

**Arkansas State Board of Chiropractic Examiners  
Board Meeting Minutes  
April 9, 2015**

***CALL TO ORDER***

The meeting was called to order by Julie Traylor-Logan, D.C., President, at 10:03 a.m.

***ROLL CALL***

Board Members present:

Thomas R. Butler, D.C.  
Thomas D. Taylor, D.C., FICA  
Kent Moore, D.C.  
Julie Traylor-Logan, D.C.  
Dustin Heard, D.C.  
Jack McCoy

Board Members absent:

Vacant position (consumer 60+ member)

Staff Members present:

Sara Farris, Assistant Attorney General  
Laurie Mayhan, Executive Director

Guests Present:

Chris Cathey, D.C.  
Gregory Schrader, D.C.  
Eric Phipps, D.C.  
Ellen Withers, State Farm Ins.  
Becky Crenshaw, Rehab Net  
Sonja Michaels, D.C.  
Mark Blankenship, NICB  
Gaylon Carter, D.C.  
Brad Chambers, D.C.  
Kendra Booth, AR BCBS  
Terrance P. Carolan, D.C.

## **MINUTES**

The January 22, 2015, minutes were presented to the Board. Dr. Thomas Taylor made a motion to accept the minutes with an amendment to the fourth page under Dr. Jason Blacketter. He wanted the minutes to reflect that the motion had passed. Dr. Tom Butler seconded the motion with the amendment. The motion passed unanimously.

## **DIRECTOR'S REPORTS**

### **Budget Report**

The March 2015 monthly Available Budget report by appropriation and the monthly revenue summary report by fund were presented to the Board. As of April 6, 2015 the total expense is \$107,243.68 with \$54,394.69 remaining.

### **Continuing Education Report**

**July 1, 2014 – April 6, 2015**

<b>CE Status</b>	<b>Count</b>	<b>Amount Due</b>	<b>Amount Paid</b>
Approved	287	\$19991.25	\$19991.75
Not Approved	10	\$530.00	\$530.00
Pending	15	\$810.00	\$810.00
Cancelled	0	0	0
Incomplete	0	0	0
Void	3	0	0
<b>Subtotal</b>	<b>315</b>	<b>\$21,331.25</b>	<b>\$21,331.75</b>

### **License Status Report**

<b>2015 Status Totals</b>	
Active	515
Active on probation	3
Active-out of state	49
Inactive	31
<b>TOTAL:</b>	<b>598</b>

<b>2015 Status Changes</b>	
Expired (non-renew or incomplete)	16
Retired (in 2014)	5
Deceased (in 2014)	3
<b>TOTAL:</b>	<b>24</b>

### **FOIA Report**

16 FOIA Requests have been received and completed thus far from July 2014 to April 2015.

Motion to approve Director's reports was made by Dr. Tom Butler and seconded by Mr. Jack McCoy. The motion passed unanimously.

## ***OLD BUSINESS***

### **NBCE Part IV Schedule of Meetings and Exams**

An email for the upcoming Part IV exam and Test committee schedules was brought back before the Board to consider sending a Board member to one or more of the scheduled dates. Dr. Thomas Taylor made a motion to send Dr. Dustin Heard to the Spring Exam on May 15-17. Dr. Kent Moore seconded the motion. The motion passed unanimously.

### **Clinic Ownership vs. License status**

The Director posed a question of whether or not a Chiropractor could hold an Arkansas Active-out of state license and own a clinic here in Arkansas. This item was tabled from the last meeting so that the Board could seek the counsel of their attorney. According to the Boards attorney regarding this matter, the only requirement to own a professional corporation in Arkansas would be to have an Arkansas license; in addition, under the definition of practice of chiropractic in the ASBCE statutes it does not encompass clinic ownership. So, someone at this time could hold an Arkansas active-out of state license and own a clinic in AR. After further discussion a directive was given to Dr. Thomas Taylor to work on language regarding this topic.

### **Brian Verville, PT DPT**

This item was forwarded to the PT Board for them to look into the matter of a PT possibly teaching manipulation in AR to Physical Therapists at one or more seminars he is speaking at. A response was received from the PT board on April 6, 2015 stating that “The Board reviewed the complaint at a board meeting on April 2, 2015 and determined no action would be taken. The course is approved by the Arkansas State Board of Physical Therapy but the approval does not imply that manipulation is within the scope of practice for Arkansas physical therapists. An Arkansas licensed physical therapist could take the course and benefit by other agenda items, including mobilization, which is within the scope of practice for Arkansas licensees.” No other action was taken by ASBCE regarding this matter.

### **Part IV Language**

A directive was given to Dr. Thomas Taylor at the January 22, 2015 meeting to work on language for Part IV and maybe a grandfathering clause. At this time, no updates were presented to the Board regarding the proposed language. This item was tabled for the next meeting in June.

