

**Arkansas State Board of Chiropractic Examiners
Board Meeting Minutes
October 17, 2013**

CALL TO ORDER

The meeting was called to order by Terry Barnett, D.C., President, at 10:07 a.m.

ROLL CALL

Board Members present:

Terry Barnett, D.C.
Thomas R. Butler, D.C.
Jack McCoy
Kent Moore, D.C.
Weldon Roberts
Thomas D. Taylor, D.C., FICA
Julie Traylor-Logan, D.C.

Board Members absent:

None

Staff Members present:

Mark Ohrenberger, Assistant Attorney General
Rebecca Wright, Executive Director

Guests Present:

Terrance P. Carolan, D.C.
Gaylon Carter, D.C.
Chris Cathey, D.C.
Brad Chambers, D.C.
Marion Humphries, Attorney
Sonjia Michaels, D.C.
Kendall Wilson, D.C.

MINUTES

The July 25, 2013, minutes were presented to the Board. Mr. Roberts moved to approve the minutes. Mr. McCoy seconded the motion. The motion passed unanimously.

DIRECTOR'S REPORTS

Budget Report

The budget report was presented to the Board. The report included the monthly report from the Office of Budget showing an available budget of \$88,260.89 on 9/30/2013. Ms. Wright informed the Board that a cash flow statement will be included as the first page of the budget report in future meetings.

OLD BUSINESS**Reschedule Hearing – Mark Varley, D.C.**

A second continuance was granted due to a schedule conflict. Discussion of the new date and time followed. Dr. Taylor moved to hold the hearing on December 12, 2013, at 9:00 am, with the regularly scheduled Board meeting to be held immediately after. Mr. McCoy seconded the motion. The motion passed unanimously.

Kendall Wilson, D.C. – Complaint 457-10-9-12

Marion Humphries, Attorney, addressed the Board regarding complaint 457-10-9-12, filed against Dr. Wilson. Mr. Humphries stated the complaint was filed by an attorney on behalf of two clients. The insurance company of the clients submitted a check to Dr. Wilson for medical providing services. The insurance sent a second check to a billing company mistakenly. Dr. Wilson uses the billing company exclusively for managed care patients, not personal injury patients. The two clients are considered personal injury patients. The insurance company has tried to get a refund for the second check and have been unable to do so. Mr. Humphries stated that this issue has been turned against Dr. Wilson as if he has done something wrong. Dr. Wilson only received the payments for the services he submitted under his business name; the business name is different from the billing company's name. Mr. Humphries stated that the letters from the insurance company were directed to Dr. Wilson not the billing company. Mr. Humphries stated that Dr. Wilson has no interest in the billing company and the billing company is the one that should provide the refund to the insurance company, not Dr. Wilson. He stated that they are considering taking action against the law firm that made the allegation, and that the law firm and the insurance company could file lawsuits against the billing company to receive the money but have not taken any action of such; they are using the Board to do their dirty work. Mr. Humphries stated that Dr. Wilson and his practice are being harmed because of this complaint, and he is unable to receive licensure in other jurisdictions. He stated that the complaint has been pending a year and that is too long and it is unfair to Dr. Wilson. Mr. Humphries requested that the complaint be dismissed so that Dr. Wilson can be licensed in other jurisdictions. Dr. Taylor asked if this is a current complaint being investigated. Dr. Barnett stated that it is. Dr. Taylor asked if the Board is being prejudiced by having Dr. Wilson and his attorney address the Board in a public meeting. Mr. Ohrenberger stated that typically this information would be taken to the Investigative Committee. With the knowledge that this complaint could result in a hearing, Dr. Wilson requested to address the Board. Mr. Ohrenberger stated that this could be construed as a waiver of any prejudice that may come by speaking to the Board publicly. Discussion followed. Dr. Barnett provided background information regarding the investigation. He stated that he spoke to Dr. Wilson several times by phone. Dr. Barnett stated that he has found several inaccuracies in what Dr. Wilson told him and what has been found in the investigation. He stated that the insurance company is seeking criminal or civil charges against Dr. Wilson; therefore, this complaint is pending until a resolution is reached. Mr. Humphries asked what the timetable is of the insurance company. Dr. Barnett stated that he did not know that information. Dr. Barnett stated that if a doctor hires a billing company, he/she is responsible for that billing company; therefore, Dr. Wilson is responsible for the actions of the billing company. Mr. Humphries argued that the doctor is not responsible because the billing company was hired for a specific group of patients and the clients of the complaint were not in that group. Discussion followed. Mr. Ohrenberger stated that the Investigative Committee has

