





State of Alaska  
Board of Chiropractic  
Examiners  
February 11th, 2020  
Board Packet

State Office Building  
333 Willoughby Avenue,  
9th Floor  
Conference Room C  
Teleconference  
Juneau, Alaska

# Roll Call

**Alaska Board of Chiropractic Examiners**  
**Board Roster (As of 03/01/2018)**

Board Member	Appointed	Reappointed	Term Expires
Brian Larson, <i>Chiropractor</i> <i>Chair</i> 	03/01/2017		03/01/2021
Jeffrey Reinhardt, <i>Chiropractor</i> <i>Vice Chair</i> 	03/01/2016		03/01/2020
Jonathan Vito, <i>Chiropractor</i> <i>Secretary</i> 	03/01/2017		03/01/2021
James Morris, <i>Chiropractor</i> 	03/01/2018		03/01/2022
John Aderhold, <i>Public Member</i> 	03/01/2016		03/01/2020

Meeting Name: Alaska Board of Chiropractic Examiners  
Meeting Start Time: 10:00 AM Alaskan Standard Time  
Meeting Start Date: 02/11/2020  
Meeting End Time: 12:00 PM Alaskan Standard Time  
Meeting End Date: 02/11/2020  
Meeting Location: Video Conference Originating from Juneau

State Office Building  
333 Willoughby Avenue  
9th Floor  
Conference Room C

Agenda:

1. 10:00 a.m. - Call to Order/Roll Call
2. 10:02 a.m. - Review/Approve Agenda
3. 10:05 a.m. - Review/Approve Meeting Minutes
  - A. Board Meeting (teleconference): December 23, 2019
4. 10:10 a.m. - Board Business
  - A. Ethics Reporting
  - B. Voting Delegate for FCLB/NBCE
  - C. Vote on Delegate to Represent ABOCE at FCLB/NBCE Conference
5. 10:15 a.m. - Old Business
  - A. Scope of Practice
    - i. Dry Needling/Needle EMG
      - a. Commentary from Dr. John Shannon
      - b. Board Discussion
6. 11:00 a.m. - Correspondence
  - A. Alaska Chiropractic Society - SB 47 - Title of "Physiotherapist"
7. 11:15 a.m. - Adjourn



James Morris reconnected to the videoconference.

*James Morris, Doctor of Chiropractic, joined the meeting at 1:09 p.m.*

The board reviewed the meeting minutes from November 22<sup>nd</sup>, 2019.

**On a motion duly made by Jonathan Vito, seconded by Jeffrey Reinhardt, and approved unanimously by a roll call, it was**

**RESOLVED to approve the meeting minutes for November 22<sup>nd</sup>, 2019, as written.**

Ethics Report

Dr. Larson addressed ethics reporting. There were no ethical violations to report.

Goals and Objectives

Dr. Larson began discussion on the board's goals and objectives that needed to be addressed at this special teleconference. He provided a brief overview of what the board had been discussing over several of their previous board meetings including injectable nutrients, the amending of current definitions in regulation, the ability to perform acupuncture, and inclusion into AS 08.01.050(d), for the purpose of providing licensed chiropractors the resources needed to address abuse of alcohol, drugs, or other substances.

He explained that the board, as well as previous chiropractic boards, have held the opinion that injectable nutrients are within their scope of practice, but that the Department of Law has cautioned them against it, citing their current statutes. He also explained that the board, in an attempt to allow for injectable nutrients and deal with other issues, had begun a regulations project at their prior board meeting that would amend the definitions of "prescription drug" and "surgery," as well as add a definition of "nutrition."

Dr. Larson reminded the board that Director Chambers provided them with a memorandum that they received a week earlier. The board took a minute to read over the memorandum, which focused on the board's scope of practice, how to expand it, and the possibility of assisting them through the legislation process.

Dr. Larson asked the board if they had any questions or concerns they would like to address with Director Chambers. Dr. Reinhardt asked Director Chambers if she could explain the supreme court ruling that was referenced in her memorandum regarding naturalists. She explained that the Alaska Association of Naturopathic Physicians sued the division because they were adopting regulations that supported statute that underscored the naturopath's statutory inability to prescribe medication. Ms. Chambers explained that she had put this reference in her memorandum as an example of another profession that has a limit on prescriptive authority in their statute and how it related to their inability to adopt regulations that widen their ability to prescribe. She asked the board if they wanted her to give them an overview of her interest in their goals and objectives, to which they agreed.

Director Chambers informed the board that she had met with Occupational Licensing Examiner Thomas Bay and his supervisor to find ways to support the board in accomplishing their various goals.

She explained that they went over the big picture aspect of where the board wants to go and what changes that might include as the profession advances in their education and training. She explained that her and Mr. Bay had a phone conversation with Dr. Larson on how to possibly get the board's goals and objectives done through a statutory change, which ultimately led to this teleconference in an attempt to get the board's thoughts and directions on the matter. Ms. Chambers said that some of the board's goals and objectives were less time sensitive than others, but that many of them would be beneficial to the board and license holders by providing clarity on them sooner rather than later.

Director Chambers explained that there are differing opinions throughout the state on some of the topics that were brought up, particularly injectable nutrients and prescription drugs. She informed the board that these issues will be resolved through clarity in statute or through regulation, but only through regulation if the regulation changes the board is proposing are accepted by the Department of Law, which she was skeptical of because regulations cannot go further than statutes go, and she believed the statutes were pretty clear on some of the proposed regulation changes. She also explained that these issues could be resolved a third way, through litigation and the court process, and that it was a likely outcome. She informed the board that the process of doing these changes in statute was likely the best resolution. She said this process would not only clarify these topics but would also help the board with their other goals and objectives, and together they would be large enough to package together in a bill, which reminded her of a previous optometry bill that was passed that expanded an optometrist's scope of practice regarding prescription drugs and surgery. She also mentioned that naturopathics are again trying to expand their scope of practice as well. She let the board know they were more than free to go in whatever direction they wanted to, but that if they wanted to get their goals and objectives done statutorily, they would need to address it then because the legislative session was coming up very soon.

Dr. Larson explained that the board had discussed opening up their statutes at their previous board meeting, and was told that, if they did so, anything else in their statutes could be removed or added without the board's consent. He went on to say that his concerns had since been alleviated, to which Dr. Reinhardt agreed. Dr. Reinhardt acknowledged that whenever the topic of injectable nutrients has been discussed it seems that prescription drugs has been discussed along with it. It was his belief that the board was moving away from prescription drugs. He added that, while it would be nice to be able to administer a local anesthetic, something that you would not prescribe to a patient but that you would utilize to make a procedure more comfortable for a patient, he is not sure where to balance the conversation between injectable nutrients and prescription drugs. Dr. Larson thanked him for bringing up his concerns.

Dr. Larson informed Director Chambers that he has a diplomate in sports medicine and that it would be nice to do the things he was trained in, which includes anesthetics, antibiotics, and suturing. He explained that these things are covered under ancillary methodology and the argument revolves around direct administration vs. prescription to a patient. He referred to AS 08.20.100(b)(1), which states that chiropractors, "may analyze, diagnose, or treat the chiropractic condition of a patient by chiropractic core methodology or ancillary methodology." He then referred to AS 08.20.900(6), which states the following:

(6) "chiropractic core methodology" means the treatment and prevention of subluxation complex by chiropractic adjustment as indicated by a chiropractic diagnosis and includes the determination of contra-indications to chiropractic adjustment, the normal regimen and rehabilitation of the patient, and patient education procedures; chiropractic core methodology does not incorporate the use of prescription drugs, surgery, needle acupuncture, obstetrics, or x-rays used for therapeutic purposes;

He continued by referring to AS 08.20.900(1), which states, “‘ancillary methodology’ means employing within the scope of chiropractic practice, with appropriate training and education, those methods, procedures, modalities, devices, and measures commonly used by trained and licensed health care providers and includes...” Dr. Larson explained that the problem arises in AS 08.20.100(b)(1) because it states that chiropractors can treat the chiropractic condition of a patient by chiropractic core methodology or ancillary methodology. He said that many people think chiropractors are only allowed to work under the requirements of chiropractic core methodology and are entirely ignoring a chiropractor’s ability to treat the chiropractic condition of a patient by ancillary methodology. He stated that both methodologies are independent clauses and are separate from each other, and that chiropractors should be able to use certain ancillary methodologies that may not be allowed by chiropractic core methodology. Director Chambers suggested that the board, if they are receiving differing opinions amongst themselves and license holders, reach out to the legislature to provide clearer wording. She said that was probably the best method to get a determination, but that another method would be to wait until someone got in trouble and the courts decided on the matter. Ms. Chambers reminded the board that multiple board attorneys over the years have provided consistent advice to the board, and the advice has been that surgery and prescription drugs are not allowed under AS 08.20.900(3), which states the following:

(3) "chiropractic" is the clinical science of human health and disease that focuses on the detection, correction, and prevention of the subluxation complex and the employment of physiological therapeutic procedures preparatory to and complementary with the correction of the subluxation complex for the purpose of enhancing the body’s inherent recuperative powers, **without the use of surgery or prescription drugs**; the primary therapeutic vehicle of chiropractic is chiropractic adjustment;

Director Chambers stated that if the statute is not clear enough for members of the board that it needs to be clarified through the legislature. She said they could, at the same time, attempt to expand their scope of practice to include surgery or prescription drugs for those who have diplomates or certain advanced training and education that pertains to the practice of chiropractic. She explained that the board, if granted an expansion to their scope of practice, could then adopt regulations for it. Ms. Chambers reminded the board that she had written a motion, in her memorandum, for the board as a starting point that they could use to create a motion and pursue statute changes.

