

## **TENNESSEE BOARD OF CHIROPRACTIC EXAMINERS**

**DATE:** August 21, 2008  
**TIME:** 9:00 A.M.  
**LOCATION:** Health Related Boards Conference Center  
Poplar Room, 227 French Landing  
Nashville TN 37243

### **BOARD MEMBERS**

**PRESENT:** Andrea Selby, D.C., President  
Michael Massey, D.C., Vice President  
Craig Ratcliff, D.C., Secretary  
Barry Kelton, D.C.  
Chris Alexander, D.C.  
Sheila Fitzgerald, Citizen Member  
Gina Hampton, Citizen Member

**STAFF PRESENT:** Sherry Owens, Board Administrator  
Barbara Maxwell, Administrative Director  
Elizabeth Miller, Director, Health Related Boards  
Andrea Huddleston, Advisory Attorney

Dr. Selby called the meeting to order at 9:00 a.m. A sufficient number of board members were present to constitute a quorum.

### **Review/Approve May 22, 2008 Board Meeting Minutes**

Upon review of the May 22, 2008, Board meeting minutes. Dr. Massey made a motion, seconded by Dr. Kelton, to approve the minutes as corrected. The motion carried.

### **Conflict of Interest Policy Statement**

Ms. Huddleston discussed the conflict of interest policy statement asking all Board members to disclose any potential conflict they may have to determine if a board member must recuse him/herself from the proceeding and leave the meeting room.

### **Investigative Report**

Ms. Owens reviewed the Investigative Report stating the board has 34 open complaints in investigations against Chiropractors, 2 against CTA's and 0 complaints against CXT's.

Dr. Massey asked what is considered unprofessional conduct, care of services and other.

Ms. Juanita Stone, Disciplinary Coordinator, stated that an example of a case is where they sit in the waiting area too long before they are seen. When the allegations are sent to the office of general counsel they determine if a notice of charges should be filed. The complaints are so vague when they come in, that they are difficult to categorize at times.

Dr. Selby asked about the 34 pending cases. Ms. Stone stated that the complaints are against 34 different chiropractors.

According to Ms Stone, as of July, there were 38 open cases because we have received new cases. August 8, 2008 was the last review of new cases. Four (4) were sent out for investigations, two (2) for chiropractors, two (2) for CTA's. We have two (2) that are pending first review. They reviewed 11 cases on August 8.

### **Currently Monitored Practitioners**

Ms. Stone said there are currently eight (8) practitioners being monitored. There is an 80% collection rate, which is very good.

### **Financial Report**

There was an increase from \$164,422.21 to a projected surplus of \$228,251.21 as of June 30, 2008.

Ms. Miller said that she will be happy to propose any projects the Board wants to use those funds for and suggested that the Board may want to consider a reduction in fees if the surplus keeps growing in the future.

Dr. Selby asked if that would require a rule change. Ms. Miller stated that it would require a rule change. Dr. Ratcliff asked if the rule change would take about a year to go thru. Ms Huddleston stated that would be correct.

Ms. Miller said that Ms. Owens could compile a history of fee charges from the last five years to present at the next board meeting. Dr. Selby asked if Ms Owens could go back 10 years. Ms. Owens stated that she would have this information at the next board meeting and email the board members the information before the next board meeting.

Ms. Miller said we may have some idea by the next board meeting what the appropriated fees may be. State revenues are below what they should be and the Boards' surplus may be used to cover state revenue deficits.

Ms. Owens suggested to lowering the renewal fees. The application fee is only one time and the renewal fees are every two years.

Dr. Kelton said that the last increase was to make up for a deficit, but felt it could be rolled back to some degree.

Dr. Selby said that this discussion will continue at the November 13, 2008, board meeting when all the information requested is submitted.

### **Administrative Report**

Ms. Owens reviewed the administrative report stating the Board has 993 active chiropractors, 109 CXT's and 379 CTA's. Between May 10, 2008 and August 8, 2008 21 chiropractors, 2 CXT's and 4 CTA's renewed online.

Ms. Miller said for in or out of state travel we have to provide justification for travel, but there is no prohibition against traveling to association meetings. The Board can make vote to send board members or staff to the meetings.

Dr. Massey asked if there has been any improvement in the efficiency of approving travel requests.

Ms. Miller responded that travel must be submitted 120 days prior to the travel date.

Ms. Owens said that she did include information about the continuing education audit. Those who are in non compliance will have to sign an Agreed Citation and this will be discussed later on in this board meeting.

### **Advisory Attorney Report**

Ms. Huddleston said Rules 0260-2-.02, .12 and .20 regarding chiropractic acupuncture went into effect June 24, 2007.

