

TENNESSEE BOARD OF CHIROPRACTIC EXAMINERS

DATE: December 12, 2013

TIME: 9:00 A.M.

LOCATION: Health Related Boards Conference Center
Poplar Conference Room
665 Mainstream Drive
Nashville TN 37243

BOARD MEMBERS

PRESENT: Michael Massey, D.C., President
Craig Ratcliff, D.C. Vice President
Chris Alexander, D.C., Secretary
Richard Cole, D.C., Board Member
Andrea Selby, D.C., Board Member

BOARD MEMBERS

ABSENT: Sheila Fitzgerald, Citizen Member

STAFF PRESENT: Melody Spitznas, Board Administrator
Teddy Wilkins, Unit Director
Mark Cole, Office of General Counsel

Dr. Massey, chair, called the meeting to order at 9:30 a.m. A quorum was present. Dr. Massey turned the meeting over to Administrative Judge Steve Darnell.

Contested Case Hearing – Rick Kuhlman, DC

This matter came to be heard before the Tennessee Board of Chiropractic Examiners pursuant to a Notice of Hearing and Charges files against the Respondent, Rick Kuhlman, DC, license number 1512. The State was represented by Mark Cole, Assistant General Counsel and the Respondent was present and represented by counsel, Frank Scanlon.

The Findings of Fact are as follows:

- 1) The Respondent has been licensed by the Board as a Chiropractic Physician in the State of Tennessee, having been granted license number 1512 on December 29, 1998, which expires on December 31, 2014.
- 2) On or around March 1, 2011, the Respondent pled guilty to Scheme to Commit Health Care Fraud, 18 U.S.C. §§and 2, in the Northern District of Georgia, United States District Court, Criminal Case Number 1:11-CR-075-MHS for billing United Healthcare, Aetna Insurance and

Blue Cross/Blue Shield of Georgia for two million, nine hundred forty-four thousand, eight hundred eighty-three dollars (\$2,944,883.00) for chiropractic services in his clinics in Georgia and Tennessee that were not performed. Respondent has since paid the restitution.

3) On or about May 26, 2011, the Respondent paid into the District Court the full restitution amount of \$2,944,883.00, which has been distributed to the above payees (United Healthcare, Blue Cross/Blue Shield of Georgia, and Aetna). The restitution amounts the Respondent paid to the three insurance companies were for payments the companies made to the Respondent for services he billed on behalf of his patients that the companies claimed were not provided to the patients.

4) On or about December 14, 2011, the U.S. Attorney in the criminal case filed an appeal of the criminal sentence, alleging that it was too lenient and not in line with the Federal sentencing guidelines.

5) On or about December 15, 2011, the Georgia Board of Chiropractors heard the case against the Respondent due to the felony conviction and sentence issued on November 15, 2011, and issued discipline against the Respondent of suspension for at least six (6) months and then probation for five (5) years with Respondent having to give speeches on healthcare fraud.

6) On or about March 8, 2013, the Court of Appeals for the 11th Judicial District issued an opinion that reversed the criminal sentence of the Respondent, and remanded it back to the district court to impose a sentence in conjunction with the federal sentencing guidelines.

7) The suspension of Respondent's license by the Georgia Board under the "Final Decision" was lifted by the Georgia Board on November 8, 2012. The five year period of probation imposed by the "Final Decision" of the Georgia Board commenced on November 8, 2012, and will continue until November 8, 2017.

8) The Georgia Board of Chiropractors did not have the benefit of knowing that the sentence imposed in November 2011 was found to be too lenient and was not within the federal sentencing guidelines.

9) This information rebuts the presumption imposed by Tenn. Code Ann. §63-1-120(b)

Dr. Cole made a motion, seconded by Dr. Selby, to accept the Findings of Fact. The motion carried.

The Conclusions of Law are as follows:

The Board, having jurisdiction over this matter, finds the facts in this matter to be sufficient to establish that the Respondent has violated the following provisions of Tenn. Code Ann. §63-4-101, *et seq.* and the Official Compilation of Rules and Regulations of the State of Tennessee for the Board of Chiropractic Physicians (Tenn. Comp. R. & Regs.) 0250-02-.01 *et seq.*:

10) The facts enumerated in paragraph two (2) constitute a violation of Tenn. Code Ann. §63-4-

114:

(2) Conviction of a felony for violations of any law of the state or of the United States.