John Wayne Aderhold asked Ms. Chambers about her previous statement when she said the naturopaths were attempting to expand their scope of practice. She informed the board that the naturopaths have a legislative sponsor that is seeking expansion to include prescriptive authority for naturopaths who have met certain advanced training and education standards. She said that, if the bill passes, she did not think that approved naturopaths would be allowed to use controlled substances, but that it would include some non-controlled substances. Mr. Aderhold asked her if she knew who the legislative sponsor was, to which she replied Rep. Jennifer Johnston. Mr. Aderhold asked if the naturopaths were using the legislative route to revise their statutes to try to clarify things the way they want to see them, to which Ms. Chambers confirmed. She informed the board that there was an investigation that resulted in serious discipline and a lot of money spent by the licensees and the naturopath who was the subject of the investigation. She reminded the board that, when it comes to investigation costs, all expenses are paid for by the licensees. She explained that there was a naturopath who was administering a variety of prescription nutrients, and since prescriptive authority is not allowed under their statutes, she was determined to have been practicing outside of her scope of practice. She acknowledged that this case was a watershed moment for the naturopathic association



and that they understood they needed to clarify the issue in statute by trying to expand practice for those who have that training and education. Mr. Bay informed the board that if a similar case were to happen to the chiropractic board then license fees for chiropractors would go up significantly, which is what happened to naturopathic licensees. Director Chambers explained that when the naturopathic association sued the State of Alaska for implementing regulations to clarify the non-use of prescription drugs in their profession the naturopathic association lost and all of the division's legal fees were paid for by the licensees through license fees.

The board agreed that they had no issues with the motion that Director Chambers wrote for them, but that they needed to figure out, as a board, if they wanted to pursue legislation. Dr. Reinhardt reiterated that they kept going back and forth between injectable nutrients and prescription drugs. He asked if they were planning on addressing both issues through legislation, but that it was his understanding they were not trying to get surgery or prescription drugs in their scope. Dr. Larson said that they will have to address both issues because their current definition of surgery, according to the Department of Law, does not allow for injections of any kind and injectable nutrients is being seen as injecting drugs that require a prescription. Dr.'s Larson, Reinhardt, and Vito did not agree that administering a nutritional product is the same as prescribing a drug. Dr. Larson said that, although the board is trying to clarify the difference between a nutrient and a prescription drug through the regulation process, they are likely going to need to address the issue from a statutory standpoint than a regulatory standpoint. Ms. Chambers agreed, stating that the current chiropractic statutes do not allow for prescription drugs and that prescription drugs include any legend drugs. She said that if anybody is injecting anything that requires a prescription then they are in violation of statute. She informed the board that they have been discussing controlled substances that are scheduled drugs, but that non-controlled substances are also prescription drugs and are not currently allowed in chiropractic either. She said that if the practice of chiropractic is changing and chiropractors are gaining the education and training, then it might be time for their statutes to catch up with that. Dr. Larson explained that several chiropractic schools provide that training and it is readily available. Director Chambers informed the board that she tried to encapsulate their goals and objectives in her motion, and, if approved by the board, she can move forward in the process by contacting the governor's legislative office to try to get some help for them in what would likely be a legislative sponsor. Dr. Larson asked the board if they were in support of Director Chambers' recommendation of pursuing legislation to accomplish their various goals. The board agreed to move forward in support of pursuing legislation to accomplish their goals and objectives.

**On a motion duly made by Jonathan Vito, seconded by Jeffrey Reinhardt, and approved unanimously by a roll call, it was**

**RESOLVED to have the Board of Chiropractic Examiners support pursuing legislation to accomplish the following goals:**

- 1. Add the following activities into the chiropractic scope of practice:**
  - a. Acupuncture**
  - b. Injection, dispensation, or prescription of supplements and other medications that are not controlled substances if the agent is used in a manner consistent with standards adopted by the board in regulation**
- 2. Clarify that a licensee may perform chiropractic only if the services are within the scope of the licensee's education, training, and experience as established by regulations adopted by the board**

**3. Add Board of Chiropractic Examiners to AS 08.01.050(d) to allow the department to provide assistance and treatment to persons licensed by the board who abuse alcohol, other drugs, or other substances**

Director Chambers informed the board that they would need a spokesperson from the board, someone who would help draft the statutes and testify in front of the legislature. Dr. Larson asked the board if there was anybody who would like to be the spokesperson. Dr. Reinhardt asked if it had to be an individual or if it could be two people. Ms. Chambers said that it could be two people. Dr. Larson and Dr. Reinhardt agreed to be the Spokesmen for the board.

**On a motion duly made by Jonathan Vito, seconded by James Morris, and approved unanimously by a roll call, it was**

**RESOLVED to have Dr. Larson and Dr. Reinhardt be designated as the spokesmen for the board and to serve as the lead in this legislation.**

Mr. Bay asked the board if they were still interested in moving forward with their regulations project to amend certain definitions that would allow for injectable nutrients and deal with other issues, now that they are moving forward to try and approve them in statute. The board agreed that they still wanted to amend the definitions in order to have clarity and to eliminate all confusion.

**Agenda Item 5**

**Correspondence**

**Time: 2:09 p.m.**

**Chiropractic Neurology Diplomate**

Mr. Bay informed the board that Dr. Vanessa Wilczak, who had previously had the International Academy of Chiropractic Neurology (IACN) ask the board about approving the International Board of Electrodiagnosis (IBE) diplomate as an approved chiropractic specialty program, was also a member of the International Board of Chiropractic Neurology (IBCN) diplomate, which was being added to 12 AAC 16.048 as an approved chiropractic specialty program. He explained that she had reached back out to him with another question, asking if electrodiagnosis, including needle EMG, was permitted under the chiropractic neurology diplomate, and that it was included in the diplomate training. Dr. Larson gave a brief overview of what needle EMG constitutes and explained that it comes down to the Department of Law's advice, which states that a needle incises living tissue and therefore constitutes "surgery" as defined in 12 AAC 16.990(b)(2)(A). The board discussed the topic and agreed, based on the interpretation from the Department of Law, that needle EMG is a questionable portion of practice, and that the board cannot approve of it at this time. The board tasked Mr. Bay with contacting Dr. Wilczak with their decision and to also let her know that they are working towards clarifying statute so that all who pursue advanced training and education can perform the things they are trained to do, and to hold off until there is a clear definition that allows for it. Mr. Bay asked the board if they wanted him to relay the same message to people who ask about dry needling, to which the board agreed.

**TASK**

**Mr. Bay will contact Dr. Wilczak to explain the board's decision on the use of needle EMG.**

Having nothing left to address, the Alaska Board of Chiropractic Examiners’s Chair, Brian Larson, adjourned the meeting at 2:17 p.m.

Respectfully Submitted by:

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Thomas Bay	Date
Licensing Examiner	

Approved by:

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Dr. Brian Larson	Date
Alaska State Board of Chiropractic Examiners	

DRAFT

State of Alaska  
DEPARTMENT OF LAW

# ETHICS ACT PROCEDURES FOR BOARDS & COMMISSIONS

All board and commission members and staff should be familiar with the Executive Branch Ethics Act procedures outlined below.

## Who Is My Designated Ethics Supervisor (DES)?

Every board or commission subject to the Ethics Act<sup>1</sup> has several ethics supervisors designated by statute.

