ms. Ryan that he would need to speak with his supervisor before he could address the topic.

Ms. Ryan asked about the status of the SB 69 regulations project, after it had returned from public comment. Mr. Bay updated her, informing her that there were no public comments and that the board had already motioned to adopt the proposed regulation changes as written and publicly noticed. Ms. Ryan, a subcommittee member on the SB 69 regulations project, expressed relief that everything worked out well and that the regulations project is in its finishing stages.

Ms. Ryan finished the ACS update by informing the board that ACS has signed their contract with the Captain Cook hotel in Anchorage, for the ACS Convention 2020, and that they were looking for speakers. She asked the board that if they had any recommendations please contact her for availability on the docket.

Dr. Larson asked Mr. Bay if there was a decision on whether or not a chiropractor could use osteopathic manipulative treatment codes. Mr. Bay informed the board that he thought this topic was addressed at the same time as the discount services issue, and that he needed to speak with his supervisor before addressing it.

Dr. Larson asked Ms. Ryan if she had anything further for the board. She asked the board if there were any plans to make the state jurisprudence examination more widely available, outside their current quarterly system. Dr. Vito informed her that they are currently looking into making the state jurisprudence examination available through the NBCE, which would make the exam available nationally. Mr. Bay informed her that he will be looking into the logistics of expanding the exam, so that the board could make an educated decision on how they would like to proceed. Having nothing left to discuss, Ms. Ryan left the meeting.

Sheri Ryan, COO, Alaska Chiropractic Society, left the meeting at 1:58 p.m.

TASK:

Mr. Bay will speak with his supervisor, to clear up the confusion on discount services and billing codes. He will get that information to the board and Sheri Ryan.

Agenda Item 10

Paralegal Report

Time: 1:58 p.m.

Marilyn Zimmerman, Paralegal, joined the meeting at 1:58 p.m.

Mr. Bay let the board know that Marilyn Zimmerman was in attendance for 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 Brian Larson, seconded by John Wayne Aderhold, 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), and Alaska Constitutional Right to Privacy Provisions, 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, Marilyn Zimmerman, Christianne Carrillo, and Jean Bennett remained during the session.

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

The board left executive session at 2:10 p.m.

Marilyn Zimmerman, Paralegal, left the meeting at 2:10 p.m.

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

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

RESOLVED to accept the consent agreement in case #2019-000707 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 began discussion on their next agenda item.

Agenda Item 11

Public Comment/Correspondence

Time: 2:12 p.m.

Correspondence

Mr. Bay reminded the board that public comment needed to be opened at 2:15 p.m., which was coming up shortly. Dr. Vito noticed that the only thing on the agenda for correspondence was regarding prolotherapy and Dr. Richard Woolley, a topic that was discussed earlier in the day. Mr. Bay reminded the board that he was tasked with contacting Dr. Woolley, and that he would do so soon after he got back in the office.

Mr. Bay informed the board that there was one more piece of correspondence that he had added to the agenda. He informed the board that the International Academy of Chiropractic Neurology (IACN) learned that the International Board of Chiropractic Neurology (IBCN) diplomate was being added to 12 AAC 16.048 as an approved chiropractic specialty program, and, being the owning entity of the IBCN, requested that their other board, the International Board of Electrodiagnosis (IBE) diplomate also be added as an approved chiropractic specialty program. Mr. Bay reminded the board that it was time for public comment.

