

MINUTES OF MEETING

A meeting of the Chiropractic Physicians' Board of Nevada was held on Friday, February 1, 2008 in Room 4401 of the Grant Sawyer State Office Building, 555 E. Washington Avenue, Las Vegas, Nevada 89101.

The following Board members were present for the roll call at 10:00 AM:

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

Dr. Youngblood determined that a quorum of the Board was present and called the meeting to order. Member Dr. Deed Harrison was not present. Also present were Deputy Attorney General Daniel Ebihara, CPBN Prosecuting Attorney Elizabeth Foley and CPBN Executive Director Cindy Wade.

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

Agenda Item 2 PUBLIC INTEREST COMMENTS (No Action)

There were no public interest comments.

Agenda Item 3 APPROVAL OF PREVIOUS MINUTES: December 15, 2007

Dr. Colucci moved for approval of the December 15, 2007 meeting minutes. Dr. Potts seconded the motion and it passed unanimously.

Agenda Item 1 APPROVAL OF AGENDA

This agenda item was initially overlooked and therefore addressed out of order. Dr. Yamane moved for approval of the agenda as published. Dr. Colucci seconded the motion and it passed unanimously. The Chair announced that Agenda Items 6 and 7 would next be addressed.

Agenda Item 6 Discussion/possible action for approval of settlement agreement in the matter of James Spickelmier, DC, License No. B531, Complaint No. 05-7.

Ms. Foley stated that Dr. Spickelmier has requested a continuance and she has no objection. Dr. Spickelmier has agreed that there will be no more continuances requested in this matter. Dr. Yamane moved that a continuance be granted. Mr. Jackson seconded the motion and it passed with all in favor except Dr. Colucci who recused because she is the Investigating Board Member.

Agenda Item 7 Administrative hearing/possible approval of settlement agreement in the matter of James T. Overland, Sr., DC, License No. B527, Complaint No. 05-06.

Dr. Overland, Sr., and his counsel, Valner Johnson, were present. Dr. Youngblood turned the Chair over to Mr. McCann because she is the Investigating Board Member.

Ms. Foley presented the terms and conditions of the proposed Agreed Settlement, which includes that it will be a public document. Mr. Johnson has requested that Dr. Brian Gatterman be appointed to serve as the DACBR who will review Dr. Overland's x-rays. Dr. Youngblood indicated that the proposed Agreed Settlement and appointment of Dr. Gatterman are acceptable to her. Dr. Overland's fingerprint cards will be submitted to Ms. Foley and he will sign the agreement today. Dr. Colucci moved to approve the Agreed Settlement as proposed, including the appointment of Dr. Gatterman as the DACBR to inspect Dr. Overland's x-rays. Dr. Yamane seconded and the motion passed with all in favor except Dr. Youngblood, who recused.

Agenda Item 4 DISCUSSION/APPROVAL OF BOARD FINANCIAL REPORTS:

- A. Income/Expense Report – July 1, 2007 thru January 23, 2008**
- B. Bank Balance as of January 23, 2008**
- C. Accounts Payable as of January 23, 2008**
- D. Accounts Receivable as of January 23, 2008**
- E. Extraordinary Items/Items of Concern**

Following discussion, Dr. Yamane moved to approve the Board Financial Reports as presented. Mr. McCann seconded the motion and it passed unanimously.

Agenda Item 9 Discussion/possible action with respect to the terms and conditions of the Board's Order pursuant to Dr. Stephen B. Shaw:

- A. Appointment of Dr. Jeffrey D. Andrews, Esq., to monitor compliance of Dr. Shaw's probation**
- B. Approval of psychologist to conduct administration of PAI test and anger management course**

This agenda item was addressed out of order to accommodate Ms. Foley. She reported that Dr. Shaw's attorney, John Hunt, was unable to be present at this meeting and has requested that this matter be addressed at the next Board meeting. Dr. Potts made a motion to continue both agenda items until the April 4-5, 2008 meeting and Dr. Colucci seconded. Following discussion, the motion did not pass with all opposed. Dr. Potts moved to approve Dr. Jeffrey Andrews, Esq., to be the monitor of Dr. Shaw's probation and to continue Item 9B until the next meeting. Dr. Colucci seconded and the motion passed with all in favor.

