

**STATE OF ALASKA  
DEPARTMENT OF COMMERCE, COMMUNITY AND  
ECONOMIC DEVELOPMENT  
DIVISION OF CORPORATIONS, BUSINESS AND PROFESSIONAL LICENSING  
BOARD OF CHIROPRACTIC EXAMINERS**

**MINUTES OF MEETING  
JANUARY 18, 2008**

*These minutes have been prepared by Division staff. These minutes have not been approved or reviewed by the Board.*

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 on January 18, 2008 in Anchorage, Alaska.

January 18, 2008

**Call to Order/Roll Call**

The meeting was called to order by Dr. Gregory Culbert, President at 8:30 a.m. Those present, constituting a quorum of the Board were:

Gregory M. Culbert, DC, President  
David J. Mulholland, DC, Vice-President  
R. Clark Davis, DC, Secretary  
Rosemary Zimmerman, DC  
Jeff Garness, Public Member

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

Veida Forrest, Licensing Examiner – Juneau  
Richard Younkens, Chief Investigator – Anchorage  
Nancy Sanders, Nursing Board Executive Secretary - Anchorage

In attendance via teleconference:

Jun Maiquis, Regulation Specialist - Juneau

In attendance from the Department of Law, via teleconference:

Gayle Horetski, AAG – Juneau  
Jenna Conley, AAG – Juneau

**Agenda Item 1 – Review/Amend Agenda**

The Board made the following change to the agenda:

- Under agenda item 5 add discussion of physician status
- Under agenda item 11 add request for a division fee project for fee proration of reactivation of a chiropractic license.

**Upon a motion by Zimmerman, seconded by Davis and approved unanimously, it was:**

**RESOLVED to approve the January 18, 2008 meeting agenda as amended.**

**Agenda Item 2 – Review/Amend June 8 and October 5, 2007 Meeting Minutes**

**Upon a motion by Zimmerman, seconded by Mulholland and approved unanimously, it was:**

**RESOLVED to approve the June 8 and October 5, 2007 meeting minutes as presented.**

Break, off record 8:50 a.m. Back on record at 9:00 a.m.

**Agenda Item 3 – Board Business**

Ethics Reporting

There were no ethics violations reported.

Board meeting dates

The next scheduled meeting is set for June 27, 2008 in Juneau, AK pending a full agenda. The first meeting in fiscal year 2009 will be October 24, 2008.

Board Packet Format/CE Mail Ballot Discussion

Ms. Forrest asked the Board members if they liked the new email format and additional information received for the board packet and continuing education mail ballots. Dr. Mulholland stated that he did not receive the emails sent to the Board. Other Members stated that they liked receiving the additional information via email for the CE ballots as it saved substantial time in independent research. Dr. Zimmerman stated that she would like to receive her Board packets electronically for all future meetings. Ms. Forrest stated that she will continue to provide the Board with electronic board packets and CE course information.

Expenditure report

The Board attempted to contact Chris Wyatt, Administrative Officer for the Division of Corporations, Business, and Professional Licensing to discuss the Board expenditure report.

The Board attributed the lowered expenditures to decreased legal fees as Ms. Winton has been doing an excellent job in closing cases. The Board stated that the travel expenses are low as most Board meetings are in Anchorage.

Signatures

Minutes were signed by Dr. Culbert and Ms. Forrest for June 8, 2007 and October 5, 2007. Board members signed TA's for the January 18, 2008 meeting. Board members signed a thank you letter for Dr. Risch, the Board appointed CE evaluator. Wall certificates were signed for Marion Gauntt and Annie McKinnon.

#### **Agenda Item 4 – Investigative Report**

Rick Younkens, Chief Investigator from the Division of Corporations, Business and Professional Licensing and Nancy Sanders, Executive Secretary to the Nursing Board joined the meeting at 9:26 a.m. Mr. Younkens introduced Ms. Sanders to the Board and noted that she would be discussing fingerprinting and the process that the Nursing Board follows.

Dr. Culbert stated that at the present time the Board is looking into a possible change in statute to require fingerprinting of applicants. Mr. Younkens stated that with his law enforcement background he likes fingerprinting and doing background checks on applicants, but cautioned the Board that fingerprinting will not lower long run investigative expenditures. He stated that it is an excellent tool for cross checking application answers.