- The chair serves as DES for board or commission members.
- The chair serves as DES for the executive director.
- The executive director serves as DES for the staff.
- The governor is the DES for a chair.<sup>2</sup>

## What Do I Have To Disclose?

The Ethics Act requires members of boards and commissions to disclose:

- Any matter that is a potential conflict of interest with actions that the member may take when serving on the board or commission.
- Any circumstance that may result in a violation of the Ethics Act.
- Any personal or financial interest (or that of an immediate family member) in a state grant, contract, lease or loan that is awarded or administered by the member's board or commission.
- The receipt of certain gifts.

The executive director of the board or commission and its staff, as state employees, must also disclose:

- Compensated outside employment or services.
- Volunteer service, if any compensation, including travel and meals, is paid or there is a potential conflict with state duties.

- For more information regarding the types of matters that may result in violations of the Ethics Act, board or commission members should refer to the guide, *"Ethics Information for Members of Boards and Commissions."* The executive director and staff should refer to the guide, *Ethics Information for Public Employees.* Both guides and disclosure forms may be found on the [Department of Law's ethics website](#).

## How Do I Avoid Violations of the Ethics Act?

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- Make timely disclosures!
- Follow required procedures!
- Provide all information necessary to a correct evaluation of the matter!<sup>3</sup>
- When in doubt, disclose and seek advice!
- Follow the advice of your DES!

## What Are The Disclosure Procedures for Board and Commission Members?

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The procedural requirements for disclosures by members are set out in AS 39.52.220 and 9 AAC 52.120. One goal of these provisions is to help members avoid violations of the Ethics Act. The procedures provide the opportunity for members to seek review of matters in advance of taking action to ensure that actions taken will be consistent with the Act.

### Procedure for declaring actual or potential conflicts.

Members must declare potential conflicts and other matters that may violate the Ethics Act **on the public record and in writing to the chair**.

*Disclosure on the public record.* Members must identify actual and potential conflicts orally at the board or commission's public meeting **in advance** of participating in deliberations or taking any official action on the matter.

- A member must always declare a conflict and may choose to refrain from voting, deliberations or other participation regarding a matter.<sup>4</sup>
- If a member is uncertain whether participation would result in a violation of the Act, the member should disclose the circumstances and seek a determination from the chair.

*Disclosure in writing at a public meeting.* In addition to an oral disclosure at a board or commission meeting, members' disclosures must be made in writing.

- If the meeting is recorded, a tape or transcript of the meeting is preserved **and** there is a method for identifying the declaration in the record, an oral disclosure may serve as the written disclosure.
- Alternatively, the member must note the disclosure on the Notice of Potential Violation disclosure form and the chair must record the determination.

*Confidential disclosure in advance of public meeting.* Potential conflicts may be partially addressed in advance of a board or commission's public meeting based on the published meeting agenda or other board or commission activity.

- A member identifying a conflict or potential conflict submits a Notice of Potential Violation to the chair, as DES, in advance of the public meeting.
- This written disclosure is considered confidential.
- The chair may seek advice from the Attorney General.
- The chair makes a written determination, also confidential, whether the disclosed matter represents a conflict that will result in a violation of the Ethics Act if the member participates in official action addressing the matter.<sup>5</sup>
- If so, the chair directs the member to refrain from participating in the matter that is the subject of the disclosure.
- An oral report of the notice of potential violation and the determination that the member must refrain from participating is put on the record at a public meeting.<sup>6</sup>

*Determinations at the public meeting.* When a potential conflict is declared by a member for the public record, the following procedure must be followed:

- The chair states his or her determination regarding whether the member may participate.
- Any member may then object to the chair's determination.
- If an objection is made, the members present, excluding the member who made the disclosure, vote on the matter.
- *Exception:* A chair's determination that is made consistent with advice provided by the Attorney General may not be overruled.
- If the chair, or the members by majority vote, determines that a violation will exist if the disclosing member continues to participate, the member must refrain from voting, deliberating or participating in the matter.<sup>7</sup>

*If the chair identifies a potential conflict,* the same procedures are followed. If possible, the chair should forward a confidential written notice of potential violation to the Office of the Governor for a determination in advance of the board or commission meeting. If the declaration is first

made at the public meeting during which the matter will be addressed, the members present, except for the chair, vote on the matter. If a majority determines that a violation of the Ethics Act will occur if the chair continues to participate, the chair shall refrain from voting, deliberating or participating in the matter. A written disclosure or copy of the public record regarding the oral disclosure should be forwarded to the Office of the Governor for review by the chair's DES.

## Procedures for Other Member Disclosures

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A member's interest in a state grant, contract, lease or loan and receipt of gifts are disclosed by filling out the appropriate disclosure form and submitting the form to the chair for approval. The disclosure forms are found on the [Department of Law's ethics website](#).

## What Are The Disclosure Procedures for Executive Directors and Staff?

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Ethics disclosures of the executive director or staff are made in writing to the appropriate DES (chair for the executive director and the executive director for staff).

- Disclosure forms are found on the ethics website, noted above.

*Notices of Potential Violations.* Following receipt of a written notice of potential violation, the DES investigates, if necessary, and makes a written determination whether a violation of the Ethics Act could exist or will occur. A DES may seek advice from the Attorney General. If feasible, the DES shall reassign duties to cure a potential violation or direct divestiture or removal by the employee of the personal or financial interests giving rise to the potential violation.

- These disclosures are not required to be made part of the public record.
- A copy of a determination is provided to the employee.
- Both the notice and determination are confidential.

*Other Disclosures.* The DES also reviews other ethics disclosures and either approves them or determines what action must be taken to avoid a violation of the Act. In addition to the disclosures of certain gifts and interests in the listed state matters, state employees must disclose all outside employment or services for compensation.

- The DES must provide a copy of an approved disclosure or other determination the employee.

## How Are Third Party Reports of Potential Violations or Complaints Handled?

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Any person may report a potential violation of the Ethics Act by a board or commission member or its staff to the appropriate DES or file a complaint alleging actual violations with the Attorney General.

- Notices of potential violations and complaints must be submitted in **writing** and **under oath**.
- Notices of potential violations are investigated by the appropriate DES who makes a written determination whether a violation may exist.<sup>8</sup>
- Complaints are addressed by the Attorney General under separate procedures outlined in the Ethics Act.
- **These matters are confidential**, unless the subject waives confidentiality or the matter results in a public accusation.

## What Are The Procedures for Quarterly Reports?

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Designated ethics supervisors must submit copies of notices of potential violations received and the corresponding determinations to the Attorney General for review by the state ethics attorney as part of the quarterly report required by the Ethics Act.

- Reports are due in April, July, October and January for the preceding quarter.
- A sample report may be found on the Department of Law's ethics website.
- An executive director may file a quarterly report on behalf of the chair and combine it with his or her own report.
- If a board or commission does not meet during a quarter and there is no other reportable activity, the DES advises the Department of Law Ethics Attorney by e-mail at [ethicsreporting@alaska.gov](mailto:ethicsreporting@alaska.gov) and no other report is required.

If the state ethics attorney disagrees with a reported determination, the attorney will advise the DES of that finding. If the ethics attorney finds that there was a violation, the member who committed the violation is not liable if he or she fully disclosed all relevant facts reasonably necessary to the ethics supervisor's or commission's determination and acted consistent with the determination.

## How Does A DES or Board or Commission Get Ethics Advice?

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A DES or board or commission may make a **written request** to the Attorney General for an opinion regarding the application of the Ethics Act. In practice, the Attorney General, through the state ethics attorney, also provides **advice by phone or e-mail** to designated ethics supervisors, especially when time constraints prevent the preparation of timely written opinions.



- A request for advice and the advisory opinion are confidential.
- The ethics attorney endeavors to provide prompt assistance, although that may not always be possible.
- The DES must make his or her determination addressing the potential violation based on the opinion provided.

It is the obligation of each board or commission member, as well as the staff, to ensure that the public's business is conducted in a manner that is consistent with the standards set out in the Ethics Act. We hope this summary assists you in ensuring that your obligations are met.

<sup>1</sup> The Act covers a board, commission, authority, or board of directors of a public or quasi-public corporation, established by statute in the executive branch of state government.

<sup>2</sup> The governor has delegated the DES responsibility to Guy Bell, Administrative Director of the Office of the Governor.

<sup>3</sup> You may supplement the disclosure form with other written explanation as necessary. Your signature on a disclosure certifies that, to the best of your knowledge, the statements made are true, correct and complete. False statements are punishable.

<sup>4</sup> In most, but not all, situations, refraining from participation ensures that a violation of the Ethics Act does not occur. Abstention does not cure a conflict with respect to a significant direct personal or financial interest in a state grant, contract, lease or loan because the Ethics Act prohibition applies whether or not the public officer actually takes official action.

