

**BOARD OF CHIROPRACTIC EXAMINERS
MINUTES**

DATE: October 18, 2018

TIME: 9:00 AM CST

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

MEMBERS PRESENT: Cole Hosenfeld, D.C., Vice-President
Curtis Damien, D.C., Board Member
Joseph Amato, D.C., Board Member
Dale Blackwelder, D.C., Board Member
Jason Hulme, D.C., Board Member

STAFF PRESENT: Michael Sobowale, Unit Director
Mary V. Webb, Board Manager
Sabrina Craig-Boyd, Board Administrator
Mark Cole, Assistant General Counsel
Lori Leonard, Disciplinary Coordinator
Noranda French, Financial Officer

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

Call to Order

With a quorum present, Dr. Hosenfeld called the meeting to order at 9:12 AM. A roll call was taken by Michael Sobowale. There were no consumer members present.

Minutes

After a review of the minutes of the July 19, 2018 Board meeting, Dr. Damien made a motion to accept the minutes as noted. Dr. Hosenfeld noted missing discussion of Dr. Damien's FAA Meeting with Dr. Megehee and requested to have this item added to the current agenda. Mr. Sobowale agreed to add the item to the current agenda under Old Business. Mark Cole pointed out a typo error on page 8 under Agreed Citations regarding Homaira Mirhabibi, CTA. Dr. Damien made a motion to accept the minutes with corrections as noted. All members voted to accept minutes with corrections. Motion carried.

Office of General Counsel Report

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

Conflict of Interest

In regards to the Open Meetings Act (Sunshine Law) & Conflict of Interest, should a conflict of interest arise, it should be brought to the attention of the board, to prevent grounds of reversal of board decisions. Board business should always be discussed at board meetings, and not amongst board members in social gatherings or in personal conversations.

Litigation

There were three (9) open disciplinary cases on three (9) chiropractors pertaining to the Board of Chiropractic Examiners. There was one Contested Case which is now an Agreed Order.

There were no other Contested Cases scheduled to be heard.

There is (1) Consent Orders scheduled to be presented at the meeting.

Mr. Cole presented a brief description of the difference between a Consent Order and an Agreed Order.

Agreed Order

- A. **Douglas Tomanelli, DC#1552** - Dr. Tomanelli's violation involved hiring a patient and then later developing a relationship with the patient. Dr. Tomanelli agreed to license suspension. Suspension was stayed and Dr. Tomanelli was placed on probation. He agreed to pay \$1000.00 in Type A Civil Penalty and up to a thousand (\$1000) dollars in costs. Dr. Tomanelli must also appear before the board in three years to petition the board for reinstatement. After review, Dr Amato made a motion to accept the terms of the Agreed Order as presented. Dr. Damien seconded the motion. Motion carried.

Consent Order

- A. **Jacob Hamilton, CTA #1035** - Mr. Hamilton worked on expired license for approximately 11 months with 1 month of grace period. He was fined \$100/ month for 10 months of practicing on an expired license, totaling \$1000.00 fine, and costs not to exceed \$500. Dr. Hulme made a motion to accept the Consent Order as presented. Dr. Damien seconded the motion. Motion carried.

Rules

Mr. Cole informed the board that the recent rule changes are still in process. He explained the reason for the delay and why each change to the rules causes the process of approval to start over each time.

Legislation

Mr. Cole informed the board that there is no new legislation to report and concluded his report.

Investigative and Disciplinary Reports

Lori Leonard, Disciplinary Coordinator in the Office of Investigations first presented a report on currently monitored practitioners. A breakdown is as follows: three (3) on probation, five (5) revoked, four (4) on board orders (reprimands), and two (2) suspensions. Ms. Leonard then provided the investigative report for chiropractic physicians. The Office has received a total of twenty-one (44) new complaints so far, year to date with the breakdown as follows: 8 for fraud and false billing, 1 for sexual misconduct, 2 for advertising violation, 2 for criminal charges, 2 for malpractice and negligence, 13 for unlicensed practice, 6 for unprofessional conduct, 2 for medical record request, 3 for lapsed license, 4 for failure to supervise, and 1 for practice beyond scope.

