

**Arkansas State Board of Chiropractic Examiners
Board Meeting / Credentials Review Minutes
June 16, 2015**

CALL TO ORDER

The meeting was called to order by Julie Traylor-Logan, D.C., President, at 9:59 a.m.

ROLL CALL

Board Members present:

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

Board Members absent:

None

Staff Members present:

Sara Farris, Assistant Attorney General
Laurie Mayhan, Executive Director

Guests Present:

Chris Cathey, D.C.
Derrick Smith
Ellen Withers, State Farm Ins.
Becky Crenshaw, Rehab Net
Gaylon Carter, D.C.
Terrance P. Carolan, D.C.

MINUTES

The April 9, 2015, minutes were presented to the Board. Mr. Jack McCoy made a motion to approve the minutes. Dr. Dustin Heard seconded the motion. The motion passed unanimously.

The April 23, 2015, Minutes were presented to the Board. Mr. Jack McCoy made a motion to approve the minutes. Mr. Harold Gunter seconded the motion. The motion passed unanimously.

DIRECTOR'S REPORTS

Budget Report

The May 2015 Monthly Expenditure Report by Appropriation and the Monthly Revenue Summary Report by Fund were presented to the Board. The Executive Director notified the Board that on an emergency basis an Appropriation Transfer request in the amount of \$5,000 was approved. The transfer was requested by the Agency's Budget Analyst to help cover related expenses for the remainder of the fiscal year regarding Personal Services Matching for both budgeted positions. As of June 1, 2015 the total expense is \$119,705.86 with \$46,932.51 remaining, which includes the emergency appropriation.

Continuing Education Report

Jul'14-Jun'15

	<u># Apps</u>	<u># Hrs</u>	<u>Amt Due</u>	<u>Amt Pd</u>
Approved	322	4317.25	\$21,586.25	\$21,586.75
Approved w/exception	1	239	\$1,195.00	\$1,195.00
Not Approved	11	125	\$625.00	\$625.00
Cancelled	2	30	\$150.00	\$150.00
Pending	7	107	\$535.00	\$535.00
Void	3	0	\$0.00	\$0.00
Totals:	346	4818.25	\$24,091.25	\$24,091.75

FOIA Report

22 FOIA Requests have been received and completed thus far from July 2014 to June 2015.

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

OLD BUSINESS

Proposed Rules, Regulations & Statutes

Dr. Gaylon Carter and Dr. Christopher Cathey submitted proposed language for rules regarding Procurers at the April meeting. This item was tabled in April and given to the Attorney to review the proposed language and to submit a response at the next meeting. The attorney submitted and edited draft of the previous language regarding procurer registrations and a motion was made by Mr. Jack McCoy to approve the drafted proposed language by the attorney. Dr. Kent Moore seconded the motion. The motion passed unanimously.

Clinic Ownership (Certificates of Registration for Professional Associations)

This item was table from April in order for the Attorney to look further into the issuance of certificates for professional associations. The attorney cited Title 4, A.C.A. § 4-29-210, Certificate of registration - - Issuance, renewal, etc. However, the Act does not provide a way for the Board to enforce this requirement on corporations that do not comply. The attorney suggested that the Board implement an application for a C of R now, and then add statutory language in 2017 that provides a more comprehensive regulatory scheme for clinics. It was suggested that ASBCE model the Medical Board in regards to issuing these certificates. The Board decided to give a directive to the Executive Director and the attorney to draft language and/or certification process. This item will be revisited in October.

Clinic Ownership (Active vs. Active- Out of State)

The proposed language that was submitted by Drs. Carter and Cathey in April regarding requirements that only Arkansas-licensed chiropractors can review insurance claims was reviewed by the Boards attorney. The attorney informed the Board that as of now the Board does not have the statutory authority to enact such a rule and there is no other AR law that covers this issue.