<sup>5</sup> The chair must give a copy of the written determination to the disclosing member. There is a determination form available on the Department of Law's ethics web page. The ethics supervisor may also write a separate memorandum.

<sup>6</sup> In this manner, a member's detailed personal and financial information may be protected from public disclosure.

<sup>7</sup> When a matter of particular sensitivity is raised and the ramifications of continuing without an advisory opinion from the Attorney General may affect the validity of the board or commission's action, the members should consider tabling the matter so that an opinion may be obtained.

<sup>8</sup> The DES provides a copy of the notice to the employee who is the subject of the notice and may seek input from the employee, his or her supervisor and others. The DES may seek advice from the Attorney General. A copy of the DES' written determination is provided to the subject employee and the complaining party. The DES submits a copy of both the notice and the determination to the Attorney General for review as part of the DES' quarterly report. If feasible,

the DES shall reassign duties to cure a potential violation or direct divestiture or removal by the employee of the personal or financial interests giving rise to the potential violation.

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The Attorney General and Department of Law staff may not provide legal advice to private citizens or organizations. Please contact an attorney if you need legal advice. The [Alaska Lawyer Referral Service](#) or your local bar association may be able to assist you in locating a lawyer.

Alaska Department of Law

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## Ethics Disclosure Form

<p style="text-align: center;"><b>CONFIDENTIAL</b> <b>REQUEST FOR ETHICS DETERMINATION</b></p>
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TO: \_\_\_\_\_, Designated Ethics Supervisor

\_\_\_\_\_  
*(Identify Your Department, Agency, Public Corporation, Board, Commission)*

I request advice regarding the application of the Executive Branch Ethics Act (AS 39.52.010 - .960) to my situation. The situation involves the following:

I have provided additional information in the attached document(s).

I believe the following provisions of the Ethics Act may apply to my situation:

- AS 39.52.120, Misuse of Official Position
- AS 39.52.130, Improper Gifts
- AS 39.52.140, Improper Use or Disclosure of Information
- AS 39.52.150, Improper Influence in State Grants, Contracts, Leases or Loans
- AS 39.52.160, Improper Representation
- AS 39.52.170, Outside Employment Restricted
- AS 39.52.180, Restrictions on Employment after Leaving State Service
- AS 39.52.190, Aiding a Violation Prohibited

**I understand that I should refrain from taking any official action relating to this matter until I receive your advice.** If the circumstances I described above may result in a violation of AS 39.52.110 - .190, I intend that this request serve as my disclosure of the matter in accordance with AS 39.52.210 or AS 39.52.220.

I certify to the best of my knowledge that my statement is true, correct, and complete. In addition to any other penalty or punishment that may apply, the submission of a false statement is punishable under AS 11.56.200 - AS 11.56.240.

\_\_\_\_\_  
*(Signature)*

\_\_\_\_\_  
*(Date)*

\_\_\_\_\_  
*(Printed Name)*

\_\_\_\_\_  
*(Division, Board, Commission)*

\_\_\_\_\_  
*(Position Title)*

\_\_\_\_\_  
*(Location)*

*Designated Ethics Supervisor: Provide a copy of your written determination to the employee advising whether action is necessary under AS 39.52.210 or AS 39.52.220, and send a copy of the determination and disclosure to the attorney general with your quarterly report.*

**Ethics Disclosure Form**

**Receipt of Gift**

TO: \_\_\_\_\_, Designated Ethics Supervisor, \_\_\_\_\_  
(Agency, Public Corporation, Board, Commission or Council)

This disclosure reports receipt of a gift with value in excess of \$150.00 by me or my immediate family member, as required by AS 39.52.130(b) or (f).

- 1. Is the gift connected to my position as a state officer, employee or member of a state board or commission?  
 Yes    No
- 2. Can I take or withhold official action that may affect the person or entity that gave me the gift?  
 Yes    No

*(If you answer "No" to both questions, you do not need to report this gift. If the answer to either question is "Yes," or if you are not sure, you must complete this form and provide it to your designated ethics supervisor.)*

The gift is \_\_\_\_\_

Identify gift giver by full name, title, and organization or relationship, if any:

\_\_\_\_\_

Describe event or occasion when gift was received or other circumstance explaining the reason for the gift:

\_\_\_\_\_

My estimate of its value is \$ \_\_\_\_\_ The date of receipt was \_\_\_\_\_

The gift was received by a member of my family. Who? \_\_\_\_\_

*If you checked "Yes" to question 2 above, explain the official action you may take that affects the giver (attach additional page, if necessary):*

\_\_\_\_\_

I certify to the best of my knowledge that my statement is true, correct, and complete. In addition to any other penalty or punishment that may apply, the submission of a false statement is punishable under AS 11.56.200 - AS 11.56.240.

\_\_\_\_\_  
(Signature)

\_\_\_\_\_  
(Date)

\_\_\_\_\_  
(Printed Name)

\_\_\_\_\_  
(Division)

\_\_\_\_\_  
(Position Title)

\_\_\_\_\_  
(Location)

Ethics Supervisor Determination:  Approve    Disapproved

\_\_\_\_\_  
Designated Ethics Supervisor\*

\_\_\_\_\_  
(Date)

*\*Designated Ethics Supervisor: Provide a copy of the approval or disapproval to the employee. If action is necessary under AS 39.52.210 or AS 39.52.220, attach a determination stating the reasons and send a copy of the determination and disclosure to the attorney general with your quarterly report.*



# Federation of Chiropractic Licensing Boards

## EXECUTIVE OFFICES

5401 W. 10<sup>th</sup> Street  
Suite 101  
Greeley, Colorado 80634

970.356.3500  
970.356.3599 FAX

www.fclb.org  
info@fclb.org

Jon Schwartzbauer, D.C.  
*Executive Director*

## OFFICERS

Karlos Boghosian, D.C.  
*President*

Carol J. Winkler, D.C.  
*Vice President*

Keita Vanterpool, D.C.  
*Treasurer*

Margaret Colucci, D.C.  
*Immediate Past President*

## EXECUTIVE BOARD

James Buchanan, D.C.  
*District I Director*

Robert Daschner, D.C.  
*District II Director  
& Board Chair*

George Khoury, D.C.  
*District III Director*

Karen Campion, D.C.  
*District IV Director*

Ned Martello, D.C.  
*District V Director*

## ADMINISTRATIVE FELLOW DIRECTOR

Patricia Oliver

## FCLB DELEGATE & ALTERNATE VOTING DESIGNATION

**Postmark Deadline: Tuesday, February 25, 2020**

### PLEASE NOTE:

Registering your FCLB delegates is completely separate from registering your NBCE delegates.  
Different conditions may apply and separate registration is required.  
Call NBCE at 970-356-9100.

*Please use this form or official board letterhead*

The delegate and alternate begin their FCLB service effective with the postmark date of the registration, and continue until the following year when re-registration is required. Please refer to detailed FCLB policies regarding changes in designation of delegates and alternates after official registration has occurred.

If you have any questions, please call our offices.

CHIROPRACTIC LICENSING BOARD NAME: \_\_\_\_\_

VOTING DELEGATE: \_\_\_\_\_

ALTERNATE DELEGATE: \_\_\_\_\_

Authorizing Official: \_\_\_\_\_

Date: \_\_\_\_\_

**Please return by fax, mail, or email**



901 54th Avenue / Greeley, Colorado 80634 / Tel: 970-356-9100 / www.nbce.org

TO: Thomas Bay, Licensing Examiner
Fannie Renee Hoffard, Records and Licensing Supervisor
Alaska State Board of Chiropractic Examiners
CC: Brian Larson, DC, NBCE 2019 Delegate
Jeffrey Reinhardt, DC, NBCE 2019 Alternate Delegate
RE: Call for 2020 NBCE Delegates & Alternate Delegates

POSTMARK, EMAIL, FAX DEADLINE: Monday, February 24, 2020
Complete this fillable form OR send designations on official state board letterhead

The National Board of Chiropractic Examiners' Annual Business Meeting of State Delegates will be held on Friday, April 24, 2020 at the Grand Hyatt Denver, 1750 Welton Street, Denver, Colorado 80202-3999.

NBCE Delegate and Alternate Delegate - The delegate and alternate delegate must be a chiropractic member of your state licensing board. The delegate and alternate delegate positions are a one-year term beginning 60 days prior to the 2020 NBCE Annual Business Meeting of State Delegates and ending 60 days prior to the 2021 NBCE Annual Business Meeting of State Delegates. In the event the delegate is unable to attend the meeting, the alternate delegate will be given voting privileges.

