

**Arkansas State Board of Chiropractic Examiners
Board Meeting
Tuesday, October 4, 2016**

CALL TO ORDER

The meeting was called to order by Julie Traylor-Logan, D.C., President, at 10:02 a.m.

ROLL CALL

Board Members present:

J. Kent Moore, D.C.
Thomas D. Taylor, D.C., FICA
Harold Gunter
Jack McCoy
Michael Courtney, D.C.
Dustin Heard, D.C.
Julie Traylor-Logan, D.C.

Board Members absent:

None

Staff Members present:

Laurie Mayhan, Executive Director
Reid Adkins, Assistant Attorney General

Guests Present:

Chris Cathey, D.C.
Karey Gardner
Terrance P. Carolan, D.C.
Brad Chambers, D.C.

MINUTES

The July 21, 2016 minutes were presented to the Board. Dr. Taylor recommended that the section regarding the election of officers, first paragraph, be amended to state that Dr. Taylor seconded the nomination not Dr. Moore. Dr. Taylor also recommended that the spelling of the word acclimation be corrected to acclamation throughout this section. A motion to approve the minutes with the amendments recommended was made by Dr. Taylor and seconded by Dr. Moore. Motion passed unanimously.

DIRECTOR'S REPORTS

Budget Report

The cash flow statement for **July** was presented to the Board along with the July monthly Expenditure Report by Appropriation and the Monthly Revenue Summary Report by Fund.
As of July 31, 2016 the total expense is \$12,887.12 with \$174,553.88 remaining.

As of July 31, 2016 the total revenue is \$386,502.72 which includes licensee fees, applicant fees, interest, refunds/reimbursements, and rebates.

The cash flow statement for **August** was presented to the Board along with the August monthly Expenditure Report by Appropriation and the Monthly Revenue Summary Report by Fund.
As of August 31, 2016 the total expense is \$20,621.96 with \$166,819.04 remaining.

As of August 31, 2016 the total revenue is \$392,680.04 which includes licensee fees, applicant fees, interest, refunds/reimbursements, rebates.

CE Report

FY2017 (July 1, 2016 - June 30, 2017)

Status	Apps received	Class hours offered	Fee Due	Fee Paid
Approved	59	821	\$4,105.00	\$4,105.00
Approved with Exception	6	606	\$3,030.00	\$3,030.00
Not Approved	2	36	\$180.00	\$180.00
Pending	2	36	\$180.00	\$180.00
Cancelled	0	0	\$0.00	\$0.00
Incomplete	0	0	\$0.00	\$0.00
Void	0	0	\$0.00	\$0.00
Total:	69	1499	\$7,495.00	\$7,495.00

2017 License Renewal

- 629 License Renewal notices were mailed September 1, 2016
- 37 completed license renewals have been received and processed as of 10/3/16.
 - 592 license renewals remaining

FOIA Report

11 Freedom of Information Act requests have been received and completed thus far for FY2017 (July 1, 2016- June 30, 2017).

Biennium Budget Hearing & Joint Audit Committee meeting

The Director presented notices to the Board informing them that both the biennium budget for 2017-2019 and the Fiscal audit of 2014 and 2015 will be presented on the 11th & 13th of October.

Motion to approve the Director's reports was made by Dr. Taylor and seconded by Dr. Moore. The motion passed unanimously.

OLD BUSINESS

Proposed language regarding: Part IV, NBCE transcript, Corp. Certificates/registrations, Complaint procedures, FBI background checks, Animal Chiropractic, Fill in/ vacation coverage, Temporary license rule, etc.

A drafted bill was presented to the Board for further review.

A motion was made by Dr. Courtney and seconded by Mr. Gunter to amend page 2 of the draft regarding 17-81-302 (2)(A) changing day from 14 to 30 and removing “, and traveling with a sports team.” Also, adding “said chiropractor must provide proof of malpractice ins.” Motion passed unanimously.

Proposed rule change for Procurers:

A motion was made by Dr. Courtney to amend a previously drafted procurer rule to read as follows, “To register a procurer, a chiropractor shall file, in a format approved by the Board, a registration form and a copy of the procurers’ driver’s license or state issued photo ID before the procurer acts on the chiropractor’s behalf. Each procurer registration shall terminate on December 31. The chiropractor shall register each procurer annually. The chiropractor is required to provide the Board with updated procurer registration information, should any of it change during the year.” Motion was seconded by Mr. Gunter. Motion passed unanimously.

The Joint

After review of all documents received from Dr. Browning and or The Joint, the Board has decided to take no further action on this agenda item.

Contracted DOT Examiners / Testing

After a brief discussion, the Board has decided to take no further action on this agenda item.

