

MINUTES OF MEETING

A meeting of the Chiropractic Physician Board of Nevada was held on Friday, December 12, 2008 in Room 4401 of the Grant Sawyer State Office Building, 555 E. Washington, Las Vegas, Nevada 89101. The following Board members were present for the roll call:

Ian K. Yamane, DC, President
Margaret Colucci, DC, Vice President
Stephanie Youngblood, DC, Secretary
Richard McCann, Consumer Member
Lawrence Davis, DC, Member

Dr. Yamane determined that a quorum of the Board was present and called the meeting to order at 9:12 AM. Consumer member Paul Jackson was not present. Also present were Deputy Attorney General Daniel Ebihara and CPBN Executive Director Cindy Wade.

Dr. Lawrence Davis led those present in the Pledge of Allegiance.

Agenda Item 1 APPROVAL OF AGENDA

Dr. Colucci moved for approval of the agenda. Dr. Davis seconded the motion and it passed unanimously.

Agenda Item 2 PUBLIC INTEREST COMMENTS

There were no public interest comments.

Agenda Item 3 APPROVAL OF PREVIOUS MINUTES: October 10, 2008

Dr. Christopher Bunker was present and requested that the second sentence under Agenda Item 6 on Page 2 of the drafted minutes be deleted. Following discussion, Dr. Youngblood moved for approval of the minutes with removal of the sentence as requested by Dr. Bunker. Mr. McCann seconded and the motion passed with all in favor except Dr. Colucci who recused because she was the investigating Board member for Dr. Bunker's disciplinary action.

Agenda Item 8 Dismissal of Complaint/Administrative hearing/approval of proposed settlement agreement in the matter of James T. Overland, Sr., DC, Complaint No. 08-36S.

CPBN Prosecuting Attorney Elizabeth Foley, Dr. Overland and his attorney, Valner Johnson, were present. Ms. Foley presented a proposed settlement agreement that was agreed to and signed by Dr. Overland.

Agenda Item 8 Dismissal of Complaint/Administrative hearing/approval of proposed settlement agreement in the matter of James T. Overland, Sr., DC, Complaint No. 08-36S (cont'd):

Following discussion, Dr. Colucci moved to accept the late payment for the Board's costs pursuant to the February 1, 2008 Agreed Settlement and that the terms and conditions of the proposed Agreed Settlement presented today be approved. Dr. Yamane seconded the motion and it passed with all in favor except Dr. Youngblood who recused because she was the investigating Board member. Mr. Johnson stated that the late payment was the result of no response received to several requests for a breakdown of the costs.

Agenda Item 6 Administrative hearing/approval of proposed settlement agreement in the matter of Jeffrey Fine, DC, License No. B449, Complaint Nos. 06-10S, 07-34S and 08-21S.

Elizabeth Foley requested that this matter be continued until the January 17, 2009 meeting. Dr. Fine recently changed counsel and, although this case is close to being settled, the new attorney is currently tied up with a higher priority case. Mr. McCann moved to approve a continuance until the January 17 meeting. Dr. Davis seconded and the motion passed with all in favor except Dr. Youngblood who recused as investigating Board member.

Agenda Item 9 Discussion/possible action with respect to appeal of denial of Application for Licensure as a Doctor of Chiropractic of Andrew Jenison, DC.

Ms. Wade explained that she denied Dr. Jenison's application because he did not meet the requirement under NRS 634.090(1)(b) that an applicant must be a graduate from a college of chiropractic which is accredited by the CCE or which has a reciprocal agreement with the CCE or any governmental accrediting agenda because he graduated from University of Pasadena School of Chiropractic in 1976 when it did not hold accreditation status. She cited a previous similar case in which the Board granted a waiver under the provision of NRS 634.090(2) and noted that Dr. Jenison attained additional hours to satisfy the California license requirements and that he has practiced there since 1978. Mr. McCann moved to approve Dr. Jenison's application under the provision of NRS 634.090(2). Dr. Colucci seconded the motion and it passed unanimously.

Dr. Yamane turned the Chair over to Dr. Colucci because he was the investigating Board member in the following matter.

Agenda Item 11 Discussion/possible action to approve Dr. Gregory MacKay to re-take the CPBN Law test to satisfy the requirement of the October 10, 2008 Agreed Settlement.

Dr. Yamane stated that Dr. Mackay failed the November 12, 2008 Law test and the Agreed Settlement does not provide him the opportunity to re-take the test if he failed on his first attempt. Dr. Youngblood moved that Dr. MacKay be approved for a re-take test in February, 2009. Mr. McCann seconded the motion. Following discussion, Dr. Youngblood amended her motion by adding that if Dr. MacKay fails the test in February a complaint will be immediately filed for default of the Agreed Settlement. Mr. McCann seconded the amended motion which passed with all in favor except Dr. Yamane who recused.

Dr. Colucci retained Chair for the following matter.

Agenda Item 12 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: Complaint 08-17S.

Dr. Yamane explained that Complaint 08-17S alleged charges for services not performed, inappropriate billing procedures and unethical practice. The complainant and the Doctor have resolved their differences and the complaint has been withdrawn. Dr. Youngblood moved to dismissed the complaint. Rick McCann seconded and the motion passed with all in favor except Dr. Yamane because he was the investigating Board member.