Dr. Culbert asked if there are any statistics on how many applicants are caught lying on the application through fingerprinting. Ms. Sanders stated that the Nursing Board has been fingerprinting and doing background checks since 2002 and that the Board has not kept track of the number of times an application inconsistency leads to an investigation. She also noted that the checks often include a lot of information that is difficult to read without the help of an investigator or law enforcement agent.

Ms. Sanders stated that the Nursing Board has 10,000 nurses and 3,000 CNA's and receives hundreds of applications a year, of those the Nursing Board receives a handful of fingerprint checks that come back with information differing from the information listed on the application.

Ms. Sanders stated that when the Nursing Board applied the fingerprinting and background check requirement, it grandfathered in those already licensed, but all new applicants and those reinstating a license needed to comply with the requirement. Dr. Davis asked about the time and cost burden placed upon the applicants. Ms. Sanders replied that the applicants are responsible for obtaining and paying any fees for fingerprinting, which must be done by a law enforcement agency. Dr. Culbert asked about the time impact fingerprinting places upon the Nursing Board. Ms. Sanders replied that the process is very laborious as the Nursing Board is the middleman between the applicant and the Department of Public Safety and the FBI. She provided the Board with information provided to the applicant regarding the fingerprinting processing. She noted that the process can take over six months.

Dr. Mulholland asked if the Nursing Board sees a benefit to the fingerprinting. Ms. Sanders replied that fingerprinting and background checks are a trend nation wide for Boards of Nursing. She noted that the problem with just a name check is that women often change their names and previous names are not always associated with the current name. Mr. Younkens stated that the longest delay is with the FBI, as background checks for licensing are a low priority. Ms. Sanders also stated that once the Nursing Board receives background information on an applicant from the FBI, that information cannot be shared with anybody, even other state agencies. Ms. Sanders remarked that fingerprint background checks are also only a snapshot in time and are only good up until the date they are received; they cannot be used to judge what a person might do in the future.

Dr. Mulholland expressed concern that if fingerprinting and background checks are implemented, it would either be denying a person a livelihood or keeping that person in an

undecided situation for several months. Dr. Mulholland stated that he believes this would take a lot of changes to the existing statute.

Ms. Sanders asked the Board if the Health and Social Services statutes and regulations have affected the Board. Ms. Sanders explained that in February 2007, H&SS, regulated that any agency that has to go through licensing and certification that receives Medicaid and Medicare must fingerprint and do background checks on all employees to check for barrier crime. She stated that these new regulations have caught licensees who committed barrier crimes several years ago and have barred these licensees from working at these agencies. Ms. Sanders provided the Board with a matrix from Health and Social Services regarding barrier crimes, which are mostly felonious acts. Board members stated that they had not heard about these new regulations. Mr. Younkens stated that these regulations may not affect private practice.

The Board thanked Ms. Sanders for her time and the information provided. Ms. Sanders left the meeting at 9:35 a.m.

<b>Case Number</b>	<b>Alleged Violation</b>	<b>Status</b>
<u>Complaints</u>		
C700-07-009	Other – Cont. Education Ad	Letter citing continuing education requirements
C750-07-001	License Application Prob.	Recently opened; awaiting information from Oregon Board
<u>Probation</u>		
700-02-002	Mental Health / Sub. Abuse	5 yr MOA on 12/01/02; not practicing in AK; Licensee now practicing in PA; license expired
700-06-003	Criminal Action – Conviction	3 yr MOA – 1/26/07; licensee in compliance.

**Upon a motion by Culbert, seconded by Davis, and approved unanimously, it was:**

**RESOLVED to enter into executive session in accordance with Alaska Statute 44.62.310(c)(2) to discuss privileged disciplinary information.**

Executive session, off record 9:49 a.m. Back on record 10:00 a.m.

#### **Agenda Item 4 – Continuing Education Audit/Course Approval**

The Board discussed the 'Yes' answer on Dr. Pizzadilli's application. The Board discussed the procedure on how 'yes' answers are processed. Ms. Forrest stated that in her opinion there was a breakdown in communication between the Division and the Board in Dr. Pizzadilli's case. She noted that she was not aware of Mr. Pizzadilli's 'yes' answer until after the June 2007 meeting and that she had made the incorrect assumption that the Board had already reviewed Dr. Pizzadilli's application as the date the 'yes' answer was returned to the previous licensing examiner was before the January 2007 Board meeting.

