

**BOARD OF CHIROPRACTIC EXAMINERS
MINUTES**

DATE: April 27, 2017

TIME: 9:00 AM CST

LOCATION: Poplar Conference Room
665 Mainstream Drive, 1st Floor
Nashville, TN 37243

MEMBERS PRESENT: Chris Alexander, D.C., President
Cole Hosenfeld, D.C., Vice-President
Andrea Selby, D.C., Board Member
Curtis Damien, D.C., Board Member
Joseph Amato, D.C., Board Member
Sheila Fitzgerald, Consumer Member, Secretary

MEMBERS ABSENT: None

STAFF PRESENT: Michael Sobowale, Unit Director
Jared W. Smith, Board Manager
Marcina Egedegbe, Board Administrator
Mark Cole, Assistant General Counsel
Nichelle Dorroh, Office of Investigations
Noranda French, Finance Officer

GUESTS: Tiffany Stevens, Tennessee Chiropractic Association
John Williams, Esq., Tennessee Chiropractic Association

Call to Order

With a quorum present, Dr. Alexander called the meeting to order at 8:02 AM. A roll call was taken by Ms. Egedegbe with all members present.

Minutes

After a review of the minutes from the January 26, 2017 Board meeting and the February 27, 2017 special Board meeting, Dr. Damien made a motion, seconded by Ms. Fitzgerald, to accept the minutes of the January 26, 2017 Board meeting as revised. The motion passed. Dr. Hosenfeld made a motion, seconded by Ms. Fitzgerald, to accept the minutes of the February 27, 2017 special Board meeting as written. The motion passed.

Office of General Counsel Report

Mr. Cole presented the Office of General Counsel (OGC) report as follows:

Conflict of Interest

Mr. Cole reminded Board members about the Sunshine Law and the Conflict of Interest Policy. Board Members are not to discuss any Board business among themselves, unless notice of such discussion or meeting has been provided to the public. He also reminded them of the Conflict of Interest Policy. Board Members have an obligation to recuse themselves from any matter in which they might have a personal or financial interest, or from participating in any matter in which there might be an appearance of a conflict in any contested case, a rulemaking issue, or on any other matter in which a board decision is required. Board members are required to disclose such existence or appearance of a conflict to the Board so that a decision may be made regarding the need for recusal.

Litigation

There were 16 open disciplinary cases on 15 chiropractors pertaining to the Board of Chiropractic Examiners. Two (2) contested cases are scheduled for hearing and two (2) Consent Orders are scheduled to be presented at the meeting.

Rules

Mr. Cole, Dr. Alexander, and Mr. Sobowale attended the rules review hearing before the Joint Government Operations Committee of the General Assembly to speak about the recent rule changes for chiropractors. Mr. Cole was informed by the Health Department's legislative liaison that the rules were approved by the Committee with a neutral recommendation. The rules that made it through Committee have been a work in progress for over 3 years.

The CTA/CTXT rules revisions have been reviewed for approval by Dr. Hosenfeld. They have been sent on to the next step in the approval process.

Legislation

Mr. Cole informed the Board that Public Chapter Number 38 which extended the Board of Chiropractic Examiners for another four (4) years until June 2021 has been signed by the Governor.

Mr. John Williams, Esq., Tennessee Chiropractic Association representative discussed a bill that would allow Chiropractors to enter into an agreement with a patient for certain services agreed to by the patient and the doctor. The insurance companies will not be billed, and therefore will not fall under insurance rules and regulations. He also spoke about another bill that would increase the Board Members per diem to \$100, which will be in line with the amount paid to members of other Boards.

Consent Orders

Joshua K. Rucker, DC License #2792

Dr. Rucker practiced on an expired license from December 31, 2015 until December 2016. Mr. Cole presented a Consent Order to the Board stating the following: Dr. Rucker's license is reprimanded by the Board and he is assessed eleven (11) Type B Civil Penalties in the amount of five hundred dollars (\$500.00) each, for a total of five thousand five hundred dollars (\$5,500.00), which shall be paid in full within twelve (12) months from the effective date of the Order. Dr. Rucker also agrees to pay the actual and reasonable costs of prosecuting the case, which shall not exceed five hundred dollars (\$500.00), to be paid in full within six (6) months from the issuance of the Assessment of Costs.