At an official board meeting, our Board has designated the following individuals to vote on our behalf: Click through fillable fields below. WRITTEN SIGNATURE IS REQUIRED

NBCE Voting Delegate

Name: \_\_\_\_\_ Mailing Address: \_\_\_\_\_
City: \_\_\_\_\_ State/Zip Code: \_\_\_\_\_
Phone: \_\_\_\_\_ Email: \_\_\_\_\_

NBCE Alternate Delegate

Name: \_\_\_\_\_ Mailing Address: \_\_\_\_\_
City: \_\_\_\_\_ State/Zip Code: \_\_\_\_\_
Phone: \_\_\_\_\_ Email: \_\_\_\_\_

Officers and Directors:

- Daniel M. Côté, D.C. President
LeRoy F. Otto, D.C. Vice President
Michael Fedorczyk, D.C. Secretary
John C. Nab, D.C. Treasurer
Karlos Boghosian, D.C.
Steven R. Conway, D.C., J.D.
Kimberly Driggers, J.D.
Farrel I. Grossman, D.C.
John R. McGinnis, D.C.
Cynthia L. Tays, D.C.
Carol J. Winkler, D.C.
Norman E. Ouzts, Jr., D.C. Chief Executive Officer

(WRITTEN) \_\_\_\_\_

SIGNATURE LINE (above): Secretary of the State Board OR other Authorized Person & Title
This signature shall certify that designations meet the eligibility requirements to serve.

Date: \_\_\_\_\_

Please return via:

Email: execdept@nbce.org OR
Fax: NBCE Executive Office at 800-867-6578 OR
U.S.P.S. (or other delivery service) to:

NBCE Executive Office, 901 54th Avenue, Greeley, CO 80634

Thank you. We appreciate your attention to this important and time sensitive matter.

\*\*NBCE Delegate Designation Deadline: February 24, 2020 (60 days prior to Annual Meeting)



FCLB's 94th Annual Educational Congress

# *Refocus on*

# REGULATION

NOW FORESIGHT IS 20/20 • DENVER, CO APRIL 23-26, 2020

Updated 01/02/2020 Agenda subject to change

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## **Tuesday · April 21** FCLB Office - Blanca Peak ~ NBCE Office - Mt. Columbia

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1:00 PM - 5:00 PM  
Mt. Harvard **FCLB BOARD OF DIRECTORS MEETING**

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## **Wednesday · April 22**

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8:00 AM - 5:00 PM  
Mt. Harvard **FCLB BOARD OF DIRECTORS MEETING**

2:00 - 4:00 PM  
Mt. Yale **FCLB COMMITTEE MEETINGS** - determined by chairs

1:00 - 5:00 PM  
Mt. Oxford **BOARD MEMBER TRAINING** - Dale Atkinson, Esq.

2:00 - 4:00 PM  
Blanca Peak **FCLB CONFERENCE CHECK-IN**

Wednesday evening on your own.

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## **Thursday · April 23**

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7:00 - 8:00 AM  
Blanca Peak **FCLB CONFERENCE CHECK-IN**

7:15 AM  
Colorado Ballroom A  
Foyer **BREAKFAST**  
Full breakfast for registrants.

7:00 AM  
Mt. Harvard **NEW ATTENDEE ORIENTATION & BREAKFAST**  
Is this your first meeting? Learn more about the missions and work you are taking part in.

**EDUCATIONAL PROGRAM - COLORADO BALLROOM A**

8:15 AM **WELCOME & OPENING REMARKS**  
Karlos Boghosian, D.C (CT) - FCLB President

8:30 AM **30th ANNUAL JOSEPH JANSE LECTURE**

ABOUT THE LECTURE SERIES...Speakers for the Janse Lecture series are chosen by a committee of the FCLB board based on their oratory skills, ability to envision future possibilities, and to encourage the audience of regulators to consider new points of view, new perspectives in their approaches to public protection.

The Janse Lecture is successful if the speaker presents a different viewpoint and rekindles passion.

9:15 AM **EDUCATIONAL SESSION -  
The Future of Regulation**  
Ms. Ronne Hines, Director, Division of Professions & Occupations,  
Colorado Department of Regulatory Agencies

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10:00 AM **MIDMORNING BREAK**

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10:15 AM **CONCURRENT PRESENTATIONS**  
**Criminal Referrals and Bad Actors in the Profession**  
Mr. Ian Kildow, Financial Fraud Investigative Supervisor  
Colorado Department of Law - Criminal Justice Section

**CONCURRENT SESSION**  
**Healthcare Professional Remediation Education**  
Dr. Catherine Caldicott, Senior Faculty  
PBI Education

11:00 AM **EDUCATIONAL SESSION**

**ATTORNEY PANEL -**

The panel will discuss:

- Telehealth/Telemedicine
- Sexual Boundary Violations - (trends, policies and new developments, with a focus on what state chiropractic boards should know in light of this challenging issue)
- Dry Needling



12:00 PM **NATIONAL UPDATES -**  
COCSA - CCE-US - ICA - ACA - FCC - ICRS

12:45 PM **LUNCH ON YOUR OWN**

**AFTERNOON SESSIONS -**

2:00 - 2:45 PM **Occupational Licensing Policy Learning Consortium: State-Based Solutions to Licensing Reforms**  
Mr. Carl Sims, Policy Analyst, The Council of State Governments

2:45 - 3:05 PM **Afternoon Sessions Continue**

3:10-3:30 PM **Afternoon Session Continue**

2:00 PM **FCLB FINANCE COMMITTEE MEETING**  
Keita Vanterpool, D.C. (DC) - FCLB Treasurer, Chair

2:30 - 3:30 PM **WORKSHOP: FCLB SERVICES**  
Ms. Kelly Webb and Ms. Janelle Grier - FCLB Staff  
Discover the services your board may access through FCLB membership. Learn more about CIN-BAD, PACE, CCCA, PowerPolls, meetings, and more.

3:30 - 4:30 PM **MEMBERSHIP FORUM**  
Moderator:

- Review proposed bylaws and resolutions
- Meet the candidates for Districts I & II Director and Alternate Director, as well as Nominating Committee candidates
- Learn about committee and task force service

5:30 - 7:00 PM **RECEPTION**  
Come catch up with your regulatory friends for a light reception!

Presentation by the Friends of the FCLB

**The reception is generously sponsored by the NBCE**

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**Friday · April 24 NATIONAL BOARD DAY**

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7:30 - 8:00 AM **FCLB COMMITTEE MEETINGS** - determined by chairs of the standing Committees or Task Forces.

7:30 AM **CHIROPRACTIC BOARD ADMINISTRATORS COMMITTEE (CBAC)  
BREAKFAST & MEETING**  
Ms. Beth Kidd (OK) - Chair &  
See separate Agenda Ms. Patricia Oliver (LA) FCLB Board Liaison

7:30 AM **BREAKFAST**  
Foyer Full breakfast for registrants

8:00 AM **FCLB CREDENTIALS COMMITTEE MEETING**  
Staff support: Ms. Vicki Young (FCLB)

## **EDUCATIONAL PROGRAM - NATIONAL BOARD DAY - AGENDA ITEMS TO BE DETERMINED**

8:30 AM **WELCOME and OPENING REMARKS**  
Daniel Côté, D.C. (OR), NBCE President

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10:50 AM **MIDMORNING BREAK**

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12:15 – 2:15 PM **NBCE LUNCHEON and ANNUAL BUSINESS MEETING**

2:15 - 4:15 PM **CHIROPRACTIC BOARD LEGAL ADVISORS COMMITTEE MEETING  
(CBLAC)**  
See separate Agenda Mr. Ajay Gohill, Esq., (DC) and  
Ms. Mona Baskin, Esq., (AZ) Co-Chairs

2:15 - 3:15 PM **FCLB COMMITTEE MEETINGS** - determined by chairs of the standing  
Committees or Task Forces

4:30 - 5:00 PM **FCLB RESOLUTIONS & BYLAWS COMMITTEE MEETING**  
Kevin Fogarty, D.C. (FL), Chair  
Open session review of proposed bylaws amendments and  
resolutions.

5:30 - 10:00 PM **NBCE Friday Event:** Join the NBCE for dinner and an evening of dueling  
piano fun

## **Saturday · April 25**

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7:00 AM **DISTRICT BREAKFASTS  
ELECTIONS**  
Hosts: FCLB District Directors

- District Director & Alternate Director elections for Districts I & II
- Updates from your district director
- Fall District Meeting information

## EDUCATIONAL PROGRAM CONTINUED -

GUEST HOST:

7:45 AM **INTRODUCTION - WELCOME BACK TO THE FCLB PROGRAM**  
Karlos Boghosian, D.C. (CT), FCLB President

8:00 AM **ANNUAL AWARDS PRESENTATION**  
Karlos Boghosian, D.C. (CT), FCLB President

8:30-8:50 AM **General Sessions Continue**

8:55-9:15 AM **General Sessions Continue**

9:15 AM **Regulation Through Punishment or Remediation: Changing the Conversation**  
Drs. Nancy Kirsch & Richard Woolf, President and Vice President of the Federation of State Boards of Physical Therapy

10:00 AM **PRESENTATION: Call to Action**

Now that you've learned the information, commit to use it. Transform education in action.

