

Agenda Item 3**Review/Approve Meeting Minutes****Time: 10:10 a.m.**

The board reviewed the meeting minutes from February 28th, 2020, March 26th, 2020, and April 23rd, 2020.

On a motion duly made by Jonathan Vito, requesting unanimous consent, and approved unanimously without any objections, it was

RESOLVED to approve the meeting minutes from the February 28th, 2020, March 26th, 2020, and April 23rd, 2020, meetings as written.

Agenda Item 4**Board Business****Time: 10:13 a.m.****Ethics Report**

Dr. Larson addressed ethics reporting. The board had no ethical violations to report.

Review Goals & Objectives

The board began discussion on their goals and objectives.

- **Task List from February 28, 2020, Board Meeting:** Dr. Larson asked Mr. Bay to update the board on where they were with their tasks from their last meeting. Mr. Bay addressed the tasks with the board. He began by informing the board that he still had not received the poll that Dr. Larson and Dr. Jeffrey Reinhardt, a former board member that was currently on a subcommittee to finish the task, were supposed write, regarding an advanced practitioner status, so that he could send it to the Federation of Chiropractic Licensing Boards (FCLB) and chiropractic specialty boards. Dr. Larson informed the board that he had been in communication with Dr. Reinhardt and that they were still working on the task. Mr. Bay continued with the task list. He reminded the board that he was tasked with reaching out to other licensing examiners who oversee health-related professions and the FCLB to find out how they deal with discount services and the concept of inducement. He informed the board that none of the other health-related professions have dealt with this issue and that the FCLB had provided him with information that he could get to the board after lunch. He informed the board that Dr. Morris was tasked with writing up the annual report, which was ready for an initial review and was also their next agenda item. Mr. Bay continued with the task list. He informed the board that he had spoken to fiscal staff in the department to find out what the cost of administering the jurisprudence examination is to the board, and that someone would be in attendance to discuss it later in the day during their budget report. The board's last three tasks had to do with getting their regulations project out for public comment. Mr. Bay reminded the board that every task was complete and that their regulations project was currently out for public comment and would be finished on June 9th, 2020, at which time they would have to schedule another meeting to address public comments.
- **Annual Report:** Dr. Larson asked Mr. Bay to pull up the draft of the Fiscal Year 2020 annual report that Dr. Morris had written. Mr. Bay pulled up the draft and informed the board that the annual report consisted of a narrative statement, budget recommendations, proposed legislative recommendations, regulatory recommendations, and goals and objectives that they needed to approve for FY 2021. The board reviewed the annual report. They approved the narrative statement as written. They scheduled quarterly board meetings, travel required to perform examinations, and out of state meetings for the budget recommendations.

Greg Francois, Chief Investigator, joined the meeting at 10:44 a.m.

The board welcomed Greg Francois, Chief Investigator for the division, to the meeting. Mr. Francois apologized for interrupting the meeting and asked if Dr. Larson could call him during a break, to which Dr. Larson said he would. Mr. Francois thanked the board for their time and left the meeting.

Greg Francois, Chief Investigator, left the meeting at 10:46 a.m.

They finished reviewing the annual report by proposing legislative recommendations, regulatory recommendations, and their goals and objectives for FY 2021. Mr. Bay informed the board that the last portion of the annual report, the sunset audit recommendations portion, was not to be filled out by them and that most of it just had to be copied from the previous year's report. The board decided to have Dr. Morris and Mr. Bay make needed amendments to the report and to have it voted on through OnBoard at a later date. Dr. Larson momentarily disconnected from the meeting and Dr. Vito, as Vice Chairman, took over in his absence.

Brian Larson, Doctor of Chiropractic, left the meeting at 11:09 a.m.

On a motion duly made by John Lloyd, seconded by James Morris, and approved unanimously by a roll call, it was

RESOLVED to have Dr. Morris and Mr. Bay make any needed amendments to the report and to have it voted on through OnBoard at a later date.

TASK: Mr. Bay will get a completed version of the annual report to the board for voting.

Dr. Larson reconnected to the meeting.

Brian Larson, Doctor of Chiropractic, joined the meeting at 11:11 a.m.