American Chiropractic Board of Sports Physicians

A letter was submitted to the Board by Robert C. Nelson, DC, DACBSP, of the American Chiropractic Board of Sports Physicians regarding the evaluation and return to play of concussed athletes. The letter was reviewed at the April 9 meeting and was given to the Boards attorney to look into. According to the Boards attorney, Arkansas law simply references “healthcare providers” as being those that can evaluate an athlete to return to play. The Board asked that a letter should be sent to Dr. Nelson stating that there is no specific rule regarding athletes being evaluated by a Chiropractor in order to be returned to play.

Letter to Board Re: Advertising

An email was received from Dr. Philip Jones regarding coupon advertising for half of new patient exam and x-rays and a \$25 new patient visit including exam and x-rays. Also, how do you bill insurances if these discounts are given?

According the Board and their attorney these advertisements may violate the RRS as being an inducement for **new** patients. With regard to the billing of insurance the Board states that one would have to contact the insurance provider. Letter to be sent to Dr. Jones.

Osteopractor

This item was tabled from April for a response from the Physical Therapy Board. A response was received on June 15th stating, “The Board reviewed the information at a board meeting last Thursday, June 11, 2015. The Board concluded that Ms. Bush has not violated the Physical Therapy Practice Act. She states she has a certification in dry needling, spinal and extremity manipulation. She states that she performs spinal mobilization, which is within the scope of practice for Arkansas licensed physical therapists. Dry Needling is also within the scope of practice of an Arkansas licensed Physical Therapists.”

Since the response stated that she has a certification in spinal and extremity manipulation a motion was made by Dr. Thomas Taylor that a letter be sent to the Physical Therapy Board

requesting the PT Board's findings that Ms. Bush has not violated the practice Act. Motion seconded by Dr. Dustin Heard. Motion passed unanimously.

A second motion was made by Dr. Kent Moore that a letter be sent to the Physical Therapy Board requesting proof of Ms. Bush's certification in spinal and extremity manipulation for review. The motion was seconded by Mr. Harold Gunter. Motion passed unanimously.

A third motion was made by Dr. Thomas Taylor that this should also be forwarded to the investigator. Dr. Kent Moore seconded the motion. Motion passed unanimously.

ChiroTrust

As per the Board's request in April, a letter was sent requesting documents from ChiroTrust. As of June 16th no response has been received from ChiroTrust.

NEW BUSINESS

Chiropractic History of Radiology

An email was received from Dr. Kenneth Young regarding the history of Radiology in Chiropractic, specifically with regard to Arkansas. The questions that were presented were unanswerable by the Director since she did not know of any historical documents on file regarding the incorporation of radiology in the State exam. The Director presented the email to the Board and they too did not have the answers. No further action taken.

Dry Needling

A student at Logan University inquired about licensing requirements for dry needling, and if it's considered acupuncture or is it within the chiropractic scope in Arkansas?

Dr. Thomas Butler made a motion stating that dry needling does fall within the Arkansas Chiropractic scope with the 100 hour acupuncture certificate. The motion was seconded by Dr. Dustin Heard. Discussion followed regarding the interpretation of dry needling and having a power pole run by FCLB. The second and the motion were both rescinded to wait for power pole results at next meeting.

The Joint

A letter was sent to the Board dated September 3, 2014 regarding the Joint being able to manage a chiropractic clinic in Arkansas. The Board sent a response dated February 6, 2015 stating, "... the information provided leads the Board to conclude that the The Joint Corp.'s business model would be in violation of Arkansas law." On May 12, 2015 a response from The Joint was received regarding the Board's letter dated February 6th. This item was tabled for July so that the Board's attorney could have more time to review the Joint's letter and exhibits.

Physical Therapy Board Re: Kathleen Rea, PhD (advertisement)

A letter and supporting documents were received from the Physical therapy board regarding Kathleen Rea, PhD. The PT Board is requesting that the medical community stand unified against unlicensed practices. The complaint was sent to the PT board and the PT board sent a cease and desist letter to Ms. Rea along with notifying other agencies the complaint could be related to. The complaint mentions that Ms. Rea does injury recovery through fitness and that she never claims to do physical therapy though she does use inversion, and spinal decompression

as part of her treatment/training. The complaint mentions that Ms. Rea encourages her clients to bring their x-rays/MRIs for her to look at and explain.