11) Respondent's acts and conduct enumerated in paragraph two (2) constitute violations of Tenn. Comp. R. & Regs. 0260-02-.13:

(4) Immoral, unethical, unprofessional or dishonorable conduct.

Dr. Selby made a motion, seconded by Dr. Ratcliff, to adopt the Conclusions of Law offered by the State. The motion carried.

Dr. Cole made a motion, seconded by Dr. Selby, to revoke Dr. Kuhlman's license. The motion carried.

Dr. Cole made a motion, seconded by Dr. Alexander, stating that the Board takes this action in order to protect the citizens of the State of Tennessee. The motion carried.

Dr. Ratcliff made a motion, seconded by Dr. Alexander, to assess a three thousand dollar (\$3,000.00) civil penalty and to assess costs associated with this matter to be paid within six (6) months from the issuance of the Assessment of Costs. The motion carried.

The hearing adjourned at 12:50 p.m.

Minutes

Dr. Cole made a motion, seconded by Dr. Alexander, to approve the August 15, 2013 Board meeting minutes as amended. The motion carried.

Financial Report

Lisa Tittle presented the Financial Report to the Board. Ms. Tittle stated the Board's direct expenditures for FY 2013 are \$50,104.04 and the total expenditures are \$130,116.53. Ms. Tittle stated that the cost for the replacement computer system is approximately \$2,000,000.00 and the Board's share is \$13,000.00.

Office of General Counsel Report

There are twenty-seven (27) open cases at OGC against twelve (12) chiropractors.

Mr. Cole reviewed the Open Meetings Act in T.C.A §8-44-10. Mr. Cole reviewed the Conflict of Interest Statement with the Board. There is no legislation for this Board at this time.

Investigative Report

Denise Moran stated that the Office of Investigation has opened forty-seven (47) complaints on chiropractors in 2013. Ms. Moran stated there were more complaints this year than in previous years. Ms. Moran stated that most complaints are regarding advertising, unlicensed practice and solicitation issues. There are no complaints for CTAs or CXTs.

Monitored Practitioners

Nine (9) practitioners are on probation, three (3) have had their licenses revoked, and three (3) are under board order.

Administrative Report

As of December 4, 2013, there are 1135 licensed Chiropractic Physicians, 120 CXTs, and 486 CTAs.

Drs. Alexander, Massey and Cole would like to attend the FCLB/NBCE annual meeting in May 2014.

Report from Dr. Richard Cole

The Chiropractic Therapy Assistant licensure examination has been re-written. The process employed a standard licensure examination development format to ensure that the final product would be fair and would properly discriminate between a CTA competent to practice as a CTA and those who were not yet prepared.

The exam is weighted in the following manner: chiropractic principles and practice (25%), anatomy and physiology (30%), treatment procedures (35%), emergency procedures (5%) and ethics (5%).

The first phase in the exam development was the creation of items (questions). That process involved the following doctors: Dr. Bradford Cole, Dr. Randall Crawford, Dr. Kathryn Mead, Dr. Dana Poisal, Dr. Holly Tucker, and Dr. Sheldon Young. The item writing process led to 289 items available in the selection pool. Next, a panel of CTAs used a six hour consensus process to select the test items that would be used on the exam. CTAs involved in the consensus process were: Teresa Brewer, Spencer Craig, Sheila Dillon, Brittany Grooms, Starlet Kilgore, Katherine McMillan, Allisyn Quesinberry, Linda Robinson, Brittany Stratton, and Jason Wilson. Finally, the exam was weighted in a four-hour process to determine the likelihood that competent CTAs would know the answers to the questions. The CTAs involved in this process were: Tere Anderson, Erin Barrett, Dawn Bath, Karyn Beech, Angela Echols, Catherine Froyd, Jill Gieske, Tammy House, LouAnne McBride, Becky Michaels, Linda Robinson, and Paula Scarborough. Following that process a cut score was established.

