

## **MINUTES OF MEETING**

A meeting of the Chiropractic Physicians' Board of Nevada was held on Friday, October 12, 2007 in Room 4412 of the Grant Sawyer State Office Building, 555 E. Washington, Las Vegas Nevada 89101.

The following Board members were present for the roll call at 9:00 AM:

Stephanie Youngblood, DC, President  
Margaret Colucci, DC, Vice President  
Ian K. Yamane, DC, Secretary  
Richard P. McCann, J.D., Consumer Member  
Curtis Potts, DC, Member

Dr. Deed Harrison arrived at 9:20 AM. Consumer Member Paul Jackson was not present. Also present were Deputy Attorney General Daniel Ebihara, CPBN prosecuting attorney Elizabeth Foley and CPBN Executive Director Cindy Wade. President Dr. Stephanie Youngblood declared that a quorum was present and called the meeting to order.

Dr. Colucci led those present in the Pledge of Allegiance.

### **Agenda Item 1 APPROVAL OF AGENDA**

Dr. Colucci moved that the agenda be approved. Mr. McCann seconded the motion and it passed unanimously.

### **Agenda Item 2 PUBLIC INTEREST COMMENTS (No Action)**

There were no public interest comments.

### **Agenda Item 3 APPROVAL OF PREVIOUS MINUTES:**

#### **A. September 14, 2007**

Dr. Colucci moved for approval of the September 14, 2007 meeting minutes. Dr. Potts seconded and the motion passed unanimously.

#### **B. September 13, 2007 Scope of Practice Committee Meeting**

Dr. Colucci moved for approval of the September 13, 2007 meeting minutes. Dr. Potts seconded and the motion passed unanimously.

**Agenda Item 4 DISCUSSION/APPROVAL OF BOARD FINANCIAL REPORTS:**

- A. Bank balance as of September 30, 2007**
- B. Income/Expense Report: July 1, 2007 through September 30, 2007**
- C. Accounts Receivable as of September 30, 2007**
- D. Accounts Payable as of September 30, 2007**
- E. Extraordinary Items/Items of Concern**

Dr. Yamane moved to approve the Board financial reports. Dr. Colucci seconded and the motion passed unanimously.

**Agenda Item 5 DISCUSSION/APPROVAL OF Executive Director reports:**

- A Status of Complaints Received**
- B. Status of Current Probations**
- C. Legal/Investigatory:**
  - 1. Costs assessed since last report**
  - 2. Costs assessed year-to-date**
  - 3. Costs collected since last report**
  - 4. Costs collected year-to-date**

Dr. Yamane moved to approve the Executive Director reports. Dr. Colucci seconded and the motion passed unanimously.

**ADMINISTRATIVE AGENDA**

Agenda Items 6, 7 and 8 were postponed until 11:00 AM.

**Agenda Item 9 Discussion/possible action regarding CPBN Law Test requirement of September 10, 2005 Agreed Settlement of Disciplinary Action and Order in the Matter of Mark Rubin, DC.**

Senior Deputy Attorney General David Newton was present. He reviewed the status of Mark Rubin's compliance with the terms and conditions of the September 10, 2005 Agreed Settlement of Disciplinary Action and Order. Dr. Rubin took the CPBN Law Test for the first time on August 8, 2007 and did not pass. He was supposed to have taken and passed the Law Test by June of 2006. There is no limitation on the number of times the Law Test may be taken in the chiropractic statute or regulations. Dr. Potts made a motion that no action be taken at this time with regard to the Law Test requirement in the Agreed Settlement with Dr. Rubin. Dr. Yamane seconded the motion. Following discussion, Dr. Potts amended the motion to include that Dr. Rubin may only sit again for the Law Test on the regularly scheduled test date, time and location. The motion passed unanimously.

**Agenda Item 10 Appointment of Compliance Monitors for monitoring of compliance with the terms and conditions of agreements with:**

- A. Dr. James T. Overland, Sr.**

Dr. Yamane moved to approve Dr. James T. Palmer as Compliance Monitor for the probation of James T. Overland, Sr., DC. Mr. McCann seconded the motion and it passed unanimously.

- B. Dr. Casey Robinson**

Dr. Potts moved to approve Dr. Jeffrey Andrews as Compliance Monitor for the probation of Casey Robinson, DC. Dr. Colucci seconded the motion and it passed unanimously.

