

**STATE OF ALASKA
DEPARTMENT OF COMMERCE, COMMUNITY AND
ECONOMIC DEVELOPMENT
DIVISION OF CORPORATIONS, BUSINESS AND PROFESSIONAL LICENSING
BOARD OF CHIROPRACTIC EXAMINERS**

**MINUTES OF MEETING
JUNE 8, 2007**

By authority of AS 08.01.070(2) and in compliance with the provisions of AS 44.62, Article 6, a scheduled meeting of the Board of Chiropractic Examiners was held on June 8, 2007 in Juneau, Alaska.

June 8, 2007

Call to Order/Roll Call

The meeting was called to order by Dr. Gregory Culbert, President at 8:08 a.m. Those present, constituting a quorum of the Board were:

Gregory M. Culbert, DC, President
David J. Mulholland, DC, Vice-President
R. Clark Davis, DC, Secretary
Jeff Garness, Public Member
Rosemary Zimmerman, DC

In attendance from the Department of Commerce, Community and Economic Development, Division of Corporations, Business and Professional Licensing, was:

Cori Hondolero, Licensing Supervisor – Juneau
Veida Forrest, Licensing Examiner – Juneau
Jun Maiquis, Regulations Specialist – Juneau
Cindy Roccodero, Licensing Examiner – Juneau
Chris Wyatt, Administrative Manager – Juneau

In attendance via teleconference was:

Susan Winton, Investigator - Anchorage

Agenda Item 1 – Review/Amend Agenda

The Board made the following changes/updates to the agenda:

Item 3 – Online Chiropractic Practice was moved to item 4
Item 4 – Peer Review Committee was moved to item 3
Item 15 – Correspondence was moved to item 11
Item 11 – Injectable Nutrients was moved to item 15

Upon a motion by Zimmerman, seconded by Davis and approved unanimously, it was:

RESOLVED to approve the June 8, 2007 meeting agenda as amended.

Agenda Item 2 – Investigative Report

Susan Winton, Investigator from the Division of Corporations, Business and Professional Licensing joined the meeting telephonically.

Case Number	Alleged Violation	Status
<u>Open Cases</u>		
C700-07-009	Other – Cont. Education Ad	Inquiry on-going
C700-07-010	Practice Beyond Scope	Recently opened – inquiry on-going
<u>Probation</u>		
700-02-002	Mental Health / Sub. Abuse	5 yr MOA – 12/01/02; not practicing in AK
700-06-003	Criminal Action – Conviction	3 yr MOA – 1/26/07; licensee in compliance.
<u>Closed</u>		
700-06-002	Negligence	Closed with Division/Bd Member approval
700-06-003	Criminal Action – Conviction	License Action
700-07-001	Action in Another State	No action – No violation
C700-07-001	License Application Problem	No action – No violation
C700-07-002	Physical/Mental Disability	No action – No violation
C700-07-003	License Application Problem	No action – No violation
C700-07-004	License Application Problem	No action – No violation
C700-07-005	License Application Problem	No action – No violation
C700-07-006	License Application Problem	No action – No violation
C700-07-007	Action in Another State	Closed – Case opened (see 700-07-001)
C700-07-008	License Application Problem	No action – No violation
C750-07-001	License Application Problem	No action – No violation

Upon a motion by Culbert, seconded by Davis, it was

RESOLVED to enter into executive session in accordance with Alaska Statute 44.62.310(c)(2) to discuss privileged disciplinary information.

8:15 am Board enters into Executive Session, off record

8:22 am Board back on record

Dr. Rosemary Zimmerman asked if the creation of an ‘impaired physician review’ committee would help Ms. Winton in processing chiropractic substance abuse complaints. Ms. Winton indicating that there is an increase in reporting in all health care professions so at this time a review committee is not likely to help her. Currently chiropractors do not fall under the Physicians Health Committee, and Ms Winton suggested that the Board contact Mary Ann Foland for chiropractic inclusion into this program.