Dr. Thomas Taylor made a motion that this be forwarded to the investigator to follow up on. Motion seconded by Mr. Jack McCoy. Dr. Thomas Taylor, Mr. Jack McCoy, Dr. Thomas Butler and Mr. Harold Gunter voted for the motion. Dr. Kent Moore and Dr. Dustin Heard were opposed. Motion passed.

Highlights from FCLB

Highlights from the FCLB annual conference were presented to the Board. Dr. Kent Moore, Dr. Thomas Butler and Ms. Laurie Mayhan attended the conference in May.

District Meeting September 17-20

Information regarding the district meeting was presented to the Board in case they wanted to send a representative(s). Dr. Thomas Taylor made a motion to send Mr. Jack McCoy and the Director to the District meeting. Motion seconded by Dr. Thomas Butler. Discussion of an alternate being Dr. Dustin Heard if Mr. McCoy could not make it. Motion passed unanimously.

Board meeting dates (not on agenda but added at President's request)

Date options were presented to the Board to choose from for the 2016 fiscal year.

October 8, 2015, Thursday	December 10, 2015, Thursday
January 21, 2016, Thursday	April 14, 2016, Thursday
June 14, 2016, Tuesday	July 19, 2016, Thursday

Dr. Thomas Taylor made a motion to approve the dates selected. Dr. Dustin Heard seconded the motion. Motion passed unanimously.

11:33 am 5 minute recess. Reconvened at 11:40 am.

CREDENTIALS REVIEW

	<u>Status</u>	<u>Last Name</u>	<u>First Name</u>	<u>MI</u>	<u>Board decision</u>
1	Applicant	Brown	Stephen	M	Approved
2	Applicant - Temp License	Bub	James	M	Not credentialed - App. Incomplete
3	Applicant	Colgrove	Michael	C	Approved
4	Applicant	Craig	Samantha	L	Approved
5	Applicant	Cunningham	Holly	E.	Approved
6	Applicant	Driscoll	Sean	M	Not credentialed - App. Incomplete
7	Applicant	Francois	Serge	P	Approved, State Exam needed
8	Applicant	Hamilton	Derrick	D	Not credentialed – App. Incomplete
9	Applicant	Jones	Venita	N	Approved
10	Applicant	Liming	Troy	H	Skipped
11	Applicant	Loveless	Chad	D	Skipped
12	Applicant	Meek	Roy	D	Approved, State Exam needed
13	Applicant - Temp License	Pennington	Bradley	R	Approved, State Exam needed
14	Applicant	Roth	Ryan	N	Approved pending graduation
15	Applicant - Temp License	Sarver	Edward	K	Approved, State Exam needed
16	Applicant	Scudder	Micah	J	Approved
17	Applicant	Settles	Shanuri	D	Approved
18	Applicant	Simpkins-Spain	Vita	K	Approved
19	Applicant	Smith	Kayla	E.	Approved

Dr. Kent Moore made a motion to approve the credentials of; S. Brown, M. Colgrove, S. Craig, H. Cunningham, V. Jones, E. Sarver, M. Scudder, S. Settles, V. Simpkins-Spain and K. Smith. Dr. Dustin Heard seconded the motion. Motion passed unanimously.

Dr. Thomas Taylor made a motion that all incomplete applications be sent back per Regulation A(3)(b) of the Boards RRS. Applications that were incomplete were J. Bub, S. Driscoll and D. Hamilton. Lack of second, motion failed. Discussion followed. Dr. Thomas Taylor made the same motion that all incomplete applications be sent back, which would include J. Bub, S. Driscoll and D. Hamilton. Motion seconded by Dr. Dustin Heard. Dr. Kent Moore abstained and the motion passed.

Dr. Kent Moore made a motion to approve Dr. S. Francois's credentials. Motion seconded by Dr. Dustin Heard. Motion passed unanimously.

