

Board Members present: Mark A. Korchok, D.C., President; Vice-President Ronald J. Farabaugh, D.C, Norman J. Gloekler, D.C., Gregory P. Palkowski, D.C. and John P. Kennedy, Esq.

Others present: Kelly A. Caudill, Executive Director; Elizabeth N. Moore, Executive Assistant; Leah V.B. O'Carroll, AAG, Mark Brooks, Chiropractic Enforcement Investigator and Rex Waldenmyer, Chiropractic Enforcement Investigator.

Members excused: None.

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*The Board's mission is...*

*to proactively protect the health and welfare of Ohio's citizens and to regulate the chiropractic profession with vision by setting high standards through examination of new doctors, annual license renewal, clinic inspections and timely investigation and disciplinary action when indicated.*

**CALL TO ORDER 9:00 a.m.**

President Dr. Korchok called the three hundred and eighty-eighth Board meeting to order at 9:00 a.m. The meeting was held at the Ohio State Chiropractic Board Office; 77 South High Street, 16th Floor; Columbus, Ohio.

**REVIEW OF MINUTES**

MOTION 2011-063: Vice-President Dr. Farabaugh moved and Dr. Gloekler seconded a motion to approve the minutes of the February 3, 2011 Board meeting. Motion passed unanimously.

**EXECUTIVE DIRECTOR'S REPORT 9:15 a.m.**

Director Caudill discussed Senate Bill 2, introduced by Senator Hughes, regarding a new small business rule review procedure and Senate Bill 11, introduced by Senator Cafaro, enacting a Common Sense Regulation Act and their impact on state agencies.

Director Caudill gave an update on Senate Bill 26 and Senate Bill 60, both introduced by Senator Tavares. Per the instruction of the Board, Director Caudill requested inclusion in both bills.

Director Caudill discussed House Bill 143, introduced by Representatives Stinziano & O'Brien. The bill addresses concussion management and excludes chiropractic physicians from clearing concussed athletes to return to play. Director Caudill provided testimony on June 1, 2011.

Director Caudill discussed the budget bill, House Bill 153, introduced by Representative Amstutz and advised that she gave proponent testimony in the House on March 29, 2011 and in the Senate on May 4, 2011.

Director Caudill discussed House Bill 169, introduced by Representative Williams, regarding convictions substantially related to practice. The bill would change every licensure law contained in Title 47 to only permit licensing boards to discipline licensees for criminal offenses substantially related to their practice. The Medical and Nursing Boards, on behalf of the healthcare boards named in the bill, have come up with a proposal to the Employment Ex-Offender Work Group that addresses the issues and concerns without restricting the licensure laws to only criminal offenses related to practice.

Director Caudill discussed Senate Bill 123, introduced by Senator Bacon, regarding ELicense credentials. The bill would require the Boards of most healthcare professions, excluding chiropractic, to post certain specialty certifications on the ELicense Center web site.

Director Caudill discussed Senate Bill 141, introduced by Senator Gillmor that would permit out of state medical doctors to travel with athletic teams to treat their athletes and individuals who accompany the athletes without obtaining an Ohio license. Director Caudill gave testimony on May 25, 2011 requesting the inclusion of chiropractic physicians. An amendment has been drafted to include chiropractic physicians and physical therapists but has not been introduced.

Director Caudill discussed House Bill 251, introduced by Representative Schuring, which proposes to regulate the practice of oriental medicine and will permit chiropractic physicians to refer patients to oriental medicine practitioners in the same manner as they can to acupuncturists.

Director Caudill advised the Board that the Licensing Coordinator position should be posted on or about July 1, 2011.

Director Caudill advised that IT is working on an on-line Jurisprudence examination through MyICourse.com. Once completed, she will provide the Board with the information needed to test the site.

Director Caudill advised that the Board's FY 2011 audit is complete with the exception of items needed once the fiscal year ends.

Director Caudill discussed ethics training and advised that time needs to be scheduled during an upcoming board meeting between now and December to complete the training via DVD.

MOTION 2011-064: Dr. Gloekler moved and Dr. Palkowski seconded a motion to accept the Director's Report as presented. Motion passed unanimously.