A motion was made by Sheila Fitzgerald, seconded by Dr. Selby, to accept the Consent Order as presented. The motion passed.

Andrew Andreotta, DC Temporary Permit

Dr. Andrew Andreotta purchased a chiropractic practice and didn't have a supervisor at the facility premises at all times as required by law. Mr. Cole presented a Consent Order to the Board stating the following: Dr. Andreotta has agreed to surrender his temporary license and pays up to \$1,000 in costs.

A motion was made by Dr. Selby, seconded by Sheila Fitzgerald, to accept the Consent Order as presented. The motion passed.

Investigative and Disciplinary Reports

Nichelle Dorroh, Disciplinary Coordinator in the Office of Investigations reported that there were a total of nineteen (19) complaint cases in their office as of April 11th. She also presented a list of currently monitored practitioners for Board review. She reported that the Board is staffed with two consultants.

Dr. Alexander expressed that he would like to see the Board Consultants attend all meetings. Ms. Dorroh stated she would inform the consultants of the Board's request. Dr. Damien also wanted to know how Board Consultants are chosen. Ms. Dorroh explained that the Board of Chiropractic Examiners recommend and approve their own consultants.

Financial Report

Ms. Noranda French from the Health Department's Division of Finance presented the Board's Mid-Year Financial Report. She provided a breakdown of the Board's expenses through December 31, 2016. The report detailed the allocated expenditures for payroll expenses, travel, communications, professional services and dues, supplies and materials, state and professional services, investigations, legal, and the cash office. The allocated expenditures were \$81,332.36. The Board fee revenue was \$126,291.21 which gave the Board a current year net of \$23,316.25. The Board's portion of LARS was (7,149.34) which gave the board a cumulative carryover of \$517,073.49. Ms. French projected that the Board may close out the fiscal year with a cumulative carryover of \$521,456.94.

Currently the Board is waiting on information from Mark Cole in order to make a decision on whether or not to do away with a dual license fee proposal for CTAs/CXTs so as to reduce licensure fees in this category. It is assumed this will lessen the board's cumulative carryover over-time.

Applicant Interviews/File Reviews

Karen Leon- Ms. Leon was seeking a license as a CTA. Her criminal background check revealed multiple past criminal convictions. Ms. Leon was present. A motion was made by Sheila Fitzgerald, seconded by Dr. Selby, to approve Ms. Leon for an unencumbered CTA License. The motion passed.

Matthew Mundorf- Mr. Mundorf was seeking a license as a Chiropractic Physician. His criminal background check revealed a conviction for Driving While Impaired (DWI) in North Carolina on January 24, 2013. Mr. Mundorf was present. A motion was made by Ms. Fitzgerald, seconded by Dr. Selby, to grant Mr. Mundorf an unencumbered license. The motion passed.

Charlie Via- Mr. Via was seeking a license as a Chiropractic Physician. His criminal background check revealed multiple past criminal convictions. Mr. Via was present. A motion was made by Dr. Damien, seconded by Ms. Fitzgerald, for Mr. Via to be referred to the Federation of Chiropractic Licensing Boards (FCLB's) Ethic and Boundaries Assessment Services (EBAS) for an assessment and testing to determine fitness for practice, and for EBAS to make a recommendation to the Board. In addition, this applicant must show proof of completion of treatment for alcohol/substance abuse in order to be approved for a license in the future. The motion passed.

Curtis Venne- Mr. Venne was seeking a license as a chiropractic physician by reciprocity from New York. He sought a waiver on the Board's educational requirement to qualify for a license in Tennessee. Upon entering Chiropractic College in New York State, he only had 3 years of undergraduate classes but lacked an undergraduate degree. At that time in New York, he was not required to have an undergraduate degree to enter Chiropractic College. Mr. Venne was present.

After discussion, a motion was made by Sheila Fitzgerald, seconded by Dr. Damien, to keep his file open until a research can be completed and a recommendation received from Mr. Cole regarding the Board's options for licensing Mr. Venne, preferably by the next scheduled board meeting. The motion passed.

Christine Valentino- Ms. Valentino was seeking a license as a CTA. Ms. Valentino appeared before the Board because of derogatory information on her application showing that she was issued a Consent Order by the Massage Therapy Licensure Board for performing massages in a facility that lacked an establishment license. She practiced at a Chiropractic Center. Ms.