Dr. Thomas Taylor made a motion to approve Dr. R. Meek's credentials as he would be applying for a transfer of license. Mr. Jack McCoy seconded the motion. Dr. Kent Moore abstained and motion passed.

Dr. Kent Moore made a motion to approve Dr. B. Pennington's credentials and temporary Unsupervised license application. Motion seconded by Mr. Harold Gunter. Motion passed unanimously.

Dr. Kent Moore made a motion to approve R. Roth pending his graduation from Chiropractic College in September 2015. Motion seconded by Mr. McCoy with an abstention by Dr. Thomas Taylor. Motion passed.

Credentials for T. Liming and C. Loveless skipped over during review for further discussion, but failed to go back to review their credentials. Not credentialed at this time.

INVESTIGATION REPORT

	Recommendations	Complaint #	Complaint Description
1	Letter of Caution to Dr. Lenox	580-02-12-15	Practicing without a license / Billing Fraud

2	Further Investigation	578-02-09-15	Solicitation/ Unregistered Procurers/ Unprofessional Conduct
3	Further Investigation	583-02-23-15	Unregistered Procurer
4	Further Investigation	584-02-23-15	Unregistered Procurer
5	Further Investigation	585-02-23-15	Unregistered Procurer
6	Further Investigation	586-02-23-15	Unregistered Procurer
7	Further Investigation	591-03-09-15	Solicitation by Unregistered Procurer
8	Hearing	598-03-31-15	Aiding or abetting an unlicensed practitioner Unregistered procurers
9	Under Investigation	605-05-19-15	Unregistered Procurer
10		612-05-25-15	Unregistered Procurer / Advertising

11	Further Investigation	516-1-21-14	Solicitation
12	Remain Open	547-6-20-14	Unregistered Procurer
13	Further Investigation	552-7-2-14	Solicitation; Unregistered procurer; Unregistered procurer using alias (name also isn't registered)
14	Further Investigation	569-11-25-14	Unprofessional Conduct/Solicitation
15	Under Investigation	607-05-22-15	Unregistered Procurers/ unprofessional conduct
16	Under Investigation	608-05-22-15	unregistered Procurer/ unprofessional conduct

17	Further Investigation	512-1-8-14	Solicitation
18	Further Investigation	513-1-8-14	Solicitation
19	Further Investigation	517-1-20-14	Solicitation
20	Duplicate Record	518-1-21-14	Solicitation dup rec to 517-1-20-14
21	Duplicate Record	519-1-13-14	Solicitation- dup rec to 513-1-8-14
22	Duplicate Record	520-1-13-14	Solicitation- dup rec to 512-1-8-14
23	Further Investigation	539-2-27-14	Solicitation
24	Remain Open	524-2-11-14	Unregistered Procurers
25	Further Investigation	567-11-19-14	Solicitation by unregistered procurer
26	Letter of Caution	573-12-5-14	Solicitation
27	Under Investigation	609-05-22-15	Unregistered Procurer/ Unprofessional Conduct
28	Under Investigation	610-05-22-15	Unregistered Procurer/ Unprofessional Conduct
29	Close	575-12-29-14	Unprofessional Conduct
30		576-1-5-15	Unprofessional conduct
31	Further Investigation	528-2-20-14	Solicitation; Unregistered Procurer
32	Remain Open- waiting for further information	549-6-23-14	Solicitation
33	Remain Open- waiting for further documentation	562-9-11-14	solicitation/ unregistered procurer
34	Further Investigation	593-03-19-15	Unregistered Procurer
35	Further Investigation	594-03-19-15	Unprofessional Conduct
36	Further Investigation	595-03-19-15	Unregistered Procurer
37	Further Investigation	596-03-19-15	Unprofessional Conduct
38	Further Investigation	597-03-19-15	Unregistered Procurer
39	Further Investigation	515-1-16-14	Unprofessional Conduct: Not Supervising on Premise
40	Hearing 7-23-15	600-04-21-15	Unprofessional Conduct
41	Need Rec from Board	525-2-18-14	Unprofessional Conduct
42	Close	531-3-3-14	Unprofessional Conduct
43	Further Investigation	478-7-23-13	Solicitation
44	Further Investigation	491-10-9-13	Solicitation; Unprofessional Conduct
45	Remain Open	394-7-29-10	Practicing Chiropractic without a License; Non-Licensee
46	Remain Open	401-9-20-10	Practicing Chiropractic without a License; Non-Licensee
47	Close w/ possible fwd to Inspector General	602-04-27-15	Unprofessional Conduct
48	Close w/possible fwd to inspector general	603-04-27-15	Advertising
49		574-12-9-14	Solicitation