Student Rotations at AR V.A. Hospital

C. Michael DuPriest, DC submitted a letter to the Board at their last meeting, June 14, 2016, asking about student rotations at the V. A. Hospital through academic affiliations with Logan University for the clinical training of senior level chiropractic students. His question was, “If Central Arkansas Veterans Healthcare System established an academic affiliation with Logan would senior students be allowed to perform Hx and physical, develop tx plans, and be allowed to adjust patients?” If not his alternative would be to establish a 1 year paid residency program for licensed graduates. Powerpolls were presented to the Board for review. During discussion, the President stated, “*Currently we do not have any stipulation in our Rules or Statutes for chiropractic students to participate in a program like this.*” Dr. Courtney motioned to have the Board President write a letter to this affect, motion was seconded by Dr. Moore. Motion passed unanimously.

CE Webinars

At the June and July 2016 board meetings the topic of C.E. webinars were discussed as a sponsor recently asked if they could add a webinar to an onsite course that had already been approved this year. This item was tabled for further research and to request a powerpoll from the FCLB regarding this topic. Power poll(s) were requested and presented to the Board for review. A motion was made by Dr. Taylor stating that if the webinar complies with the Boards continuing education, distance learning, guidelines it may be approved. Motion was seconded by Dr. Courtney. Motion passed unanimously.

Hyperbaric Therapy (HBOT)

A current license applicant inquired as to whether Hyperbaric Therapy is within the Arkansas Chiropractic scope of practice. The Board deferred this to counsel in July for confirmation as to whether the percentage of oxygen being used affects its prescription drug status. Research was presented to the Board by counsel and the executive director. This topic was approved in 2009 after Dr. Jason Collins had inquired about it, however the question about oxygen percentages was not noted in 2009. A motion was made by Dr. Taylor stating that Hyperbaric Therapy is within the scope of practice as long as it is under the supervision and prescription of a Medical Doctor and not a Chiropractor. Mr. McCoy seconded the motion. After discussion on this topic Dr. Taylor withdrew his motion. Dr. Courtney volunteered to reach out to UAMS and possibly some other contacts to pose the question, at what point is oxygen not considered a drug? Item Tabled for further research.

Dr. Courtney made a motion for the Board to send a letter to Dr. Jason Collins stating that administering 100 percent oxygen is considered a drug and is not within our scope of practice. Mr. McCoy seconded the motion. Motion passed unanimously.

NEW BUSINESS

SPEC Authorization

Since the Board is now requiring National Board Part IV instead of the Board practical exam, applicants who do not have part IV are asking for authorizations to take the SPEC (Special Purposes Examination for Chiropractic) exam. However, the director questioned the Board regarding how many times should we allow the applicant to take the SPEC exam over a one year period if they should fail the first time. The options ranged from 0 to 6 additional attempts. A motion was made by Dr. Courtney to allow for 6 additional attempts. Dr. Moore seconded the motion. Preapproval of the Board to submit SPEC authorization is not needed and can be completed and submitted by the Director at any time requested of an applicant. Motion passed unanimously.

CREDENTIALS REVIEW

Eric Clayton Bell- Mr. Bell's credentials were presented to the Board on June 14, 2016. His credentials were not approved in June due to his application being incomplete for not providing documentation of his answer "yes" to the felony. His credentials were presented again today for review. With the documents provided by the applicant, and since he was charged, but not convicted of a felony Dr. Heard motioned to approve Mr. Bell's credentials. Motion was seconded by Mr. McCoy. Mr. Gunter, Dr. Moore voted for the motion and Drs. Taylor and Courtney abstained. Motion passed.

INVESTIGATION REPORT

Consent Agreement- Donald W. Eastman, DC

In lieu of the hearing on June 14, 2016 at 1:00 p.m. a consent agreement was mailed to Dr. Eastman. The violation was failing to respond to the communication duly served by the Board upon Licensee. The order states that the licensee will be on probation for a period of six (6) months once the agreement is approved by the Board. The first consent agreement was not approved by the Board, and therefore a second draft of the consent agreement was signed by the respondent and returned for the Board's final approval. A motion was made by Dr. Courtney to accept the consent agreement. Motion seconded by Dr. Moore. Motion passed unanimously.