Dr. Kent Moore questioned the board regarding the transfer of license process and that it may need to be updated as well since the requirements are similar to applying as a new licensee. Dr. Julie Traylor-Logan added that Dr. Moore’s concerns would fall under the grandfathering clause that Dr. Taylor would be working on.

Dr. Traylor-Logan brought up that a recent applicant, who, in this case would fall under the transfer of license rule because the applicant didn’t have the Physiological Therapeutics Exam. The Physiological Therapeutics exam at that time was an elective and his state did not require that particular exam. So, the applicant would not need the elective exam in order to make application with Arkansas. However, the applicant would have to take either the current state exam, or Part IV, or the SPEC exam in order to be licensed along with any other requirements needed.

## ***NEW BUSINESS***

### **Reinstatement request(s)**

Dr. Eric Phipps submitted a letter to the Board requesting that his license be reinstated due to extenuating circumstances. The Board President allowed Dr. Phipps to address the Board regarding the reasons why he let his license lapse for 2015. After Dr. Phipps addressed the Board a motion was made by Mr. Jack McCoy to grant Dr. Phipps request to reinstate his license. The motion was seconded by Dr. Dustin Heard. Discussion followed by Dr. Thomas Taylor asking Dr. Phipps if he had been working while the license was lapsed. Dr. Phipps stated once he was notified he stopped practicing. All items have been received from Dr. Phipps at this time. The motion passed unanimously.

### **Second Appeal / Late fee waiver**

A second appeal letter was submitted on behalf of Dr. Amanda Warren by Cleveland Chiropractic College which is who she took her CE through. A motion was made by Dr. Kent Moore to refund the late fee. The motion was seconded by Dr. Thomas Taylor. The motion passed unanimously.

### **Status Change request(s)**

Dr. Russel Merrell submitted a status change request to move from Active-Out to State to Active (in state). Dr. Kent Moore made a motion to approve the Status change and the motion was seconded by Dr. Dustin Heard. The motion passed unanimously.

**(Remaining New Business tabled to review credentials)**

## ***CREDENTIALS REVIEW (TEMPORARY LICENSES/EXTERSHPIS)***

**Dr. Gregory C. Schrader** made application to the Board along with applying for a temporary license and therefore his credentials and temporary license applications were reviewed. Dr. Thomas Taylor made a motion to accept Dr. Schrader's credentials and grant him a temporary unsupervised license. Dr. Schrader will have to sit for Orientation in July. The motion was seconded by Dr. Kent Moore. The motion passed unanimously.

**Dr. Justin A. C. Sutter** made application to the Board along with applying for a temporary license and therefore his credentials and temporary license applications were reviewed. Dr. Thomas Taylor made a motion to accept Dr. Sutter's credentials and grant him a temporary supervised license. Dr. Sutter will have to sit for Orientation in July. The motion was seconded by Mr. Jack McCoy. The motion passed unanimously.

**Dr. Olivia M. Fisher** made application to the Board for the Extern program. Her preceptor's applications were also received from Dr. Traci Kiernan and Dr. Ben Pittman. A motion was made by Dr. Thomas Taylor to approve the applicant for the externship program. The motion was seconded by Mr. Jack McCoy. The motion passed unanimously.

## ***NEW BUISNESS Cont.***

### **Proposed Rules, Regulations & Statutes**

The Board President had given a directive to Dr. Gaylon Carter and Dr. Chris Cathey to rework or come up with some new language regarding the regulation of Procurers and claims review. Proposed language was presented to the Board, which was discussed, and a motion made by Mr. Jack McCoy to approve some of the language with a second by Dr. Thomas Butler, but then the second and the motion were resended for further discussion. The Board President then gave a directive to the Boards Attorney to review the proposed language so that it fits in-line with the rest of the ASBCE Rules, Regulation and

Statutes. The President also gave a directive to the Executive Director to have an FCLB poll sent to all other states regarding claims review.

### **American Chiropractic Board of Sports Physicians**

The American Chiropractic Board of Sports Physicians submitted a letter to the board asking what Arkansas rules are regarding Chiropractors evaluating, managing and determining return to play for concussed athletes. A directive was given to the Board's attorney to look into this matter prior to sending a response.

### **Zyto Brand Machine – Nutritional Analysis**

Dr. Sidney Simpson submitted a letter to the Board regarding whether or not using a Zyto brand machine as a nutritional analysis tool was ok. He stated that the Board approved C.E. units for an in-state seminar that this machine was presented at and is asking if this type of machine is within the Chiropractic scope of practice in the state of Arkansas.

A motion was made by Dr. Thomas Taylor that the nutritional analysis tool was in the scope of practice. Dr. Taylor's motion was not seconded and the motion failed. More discussion followed.

