

1 State of Alaska
2 Department of Commerce, Community and Economic Development
3 Division of Corporations, Business and Professional Licensing
4

5 **BOARD OF CHIROPRACTIC EXAMINERS**

6
7 **MINUTES OF THE MEETING**
8 **Friday, November 13th, 2020**

9
10 By authority of AS 08.01.070(2), and in compliance with the provisions of AS 44.62, Article 6, a
11 scheduled meeting of the Board of Chiropractic Examiners was held via Videoconference on
12 November 13th, 2020.

13
14 **Friday, November 13th, 2020**

15
16 **Agenda Item 1** **Call to Order/Roll Call** **Time: 10:07 a.m.**

17
18 The meeting was called to order by Chairman, Brian Larson, at 10:07 a.m.

19
20 Board Members present, constituting a quorum:

21
22 Brian Larson, Doctor of Chiropractic
23 Jonathan Vito, Doctor of Chiropractic
24 James Morris, Doctor of Chiropractic
25 John Lloyd, Doctor of Chiropractic
26 Gabriel King, Public Member (*Joined telephonically at 10:22 a.m.*)

27
28 Division Staff present were:

29
30 Tracy Wiard, Occupational Licensing Examiner
31 Thomas Bay, Occupational Licensing Examiner
32 Jasmin Bautista, Investigator (*present at 1:14 p.m.*)
33 Melissa Dumas, Administrative Officer (*via videoconference at 2:35 p.m.*)

34
35 Present from the Public:

36
37 Sheri Ryan, Chief Operating Officer, Alaska Chiropractic Society
38

39 **Agenda Item 2** **Review/Approve Agenda** **Time: 10:09 a.m.**

40 After the roll call, chair, Dr. Larson asked the board to review the agenda.

41
42 **On a motion duly made by Jonathan Vito, seconded by James Morris, and approved**
43 **unanimously by a roll call, it was**

44
45 **RESOLVED to approve the agenda as written.**

46
47
48 **Agenda Item 3** **Review/Approve Meeting Minutes** **Time: 10:10 a.m.**

49
50
51
52
53
54
55
56
57
58
59
60
61
62
63
64
65
66
67
68
69
70
71
72
73
74
75
76
77
78
79
80
81
82
83
84
85
86
87
88
89
90
91
92
93
94
95
96
97

The board reviewed the meeting minutes from August 21st, 2020.

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

RESOLVED to approve the meeting minutes from the August 21st, 2020 meeting as written.

Agenda Item 4

Board Business

Time: 10:35 a.m.

New Public Board Member

Mr. Gabriel King joined the board meeting at 10:35 a.m. Being the new public member on the Board of Chiropractic Examiners, Dr. Larson asked him to introduce himself to the board. He resides in Fairbanks and works as a fire fighter. He was welcomed to the board and everyone was happy to have a full board and thanked him for joining.

Ethics Report

Dr. Larson addressed ethics reporting. The board had no ethical violations to report.

Review Goals & Objectives

The board began discussion on their goals and objectives.

- Task List from August 21, 2020, Board Meeting & Annual Report:

Dr. Larson reviewed the previous task list that the board created from the August 21, 2020 meeting. Dr. Larson explained that many of the tasks on the list were not able to be accomplished as the board was informed by the Department of Law that they could not legally change the definitions the board wanted to change due to discrepancies in the board's statutes. The statutes specify chiropractors work without performing surgery or prescribing drugs and the statutes would need amendments to allow the board's proposals.

Dr. Larson went on to explain that the definition of chiropractic core methodologies was inconsistent with many of the regulatory changes the board wanted to make. It was determined that the items requested to be changed may be outside the scope of practice for chiropractors. Dr. Larson stated the board wanted to address changes to the subluxation complex. He stated many states have dropped the discussion of subluxation philosophy and have replaced it with the concept of neuromuscular joint dysfunction and it has been found to be more consistent and understood throughout the healthcare community. Dr. Larson then asked the board for ideas and discussion on the topic of neuromuscular joint dysfunction and how it would benefit the board to modernize the language through legislation.