Ms. Huddleston said there are seven (7) open disciplinary cases pertaining to the Board of Chiropractic Examiners in the Office of General Counsel.

Dr. Stephanie Halcomb, a Chiropractor in Cordova, TN, has requested an Advisory Ruling regarding whether she can fit and place braces on children that have scoliosis.

After discussion, Dr. Massey made a motion that the Board advise Stephanie Halcomb DC that the rules do not keep her from placing braces on children with scoliosis. Dr. Kelton seconded. The motion carried.

### **Practitioners working on a Lapsed License**

Alison Cleaves, Deputy General Counsel came to the Board regarding practitioners working on a lapsed license. After discussion, Dr. Kelton moved to adopt the Agreed Citation as the means to enforce a civil penalty for practicing on a lapsed license or for

noncompliance with continuing education, as described by Ms. Cleaves. Ms Fitzgerald seconded. The motion carried.

Ms. Miller said that penalties have already been imposed on licensees who are non compliant for continuing education and that the fines have been paid. Ms Miller asked the Board whether to start over or send the Agreed Citations.

Ms Huddleston recommended that the citations go out to all of those individuals who were assessed and submitted civil penalties and if they do not sign the agreed citation we would have to conduct a hearing.

Dr. Alexander made a motion, seconded by Dr. Kelton, to accept the recommendation by Ms Huddleston.

### **Discuss Task Force Results**

Dr. Selby said the recommendation of the task force was that we do not make continuing education a condition of renewals. She stated that compliance may not become so much of an issue if we leave it as is in the rules. Dr. Selby asked if Ms. Owens can audit the licensees that have sent in the continuing education and present a list of those that are in compliance at the November board meeting.

Ms. Fitzgerald asked if there was a fax or an email capability to receive proof of continuing education. Ms. Huddleston said that there was a fax to email number that the licensees can use. Ms. Owens said that the only way that they know is if they call me to ask if I have received their continuing education.

### **Discuss Scope of Practice**

Ms. Huddleston said that the scope of practice language the Board gave the last time is being put in the rule package. It has to be reviewed by Office of General Counsel and the Attorney Generals office. I hope to have that to you at the next board meeting.

### **Rules**

The rules that are in the rulemaking package will be back before this Board in November, and include the rule that requires licensees to have a current mailing address, the rule to remove Tennessee Chiropractic Society from 0260-2-.12 a & b. and the rule regarding civil penalties for Chiropractors, CXT's and CTA's.

### **Including Acupuncture as part of Chiropractic Scope of Services**

Ms Huddleston said that the rules for continuing education already require the licensee to get 6 hours of continuing education in acupuncture if they use acupuncture in their scope of services. The problem is that we do not know who is using this and who is not. Ms.

Owens said the only way she would know who does this as part of their scope of services would be to add a modifier on the license.

Dr. Massey asked if that would require a separate license. Ms. Huddleston said that there could be a rule amendment to have all chiropractors required to submit proof and receive the acupuncture designation.

Ms. Huddleston said that she would have a proposed rule to vote on at the November board meeting.

**Review/Ratify Newly Licensed Chiropractors, CXT's and CTA's**

Upon review of the newly licensed chiropractors, CXT's and CTA's, Dr. Ratcliff made a motion, seconded by Dr. Massey, to approve the lists as written. The motion carried.

**Chiropractors**

Brandon Bailey  
Kara Birdwell  
Sean Bitner  
Matthew Breske  
Peter Camiolo  
Bradford Cole  
Ryan Collart  
Wesley Creech  
Suart Currie  
Corey French  
Emily Gampper  
Janie Haun  
Peter Hinz  
Craig Howenstine  
Darrin Jessop  
Daniel Levernier  
Brenda Medina  
Caleb Runne  
Jared Wootton

**CTAs**

Amber Antoine  
Pamela Bass  
Brandy Blackwell  
Jean Brosseau  
Kelly Dennis  
Catherine Froyd  
Tammy Gholson  
Angella Helton-Nutt  
Stephanie Hudgens  
Anita Inman  
Kendra Johnson  
Carole McKenzie  
Kristin Mefford  
Jennifer Patton  
Sarah Pinion  
Candi Price  
Tammy Richards  
Teresa Ricker  
Judith Sanders  
Elizabeth Starkey  
Susan Sutton  
Cresley Weatherford  
Virginia White

**CXTs**

Noemi Fowler  
Anita Inman  
Katherine McMillian  
Stephanie Minor  
Meshia Price  
Sean Stonecipher

### **Review/Ratify Continuing Education**

Upon review and discussion of the continuing education courses submitted for approval, Ms. Fitzgerald made a motion seconded by Dr. Alexander to approve the recommendations made by Dr. Massey regarding continuing education. The motion carried.

