

North Carolina Board of Chiropractic Examiners
Regular Board Meeting
October 25, 2019
Minutes



Time and Place of Meeting: A regular meeting of the North Carolina Board of Chiropractic Examiners was held in Raleigh, North Carolina at the Cambria Hotel on Friday, October 25, 2019.

Members Present: Dr. Kevin Sharp
Dr. Thomas Ayres
Dr. Thomas Mitchell
Dr. Christopher Outten
Dr. John Hammer
Dr. Raymond Chavez
Ms. Kimberly Swintosky

Absent: Ms. Lulu Caballeros (excused - family health issue)

Quorum Present: Yes

Staff Present: Mr. Thomas Sullivan, Executive Director
Mr. Jack Nichols, Esq., NCL Board Counsel
Dr. Ricky Sides, Director – Standards & Enforcement
Ms. Lisa Jones, Investigator
Mr. John Riggleman, Licensing Specialist

Invited Guest: Ms. Heather Wrenn, Executive Director – NCCA

Meeting Called to Order: Dr. Sharp called the meeting to order at 10:00 AM.

Approval of Minutes: Dr. Sharp stated that there were three separate meeting minutes to be reviewed for approval.

Dr. Sharp asked if there were any comments or corrections to the Minutes from the Regular Board Meeting and Retreat held on July 26-27, 2019.

With no comments or corrections, a Motion was made to approve the Minutes of the Regular Board Meeting and Retreat held on July 26-27, 2019 as submitted. The Motion was seconded and Approved.

Dr. Sharp then asked if there were any comments or corrections to the Minutes from the Special Board Meeting (Conference Call) held on August 20, 2019.

With no further comments or corrections, a Motion was made to approve the Minutes of the Special Board Meeting (Conference Call) held on August 20, 2019. The Motion was seconded and Approved.

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Dr. Sharp then asked if there were any comments or corrections to the Minutes from the Special Board Meeting (Conference Call) held on September 13, 2019. Mr. Sullivan stated that the election result tables had not been updated in the minutes for the meeting that were sent out in the Pre-Mailing Package. Mr. Sullivan presented the corrected election tables.

With no further comments or corrections, a Motion was made to approve the Minutes of the Special Board Meeting (Conference Call) held on September 13, 2019 with the corrections to the election result tables presented by Mr. Sullivan. The Motion was seconded and Approved.

President's Remarks:

Dr. Sharp reviewed the FCLB District National Meeting held on Oct. 3-5, 2019 in Jersey, City, N.J. and was attended by Drs. Sharp, Outten, Mitchell and Hammer.

Dr. Sharp stated the District Meetings are a more intimate setting for discussion compared to the National Meeting and encourage as many Board members as possible to attend next year's District Meeting.

Dr. Sharp also announced that given the appointment cycle, there will be no Nominee Elections held in calendar year 2020.

Dr. Sharp then called for the Review Committee/Standard's and Enforcement Report.

Review Committee:

Mr. Sullivan reported on Complaint activity since the July Board meeting and YTD 2019:

- Complaints filed – 38 (+1 from July)
- PC Hearings held – 22 (+3 from July).
- Complaints Resolved – 21 (+2 from July) (includes prior years).
- PC found – 21 (+1 from July) (includes prior years).

Education Committee Report:

Mr. Sullivan stated the Board has received notice from the "Academy of Chiropractic Orthopedists" that they are changing their name to the "International Academy of Neuromusculoskeletal Medicine". The new credentials are a) DIANM - Diplomate International Academy of Neuromusculoskeletal Medicine and b) FIANM – Fellows of the International Academy of Neuromusculoskeletal Medicine. The driver of this change was to address the misunderstanding outside the U.S. regarding the term "chiropractic orthopedist" as practitioners seek employment outside the U.S. The current credentials of DABCO, DACO, and FACO can still be used and are recognized in the U.S. However, a practitioner cannot combine the credentials.

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Dr. Sharp asked if there was any discussion. Hearing none, he asked if there was a motion to recognize this change.

A motion was made to recognize the renaming of the “Academy of Chiropractic Orthopedists” to the “International Academy of Neuromusculoskeletal Medicine” and the associated new credentials of DIANM and FIANM and that the current credentials of DABCO, DACO and FACO can be used in the U.S. but credentials cannot be combined. The motion was seconded and unanimously approved.

Mr. Sullivan introduced topics to be reviewed by Dr. Outten.

Dr. Outten presented the first items which was a mailer distributed by the Institute for Advanced BioStructural Correction. This entity is run by a non-licensed individual who was previously licensed and resided in Connecticut where his license was revoked. The flyer was for training the general public to “perform a body treatment so you will never need a chiropractor or physical therapist again!” It went on to say that once the treatment is learned, you (non-licensed chiropractor) can treat others.