Ratify New Licenses

Having finished with the annual report the board began discussion on ratifying the new licenses for licensees who sat for the February 28th, 2020, jurisprudence examination.

On a motion duly made by Jonathan Vito, seconded by John Lloyd, and approved unanimously by a roll call, it was

RESOLVED to ratify the licenses for David Ballard, Richard Bingham, and Shane-Anthony Lee.

Agenda Item 5

Statutes and Regulations

Time: 11:14 a.m.

Mr. Bay informed the board that their goal for 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, had not passed in legislation as it was previously expected. He informed them that it did not get passed because the bill it was attached to had not passed. He reminded them that it was again in their annual report that they had just gone over, and that they again would need to try to get a sponsor for it during FY 2021.

David Edwards-Smith, Chairman, Alaska Board of Massage Therapists, joined the meeting at 11:15 a.m.
Dawn Dulebohn, Occupational Licensing Examiner, joined the meeting at 11:15 a.m.

The board welcomed David Edwards-Smith, Chairman for the Alaska Board of Massage Therapists (ABOMT), and Dawn Dulebohn, occupational licensing examiner for the ABOMT to the meeting. Mr. Bay informed the board that he was wrong at the last meeting and that they needed to motion to have representatives of the board when trying to find legislative sponsors for anything they wanted to get changed in statute, and that it would also be good to draft a board letter that can be provided to legislative sponsors so that the same information is being provided by all board representatives. Dr. Larson suggested that the board wait until the next board meeting before making a motion for representatives to contact legislative sponsors. He explained that there was still some ground work to be done before a letter could be drafted for what they were going to try to get done through legislation. The board agreed to table discussion on this topic until the next board meeting. With nothing left to discuss the board began discussion on COVID-19.

Agenda Item 6

COVID-19

Time: 11:22 a.m.

Dr. Larson invited Chairman Edwards-Smith to explain how the ABOMT's Health Mandate 15 (HM15) guidance was working for their board and licensees. Mr. Edwards-Smith informed the board that the final HM15 guidance was working out well with licensees and that many of them were relieved to have guidance moving forward. The board agreed with Mr. Edwards-Smith, stating that they had seen and heard good things from massage therapists since its release. Dr. Lloyd informed Mr. Edwards-Smith that many chiropractic offices had received a PPP loan, which essentially meant that offices were provided an eight-week loan to help with payroll costs, and that any amount of the loan that was not used would be paid back. He explained that about twenty percent of massage therapists in his clinic were back at work, but that many had not come back., and that the offices that had received the loan were required to send a letter stating that employment was available or the loan would not be forgiven. The issue, he said, was that once those letters go out the unemployment benefits for anybody that is not working will stop. Ms. Dulebohn informed everybody that, to her knowledge, everything unemployment benefit related had gone through Director Sara Chambers, and ultimately cases were being reviewed on a case-by-case basis by the Department of Labor, with health and safety being considered when determining unemployment benefits. Sheri Ryan, from the Alaska Chiropractic Society (ACS) asked Mr. Edwards-Smith why there was a discrepancy between the version the ABOMT approved at their meeting and the one that was approved by Unified Command, concerning the requirement to wear a surgical mask compared to the cloth-faced mask that came out in the guidance. Mr. Edwards-Smith explained that this was not the intention of the ABOMT, and that the outcome was out of their control. Ms. Dulebohn explained that Unified Command was contacted and stood by the cloth-faced mask, but informed the ABOMT that they had regulatory authority to impose higher safety standards. Ms. Dulebohn further explained that the ABOMT is required to follow CDC guidelines and that she found, after researching on the CDC website, that cloth-faced masks were not considered PPE in any way. At that point, she explained, the ABOMT issued a stricter safety standard of requiring a surgical mask. Ms. Ryan thanked them for addressing the issue. Dr. Larson asked Mr. Edwards-Smith and Ms. Dulebohn if there was anything else they wanted to address during the meeting, to which they did not.

David Edwards-Smith, Chairman, Alaska Board of Massage Therapists, left the meeting at 11:36 a.m.
Dawn Dulebohn, Occupational Licensing Examiner, left the meeting at 11:36 a.m.