A review for grammar, spelling and other typos, and been completed and the examination is now ready for use. In the last Board meeting, the Board authorized the examination for use beginning September 2013. As members of the Board of Chiropractic Examiners, you empowered the process and monitored the development of the exam through reports received at their quarterly

board meetings. In all, 29 separate individuals were employed to complete the process. All participants in the process were volunteers. The TCA provided logistical support, such as work space and refreshments, and aided in the identification of names of individuals who could participate in the processes. Dr. Cole served to organize the process and report to the TCA and the Examining board. The entire process took nine months to complete. The examination is a solid work and examining board members can take pride in the fact that they have established a fair assessment tool for determining CTA competency. The profession and the public continue to be served well due to the collaboration by the TCA and the TBCE on projects of this nature.

Dr. Cole stated he would like to highlight the panel of CTAs in his report.

Dr. Massey commended Dr. Cole on his work regarding this project.

Applicant Review

The Board reviewed the file of **Homaira Mirhabibi**, CTA applicant. Dr. Ratcliff made a motion, seconded by Dr. Cole, to have Ms. Mirhabibi come to the next Board meeting to discuss her criminal background check. The motion carried.

Correspondence

Mr. Cole stated that the Department of Revenue states that Tennessee law does not grant chiropractors the authority to issue a handicap placard.

Neemisha Desai, DC submitted a letter requesting either an extension of waiver of her continuing education requirement for 2013 due to health reasons. Dr. Cole made a motion, seconded by Dr. Alexander, to grant Dr. Desai one year to take and submit 48 hours (24 for 2013 and 24 for 2014). The motion carried.

Nicola Allison submitted a letter requesting an extension for her certification as a CTA. Ms. Allison stated that when she initially took the course in 2010, she was informed she would have 2 years to complete her hours and submit an application to the Board; however, before submitting her application, she learned the window had been reduced to 1 year. Dr. Cole made a motion, seconded by Dr. Alexander, to approve Ms. Allison's request. The motion carried.

Dr. Richard Saporito submitted an email asking if the Board accepts or is considering accepting, the FCLB Certified Clinical Assistant certification program as meeting the requirement for CTA certification. The Board directed Ms. Spitznas to reply to Dr. Saporito and inform him that Tennessee does not accept this program as it does not offer enough hours.

Kevin Scott, DC submitted a letter requesting approval of a Foot Levelers seminar in Austin, Texas given on April 27 – 28, 2013. Dr. Ratcliff made a motion, seconded by Dr. Cole, to grant the approval; however, in the future, courses must be submitted for approval in accordance with the Board's rules and regulations. The motion carried.

Tammy Horn, CXT submitted an email requesting an extension in order to obtain her 2013 continuing education requirement. Ms. Horn mistakenly thought there was a course being offered in December. Ms. Horn stated the first available seminar will be in February 2014. Dr. Cole made a motion, seconded by Dr. Ratcliff, to grant Ms. Horn an extension until February 2014 to obtain and submit her 2013 continuing education hours. The motion carried.

William Barrett, DC submitted an email requesting an extension in order to complete his 2013 continuing education requirement due to a death in the family. Dr. Alexander made a motion, seconded by Dr. Ratcliff, to grant Dr. Barrett a three-month extension in order to complete and submit his 2013 continuing education hours. The motion carried.

Review/Ratify Continuing Education Courses

Dr. Cole made a motion, seconded by Dr. Ratcliff, to approve the list of continuing education courses that Dr. Alexander initially approved or denied. The motion carried.

Ratify Newly Licensed Chiropractors

Dr. Ratcliff made a motion, seconded by Dr. Alexander, to approve the following newly licensed Chiropractors:

Monte Alton
Selena Autry
Michele Bataglia
Philip Berardi
April Berg
Cassandra Conry
Aaron Driskill
Cynthia Drucker
Michael Dumond
Jamie Marie Galperin
James Phillip Gano
Rita Ghiraldini
Michael C. Glenn
Joseph A. Klein
Thomas John Leskody
Chad Eddie Mathey
Nicole Mathey
Robert James Moore
Nicholas Neratka
Meet D. Patel
Paul J. Ragusa
Phillip Tassi
Brittany Tinker

The motion carried.

