

TENNESSEE BOARD OF CHIROPRACTIC EXAMINERS

DATE: May 10, 2007

TIME: 8:00 a.m., CST

LOCATION: Health Related Boards Conference Center
Poplar Room
227 French Landing, Suite 150
Heritage Place MetroCenter
Nashville, TN 37243

BOARD MEMBERS

PRESENT: Andrea Selby, DC, President
Michael Massey, DC, Vice-President
Craig Ratcliff, DC, Secretary
Barry Kelton, DC
Debe Williams, DC
Sheila Fitzgerald, Citizen Member

STAFF

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

Dr. Selby called the meeting to order at 8:11 a.m. All board members were present.

Ms. Owens stated that all contested cases have been continued until the next board meeting.

Review February 27, 2007 Minutes

Upon review of the February 27, 2007 board meeting minutes, Dr. Williams made a motion, seconded by Dr. Kelton, 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 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 chiropractic records and CE became effective March 27, 2007.

Mr. Sykes stated the rule amendment regarding stays, reconsiderations and CPLLC was sent to the Attorney General on November 21, 2005 and will become effective May 30, 2007.

Mr. Sykes stated the rule amendment regarding x-ray certification process was sent to the Attorney General on July 26, 2006 and will become effective June 5, 2007.

Mr. Sykes stated the rule amendment regarding chiropractic acupuncture was sent to the Attorney General on January 30, 2007.

Mr. Sykes stated the rule amendment regarding signs, ID badges, supervision of CXTs and CTAs went to hearing on February 16, 2007 and is before the board today for a roll call vote and final approval.

Mr. Sykes stated the Office of General Counsel currently has eight (8) open disciplinary cases pertaining to the Board of Chiropractic Examiners.

Mr. Sykes discussed a proposed advisory private letter ruling as to whether chiropractors may collect urine samples in their offices. Mr. Sykes stated a chiropractor may request or order lab tests such as urinalyses, so long as those lab tests are appropriate to chiropractic practice and a chiropractor may collect urine samples on-site in his or her office to be sent to a medical laboratory for testing, so long, again, as those lab tests are appropriate to chiropractic practice.

Upon discussion, Ms. Fitzgerald made a motion, seconded by Dr. Williams, to accept the policy statement regarding the collection of urine samples. The motion carried.

Mr. Sykes discussed a proposed advisory private letter ruling as to whether chiropractors may order the use of durable medical equipment (DME) such as TENS (Transcutaneous Electrical Nerve Stimulation) units for their patients. Mr. Sykes stated a chiropractor may by written order authorize patients to procure and use durable medical equipment, so long as such use is for a purpose within the scope of chiropractic practice. Mr. Sykes stated it is within the scope of practice for a chiropractic physician to order patients to use, on the patient's own time and in the patient's own home, equipment which furthers the chiropractor's continuum of care to that patient.

Upon discussion, Dr. Williams made a motion, seconded by Dr. Ratcliff to accept the policy statement regarding ordering the use of durable medical equipment. The motion carried.

Mr. Sykes discussed a proposed position statement stating a licensed Tennessee chiropractor may provide chiropractic services to a patient who is under anesthesia if and only if: (1) such chiropractic treatment has been ordered by treating medical or osteopathic physician; (2) the manipulation under anesthesia (MUA) treatment is supervised by a medical or osteopathic physician; and (3) the anesthesia is administered by, and the anesthetized patient is at all times monitored by, an anesthesiologist or other healthcare professional who is legally qualified to perform and monitor anesthesia.

Upon discussion, Dr. Williams made a motion, seconded by Ms. Fitzgerald, to accept the position statement regarding anesthesia. The motion carried.

Ms. Owens asked the board to adopt the following policy statement pertaining to contested cases:

It is the policy of this board 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 that requires this action.

Upon discussion, Dr. Kelton made a motion, seconded by Dr. Massey to accept the policy statement regarding contested cases. The motion carried.