10:30 AM **MIDMORNING BREAK**

## ANNUAL MEETING OF THE DELEGATE ASSEMBLY -

10:45 AM **DISTRIBUTION OF VOTING PADDLES** - Tellers Committee

11:00 AM **FCLB ANNUAL BUSINESS MEETING**  
Karlos Boghosian, D.C. (CT), FCLB President, Meeting Chair

- Seating of the Delegates
- Financial Report
- Resolutions & Bylaws
- Elections: Nominating Committee
- Announcements
- New Business
- Installation of the New FCLB Board of Directors

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12:45 PM **LUNCH ON YOUR OWN**

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1:30 - 2:00 PM **POST-CONFERENCE BOARD OF DIRECTORS MEETING**  
Riviera FCLB Board of Directors

## **Sunday · April 26**

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8:30 - 9:30 AM **WEEK IN REVIEW** - Karen Campion, D.C., (TX) will be your host

Plan for 2021 in West Palm Beach, Florida · April 25 - May 2, 2021  
Hilton West Palm Beach · Room rate: \$238/night + taxes - single/double

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----- Original Message -----

Subject: PRACTICE ALERT - AK BOCE Scope of Practice Decision

From: [REDACTED]

Date: 1/21/20 6:45 pm

To: [REDACTED]

Alaska Chiropractic Society

# Practice Alert

## PRACTICE ALERT

### Alaska Board of Chiropractic Examiners

ACS has become aware of a recent decision by the Alaska Board of Chiropractic Examiners regarding the use of "needles" by Doctors of Chiropractic that will impact chiropractic offices that offer needle EMGs or dry needling services.

At this time, the Board of Chiropractic Examiners has rescinded their [Position Statement dated 02/27/2018](#) that Dry Needling is within the scope of Chiropractic Physicians in Alaska.

Here is the excerpt from the [BOCE's 12/23/2019 meeting minutes](#) - Page 6, Agenda Item 5 - that Alaska Chiropractic Physicians should be aware of:

*"Dr. Larson gave a brief overview of what needle EMG constitutes and explained that it comes down to the Department of Law's advice, which states that a needle incises living tissue and therefore constitutes "surgery" as defined in 12 AAC 16.990(b)(2)(A). The board discussed the topic and agreed, based on the*

interpretation from the Department of Law, **that needle EMG is a questionable portion of practice, and that the board cannot approve of it at this time.** The board tasked Mr. Bay with contacting Dr. Wilczak with their decision and to also let her know that **they are working towards clarifying statute so that all who pursue advanced training and education can perform the things they are trained to do, and to hold off until there is a clear definition that allows for it.** **Mr. Bay asked the board if they wanted him to relay the same message to people who ask about dry needling, to which the board agreed."**

It is important to note that the Board of Chiropractic Examiners is aware of the problem with the definition of "surgery" that currently exists in the chiropractic regulations that the Department of Law is basing their interpretation off of and is working to correct.

*12 AAC 16.990. DEFINITIONS. (2) "surgery" - (A) means the use of a scalpel, sharp cutting instrument, laser, electrical current, or other device to incise or remove living tissue;  
(B) does not include venipuncture or the removal of foreign objects from external tissue.*

Because this surgery definition only exists in chiropractic regulations, the Department of Law's interpretation only affects the chiropractic profession and does not translate out to other healthcare providers or individuals who may use "needles".

The BOCE has begun a regulations project to amend the surgery definition and has sent language to the Department of Law for review. Agenda Item 5, Page 12 - [https://www.commerce.alaska.gov/web/portals/5/pub/CHI\\_Minutes\\_2019.11.pdf](https://www.commerce.alaska.gov/web/portals/5/pub/CHI_Minutes_2019.11.pdf).

Here is the new proposed definition - *"surgery" means the structural alteration of the human body by the incision of or cutting into the tissue for the purpose of diagnostic or therapeutic treatment causing localized alteration of human tissue, but does not include the following: procedures for the removal of superficial foreign bodies from the human body, punctures, suturing, injections, venipuncture, dry needling, acupuncture, or removal of dead tissue.*

The Board of Chiropractic Examiners is working in conjunction with the Division of Professional Licensing and the Department of Law to accomplish this goal. A regulations change is a much less involved process than a statute change to correct this problem but will still take several months to accomplish.

I encourage you to read through the [Board of Chiropractic Examiners Meeting Packets and Minutes](#) to see the work they are putting forth for the chiropractic profession. ACS welcomes your feedback on the BOCE's direction. Please send them to [REDACTED] with the subject line BOCE Direction.

Sincerely,

**Sheri Ryan** | Chief Operating Officer  
Alaska Chiropractic Society [REDACTED]

This PS was previously on website

**Dry Needling by Chiropractic Physicians in Alaska: A Position Statement from the Current Alaska State Board of Chiropractic Examiners**

**Author: Brian E. Larson, D.C., DACBSP®**

**Current Board Members:**

**Walter Campbell, D.C., Chairman**

**John Wayne Aderhold, Public Member**

**Brian Larson, D.C., DACBSP®**

**Jeffrey Reinhardt, D.C.**

**Jonathan Vito, D.C.**

**Thomas Bay, Licensing Examiner**

**Reviewed, Amended and Approved: February 27, 2018**

**Introduction to Dry Needling**

Dry needling, also called intramuscular stimulation (IMS) is a specific physiotherapeutic technique focused on the relief of pain and spasm in myofascial trigger points and immediately surrounding tissues wherein a filiform or hypodermic needle is inserted into the tissue without injecting any substance.

A number of practitioners are credited with the development and promotion of dry needling. The origin of the term "dry needling" is attributed to [Janet G. Travell](#). In her book, *Myofascial Pain and Dysfunction: Trigger Point Manual*, Travell uses the term "dry needling" to differentiate between two hypodermic needle techniques when performing [trigger point](#) therapy. However, Travell did not elaborate on the details on the techniques of dry needling. The two techniques Travell described are the injection of a local anesthetic and the mechanical use of a hypodermic needle without injecting a solution (Travell, Simons, & Simons, 1999, pp. 154–155).

Travell had access to acupuncture needles but reasoned that they were far too thin for [trigger point](#) therapy. She preferred hypodermic needles because of their strength and tactile feedback: "A 22-gauge, 3.8-cm (1.5-in) needle is usually suitable for most superficial muscles. In hyperalgesic patients, a 25-gauge, 3.8-cm (1.5-in) needle may cause less discomfort, but will not provide the clear "feel" of the structures being penetrated by the needle and is more likely to be deflected by the dense contraction knots that are the target... A 27-gauge, 3.8-cm (1.5-in) needle, is even more flexible; the tip is more likely to be deflected by the contraction knots and it provides less tactile feedback for precision injection" (Travell, Simons, & Simons, 1999, p. 156).

The "solid filiform needle" used in dry needling is regulated by the FDA as a Class II medical device described in the code titled "Sec. 880.5580 Acupuncture needle" as "a device intended to pierce the skin in the practice of acupuncture".<sup>[5]</sup> Per the Food and Drug Act of 1906 and the subsequent Amendments to said act, the FDA definition applies to how the needles can be marketed and does not mean that acupuncture is the only medical procedure where these needles can be used.<sup>[6][7][8][9][10]</sup> Dry needling, using such a needle, contrasts with the use of a hollow [hypodermic needle](#) to inject substances such as [saline solution](#), botox or corticosteroids to the same point. In a small number of studies, the use of a solid needle has been found to be as effective as injection of substances in such cases as relief of pain in muscles and [connective tissue](#).