Dr. Larson informed the board that the governor had organized a board, since their last meeting, of board chairmen/chairwomen from the medical professions to deal with the COVID-19 pandemic. He mentioned that the dental board was having issues with aerosolized procedures because they required testing within 48 hours of a procedure, and that it was almost impossible to adhere to that requirement because Alaska only has two labs in the state, one in Anchorage and one in Fairbanks. He explained that, although some boards were still dealing with such issues, there was a lot of constructive work being done through the weekly meetings, and that a lot of it had to do with testing. Specifically, the requirement for testing to be done as soon as possible and throughout the state. He said that, with the numbers getting consistently better, he thought Alaska was moving more and more towards regular licensing. Dr. Larson called for an early lunch.

The board recessed for lunch.

Dr. Larson called recess for lunch at 11:44 p.m.

Off Record at 11:44 a.m.

On Record at 1:14 p.m.

Jasmin Bautista, Investigator, joined the meeting at 1:14 p.m.

Back from lunch, the board welcomed Jasmin Bautista and asked her to present her investigative report.

Agenda Item 9

Investigative Report

Time: 1:14 p.m.

Ms. Bautista reminded the board that they could not discuss open cases, but that she would do her best to answer any questions. She informed the board that there were currently three open cases. She explained that two of the cases had a case status of “monitor,” while one had a case status of “intake.” She explained that the two cases with a case status of “monitor” were being watched and were at the Attorney General’s office for review, which meant that they could make recommendations on whether the Investigations Unit could move forward with the cases or not. She also explained that the one case with a case status of “intake” meant that they just received the case. She explained the investigative process to the board’s newest member, Dr. Lloyd. With nothing left to report Ms. Bautista left the meeting.

Jasmin Bautista, Investigator, left the meeting at 1:21 p.m.

Agenda Item 10

ACS Update

Time: 1:21 p.m.

The board began discussion on the ACS Update. Mr. Bay informed the board and Sheri Ryan that he was able to get the information from the FCLB regarding how other states deal with discount services and the concept of inducement. After reviewing the information, Ms. Ryan asked the board if they were willing to work in conjunction with the ACS to create advertising statutes and/or regulations to deal with the issue. The board was unsure if this was a statutory or regulatory issue, noting that there was no precedent set. Ms. Ryan informed the board that there used to be something in the chiropractic statutes and regulations concerning advertising, but that it was repealed, and asked Mr. Bay if he knew how they could get the information. Mr. Bay said that he was fairly certain he could get the information from a regulations specialist, and asked Ms. Ryan if she knew where in the statutes and regulations it was repealed. After going through the chiropractic statutes and regulations, Ms. Ryan found Appendix A, in Section 3, “Notice on Superiority Advertising.” After reading through it, the

board learned that advertising practices implying superiority of treatment or diagnosis and claiming superiority over or greater skill than other practitioners was repealed so that the advertising practices previously prohibited would no longer be considered “misrepresentation” and therefore would be allowed, and that the request came from the Federal Trade Commission with concurrence of the Alaska Attorney General.

Ms. Ryan informed the board that ACS’s legislative committee met to review the board’s regulations project that was currently out for public comment, and that they would be providing their recommendation to the ACS’s executive board in advance of their next meeting on Thursday, May 21st, 2020. The executive board, she explained, would then have a notice to all of ACS’s membership, which would give plenty of time for their members to provide public comment before the deadline. She informed the board that the legislative committee was very favorable of the regulations project and asked her to send their gratitude for a job well done.