A total of forty-four (44) investigations have been closed as follows: 7 were referred to the Office of General Counsel for discipline, 25 were closed with no action, 1 was closed with a letter of concern and 11 were closed with a letter of warning. A total of 32 open complaints are being investigated or reviewed for chiropractic physicians.

For the chiropractic therapy assistants, there five (5) new complaints open in the year 2018. Of those complaints, 3 are for unlicensed practice, 1 is for lapsed license, and 1 is for practice beyond the scope. A total of seven (7) complaints closed, 4 of those sent to the Office of General Counsel for discipline, and 3 were closed with no action. Currently there are 3 pending investigations and/or review.

For the chiropractic x-ray technologist, there are two (2) new complaints, 1 for unlicensed practice, and 1 lapsed license. A total of 2 complaints were closed with a letter of warning. Currently there are no open complaints pending investigation and/or review.

Financial Report

Ms. Noranda French, Division Financial Officer, presented the Board's 2018 Year-End Financial Report. As of Fiscal Year ending June 30, 2018, the Board had revenue of \$257,065.56 with expenditures of \$187,833.81. Current year net amount for the Board is \$69,231.75. LARS improvements totaled \$9,602.30. Added to the Fiscal Year 2017 carryover, the Board currently has a cumulative carryover of \$564,528.24. Ms. French presented a trending report of direct expenditures. Ms. French then discussed the Health Related Boards' policy for when a Board is required to have a discussion on licensing fees.

Applicant Interviews/File Reviews

- A. Dr. Scott DePol D.C. – Dr. Depol was not present for the meeting. Dr. Depol requested reinstatement of his Tennessee licensure after a DUI conviction in GA. He plead no contest to a DUI in 2017 concerning the original incident in 2013. Mr. Sobowale stated there was a letter of concern presented to the administrative office by the state of Georgia and asked the Board to review Dr. Depol’s statement of explanation and decide if the Board needed to speak with Dr. Depol. After review and discussion, Dr. Damien motioned to accept his request for reinstatement. Dr. Hulme seconded the motion. Motion carried.

Ratification of Initial Determinations

Upon review, Dr. Damien made a motion, seconded by Dr. Amato, to approve the following lists of new licensees, externships, reinstatements, closed files and acupuncture qualifiers:

NEW LICENCEES

CHIROPRACTIC PHYSICIANS-15

Allen, Jessica Marie
Bodily, Timothy
Ditmarsen, Zachary
Gean, Dalton Matthew
Harris, Rai’An
Hentish, Roman
Hurst, Tyler
Hutchison, Joe Charles
McConnell, Jennifer
Price, Christopher
Shannon, James
Via, Charlie Neal
Watson, Meagan
Weber, Dustin

CHIROPRACTIC THERAPY ASSISTANTS-11

Barker, Chelsea
Bean, Sarah
Copeland, Lynesa
Fowler, Megan
Godsey, Angela
Hall, Lindsey Brooke
Hansen, Shelly Jean
Harlan, Darrian Jamel
Philbrook, Raisa Yevso
Stevens, Melissa
Young, Joy Beth

CHIROPRACTIC X-RAY TECHNOLOGIST- 2

Garrett, Lindsey
Nicholson, Amy

REINSTATEMENTS

CHIROPRACTIC PHYSICIANS -9

Goode, Matthew

CHIROPRACTIC THERAPY ASSISTANTS- 6

Gililand, Erica

Histon, James
Kellogg, Dionne
Kestner, Jason
Mabry, Robert
Micheli, Jeffrey
Reynolds II, James
Sherrill, Joseph
Williamson, Douglas

Gregory, Emily Marie
Mirhabibi, Homaira
Page, Cindy
Stangel, Erin
Willis, Lisa Anne

CHIROPRACTIC X-RAY TECHNOLOGIST-2

Gregory, Lindsey
Page, Cindy

CLOSED FILE-0

CHIROPRACTIC PHYSICIANS-0

CHIROPRACTIC THERAPY ASSISTANTS-0

CHIROPRACTIC X-RAY TECHNOLOGIST-0

NEW EXTERNSHIPS- 2

Dalton, Gean
McConnell, Jennifer

ACUPUNCTURE QUALIFICATION-3

Frost, Stephanie,
Geiske-Farrington Traci
Roth, Sharon

The motion carried.