C700-06-010 - File will be closed as there is not violation

700-06-003 - The person has paid the required fine and this person's employer is no longer allowing the chiropractor to work in billing.

Internet Practice

Ms. Winton noted that the Medical Board regulation 12 AAC 40.967(27) states that "unprofessional conduct" means: providing treatment, rendering a diagnosis, or prescribing medications based solely on a patient-supplied history that a physician licensed in the state received by telephone, facsimile, or electronic format;

Dr. Culbert asked if there were any comparable Chiropractic regulations; Ms. Winton indicated there is not. Ms. Winton noted that if the Board chose to add this type of regulation it would be logical to put it under minimum professional conduct.

Agenda Item 4 – Peer Review Committee

Ms. Winton detailed her follow up contact with Ms. Johnson and changes to the packet given to the peer review committee. Ms. Winton also discussed the need to provide a follow up process so the Board gets additional input from the peer review requestor, if the requestor does not agree with the Peer Review findings.

Dr. Culbert questioned the 'no' answers found by the Peer Review Committee. Dr. Mulholland stated that there are two elements of the peer review mechanism. One is a disciplinary element and one is a utilization review element, and it would be clearer if the Board separated those two functions either by regulation or statute. Ms. Winton added that if there are malpractice issues, the review requestor can still pursue civil litigation.

Dr. Culbert asked for clarification of the Boards responsibilities on peer reviews. Dr. Davis stated that the Board has ultimate authority and has the option to do nothing, write a letter of comment, or open an investigation. The Board made no action on this issue.

The Board moved into discussion regarding peer review members. Ms. Forrest noted that renewal letters were sent to Dr. Holt and Ms. Paddock but had not received responses as of June 8, 2007. She also noted that the other committee members are expiring this year and are not eligible for reappointment.

Dr. Culbert led discussion in potential candidates to the Peer Review Committee. The Board created a list of potential candidates to send letters of interest to.

Agenda Item 3 – Online Chiropractic Practice

The Board discussed the results of the requested Federation of Chiropractic Licensing Boards PowerPoll regarding telemedicine.

Mr. Garness asked how to define a doctor/patient relationship. Dr. Mulholland replied that, in his opinion, any person with a specific expertise who gives advice that can be reasonably relied upon by a layperson has established a doctor/patient relationship.

Agenda Item 5 – Continuing Education

The Board reviewed the continuing education documentation provided by the audited licensees, and courses for continuing education approval submitted by the Alaska Spine Institute and the Texas Chiropractic College.

Upon a motion by Culbert, seconded by Zimmerman and approved unanimously, it was:

RESOLVED to approve the Alaska Spine Institute – Pain and Radiological Symposium: Clinical Spine Update presented by the Alaska Spine Institute in September 15, 2005.

Upon a motion by Davis, seconded by Culbert and approved unanimously, it was:

RESOLVED to approve the Karl Parker Seminar 2007 presented by the Texas Chiropractic College in January of 2007.

Upon a motion by Davis, seconded by Zimmerman and approved unanimously, it was:

RESOLVED to approve the continuing education hours for license holders Rodney L. Anderson, Edward Barrington, Robert Como, Norman Fuller, Edward Foster, Kurt Hediger, James Heston, Eugene Kremer, Peter Lorentzen, Norman Todd Lovell, Guy Mannino, Tony Owen Romeril, Peter Arnold Ryan, William Sobolesky, Stanley Trekell, William West, and A. Nick Williams.

Break at 10:22 a.m.; back on the record at 10:28 a.m.

Upon returning from break, Cori Hondolero, Licensing Supervisor, entered the meeting.

The Board questioned Ms. Hondolero on the procedure for approving a licensee's continuing education if the courses indicated on the renewal application were not approved by the Board. Ms. Hondolero answered that the type of action depends if the applicant either did not complete the required continuing education hours or if the completed courses have not yet been Board approved. Dr. Davis noted that all the auditees seemed to provide legitimate courses, but the courses have not been approved by the Board. Ms. Hondolero stated that the Board can post-approve courses if the Board chooses. Dr. Davis said that the Board has post-approved courses in the past.