Dr. Vito felt that modernizing the term would be a good idea as it would encompass the scope of practice used for chiropractors and would not be confused by other medical professionals who may think subluxation complex is referring to a partial dislocation. Dr. Morris believed the term subluxation complex needed to be updated as well. He stated it is obvious chiropractors take care of many musculoskeletal issues and it would be a good idea to get some language that supports that. At the same token he stated it was important to keep some of the language already established regarding vertebral subluxation and core methodology with the chiropractor's current language but adding neuromuscular joint dysfunction to encompass

98 everything chiropractors do. Dr. Morris stated that, “Once the language is established the
99 board can then address scope of practice issues.”

100
101 Dr. Larson wanted to bring the new board member up to date. He referred to the board’s
102 statutes and regulations, stating a person licensed under this chapter may analyze, diagnose and
103 treat the chiropractic condition of a patient by utilizing chiropractic core methodology or
104 ancillary methodology. Dr. Larson went on to explain that in Alaska law, all areas of practice
105 must specify what that area is. For medical doctors and osteopaths, it simply says they are
106 medical doctors. For nurse practitioners there needs to be specification that they are using a
107 nursing diagnosis. Chiropractors use the chiropractic diagnosis. This specifies the area of
108 treatment used.

109
110 Dr. Larson went on to read the definitions of ancillary methodology and chiropractic core
111 methodology. He explained that chiropractic core methodology is without the use of
112 prescription drugs and surgery and licensed chiropractors can only operate within the scope of
113 practice defined in the statutes and regulations which are over 30 years old. He went on to
114 explain, this definition of chiropractic core methodology limits the scope of ancillary methods
115 according to interpretation by law.

116
117 Dr. Larson continued to explain that in more recent years, the practice of chiropractic has been
118 expanding, more specialties have been introduced to the practice and education has been
119 improving. Alaska statutes and regulations are behind the curve regarding procedures a
120 chiropractic doctor can perform. It would be nice if the regulations matched the scope of
121 practice. Dr. Larson stated the regulations state any use of a needle would constitute surgery,
122 but a hypodermic needle can be used for venipuncture. In addition, Dr. Larson stated most
123 supplements in a chiropractic office for sale would constitute a prescription drug which could
124 be outside the scope of practice. Dr. Larson stated these methodologies are being used all
125 over the country in other states and is not a new practice. He also stated it has been discussed
126 to add a medicine ledger to the practice for prescribing antibiotics, nutritional injections, etc.
127 Dr. Larson added that sometimes the chiropractor is the only medical profession in a village.

128
129 Dr. Larson spoke about the recent board chair meeting that deals with medical boards
130 addressing the Covid-19 pandemic. OLE Thomas Bay stated there may have been a
131 misunderstanding regarding the meeting of board chairs at the last Covid-19 meeting. He
132 believed the chairs were being asked if they would be willing to perform Covid-19
133 immunizations if the legislation administered emergency regulations allowing chiropractors and
134 other health care practitioners to do so.

135
136 Other items on the board’s task list were discussed, including the contract with the NBCE
137 allowing them to administer their EBAS exam, as a disciplinary tool, and the board’s
138 jurisprudence examination across the country at their testing locations. Division staff explained
139 this would be a slow-moving process and the new records and licensing supervisor was aware
140 of the issue and getting the ball rolling on it. Division staff also informed the board that there
141 is no contract yet, but it was in process.

142
143 The board moved on to discuss the recently adopted regulations requiring all Certified
144 Chiropractic Clinical Assistants to be credentialed no later than February 23, 2021. All newly
145 hired clinical assistants will have one year from date of hire to complete the credentialing
146 process. Sheri Ryan informed the board that the Alaska Chiropractic Society has been

147 informing chiropractic doctors with questions that this is a requirement for anyone performing
148 procedures typical of a chiropractic assistant.