Valentino was interviewed by telephone. After discussion, Dr. Hosenfeld made a motion, seconded by Dr. Selby, to approve Ms. Valentino for a CTA license. The motion passed.

Ratification of Initial Determinations

Upon review, Dr. Selby made a motion, seconded by Dr. Hosenfeld, to approve the following lists of new licensees, externships, reinstatements, and acupuncture qualifiers for ratification:

BOARD OF CHIROPRACTIC EXAMINERS RATIFICATION LIST As of April 21, 2017

NEW LICENSES

CHIROPRACTIC PHYSICIANS – 22

BAXTER, WILLIAM
BURD, ANDREW
CHAFFIN, JENNIFER
COLLINS, CHRISTOPHER
DENTON, WHITNEY
DRUMHELLER, KRISTIN
FILLA, CAROLYN
HAYES, CANDICE
KAGAN, KERRY
KOZUH, JEREMY
LACKEY, BETH
MILLER, DERRICK
MOORE, RYAN
MORRIS, KENDRICK
RAWSON, STEVEN
RICHARDS, NICOLE
ROGERS, WALTER
SCOTT, JON
SIEGAL, ERIC
TEETER, RYAN
WHITBY, JAKE
WITTWER, LANCE

CHIROPRACTIC THERAPY ASSISTANTS – 15

DANIELS-VAUGHT, DANETTE
ALLMAN, ANNA
ARMOUR, EVAN
BLACKWELL, MELODY
BOGGS, JULIE
CRAWFORD, LAURA
DEVILLEZ, HALEY
FORD, LAURA
GARRETT, LINDSEY
GRAVES, KELLY
JOHNSTON, ABIGAYLE
LAIRD, MICHAEL
LOBIANCO, MEGAN
MAZE, BRENDA
MURPHY, JENNIFER
SMITH, CHRISTY
SMITH, MARY ANN
TURNER, JESSICA
VALENTINO, CHRISTINE
WALDRON, KIMBERLY

CHIROPRACTIC X-RAY TECHNOLOGISTS – 5

BLANKENSHIP, ASHLEY
GAINES, REX
HALL, LAUREN
MARTIN, BRITTANY
PETROVIC, CRYSTAL

REINSTATEMENTS

CHIROPRACTIC PHYSICIANS – 10

BRAGG, TERRY
BRENGLE, KIMBERLY
CULPEPPER, CHRISTOPHER
DAVIS, WILLIAM
GOOLDMAN, JAMES
LEBOWE, RICK
LODRIGUE, JOHN
MAJOR, CASSIE ANN
SHARP, DOUGLAS
STEETS, CHARLES

CHIROPRACTIC THERAPY ASSISTANTS – 3

GOODE, DAMORRAH
JONES, IDA
LOYD, JENNIFER

CHIROPRACTIC X-RAY TECHNOLOGISTS – 0

WARREN, REBECCA
WILKERSON, KIMBERLY

CLOSED FILES - 2

CHIROPRACTIC PHYSICIANS – 1
Stittleberg, Kalan Clete

CHIROPRACTIC THERAPY ASSISTANTS – 1
Scott, Emily Michele

CHIROPRACTIC X-RAY TECHNOLOGISTS – 0

CURRENT EXTERNS- 1

NAME	START DATE	EXPIRATION DATE
ANDREOTTA, ANDREW	07/14/2016	07/14/2017

TEMPORARY LICENSES & EXTERNSHIPS - 0

ACUPUNCTURE QUALIFICATION- 0

Administrative Report

Ms. Egedegbe presented the Administrative Report as follows:

Statistical Data

As of April 21, 2017, the Board of Chiropractic Examiners has 1183 active Chiropractic Physicians, 456 Chiropractic Therapy Assistants, and 109 Chiropractic X-Ray Technologists.