Administrative Report

Mary Webb presented the Administrative Report as follows:

Statistical Data

As of October 3, 2018, the Board of Chiropractic Examiners has 1189 active Chiropractic Physicians, 429 Chiropractic Therapy Assistants, and 107 Chiropractic X-Ray Technologists.

LICENSURE STATUS TOTALS FROM THE MONTHS OF July 13, 2018 through October 3, 2018

CHIROPRACTIC PHYSICIAN	
New applications received – 21	
New licenses issued – 15	Renewal Total – 151
Reinstatements – 9	Online Renewals –91
Temp Licenses/Externships – 2	Paper Renewals –60
Licenses Retired – 5	New Acupuncturists – 3
Failed to Renew/Expired Licensees – 11	
CHIROPRACTIC THERAPY ASSISTANT	
New applications received – 21	
New licenses issued – 11	Renewal Total – 42
Reinstatements – 6	Online Renewals –26
Licenses Retired –7	Paper Renewals – 16
Failed to Renew/Expired Licensees –13	
CHIROPRACTIC X-RAY TECHNOLOGIST	
New applications received – 10	
New licenses issued – 1	Renewal Total – 4
Reinstatements – 2	Online Renewals – 2
Licenses Retired – 4	Paper Renewals – 2
Failed to Renew/Expired Licensees – 0	

For this reporting period, the usage rate for utilizing the online renewal portal for Chiropractic Physicians was reported in the system as 0%; Chiropractic Therapy Assistants, 0%; and, Chiropractic X-Ray Technologists, 0%. Ms. Webb explained that when online renewals went live on May 22, 2018, there was a coding error. The vendor is aware and they are actively working on a recode to get the numbers to accurately reflect the online renewal numbers. At this time there is no mechanism in place.

TSAC/ CHILD SUPPORT ORDERS

There are no TSAC suspensions to report during this time.

BOARD MEMBERS

As of August 21, 2018, there are two (2) Consumer Member vacancies on the Board. Ms. Webb welcomed Dr. Dale Blackwelder to the Board of Chiropractic Examiners.

Ms. Webb suggested leaving the next scheduled board meeting dates to appear on the Administrators Report at each quarterly meeting.

Agreed Citations

Mr. Sobowale presented the following Agreed Citations for ratification by the Board:

Cindy Page, CTA#902 – Cindy Page practiced on an expired license for approximately five (5) months. She agreed to pay an assessed civil penalty in the amount of four hundred (\$400.00) dollars for practicing on a lapsed license. She also agreed to have the violation reported to the Department of Health to be added to its Disciplinary Action Report. Upon review by the Board, Dr. Damien made a motion, seconded by Dr. Amato, to approve the Agreed Citation as presented. The motion passed.

Jason Kestner, DC#2436 - Dr. Kestner practiced on an expired license for approximately three (3) months. He agreed to pay an assessed civil penalty in the amount of one thousand (\$1000.00) dollars for practicing on a lapsed license. He also agreed to have the violation reported to the Department of Health to be added to its Disciplinary Action Report. Upon review by the Board, Dr. Damien made a motion, seconded by Dr. Hulme, to approve the Agreed Citation as presented. The motion passed. Dr. Amato abstained from voting on the motion.

Erin Stangel, CTA #1082- Erin Stangel practiced on an expired license for approximately four (4) months. She agreed to pay an assessed civil penalty in the amount of three hundred (\$300.00) dollars for practicing on a lapsed license. She also agreed to have the violation reported to the Department of Health to be added to its Disciplinary Action Report. Upon review by the Board, Dr. Damien made a motion, seconded by Dr. Amato, to approve the Agreed Citation as presented. The motion passed.

Matthew Goode, DC#2944- Dr. Goode practiced on an expired license for approximately three (3) months. He agreed to pay an assessed civil penalty in the amount of five hundred (\$500.00) dollars for practicing on a lapsed license. He also agreed to have the violation reported to the Department of Health to be added to its Disciplinary Action Report. Upon review by the Board, Dr. Damien made a motion, seconded by Dr. Amato, to approve the Agreed Citation as presented. The motion passed.