Mr. Younkens explained the renewal process and how the Division handles renewal applications with 'yes' answers. He stated that all 'yes' answers are reviewed by the investigative section. He explained that if the Investigator finds that the applicant was truthful

and did not violate any Board statutes or regulations, the application is returned to the Licensing Examiner to be renewed and reviewed by the Board at the next meeting. If the Investigator finds there to be an issue with the answer, or that the yes answer was due to a violation of Board statutes and regulations, an investigation is opened on that licensee and is brought directly to the Board. Mr. Younkins explained that if the licensee is truthful on the renewal application, the Board has to renew the license in accordance with AS 08.01.100.

The Board stated that they would like to see 'yes' answers on renewals after they have been reviewed by the investigative unit. Mr. Younkins stated that he would relay this information to Ms. Winton upon her return to the office. Mr. Younkins stated that the Division now has the ability to track both investigations and complaints.

Rick Younkins left the meeting at 10:20 a.m.

Break, off record at 10:21 a.m., back on record at 10:30 a.m.

The Board discussed Drs. James Pizzadilli and Tawnia Adam's failure to comply with the Board's request to provide additional continuing education information. The Board approved in a mail ballot the courses provided by Dr. Adam's for continuing education. The Board determined that Dr. Adam's has the required continuing education to fulfill the CE audit.

**Upon a motion by Mulholland, seconded by Zimmerman and approved unanimously, it was:**

**RESOLVED to approve the continuing education hours for license holders James Pizzadilli #262 and Tawnia Adams #225**

The Board discussed the letter from the Registrar at New York Chiropractic College verifying that Ms. Tomcykoski had completed 120 hours in formal training in physiological therapeutics. Dr. Davis stated that he believes the letter from the college must be accepted as proof that Ms. Tomcykoski has taken 120 hours in physiological therapeutics otherwise the Board is making the assumption that the registrar is committing perjury and the Board cannot make that assumption of a Chiropractic College official. The Board based its decision to accept the 120 hours of PT on the letter provided by the Registrar of New York Chiropractic College.

**Upon a motion by Davis, seconded by Mulholland and approved unanimously, it was:**

**RESOLVED to approve chiropractic licensure for Jessica Tomcykoski.**

The Board reviewed Ms. Waldroup's NBCE Part IV exam scores.

**Upon a motion by Davis, seconded by Mulholland and approved unanimously, it was:**

**RESOLVED to approve chiropractic licensure for Jennifer Waldroup.**

The Board discussed the new continuing education course applications as well as those that had been tabled during mail votes. The Board discussed the criteria with which to evaluate courses. It was clarified that the Board cannot approve a course based on its 'quality' but on the requirements listed in the statutes and regulations.

**Upon a motion by Mulholland, seconded by Zimmerman and approved unanimously, it was:**

**RESOLVED to approve the continuing education courses**

- 1. Arizona Association of Chiropractic**  
Chiropractic Care for Special Populations & Active Care (exp – 12/31/2006)
- 2. Integrative Pain Management through Gateway Community College**  
Clinical Nuclear Medicine for the Chiropractic Physician (exp – 12/31/2006)
- 3. Life Chiropractic College West**  
The Masters Circle – Super Conference 2007; The Masters Circle – Healing and Wellness
- 4. University of Bridgeport College of CHI**  
ChiroCredit.com – Various Online Courses; Breakthrough Coaching Symposium

The Board discussed the application for reinstatement for Justin Petersen #413 and the continuing education courses provided. The Board determined after approving the continuing education courses from the Arizona Association of Chiropractic and Integrative Pain Management through Gateway Community College that Dr. Petersen was eligible for reinstatement.

**Upon a motion by Davis, seconded by Mulholland and approved unanimously, it was:**

**RESOLVED to approve the reinstatement of licensure for Justin Peterson # 413.**

### **Agenda Item 6 – Correspondence**

#### **1. CE Request**

The Board discussed Dr. Daniel Larson's, CHI 188, request to receive credit for the instruction and preparation of a seminar course he offered in November 2007. Dr. Larson requested eight hours of continuing education credits.

**Upon a motion by Davis, seconded by Mulholland and approved unanimously, it was:**

**RESOLVED to approve eight hours of clinical continuing education to Dr. Daniel Larson for preparing and instructing at the 2007 EMS Symposium at the Egan Center in Anchorage on November 8, 2007 in accordance with 12 AAC 16.360.**

#### **2. Chiropractic Consultants**

The Board discussed the email from Jamey Wright regarding statutes and regulations concerning chiropractic consultants. Upon review of the statutes and regulations, the Board determined that there are no rules preventing a chiropractor from consulting with another chiropractor in another state and there is currently no pending legislation. Ms. Forrest stated that she would respond to Mr. Wright's inquiry.