Report from Jerry Kosten, Regulations Manager

Mr. Kosten stated 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 the Board to provide a sign to each licensed chiropractic physician which shall be displayed in the most conspicuous site at the licensee's practice location and the sign shall state that chiropractic therapy assistants and chiropractic x-ray operators are required 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, the Board decided to strike all rule amendments regarding signs and ID badges.

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.

Upon discussion, Dr. Williams made a motion, seconded by Dr. Massey, to accept the rule amendments. The motion carried. A roll call vote was conducted and all members answered in the affirmative.

Mr. Kosten presented a notice of rulemaking hearing to amend rules 0260-2-.03, 0260-2-.07, 0260-2-.12, 0260-2-.15, 0260-3-.12, 0260-2-.14, 0260-5-.12 and 0260-5-.14 regarding use of titles, interviews, continuing education, disciplinary actions and civil penalties.

The board discussed drafting a standard checklist for all board members to use during interviews. Mr. Sykes suggested tabling discussion until the next board meeting.

Upon discussion, the board decided not to make any amendments to rules regarding continuing education and upon further discussion, Dr. Williams made a motion, seconded by Dr. Kelton, to send all other amendments to rulemaking hearing. The motion carried.

Mr. Kosten discussed the economic impact of proposed rule amendments on small businesses.

Investigative Report

Ms. Owens reviewed the Investigative Report stating there are currently eight (8) complaints against chiropractic physicians, one (1) closed with a letter of concern and two (2) closed with a letter of warning.

Ms. Owens stated there are currently no complaints against CXT's and CTA's.

Disciplinary Report

Ms. Owens reviewed the disciplinary report stating there are seven (7) 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 as of June 2006. Ms. Owens stated a current report will become available in the upcoming weeks.

Administrative Report

Ms. Owens stated there are currently 966 active, 467 retired and 353 failed to renew chiropractors.

Ms. Owens stated there are currently 94 active, 47 retired and 372 failed to renew chiropractic x-ray technicians.

Ms. Owens stated there are currently 355 active, 47 retired and 187 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.

Ms. Owens stated renewal processing time has decreased due to licensees utilizing the internet renewal system and submitting required documentation in a timely manner.

Ms. Owens stated between February 16, 2007 and May 1, 2007, sixteen (16) chiropractic examiners, zero (0) chiropractic x-ray operators and two (2) chiropractic therapy assistants renewed online.

Ms. Owens stated all requests for travel must be submitted 120 days prior to travel date for approval.

Ratify Continuing Education Courses

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

Pettibon System

Dallas, TX, June 2-3, 2007

Treating patients who have scoliosis

Presented by: Mark Morningstar, DC

12 hours

Upledger Institute of Craniosacral Therapy

Memphis, TN, April 26-27, 2007

12 hours

Logan College of Chiropractic and Tennessee Valley Chiropractic Association

Knoxville, TN, May 19-20, 2007

Incorporating Therapeutic Exercise into Chiropractic Care

Presented by: Ricky Lockett, DO

12 hours

Palmer College of Chiropractic

Davenport, IA, May 5-6, 2007

Trends in Diagnostic Imaging

Presented by: Ian McLean, DC

12 hours

BodyZone.com/University of Bridgeport College of Chiropractic

Year of 2007

Integrating Chiropractic and Posture Rehab Exercise

Presented by: Stephen Weiniger, DC

12 hours

Sherman College of Chiropractic

Spartanburg, SC, May 24-27, 2007

Lyceum 2007 - Mission Possible

Presented by: Several Chiropractic Physicians

83 hours/21 max per DC

Lance Silverman DC

Total Health Chiropractic

Year 2007

Chiropractic Therapy Assistant CEUS

6 hours

Palmer College of Chiropractic

Palmer College Homecoming 2007

Davenport, IA, August 9-11, 2007

32 hours/16 can be earned

Richard Yennie, DC

Modern and Classical Basic and Advanced Acupuncture Certification Series

Year 2007

Kansas City MO

Logan College of Chiropractic

D.C. Tracts 2007

Home Study

Year 2007

6 hours

Logan College of Chiropractic

OUM Chiropractic Program

Theory and Practice

Home Study

Year 2007

6 hours

Logan College of Chiropractic

The Chiropractic Nutrition Specialist

May 11-13, 2007

Presented by: David Seaman, DC

12 hours

The motion carried.