After some discussion it was determined that the Institute of Advanced BioStructural Correction class and treatments were a violation of the Chiropractic Practice Act as it promoted non-licensed chiropractors performing treatments on others.

The Executive Director was instructed to contact the Institute of Advanced BioStructural Correction and notify them of these violations.

Dr. Outten then presented information on Network Spinal (NS) – Epienergetics – Donnie Epstein Courses.

After some discussion, a motion was made to not approve Network Spinal Analysis classes, or any separate sessions taught at conferences by Donnie Epstein or his company, Epienergetics, for CE credit as they don’t meet the requirements of Rules 10. 0207. The motion was seconded and unanimously approved.

Dr. Outten then presented materials associated with courses offered by the “Barral Institute” (visceral manipulation) which is a member of the “International Alliance of Healthcare Educators”. Neither entity is an accredited education institution (they are 501C-3 non-profits). The recommendation to the Board is to not approve courses from these Institutions for CE credit as they don’t meet the requirements of Rule 10. 0207.

After some discussion, a motion was made to not approved courses from the “Barrel Institute” or the “International Alliance of

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Healthcare Educators” as they don’t meet the requirements of Rules 10. 0207. The motion was seconded and unanimously approved.

Dr. Outten presented Definitions of "Philosophy” vs “Practice Management/Building” to be used for evaluating courses for Board approved CE Credit.

- Philosophy is the "theory" of chiropractic (as espoused by early pioneers and modern thinkers of chiropractic) and is not associated with the operations or financial side of chiropractic practice.
- Practice Management/Building encompasses various activities (i.e. advertising campaigns, operations management, introduction of new services, incorporation of new technologies without the mention of clinical application, etc.) with the objective of attracting new patients, gaining operating efficiencies, which the ultimate goal of increasing revenue.

After some discussion, a motion was made to adopt the definitions of “Philosophy” and “Practice Management/Building” when evaluating courses for Board approved CE credit as submitted. The motion was seconded and unanimously approved.

Executive Director’s Report;

Mr. Sullivan reviewed the unaudited actual/budget results for Fiscal Year 2018-19 that ended June 30, 2019.

Ms. Swintosky stated on October 9, 2019 she along with Mr. Sullivan and Dr. Sharp (by phone) met with the auditors from Bernard Robinson & Company (BRC) at the Board office. The meeting was to review the audit and its findings. She stated that the auditors provided an in-depth review and encountered no issues while conducting the audit.

An area discussed was the challenges regarding expense oversight with small Board staffs. After some discussion, it was agreed that the independent bank reconciliations will continue, and Mr. Sullivan would begin sending a Monthly report to Ms. Swintosky that would allow her to monitor for unusual items and be able to follow-up quickly with any questions. Ms. Swintosky continues to have direct access to the Board’s QuickBooks accounting software.

Ms. Swintosky presented the new Monthly Oversight Reporting Package that will include the following:

- Current Month Check Image Statement
- Current Month Profit and Loss Detail

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- Current Month Payroll Register
- Current Month Financial Statements (unaudited)
- Year-to-Date Financial Statements (unaudited)

Mr. Sullivan will begin producing this package in November 2019.

Mr. Sullivan then stated it is necessary for the Board to approve the Audited Financial Statements.

Dr. Sharp asked if there were any questions on the Audit and Financial Statements. Hearing none, he asked if there was a motion to approve the 2018-19 Audited Financial Statements.

A motion was made to approve the 2018-19 Audited Financial Statements as submitted. The motion was seconded and unanimously approved.

Mr. Sullivan then reviewed the financial results for Q1 2019-20. Revenues were ahead of plan by \$20,107 due primarily to DC renewal fees being paid sooner than budgeted (timing). Expenses were negative to plan by \$23,499 with legal expense over budget partially offset by lower spending and some timing differences to budget.

Mr. Sullivan then gave an update on the New and Amended Rules process. A public hearing was held on October 3, 2019. No one from the public attended. The Public Comments period expires November 15, 2019. The Board will have a conference call on Monday, November 18, 2019 at 7 P.M. to review any comments and vote to approve the final Rules for submission to the Rules Review Committee.

Public Session:

Dr. Sharp then announced that the Public Session of the meeting will begin and requested if anyone would like to speak and reminded them of the 5-minute time limit. There were no public comments.

Dr. Sharp then called upon Mr. Nichols for the Attorney's Report.