Dr. Ratcliff made a motion, seconded by Dr. Alexander, to approve the following newly licensed Chiropractic Therapy Assistants:

Chaz Allison
Alisha M. Brown
Jayme S. Chadwell
Jacqueline Cilia
Marie Corbin
Katherine G. Gray
Shelly Groff
Anne Larsen
Victoria Mitchell
Jarolyn Moulder
April Lynn Scott
Jessica Scott
Melanie Shapiro
Adah E. Thompson
Gary D. Tittle
Kenneth Whitehead
Patty Wilder

The motion carried.

Dr. Ratcliff made a motion, seconded by Dr. Alexander, to approve the following newly licensed Chiropractic X-Ray Technicians:

Chaz Allison
Samantha Baskerville

The motion carried.

Dr. Ratcliff made a motion, seconded by Dr. Alexander, to approve the following reinstated Chiropractors:

Brandon Bailey
John Charles Lay
Michael McIntyre
George S. Nobles

The motion carried.

Dr. Ratcliff made a motion, seconded by Dr. Alexander, to approve the following reinstated Chiropractic Therapy Assistants:

Nathan Ross Bushman

Margaret Heikkinen

The motion carried.

Joanna Mertz is applying from South Dakota as a Chiropractic Therapy Assistant. Ms. Mertz completed the Palmer College of Chiropractic CTA program. After review of the syllabus of the Palmer CTA program, Dr. Cole made a motion, seconded by Dr. Alexander, that ten more hours of education must be submitted. These can be continuing education hours done over the last several years. Once received, Dr. Cole will review. The motion carried.

Other Board Business

Dr. Cole presented the following proposed rules changes for CTAs and CXTs:

1) 0260-05-.01 Definitions

(14) Internship – Delete “in providing physical agent modalities and rehabilitation”

Rationale- redundant (scope is covered elsewhere) and this is an incomplete definition of the scope

(18) - Change “Supervision” to “Direct supervision”

Rationale – This definition describes the supervision of interns and does not describe the supervision of licensed professionals.

Add definition of indirect supervision –

Indirect supervision – the oversight provided by a licensed physician over licensed personnel functioning under the physicians order. This does not require the physical presence of the physician in the clinic, but requires that the physician can be contacted immediately and can be physically present in the clinic in a reasonable length of time.

Rationale – Current description of supervision describes intern training and does not describe the indirect supervision required for licensed CXTs and CTAs. This change requires direct supervision for interns and allows for indirect supervision for licensed personnel.

2) 0260-05-.10

Add the word “indirect” before supervision in the second sentence so that it reads as follows:

“This indirect supervision, control or responsibility... “

3) 0260-05-.10 (3)

Consider deleting this section from the CTA and CXT rules in its entirety and place the following language in the DC rules:

Before being authorized to perform any chiropractic procedures or operate any equipment in a chiropractic office as a CTA or CXT, the physician owner of the clinic shall place a copy of the CTA or CXTs current license certificate in the employees personnel file.

Rationale – This rule is currently a DC responsibility and it seems inappropriate for the CTA and CXT to be disciplined for failure of the DC to fulfill this responsibility.

Further, the proposed language allows for a clinic owner to be a DC, MD or DO physician consistent with other areas of the CTA and CXT rules.

4) Consider modifying 0260-05- .12

To only require one hour of jurisprudence, deleting the requirement for two hours of jurisprudence, risk management and boundaries.

Rationale – the current CTA training module adequately covers boundaries and risk management. Jurisprudence should be covered since TN law is not specifically covered by the course of study, public protection requiring it.

5) Allow for payment of one renewal fee for dually licensed individuals.

0260-05-.06 (1)

Add - (e) Any CTA also licensed as a CTA shall only be required to pay one renewal fee for both licenses.

(Similar language shall be provided for the CXT rules)

Rationale – There is little work in renewing persons dually licensed, and these professionals are not highly compensated individuals.

6) For CTA rules only

Scope – Add “manual therapies” to the list of therapies that may be provided by a licensed CTA.

Rationale – increasing numbers of CTAs are assisting by providing ischemic compression, mobilization, and other hands on rehabilitation in support of the chiropractic adjustment. Current language is vague and this modification clarifies.

