

## TENNESSEE BOARD OF CHIROPRACTIC EXAMINERS

**DATE:** February 27, 2007  
**TIME:** 8:00 a.m., CST  
**LOCATION:** Health Related Boards Conference Center  
Poplar Room  
227 French Landing  
Heritage Place MetroCenter  
Nashville, TN 37243

### BOARD MEMBERS

**PRESENT:** Andrea Selby, DC  
Debe Williams, DC  
Michael Massey, DC  
Barry Kelton, DC  
Craig Ratcliff, DC  
Sheila Fitzgerald, Citizen Member

### STAFF

**PRESENT:** Sherry Owens, Board Administrator  
Barbara Maxwell, Administrative Director  
Ernie Sykes, Advisory Attorney  
Jerry Kosten, Rules Coordinator  
Lakita Taylor, AARB1

Dr. Selby called the meeting to order at 8:08 a.m. A sufficient number of members were present to constitute a quorum.

### **Review December 7, 2006 Minutes**

Upon review of the December 7, 2006 board meeting minutes, Dr. Kelton made a motion, seconded by Ms. Fitzgerald, to approve the minutes as written. The motion carried.

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

Mr. Sykes reviewed the Conflict of Interest Policy with the board asking the board members to disclose any conflict of interest they may have prior to contested cases or any other legal proceedings or matters to determine if there is a conflict of interest. Mr. Sykes stated if a board member does have a conflict of interest they must recuse him/herself and leave the hearing room during the proceeding.

## **Office of General Counsel Report**

Mr. Sykes stated the rule amendment regarding continuing education and x-ray became effective on March 21, 2006.

Mr. Sykes stated the rule amendment regarding costs became effective April 17, 2006.

Mr. Sykes stated the rule amendment regarding criminal background checks and acupuncture fees became effective May 31, 2006.

Mr. Sykes stated the rule amendment regarding increase in continuing education requirements became effective January 1, 2007.

Mr. Sykes stated the rule amendment regarding stays, reconsiderations and CPLLC was sent to the Attorney General on November 21, 2005 where it remains.

Mr. Sykes stated the rule amendment regarding chiropractic records and continuing education was sent to the Attorney General on March 16, 2006 where it remains.

Mr. Sykes stated the rule amendment regarding chiropractic acupuncture went to rulemaking hearing on October 20, 2006 and is in review at the Office of General Counsel.

Mr. Sykes stated the rule amendment regarding signs, id badges, supervision of CXT's and CTA's went to rulemaking hearing on February 16, 2007 and is being presented to the board for a roll call vote today February 27, 2007.

Mr. Sykes stated that the office of general counsel currently has eleven (11) open disciplinary cases pertaining to the board of chiropractic examiners.

## **Discuss and consider revision of the August 2006 policy statement regarding Chiropractors who employ non-licensed CTAs and CXTs**

Mr. Sykes said the revision to the policy statement states a chiropractor who employs unlicensed x-ray technicians and/or unlicensed therapy assistants, is subject initially to a civil penalty of one thousand dollars (\$1000) per such employee, after which time the unlicensed x-ray technician in question must complete the required course within sixty (60) days, the unlicensed therapy assistant must complete the required course within one hundred eighty (180) days and both professions must complete the required internship within one (1) year from the completion of the coursework.

Upon discussion, the Board decided to table the adoption of the policy statement until the next board meeting.

### **Consent Order for Douglas J. Stogner, DC**

Mr. Sykes discussed proposed consent order of Douglas J. Stogner, DC, who admits to ordering a CT scan for his son while his license was in a retired status. Dr. Selby recused herself, stating she sat on the screening panel regarding this discussion. Mr. Sykes stated a formal reprimand will be sent to Dr. Stogner. Upon discussion, Dr. Williams made a motion, seconded by Dr. Massey, to accept the consent order of Dr. Stogner. The motion carried.