#### **Minerals, The Missing Link in Clinical Nutrition**

July 12 and 13, 2008  
Nashville TN  
Michael Dobbins DC  
12 hours

#### **Logan College of Chiropractic/Rehab Certificate Program**

July 19 and 20 and September 20 and 21, 2008  
Chesterfield MO  
Laney Nelson DC  
12 hours per session

#### **Footlevelers-Anti Aging Prevention through Chiropractic Care**

November 8 and 9, 2008  
Charlotte NC  
Michelle Binkowski, DC, CMUA  
12 hours

#### **Basic Spinal Rehabilitation Symptom Care to Functional Improvement**

Nashville TN and Chattanooga TN  
July 19 and 20, 2008 and September 6 and 7, 2008  
Guy Annunziata DC  
12 hours  
Approved for CTA's for 6 hours

#### **Chiropractic Coding, Billing and Documentation 2008**

Nashville, Birmingham and Atlanta  
July 17, 18 and 19, 2008  
Judy Lee, RM, CPM  
6 hours  
\*\*\*\*DENIED\*\*\*\*

#### **Modern Diagnosis, Treatment and Documentation Protocols**

Charlotte NC  
November 8 and 9, 2008  
Ksj Murkowski DC  
12 hours

**Extremity Adjusting Protocols**

Indianapolis IN  
August 2 and 3, 2008  
Mark Charrette DC  
12 hours

**Chiropractic Research: The Year In Review**

Nashville TN  
October 11, 2008  
M.B. Drybread DC  
12 hours

**The Chiropractic Leadership Summit**

September 19-20, 2008  
Bloomington IL  
Various Instructors  
18 hours

All Classes have been approved with the exception of the following;  
*DENIED are Lecture/Research Trends/Clinical and Basic Science*  
*DENIED are Lecture/Physiology/Basic Science*  
*DENIED are Lecture/Chiropractic Research/Research Trends*

**Palmer Homecoming 2008**

August 7-9, 2008  
Davenport IA  
Several speakers

All Classes are approved with the exception of the following..  
*DENIED are the 2 classes under Practice Management, DENIED are the 3 classes under Philosophy/Principles of Practice and DENIED are the 4 classes under Other*

**Myotonic Facilitation:Soft Tissue Diagnosis and Technique(Spine and Pelvis) - Texas Chiropractic College**

July - November 2008  
Various Locations  
Todd Turnbull, DC  
12 hours

**Kennedy Decompression Technique/Logan Chiropractic College**

August 2-3, 2008  
Chicago, IL  
Jay Kennedy DC  
12 hours

\*\*\*\*\*DENIED\*\*\*\*\*

**Florida Chiropractic Association**

August 21-24, 2008

Kissimmee, Florida

Various Speakers

Up to 164 hours

*The following courses will be DENIED for Tennessee*

*Florida Rules and Laws on 8-21-2008 and 8-23-2008*

*Coding and Documentation of Medical Necessity on 8-22-2008*

*The Truth about Medicare Requirements on 8-22-2008*

*The Science of Practice Fulfillment on 8-22-2008*

*The Art and Science of CPT Coding and Documentation on 8-22-2008*

*Georgia Rules and Laws on 8-23-2008*

*Medicare Guidelines for 2008 on 8-23-2008*

*Chiropractic Philosophy for Success in the 21<sup>st</sup> Century on 8-23-2008*