Dr. Cole presented the following rules changes regarding Corporate Ownership:

Rule 0260-02-.24 Chiropractic Professional Corporations and Chiropractic Professional Limited Liability Companies is amended by deleting the language of subparagraph (1)(b) in its entirety and substituting instead the following language, and by deleting the language of subparagraph (2)(b) in its entirety and substituting instead the following language, so that as amended, the new subparagraphs (1)(b) and (2)(b) shall read:

(1)(b) Ownership of Stock - With the exception of the health care professional combinations specifically enumerated in T.C.A. § 48-101-610, only the following may form and own shares of stock in a foreign or domestic CPC doing business in Tennessee:

1. Chiropractic physicians licensed pursuant to Tennessee Code Annotated Title 63, Chapter 4; and/or

2. A foreign or domestic general partnership, CPC or CPLLC in which all partners, shareholders, members or holders of financial rights are either:

(i) Chiropractic physicians licensed pursuant to Tennessee Code Annotated Title 63, Chapter 4 to practice chiropractic in Tennessee, or composed of entities which are directly or indirectly owned by such licensed chiropractic physicians; and/or

(ii) Professionals authorized by T.C.A. §§ 48-101-610 or 48-248-401 or 48-249-1109 to either own shares of stock in a CPC or be a member or holder of financial rights in a CPLLC; and/or

(iii) A combination of professionals authorized by subparts (i) and (ii) as long as those professionals are licensed in TN.

(2)(b) Membership - With the exception of the health care professional combinations specifically enumerated in T.C.A. §§ 48-248-401 and 48-249-1109, only the following may be members or holders of financial rights of a foreign or domestic CPLLC doing business in Tennessee:

1. Chiropractic physicians licensed pursuant to Tennessee Code Annotated Title 63, Chapter 4; and/or

2. A foreign or domestic general partnership, CPC or CPLLC in which all partners, shareholders, members or holders of financial rights are either:

- (i) Chiropractic physicians licensed pursuant to Tennessee Code Annotated Title 63, Chapter 4 to practice chiropractic in Tennessee, or composed of entities which are directly or indirectly owned by such licensed chiropractic physicians; and/or
- (ii) Professionals authorized by T.C.A. §§ 48-101-610 or 48-248-401 or 48-249-1109 to either own shares of stock in a CPC or be a member or holder of financial rights in a CPLLC; and/or
- (iii) A combination of professionals authorized by subparts (i) and (ii), as long as those professionals are licensed to practice their professions in Tennessee.

Rationale - This rule change will require that clinic owners have a license to practice in TN and will ensure that TN boards will have the capacity to discipline clinic owners who direct their employees to violate state law.

To update the rule on Acupuncture, Dr. Cole recommends the Board move the policy language to the rule and then adopt a policy that provides guidance on which programs are approved.

Regarding accreditation for Acupuncture – There are two main accrediting bodies and they only accredit a few of the programs that are available. Most programs are provided under the post grad departments of the CCE accredited colleges. Many programs are attendance programs but four programs are hybrid where a component of the training is in a distance format. Dr. Cole recommends that the Board allow for some distance training, so our licensees could take advantage of these excellent hybrid programs.

Original language

(4) Acupuncture - Any licensed chiropractic physician who practices acupuncture shall, prior to commencing such practice, complete two hundred and fifty (250) hours of an acupuncture course accredited by an agency or entity acceptable to the Board and pass the National Board of Chiropractic Examiners Acupuncture Exam.

Recommended rule

(4) Acupuncture - Any licensed chiropractic physician who practices acupuncture shall, prior to commencing such practice, provide the board office with proof of complete completion of two hundred and fifty (250) hours of an acupuncture course accredited by an agency or sponsored by an entity acceptable to the Board and proof of passage of ~~pass~~ the National Board of Chiropractic Examiners (NBCE) Acupuncture Exam. These documents must be provided directly to the Board's Administrative Office from the course sponsor and NBCE. Upon completion of a review of these documents for compliance, the Board's Administrative Office shall provide the practitioner with a letter authorizing the practice of acupuncture.

Proposed Policy

For chiropractic physicians seeking approved programs in acupuncture, the Board of Examiners approves programs accredited by:

- The accreditation commission on Acupuncture and Oriental Medicine
- Council on Chiropractic Acupuncture

And those programs sponsored by the post graduate departments of colleges and universities holding accreditation by the Council on Chiropractic Education.