50	Letter of Caution	581-02-12-15	Aiding and Abetting and Unlicensed Chiropractor
51	Remain Open	468-2-9-13	Solicitation
52	Further Investigation	487-9-22-13	Solicitation
53	Further Investigation	543-6-5-14	Solicitation; Unregistered Procurer
54	Further Investigation- waiting for additional info from Dr.	566-10-21-14	Billing
55	Need Rec by Board	601-04-22-15	Unprofessional Conduct
56	Further Investigation	551-7-2-14	Advertisement
57	Remain Open	388-6-8-10	Practicing Chiropractic without a License; Non-Licensee
58	Remain Open	402-9-20-10	Practicing Chiropractic without a License; Non-Licensee
59	Further Investigation	509-12-18-13	Solicitation
60	Duplicate Record	510-12-27-13	Solicitation - dup rec of 509-12-18-13
61	Further Investigation	532-3-7-14	Solicitation
62	Further Investigation- requested additional info	540-5-21-14	Solicitation
63	Further Investigation	544-6-5-14	Solicitation
64	Hearing	572-12-3-14	Solicitation
65	Hearing	577-01-30-15	Solicitation/ unprofessional conduct
66	Under Investigation	604-04-29-15	Unregistered Procurer/ Unprofessional conduct
67		613-06-04-15	Unregistered Procurer / Unprofessional conduct
68		614-06-04-15	Unregistered Procurer / Unprofessional conduct
69	Further Investigation	565-10-15-14	Unprofessional Conduct
70	Further Investigation	579-02-09-15	Solicitation/ Unregistered Procurer/ Unprofessional Conduct
71		587-02-23-15	Unregistered Procurer
72		588-02-23-15	Unregistered Procurer
73		589-02-23-15	Unregistered Procurer
74		590-02-23-15	Unregistered Procurer
75	Under Investigation	606-05-19-15	Unregistered Procurer
76		611-05-25-15	Unregistered Procurer / advertising
77	Further Investigation	555-7-1-14	Solicitation; False Statements by Registered Procurer

A motion was made by Dr. Kent Moore to approve the recommendation of sending a letter of caution on complaint 580-02-12-15. Motion was seconded by Mr. Jack McCoy. Motion passed with an abstention by Dr. Thomas Taylor.

A motion was made by Dr. Kent Moore to approve the recommendations for hearings on complaints 598-03-31-15, 572-12-3-14, 577-01-30-15 with a proposed date of October 8, 2015. Motion seconded by Dr. Dustin Heard. Motion passed with an abstention by Dr. Thomas Taylor.

All remaining recommendations were tabled until July so that the Board's attorney can review the new recommendations and complaints.

Consent Order- Dr. Heath Lenox

A final draft of Dr. Lenox's consent order was presented to the Board for approval. If approved and signed Dr. Lenox's license will be put on probation for a period of three years with a combined fine of \$24,000 to be paid over the course of 12 months. A motion was made by Dr. Kent Moore to approve the consent order. Motion seconded by Dr. Thomas Taylor. Motion passed unanimously.

Not on Agenda: Dr. Kent Moore added that his appointment is up at the end of June and that he would attend the July meeting if the Governor hasn't appointed a new member by then. He also stated he would continue to review the CE applications until another secretary is appointed.

Adjourn

Dr. Thomas Taylor moved to adjourn. Dr. Thomas Butler seconded the motion. The motion passed unanimously. The Board adjourned at 12:34 p.m.

Board minutes approved: July 23, 2015.