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. Kelton, to ratify the following newly licensed and reinstated chiropractic physicians, chiropractic therapy assistants and chiropractic x-ray technicians:

Newly Licensed Chiropractic Physicians

**Andrew Alft
Michelle Bradshaw
Amanda Clark
Tara Daniel
Tameka Daniels
Ashley Fauser
Jayme Gipson
James Hitson
Dorothey Jacobs
Dionne Kellogg
Ronald D. Muse
Lyndsey M. Paquette
Casey M. Rowan
Amy E. Rudder
Jim Sweeney
Marybelle Walden**

Newly Licensed Chiropractic Therapy Assistants

**Meredith Allen
Ferial K. Bearden
Jonnie Beets
Jill S. Brake
Katherine J. Carey
April D. Costner
Tammy G. Ford
Margaret Heikkinen
Jacqueline Knapek
Kerri Smith-Courtley
Kristina Stockton
Rebekah Williams**

Newly Licensed Chiropractic X-Ray Technicians

**Pamela S. Barker
Megan Greene
Stephanie Lazenby**

Treva M. Marlin
Alecia A. Meador
Emily M. Payne

Reinstated Chiropractic Physicians

Timothy S. Carruthers
William D. Forth
John M. Green
Melvyn L. Jackson
Larry E. Phipps
Henry A. Sickels

Reinstated Chiropractic Therapy Assistants

Carol M. Burnett
Ashley N. Hensley

Reinstated Chiropractic X-Ray Technicians

Brenda Grant
Ashley N. Hensley

The motion carried.

Review Files

Steven Seegrist appeared before the board to address derogatory findings on his criminal background check. Mr. Seegrist provided proof of dismissed charges and paid restitution. Upon discussion, Dr. Williams made a motion, seconded by Ms. Fitzgerald, to accept Dr. Seegrist for licensure. The motion carried.

Upon review of the application of **James Brown, DC**, indicating advertising violations in the state of Alabama, Dr. Williams made a motion, seconded by Dr. Ratcliffe, to approve Dr. Brown for licensure by reciprocity, pending completion of an interview with a board member. The motion carried.

Upon discussion, Dr. Ratcliffe made a motion, seconded by Dr. Kelton, to approve the following:

Stephanie Bridge, CTA
Jason Powers, DC
Jason Seltzer, DC

The motion carried.

Set 2008 Board Dates

February 21, 2008

May 15, 2008

August 21, 2008

November 13, 2008

Correspondence

Dr. Williams stated she had a concern about a local pain clinic that does not have medically supervised equipment. Upon discussion, Mr. Sykes stated it would be wise for Dr. Williams to file a complaint and have Investigations look into and decide if there is a violation. Mr. Sykes stated if Dr. Williams did file a complaint, she would have to recuse herself and advised her to not discuss the issue with other board members.

Dr. Massey stated he attended the joint meeting between the FCLB (Federation of Chiropractic Licensing Boards) and the NBCE (National Board of Chiropractic Examiners) and informed the board that there are more chiropractic colleges outside the United States than in the United States. Dr. Massey stated CCEI currently accredits international chiropractic colleges also, Dr. Massey stated ethic violations have increased because students have a small grasp on ethical responsibility of the profession. Dr. Massey suggested the EMB exam, which serves as a disciplinary tactic for practitioners who have ethical or sexual boundary violations. Dr. Massey said the exam cost \$895 to take and must be taken and passed to reinstate a license and is currently used in other states.

The board discussed increasing the continuing education requirement in ethics and will table further discussion until the next board meeting.

With no other board business to conduct, Dr. Kelton made a motion, seconded by Dr. Williams to adjourn the meeting at 11:28 p.m. The motion carried.

Ratified by the Board of Chiropractic Examiners on August 9, 2007