Dr. Tom Butler made a motion to approve that the nutritional analysis tool was in the scope of practice and the motion was seconded by Dr. Dustin Heard, but the motion and the second was rescinded. More discussion followed.

A third motion was made by Dr. Thomas Butler to agree that the Zyto Brand Machine as a nutritional analysis tool is in the Arkansas Chiropractic scope of practice. The motion was seconded by Mr. Jack McCoy. All others who voted in favor of the motion were Dr. Julie Traylor-Logan, Dr. Thomas Taylor, Dr. Dustin Heard. Dr. Kent Moore was opposed.

### **Letter to Board regarding Advertising**

Dr. Sidney Simpson submitted a letter to the Board inquiring about advertising discounts and publishing coupons for discounted services. The Board President gave a directive to the board's attorney to review Dr. Simpson's specific questions to see if they would be in violation of any of the advertising or billing rules, regulations or statutes.

### **Osteopractor – Advertising**

An advertisement was brought to the Board's attention regarding an Osteopractor, who is also a licensed Physical Therapist, which was advertising manipulation on her website. After a short discussion by the Board Dr. Thomas Taylor made a motion to forward this to the Physical Therapy Board, but then rescinded it. More discussion followed. Dr. Taylor then made another motion to forward this to the PT Board for them to investigate it further. The motion was seconded by Mr. Jack McCoy. The motion passed unanimously.

### **Chiro-Trust.org**

An email was received from a Larry Froncek with ChiroTrust. He asked if they added a "Find a Chiropractor Near You" type section where consumers can type their zip code in to find a DC near them who has taken the ChiroTrust pledge, would they need to register their site as a referral service with the Board. Dr. Thomas Taylor made a motion to request the pledge from ChiroTrust for further review. He then amended his motion to include all relevant material including contracts and obligations the DC would have to follow. Dr. Thomas Butler seconded the motion. The motion passed unanimously.

### **NBCE Test Committee Nominations**

A reminder from NBCE was received regarding nominations for the upcoming Part IV exam test committee meeting on June 12<sup>th</sup> and 13<sup>th</sup>. Dr. Thomas Butler made a motion to approve Dr. Heard or Dr. Moore to attend depending on their schedules. The motion was seconded by Dr. Thomas Taylor. The motion passed unanimously.

### Board Member position

Dr. Julie Traylor-Logan, Board President, wanted to get an update on the Board's vacant position and title verification on the Boards public members. The executive director informed the Board that a Mr. Harold Gunter was very recently appointed as the new Consumer(60+) member. The director also confirmed that Mr. Jack McCoy holds the title of Consumer member according to the Board's liaison at the Governor's office. No other updates to report at this time.

**12:28 pm Board recessed – 5 minute Break**

**12:32 Called back to order**

### INVESTIGATION REPORT

	Pending	Recommendations of InvComt	Complaint #	Complaint Description
1	Yes		580-02-12-15	Practicing without a license / Billing Fraud
2	Yes	Further Investigation	578-02-09-15	Solicitation/ Unregistered Procurers/ Unprofessional Conduct
3	Yes	Further Investigation	583-02-23-15	Unregistered Procurer
4	Yes	Further Investigation	584-02-23-15	Unregistered Procurer
5	Yes	Further Investigation	585-02-23-15	Unregistered Procurer
6	Yes	Further Investigation	586-02-23-15	Unregistered Procurer
7	Yes	Further Investigation	591-03-09-15	Solicitation by Unregistered Procurer
8	Yes	Further Investigation	598-03-31-15	Aiding or abetting an unlicensed practitioner Unregistered procurers
9	Yes	Further Investigation	516-1-21-14	Solicitation
10	Yes	Remain Open	547-6-20-14	Unregistered Procurer
11	Yes	Further Investigation	552-7-2-14	Solicitation; Unregistered procurer; Unregistered procurer using alias (name also isn't registered)
12	Yes	Further Investigation	569-11-25-14	Unprofessional Conduct/Solicitation
13	Yes	Further Investigation	512-1-8-14	Solicitation
14	Yes	Further Investigation	513-1-8-14	Solicitation
15	Yes	Further Investigation	517-1-20-14	Solicitation
16	Yes	Duplicate Record	518-1-21-14	Solicitation dup rec to 517-1-20-14
17	Yes	Duplicate Record	519-1-13-14	Solicitation- dup rec to 513-1-8-14
18	Yes	Duplicate Record	520-1-13-14	Solicitation- dup rec to 512-1-8-14
19	Yes	Further Investigation	539-2-27-14	Solicitation
20	Yes	Remain Open	524-2-11-14	Unregistered Procurers
21	Yes	Further Investigation	567-11-19-14	Solicitation by unregistered procurer
22	Yes		573-12-5-14	Solicitation
23	Yes		575-12-29-14	Unprofessional Conduct
24	Yes	<b>Dismissed- Found no violation of RRS</b>	592-03-19-15	Unprofessional Conduct
25	Yes		576-1-5-15	Unprofessional conduct
26	Yes	<b>Close- lack of witnesses and evidence</b>	527-2-19-14	Solicitation
27	Yes	Further Investigation	528-2-20-14	Solicitation; Unregistered Procurer
28	Yes	Remain Open- waiting for further information	549-6-23-14	Solicitation