Ms. Ryan asked the board what their intent was on continuing education during the COVID-19 pandemic, specifically what they intended to do about the required 16 in-person credits for the renewal at the end of the year. She informed the board that she needed to know because the ACS Convention was coming up and it was ACS’s hope that the 16 in-person credits would still be required because the convention is where they get most of their money to fund initiatives that advance chiropractic in the state. Dr. Morris mentioned that some of the state mandates are being superseded by local mandates that are stricter and asked the board for their thoughts on making the decision at their next board meeting in August to see how the state mandates unfold. Dr. Larson reminded the board that the state emergency had been extended until November 15th, 2020, and that the board had plenty of time to make a decision about continuing education. He also suggested making the decision at the next meeting in August, once they knew exactly how the pandemic would unfold until then. Mr. Bay informed the board that he was receiving emails almost daily from chiropractors asking if and when the board was going to change the continuing education requirements, specifically the required 16 in-person credits. Mr. Bay also informed the board that he had been getting requests for continuing education courses, that were supposed to be in-person and had not yet been board approved, to still allow for in-person credits through live webinars. He reminded the board that they had used the powers of SB 241 at their last meeting to approve previously approved continuing education in-person courses to be done via live webinars and to allow those credits to be counted as in-person credits, but that it did not include specific hands-on training, such as dry needling. The issue, he said, was that continuing education providers did not want to apply for approval unless they knew they could get their credits approved for in-person because chiropractors who had originally scheduled for the courses expected them to be in-person to fulfill their in-person continuing education requirements for renewal. He also informed the board that there was a chiropractor who was asking about the same issue, and that he wanted to apply for credit, but was seeing if he could get in-person credits for the course because it was originally supposed to be in-person. The board told Mr. Bay to have anybody with this issue send in an application and the board would consider their requests on a case-by-case basis, and to have the person or organization provide supporting documentation that proves the course was supposed to be in-person but was moved to a live webinar due to the COVID-19 pandemic. The board paused discussion on the ACS update to address public comment/correspondence.

Agenda Item 12

Public Comment/Correspondence

Time: 2:15 p.m.

Dr. Larson opened public comment and asked if there was anybody on the videoconference line, to which there was not. Dr. Larson closed public comment. Having nobody present for public comment, the board continued with the ACS Update.

Ms. Ryan informed the board that the physical therapy and occupational therapy board and the veterinary board had waived all of the continuing education for their 2020 renewal. She said that it was her concern that their board would do the same. She explained that making a ruling on continuing education in August was not an option for the ACS Convention because she would need to sign a contract in advance of that date, and was worried about how modifying or waiving continuing education in the future might make the in-person courses the convention offered obsolete, leading to a very low turnout and ACS losing a large amount of revenue. Dr. Lloyd asked Ms. Ryan if it was possible to move the ACS convention to October 2021 and then have a convention every other year following that date. Ms. Ryan said that it was possible to move the convention if she had to. The board discussed several options and ultimately decided that the COVID-19 pandemic had created many barriers for licensees to receive in-person continuing education due to lack of opportunity to travel, restrictions through health mandates, and other COVID-19 related issues. The board discussed modifying the continuing education requirements for the December 31st, 2020, renewal, and decided to reduce the required 32 credits, for chiropractors that have been licensed for more than two years, to 16 credits, and allowing all of them to be done online, except for specific hands-on competency, such as dry needling. They also decided to reduce credit requirements such as X-ray, ethics/boundaries, coding/documentation, etc. by half.

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

RESOLVED to, per the provisions of SB 241, modify the chiropractic continuing education requirements by reducing the required 32 credits to 16 credits, and allowing all of them to be done online, except for specific hands-on competency, such as dry needling. Specific credit requirements such as X-ray, ethics/boundaries, coding/documentation, etc., can be reduced to half.

TASK: Mr. Bay will update the board's website to notify licensees of the board order.

Melissa Dumas, Administrative Officer, joined the meeting at 2:35 p.m.

Mr. Bay informed the board that Melissa Dumas, an administrative officer for the division, had joined the meeting to go over the boards' budget report. He also informed the board that they would need to make a motion to amend the agenda by moving agenda item #13, Budget Report/Division Updates, ahead of #11, FCLB/NBCE/CCE Updates.

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

RESOLVED to amend the agenda by moving agenda item #13, Budget Report/Division Updates, ahead of #11, FCLB/NBCE/CCE Updates.