### **Report from Jerry Kosten, Regulations Manager**

Mr. Kosten said rules 0260-2-.03, 0260-3-.03, 0260-3-.15, 0260-5-.03 and 0260-5-.15 regarding necessity of licensure and certification went to rulemaking hearing February 16, 2007. Mr. Kosten stated the amendments to the rules will require chiropractic therapy assistants and chiropractic x-ray operators to be currently certified by the Board before commencing with or participating in tests, treatments, or procedures and to wear identification badges issued by the board when commencing with or participating in tests, treatments, or procedures.

Upon discussion, Dr. Williams made a motion, seconded by Dr. Kelton, to table the discussion of CTA's and CXT's wearing identification badges until the next meeting. The motion carried.

Mr. Kosten said rules 0260-3-.06 and 0260-5-.06 regarding fees went to rulemaking hearing February 16, 2007. Mr. Kosten stated the amendments to the rules will require a non-refundable fee to be paid when an individual requests a replacement for a lost or stolen identification badge.

Mr. Kosten said rules 0260-3-.10 and 0260-5.10 regarding supervision went to rulemaking hearing February 16, 2007. Mr. Kosten stated the amendments to the rules will require placing a copy of the chiropractic x-ray operator and chiropractic therapy assistant's renewal certificate in his/her personnel file to show proof of authorization to perform a procedure or use of equipment. Mr. Kosten stated the amendments to the rules will also require the employing chiropractic physician(s) to assume full responsibility for the services provided by any person certified in the chiropractic physician(s) practice.

### **Contested Case of Virgil Coffman, DC**

Administrative Law Judge, Lynn England, presided over the contested case hearing for Virgil Coffman, DC. Elisha Hodge, Assistant General Counsel, represented the State of Tennessee, and Mr. Coffman was represented by Attorney Frank J. Scanlon.

Ms. Hodge distributed the Notice of Charges and Memorandum of Assessment of Civil Penalties to the board members and stated Dr. Coffman is charged with allowing unlicensed individuals to perform adjustments on patients, under his supervision, billing insurance companies under his name and provider number for services rendered by unlicensed individuals, and running advertisements with unlicensed individuals listed as chiropractors for Coffman Chiropractic.

Upon conclusion of testimonies, Ms. Fitzgerald made a motion, seconded by Dr. Williams, to accept the findings of fact that Dr. Coffman allowed unlicensed individuals to perform

adjustments on patients, under his supervision, billed insurance companies under his name and provider number for services rendered by the unlicensed individuals working for him, and ran advertisements with the unlicensed individuals listed as chiropractors for Coffman Chiropractic. The motion carried.

Dr. Williams made a motion, seconded by Ms. Fitzgerald, to accept the conclusions of law that it is unlawful for any person to practice chiropractic in Tennessee without a license, knowingly or purposely report services rendered incorrectly for the purpose of obtaining payment from a third-party, and misrepresent or mislead the public through advertisements. The motion carried.

Dr. Kelton made a motion, seconded by Dr. Williams, to assess Dr. Coffman twelve (12) Type B civil penalties and twelve (12) Type C civil penalties, all cost related to the hearing, to attend a six (6) hour jurisprudence course and two (2) years probation. The motion carried. Dr. Williams made a motion, seconded by Dr. Kelton, to allow Dr. Coffman up to one (1) year to pay all costs. The motion carried.

Dr. Williams made a motion, seconded by Dr. Kelton, to adopt the policy statement for this decision as to help protect the health, safety and welfare of the citizens of the state of Tennessee through the enforcement of the rules, regulations and statutes. A roll call vote was conducted and all board members voted in the affirmative.

### **Contested Case of Daniel Cole, DC**

Administrative Law Judge, Lynn England, presided over the contested case hearing for Daniel Cole, DC. Elisha Hodge, Assistant General Counsel, represented the State, and Mr. Coffman was represented by Attorney Frank J. Scanlon.

Ms. Hodge distributed the Notice of Charges and Memorandum of Assessment of Civil Penalties to the board members and stated Dr. Cole is charged with allowing an unlicensed individual to perform adjustments on patients, under his supervision and appearing in an advertisement as a licensed individual for Coffman Chiropractic prior to obtaining licensure in the state of Tennessee.