made a decision to keep the complaint open and pending because the insurance company may take action and to give them the first opportunity; the Committee would like to wait until that is resolved before taking other action. Dr. Wilson's response is that the Committee is holding up the complaint unduly; enough time has passed and it is time to move forward. Discussion followed. Dr. Wilson stated that his business is being harmed due to insurance claims being denied because of this complaint. Dr. Barnett stated that Dr. Wilson can rectify all of this and could have from the start. No more discussion allowed. Mr. McCoy moved that the Board accept the Investigative Committee's recommendation to keep the complaint pending. Dr. Traylor-Logan seconded the motion. Discussion followed. Dr. Barnett clarified that the Investigative Committee recommended the complaint remain pending in previous Board meetings and it has been accepted by the Board. This is not a new motion being made. Mr. Humphries asked if there have been any findings that Dr. Wilson received two checks. Dr. Taylor noted that there is a motion on the floor and it was in discussion. Mr. McCoy withdrew his motion and Dr. Traylor-Logan withdrew her second. Dr. Barnett responded to Mr. Humphries' question about multiple checks. He stated that he does not have the complaint file in front of him and cannot answer how many checks were reportedly sent out from the insurance company. Dr. Barnett stated that it was the end of the discussion. Mr. Humphries requested a copy of the Board minutes from Ms. Wright.

Personnel Position - Update

Ms. Wright informed the Board that a hiring freeze exception request and a justification letter were submitted to Office of Personnel Management on 10-3-2013 by email, and 10-4-2013 by messenger mail. The Governor's approval is the final step before advertising the position. The request was submitted to the Governor's office for review on 10-8-2013. The review is stalled due to the government shutdown. State employee furloughs have taken precedent.

License Renewal Form 2014

Ms. Wright stated that no discussion is needed regarding the form. A printing service will be used to print and mail out the renewal notices the last week of October.

Federation of Chiropractic Licensing Boards (FCLB) District Meeting Highlights

Mr. Roberts attended the district meeting and provided the following report of items discussed: Groupon; Specialty Practice; \$27,500 made at the annual meeting auction; Clashes between medical doctors and chiropractors; Limit on CE online; Record Retention Law; Peer Review (Qualifications); Emergency room passing out list of chiropractors; Indirect Supervision; Hyperbaric Chambers; DOT Certification; Raise License fees; Acupuncture by medical doctors or chiropractors; Termination of patient treatment; Sexual misconduct; Travel to treat; Informed Consent (Canadian Model); How many clinics can a DC supervise; Neurological chiropractors; Disciplinary action (Private); Newsletters; Volunteer license without a hearing (Alford case); Personal and private Facebook Page; Computerizing Exams; Ethics and Boundaries Testing; More administrators and Staff to attend Conferences; American Chiropractic Association.

NEW BUSINESS

Vance Cornelison, D.C. – Settlement Offer for Complaints 466-7-15-13 and 467-8-1-13

Dr. Cornelison submitted a settlement offer to the Board and in it stated he would surrender his license in lieu of a disciplinary hearing. A Consent Order was written and signed by Dr. Cornelison. If the Board accepts the Consent Order, it will be signed by the Board President and Executive Director this day and effective this day. Mr. Ohrenberger stated that Dr. Cornelison could later submit a new application for licensure; however, his current license file and complaints, including this Consent Order, would be on file and accessible. Discussion followed. The Board questioned if the information would be in databanks for other jurisdictions to access. Ms. Wright stated that there are two national databanks through the FCLB that the information will be entered into. The Chiropractic Information Network/Board Action Databank (CIN-BAD) can be accessed by chiropractic boards and the National Practitioner Databank (NPDB) by all professional licensing boards. Discussion followed. Dr. Moore moved to accept the Consent Order. Mr. Roberts seconded the motion. Discussion. Mr. McCoy clarified that the Consent Order is recommended by the Investigation Committee. Dr. Barnett answered affirmatively. Mr. Ohrenberger clarified that civil penalties were discussed; civil penalties cannot be used to recoup fees spent on investigations. Dr. Taylor stated that Dr. Cornelison's spouse is a licensed chiropractor and he could work for her as an assistant. Dr. Barnett stated that if Dr. Cornelison works as an assistant, the chiropractor would be responsible for his actions. Dr. Taylor asked if a hearing were held, could the Board include that Dr. Cornelison could not work as an assistant. Mr. Ohrenberger stated that if the Board voted to restrict the license in some way, then that condition could be added. If the license were revoked, that condition cannot be added. He clarified that if the Board issued a counter offer to the current Consent Order, the process would start over. The Board questioned Dr. Cornelison performing acupuncture. Ms. Wright clarified that Dr. Cornelison can only practice acupuncture under his chiropractic license. If the doctor does not have a chiropractor license, he cannot perform acupuncture. The doctor can get a separate license with the Board of Acupuncture and Related Techniques if he chose. The Consent Order, or chosen action of the Board would be available to the Acupuncture Board. The board voted. The motion passed unanimously.

Chiropractic Rules, Regulations, and Statutes Advisory Committee

Dr. Barnett informed the board that an advisory committee will be formed. It will include Chris Cathey, D.C., Gaylon Carter, D.C., and Tim Isaac, D.C., J.D. They will draft language to include Act 513 in the Rules, Regulations, and Statutes. The Committee will report to the Board. The Board will determine when the work is complete and to send the changes to public hearing. Mr. Ohrenberger clarified that this is not an official committee; these are volunteers who agreed to work on this project.