The board welcomed Melissa Dumas to the meeting and asked her to proceed with the budget report. Ms. Dumas began with the board's budget report from the 3rd quarter of Fiscal Year 2020 (FY20). She broke down total revenue and total expenditures, which ultimately came to a deficit. She reminded the

board that they will be going into a renewal year in FY21, and that, although she expects the chiropractic board to be in a deficit at the end of FY20, the revenue from license renewal fees will create a surplus. Mr. Bay reminded her that the board was trying to get their jurisprudence examination administered nationwide, and that it would result in their exam fee being split with a 3rd party proctoring company. He asked her if she knew how much it would cost the board if their exam fee was lowered. She said that it would probably not be a large enough amount to dramatically change their license fees, but that it might require the board to change some of their other fees to make up for the lost revenue. She asked the board if they had any further questions, to which they did not. Ms. Dumas left the meeting.

Melissa Dumas, Administrative Officer, left the meeting at 2:52 p.m.

Agenda Item 11

FCLB/NBCE/CCE Updates

Time: 2:53 p.m.

Ethics and Boundaries Assessment Services (EBAS) exam

Dr. Larson asked Mr. Bay to provide the board with any updates from the FCLB, NBCE, or CCE. Mr. Bay brought up the EBAS exam because it was owned and operated by the NBCE. He provided the board with Harriet Milks', Senior Assistant Attorney General for the Department of Law (LAW) and the board's attorney, analysis of the EBAS exam. She explained that the EBAS exam could not by itself be the test for reinstatement, but that it might be useful in a more general application. She noted that the exam was not state-specific and that the exam was graded by out-of-state graders, which could be seen as the board delegating their decision making. She informed the board that there was no legal problem with at least opening up a regulations project with it and obtaining public comment. Dr. Larson volunteered to write an email to LAW explaining what the board wanted to use the exam for, and that they had no intention of using the exam by itself as a test for reinstatement, to which the board approved.

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

RESOLVED to have Dr. Larson reach out to the Department of Law regarding implementation of the EBAS exam, as a representative of the Board of Chiropractic Examiners.

TASK: Dr. Larson will write an email to LAW regarding the EBAS exam and send it through the board's licensing examiner, Mr. Bay.

State Jurisprudence Examination

Dr. Larson asked Mr. Bay to update the board on their goal to implement the state jurisprudence examination nationwide at NBCE testing centers. Mr. Bay informed the board that he did not have much for an update because the board, at their last meeting, was waiting to move forward until they found out the cost of lowering their exam fee and splitting the fee with the NBCE, as discussed earlier. He raised a concern to the board, stating that they might have a hard time implementing the exam nationwide because the exam would be wholly recreated by the NBCE, and could be seen as the board delegating their decision making, which was one of Ms. Milks' concerns with the EBAS exam. He reminded the board that the NBCE uses state statutes and regulations to create their own exam, and that the board does not write any of it. He reminded the board that they had never previously motioned for LAW to review the NBCE's process of getting the exam administered at their testing centers. After discussing it, the board decided to have LAW review implementation of the state jurisprudence examination nationwide.

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

RESOLVED to have the Department of Law vet the state jurisprudence examination being administered nationwide through the National Board of Chiropractic Examiners.

TASK: Mr. Bay will send the board’s request, for LAW to vet the state jurisprudence examination being administered nationwide through the NBCE, to LAW through the appropriate channels.

Agenda Item 14 Administrative Business Time: 3:26 p.m.

Set Meeting Dates

The board confirmed a hard date of August 21st, 2020, for their next board meeting. They also confirmed a tentative date for November 13th, 2020, for their following meeting.

Agenda Item 15 Adjourn Time: 3:27 p.m.

Having nothing left to address, the Alaska Board of Chiropractic Examiners’ Chair, Brian Larson, adjourned the meeting at 3:27 p.m.

Respectfully Submitted by:

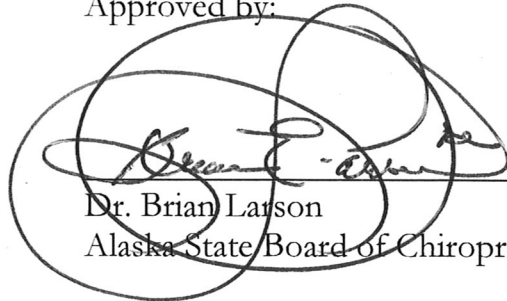


Thomas Bay

07/06/2020
Date

Licensing Examiner

Approved by:



Dr. Brian Larson

6/29/2020
Date

Alaska State Board of Chiropractic Examiners