Licensure Status Total from January 21, 2017 through April 21, 2017

CHIROPRACTIC PHYSICIAN	
New applications received- 22	
New licenses issued - 22	Renewal Total - 117
Reinstatements - 10	Online Renewals - 65
Temp Licenses/ Externships - 0	Paper Renewals - 52
Licenses Retired - 7	
Failed to Renew/Expired Licensees - 12	
CHIROPRACTIC THERAPY ASSISTANT	
New applications received- 24	
New licenses issued - 16	Renewal Total - 35
Reinstatements - 3	Online Renewals - 19
Licenses Retired - 5	Paper Renewals - 16
Failed to Renew/Expired Licensees - 14	

CHIROPRACTIC X-RAY TECHNOLOGIST	
New applications received- 5	
New licenses issued - 5	Renewal Total - 8
Reinstatements - 0	Online Renewals - 4
Licenses Retired - 0	Paper Renewals - 4
Failed to Renew/Expired Licensees - 0	

For this reporting period, the usage rate for utilizing the online renewal portal for Chiropractic Physicians is 56%; Chiropractic Therapy Assistants, 46%; and, Chiropractic X-Ray Technologists, 50%.

TSAC/ CHILD SUPPORT ORDERS

There are no chiropractic health professionals to report for TSAC or Child Support violations during this period. There was also no license suspension lifted to report during this period.

BOARD MEMBERS

As of April 27, 2017 there was one (1) Consumer Member vacancy on the Board.

2017 CONFERENCES

- NBCE Part IV Practical Examination
- Fall Part IV exam – November 10, 11 & 12, 2017 (various locations).

If any Board member is interested in attending a conference for your profession, the Board office must be contacted within forty-five (45) days prior to the conference so that the Administrator will have enough time to process the request and submit all necessary information for approval.

CTA and CXT Clinical Performance Report Form

The CTA/CXT Internship hours documentation log and clinical performance supervision report form have been revised with input from the Tennessee Chiropractic Association. After review, Dr. Damien made a motion, seconded by Dr. Hosenfeld, to approve the form as presented. The motion passed.

Agreed Citations

Kimberly Brengle, DC #2414 – Dr. Brengle practiced on an expired license for approximately two (2) months. She agreed to pay an assessed civil penalty in the amount of five hundred dollars

(\$500.00) for working on her lapsed license. Upon review by the Board, Dr. Hosenfeld made a motion, seconded by Dr. Damien, to approve the Agreed Citation as presented. The motion passed.

Terry Bragg, DC #178 - Dr. Bragg practiced on an expired license for approximately four (4) months. He agreed to pay an assessed civil penalty in the amount of one thousand five hundred dollars (\$1500.00) for working on his expired license. Upon review by the Board, Dr. Damien made a motion, seconded by Dr. Hosenfeld, to approve the Agreed Citation as presented. The motion passed.

James Goldman, DC #2053 - Dr. Goldman practiced on an expired license for approximately two (2) months. He agreed to pay an assessed civil penalty in the amount of five hundred dollars (\$500.00) for working on his lapsed license. Upon review by the Board, Ms. Fitzgerald made a motion, seconded by Dr. Damien, to approve the Agreed Citation as presented. The motion passed.

Damorrah Goode, CTA #1165 – Ms. Goode practiced on an expired license for approximately one (1) month. She agreed to pay an assessed civil penalty in the amount of one hundred dollars (\$100.00) for working on her lapsed license. Upon review by the Board, Dr. Damien made a motion, seconded by Ms. Fitzgerald, to approve the Agreed Citation as presented. The motion passed.

Jennifer Loyd, CTA #1277 - Ms. Loyd practiced on an expired license for approximately four (4) months. She agreed to pay an assessed civil penalty in the amount of three hundred dollars (\$300.00) for working on her lapsed license. Upon review by the Board, Dr. Hosenfeld made a motion, seconded by Dr. Amato, to approve the Agreed Citation as presented. The motion passed.

Charles J. Streets, DC #806 - Dr. Streets practiced on an expired license for approximately two (2) months. He agreed to pay an assessed civil penalty in the amount of one five hundred dollars (\$500.00) for working on his lapsed license. Upon review by the Board, Dr. Damien made a motion, seconded by Dr. Amato, to approve the Agreed Citation as presented. The motion passed.

Bradley Wilkerson, DC #1785 - Dr. Wilkerson practiced on an expired license for approximately five (5) months. He agreed to pay an assessed civil penalty in the amount of two thousand five hundred dollars (\$500.00) for working on his expired license. Upon review by the Board, Dr. Hosenfeld made a motion, seconded by Ms. Fitzgerald, to approve the Agreed Citation as presented. The motion passed.

