

**BOARD OF CHIROPRACTIC EXAMINERS
MINUTES**

DATE: July 19, 2018

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
Curtis Damien, D.C., Board Member
Joseph Amato, D.C., Board Member

MEMBERS ABSENT: Jason Hulme, D.C., Board Member

STAFF PRESENT: Michael Sobowale, Unit Director
Mary V. Webb, Board Manager
Loren Givens, Board Administrator
Mark Cole, Assistant General Counsel
Lori Leonard, Disciplinary Coordinator

GUESTS: Tiffany Stevens, Tennessee Chiropractic Association
John Williams, JD, Tennessee Chiropractic Association
Robert Powell, Legislative Representative
Arthur Lensgraf, DC, Lensgraf Chiropractic Clinic

Call to Order

With a quorum present, Dr. Alexander called the meeting to order at 9:15 AM. A roll call was taken by Loren Givens with one board member absent.

Minutes

After a review of the minutes of the April 19, 2018 Board meeting, Dr. Hosenfeld made a motion, seconded by Dr. Amato, to accept the April 19, 2018 meeting minutes as written. The motion carried. After a secondary review, Dr. Damien made a motion, seconded by Dr. Amato, to change the word, “re-elected” to ‘re-appointment’ and accept the amended minutes of the April 19, 2018 board meeting once this correction has been made. The 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 (3) open disciplinary cases on three (3) chiropractors pertaining to the Board of Chiropractic Examiners. There was one Contested Case set for today, but is scheduled to be continued to the next board meeting on October 18, 2018.

There were no other Contested Cases scheduled to be heard.

There were no Consent Orders scheduled to be presented at the meeting.

Rules

Mr. Cole informed the board that the recent rule changes are still in process. Due to a new process, future rule changes would also have to be reviewed by board administrative office to ensure accurate and complete information is being presented to the Offices of the Commissioner, Governor, and Attorney-General before any proposed rule change is approved.

Mr. Cole informed the board that assessment of attorney fees and litigation cost against the State for the Contested Case hearing held at the 2017 April board meeting in the amount of \$19,330 in attorney fees, and \$1884.45 in cost respectively, totaling \$21,214.45, will reflect on the next board financial statement.

Legislation

Mark Cole informed the Board that Patrick Powell, Legislative Representative will be presenting information on new legislation affecting the Board of Chiropractic Examiners.

Patrick Powell, the Legislation Representative presented new legislations from the last legislative session affecting the board as follows:

Public Chapter 611 - This law requires an agency holding a public hearing as part of its rulemaking process, to make copies of the rule available in "redline form" to people attending the hearing.

This Act takes effect July 1, 2018.

Public Chapter 744 - This statute allows a licensing entity the discretion to not suspend/deny/revoke a license in cases where the licensee has defaulted or become delinquent on student loans IF a medical hardship significantly contributed to the default or delinquency. This act will take effect on January 1, 2019.

Public Chapter 745 and 793 - These Public Chapters work together to create and implement the “Fresh Start Act.” Licensing authorities are prohibited from denying an application or renewal for a license/certificate/registration due to a prior criminal conviction that does not directly relate to the applicable occupation. Lays out the requirements on the licensing authorities as well as the exceptions to the law (ex: rebuttable presumption regarding A and B level felonies). These Acts took effect on July 1, 2018.

Public Chapter 754 - This Public Chapter prevents any board, commission, committee, etc. created by statute from promulgating rules, issuing statements, or issuing intra-agency memoranda that infringe on an entity member’s freedom of speech. Freedom of speech includes, but is not limited to, a member’s freedom to express an opinion concerning any matter relating to that governmental entity, excluding matters deemed to be confidential under TCA 10-7-504. Violations as determined by a joint evaluation committee may result in recommendations to the general assembly concerning the entity’s sunset status, rulemaking authority and funding. This Act took effect on April 18, 2018.

Public Chapter 929 - This Act redefines policy and rule and requires each agency to submit a list of all policies, with certain exceptions, that have been adopted or changed in the previous year to the chairs of the government operations committees by July 1 of each year. The submission shall include a summary of the policy and the justification for adopting a policy instead of a rule. This act also prohibits any policy or rule by any agency that infringes upon an agency member’s freedom of speech. Finally, this act establishes that an agency’s appointing authority shall have the sole power to remove a member from a board, committee, etc. This Act took effect on July 1, 2018 and applies to policies adopted on or after that date.