**Agenda Item 11 Status report/discussion/possible action regarding anonymous profiles of possible disciplinary actions. Board action will be limited to either dismissing the matter if the Board determines it has no jurisdiction over the subject or providing direction to pursue the matter further.**

**A. Complaint 06-10S (Youngblood)**

Dr. Youngblood explained that Complaint 06-10S was not submitted in the form of a formal complaint. It is a copy of a complaint to another board, however, it describes a possible violation of NRS 634.140(5) by two chiropractors which needs to be addressed. Dr. Yamane moved for further investigation of this matter. The motion was seconded by Dr. Colucci and passed with all in favor except Dr. Harrison who was opposed.

**B. Complaint 07-05S (McCann)**

This complaint was filed because a licensee advertised that he was “Voted #1 Chiropractic Office in Las Vegas” as a result of a poll that had been conducted by himself, his advertising representative and his office staff with only his own patients. Mr. McCann stated that the doctor does not agree that it is self-laudatory but has agreed to cease and desist this advertisement. Dr. Youngblood moved to dismiss this complaint. Dr. Colucci seconded and the motion passed unanimously.

**C. Complaint 07-07S (McCann)**

The business card for a multi-disciplinary practice does not designate the licensee as a chiropractor and bears the statement “No Out of Pocket Expense”. The licensee has agreed to revise the business card to identify himself as a Chiropractic Physician. The doctor does not accept insurance patients and is not on any insurance plans and would prefer to clarify the reference to “No Out of Pocket Expense” by adding “personal injury cases only”, however, he is willing to remove the “NOOPE” reference if that is the Board’s decision. Dr. Colucci moved that the doctor be required to remove any reference to “No Out of Pocket Expense” from his advertising. Dr. Harrison seconded the motion. Following discussion, Dr. Colucci amended her motion to dismiss the complaint provided the licensee also remove all references to “No Out of Pocket Expense”. Dr. Yamane seconded the amended motion and it passed unanimously.

**D. Complaint 07-08S(Colucci)**

Dr. Colucci recommended that this advertising complaint needs further investigation. Dr. Yamane moved that this complaint be further investigated and that its disposition be addressed at the next meeting. Dr. Potts seconded and the motion passed unanimously.

**E. Complaint 07-15S (Colucci)**

Dr. Colucci described this complaint and informed the Board that this is the second recent complaint of a similar nature against this doctor. Following discussion, Dr. Yamane moved that this complaint should remain pending until additional information is acquired. Dr. Potts seconded the motion and it passed unanimously.

**F. Complaint 07-16N (Youngblood)**

This complaint was filed because a licensee had continued to employ a CA from January 1 through July 9, 2007 although her certificate had been suspended on January 1 for non-renewal. She recommended dismissal of the complaint with a Letter of Public Instruction to be sent to the licensee. Dr. Potts so moved. Dr. Yamane seconded and the motion passed unanimously.

**Agenda Item 11** (cont'd)**G. Complaint 07-18S (Colucci)**

A patient filed this complaint because he was upset about the result of his PPD evaluation and he claimed that the DC would not release his records. Dr. Colucci visited the doctor's office and determined that the records had already been released and the dispute had been resolved between the doctor and the complainant. The complainant subsequently withdrew his complaint. Dr. Yamane moved to dismiss the complaint. Dr. Potts seconded and the motion passed unanimously.

**H. Complaint 07-20S (Youngblood)**

Dr. Youngblood explained that this complaint was filed by an insurance company investigator who alleged that a DC violated his Agreed Settlement by treating patients during the prescribed period of the suspension of his license. Dr. Youngblood's thorough review of the soap notes and billings and interviews with the two patients revealed that the licensee did not treat the patients on the dates in question. Dr. Yamane made a motion to dismiss the complaint. Mr. McCann seconded and the motion passed unanimously.

**Agenda Item 13 Discussion/possible action for approval of Board members/attorneys/Executive Director to attend January 25-27, 2008 FARB meeting in Santa Fe.**

Dr. Yamane moved for approval of a maximum of three individuals to attend the FARB Forum. Dr. Colucci seconded the motion and it passed unanimously. Gina Session, Daniel Ebihara and Dr. Colucci indicated their interest in attending.

**Agenda Item 14 Agenda Item 14 Discussion/possible action for approval of revision to Board policy, "Public Notice Posting of Disciplinary Actions and Conditional Licenses Granted."**

Dr. Yamane moved that the policy be revised to provide that suspensions and revocations be posted for at least five years or as long as the suspension or revocation is in effect. Dr. Colucci seconded the motion and it passed unanimously.