149
150 Dr. Lloyd stated that he has been asked if clinics that employ a physical therapist and a
151 chiropractor, if the chiropractic assistant works primarily with the physical therapist, is the
152 credentialing of the clinical assistant still required. Dr. Lloyd added that, according to
153 regulations, the clinical assistant is still required to be certified. They would need the credential
154 to be able to perform standing orders. Physical therapy aids have their own requirements to
155 adhere to.

156
157 Dr. Larson asked if the assistants could perform their tasks while the chiropractor was out of
158 the building or if they needed to be present. OLE Thomas Bay informed the board that when
159 he asked the regulations specialist their opinion regarding the regulations, the term, “under
160 general supervision,” is vague and may need further interpretation from law. Dr. Larson
161 informed the board that the term personal supervision was to be used for interns only. The
162 only time an intern is under direct supervision is when they are performing a chiropractic
163 adjustment. There is a difference regarding the supervision used for interns vs. assistants.
164 They are in the regulations.

165
166 Sheri Ryan addressed the board and offered to answer Dr. Larson’s question, as she had been
167 involved with the regulatory change from its onset and understood the initial intent. She stated
168 that the original intent was not just to deal with standing orders but to deal with minimal
169 education requirements of chiropractic assistants. Sheri Ryan informed the board that the
170 regulations allowed the board to have authority over the desired education required to be a
171 chiropractic assistant in Alaska. The regulations also deal with the insurance companies that
172 were saying chiropractors could not delegate tasks to chiropractic assistants because they were
173 not trained, licensed or competent to do so. The required certification mitigates these issues
174 for any assistant who performs any hands-on procedures. OLE Tracy Wiard asked if the
175 board would like to create a license type for chiropractic assistants. Sheri Ryan stated the fiscal
176 note that would have accompanied the legislation was astronomical and it was found at the
177 time that the Board of Chiropractic Examiners could not afford the cost or the additional
178 work load. This resulted in the requirements of a national certification in regulation as
179 opposed to a state issued license. The Alaska Chiropractic Society has a method for obtaining
180 reporting requirements for clinical chiropractor assistants and it is then reported to the Board
181 of Chiropractic Examiners. Dr. Lloyd suggested the board do a PR for chiropractors in the
182 state so they understand the reasoning and the benefits of having a certified assistant.

183
184 Sheri Ryan went on to explain that assistants who have been employed for a time and already
185 have the training may opt to take the certification exam only. Those assistants who do not
186 have the knowledge and training of the assistant, may take the training component as well as
187 the test. Many assistants are opting to take that route, but it is not required. It was also stated
188 that a new assistant has one year from date of hire to obtain the certification. With that in
189 mind, the assistant cannot perform any procedures they are not competently trained to
190 perform. OLE Tracy Wiard suggested the board may be interested in writing a position
191 statement for the board’s website.

192
193 **On a motion duly made by Jonathan Vito, seconded by Gabriel King, and approved**
194 **unanimously by a roll call, it was**
195

196 **RESOLVED to have Dr. Morris write the certified clinical chiropractic assistant**
197 **position statement for the board website with the assistance of Sheri Ryan.**
198
199

200 Ratify New Licenses:

201 Having finished with the discussion of the previous task list and the boards annual report goals, the
202 board began discussion on ratifying the new licenses for licensees who sat for the February 21st, 2020,
203 jurisprudence examination.
204

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

207
208 **RESOLVED to ratify the license for Joseph Wojciechowski III.**
209

210 **Agenda Item 5** Statutes and Regulations **Time: 11:40 a.m.**

211
212 Regulations Discussion:

213 A question was asked if there was any update on the statutes and regulations project. Dr. Larson
214 stated, after talking with the Department of Law, it was determined the board needs to talk to the
215 legislature about revising the scope of practice before any further changes could be made. Dr. Larson
216 stated he was working with Dr. Morris to redefine the definition of chiropractic. Dr. Larson stated, it
217 needs to be revised from stating it is the science of the subluxation complex to be performed without
218 surgery or drugs. Many people have felt that the term ancillary methodology would mean, with proper
219 training, some needles (excising living tissue) and prescription drugs should be allowable. Unless the
220 legislature wishes to expand the scope of practice to include these things, the board may not move
221 forward with their proposed changes.
222