#### **3. EPFX-SCIO / Claims of Cure**

The Board discussed the EPFX-SCIO machine and how many states are banning the machine from chiropractic practice. Dr. Zimmerman stated that Oregon is currently writing statutes to

ban this machine from chiropractic practice. Dr. Culbert stated that this machine is being marketed to many other healthcare professions. Dr. Davis stated that the Board could regulate this machine under 12 AAC 16.980 and the definition of misrepresentation. Dr. Culbert added that the AS 08.20.170 as a statute to regulate this machine. The Board agreed that it would like to be proactive in the profession and protect the public against this machine.

**Upon a motion by Davis, seconded by Mulholland and approved unanimously, it was:**

**RESOLVED to write a letter to the Alaska Chiropractic Society stating that it is the Board's opinion that the EPPX-SCIO advertisements violate 12 AAC 16.980.**

#### 4. Fisherman's Fund

The Board discussed the information provided by Dr. Paul Beane regarding the Alaska Fishermen's Fund Appeals and Advisory Board. Dr. Beane stated that he did not think it was in the best interest of the people being treated to have their appeals being reviewed and approved by non-physicians. Dr. Davis provided additional information on the Fisherman's Fund as he deals with the Fisherman's Fund for patients and had benefited from the Fisherman's Fund during his youth. The Board stated that the Chiropractic Examiners Board does not have jurisdiction over the Fishermen's Fund as it is a separate State Board. Dr. Davis volunteered to respond to Dr. Beane.

#### 5. CE Fee

The Board reviewed the email from Dr. Carol Davis regarding potential disciplinary actions against licensees who do not complete all renewal requirements. Ms. Forrest stated that the Board has the ability to impose a fee for licensees who renew more than 60 days after the December 31<sup>st</sup> expiration date. The Board asked if it could impose a fee on licensees who do not complete the required continuing education requirements. Ms. Forrest stated that she did not believe the Board had that authority. She noted that licensees who either do not fill out the form correctly, or do not complete the required continuing education, may not be renewed timely and will have a lapsed license. If a licensee allows their license to lapse they may not practice during the period of lapse and doing so could result in disciplinary action which is a stronger punishment than a fee. The Board felt that creating a fee would provide an incentive for licensees to apply in a timely fashion.

**Upon a motion by Culbert, seconded by Zimmerman and approved unanimously, it was:**

**RESOLVED to request the Division to create a late filing fee for licensees who apply for renewal of a license more than 60 days after the license expiration date under the authority of AS 08.01.100(b).**

#### 6. Alaska Scope of Practice / Delegation of Authority

The Board reviewed the email from Kara Murray of the ACA regarding chiropractic scope of practice. The Board stated that only a licensed chiropractor in the State of Alaska may practice chiropractic. Dr. Zimmerman suggested that Ms. Forrest send Ms. Murray a copy of the Board statutes and regulations.

#### 7. Webinars

The Board discussed the email from Cindy LoGatto from New York Chiropractic College regarding a new continuing education format: 'webinars'. Ms. LoGatto stated that a webinar is

a "Real-time, interactive, web-based seminar" and asked whether the Board would consider a webinar as an 'in-person' course.

It was determined that at the present time webinars must be considered under 12 AAC 06.350 as 'formal correspondence or individual study'. The Board decided that in order for this position to change there must be a regulatory change made. The Board agreed to look further into this issue at a later meeting.

#### 8. Patient and Physician Status

The Board discussed a letter from Robert Wheeler regarding estheticians. The Board determined that it needed to know more about estheticians prior to responding to Mr. Wheeler's correspondence. The Board asked Ms. Forrest to provide the statutes and regulations regarding estheticians at the next Board meeting.

#### 9. Foot Inserts

Dr. Culbert informed the Board that he had been having claim problems with insurance companies not providing payment for orthotics because the insurance company did not consider a chiropractor a physician. Dr. Culbert stated that in the State of Alaska, chiropractors are considered physicians. Dr. Davis and other members agreed that chiropractors are considered physicians in the State of Alaska under AS 08.02.010.

Lunch off record 11:56 a.m. Back on record 1:15 p.m.