The American Academy of Orthopedic Manual Physical Therapists (AAOMPT) states:

**Dry needling is a neurophysiological evidence-based treatment technique that requires effective manual assessment of the neuromuscular system. Physical therapists are well trained to utilize dry needling in conjunction with manual physical therapy interventions. Research supports that dry needling improves pain control, reduces muscle tension, normalizes biochemical and electrical dysfunction of motor end plates, and facilitates an accelerated return to active rehabilitation.**

Dry needling for the treatment of myofascial (muscular) [trigger points](#) is based on theories similar, but not exclusive, to traditional acupuncture; both acupuncture and dry needling target the [trigger points](#), which is a direct and palpable source of patient pain. However, dry needling theory is only beginning to describe the complex sensation referral patterns that have been documented as "channels" or "meridians" in Chinese Medicine. Dry needling, and its treatment techniques and desired effects, would be most directly comparable to the use of 'a-shi' points in acupuncture.<sup>[14]</sup> What further distinguishes dry needling from traditional acupuncture is that it does not use the full range of traditional theories of Chinese Medicine which is used to treat not only pain but



other non-musculoskeletal issues which often are the cause of pain. The distinction between trigger points and acupuncture points for the relief of pain is blurred. As reported by Melzack, et al., there is a high degree of correspondence (71% based on their analysis) between published locations of trigger points and classical acupuncture points for the relief of pain.<sup>[15]</sup> The debated distinction between dry needling and acupuncture has become a controversy because it relates to an issue of scope of practice of various professions.

5. ["\[Code of Federal Regulations\]". FDA.](#)
6. <http://www.gpo.gov/fdsys/pkg/USCODE-2010-title21/pdf/USCODE-2010-title21-chap9-subchapV-partA-sec360j.pdf>
7. <http://www.gpo.gov/fdsys/pkg/USCODE-2010-title21/pdf/USCODE-2010-title21-chap9-subchapV-partA-sec360c.pdf>
8. <http://www.gpo.gov/fdsys/pkg/USCODE-2010-title21/pdf/USCODE-2010-title21-chap9-subchapV-partA-sec353.pdf>
9. <http://www.gpo.gov/fdsys/pkg/USCODE-2010-title21/pdf/USCODE-2010-title21-chap9-subchapV-partE-sec360bbb.pdf>
10. <http://www.gpo.gov/fdsys/pkg/USCODE-2010-title21/pdf/USCODE-2010-title21-chap9-subchapV-partE-sec360bbb-2.pdf>
11. Ma, Yun-Tao. "Integrative Systemic Dry Needling/ A New Modality for Athletes." Biomedical Acupuncture for Sports and Trauma Rehabilitation: Dry Needling Techniques. St. Louis: Churchill Livingstone Elsevier, 2011. 4. Print.
12. Ma, Yun-Tao. "What Is Dry Needling?" (n.d.): 1. Web. 02 Aug. 2010.
13. Ma, Yun-Tao. "Meet Your Teacher." Dry Needling Course RSS. Dr. Yun-Tao Ma, Ph.D., LAc. n.d. Web.
14. ab Aung & Chen, 2007, p. 101.
15. Travell; Simons. *Myofascial Pain and Dysfunction, The Trigger Point Manual, Volume 1. Upper Half of Body, Second Edition.* North Atlantic Books.

## **Introduction to Acupuncture**

Northwestern Health Sciences University states "Chinese medical philosophy holds that all life is sustained by the constant flow of an energy called "qi" (pronounced "chee"). The qi of the body is connected to the qi of nature - illness occurs when the two are out of harmony. Acupuncture and Oriental medicine restore health by strengthening the body's qi and enhancing its flow.

Chinese medical knowledge has been shaped by the experiences of thousands of practitioners over many centuries. Acupuncture and Chinese medicine continue to evolve as practitioners and faculty members at traditional Chinese medicine colleges accumulate new experiences in the modern world."

The Mayo Clinic explains “Acupuncture involves the insertion of very thin needles through your skin at strategic points on your body. A key component of traditional Chinese medicine, acupuncture is most commonly used to treat pain. Increasingly, it is being used for overall wellness, including stress management.

“Traditional Chinese medicine explains acupuncture as a technique for balancing the flow of energy or life force — known as chi or qi (chee) — believed to flow through pathways (meridians) in your body. By inserting needles into specific points along these meridians, acupuncture practitioners believe that your energy flow will re-balance.

“In contrast, many Western practitioners view the acupuncture points as places to stimulate nerves, muscles and connective tissue. Some believe that this stimulation boosts your body's natural painkillers.” This morphing of how acupuncture works adds to the contention that it is no longer an ancient and pure practice, but is becoming blended with Western Medicine as a whole, and no longer a proprietary science with exclusive rights and practices. It should be noted that over 90% of trigger points identified and treated in dry needling correspond to described acupuncture points in multiple studies. This author finds it very difficult to distinguish between the practices of acupuncture and dry needling for all intents and purposes.

**It is not the intent of this author of The Board to focus on arguments of authenticity or origin, nor exclusivity of rights to practice a technique system that appears to offer both options for treatment and a viable method of relief of musculoskeletal pain and relief for patients.**

## **Dry Needling and Chiropractic Scope of Practice in Alaska**

As a therapy, dry needling produces relief of pain and spasm on par with other physiotherapies available to practitioners. Many comparative studies of dry needling to manual/hand techniques, electrical, sound, and light therapies demonstrate similar outcomes, without any greater benefit being demonstrated by dry needling.

Comparison to acupuncture or wet needling, dry needling shows inferior outcomes. The therapeutic effects of dry needling is most evident from three hours to three days of administration and is similar to other common physiotherapies. While dry needling is the current hot, sexy new treatment being used, it really is a middle of the pack therapy.

Certainly Chiropractic Physicians possess the background and practice skills, with proper training and experience to safely and adequately deliver dry needling services.

Chiropractic physicians are outstanding in anatomy and palpation skills, with a much greater level of training in diagnosis and neurology than a vast majority of professions currently practicing dry needling.

## **Risks**

By the very nature of the process, dry needling poses risks that are not found in other areas of chiropractic or allied health care systems. By penetrating the skin, risk of infection, bleeding and bruising are inherent. Proper sterile or clean technique and personal protective equipment to prevent blood-borne pathogen transfer is required.

Cases of epidural hematoma of the cervical spine as well as injury to the central and peripheral nervous system have been documented. Perhaps the most common severe side effect of needling techniques is pneumothorax, which is a life threatening condition. Dry needling has been banned by management of the U.S. Olympic Committee training center clinics due to the rate of pneumothorax in athletes (3 cases in 1 week in 2016.) Pneumothorax caused by needling technique constitutes an acute emergency and requires emergent care in the view of this Board.

A minimum of 24 hours of clinical training in dry needling technique is recommended by the Alaska Physical Therapy Association as sufficient to practice dry needling, without provision for continuing education or registration of participants. No specific training in clean technique or emergency procedures is required. No registration of active practitioners is required.

## **Position of This Board**

The primary function of this board is the protection and benefit of the people of Alaska. Dry needling is within the scope Chiropractic Physicians in the State of Alaska as a commonly performed physiotherapeutic, as outlined in Statute.

. This position is tempered with the following recommendations or guidelines:

1. Dry needling training, as currently practiced by allied healthcare groups, is insufficient in scope and duration. Clinical training should consist of a minimum of 24 hours, with significantly more practical training time recommended. Study and practice of clean technique should be included. The Board strongly recommends emergency procedures training should be sought, with specific training in utilizing low-pressure delivery oxygen systems and airways (OPA/NPA.);
2. Continuing education consisting of 8 hours biannually, with 2 hours of supervised technique and 2 hours of practical emergency procedures;

3. A very careful review of the Chiropractic Physician's malpractice insurance policy and a letter of coverage for dry needling;
4. The Chiropractic Physician must be able to obtain the instruments of the procedure (filiform needles) in a legal manner consistent with the restrictions of his/her license.

**From:** [REDACTED]  
**To:** [Bay, Thomas L \(CED\)](#)  
**Subject:** FWD: RE: Physical Therapy Practice Act - AK SB47 | 2019-2020 | 31st Legislature | LegiScan  
**Date:** Friday, February 7, 2020 2:52:55 PM  
**Attachments:** [REDACTED]

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Afternoon Tom,

SB47 --><http://www.akleg.gov/basis/Bill/Detail/31?Root=sb47> came up for hearing yesterday in the Senate Labor and Commerce Committee. We anticipate the bill will move quickly as it has received overwhelming support both in state and nationally. I do not believe this issue can wait for the BOCE to address at their 02/28/2020 full meeting. My hope is that it can be added to the agenda for their 02/11/2020 meeting.

Our concern with SB47 is isolated to the addition of the title "Physiotherapist" for a physical therapist. We are concerned this may translate to term protection of "physiotherapy" much like how DCs can not advertise "physical therapy" without a licensed physical therapist on staff. Our hope is that the BOCE will write a letter opposing the addition of the title "Physiotherapist" in the PT statutes. I am also sending this matter to the ACS Executive Committee today to vote on so that the association too will submit a letter in opposition.