223 Dr. Larson asked Sheri Ryan if the ACS had any updates from their board for proposed redefining of
224 the term chiropractic for legislation. Sheri Ryan stated she did not think the scope change would be
225 impossible, if much of the scope remained the same. She believes that the removal of subluxation
226 complex may alarm many chiropractors in the state. Sheri Ryan suggested, a better task may be to
227 modernize the language to include musculoskeletal joint dysfunction. The problem with the board's
228 proposed changes was not so much the reference to surgery, but that the changes did not reflect on
229 the chiropractic core methodology. This was the problem with dry needling and incising. Dr. Larson
230 asked if the board could obtain their own legal counsel outside the state. OLE Tracy Wiard informed
231 the board it was not in their purview to hire outside legal representation to review the definitions
232 proposed by the board.
233

234 **Agenda Item 6** Covid-19 **Time: 11:55 a.m.**

235
236 Covid-19 Discussion:

237 Dr. Larson discussed with the board the formation of the medical board chairs group to meet and
238 discuss the status of covid-19. This group has been meeting biweekly for some time. The group
239 discusses plans and procedures for remaining in business and helping hospitals and clinics that may
240 become overrun with patients infected with Covid-19. It was suggested that the boards may want to
241 take over the procedures for practicing safe patient care as the governor was gearing towards moving
242 away from the state mandates. It would be beneficial for the board to have guidance for practitioners
243 considering the mandates. Currently, the mandates were extended for another 30 days but once the
244 mandates are over, the boards would want to have procedures in place to maintain the safety of
245 patients and providers. The board reviewed Dr. Larson's letter regarding this topic.

246 Dr. Morris suggested that Dr. Larson's letter address compliance with local mandates in addition to
247 the state mandates as some local mandates may supersede the state mandates. Dr. Vito agreed with
248 Dr. Morris's suggestion. Dr. Larson asked the board members for further thoughts. The board
249 thanked Dr. Larson for his contribution and clarification regarding proper procedures for remaining in
250 practice while handling the Covid-19 pandemic.

251
252 Off Record: 12:17 p.m.
253 On Record: 1:12 p.m.

254
255 The meeting was called back to order by Chairman, Brian Larson, at 1:12 p.m.

256
257 Board Members present, constituting a quorum:

258
259 Brian Larson, Doctor of Chiropractic
260 Jonathan Vito, Doctor of Chiropractic
261 James Morris, Doctor of Chiropractic
262 John Lloyd, Doctor of Chiropractic
263 Gabriel King, Public Member (*Joined telephonically at 10:22 a.m.*)

264
265 Division Staff present were:

266
267 Tracy Wiard, Occupational Licensing Examiner
268 Thomas Bay, Occupational Licensing Examiner
269 Jasmin Bautista, Investigator (*present at 1:14 p.m.*)
270 Melissa Dumas, Administrative Officer (*via videoconference at 2:35 p.m.*)

271
272 Present from the Public:

273
274 Sheri Ryan, Chief Operating Officer, Alaska Chiropractic Society

275
276 **Agenda Item 6** Covid-19 **Time: 1:12 p.m.**

277
278 Dr. Larson picked up with the discussion of the Covid-19 letter he had drafted prior to lunch and read
279 the letter to the board. He had drafted the changes that the board recommended prior to lunch and
280 wanted the board to discuss. It was stated the board could continue to review through On Board and
281 make any required suggested changes, or could vote to approve and add to the board's website.

282
283 **On a motion duly made by Jonathan Vito, seconded by James Morris, and approved**
284 **unanimously by a roll call, it was**

285
286 **RESOLVED to add Dr. Larson's Covid-19 letter to On Board for board review or**
287 **approval and add to the State of Alaska Board of Chiropractic Examiners Website.**

288
289
290 **Agenda Item 8** Fall District Meeting **Time: 1:15 p.m.**

291
292 It was stated that the letter from the FCLB regarding the fall district meeting was never received.
293 There was no letter to review as planned on the agenda.