The Board decided to send requests for more information to the licensees whose continuing education is in question. The licensee will have 120 days to comply with the Board's request for information prior to turning the licensing file over to the paralegal.

Cori Hondolero, Licensing Supervisor left the meeting at 10:48 a.m.

Agenda Item 6 – Goals & Objectives/Annual Report

Dr. Culbert provided the Board with the Narrative Statement, Sunset Performance Audit Recommendations, and Needs of the Board Statement he had written prior to the Board meeting.

Upon a motion by Mulholland, seconded by Zimmerman and approved unanimously, it was:

RESOLVED to accept the Narrative Statement, Sunset Performance Audit Recommendations, and Needs of the Board Statement as written by Dr. Gregory Culbert, Chair for the Annual Report for Fiscal Year 2008.

The Board discussed the current goals and objectives, the italicized objectives were added at the January 2007 Board Meeting.

Goal 1. Carry out assigned duties of the board:

- Objective 1: Conduct a minimum of two board meetings a year.
- Objective 2: Continue licensing chiropractic physicians, processing applications in a timely manner.
- Objective 3: Review investigative reports, monitor disciplinary actions, and provide professional direction to the Division of Corporations, Business and Professional Licensing investigative staff regarding probation matters and chiropractic practice.
- Objective 4: Monitor and appoint the Peer Review Committee.
- Objective 5: Continue to review and process requests for continuing education credit approval in a timely manner.

Goal 2. Provide information regarding board activities to the profession and the public.

- Objective 1: Inform all licensees of any pending regulation changes in the customary manner.
- Objective 2: Provide a public comment period at each meeting.
- Objective 3: Address concerns presented by licensees and the public at each meeting.
- Objective 4: Provide copies of agendas and/or minutes of the meetings to all who request them.
- Objective 5: Continue to work with other licensing boards, at both the district and national level.
- Objective 6: Address the reporting requirements for domestic violence and sexual assault.

Goal 3. Pursue statutory authority consistent with the practice of chiropractic to ensure the health and safety of the public.

- Objective 1: Support the Alaska Chiropractic Society (ACS) in pursuing correction of the conflicting licensure requirements between Workers Compensation statutes and Chiropractic statutes.
- Objective 2: Support the Alaska Chiropractic Society (ACS) in pursuing statutory authority for regulation of Independent Medical Examiners (IMEs). This goal has been partially accomplished by existing statutes and regulations.
- Objective 3: Support the Alaska Chiropractic Society (ACS) in pursuing an increased fine for unlicensed practice under AS 08.20.200.

- Objective 4: Support the Alaska Chiropractic Society (ACS) regarding the subject of school and sports physicals.
- Objective 5: Support the Alaska Chiropractic Society (ACS) regarding the subject of Independent Medical Examiners (IMEs).
- Objective 6: Pursue statutory authority to set administrative fees.
- Objective 7: Pursue statutory authority to create Position Statements.
- Objective 8: Amend Alaska Statute 08.20160 by removing “apparently” from verbiage.
- Objective 9: Support the Alaska Chiropractic Society regarding chiropractic technicians.

Goal 4. Assess and evaluate regulations:

- Objective 1: Assess and evaluate continuing education requirements.
- Objective 2: Assess and evaluate radiological safety, professional boundaries, public health, emergency training.
- Objective 3: Proactively make recommendations through regulations to anticipate changes in the health industry.
- Objective 4: Raise awareness with public health, emergency training, hazardous materials, and OSHA requirements*
- Objective 5: Clarification of inactive and retired status.*
- Objective 6: Clarify injectable nutrients.*

Goal 5. Establish a utilization review process through the Peer Review Committee:

- Objective 1: Refine procedures for committee review of cases and the reporting process.