Emily Gregory, CTA #472, CXT #622- Emily Gregory practiced on an expired license for approximately three (3) months. She agreed to pay an assessed civil penalty in the amount totaling four hundred (\$400.00) dollars for practicing on both her CTA and CXT lapsed licenses.

She also agreed to have the violation reported to the Department of Health to be added to its Disciplinary Action Report. Upon review by the Board, Dr. Damien made a motion, seconded by Dr. Hulme, to approve the Agreed Citation as presented. The motion passed.

Dionne Kellogg, DC #2164 - Dr. Kellogg practiced on an expired license for approximately five (5) months. She agreed to pay an assessed civil penalty in the amount totaling two thousand (\$2000.00) dollars for practicing on a lapsed license. She also agreed to have the violation reported to the Department of Health to be added to its Disciplinary Action Report. Upon review by the Board, Dr. Damien made a motion, seconded by Dr. Hulme, to approve the Agreed Citation as presented. The motion passed.

Jeffrey Miceli, Jr. DC # 2211 - Dr Miceli practiced on an expired license for approximately three (3) months. He agreed to pay an assessed civil penalty in the amount totaling one thousand (\$1000.00) dollars for practicing on a lapsed license. He also agreed to have the violation reported to the Department of Health to be added to its Disciplinary Action Report. Upon review by the Board, Dr. Damien made a motion, seconded by Dr. Hulme, to approve the Agreed Citation as presented. The motion passed.

Erica Gilliland CTA #1248 - Erica Gilliland practiced on an expired license for approximately three (3) months. She agreed to pay an assessed civil penalty in the amount of two hundred (\$200.00) dollars for practicing on a lapsed license. She also agreed to have the violation reported to the Department of Health to be added to its Disciplinary Action Report. Upon review by the Board, Dr. Damien made a motion, seconded by Dr. Hulme, to approve the Agreed Citation as presented. The motion passed.

Correspondence

- A. Jeffrey Gieske, DC – Dr. Gieske requested that the Board accept his Acupuncture training hours from International Academy of Medical Acupuncture (IAMA) There was a question of whether hours obtained from a now defunct school would count towards the board’s policy of 250 required hours of training. Dr. Jeffery T. Gieske was present to request the Board to consider classes attended at the IAMA school be accepted toward his certification in Acupuncture. Based on the board’s newly-proposed Acupuncture Policy statement, Mr. Sobowale requested a motion from the Board to accept the accreditation from the IAMA and approve that Dr. Gieske’s acupuncture certification be added to his license. Dr. Damien made a motion to approve Dr. Gieske’s application for acupuncture certification. Dr. Hulme seconded the motion. The motion carried.

Dr. Tracy Farrington was present in the audience and questioned the board regarding conflicting information regarding her acupuncture certification. Mr. Sobowale

confirmed for Dr. Farrington that she was indeed certified for acupuncture.

- B. Beth Barnett, DC – Dr. Barnett was not present. Dr. Hosenfeld, Dr. Hulme, and Dr. Damien discussed Dr. Barnett’s application for acupuncture certification to clarify how credit hours are reported on some older IAMA classroom and hands on training hours on certificates. The Board concluded that Dr. Barnett has met the requirements for certification. Dr. Amato made a motion to accept reported hours for Dr. Barnett as eligible for acupuncture certification. Dr. Hulme seconded the motion. The motion carried.

- C. Melissa Schapiro – Ms. Schapiro requested extension to complete 1200 clinical hours for CTA Internship. Per her communication, she had only worked on a part time basis due to the needs of the office in which she worked. She requested an extension of 6 months to meet the requirement while transitioning into a full time position. Dr. Damien made a motion to grant a six (6) months extension to Melissa Schapiro to complete her 1200 hour clinical internship. Dr. Amato seconded the motion. The motion carried.