Correspondence Review

Robin Barnes, DC #1364 – Dr. Barnes submitted a letter requesting an exemption to complete all required CEU hours in 2017 online due to family medical reasons. A motion was made by Ms. Fitzgerald, seconded by Dr. Hosenfeld, to grant her request. The motion passed.

Dan Puffenberger, DC #631 – Licensee requested to appear before the Board to discuss his license reinstatement. His license expired on October 31, 2006. Dan Puffenberger did not want to complete all prior required continuing education hours prior to being allowed to reinstate his license. He had not submitted a reinstatement application to the Board. Douglas Lensgraf, DC, also addressed the Board on his behalf.

Upon discussion, the Board informed Dan Puffenberger that he must complete a reinstatement application in order for the Board to consider any request he may have in regards to his request for continuing education waiver.

Nancy Reinhart Rackley, DC #747 - Dr. Reinhart-Rackley submitted a letter to the Board seeking relief from an Agreed Citation she was issued for practicing on an expired license. She cited various reasons for making the request in her letter, including US postal service communication errors and financial difficulties. Ms. Egedegbe informed the Board that Dr. Reinhart had opted to get email notification of her license renewal. The Board reminded Dr. Reinhart-Rackley that renewal notice or reminder sent by the Department to licensees was a matter of courtesy; it is the licensee's responsibility to maintain his or her license.

After additional discussion, Dr. Hosenfeld made a motion, seconded by Ms. Fitzgerald, to grant Dr. Reinhart-Rackley a discount of 75% on the total amount of civil penalties assessed in the Agreed Citation. Dr. Reinhart-Rackley's Agreed Citation will be amended to reflect an amended assessed civil penalty in the amount of five hundred dollars (\$500.00). The motion passed.

Rule-making Hearing, Rule Amendments and Policies

The Board did not have any discussion on this issue.

New Legislation

There was no legislative report presented to the Board.

D.O.T. Issue

There was no discussion on this issue.

Social Media Policy

There was no discussion on this issue.

Recess

There being no other business on the agenda apart from the Contested Case, Dr. Alexander called for the Board meeting to be recessed in order to hear the scheduled contested case. The meeting was recessed at 10:04 AM.

Contested Case Hearing – Docket No. 17.11-138940A

Scott A. Foote, DC License No. 2548 - Respondent

The State was represented by Mark Cole, Assistant General Counsel. Presiding over the case was the Honorable Mary Collier, Administrative Law Judge assigned by the Secretary of State. Dr. Foote was present and was represented by counsel, Attorney Peter C. Robinson.

During preliminary proceedings, Dr. Cole James Hosenfeld and Dr. Andrea L. Selby were excused by Judge Collier because of conflicts of interest. The State's case was presented to the remaining Board Members: Curtis E. Damien, DC, Joseph Frank Amato, DC, Chris Alexander, DC, and Sheila Fitzgerald, Consumer Member. The State called two (2) witnesses: Dr. Andrea L. Selby and Jennifer Jessie. There were two (2) witnesses for the respondent: Dr. Kristen Walkerwicz and the respondent, Dr. Scott A. Foote.

Mr. Cole presented the State's case contained in the Amended Notice of Hearing and Charges which included the Allegations of Fact, Alleged Violations of the Board's Practice Act, and Memorandum for Assessment of Civil Penalties and Costs. After all parties have presented their witnesses, rebuttal statements, and closing statements, Mr. Cole presented the State's Proposed Order containing the State's Findings of Fact, Conclusions of Law, and Policy Statement for Board consideration and action in the matter. Respondent also presented a counter Proposed Order containing Respondent's Findings of Fact, Conclusions of Law, and Policy Statement for Board consideration and action.

During deliberation by the Board on the Findings of Fact and Conclusions of Law presented by both parties, Mr. Cole moved to dismiss the State's case with prejudice. Judge Mary Collier accepted the decision of the State and dismissed the case with prejudice.

The Contested Case hearing concluded at 12:02 AM.

Adjournment

There being no other business, Ms. Fitzgerald made a motion, seconded by Dr. Damien, to adjourn the Board meeting. The motion passed.

The Board meeting was adjourned at 12:04 AM, Friday, April 28, 2017.

These minutes were ratified by the Board at the August 24, 2017 meeting.