Agenda Item 5 DISCUSSION/APPROVAL OF EXECUTIVE DIRECTOR REPORTS:

- A Status of Complaints Received**
- B. Status of Current Probations**
- C. Legal/Investigatory:**
 - 1. Costs paid since last report**
 - 2. Costs paid fiscal year-to-date**
 - 3. Costs paid same period last fiscal year**

Following discussion, Dr. Yamane moved for approval of the Executive Director Reports as presented. Dr. Colucci seconded and the motion passed unanimously.

Agenda Item 8 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 Nos. 07-11 and 07-17 (Colucci)

A husband and wife alleged that they were overcharged and charged for services not received. Following initiation of the investigation, the matter was settled by means of payment of a reduced amount to satisfy the lien which was supported by an agreement signed by all parties that the matter was resolved. The complainants have not responded to Investigating Board Member Dr. Colucci's several attempts to contact the complainants to assure their satisfaction. Dr. Yamane moved to dismiss the complaint. The motion was seconded by Mr. Jackson and passed with all in favor except Dr. Colucci who recused.

B. Complaint No. 07-29 (Youngblood)

An 81-year-old patient claimed that he was billed for therapy treatments not rendered. Investigating Board Member Dr. Youngblood explained that the doctor reimbursed the patient for three therapy treatments even though his records were very precise, including documentation of specific times the patient went to the therapy area and when he left. The patient claims he only received one treatment, but he retained the money he was reimbursed by the doctor for the treatments he claims were not rendered. The patient feels that the doctor billed Medicare inappropriately because the charges appear on the EOB. The patient signed an ABN notice, which clearly states that Medicare does not pay for these services. However, it is required that services rendered appear on the insurance claim form regardless of reimbursement. Dr. Potts moved to dismiss the complaint. Mr. McCann seconded and the motion passed unanimously with Dr. Youngblood recused.

C. Complaint No. 07-33 (Potts)

This complaint was received from a person who found a licensee's intact patient records discarded in a trash bin. Samples of the retrieved records were sent to the Board office, some of which bear dates less than five years old, a violation of NRS 629.051. There may also be violation of Federal privacy laws. The doctor claims that a new person in his front office must have disposed of the records without his knowledge and has assured that this will not happen again. Investigating Board Member Dr. Potts recommended the complaint be dismissed with a letter of instruction to the doctor. Dr. Colucci so moved and Dr. Yamane seconded the motion. Following discussion, Dr. Colucci amended her motion to state that Dr. Potts should have a Complaint and Notice of Hearing issued in this matter with a decision to be made at the hearing with respect to the possible HIPAA violation. Dr. Yamane seconded and the motion passed with all in favor except Dr. Potts who recused.

Agenda Item 10 FCLB/NBCE Annual Meetings

A. Appointment of FCLB delegate and alternate delegate

B. Appointment of NBCE delegate and alternate delegate

C. Approval of attendance by other Board members and staff

Dr. Yamane moved that Drs. Youngblood, Colucci and Yamane and Executive Director Cindy Wade be approved to attend the FCLB/NBCE Annual Meeting, that Dr. Colucci be the FCLB delegate, Dr. Yamane the NBCE delegate, and that Dr. Youngblood be both the FCLB and NBCE Alternate Delegate. Dr. Potts seconded and the motion passed unanimously.

Agenda Item 11 Discussion/possible action for approval of proposed revised Complaint, Investigation, Agreed Settlement/Disciplinary Action Process Procedure.

Dr. Potts moved to approve the proposed revision and Dr. Yamane seconded the motion and it passed with all in favor. It was generally agreed that the contracts with the investigators and prosecuting attorney need to be more formally formatted. This matter will be agendaized for the next meeting, as well as a revision to the procedure that will provide for contract approval levels to expedite the approval process.

Agenda Item 12 Discussion/possible action regarding development of regulation changes for future Workshop including, but not limited to:

A. Scope of Practice Committee status report

There was no committee meeting held and nothing to report.

B. Deletion of regulations that require certification of Massage Therapists as CAs for Massage

Dr. Colucci moved to remove all regulations that require certification of Massage Therapists.

Mr. McCann seconded the motion and it passed unanimously.