294
295 **Agenda Item 9** Investigative Report **Time: 1:20 p.m.**

296
297 Investigative Report:
298 Investigator Jasmin Bautista joined the meeting to provide the investigative report for the dates
299 08/06/2020-11/05/2020. The report included cases, investigations, intakes and complaints that were
300 received during that timeframe. Jasmin reminded the board that any cases regarding continuing
301 education audits are with the paralegal and not part of this report.
302

303 There were four open cases with the board's investigations team. There were three cases that were
304 closed during this timeframe. There was an incomplete complaint. This means there was a call or
305 complaint in the mail and when the investigations team followed up with the forms and affidavit the
306 investigations team never received the complaint form back. The second closed investigation was an
307 investigation review and the last was a license action. There were no other questions from the board
308 regarding the investigations report.
309

310 **Agenda Item 10** ACS Update **Time: 1:25 p.m.**

311
312 ACS Report:

313 The board moved on to the report from the Alaska Chiropractic Society staff. Debbie Ryan was
314 unable to attend the board meeting. Sheri Ryan provided the report for the board. She stated the
315 ACS is monitoring the proposed CMS 2021 reimbursement cuts for chiropractic services. Overall,
316 CMS will be increasing reimbursement for E&M (evaluation and management codes) and reducing
317 reimbursement for other codes as part of the HSS budget neutrality. Chiropractic services are some of
318 the other cuts that will be made to account for the increased E&M payments. CMS cuts are 10% but
319 because of the relative value units, the cuts come out to about 19.5%. The affects will have all
320 insurances reducing their reimbursements because all insurance companies base payments off CMS
321 coverage.

322 ACS submitted public comment to CMS which ended in October. ACS ran a campaign to educate the
323 US Congressional contingency to inform them of the far-reaching consequences. The proposed cuts
324 were discussed with Alaska Representatives and Senators and the thought from the Congress was that
325 chiropractic physicians would make up the cuts with the increased E&M code reimbursement. It was
326 unknown to the Congress that chiropractors do not get a reimbursement for E&M codes and will be
327 affected by this CMS change in a negative way. ACS did make comments on the issue on behalf of the
328 chiropractors who are licensed in Alaska.

329 Recent legislation was introduced in the house that would address the budget neutrality and the
330 conversion factor. ACS is putting together a campaign to reach out to the Representatives and
331 Senators to hold chiropractors at the current reimbursement level until 2022. It would allow the E&M
332 increases without the decreases in chiropractic care. This would prevent the cuts coming from other
333 insurance companies like Alaska Workers Comp and Aetna.

334 ACS also put out a webinar regarding changed codes in the CPT for chiropractic care. The ACS
335 hosted a billing boot camp that was very well received. If the Alaska chiropractors are not up to speed
336 on coding changes, they will have denied reimbursements on insurance claims. The boot camp also
337 discussed many ethical issues regarding writing off copays and deductibles.

338
 339 Dr. Larson asked about issues with Blue Cross Blue Shield in Texas not reimbursing for massage
 340 therapy treatment. Sherri Ryan stated the association has reached out numerous times. The
 341 employees may be in state but the insurance companies are out of state. If the provider is in network,
 342 Premera Blue Cross Blue Shield requires in network providers to code a certain way for the massage.
 343 Sheri Ryan recommended a grass roots campaign as many people are getting denied coverage for
 344 services their insurance should cover. If the office is not a Premera network office, then it is
 345 appropriate for the office to bill the massage under the DC NPI number. The board went on to
 346 discuss certain massage CPT codes.

347
 348
 349
 350 **Agenda Item 11** **Correspondence** **Time: 1:40 p.m.**

- 352 • Letter Regarding Previous Regulations Project:
 353 There was a letter that was requested to be read for board review from Dr. Shannon and Dr.
 354 McAfee. The letter addressed the meeting minutes from the BOCE's August 2020 meeting.
 355 The doctors asked the board to continue on with their attempts to change regulations allowing
 356 for nutritionals to be prescribed as part of the chiropractic scope of practice as well as the
 357 many ancillary methods the board had discussed with LAW and Director Chambers. The
 358 board reviewed the letter and took the comments into consideration for future regulation
 359 revisions and projects.