- D. Judith Mullens, CTA, CXT – Ms. Mullens requested waiver of required CXT and CTA continuing education hours due to medical condition of her husband and her required care for him. Dr. Damien requested discussion. After discussion, Dr. Damien made a motion to extend time frame in which to make up CEs allowing Ms. Mullens to obtain both her 2018 and 2019 CE hours for her CTA and CXT licenses. Dr. Hulme seconded the motion. The motion carried.

- E. Turner Cole – Mr. Cole requested six (6) months extension of his externship. This is the second request from Mr. Cole after failing to pass part three of the NBCE exam. Dr. Damien made a motion to extend externship for Dr. Turner Cole until August 1, 2019. Dr. Amato seconded the motion. The motion carried.

Discuss Old and New Board Business

- A. Consider and approve new policy statement on reciprocity of Acupuncture training/certification

Dr. Hosenfeld presented a draft policy prepared by Dr. Hulme. The board discussed the Acupuncture Policy statement for applicants who are coming in by reciprocity to have a better understanding of what the board’s requirements are for obtaining the credential on their license. The board also discussed how courses become accredited and whether or

not the board should be the governing body approving courses. The board expressed concern with some of the verbiage used in the draft policy. Ms. Webb addressed the issue of score requirement as it pertains to the NBCE. Ms. Tiffany Stevens with the TCA addressed the board regarding policy of acupuncture scoring and how it is communicated to different boards nationwide. Mr. John Williams offered suggestion on changes in verbiage of rules. After review and discussion, Dr. Damien made a motion to accept policy on chiropractic acupuncture with the amendments made during review. Dr. Blackwelder seconded the motion. The motion carried.

B. Discussion presented by Dr. Damien regarding board consultants.

Dr. Damien suggested retaining former board members as consultants. Dr. Damien agreed to work on a policy for retaining former board members as consultants.

C. Receive report and/or request(s), if necessary, on FAA Basic Med Flight Physical Program

Dr. Damien presented the question proposed by Dr. Mc Geehee regarding Chiropractic Physicians having the ability to examine pilots for their FAA Medical exam.

Dr. Damien requested legality of forming a committee to examine the possibility of adopting a policy allowing Chiropractic Physicians the ability to examine pilots for their required medical exam. Dr. Damien made a motion for the Board to form a committee including himself and Dr. Hosenfeld to discuss the ability of Chiropractic Physicians in Tennessee to perform the FAA Basic Med Exam. Dr. Hulme seconded the motion. The motion carried. Dr. Damien amended his motion to state that no discussion will be made on this topic for a minimum of two weeks following the board meeting pending approval by board attorney and administration of surrounding legal issues regarding Tennessee Open Meetings Act. Dr. Amato seconded the motion. The motion carried.

D. Dr. Damien's Request for Discussion - Brooke Warren CTA #1102 License Reinstatement Issue

Ms. Webb presented the information received from Ms. Warren in the board's administrative office at the time of the meeting. Dr. Damien explained the circumstances regarding Ms. Warren's work history and circumstances surrounding her allowing her license to expire. Applicant's request to the Board was to consider her expired license "retired" prior to being reinstated which would require providing proof of only 12 CE hours instead of 24 CE hours that would be required to reinstate an expired license which expired in 2014. Mr. Cole directed the board to allow administration to process Ms. Warren's application as per board policies and rules.

E. Dr. Hosenfeld' s Request for Correspondence to Massage Therapy Licensure Board

Dr. Hosenfeld was made aware of the Massage Therapy board next scheduled meeting date. Dr. Hosenfeld stated he will draft the correspondence to be submitted to the board prior to the meeting.

F. Election of Officers

There was discussion by the Board regarding election of officers and appointment of consumer members. Dr. Hulme nominated Dr. Hosenfeld for President. Dr. Amato seconded the motion. Dr Hulme also nominated Dr. Damien to serve as Vice-President. Dr. Blackwelder seconded this motion. Dr. Damien nominated Dr. Hulme for position of Secretary. Dr. Blackwelder seconded the motion. The motions carried.

Adjournment

There being no other business, Dr. Damien made a motion, seconded by Dr. Amato, to adjourn the meeting. The motion carried.

The Board meeting was adjourned at 2:30 pm. (CST).

These minutes were ratified by the Board at the January 24, 2019 meeting.