Public Comment

Dr. Larson asked if there was anybody on the videoconference line, to which there was not. Dr. Larson closed public comment. Having nobody present for public comment, the board continued their conversation regarding the IACN’s request to include the IBE as an approved chiropractic specialty program

Correspondence

Mr. Bay informed the board that if they were to go through with the IACN's request, to add the IBE as an approved diplomate, they could add it to the same regulations project they planned on starting that day regarding amending/adding definitions in regulation. Dr. Larson asked Mr. Bay if it was more efficient to add regulation projects into one larger project or do separate projects. Mr. Bay said that it depended on the timeline. He asked if any of the current board members were on the board when the IBCN was accepted, and, if so, how long that process took. No current board members were on the board when the IBCN was accepted. Mr. Aderhold mentioned that he thought the only reason regulation projects should be separated is if they were controversial, and likely to take longer to get passed. Mr. Bay, after going through the board's statutes, informed the board that all specialty designations must include the term "chiropractic," as written in AS 08.02.155. The board, citing that the International Board of Electrodiagnosis does not include the term "chiropractic," tasked Mr. Bay with contacting the International Academy of Chiropractic Neurology to thank them for their interest and efforts, but at this time the International Board of Electrodiagnosis cannot be added as an approved chiropractic specialty program.

TASK:

Mr. Bay will contact the IACN to inform them that the IBE cannot be added as an approved chiropractic specialty program.

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

RESOLVED to amend the agenda by moving agenda item #13 in front of #12.

Agenda Item 13

Administrative Business

Time: 2:24 p.m.

Set Meeting Dates

The board proceeded to set their next meeting date. The board decided to set a hard date of February 28th, 2020, for their next meeting. They also set a tentative date for May 15th, 2020.

Agenda Item 12

Budget Report/Division Updates

Time: 2:30 p.m.

Melissa Dumas, Administrative Officer, joined the meeting at 2:30 p.m.

The board welcomed Melissa Dumas to the meeting and asked her to proceed with the budget report. Ms. Dumas began with the board's budget report from the 4th quarter of FY19. She broke down total revenue and total expenditures, which ultimately came to a surplus. She reminded the board that they will be going into a nonrenewal year, and that she expects the chiropractic board to be in a deficit at the end of FY20. She informed the board that a fee analysis will be done and ready for the board at their next meeting, with a possible fee change as a result. Ms. Dumas also explained the indirect expenses allocated to the board. She asked the board if they had any questions, to which they did not. Ms. Dumas left the meeting.

Melissa Dumas, Administrative Officer, left the meeting at 2:47 p.m.

Agenda Item 5

Statutes and Regulations

Time: 2:47 p.m.

Regulations Projects

Dr. Larson began conversation on a regulations project that would amend the definitions of "prescription drug" and "surgery," as well as add a definition of "nutrition." The board had talked about this regulations project at the prior meeting, but never officially started it. Mr. Bay reminded the board that they still needed to make an official motion to begin the regulations project. Dr. Larson entertained a motion to begin the regulations project.

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

RESOLVED to have the Alaska Board of Chiropractic Examiners begin a regulations project to amend the definitions of “prescription drug” and “surgery” as defined in 12 AAC 16.990(b)(1) and (2), and add the definition of “nutrition” in the same regulations section.

Dr. Larson asked Mr. Bay to bring up, on the monitor, the language the board had talked about at their previous board meeting, to use as a starting point. Mr. Bay brought up the requested language and also provided the board with the current chiropractic regulations. The board addressed the following definitions in regulation:

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;

(2) "surgery"

(A) means the use of a scalpel, sharp cutting instrument, laser, electrical current, or other device to incise or remove living tissue;

(B) does not include venipuncture or the removal of foreign objects from external tissue.

Dr. Larson first addressed the current definition of “surgery,” and reminded the board that the reason injections are not permitted is because it includes a device “to incise or remove living tissue.” Dr. Larson also reminded the board that, at their last board meeting, they suggested using a definition of “surgery” similar to the State of Virginia’s. After looking over Virginia’s definition, the board agreed to amend the definition of “surgery”, as defined in 12 AAC 16.990(b)(2), to read as follows:

- “surgery” means the structural alteration of the human body by the incision of or cutting into the tissue for the purpose of diagnostic or therapeutic treatment causing localized alteration of human tissue, but does not include the following: procedures for the removal of superficial foreign bodies from the human body, punctures, suturing, injections, venipuncture, dry needling, acupuncture, or removal of dead tissue.