Complaint Report

	Recommendations	Complaint No.	Complaint Description
1	Dismiss, insufficient evidence	509-12-18-13	Solicitation
2	Dismiss, insufficient evidence	510-12-27-13	Solicitation - dup rec of 509-12-18-13
3	Hearing set for 12/08/16	525-2-18-14	Unprofessional Conduct
4	Dismiss, insufficient evidence	532-3-7-14	Solicitation
5	Dismiss, insufficient evidence	540-5-21-14	Solicitation
6	Dismiss, insufficient evidence	544-6-5-14	Solicitation
7	Further Investigation	572-12-3-14	Solicitation
8	Further Investigation	577-01-30-15	Solicitation/ unprofessional conduct
9	Further Investigation	598-03-31-15	Aiding or abetting an unlicensed practitioner Unregistered procurers
10	Fwd. to OIG / no response yet	602-04-27-15	Unprofessional Conduct
11	Fwd. to OIG / no response yet	603-04-27-15	Advertising
12	Further Investigation	604-04-29-15	Unregistered Procurer/ Unprofessional conduct
13	Dismiss, insufficient evidence	605-05-19-15	Unregistered Procurer
14	Dismiss, insufficient evidence	612-05-25-15	Unregistered Procurer / Advertising
15	Dismiss, insufficient evidence	613-06-04-15	Unregistered Procurer / Unprofessional conduct
16	Dismiss, insufficient evidence	614-06-04-15	Unregistered Procurer / Unprofessional conduct
17	Dismiss, lack of jurisdiction	618-07-21-15	Unprofessional Conduct
18	Dismiss, insufficient evidence	621-09-16-15	Unprofessional Conduct/ Unregistered Procurer
19	Dismiss, insufficient evidence	622-09-16-15	Unprofessional Conduct/ Unregistered Procurer(s)
20	Dismiss, insufficient evidence	628-12-18-15	Unregistered Procurer/ refused to respond to complaint notice
21	Consent Agreement	628a-01-21-16	Refused to respond to complaint 628-12-18-15
22	Pending	633-02-16-16	Solicitation by Procurer
23	Pending	635-02-16-16	Solicitation
24	Pending	637-02-25-16	Solicitation
25	Pending	638-04-07-16	Solicitation

26	Dismiss, no violation of RRS	639-04-14-16	Unprofessional Conduct - has not complied with Records request
27	Hearing Pending 12-08-16	640-05-23-16	Solicitation (soliciting patient at other Chiro. Clinic)
28	Dismiss, no violation of RRS	642-08-11-16	violated HIPAA, false communication, billing,
29	Dismiss, no violation of RRS	643-08-25-16	Billing, unprofessional conduct
30	Pending	644-08-31-16	Suspected Fraud by Solicitation
31	Pending	645-08-31-16	Billing for services not rendered, Duplicate Billing, Excessive Treatment
32	Dismiss, no violation of RRS	646-09-09-16	Audio recording with cell phone at front desk during work hours
33	Dismiss, insufficient evidence	647-09-13-16	Billing Fraud
34	Pending	648-09-21-16	Billing Fraud
35	Pending	649-09-22-16	Solicitation

Complaint 618-07-21-15, Board's counsel expanded upon the recommendation to dismiss for lack of jurisdiction as the board did not have jurisdiction over the Medical Corporation Act, whereas the clinic mentioned in the complaint is registered under this Act. A motion was made by Dr. Taylor to forward this complaint to the Medical Board for further review and or investigation. Motion was seconded by Dr. Courtney. Motion passed unanimously.

A motion was made by Dr. Moore to dismiss those complaints reflecting the recommendation to be dismissed. Motion seconded by Dr. Heard. Motion passed unanimously.

The hearings for complaint's **525-2-18-14** and **640-05-23-16** were originally scheduled for today, however due to scheduling conflicts on 525-2-18-14 and lack of notice on 640-05-23-16 those hearings have tentatively been rescheduled by the Board's counsel for December 8, 2016. Also, with the completion of the consent agreement on 628a-01-21-16 that case will be closed. A motion was made by Dr. Taylor to approve the new hearing date of December 8, 2016 for complaints 525-2-18-14 and 640-05-23-16 and to accept the consent agreement for 628a-01-21-16. Motion was seconded by Mr. McCoy. Motion passed unanimously.

CREDENTIALS REVIEW cont.

Serge Pierre Francois- Item presented out of order. Licensure was not issued to this applicant in July 2015 due to complaint(s) being received prior to delivery of a license. The complaint(s) have now been dismissed and it is the opinion of the Board's counsel that a license should be issued as the applicant has met the requirements for licensure since his application was approved in June of 2015. Counsel also stated that if a license is not issued that it would appear to be anti-competitive. Since the Board voted to forward complaint 618-07-21-15 to the Medical Board a motion was made by Dr. Taylor to wait the finding from the Medical Board before we evaluate him for issuance of a license. Motion was seconded by Mr. Gunter. Dr. Moore, Dr. Heard voted for the motion and Dr. Courtney and Mr. McCoy abstained. Motion passed.

ADJOURN

Dr. Courtney moved to adjourn. Dr. Heard seconded the motion. The motion passed unanimously. The Board adjourned at 12:26 p.m.

Board minutes approved: December 8, 2016