Upon conclusion of testimonies, Dr. Williams made a motion, seconded by Dr. Kelton, to accept the findings of fact that Dr. Cole allowed an unlicensed individual to perform adjustments on patients, under his supervision and appeared in an advertisement as a licensed individual for Coffman Chiropractic prior to obtaining licensure in the state of Tennessee. The motion carried.

Dr. Williams made a motion, seconded by Ms. Fitzgerald, to accept the conclusions of law that it is unlawful for any person to practice chiropractic in Tennessee without a license and misrepresent or mislead the public through advertisements. The motion carried.

Dr. Williams made a motion, seconded by Ms. Fitzgerald, to assess Dr. Cole twenty-seven hundred dollars (\$2700) in civil penalties and a letter of reprimand. The motion carried.

Dr. Kelton made a motion, seconded by Ms. Fitzgerald, to adopt the policy statement for this decision as to help protect the health, safety and welfare of the citizens of the state of Tennessee through the enforcement of the rules, regulations and statutes. A roll call vote was conducted and all board members voted in the affirmative.

### **Contested Case of Joseph Coffman, DC**

Administrative Law Judge, Lynn England, presided over the contested case hearing for Joseph Coffman, DC. Elisha Hodge, Assistant General Counsel, represented the State, and Mr. Coffman was represented by Attorney Frank J. Scanlon.

Ms. Hodge distributed the Notice of Charges and Memorandum of Assessment of Civil Penalties to the board members and stated Dr. Coffman is charged with performing adjustments on patients and appearing in an advertisement as a licensed individual for Coffman Chiropractic prior to obtaining licensure in the state of Tennessee and after becoming licensed, allowing an unlicensed individual to perform adjustments on patients, under his supervision.

Upon conclusion of testimonies, Dr. Williams made a motion, seconded by Dr. Kelton, to accept the findings of fact that Dr. Coffman performed adjustments on patients and appeared in an advertisement as a licensed individual for Coffman Chiropractic prior to obtaining licensure in the state of Tennessee and after becoming licensed, allowed an unlicensed individual to perform adjustments on patients, under his supervision. The motion carried.

Ms. Fitzgerald made a motion, seconded by Dr. Williams, to accept the conclusions of law that it is unlawful for any person to practice chiropractic in Tennessee without a license and misrepresent or mislead the public through advertisements. The motion carried.

Dr. Massey made a motion, seconded by Ms. Fitzgerald, to assess Dr. Coffman forty-seven hundred dollars (\$4700) in civil penalties, a letter of reprimand and to attend a six (6) hour jurisprudence course. The motion carried.

Dr. Williams made a motion, seconded by Dr. Massey, to adopt the policy statement for this decision as to help protect the health, safety and welfare of the citizens of the state of Tennessee through the enforcement of the rules, regulations and statutes. A roll call vote was conducted and all board members voted in the affirmative.

### **Investigative Report**

Ms. Owens reviewed the investigative report stating of the fifty-three (53) complaints against chiropractic physicians, twenty-seven (27) were closed with no action, seven (7) were closed with letters of concern, six (6) were closed with letters of warning, twelve (12) were referred to OGC and one (1) was closed pending court action.

### **Disciplinary Report**

Ms. Owens reviewed the disciplinary report stating there are five (5) chiropractic physicians and one (1) CXT/CTA currently being monitored.

### **Financial Report**

Ms. Owens stated the board has a cumulative carryover of \$131,655.75 since June 2006.

### **Administrative Report**

Ms. Owens stated there are currently 955 active, 463 retired and 353 failed to renew chiropractors.

Ms. Owens stated there are currently 87 active, 47 retired and 373 failed to renew chiropractic x-ray technicians.

Ms. Owens stated there are currently 355 active, 46 retired and 176 failed to renew chiropractic therapy assistants.

Ms. Owens stated the benchmark for renewal processing time is ten (10) days with chiropractors averaging 8.60, CXTs 5.20 and CTAs 5.72 days.

Ms. Owens stated the benchmark for application processing time is one hundred (100) days with chiropractors averaging 92.2, CXTs 16.8 and CTAs 49.5 days.