### **Agenda Item 7 – Chiropractic Jurisprudence Exam Format**

Ms. Forrest presented the idea of providing the Chiropractic Jurisprudence Exam as an open book exam for locum tenens permit applicants. She provided the Board with an example of Marital and Family Therapy (MFT) regulations concerning an open book exam. Ms. Forrest informed the Board that she had spoken with the Licensing Examiner for the MFT Board, Eleanor Vinson, about the open book exam. Ms. Vinson informed Ms. Forrest that the MFT open book exam has fewer than 20 questions and has worked well and so far: there have not been any known breaches of security.

Ms. Forrest stated that moving to an open book exam for the locum tenens permit could significantly speed up the permit process for a locum tenens applicant. She stated that the cost benefit is mostly in opportunity costs as the Board would only save anywhere from \$100 to \$800 a year, but permit applicants would be able to do the exam on their own time and the licensing examiner could be doing other Board business.

Dr. Davis stated that he did not see the need as there are so few locum tenens applicants a year. Drs Davis and Culbert noted concern that a new procedure like this may encourage applicants to circumvent the full licensure process. The Board decided not to pursue a locum tenens permit regulation change for the jurisprudence exam.

### **Agenda Item 8 – Peer Review Committee Appointments**

The Board reviewed the applications to sit on the Peer Review Committee for Mark Barbee, DC, #161, and Martha Summerfield, an applicant for the public member seat.

**Upon a motion by Zimmerman, seconded by Mulholland and approved unanimously, it was:**

**RESOLVED to approve the appointment of Mark Barbee #161 to the Chiropractic licensee seat of 12 AAC 16.400 on the Peer Review Committee created in AS 08.20.185 for a two year term. Dr. Barbee's, DC, term will expire January 18, 2010.**

**Upon a motion by Mulholland, seconded by Davis and approved unanimously, it was:**

**RESOLVED to approve the appointment of Martha Summerfield to the public member seat of 12 AAC 16.400 on the Peer Review Committee created in AS 08.20.185 for a one year term. Ms. Summerfield's term will expire January 18, 2009.**

### **Agenda Item 10 – Attorney General's Office**

At 1:35 p.m. Gayle Horetski, Assistant Attorney General, Jenna Conley, Assistant Attorney General, and Jun Maiquis, Regulations Specialist, joined the meeting telephonically.

Ms. Conley spoke to the Board about the letter she wrote to the Board on December 7, 2007 regarding licensure applications. She stated that applications and screening procedures need to match the statutes and regulations. The Board cannot ask for information that it does not have the statutory or regulatory authority to request. Dr. Culbert stated that he is concerned that the Board will not be able to obtain moral character information. Ms. Conley stated that in her review of the statutes, there are no references to moral character in the licensing requirement statutes. Ms. Horetski stated that the Board may ask questions verifying that applicants have the correct qualifications for licensure and may also ask if there are any reasons the Board can disqualify a license applicant.

Ms. Horetski also explained that the Board could not request affidavits of good moral character as there is not a definition of good moral character and without a definition the Board could arbitrarily decide that an applicant does not have good moral character which would be unfair to all applicants. Ms. Horetski stated that the application must match the statutory and regulatory requirements and that the Board must enforce the current statutes and regulations.

Ms. Conley agreed to work with Ms. Forrest to create an application that accurately reflects Board statutes and regulations.

Dr. Culbert asked if other Boards have regulations or statutes that require good moral character. Ms. Horetski replied that Real Estate Appraisers and Certified Public Accountants require applicants to have good moral character.

### **Agenda Item 11 - Regulations**

Ms. Horetski explained that proposed 16.290 was simply moved from current 16.380 to streamline the requirements for renewal and continuing education.

Ms. Horetski explained that the proposed change to 16.340 is to make it a section on courses that are approved and new 16.345 is a section on how to apply for course approval. Proposed regulation 16.345 only covers the continuing application process and how long an approval is valid. Ms. Horetski asked the Board if it wants to add a section on how providers will request change approval and renewal of a course. Ms. Horetski asked if it is the Board's intent for a provider to request approval for each biennial period. Dr. Culbert noted that they only need to reapply if there has been a significant change. The Board discussed what would be considered a significant change. Ms. Forrest stated that the Board currently requires providers to resubmit course approval applications if there are any changes to information provided on previous applications, with the exception of dates and locations. The Board agreed that it would like to continue this procedure. The Board added that the requirement to submit a curriculum vitae for instructors or instructor resume with a continuing education application seemed to have been accidentally removed.

Ms. Horetski noted that 16.410(b) is being repealed as it is obsolete. The Board agreed to this change.