C. Deletion of requirement for “Times New Roman” font in NAC 634.445(1)(b), NAC 634.445(2)(b) and (c).

Dr. Yamane moved for deletion of the above requirement from NAC. Dr. Colucci seconded and the motion passed with all in favor.

D. Deletion of requirement for “original” certificate of attendance in NAC 634.385(1)(f).

Dr. Potts moved for deletion of the above requirement from NAC 634. The motion was seconded by Dr. Yamane and passed unanimously.

E. Any other changes, additions or deletions

There were no other changes, additions or deletions.

Agenda Item 13 Discussion/possible action regarding request from Kerrie Pratt, DC, for waiver provided under NRS 634.090(2) of the chiropractic educational requirement established in 3 NRS 634.090(1)(b).

Following discussion, Dr. Yamane moved to approve Dr. Kerrie Pratt’s chiropractic college credentials from Los Angeles College of Chiropractic and Southern California College of Chiropractic as meeting the educational requirement of a DC applicant under NRS 634.090(1)(b) by means of the waiver allowed under NRS 634.090(2). Dr. Potts seconded and the motion passed unanimously.

Agenda Item 14 Discussion/possible action regarding request from Sequoia Visions, Inc., to be approved as seminar sponsor.

Dr. Yamane moved to approve Sequoia Visions as a seminar sponsor. Dr. Colucci seconded and the motion passed unanimously.

Agenda Item 15 Discussion/possible action with respect to requests for refund/waiver of reinstatement fees.

Following discussion, Dr. Yamane moved that requests for waiver or refund of reinstatement fees be denied. Dr. Colucci seconded the motion and it passed with all in favor.

Agenda Item 16 Election of officers.

An unsuccessful attempt was made to contact Dr. Harrison by phone as requested by him. Mr. Jackson expressed his concern and moved that the Board not allow a Board member to call in to vote during this meeting. Dr. Colucci seconded. Following discussion, the motion did not pass with Dr. Colucci and Mr. Jackson in favor and Drs. Potts, Youngblood and Yamane and Mr. McCann opposed. This matter was postponed until Dr. Harrison could be included by telephone.

Agenda Item 17 Report on attendance at FARB Forum.

Drs. Colucci and Youngblood and Mr. Ebihara reported on the substance of the presentations at the FARB Forum that they attended in Santa Fe in January.

Agenda Item 18

- A. Attorney**
- B. Investigator**
- C. Committees**

There were no comments with respect to the reports presented.

Agenda Item 19 Correspondence Report.

There were no comments with respect to the correspondence reported.

Agenda Item 20 Board Member Comments.

The next CA tests will be administered on February 8 and the DC test on February 13, 2008.

Mr. McCann expressed his concern about whether the Board's staff is maintaining adequate phone call records. Cindy will address this with the staff and report back at the next meeting.

There was discussion with respect to the current limitation in statute for only one fine to be levied in a disciplinary action when multiple charges exist in a complaint. This should be addressed when the Board prepares its bill for the 2009 Legislature.

The next meetings after the April 4-5, 2008 meeting will be on May 30-31 in Las Vegas and on June 21 in Reno.

Agenda Item 16 Election of officers (cont'd)

Dr. Harrison was present on the speaker phone.

For President, Dr. Potts nominated Dr. Yamane and Dr. Youngblood nominated Dr. Colucci. **Dr. Yamane was elected President** with Drs. Harrison, Potts and Yamane and Mr. Jackson and Mr. McCann voting for Dr. Yamane and Drs. Youngblood and Colucci voting for Dr. Colucci.

For Vice President, Dr. Colucci nominated Mr. McCann and Dr. Youngblood nominated Dr. Colucci. **Dr. Colucci was elected Vice President** with Drs. Harrison and Youngblood and Mr. Jackson and Mr. McCann voting for Dr. Colucci and Drs. Colucci, Potts and Yamane voting for Mr. McCann.

For Secretary-Treasurer, Dr. Yamane nominated Dr. Potts and Mr. McCann nominated Dr. Youngblood. **Dr. Youngblood was elected Secretary-Treasurer** by unanimous vote.

Agenda Item 21 Public Comment.

There was no public comment.

Agenda Item 22 Adjournment.

Dr. Potts moved that the meeting be adjourned. Mr. Jackson seconded and the motion passed unanimously.

Approved: April 4, 2008

Stephanie Youngblood, DC, Secretary