Here is a listing of the current acupuncture courses

Cleveland Chiropractic College –

- Acupuncture Society of America (www.acupuncturesociety.org)
- 100, 200, and 300 hour programs (300 hours receives title of Diplomate)
- With Cleveland Chiropractic College
- Accredited by ABCA
- Previously instructed by Yennie

New York Chiropractic College –

- International Academy of Medical Acupuncture (www.iama.edu):
- 105, 205 and 325 hour programs
- Hybrid program
- Upon completion of 325 hour program participant receives title of Diplomate

New York Chiropractic College –

- Finger Lakes School of Acupuncture and Oriental Medicine
- (<http://aom.nycc.edu/>):
- 3 year (10 Trimester) Master's program
- Accredited by ACAOM

Northwestern Health Sciences University –

- (<http://www.nwhealth.edu/acupuncture-oriental-medicine/>):
- 3 year (10 Trimester) Master's program
- Accredited by ACAOM

Logan University -

- (<http://alumni.logan.edu/continuing-education/postgraduate-programs/acupuncture-171>):
- 100 hour Basic Acupuncture program
- +100 hour Advanced Acupuncture

Logan University -

- International Academy of Medical Acupuncture (www.iama.edu):
- 105, 205 and 325 hour programs
- Hybrid program
- Upon completion of 325 hour program participant receives title of Diplomate

Parker University -

- http://www.parker.edu/parker_college_continuing_education_acupuncture_2009.aspx
- 100 hour Basic Acupuncture program
- (previously taught by Yennie)

University of Western States –

- East-West Acupuncture Seminars (<http://www.eastwestacuseminars.com/>):
- 100 hour Basic Acupuncture

- +100 Advanced Acupuncture
- Instructor - Dr. Kim Dorsey
- Hybrid being planned

National University of Health Sciences –

- Wellspring Seminars
- (<http://www.wellspringseminars.com/>):
- 200 hour program

Bridgeport University –

- AcuPractice Seminars (<http://www.acupracticeseminars.com/>):
- 105 hour program
- Hybrid program

Independent program

- International Academy of Chiropractic Acupuncture (www.iaca.cc)
 - 100, 200, and 300 hr programs (300 hours receives title of Diplomate)
 - Accredited by ABCA
 - Previously instructed by Yennie

Credentialing/Accreditation

The American Chiropractic Association’s (ACA’s) American Board of Chiropractic Acupuncture statement on acupuncture –

“Chiropractic acupuncture is inclusive of all diagnostic and therapeutic principles and procedures taught in acupuncture programs sponsored by CCE accredited colleges, chiropractic state associations and post-graduate certified instructors.

- <http://councilofchiropracticacupuncture.org/roles-within-the-cca/>
The American Board of Chiropractic Acupuncture (ABCA) is the credentialing board for the CCA (Council of Chiropractic Acupuncture) under the ACA.
- <http://americanboardofchiropracticacupuncture.org/roles-within-the-cca/>

Roles of the CCA and ABCA

This is a brief explanation of the differences between the roles of the CCA and the ABCA:

The CCA is one of eleven specialty councils under the American Chiropractic Association (ACA). The CCA sponsors an annual CCE accredited symposium, offers a diplomate exam review, and general membership offerings. CCA membership renews annually on October 1. For a more detailed description of the different roles, go to <http://councilofchiropracticacupuncture.org/roles-within-the-cca/>

The American Board of Chiropractic Acupuncture (ABCA) is the credentialing board for the CCA. The ABCA develops and administers the Diplomate exam and oversees Diplomate renewal which is required every 2 years to maintain active status.

ACAOM is the accrediting agency for Acupuncture and Oriental Medicine Courses Including NYCC Finger Lakes School of Acupuncture and Oriental Medicine (does not include IAMA courses which are offered through NYCC Post-Grad).

Dr. Cole presented the following rule changes regarding Definitions and Scope of Practice:

0260-02-.01 DEFINITIONS. As used in these rules, the following terms and acronyms shall have the following meaning ascribed to them:

(1) Advertising - Includes, but is not limited to business solicitation, with or without limiting qualifications, in a card, sign, or device issued to a person; in a sign or marking in or on any building; or in any newspaper, magazine, directory, or other printed matter. Advertising also includes business solicitations communicated by individual, radio, video, or television broadcasting or any other means designed to secure public attention.