Ms. Horetski asked the Board to review proposed 16.920(a)(8)

Ms. Horetski noted that proposed 16.920(a)(15) is similar to the Medical Board regulations 12 AAC 40.967(27), but that she would like the Board to review her changes. Dr. Davis stated that the intent of the Board is to prevent a chiropractor from giving nutritional care to patients that have never had an in-person consultation with that chiropractor.

Dr. Mulholland asked Ms. Horetski if there are any statutes or regulations from other state Boards that define when a doctor-patient relationship begins. Ms. Horetski replied that the Optometry Board is currently working on a regulation regarding this type of issue. She stated that the regulation primarily has to do with tort litigation as is set out by case law. Ms. Horetski also stated that the proposed Optometry Board regulation reads, "a person or a person in the patient's behalf has sought optometric consultation, the optometrist has accepted the person as a patient, and professional relationship between the optometrist and the patient has not been terminated." Ms. Horetski stated that for an optometrist, all of the conditions must be present for a physician-patient relationship to be taken place. Dr. Mulholland clarified that he wants to know when a chiropractor can reasonably be held responsible for advice given, whether the person is an admitted patient or not. Ms. Horetski replied that she does not know that answer; that would be an issue decided by a jury in the event harm occurs.

Ms. Horetski cited AS 09.55.540. Burden of proof to the Board under Medical Malpractice Actions:

"(a) In a malpractice action based on the negligence or willful misconduct of a health care provider, the plaintiff has the burden of proving by a preponderance of the evidence

(1) the degree of knowledge or skill possessed or the degree of care ordinarily exercised under the circumstances, at the time of the act complained of, by health care providers in the field or specialty in which the defendant is practicing;

(2) that the defendant either lacked this degree of knowledge or skill or failed to exercise this degree of care; and

(3) that as a proximate result of this lack of knowledge or skill or the failure to exercise this degree of care the plaintiff suffered injuries that would not otherwise have been incurred.

(b) In malpractice actions there is no presumption of negligence on the part of the defendant.

Sec. 09.55.560. Definitions.

In AS 09.55.530 - 09.55.560,

(2) "health care provider" means [...] a chiropractor licensed under AS 08.20; [...]"

The Board discussed the intent of proposed regulation 12 AAC 16.920(a)(15). Dr. Mulholland expressed the opinion that this proposed regulation would not fairly protect the public from illegitimate chiropractic means of treatment. After reviewing the Medical Malpractice Actions statutes, the Board determined that the proposed regulation 12 AAC 16.920(a)(15) could be deleted from the draft proposal.

Ms. Horetski noted that proposed regulation 16.920(a)(16) originally included a reference to International Chiropractic Association (ICA) code of ethics, but was taken out as the Department of Law did not receive a copy of the code of ethics. Dr. Zimmerman informed that Board that the current ICA code of ethics was adopted in 1985 and is a very long document. The Board agreed that the American Chiropractic Association is more current and succinct and agreed to keep the proposed regulation 16.920(a)(16) as written.

Ms. Horetski shared her research into patient access to medical record statutes. She noted that AS 18.23.005 Patient access to records states, "Notwithstanding the provisions of AS 18.23.005 - 18.23.070 or any other law, a patient is entitled to inspect and copy any records developed or maintained by a health care provider or other person pertaining to the health care rendered to the patient." Ms. Horetski noted chiropractors are included in the definition of 'health care provider' in AS 18.23.070(3). Ms. Horetski also noted that she did not believe that the 30 day requirement of proposed regulation 16.920(a)(17) would not be in violation of AS 18.23.005. Ms. Horetski stated that she created a new subsection 12 AAC 16.925 that addresses record keeping practices, which she modeled after the Medical Board regulations. Drs. Culbert and Mulholland expressed that they would like to see proposed regulation 16.925 removed. The Board agreed to this change.

Ms. Horetski moved on to discuss proposed regulation 12 AAC 16.985. She noted that she added AS 08.20.100 as an authority to the proposed regulation. Dr. Davis stated that he feels this proposed regulation could potentially restrict the view of AS 08.20.900. Ms. Horetski explained that the word 'including' is defined as 'not limited to' by AS 01.10.040, so the regulation cannot be seen as limiting AS 08.20.900. Ms. Horetski noted that she is unsure whether or not the Board has the authority to adopt proposed regulation 16.985. Ms. Horetski stated that her main concerns are the diagnostic testing by blood and tissue sampling. Drs. Mulholland and Davis proposed their arguments for the inclusion of proposed regulation 16.985. Dr. Davis noted that 08.20.900(5) "the determination of contra-indications to chiropractic adjustment" often requires using diagnostic testing as defined by proposed regulation 16.985.