Goal 6. Continue affiliation with the Federation of Chiropractic Licensing Boards (FCLB) and work on the National Database (CIN-BAD), the National Board of Chiropractic Examiners (NBCE), and the Council on Chiropractic Education (CCE), and send a board representative to the annual and district meetings.

Goal 7. Keep informed of the sunset review process for the board and to review and respond to the sunset audit report recommendations. The next sunset review is scheduled for June 30, 2014.

Upon a motion by Mulholland, seconded by Zimmerman and approved unanimously, it was:

RESOLVED to accept the goals and objectives for fiscal year 2008 as amended.

Agenda Item 7 – Board Business

The Board discussed changes to be made to the January 26, 2007 Board meeting. The Board agreed to add the missing goals and objectives discussed at the January meeting to the meeting minutes.

Upon a motion by Zimmerman, seconded by Davis and approved unanimously, it was:

RESOLVED to accept the January 26, 2007 meeting minutes as amended.

Ethics Reporting

There were no ethics violations reported.

Sign Wall Certificates

Wall certificates were signed for Thomas Freedland, Michael Chaplin, Steven Townsend, Lewis Pagel, Andrea Gallagher, and Shep Phillips.

Dr. Culbert asked about the profession title printed on the wall certificates.

Board meeting dates

The next scheduled Board meetings are tentatively scheduled for October 5, 2007 in Anchorage and January 18, 2008 in Juneau.

Expenditure report

Chris Wyatt, Administrative Manager joined the meeting.

Dr. Culbert noted that the Board has a balance. Ms. Wyatt agreed and congratulated the Board on keeping its costs down. Dr. Culbert asked how the Board's costs will be affected by having two examiners. Ms. Wyatt stated that the difference will be negligible.

Dr. Culbert asked how the regulation writing process will affect the Board budget. Ms. Wyatt indicated that the Board's contractual services will increase in the short term.

Lunch Break 11:48 am, off record. Back on record 1:16 pm.

Agenda Item 8 – Public Comment

There was no public comment.

Agenda Item 7 - Board Business

Board members signed travel authorizations for travel reimbursement.

Agenda Item 9 – Regulations

Jun Maiquis, Regulations Specialist, Cori Hondolero, Licensing Supervisor, and Cindy Roccodero, Licensing Examiner joined the meeting. Susan Winton, Investigator, joined the meeting telephonically.

Dr. Culbert asked Mr. Maiquis the status of the regulations the Board had discussed at the September and January Board meetings. Ms. Roccodero stated that she did not submit the regulation minutes to Mr. Maiquis until April 18, 2007, which did not give him enough time to

have a dialogue with the Department of Law. Mr. Maiquis stated that in his brief conversations with the Department of Law it was indicated that it is not practical for the Board to submit 'house cleaning' regulation projects that are not necessary for licensee compliance.

Mr. Maiquis stated that none of the regulations were public noticed as the size of the regulation project was not very large and he felt that it would waste Board money if there were to be another regulation project to come along shortly thereafter.

The Board asked about the rearrangement of continuing education regulations. Mr. Maiquis said that he tried to get an opinion from the Department of Law regarding these regulation changes but did not get a clear answer. The Board expressed frustration with the lack of direction the Department of Law has given the Board in the regulation writing process.

Mr. Maiquis suggested that the Board have a teleconference with the Division Attorneys to clarify how to make the regulations writing process more efficient.

Dr. Zimmerman stated that the Board's intent of the locum tenens permit is vague and not clearly reflected in current statutes and regulations.

Continuing Education Regulation Changes

Move 12 AAC 16.340 (a)(3) to 12 AAC 16.320 (b) because the Providers of Approved Continuing education through the Federation of Chiropractic Licensing Boards needs to be also under the Approved academic subjects.

Combine 12 AAC 16.300 and 16.310 and rename "computation of continuing education hours" to include both academic and nonacademic.