360
 361 OLE Thomas Bay addressed the board informing them that he did pass this question of
 362 whether the board could pass the regulations without the approval of law and Mr. Bay was
 363 informed that could not be done. Dr. Larson inquired why this was. Mr. Bay informed Dr.
 364 Larson that Director Chambers was aware of the letter and if he had any questions she would
 365 be happy to speak with him about it. Dr. Larson stated he would reach out to Director
 366 Chambers regarding the matter and discuss the issue with her. Dr. Larson would then write
 367 out the context of the conversation via OnBoard so the board could obtain the information.

368
 369 The next e-mail was from Chirocredit.com asking to be added to the CCCA and PACE
 370 provider list on the board's website. OLE Thomas Bay informed the board that the provider
 371 list was going to be updated and Chirocredit.com is already listed as a PACE approved
 372 provider on the FCLB website. The link will show them as a provider on the FCLB site. One
 373 continuing education provider cannot be singled out over the others. OLE Tracy Wiard to
 374 write an e-mail informing them they are already listed on the approved provider's website at
 375 FCLB. Mr. Bay asked Sheri Ryan if Chirocredit.com is a CCCA provider. Sheri Ryan stated
 376 Chirocredit.com is an education provider but not a certification provider.

377
 378 **Agenda Item 12** **Budget Report/Division Update** **Time: 2:15 p.m.**

379
 380 The division's Administration Officer Melissa Dumas provided the 4th quarter FY 20 budget report
 381 and annual report. The division report is in the board packet and provides all the expenditures and
 382 revenue generated for the board during FY 20 as well as indirect expenditures.

Board of Chiropractic Examiners	FY 20
Revenue	
Revenue from License Fees	\$ 24,395
Allowable Third Party Reimbursements	\$ -

TOTAL REVENUE	\$ 24,395
Expenditures	
Non Investigation Expenditures	
1000 - Personal Services 2000	73,885
- Travel	5,152
3000 - Services	13,719
4000 - Commodities 5000 -	-
Capital Outlay	-
Total Non-Investigation Expenditures	92,756
Investigation Expenditures 1000-	
Personal Services 2000 - Travel	5,622
3023 - Expert Witness 3088 -	-
Inter-Agency Legal	-
3094 - Inter-Agency Hearing/Mediation 3000 -	7,077
Services other	-
4000 - Commodities	7
Total Investigation Expenditures	-
	12,706
Total Direct Expenditures	105,462
Indirect Expenditures	
Internal Administrative Costs	
Departmental Costs Statewide	15,826
Costs	10,926
Total Indirect Expenditures	10,474
	37,226
TOTAL EXPENDITURES	\$ 142,688
Cumulative Surplus (Deficit) Beginning	
Cumulative Surplus (Deficit) Annual	\$ 78,465
Increase/(Decrease)	(118,293)
Ending Cumulative Surplus (Deficit)	(39,828)
	Fee analysis required
Statistical Information	
Number of Licenses for Indirect calculation	343

384
385
386
387
388
389
390
391
392
393
394
395
396
397
398
399
400
401
402
403
404
405
406
407

Off Record: 2:25 p.m.
On Record: 2:42 p.m.

The meeting was called back to order by Chairman, Brian Larson, at 2:42 p.m.

Board Members present, constituting a quorum:

Brian Larson, Doctor of Chiropractic
Jonathan Vito, Doctor of Chiropractic
John Lloyd, Doctor of Chiropractic
Gabriel King, Public Member *(Joined telephonically at 10:22 a.m.)*

Division Staff present were:

Tracy Wiard, Occupational Licensing Examiner
Thomas Bay, Occupational Licensing Examiner

Present from the Public:

Sheri Ryan, Chief Operating Officer, Alaska Chiropractic Society

Agenda Item 14

Administrative Business

Time: 2:43 p.m.