Dr. Culbert asked Ms. Horetski if she had received the information provided by Dr. Zimmerman. Ms. Horetski stated that she had received this information. Ms. Horetski noted that the laws of other States are very different from Alaska's statutes, an example being Oregon, where the law specifically states that chiropractors can use diagnostic techniques

commonly taught at chiropractic schools. Ms. Horetski noted that the current chiropractic statutes are twenty years old and may need to be updated.

Ms. Conley stated that she is concerned that the uses of these types of diagnostic tools are an invasion of the practice of medicine.

Dr. Culbert stated that the Board is trying to maintain the use of diagnostic techniques but limit the use of therapeutic techniques that could be considered another health care field. Dr. Culbert noted that AS 08.20.900(5) does not prohibit nutritional and vitamin injections, which the Board is trying to prevent in order to protect the public. Dr. Mulholland asked where the statute prohibits diagnostic testing. Ms. Horetski replied that the Board is not prohibited from diagnostic testing, but that the testing must be in accordance with AS 08.20.900(6). Mr. Garness stated that he would want his chiropractor to do other diagnostic tests if he were a patient for an extended amount time and still not receiving positive chiropractic results. Dr. Zimmerman pointed out that tissue samples could be finger and toenails. The Board agreed to remove proposed regulation 12 AAC 16.985.

Dr. Zimmerman offered her assistance to provide information to the Department of Law regarding chiropractic in other states. Ms. Horetski stated that she appreciates Dr. Zimmerman's offer to help.

After a lengthy discussion, the Board decided to amend the proposed regulations by removing 12 AAC 16.920(a)(8), 12 AAC 16.920(a)(15), 12 AAC 16.925, and 12 AAC 16.985.

The Board stated that it would like to add a section after proposed 12 AAC 16.345 'Application for continuing education course approval' with a provision on how to renew a continuing education course after expiration and to create a requirement for courses to be re-approved by the Board when there are any changes to proposed 12 AAC 16.345(3)-(6).

**Upon a motion by Mulholland, seconded by Zimmerman and approved unanimously, it was:**

**RESOLVED to send the 1/17/08 proposed regulation draft out for public comment as amended.**

The Board stated it would like to review the proposed regulations for accuracy prior to sending the draft out for public comment.

The Board asked Ms. Horetski if she had been able to research the peer review statute and legislative history of the statute. Ms. Horetski stated that she had done some research, primarily on the 1996 revision of the statute. She noted that the information from 1992, when the statute was enacted, was in the legislative library and would take additional time to research. Ms. Horetski offered to send a copy of her findings to the Board.

The Board thanked Ms. Horetski for her time and hard work on the regulations. Ms. Horetski, Ms. Conley, and Mr. Maiquis left the meeting at 3:25 p.m.

Break, off record 3:25 p.m., back on record, 3:35 p.m.

Dr. Mulholland asked Ms. Forrest if there is a reactivation fee for licensees reactivating in the middle of the licensing period. Ms. Forrest stated that at the present time there is not a set fee but that Division policy is to subtract what the licensee has already paid from the active licensing fee. She noted that the reactivation fee for chiropractor in the middle of the licensing period is currently \$630 as active licenses are \$730 and inactive licenses are \$100. Dr. Mulholland asked the Board if it would consider asking the Division to create a prorated license reactivation fee for licensees reactivating in the second half of the licensing period.

**Upon a motion by Culbert, seconded by Mulholland and approved unanimously, it was:**

**RESOLVED to request the Division to create license reactivation fees for licensees reactivating a license in the middle of a licensing period under the authority of AS 08.20.165(b). The Board requests that the reactivation fee be higher in the first year of a licensing period than if the licensee applies for reactivation in the second year of a licensing period.**

Dr. Zimmerman stated that she would like to see the fee be approximately half of the active licensing fee.