**Agenda Item 16 Discussion/possible action regarding development of regulation changes for future Workshop including, but not limited to:****A. Scope of Practice Committee status report**

Dr. Yamane reported on the committee's progress to date.

**B. Any other changes, additions or deletions**

There were no other proposed changes, additions or deletions to the regulations.

Board Counsel Senior DAG Gina Session was present and Dr. Youngblood announced that Agenda Items 6 and 8 would next be addressed.

**Agenda Item 6 Administrative hearing/granting of continuance/possible settlement agreement in the matter of Allan P. Long, DC, License No. B158, Complaint No. 05-16.**

Dr. Allan Long and his attorney, Maria Nutile, were present. Mr. Ebihara reviewed the terms and conditions of the proposed Agreed Settlement for the Board's consideration. Dr. Colucci moved to approve the Agreed Settlement with Dr. Long as proposed. Dr. Yamane seconded the motion. Following discussion, the motion passed with all in favor except Dr. Colucci who was opposed because she would prefer appointment of a Compliance Monitor to assure that Dr. Long does not continue the activities for which he was in violation.

**Agenda Item 8 Administrative hearing/possible settlement agreement in the matter of Stephen B. Shaw, DC, License No. B705, Complaint Nos. 05-9 and 07-12.**

Dr. Stephen Shaw and his attorney, John Hunt, were present. Ms. Foley stated that the respondent will be requesting a continuance, however, she believes that all documents were delivered to Mr. Hunt in a timely manner and she is prepared to go forward with this matter today. Mr. Hunt presented a Motion to Continue. Following discussion, Dr. Yamane moved that because this is the first time a charge of this nature has been before the Board it is appropriate to make an exception to the Board's rule and grant a second continuance. The motion was seconded by Dr. Harrison. The motion passed with Drs. Harrison, Potts and Yamane in favor and Drs. Colucci and Youngblood opposed with Mr. McCann recused because he is the investigating Board member. The hearing in this matter was continued until November 30-December 1, 2007 and no further continuances will be granted.

Following a lunch break, the meeting reconvened at 1:42 PM. Dr. Harrison was not present. Dr. Youngblood announced that Agenda Item 17A would next be addressed for the convenience of Elizabeth Foley.

**NON-ACTION ITEMS:**

**Agenda Item 17 Reports:**

**A. Attorney**

Mrs. Foley reviewed the status of the pending disciplinary actions.

**Agenda Item 12 Discussion/possible action for approval of Board member salary increase to \$150 per day.**

Dr. Yamane made a motion to increase Board member salaries to \$150 per day. The motion was seconded by Dr. Colucci and passed unanimously.

**Agenda Item 7 Reconsideration of terms and conditions of September 14, 2007 Agreed Settlement of Disciplinary Action and Order/granting of continuance/administrative hearing in the Matter of James T. Overland, Sr., DC, License No. B527.**

Gina Session reviewed the issue that is inherent in the September 14, 2007 Agreed Settlement with Dr. Overland. The provision for reporting of the disciplinary action in the form of an anonymous profile conflicts with the statute regarding public records as well as the Board's policy. Following discussion, Dr. Potts moved that this matter be tabled and the disciplinary action stayed until the next meeting. Dr. Yamane seconded the motion and it passed unanimously.

**Agenda Item 15 Discussion/possible action regarding development of:**

**A. NAC 634.348 Performance of ancillary services other than massage**

**B. NAC 634.117 Chiropractor's assistant defined**

Dr. Potts presented his concerns with respect to the performance of chiropractor's assistant services. There was discussion of this matter but no action was taken.

**Agenda Item 17 Reports: (cont'd)**

**B. Investigator**

Gina Crown reported on the current status of her investigations in progress.

**Agenda Item 17 Reports:** (cont'd)

**C. Committees**

There were no committee reports.

**Agenda Item 18 Correspondence Report.**

The Board directed Cindy Wade to refer a letter from the State of Oregon Workers' Compensation Division to the Nevada Chiropractic Association. Cindy distributed a first draft of the Fall/Winter Newsletter and requested critique from the Board members.

**Agenda Item 19 Board Member Comments.**

The first meeting in 2008 will be scheduled for February 1-2.

**Agenda Item 20 Public Comment.**

There was no public comment.

**Agenda Item 21 Adjournment.**

Mr. McCann moved and Dr. Yamane seconded for adjournment. The motion passed unanimously.

Approved: November 29, 2007

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Ian K. Yamane, DC, Secretary