Public Chapter 954 - This legislation requires the initial licensure fee for low-income persons to be waived. Low income individuals per the statute are defined as persons who are enrolled in a state or federal public assistance program including but not limited to TANF, Medicaid, and SNAP. All licensing authorities are required to promulgate rules to effectuate the purposes of this act. This Act takes effect January 1, 2019.

Public Chapter 1021 - This Act allows for appeals of Contested Case hearings to be in the chancery court nearest the residence of the person contesting the agency action or at that person’s discretion, in the chancery court nearest the place the action arose, or in the chancery court of Davidson County. Petitions seeking review must be filed within 60 days after entry of the agency’s final order. This Act took effect on July 1, 2018.

Mr. Cole then discussed another Public Chapter affecting the board. Public Chapter 638 states that health care prescribers, their employees, agents, or independent contractors shall not conduct

in-person solicitation, telemarketing, or telephonic solicitation of victims of an accident or disaster, for the purpose of marketing services of the healing arts related to the accident or disaster.

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, five (5) on board orders (reprimands), two (2) suspensions, and one (1) Tennessee Student Assistance Corporation (TSAC) suspension which will be removed from the list on the next report. Ms. Leonard then provided the investigative report. The Office has received a total of twenty-one (21) new complaints so far, year to date with the breakdown as follows: 1 for fraud and false billing, 2 for advertising violation, 2 for malpractice and negligence, 9 for unlicensed practice, 2 for unprofessional conduct, 1 for medical records request, 1 for lapsed license practice and 3 for failure to supervise.

A total of twenty-three (23) investigations have been closed as follows: 2 were referred to the Office of General Counsel for discipline, 13 were closed without sufficient evidence to discipline, 1 was closed with a letter of concern and 7 were closed with a letter of warning.

Financial Report

There was no new update to the financial report.

Applicant Interviews/File Reviews

- A. Melissa Stevens, CTA – Ms. Stevens was present. Ms. Stevens’ criminal background check revealed a felony drug conviction from twelve years ago. After an interview with the Board, and discussion amongst board members, a motion was made by Dr. Damien, and seconded by Dr. Amato, to approve Ms. Stevens for an unrestricted license. The motion carried.

- B. Tyler Hurst, DC – Tyler Hurst was present. Dr. Hurst is seeking initial licensure as a chiropractic physician. His criminal background check revealed multiple criminal convictions. Mr. Hurst was convicted of Disorderly Conduct on January 25, 2013, and convicted of being Under the Influence of Alcohol on May 4, 2013. After interview with the Board, and discussion amongst board members, a motion was made by Dr. Hosenfeld, seconded by Dr. Damien, to approve Dr. Hurst for an unrestricted license. The motion carried.

- C. Timothy Bodily, DC – Dr. Bodily was present. Dr. Bodily was placed on six (6) months’ probation for leaving the scene of an accident in February 2018. Dr. Bodily was also questioned about a fight incident that occurred with his brother.

There were no charges filed against him. After interview and discussion with the board members, a motion was made by Dr. Damien, seconded by Dr. Hosenfeld, to approve Dr. Bodily for an unrestricted license. The motion carried.

Ratification of Initial Determinations

Upon review, Dr. Hosenfeld made a motion, seconded by Dr. Damien, to approve the following lists of new licensees, externships, reinstatements, closed files and acupuncture qualifiers with the exception of Angela Morrison for ratification:

New Licensees

Chiropractic Physicians – 29

Balza Robert	Garrett Jason	Seibert Christina
Bassett Jason	Goedken Jacob	Wade Alex
Beilke Cameron Benjamin	Harper Zackery A	Young Brittani
Beilke Sarah Jean	Heuker Neil	
Bell Ryan Bradley	Lensgraf Jennifer	
Benjamin Candace	Marsh Taylor Christian	
Brown Jasmine	Naum Jerald	
Bryant Albert Justin	Nore Neda	
Bullock Hal Neill	Olatunji Babatunde	
Caussey Chad	Olstad Loni	
Christy Landon	Rogers Travis S.	
Davis Kristie Lashonda	Schwab Jeffrey	
Edmiston Paul Caleb	Scott Samantha	