The Board discussed the license definitions that Dr. Mulholland provided to the Board. The Board discussed the difference between inactive and retired license holders. Ms. Forrest clarified that under AS 08.20.165 an inactive license holder must meet the same continuing education renewal requirements as an active license holder. She also noted that in order to reactivate in the middle of a cycle all a person needs to do is pay a fee. Dr. Mulholland asked what the benefits are of allowing a licensee to go into inactive status instead of retired or lapsed status. Ms. Forrest stated that an inactive license holder, as long as the license is maintained the licensee will not have to reapply for licensure if he or she wants to practice in Alaska, all they will have to do is submit continuing education and pay the required fees. If a person allows a license to lapse they must follow the reinstatement requirements under 12 AAC16.390, and if the license is lapsed or in retired status for more than five years and the person wants to practice in Alaska, that person must apply for a new license number and meet the current licensing requirements. She noted that these requirements may be different from the requirements under which they were initially licensed.

Ms. Forrest stated that the best thing for the Board to do is to incorporate these definitions into regulation, but at the current time it may only be possible to make the definitions part of Board policy and procedure. Ms. Forrest stated that she will speak to her supervisor to see if adding these definitions would be a feasible project for the Board.

#### **Agenda Item 9 & 14 –Part IV Exam Update & Future Travel**

The Board discussed future travel. Dr. Zimmerman stressed that travel to NBCE, FCLB, and Part IV testing are crucial to the Board as it allows for extensive networking and the information provided at these meetings is invaluable to the Board and its members.

Dr. Zimmerman volunteered to attend the Spring Part IV Exam in May and the Part IV Test committee meeting in June. The Part IV Test Committee is in Greeley, Colorado. Dr. Zimmerman asked to attend the Portland, Oregon Part IV Testing. Dr. Mulholland volunteered

to attend the November Part IV Exam in November and requested to be sent to Davenport, Iowa.

Dr. Davis asked if the Board will be sending delegates to the FCLB Regional Meeting at Lake Tahoe, Nevada in October 2008. Dr. Zimmerman volunteered to attend this regional meeting.

**Upon a motion by Davis, seconded by Mulholland, and approved unanimously, it was:**

**RESOLVED to send Dr. Zimmerman to the FCLB Regional meeting in Nevada, October 2-5, 2008.**

### **Agenda Item 12 – Review and Update Applications**

The Board reviewed the changes made by Ms. Forrest to the chiropractic licensure applications. The Board asked Ms. Forrest to work with Ms. Jenna Conley, Assistant Attorney General, on creating applications that match the existing regulations. Ms. Forrest informed the Board that she had made changes to the 'Verification of Chiropractic Education' form. The Board agreed with the changes she had made.

### **Agenda Item 13 – Review Tasks**

#### **Veida Forrest**

- Write a letter to Daniel Larson regarding CE approval
- Obtain additional information on Board expenditures in FY08
- Work on licensure applications with Jenna Conley
- Send reply emails to correspondence requests
- Schedule June meeting in Juneau
  - Make a Hotel Block at Goldbelt Hotel for meeting date
- Submit proposed Board regulations to Jun Maiquis for public notice, provide proposed regulations to Board to check for accuracy prior to public noticing.
- Submit Board fee changes/additions to Division
- Type up Board accomplishments in accordance with FY 08 Goals and Objectives.
- Obtain information on Estheticians from the Board of Barbers and Hairdressers.
- Submit travel requests for Forrest and Zimmerman for ACBA, FCLB, and NBCE Annual Meetings
- Submit travel requests for Zimmerman and Mulholland to attend NBCE Part IV testing in Portland, Oregon and Davenport, Iowa respectively
- Submit travel requests for Zimmerman to attend Part IV Test Committee in June 2008 in Greeley, Colorado
- Submit travel requests for Zimmerman to attend FCLB Regional Meeting October 2008 in Lake Tahoe, NV.
- Talk to Cori Hondolero and/or Jun Maiquis about preparing definition regulations for license types.

#### **Dr. Davis**

- Write letters in response to EPMX-SCIO correspondence.

- Write response letter to Dr. Beane regarding the Fisherman's Fund
- Stay in contact with FCLB regarding Alaska voting delegate

Dr. Zimmerman

- Provide additional information to Gayle Horetski regarding chiropractic scope of practice

All Members

- Compile a list of 'wants' for new Division centralized statute project.

**Agenda Item 15 – Public Comment**

There were no visitors for public comment.

There being no further business,

**Upon a motion by Davis, seconded by Mulholland and approved unanimously, it was:**

**RESOLVED to adjourn the Board of Chiropractic Examiners meeting.**

The meeting adjourned at 4:45 p.m.

Respectfully Submitted:

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Veida Forrest  
Licensing Examiner

Approved:

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Dr. Gregory Culbert  
Board of Chiropractic Examiners

Date: \_\_\_\_\_