Dr. Yamane resumed the Chair.

Agenda Item 13 Approval of granting of licenses to DC applicants who successfully passed the November 12, 2008 examination.

Dr. Davis moved to grant DC licenses to the applicants who passed the November 12, 2008 examination. Dr. Colucci seconded the motion and it passed unanimously.

Agenda Item 14 Discussion/possible action regarding appeal of Board's previous decision to deny to Dr. David Rovetti credit for his attendance at continuing education seminars during which he taught one hour at each seminar.

Dr. Rovetti's previous request was denied because it is the Board's position that a person who receives financial gain from a seminar should not also receive credit for attending the seminar and, by teaching a seminar, the person is not learning anything new which defeats the purpose of the CE requirement. Dr. Youngblood moved to deny Dr. Rovetti's request. Mr. McCann seconded the motion and it passed unanimously.

Agenda Item 15 Discussion/possible action for formulation of statutory/regulatory/organizational needs in order to establish advisory panel for handling of complaints and disciplinary actions.

Dr. Colucci provided a verbal outline of her concept of the mechanisms of the advisory panel for disposition of complaints and disciplinary actions that she wishes to be established.

Agenda Item 16 Discussion/possible action to approve Board members/Executive Director to attend January 23-25, 2009 FARB Forum in Tampa, Florida.

Following discussion, Dr. Youngblood moved to approve Dr. Margaret Colucci, Cindy Wade and Chief DAG Gina Session to attend the FARB Forum. Dr. Davis seconded and the motion passed unanimously. Cindy will contact Ms. Session to determine if she is interested in attending.

Agenda Item 17 (NON-ACTION) Reports:

- A. Legislative Committee**
- B. Attorney**
- C. Investigator**
- D. Other committees**

Ms. Wade informed the Board that the Board's BDR is No. SB26. Lobbyist Paula Berkley is currently also working on the NIAA matter. Investigator Gina Crown's progress report was reviewed. Dr. Colucci announced that the next CA exams will be on February 20, 2009 and asked for volunteers to assist in administering the tests.

Agenda Item 18 (NON-ACTION) Correspondence Report

There was no correspondence to report.

Agenda Item 19 (NON-ACTION) Board Member Comments

Ms. Wade stated for the record that in regard to attorney Valner Johnson's comment under Agenda Item 8 she has never received a request for a breakdown of the costs for Dr. Overland's disciplinary matter. Mr. McCann stated that it was obvious that Mr. Johnson had not reflected accurate facts of this matter. Dr. Youngblood stated that Mr. Johnson's statement contained different information than that which he had represented to Ms. Foley and her that he requested to make.

Agenda Item 20 (NON-ACTION) Public Comment

There was no public comment.

Agenda Item 4 DISCUSSION/APPROVAL OF BOARD FINANCIAL REPORTS:

- A. Bank Balance as of December 1, 2008**
- B. Income/Expense Report: July 1, 2008 through December 1, 2008**
- C. Accounts Receivable as of December 1, 2008**
- D. Accounts Payable as of December 1, 2008**
- E. Extraordinary Items/Items of Concern**

Copies of the 2006/07 and 2007/08 Audit Report were distributed. Cindy Wade recommended that future audits be performed annually. She gave an update of the progress of the 2009/10 renewals and will provide updated financial information at the January meeting.

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 fiscal year-to-date**
 - 3. Costs collected since last report**
 - 4. Costs collected fiscal year-to-date**

Ms. Wade provided updates to the reports. There was no discussion.

Agenda Item 10 Discussion/possible action with respect to request from Corazon Murillo, DC, for a second extension of time to take NBCE Ethics/Boundaries examination.

Dr. Murillo was not present. Her Compliance Monitor, Dr. Jeffrey Andrews, Esq., was present. Dr. Andrews reported that Dr. Murillo is currently in default of the November 29, 2007 Agreed Settlement as she has not paid him for his November 24, 2008 report and she has defaulted in her payments to the Board because the check she sent in December was returned. Dr. Colucci moved to deny her request for another extension of time to take the NBCE Ethics/Boundaries examination and that a complaint be filed for her defaults for failure to timely sit for the NBCE test and failure to timely make her payments to Dr. Andrews and the Board as required by the Agreed Settlement. Mr. McCann seconded and the motion passed with all in favor except Dr. Youngblood who recused because she was the investigating Board member in this matter.

Agenda Item 7 Administrative hearing/approval of proposed settlement agreement in the matter of Allen Stout, DC, Complaint Nos. 00-31, 00-36, 00-37, 01-05 and 01-13.

Ms. Foley announced that a settlement has been agreed to by Dr. Stout and his attorney, Benson Lee. She stated that for the purposes of attaining a quorum, Dr. Stout and Mr. Lee have agreed to waive recusal by Dr. Lawrence Davis, who was the original investigating Board member for these complaints. Ms. Foley described the terms and conditions of the proposed Agreed Settlement. Dr. Yamane stated that he is in agreement. Dr. Youngblood moved to approve the Agreed Settlement as proposed. Mr. McCann seconded the motion which passed with all in favor except Dr. Yamane who recused because he was the investigating Board member.

Agenda Item 21 Adjournment.

Rick McCann moved for adjournment. The motion was seconded by Dr. Davis and passed unanimously.

Approved: January 17, 2009

Secretary