Here's the section of SB47 in question:

**Sec. 11. AS 08.84.130(a) is amended to read:**

(a) A person not licensed as a physical therapist, or whose license is suspended or revoked [,] or **has** [WHOSE LICENSE IS] lapsed, who uses in connection with the person's name the words or letters "**P.T.,**" "**Physical Therapist,**" "**Physiotherapist,**" "L.P.T.," [,] "Licensed Physical Therapist," or other letters, words, or insignia indicating or implying that the person is a licensed physical therapist, or who, in any way, orally [,] or in writing, directly or by implication, holds out as a licensed physical therapist, is guilty of a class B misdemeanor.

Attached is the information I received from other states about the use of "Physiotherapist" in other states. I wish more had reported in but we have information from a few states.

Please let me know if you have any questions.

**Sheri Ryan** | Chief Operating Officer  
Alaska Chiropractic Society | [REDACTED]

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----- Original Message -----

Subject: RE: Physical Therapy Practice Act - AK SB47 | 2019-2020 | 31st Legislature | LegiScan

From: "Bay, Thomas L (CED)" <thomas.bay@alaska.gov>

Date: 1/8/20 8:09 am

To: "

Good Morning Sheri,

I will definitely put this on the agenda and see if maybe there is something that can be done before the next board meeting. The next board meeting is not until 02/28/2019 and that is a little ways away. I will keep in touch.

Best regards,

Thomas Bay

Occupational Licensing Examiner

Division of Corporations, Business and Professional Licensing

(907)465-2588

**From:** "

**Sent:** Tuesday, January 7, 2020 6:19 PM

**To:** Bay, Thomas L (CED) <thomas.bay@alaska.gov>

**Subject:** Physical Therapy Practice Act - AK SB47 | 2019-2020 | 31st Legislature | LegiScan

Afternoon Tom -

Here's another item that I would request the Board of Chiropractic Examiners review/discuss. I am bringing the item forward for discussion in the ACS Legislative Committee and recommending ACS send a letter voicing concern for this change to Section 11 below.

The AK PT Association has introduced their practice act bill again - SB47 -- <https://legiscan.com/AK/research/SB47/2019>. Of particular attention is Section 11 (bottom of page 7/top of page 8) I believe this is their 4th year of attempting to get this piece of legislation through??? Senator Giessel is the sponsor of the bill.

**Sec. 11. AS 08.84.130(a)** is amended to read:

(a) A person not licensed as a physical therapist, or whose license is suspended or revoked [,] or **has**[WHOSE LICENSE IS] lapsed, who uses in connection with the person's name the words or letters "**P.T.**," "**Physical Therapist**," "**Physiotherapist**," "**L.P.T.**," [,] "Licensed Physical Therapist," or other letters, words, or insignia indicating or implying that the person is a licensed physical therapist, or who, in any way, orally [,] or in writing, directly or by implication, holds out as a licensed physical therapist, is guilty of a class B misdemeanor.

I take exception to the PTs wanting to own the term "Physiotherapist". Not that any chiropractor would call them self a physiotherapist but there appears to be a conflict when our Chiropractic Statutes/Regulations have the following references:

**Sec. 08.20.900. Definitions**

(3) "chiropractic" is the clinical science of human health and disease that focuses on the detection, correction, and prevention of the subluxation complex and the employment of **physiological therapeutic procedures** preparatory to and complementary with the correction of the subluxation complex for the purpose of enhancing the body's inherent recuperative powers, without the use of surgery or prescription drugs; the primary therapeutic vehicle of chiropractic is chiropractic adjustment;

**12 AAC 16.037. NATIONAL EXAMINATION REQUIREMENTS.** (a) To satisfy the examination requirements of AS 08.20.120(a)(6), an applicant must pass each subject of the following parts of the examination of the National Board of Chiropractic Examiners, and the elective **physiotherapy examination**;

**12 AAC 16.320. APPROVED SUBJECTS.** To be approved by the board, a subject must contribute directly to the professional competency of a person licensed to practice as a chiropractor and be directly related to the concepts of chiropractic principles, philosophy, and practice, including the following: (1) treatment and adjustment technique, including **physiotherapy**, nutrition and dietetics;

**Sheri Ryan** | Chief Operating Officer  
Alaska Chiropractic Society

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**Physical Therapists introduced legislation in AK recently to add "Physiotherapist" to their list of titles...**

**Sec. 11. AS 08.84.130(a)** is amended to read:

(a) A person not licensed as a physical therapist, or whose license is suspended or revoked or has lapsed, who uses in connection with the person's name the words or letters "P.T., "Physical Therapist," "Physiotherapist," "L.P.T.," "Licensed Physical Therapist," or other letters, words, or insignia indicating or implying that the person is a licensed physical therapist, or who, in any way, orally or in writing, directly or by implication, holds out as a licensed physical therapist, is guilty of a class B misdemeanor.

1. Do PTs own the advertising term "physical therapy" in your state? Meaning chiropractors (or any other health provider) cannot advertise physical therapy unless they have a physical therapist on staff.
2. Do PTs have the title "Physiotherapist" approved in statute/rule in your state?
3. Do PTs own the advertising term "physiotherapy" in your state?

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Sheri Ryan, COO  
Alaska Chiropractic Society

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Yes – PTs "own" the terms "physical therapy" and "physiotherapy" in Virginia, as of 2010.

("Yes" to all 3 questions)

Julie K Connolly, FICC  
Executive Director  
Unified Virginia Chiropractic Association

- 
1. Do PTs own the advertising term "physical therapy" in your state? Meaning chiropractors (or any other health provider) cannot advertise physical therapy unless they have a physical therapist on staff. **Yes**
  2. Do PTs have the title "Physiotherapist" approved in statute/rule in your state? **Yes**
  3. Do PTs own the advertising term "physiotherapy" in your state? **Not technically listed in their scope, but DCs are encouraged by our Board of Examiners to use the term modalities instead of physiotherapy. Some DCs also call it physiological therapeutics.**

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Valerie Smith, M.A.  
Executive Director  
Georgia Chiropractic Association, Inc.

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1. Do PTs own the advertising term "physical therapy" in your state? Meaning chiropractors (or any other health provider) cannot advertise physical therapy unless they have a physical therapist on staff. **Yes**
  2. Do PTs have the title "Physiotherapist" approved in statute/rule in your state? **Yes**
  3. Do PTs own the advertising term "physiotherapy" in your state? **Yes**

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Jeff Curwen, CAE  
Executive Director  
Washington State Chiropractic Association

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#### In Louisiana

1. Do PTs own the advertising term "physical therapy" in your state? Meaning chiropractors (or any other health provider) cannot advertise physical therapy unless they have a physical therapist on staff. **Yes**
2. Do PTs have the title "Physiotherapist" approved in statute/rule in your state? **Yes**
3. Do PTs own the advertising term "physiotherapy" in your state? **Yes**

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Timothy Chittom  
Executive Director  
Chiropractic Association of Louisiana

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New York State Education Law, Title VIII - The Professions, Article 136 -- Physical Therapy, ?? 6732. Practice of physical therapy and the use of title "physical therapist".

?? 6732 Practice of physical therapy and use of title "physical therapist."

Only a person licensed or otherwise authorized under this article shall practice physical therapy or use the title "physical therapist", "physiotherapist" or "mechanotherapist" or the abbreviation of "P.T." in connection with his or her name or with any trade name in the conduct of his profession.

Karl C. Kranz, DC, Esq.  
Executive Director/Staff Counsel  
New York State Chiropractic Association

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1. Do PTs own the advertising term "physical therapy" in your state? Meaning chiropractors (or any other health provider) cannot advertise physical therapy unless they have a physical therapist on staff.

No. Although their practice act does give the term physical therapy protected status, those licensed to perform those tasks in other acts are able to advertise that fact. In fact, we have a letter from the regulatory body that states specifically that chiropractic physicians can use the term in advertising. The specific language included in the PT act is "This Act does not prohibit a person licensed under any other Act in this State from engaging in the practice for which he or she is licensed or from delegating services as provided for under that other Act." Our discussion with regulators prior to the letter surrounded free speech - if our doctors are licensed to utilize a service within their scope of practice AND they bill the same codes that are billed by PTs, then it would be a clear violation of free speech to prevent doctors from advertising services they are legally allowed to perform. This was a similar argument made by physicians, attorneys, drug companies, etc. in the past to open the doors to advertising services/products.

1. Do PTs have the title "Physiotherapist" approved in statute/rule in your state? **Yes**
2. Do PTs own the advertising term "physiotherapy" in your state? **See 1**

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Marc Abla, CAE  
Executive Director, Illinois Chiropractic Society