Attorney's Report:

Mr. Nichols provided updates on:

- Rulemaking
- Disciplinary Hearing Schedule Review

Dr. Sharp stated that there was business for the Board to discuss in Closed Session and asked for a motion to enter Closed Session.

A motion was made to enter Closed Session. The motion was seconded and unanimously approved.

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Closed Session

Review of Board Staff Bonuses and Salary Adjustments was discussed as well as the performance of the Board Staff.

Dr. Sharp stated that the Board had concluded its business in Closed Session and asked for a motion to returned to Open Session.

A motion was made to return to Open Session. The motion was seconded and unanimously approved.

Return to Open Session

Dr. Sharp then asked for a motion to approve the Board Staff Bonuses and Salary Adjustments discussed in Closed Session.

A motion was made to approve the Board Staff Bonuses and Salary Adjustments as presented. The motion was seconded and unanimously approved.

Old Business:

Mr. Sullivan provided an update on the FDA's continuing review of CBD. There has been no new information that would change the Board's position that it will not make a recommendation on the use, recommendation, or sale of CBD or CBD-related products by licensees until the FDA rules on how they will regulate CBD and CBD-related products.

Dr. Ayres then presented the remaining Position Statements that were carried over from the July meeting.

Dr. Ayres began with presenting the Position Statement on *Scope of Practice*. Dr. Sharp asked if there was any discussion. Hearing none, Dr. Sharp asked if there was a motion to approve the Position Statement on *Scope of Practice* as submitted.

A motion was made to approve the Position Statement on *Scope of Practice* as submitted. The motion was seconded and unanimously approved.

Dr. Ayres then presented the Position Statement on *Standard of Acceptable Care*. Dr. Sharp asked if there was any discussion. Hearing none, Dr. Sharp asked if there was a motion to approve the Position Statement on *Standard of Acceptable Care* as submitted.

A motion was made to approve the Position Statement on *Standard of Acceptable Care* as submitted. The motion was seconded and unanimously approved.

Dr. Ayres then presented the Position Statement on *Initial Examination and Evaluation*. Dr. Sharp asked if there was any discussion. Hearing

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none, Dr. Sharp asked if there was a motion to approve the Position Statement on *Initial Examination and Evaluation* as submitted.

A motion was made to approve the Position Statement on *Initial Examination and Evaluation* as submitted. The motion was seconded and unanimously approved.

Dr. Ayres then presented the Position Statement on *Patient Record Standards*. Dr. Sharp asked if there was any discussion. Hearing none, Dr. Sharp asked if there was a motion to approve the Position Statement on *Patient Record Standards* as submitted.

A motion was made to approve the Position Statement on *Patient Record Standards* as submitted. The motion was seconded and unanimously approved.

Dr. Ayres then presented the Position Statement on *Telemedicine*. Dr. Sharp asked if there was any discussion. Hearing none, Dr. Sharp asked if there was a motion to approve the Position Statement on *Telemedicine* as submitted.

A motion was made to approve the Position Statement on *Telemedicine* as submitted. The motion was seconded and unanimously approved.

Dr. Ayres then presented the Position Statement on the *FAA "BasicMed" Examination*. Dr. Sharp asked if there was any discussion. Hearing none, Dr. Sharp asked if there was a motion to approve the Position Statement on *FAA "BasicMed" Examination* as submitted.

A motion was made to approve the Position Statement on *FAA "BasicMed" Examination* as submitted. The motion was seconded and unanimously approved.

Mr. Sullivan stated that an email will be sent to all licensees early next week announcing this group of Position Statements as was done in October with the first group of Position Statements. This group of Position Statements will be posted on the Board website.

New Business:

Dr. Sharp called on Dr. Ayres to present a proposal for a new rule defining the Standard of Acceptable Care.

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After some discussion, a motion was made to accept the new rule defining the Standard of Acceptable Care as presented. The motion was seconded and unanimously approved.

Mr. Sullivan next presented a Memo of Understanding (MOU) developed in conjunction with the Physical Therapy Board of Examiners on how the Boards will handle unlawful practice complaints. Both Boards felt this would be an appropriate document to have in place following the statutory changes to the PT Practice Act that became effective October 1, 2019.

A motion was made to accept the MOU as presented. The motion was seconded and unanimously approved.

Announcements: Dr. Sharp announced that the next Regular Board Meeting will be held at 10 A.M. on Friday, January 24, 2020 at the Sheraton Imperial Hotel in Durham, N.C.

Adjournment: With no further business to be brought before the Board, Dr. Sharp adjourned the Meeting at 3:25 P.M.

Respectfully submitted this 24th day of January 2020.

John Hammer, DC
Secretary, Board of Chiropractic Examiners