12 AAC 16.340 (b) & (c) will be given a new header and renamed "initial application for continuing education credit approval. The Board would like to have a fee added for continuing education approval. Fee will refer to 12 AAC 02.150.

Current 12 AAC 16.320 cannot be repealed, but should be given a new number.

Dr. Mulholland asked why there is a distinction between academic v. nonacademic. The Board decided to strike the words 'nonacademic' from all headings so the Board would only make the distinction between academic and nonacademic by the way the hours are calculated.

Locum Tenens Regulation Changes

Susan Winton, Investigator, joined the meeting telephonically.

Dr. Mulholland requested the Board define each of the types of licenses in order to clarify the intent of the Board.

The Board discussed the creating a period of time after the locum tenens permit expires prior to authorizing full licensure. The Board discussed the length of time the applicant should wait. Most of the Board thought 90 days was appropriate; Mr. Garness disagreed, arguing that the time limit was too long.

New subsection: An applicant who is issued a locum tenens permit may not apply for full chiropractic license for at least 90 days after the expiration of the locum tense permit and will have to apply in accordance with AS 08.20.120 or AS 08.20.141

The Board would like to request the Division to create or increase the special examination administration fee. The suggested fee is \$350 (half of the current license fee).

12 AAC 16.031 (d) include the purpose for which the chiropractor licensed in this states reason for leaving, given the option of vacation, maternity leave, medical/family leave, and an 'other' option approved by the Board.

Ms. Winton stated that she is concerned that the locum tenens doctor and the licensed doctor working at the same time, which could be against the intent of the locum tenens permit. She suggested that the Board consider a definition be added to 16.990 for the locum tenens. The Board didn't take action on this matter.

The Board suggested a new subsection regarding the intent of locum tenens: the purpose of a locum tenens permit is for a qualified chiropractic physician to substitute practice for a licensed Alaska chiropractic physician who may be on vacation, etc. A locum tenens permit is not for the purpose of a chiropractic physician to operate a satellite clinic, while the licensed Alaska chiropractic physician operates in another office within this state.

The Board agreed that the intent of the locum tenens is to have an out of state doctor come in to substitute practice who has no intention of long term practice in Alaska.

Ms. Forrest suggested that there may be less desire from applicants to circumvent the set exam dates if the chiropractic examination dates were available to applicants in a timely matter.

Upon a motion by Davis, seconded by Zimmerman and approved unanimously, it was:

RESOLVED to set all future exam dates for the second Friday of the first month of the yearly quarters (January, April, July, October) and have those dates posted on the internet.

The Board reviewed 12 AAC 16.030 and 16.033 and the discrepancy between holding an application from 12 months and 18 months depending on the type of application.

Upon a motion by Zimmerman, seconded by Davis and approved unanimously, it was:

RESOLVED to eliminate 12 AAC 16.030(c).

Other Regulation Changes

16.410 Peer Review – changed all one year positions to two year staggered positions.

16.920 (15) proposed: 'engaging in patient care exclusively by internet, fax, phone, or other electronic means' under minimum professional standards

The Board decided not to give continuing education credits to peer review members.

The Board discussed future regulation projects such as defining the license types and impaired physician regulations.

The Board discussed fingerprint and background checks for chiropractic license applicants.

Break 3:20 pm, off record. Back on Record 3:34 pm.

Agenda Item 10 – Physiological Therapeutics

The Board requires 120 hours of physiological therapeutics but the colleges do not call the courses 'physiological therapeutics'. Currently not all colleges list the courses clearly. Dr. Mulholland agreed to draft a letter to the colleges for clarification on which courses include the physiological therapeutics requirement.

Agenda Item 11 & 12 – Correspondence & Review Updated Exam

Charles Rublee – December 04, 2006

Upon a motion by Culbert, seconded by Zimmerman and approved unanimously, it was:

RESOLVED to enter into executive session in accordance with Alaska Statute 44.62.310(c)(2) to discuss privileged licensee information and to review scoring of the Boards' jurisprudence examination..