### **Discuss Continuing Education Rule 0260-2-.12(4)(a)**

Upon discussion, Dr. Massey made a motion, seconded by Dr. Williams, to remove rule 0260-2-.12(4)(a). The motion carried.

### **Ratify Continuing Education Courses**

Upon review, Dr. Kelton made a motion, seconded by Dr. Ratcliffe, to ratify the following continuing education courses initially approved by Dr. Massey:

#### **The Doctor of the Future Seminar**

Texas Chiropractic College  
March 3<sup>rd</sup> and 4<sup>th</sup> – Rogers, Arkansas  
June 2<sup>nd</sup> and 3<sup>rd</sup> – Nashville, Tennessee  
June 9<sup>th</sup> and 10<sup>th</sup> – Jackson, Mississippi  
Presented by: Stuart White, DC  
12 hours

#### **Myokinesthetic System**

Year 2007

Presented by: Michael Uriarte, DC  
23 hours

**Therapeutic Nutritional Services, Inc**

Embassy Suites Nashville Airport

February 3-4, 2007

Presented by: Bruce Bond, DC

12 hours

**Vertebral Subluxation**

Logan College of Chiropractic

March 10-11, 2007

Presented by: James Demetrious, DC

12 hours

**Vertebral Subluxation**

Sherman College of Chiropractic

February 24-25, 2007

Presented by: James Demetrious, DC

12 hours

**Documenting the Injuries and the Need for Care**

Permanent Soft Tissues Injuries

Year 2007

Presented by: Daniel Dock, DC

12 hours

**Correspondence**

Upon discussion of a letter from **Virginia Justus, DC**, requesting a waiver of continuing education for 2007, Dr. Williams made a motion, seconded by Ms. Fitzgerald, to approve a waiver of CE requirements for the 2007 CE cycle.

Upon discussion of a letter from **Allen Goode, DC**, requesting an extension of continuing education because of illness, Dr. Ratcliffe made a motion, seconded by Dr. Williams, to approve an extension of CE requirements for 2006.

Upon discussion of a letter from **Paul Townsend, DC**, requesting representation from the board at the National Board of Chiropractic Examiners Part IV Practical Examination administration, Dr. Massey volunteered to attend the meeting that will be held in Texas.

**Ratify Newly Licensed and Reinstated Chiropractic Physicians, Chiropractic Therapy Assistants and Chiropractic X-Ray Technicians**

Upon review, Dr. Williams made a motion, seconded by Dr. Massey, to ratify the following newly licensed and reinstated chiropractic physicians, chiropractic therapy assistants and chiropractic x-ray technicians:

Newly Licensed Chiropractic Physicians

**Kerri Bennett  
Cristina Christiansen  
James C. Daniel  
Robert T. Davidson  
Benjamin Follas  
Brian Grindstaff  
William Hallums  
Frank Marghella  
Phillip Scott, Jr.  
Brian Sharp  
Collin P. Smith  
Paul J. Toney  
Derek Totty  
Amanda Vaden  
Donald Vaughn**

Newly Licensed Chiropractic Therapy Assistants

**April Cantrell  
Donna Carney  
Patricia Ann Dayton  
Amy Hurley  
Jennifer King  
Courtney S. Olds**

Newly Licensed Chiropractic X-Ray Technicians

**Rebecca Forshee  
Angelia Knight  
Adriann Rutherford  
Kendall Wells**

Reinstated Chiropractic Physicians

**Joseph Coffman  
Jesse M. Lacy  
Lisa C. Walker**

Reinstated Chiropractic Therapy Assistants

**Stace M. Davis**  
**Ronald C. Free**  
**Tammy K. Hopkins**  
**Ruth M. Porter**  
**Cindy S. Wegener**

The motion carried.

**Review Files**

Upon discussion of the application of **Jamie Gibson**, indicating a DUI, Dr. Kelton made a motion, seconded by Dr. Williams, to approve Jamie Gibson for licensure. The motion carried.

With no other board business to conduct, Dr. Massey made a motion, seconded by Dr. Williams to adjourn the meeting at 3:15 p.m. The motion carried.