Chiropractic Therapy Assistants – 24

Atkins Toby De Monte'	Lewelling Rachel
Beck-Arboleda Gabriella	Luff Kelsey Lynn
Bennett Rhianna	Mackay Jodie Lynn
Bowman Jessie Lee	O'Dell Skyler Shanelle
Carrier Alanna	Pappas Amanda Lea
Childers Amy Renee	Petersen Robert
Couch Kristi Wicker	Russell Jennifer
Crouch Kayla Michelle	Saxon Melanna
Gann Brittany Marie	Tucker Katherine
Golden Leslie Lucille	Whan Amanda Kamilh
Grooms Courtney	Zamora Deborah N.
Hambright Kelly Ann	
Higgins Logan Garvey	

Chiropractic X-Ray Technologists – 1

Cobble Samantha Lynn

Reinstatements

Chiropractic Physicians – 19

Bender Thomas Mitchell
Burgess Emily C
Catalfo Christopher
Daniels-Perry Tameka
Dawes James

Gilmer Joseph Joshua
Guess Ryan
Hayes Paul W
Houston Jacob Cory
Key Michael

McKinnon Murray D
Meseck Jolynne Rene'
Neal Karen E
Roddy Raymond F
Smith Earl David

Sterban Douglas Scott
Tomasino Dominik J.
Young Georgia B.
Young Michael D.

Chiropractic Therapy Assistants – 5

Cooper Lindsey
Hamilton Jacob
Jones Pamela D.
Nelson Victoria
Pico Wanda

Chiropractic X-Ray Technologists - 0

Closed Files - 2

Chiropractic Physicians – 1
Sloan Mark

Chiropractic Therapy Assistants – 0

Chiropractic X-Ray Techs -1
Link Michael E

New Externships -0

Acupuncture Qualification -3

Fink Tracy
McMillen Brittany
Self John

The motion carried.

Administrative Report

Loren Givens presented the Administrative Report as follows:

Statistical Data

As of July 13, 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 April 13, 2018 through July 13, 2018

CHIROPRACTIC PHYSICIAN	
New applications received – 45	
New licenses issued – 24	Renewal Total – 111
Reinstatements – 8	Online Renewals – 72
Temp Licenses/Externships – 1	Paper Renewals – 39
Licenses Retired – 4	New Acupuncturists – 3
Failed to Renew/Expired Licensees – 8	
CHIROPRACTIC THERAPY ASSISTANT	
New applications received – 32	
New licenses issued – 15	Renewal Total – 28
Reinstatements – 7	Online Renewals – 19
Licenses Retired – 1	Paper Renewals – 9
Failed to Renew/Expired Licensees – 8	
CHIROPRACTIC X-RAY TECHNOLOGIST	
New applications received – 10	
New licenses issued – 1	Renewal Total – 5
Reinstatements – 2	Online Renewals – 0
Licenses Retired – 0	Paper Renewals – 5
Failed to Renew/Expired Licensees – 2	

For this reporting period, the usage rate for utilizing the online renewal portal for Chiropractic Physicians is 7%; Chiropractic Therapy Assistants, 5%; and, Chiropractic X-Ray Technologists, 0%.

Ms. Givens reported 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.

Agreed Citations

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

Pamela Jones, CTA# 1058 – Pamela Jones practiced on an expired license for approximately ~~(4)~~ 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. Upon review by the Board, Dr. Hosenfeld made a motion, seconded by Dr. Damien, to approve the Agreed Citation as presented. The motion passed.

Christopher Catalfo, DC# 2371- Dr. Catalfo 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 (\$1500.00) dollars for practicing on a 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.

Murray McKinnon, DC #2109- Dr. McKinnon practiced on an expired license for approximately (2) two months. He agreed to pay an assessed civil penalty in the amount of one thousand (\$1000.00) dollars for practicing on a 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.

Homaira Mirhabibi, CTA# 1180- Homaira Mirhabibi practiced on an expired license for approximately (3) three months. She agreed to pay an assessed civil penalty in the amount of two hundred (\$200.00) dollars for practicing on a lapsed 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.