Enter Executive Session 3:43 pm, off record. Back on record 3:56 pm.

Ms. Forrest and Ms. Hondolero will create a response to the Charles Rublee correspondence. The Board will make no changes to the examination or the scoring of it.

The Board decided to write a letter to new applicants after taking the exam to give the applicants information on the Board and the Alaska Chiropractic Society.

Agenda Item 13 – Federation of Chiropractic Licensing Boards (FCLB)

Dr. Davis gave a report on the Federation of Chiropractic Licensing Boards (FCLB) meeting. Dr. Davis noted that the website FCLB.org contains transcripts of the speakers and entire presentations. Dr. Davis also noted that attendees would not be able to attend the entire meeting as there are many breakout sessions.

Dr. Davis discussed updates to CIN-BAD, the national chiropractic licensing database. Dr. Mulholland asked if Alaska requires background and fingerprint checks, information not

included on the CIN-BAD database. Dr. Davis indicated that at this time there are no regulations in this area of licensing requirements.

The FCLB District I & IV Fall meeting is in Juneau, Alaska, August 30 – September 2, 2007 at the Westmark Hotel.

Upon a motion by Zimmerman, seconded by Culbert and approved unanimously, it was:

RESOLVED to nominate Dr. Davis to be the official representative and delegate of the Board at the FCLB District I Fall the FCLB District I conference August 30 – September 2, 2007 in Juneau, Alaska.

Upon a motion by Davis, seconded by Mulholland and approved unanimously, it was:

RESOLVED to authorize the attendance of Veida Forrest, Licensing Examiner, at the expense of the Alaska Board of Chiropractic Examiners, the FCLB District I conference August 30 – September 2, 2007 in Juneau, Alaska.

The Board discussed the need to have representation at the combined Annual meeting of the National Board of Chiropractic Examiners (NBCE), Federation of Chiropractic Licensing Boards (FCLB), and Assoc. of Chiropractic Board Administrators (ACBA) which will be held in May 2008 in Atlanta, GA.

Upon a motion by Culbert, seconded by Mulholland and approved unanimously, it was:

RESOLVED to send Dr. Davis as the primary delegate, or Dr. Zimmerman as the alternate delegate to the combined NBCE and FCLB meeting and Veida Forrest, Licensing Examiner, as staff, to the ACBA Annual Meeting in May 2008 in Atlanta, Georgia. If Dr. Davis is replaced on the Board, the replacement Board member will become the alternate delegate.

Agenda Item 14 – Assigned Tasks

Task List(s)

Veida Forrest

- Write Peer Review Committee candidacy letters to Ed Barrington and Mark Barbee
- Send Out-of-State Travel Memo to Board Members
- Respond to Charles Rublee letter
- Respond to Continuing Education Auditees
- Send a copy of the FY 07 Annual Report to all members upon completion.
- Board requested to see the detailed lay out of costs to the Board

Dr. R. Clark Davis

- Call Dr. Daniel Holt and Ms. Bonnie Paddock as follow up to Peer Review renewal letters
- Will submit the formal requests for the FCLB and ACBA Meetings

Dr. David Mulholland

- Write definitions for inactive, retired and lapsed license status
- Draft letter to chiropractic colleges regarding physiological therapeutic courses

Dr. Rosemary Zimmerman

- Write draft letter to exam applicants

Jun Maiquis, Regulations Specialist

- Research fingerprint and background check regulations
- Get a written description on how the continuing education regulations should be written from the Department of Law.

Agenda Item 15 – Injectable Nutrients

Upon a motion by Davis, seconded by Zimmerman and approved unanimously, it was:

RESOLVED to table the discussion of injectable nutrient as well as reply letters to Heel, Louisiana, and Sammons.

There being no further business, the meeting adjourned at 4:55 p.m.

Respectfully Submitted:

Veida Forrest
Licensing Examiner

Approved:

Dr. Gregory Culbert
Board of Chiropractic Examiners

Date: _____