The board began discussion on amending the current definition of “prescription drug.” Dr. Larson reminded the board that his biggest concern with the current definition is that it does not allow a chiropractor to carry supplements that have a label that says, “is restricted to use by practitioners only.” He explained, to which the board agreed, that a lot of substances that chiropractors carry are nutrition based, and include vitamins and minerals, but still require that label even though they are not prescription drugs, as defined on the federal level by the Drug Enforcement Agency (DEA).

Wayne Aderhold informed the board that one of his concerns regarding nutritional or dietary supplements and the Department of Law, is that they sometimes get stuck on one word. He explained that there are two grades of dietary/nutritional supplements under the Food and Drug Administration (FDA) of Good Manufacturing Practices (GMPs), and they are food and pharmaceutical grade. He went on to say that a lot of companies that make the supplements voluntarily meet pharmaceutical grade standards to manufacture their supplements, which actually makes them safer, but the word “pharmaceutical” can scare someone into thinking they should only be used by doctors. His concern is

that companies that make good products might be restricted because they decided to meet pharmaceutical grade standards rather than food grade standards. Dr. Larson agreed with Mr. Aderhold and said that defining the word “nutrition” should help alleviate the problem while also helping keep costs down for the public. Dr. Larson continued the discussion on amending the current definition of “prescription drug.”

Dr. Larson proposed that the board describe “prescription drug” exactly how the DEA defines it, as a drug listed on the federal DEA schedule 1 through schedule 5. The board talked about the different schedules, and agreed to propose to amend the definition of “prescription drug,” as defined in 12 AAC 16.990(b)(1), to read as follows:

- “prescription drug” means a substance that is defined by the DEA as schedule 1 through schedule 5.

The board began discussion on creating a definition for “nutrition,” and adding it to 12 AAC 16.990. They discussed different types of nutrition and what constitutes a “nutritional substance.” Dr. Larson provided the board with a definition of “nutrition” that he had previously drawn up and shared it with the board. The board went over it thoroughly, and after amending it, agreed to propose to create a definition of “nutrition” and “nutritional substance,” to be defined in 12 AAC 16.990(c), to read as follows:

12 AAC 16.990. DEFINITIONS. (c) “Nutrition” or a “nutritional substance” is a vitamin, mineral, plant or extract, herb or extract, homeopathic, glandular or whole tissue extract, natural or nutritional substance, sugar, amino acid product, enzyme supplement, and saline, intended for use in the diagnosis, treatment, or prevention of disease in humans. Nutritionals include food grade and pharmaceutical grade substances that can be purchased by professionals without a DEA license.

(1) Chiropractic physicians may administer nutritional substances that are intended for oral, topical or transdermal use;

(2) Chiropractic physicians with board approved post-graduate training may administer all nutritional substances by oral, topical, transdermal, injections, or IV drip.

On a motion duly made by Jonathan Vito, requesting unanimous consent, and approved unanimously without any objections, it was

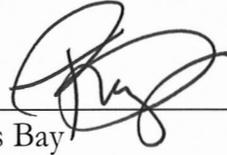
RESOLVED to provide the Department of Law with the amended definitions as discussed.

TASK:

Mr. Bay will provide the Department of Law with the amended definitions as discussed.

Having nothing left to address, the Alaska Board of Chiropractic Examiners' Chair, Brian Larson, adjourned the meeting at 4:32 p.m.

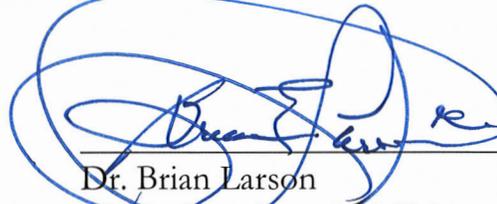
Respectfully Submitted by:



Thomas Bay
Licensing Examiner

02/28/2020
Date

Approved by:



Dr. Brian Larson
Alaska State Board of Chiropractic Examiners

2/28/2020
Date