*Massage Your Practice on 8-23-2008*

*CPT Coding and Documentation on 8-24-2008*

*Class IV Laser Therapy on 8-24-2008*

**American Academy of Pain Management 19<sup>th</sup> Annual Clinical Meeting**

September 8-11, 2008

Nashville TN

Various Speakers

Up to 24 hours

**Natural Alternatives to the Top 10 Health Complaints**

September 6 -7, 2008

Atlanta GA

Michael Dobbins DC

12 hours

**The Neuromechanical System**

October 25-26 and November 15-16, 2008

Chicago, IL and Atlanta GA

Various Speakers

12 hours

**Laser Seminar Series \*\*\*DENIED\*\*\***

August 23-24, 2008

Jackson MS

Daniel Murphy, DC

12 hours

**\*\*\*DENIED\*\*\***

**ASRA Common Sports Injuries**

September 6 and 7, 2008

Knoxville TN

Kirk Lee DC

12 hours

DC and CTA

**Quintessential Applications/Life University**

October and December 2008 and February and April 2009

Various Instructors

Marietta GA

12 hours each session

**Rehabilitation for the Chiropractic Patient**

December 2008

Charles and Guy Annunziata DC

Atlanta GA

15 hours

**Myotonic Facilitation: Soft Tissue Diagnosis and Techniques (Upper and Lower Extremities)**

October and November 2008

Atlanta GA

Todd Turnbull DC

Total 32 hours

**Total Health Chiropractic/CTA Seminar**

October 2008

Chattanooga TN

Lance Silverman DC

6 hours

**Practice Evolution Program \*\*\*\*DENIED\*\*\*\*\***

November 22-23, 2008

Phoenix AZ

Ogi Ressel DC

24 hours

\*\*\*DENIED\*\*\*

**Neuro Sensory Integration/Life University**

September 20-21, 2008

Atlanta GA

Monika Buerger DC

12 hours

## **Neurology and its Practical Application/Life University**

October 4-5, 2008

Atlanta GA

Ian Horseman, DC

12 hours

## **Parker Chiropractic Program Dallas 2008**

September 2008

Dallas TX

Several speakers

**\*\*\*all approved with the exception of Dr. Browning and Dr. Muhammad's courses\*\*\*\***

### **File Review**

Upon review of the application file of **Dr. Scott Ingell**, Ms. Fitzgerald made a motion, seconded by Dr. Kelton to approve Dr. Ingell for licensure. The motion carried.

Upon review of the application file of **Dr. Timothy O'Brien**, Ms. Fitzgerald made a motion, seconded by Dr. Ratcliff to approve Dr. O'Brien for licensure. The motion carried.

Upon review of the application file of **Dr. Scott Close**, Ms. Fitzgerald made a motion, seconded by Dr. Kelton to approve Dr. Close for licensure. The motion carried.

Upon review of the application file of **Dr. Charles Bennett**, Dr. Kelton made a motion, seconded by Dr. Massey to approve Dr. Bennett for licensure. The motion carried.

### **Correspondence**

The Board reviewed correspondence from Jason Chastain DC requesting a waiver of his 2008 continuing education hours due to illness. Dr. Massey moved to accept his request. Ms. Fitzgerald seconded. The motion carried.

The Board reviewed correspondence from Amanda Brazier, CTA requesting a waiver of the \$300 fine and 2007 continuing education hours. Ms. Fitzgerald made a motion to accept the letter from Ms. Brazier providing that if Ms. Brazier ever reinstates her license in Tennessee she must complete the deficient hours and pay the \$300 fine. Dr. Alexander seconded. The motion carried.

The Board reviewed correspondence from Michelle Cook, CTA requesting a waiver of the \$300 fine and 2007 continuing education hours. Dr. Ratcliff made a motion to accept the letter from Ms. Cook, providing that if Ms. Cook ever reinstates her license in Tennessee she must complete the deficient hours and pay the \$300 fine. Dr. Kelton seconded. The motion carried.

## **Consent Order**

Ms. Huddleston presented a consent order to the Board for Ms. Vicki Newcomb who attended chiropractic school but did not pass the exam. Ms. Huddleston stated Ms. Newcomb was granted an order of compliance for her CXT and CTA licenses which were reinstated. Ms. Newcomb has admitted to practicing without a license and she has agreed to revocation of her CTA and CXT license. Ms. Newcomb did agree to pay costs. Dr. Massey moved to accept the consent order on Vicki Newcomb. Dr. Kelton seconded. The motion carried.

## **Contested Case Hearing Against Dr. Roger Byrd. License No. 1470**

Lynn England, Administrative Law Judge, presided over the hearing for Roger Byrd, DC. Andrea Huddleston, Assistant General Counsel, represented the State of Tennessee and Mr. Robert Green of the Memphis Bar and Mr. Frank Scanlon of the Nashville Bar represented Roger Byrd DC.

Joyce Hudspeth and Jeri Puckett Brown were sworn in as witnesses.

Judge England said the State will hear the case for Dr. Roger Byrd.

Ms. Huddleston distributed the Notice of Charges to the Board for review. The notice of charges stipulates the allegations of fact that Dr. Byrd has been charged by the State for violating the Board's advertising and telemarketing rules. There are several clinics across Tennessee in Memphis, Nashville, Knoxville and Chattanooga owned by MAIC (Memphis Accident and Injury Center). People involved in accidents have been called to seek medical care by chiropractors. Dr. Byrd was an officer and director in that corporation. Dr. Gregory Carroll was the other officer and director who has since lost his license. Since 2004 the corporate annual reports listed both the corporate address and officer addresses in Florida where Dr. Byrd resides.

Judge England said that it would be very difficult for the Board to hold the hearing in one half a day. The Board decided to recess and continue the hearing on November 13, 2008.

Judge England asked the Board members if they had any questions. Judge England reminded the Board not to discuss the matter with other board members or anyone else during the recess.

Dr. Kelton made a motion, seconded by Ms. Fitzgerald to adjourn at 4:10 p.m. The motion carried.

**Ratified by the Tennessee Board of Chiropractic Examiners on November 13, 2008**