(2) Applicant - Any individual seeking licensure by the board who has submitted an official application and paid the application fee.

(3) Board - The Tennessee Board of Chiropractic Examiners.

(4) Board Administrative Office - The office of the Unit Director assigned to the board located at 665 Mainstream Drive, 2nd Floor, Nashville, TN 37243.

(5) Board Designee - Any person who has received a written delegation of authority from the board to perform board functions subject to review and ratification by the full board where provided by these rules.

(6) Chiropractic Adjustment - A manual or mechanical intervention that may be administered with a high or low velocity, short or long lever, high or low amplitude, with or without recoil and directed by specific anatomical listings designed to reduce or correct a subluxated unit.

PROPOSED: Adjustment – A manual or mechanical intervention that may be administered with a high or low velocity, short or long lever, high or low amplitude, directed to specific structures of the frame to improve joint function, neurological integrity, joint mobility or alignment.

(7) Chiropractic Physical Therapeutics - A category of a physical agent utilized as ancillary therapy to adjustive procedures which may give additional physiological support to the five

(5) components of a subluxation complex preceding or following specific adjustive procedures.

PROPOSED: Physical Therapeutics – Physical agents, rehabilitative and/or therapeutic procedures utilized in the restoration and maintenance of health.

(8) Closed Files - An administrative action which renders an incomplete or denied file inactive.

(9) Department - Tennessee Department of Health.

(10) Division - The Division of Health Related Boards, Tennessee Department of Health, from which the board receives administrative support.

- (11) Documentation - Refers to and includes, but is not limited to, notations made by the provider or his designated assistant in the patient record, relevant reports from other providers, electronically obtained and/or stored information and all diagnostic imaging, etc.
- (12) Excessive - That which fails to be substantiated beyond the quantity of procedures customarily performed or utilized by a prudent person similarly trained, skilled and experienced in a specific diagnostic or treatment procedure or technique in question.
- (13) Fee - Money, gifts, services, or anything of value offered or received as compensation in return for rendering services; also, the required application fees.
- (14) Good Moral Character - The quality of being highly regarded in personal behavior and professional ethics.
- (15) He/she Him/her - When “he” appears in the text of these rules, the word represents both the feminine and masculine genders.
- (16) HRB - When the acronym HRB appears in the text of these rules, the HRB represents Health Related Boards.
- (17) License - Document issued to an applicant who successfully completes the licensure process. The license takes the form of an “artistically designed” license as well as other versions bearing an expiration date.
- (18) Manipulation - A passive movement for the purpose of testing joint space mobility and/or a manual intervention utilized for releasing muscles and less contractible structures that have lost elasticity with their effects on joint function, and which is not designed to bring about articular change when locked out of its physiologic joint space and/or range of motion.
PROPOSED: Manipulation – A passive therapeutic intervention that may be administered with a high or low velocity, short or long lever, high or low amplitude, directed to specific structures of the frame to improve joint function, neurological integrity, mobility or alignment.
- (19) National Board - Means the National Board of Chiropractic Examiners.
- (20) Person - Any individual, firm, corporation, partnership, organization, or body politic.
- (21) Registrant - Any person who has been lawfully issued a license.
- (22) Subluxation - When one or the other of two adjacent articular surfaces has lost its normal position, affecting its active, passive or anatomical end range and is classified less than a dislocation. A subluxation complex includes one or more of its five components which may result in a primary, related and/or attending diagnosis.
PROPOSED: Subluxation - When one or the other of two adjacent articular surfaces has lost its articular or neurological function, position, or alignment and is classified less than a dislocation.
- (23) Substantiation - Any test, examination, recorded symptom or other observation of the patient (or, in the case of a minor or otherwise legally incompetent person, reported to the provider or his staff by the parent or legal guardian) by the provider and determined by said provider to be useful in arriving at a treating or management diagnosis and/ or the determination of what, how, when, where and why to examine, treat, consult or refer a patient.
- (24) Therapeutic Care - Any approved care of specific chiropractic adjustive procedures utilized in patient care, for the purpose of returning the patient to a stabilized or pre-clinical status.
PROPOSED: Therapeutic Care – Any approved: adjustive, manipulative, nutritional, therapeutic or rehabilitative treatment administered by or ordered by a chiropractic physician for the restoration and maintenance of health.
- (25) Use of Title or Description - To hold oneself out to the public as having a particular status by means of stating on signs, mailboxes, address plates, stationary, announcements, business cards, or other means of professional identification.