29	Yes	Remain Open- waiting for further documentation	562-9-11-14	solicitation/ unregistered procurer
30	Yes		593-03-19-15	Unregistered Procurer
31	Yes		594-03-19-15	Unprofessional Conduct
32	Yes		595-03-19-15	Unregistered Procurer
33	Yes		596-03-19-15	Unprofessional Conduct
34	Yes		597-03-19-15	Unregistered Procurer
35	Yes	Further Investigation	515-1-16-14	Unprofessional Conduct: Not Supervising on Premise
36	Yes	Further Investigation	525-2-18-14	Unprofessional Conduct
37	Yes		531-3-3-14	Unprofessional Conduct
38	Yes	Further Investigation	478-7-23-13	Solicitation
39	Yes	Further Investigation	491-10-9-13	Solicitation; Unprofessional Conduct
40	Yes	Remain Open	394-7-29-10	Practicing Chiropractic without a License; Non-Licensee
41	Yes	Remain Open	401-9-20-10	Practicing Chiropractic without a License; Non-Licensee
42	Yes		574-12-9-14	Solicitation
43	Yes	Further Investigation	581-02-12-15	Aiding and Abetting and Unlicensed Chiropractor
44	Yes	Remain Open	468-2-9-13	Solicitation
45	Yes	Further Investigation	487-9-22-13	Solicitation
46	Yes	Further Investigation	543-6-5-14	Solicitation; Unregistered Procurer
47	Yes	Further Investigation- waiting for additional info	566-10-21-14	Billing
48	Yes	<b>dismiss- appears no violation has occurred</b>	582-02-19-15	Unprofessional conduct
49	Yes	Further Investigation	551-7-2-14	Advertisement
50	Yes	Remain Open	388-6-8-10	Practicing Chiropractic without a License; Non-Licensee
51	Yes	Remain Open	402-9-20-10	Practicing Chiropractic without a License; Non-Licensee
52	Yes	Further Investigation	509-12-18-13	Solicitation
53	Yes	Duplicate Record	510-12-27-13	Solicitation - dup rec of 509-12-18-13
54	Yes	Further Investigation	532-3-7-14	Solicitation
55	Yes	Further Investigation- requested additional info	540-5-21-14	Solicitation
56	Yes	Further Investigation	544-6-5-14	Solicitation
57	Yes	Hearing	572-12-3-14	Solicitation
58	Yes	Hearing	577-01-30-15	Solicitation/ unprofessional conduct
59	Yes	Further Investigation	565-10-15-14	Unprofessional Conduct
60	Yes		579-02-09-15	Solicitation/ Unregistered Procurer/ Unprofessional Conduct
61	Yes		587-02-23-15	Unregistered Procurer
62	Yes		588-02-23-15	Unregistered Procurer
63	Yes		589-02-23-15	Unregistered Procurer
64	Yes		590-02-23-15	Unregistered Procurer

65	Yes	Further Investigation	555-7-1-14	Solicitation; False Statements by Registered Procurer
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Dr. Thomas Taylor made a motion regarding line number 24 on the investigation list and that complaint number 542-6-4-14 would not be reopened from the request in complaint 592-03-19-15 due to it not being under the Boards statutory authority regarding the issues in the complaint. The motion was seconded by Dr. Dustin Heard. All others who voted in favor were Dr. Thomas Butler, Mr. Jack McCoy, and Dr. Julie Traylor-Logan with one abstention by Dr. Kent Moore. Motion Passed.

Dr. Thomas Taylor made a motion that Dr. Thomas Butler be the Board's Investigative liaison if so needed by the current Investigator, Dr. Terry Barnett. Dr. Dustin Heard seconded the motion. The motion passed unanimously.

Dr. Thomas Taylor made a motion that the Board accepts the recommendation report from the Investigating Committee. Mr. Jack McCoy seconded the motion. The motion passed unanimously.

Dr. Thomas Taylor made a motion to schedule a date for the two complaints recommended for hearing on June 16<sup>th</sup> at 1:00pm. Dr. Kent Moore seconded the motion. The motion passed unanimously.

### **Adjourn**

Mr. Jack McCoy moved to adjourn. Dr. Dustin Heard seconded the motion. The motion passed unanimously. The Board adjourned at 1:05 p.m.

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*Board minutes approved: June 16, 2015.*