Perform Radiographs in a Chiropractic Clinic

Dr. Glenn Brown received notice that he was in noncompliance with the AR Department of Health because a chiropractic assistant performed radiographs in his office and does not have a radiograph certification. Chiropractic Rule and Regulation E(2)(C), page 8, states: The chiropractic aide may perform specific testing procedures and/or adjunctive therapeutics under

the order, direction and responsibility of the supervising doctor. Dr. Taylor stated that more recent laws now state that chiropractic assistants must have certification in radiology through the AR Department of Health. The current Rule and Regulation should be updated. Dr. Barnett appointed Dr. Taylor to work with the Executive Director in updating the information regarding radiology technicians. Ms. Wright will respond to those that provided correspondence on this issue.

Chiropractors Performing Physicals

Dr. Phillip Corbin received a letter from Mayor Frank E. Anderson of Bella Vista that they were told by the Commission on Law Enforcement Standards and Training that a Medical Doctor (MD) must sign off on the pre-employment physicals for police officers and annual fire department physicals. Ms. Wright provided the following Chiropractic Statutes and Rules and Regulations to Dr. Corbin by email on October 1, 2013:

Page 14: Statute 17-81-106, Health and police regulations applicable. -- Chiropractic practitioners licensed under this chapter shall be bound by all applicable health and police regulations of the State. They shall be qualified to sign death certificates, insurance certificates, and all other certificates pertaining to public health with like effect as other licensed physicians. [Acts 1971, No. 706, §19; A.S.A. 1947, §72-433].

Page 1: Section A, Applications For State Board Examinations And Licensure, Sub-Section 2, Approved Chiropractic Education.

Page 10: Section E, Professional Practices, sub-section 4, Interpretation of Terminology,

Page 13: Statute 17-81-102, Definitions (5): 'Physician' means a person authorized or licensed to practice medicine pursuant to the Arkansas Medical Practice Act, §§ 17-95-201 – 17-95-207, 17-95-301 – 17-95-305, and 17-95-401 – 17-95-411, a person authorized or licensed to practice chiropractic pursuant to the provisions of this chapter, and a person authorized to practice osteopathy pursuant to §17-91-101 et seq.

Dr. Corbin requested that the Board obtain an opinion from the Attorney General's office on chiropractors performing physicals. Discussion followed. Mr. Ohrenberger stated that at this time the Board interprets its Rules, Regulations and Statutes. When an Attorney General opinion is issued, the Board must follow the opinion. Mr. McCoy moved that the Board not request an opinion from the Attorney General's office. Dr. Taylor seconded the motion. The motion passed unanimously.

Donald Roe, D.C. – Change Status to Active

Dr. Roe would like to change his status to active before 2014. He currently holds an inactive license. The license is current with fees. CE is not required at the inactive status. Dr. Roe has earned 60 CEs in 2013 (all Arkansas approved): 24 hours to be used now to change to active status if the board allows, and the remaining hours for 2014 license renewal at active status. Dr. Traylor-Logan moved to approve Dr. Roe's request. Mr. McCoy seconded the motion. The motion passed unanimously.

American Chiropractic Association (ACA)

Ms. Wright informed the Board that an email was received from the ACA about informed consent resources.

Credentials Review

The following applicants submitted applications for credentials review, and temporary license requests:

Justin Thompson, D.C. Application for licensure is complete. He requested a supervised temporary license. Dr. Nathan Mulanax will be the supervisor. Dr. Traylor-Logan moved to approve the request. Mr. McCoy seconded the motion. The motion passed unanimously.

Jesse Wood, D.C. Application for licensure is pending the fingerprint card. It has been mailed to him and is in process. He requested an unsupervised temporary license. Dr. Traylor-Logan moved to approve the request pending receipt of the fingerprint card. Mr. McCoy seconded the motion. The motion passed unanimously.

Kody Adams, D.C. Application for licensure is pending the State background results. The request has been processed and the office is waiting for the results. He requested a supervised temporary license. Dr. Dana Craiglow will be the supervisor. Dr. Traylor-Logan moved to approve the request pending receipt of the State background results. Mr. McCoy seconded the motion. The motion passed unanimously.

Investigation Report

Ms. Wright stated that there have been no changes to the current investigations; a report will be presented at the December 12, 2013, board meeting. The Investigative Committee will meet immediately after this Board meeting.

Act 513 is now law. The specifics for the Rules, Regulations, and Statutes have not been drafted yet. Discussion followed.

Dr. Barnett requested any other business to discuss. Dr. Moore requested the Board buy new board tables and chairs. Ms. Wright stated she would look into the budget and process.

Dr. Gaylon Carter was recognized. He requested the Board's position on reviewers performing reviews on a chiropractor licensed in Arkansas. He stated that reviewers should be licensed in Arkansas. He stated that he submitted his request to the Board office. Ms. Wright stated she was not aware of the request. Dr. Carter can submit his request to the Board office to be included on the next agenda.

Adjourn

Dr. Traylor-Logan moved to adjourn. Mr. McCoy seconded the motion. The motion passed unanimously. The Board adjourned at 12:00 p.m.

Board minutes approved with amendment: 12-12-2013.