Correspondence

Keith Keenan, DC, submitted a reinstatement application that included online continuing education from tele-seminars which exceeded the maximum number of online hours allowed in board rules. Dr. Keenan wanted a board decision on whether the additional online hours would be accepted and if not, whether he would be granted an extension to make up deficient hours. However, since Dr. Keenan did not provide the administrative office with the necessary

documentation for the board to review prior to the meeting, the board was unable to discuss and make a decision on his request.

Arthur Lensgraf, DC - Dr. Lensgraf was invited to the podium to address the board. He stated that he was present at the meeting to compliment the Board on the growth he has seen within the profession and to express his gratitude as one of the pioneer practitioners in the State.

Discuss and take action, if needed, regarding rulemaking hearings, rule amendments, and policies

Combined Continuing Education Policy – At the last meeting, the board requested Dr. Hosenfeld and Michael Sobowale to work on a combined continued education policy statement to replace the three (3) separate policies currently being used to provide clarity and ease of access to licensees. Dr. Hosenfeld discussed the draft combined policy statement presented to the Board. After review and discussion, a motion was made by Dr. Hosenfeld, seconded by Dr. Amato, to approve the combined continued education policy statement as presented. The motion carried.

Rule Amendments - Mark Cole addressed Board members on the approval process for rules after they have been voted on by the board. He explained that the process is very lengthy and can take time for all involved in the process to move forward to each phase prior to final approval. A motion was made by Dr. Damien, seconded by Dr. Hosenfeld, to find out where the proposed rule changes voted upon by the board at the last rulemaking hearing are in the process. Dr. Amato opposed. The motion carried.

Discuss Old and New Board Business

- A. Discussion of Massage Establishment License – The Massage Board is mandating that the owner of any Chiropractic clinic in which massage therapy is practiced undergo a separate risk management course and apply for a separate Massage Establishment license if massage therapists are employed. This requirement includes several other health care professionals licensed by the Department of Health Related Boards. Dr Hosenfeld would like to meet with the Board Chair of the Massage Board. Dr. Hosenfeld will draft a letter and Mark Cole will review for edits prior to being presented to the Massage Therapy board.

Mr. John Williams, Tennessee Chiropractic Association representative addressed the board regarding the issue. He stated that the request by the Massage Licensure board is a most unusual requirement which is concerning for its members.

- B. Consider and approve policy statement on reciprocity of Acupuncture training/certification – Mr. Cole presented a draft policy prepared by Dr. Hulme. Dr.

Hulme was absent. The Board discussed amending the Acupuncture Policy statement so that applicants who are coming in by reciprocity can have a better understanding of what the board's requirements are for obtaining the credential on their license. The board expressed concern with some of the verbiage used in the draft policy. The board suggested that board members who have additional suggestions about the draft policy should submit their suggestions to the administrative office so that those comments or suggestions can be shared with Dr. Hulme and Mr. Cole. A motion was made by Dr. Amato, and seconded by Dr. Damien, that board members submit their suggestions about the draft policy to the administrative office to be shared with Dr. Hulme and Mr. Cole. The motion carried.

- C. Receive report and/or request(s), if necessary, on FAA Basic Med Flight Physical Program – Dr. Damien did not have any material to present a report to the board at the meeting.
- D. Review Social Media – The Board had nothing to report at this meeting. A motion was made by Dr. Hosenfeld, seconded by Dr. Amato, to continue to leave this item on the agenda. The motion carried.
- E. Potential Conflict of Interest Issues - Mark Cole cautioned board members regarding speaking with applicants which may later on cause a conflict. He advised that board members should be careful when contacting individuals. Also, Mr. Cole made board members aware of potential conflicts which may arise due to use of social media and cautioned members to refrain from participating in online platforms where board business is being discussed as this may create the possibility of a conflict of interests as well. If there is a conflict, the participating board member may need to recuse themselves from participating in any future board discussion on the matter.

Adjournment

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

The Board meeting was adjourned at 1:50 PM on Thursday, July 19, 2018.

These minutes were ratified by the Board at the October 18, 2018 meeting.