(26) Written Evidence - Includes, but is not limited to, written verification from supervisors or other professional colleagues familiar with the applicant's work.

0260-02-.02 SCOPE OF PRACTICE.

(1) Any person who possesses a valid unsuspended and unrevoked license issued by the Board has the right to use the title licensed chiropractic physician. No other person shall assume this title on any work, letter, sign, figure, advertisement, or device to indicate that the person using the same is a licensed chiropractic physician. The work performed includes offering case management procedures and recommendations for health care and services to the public.

(2) The scope of practice of chiropractic physicians shall be as set forth in T.C.A. §§ 63-4-101.

- (a) As a portal of entry provider, a chiropractic physician has the authority to make a differential diagnosis that may include the use of patient history, examination techniques, lab analysis and analytical instruments for the purpose of determining vital signs and screening of health status, orthopedic and neurological testing, range of motion and muscles testing and diagnostic evaluation and/or imaging of the human body that may be revealed in a state of pathology, as a basis for making clinical judgments as to the patient's condition, degree of nature of treatment needed and management and rehabilitation of the human body which is in the opinion of the provider, appropriate for the restoration and maintenance of health.
- (b) A chiropractic physician has the authority to perform an adjustment, manipulation or treatment which may include therapeutic interventions to the human frame and/or soft tissues for the restoration and/or supportive care and/or maintenance of health.
- (c) The chiropractic physician's responsibility for patient care, case management, and the protection of the patient includes the authority to make a proper referral to a particular health specialist for consultation or collaborative care; and also for treatments, therapeutic procedures, recommendations, recording and reporting to third-party payers, preparing narratives, giving of depositions and in-court testimony as an expert witness and determination of impairment ratings.
- (d) The scope of practice of a chiropractic physician shall include such supportive care as nutritional evaluation, recommendation and supplementation; patient management in their mental and physical environment; and due regard for patients concerning diet, hygiene, sanitation and rehabilitation.
- (e) The scope of practice of a chiropractic physician shall include the ordering, from a licensed or certified laboratory, analysis of blood, urine, or other bodily fluids, secretions or excretions, for the diagnosis and management of the patient.
- (f) The Board of Chiropractic Examiners does not recognize any one document, guideline, textbook, clinical trial or study as the exclusive endorsement for setting standards of practice.

(3) Spinal manipulation / Spinal adjustment

- (a) Training must be performed in chiropractic institutions or institutions that specialize in spinal manipulative therapy. Spinal manipulation is a highly skilled maneuver that requires adequate training. Four hundred (400) hours of classroom instruction and eight hundred (800) hours of supervised clinical training are considered a minimum level of education to properly administer the techniques.

- (b) Spinal manipulation must be performed by hand or with the use of instruments such as Activator, Grostic, Pettibon, mechanical and/or electromechanical devices.
 - (c) Manipulation moves the spinal segments beyond their normal range of motion for the restoration of neurological integrity, and/or correction of articular dysfunction, but without exceeding the limits of anatomical integrity.
 - (d) A differential diagnosis is necessary to properly establish the indications and contraindications before the administration of the spinal manipulation/adjustment procedure.
- (4) Acupuncture – Any licensed chiropractic physician who practices acupuncture shall, prior to commencing such practice, complete two hundred and fifty (250) hours of an acupuncture course accredited by an agency or entity acceptable to the Board and pass the National Board of Chiropractic Examiners Acupuncture Exam.

Dr. Alexander made a motion, seconded by Dr. Ratcliff to accept the proposed rule changes as written.

With no other business to be conducted by the Board, Dr. Alexander made a motion, seconded by Dr. Cole to adjourn the meeting at 3:00 p.m.

Ratified by the Board of Chiropractic Examiners on June 5, 2014