### **FCLB ANNUAL MEETING REPORT**

Dr. Palkowski gave a report on the Federation of Chiropractic Licensing Board's 85<sup>th</sup> Annual Education Conference held in San Marco Island, FL on May 4-8, 2011, that he and President Dr. Korchok and attended on behalf of the Board.

### **INVESTIGATIVE STATUS REPORT**

#### **LEGAL ACTIVITIES BY AAG - 10:20 a.m.**

MOTION 2011-065: Vice-President Dr. Farabaugh moved and Dr. Palkowski seconded a motion to go into executive session for the purpose of discussing pending and imminent litigation and to receive general legal advice from Leah V.B. O'Carroll, AAG and for the purpose of reviewing the Investigative Status Report. Voting Aye: President Dr. Korchok, Vice-President Dr. Farabaugh, Dr. Gloekler, Dr. Palkowski and Mr. Kennedy. Voting Nay: None. Abstaining: None. Motion passed unanimously.

President Dr. Korchok called an executive session for the purpose of discussing pending and imminent litigation and to receive general legal advice from Leah V.B. O'Carroll, AAG and for the purpose of reviewing the Investigative Status Report. The meeting was called back to regular session at the conclusion of the discussion.

MOTION 2011-066: Vice-President Dr. Farabaugh moved and Dr. Gloekler seconded a motion to accept the Investigative Status Report as presented. Motion passed unanimously.

MOTION 2011-067: Vice-President Dr. Farabaugh moved and Dr. Gloekler seconded a motion to accept the Legal Activities Report as presented. Motion passed unanimously.

### **COMPLIANCE INSPECTIONS**

The Board discussed the compliance inspections performed by the Board Enforcement Investigators and the fact that the inspections are not specifically addressed in the laws and rules of the Board. The Board concluded that they wish to continue the voluntary compliance inspections since they have proved beneficial in communicating with licensees and protecting the public.

### **REVIEW OF PROPOSED CONSENT AGREEMENTS**

#### **CASE NO. 2009 CHR 065**

MOTION 2011-068: Vice-President Dr. Farabaugh moved and Dr. Gloekler seconded a motion to accept the proposed Consent Agreement for the doctor cited in Case No. 2009 CHR 065 as presented. Voting Aye: President Dr. Korchok, Vice-President Dr. Farabaugh, Dr. Gloekler and Dr. Palkowski. Voting Nay: None. Abstaining: Mr. Kennedy. Motion passed.

#### **CASE NO. 2010 CHR 030**

MOTION 2011-069: Vice-President Dr. Farabaugh moved and Dr. Gloekler seconded a motion to accept the proposed Consent Agreement for the doctor cited Case No. 2010 CHR 030 as presented. Voting Aye: President Dr. Korchok, Vice-President Dr. Farabaugh, Dr. Gloekler and Dr. Palkowski. Voting Nay: None. Abstaining: Mr. Kennedy. Motion passed.

#### **CASE NO. 2010 CHR 065**

MOTION 2011-070: Dr. Gloekler moved and Vice-President Dr. Farabaugh seconded a motion to accept the proposed Consent Agreement for the doctor cited in Case No. 2010 CHR 065 as presented. Voting Aye: President Dr. Korchok, Vice-President Dr. Farabaugh, Dr. Gloekler and Dr. Palkowski. Voting Nay: None. Abstaining: Mr. Kennedy. Motion passed.

#### **CASE NO. 2010 CHR 074**

MOTION 2011-071: Dr. Gloekler moved and Dr. Palkowski seconded a motion to accept the proposed Consent Agreement for the doctor cited in Case No. 2010 CHR 074 as presented. Voting Aye: President Dr. Korchok, Vice-President Dr. Farabaugh, Dr. Gloekler and Dr. Palkowski. Voting Nay: None. Abstaining: Mr. Kennedy. Motion passed.

#### **CASE NO. 2011 CHR 013**

MOTION 2011-072: Dr. Palkowski moved and Dr. Gloekler seconded a motion to accept the proposed Consent Agreement for the doctor cited in Case No. 2011 CHR 013 as presented. Voting Aye: President Dr. Korchok, Dr. Gloekler, Dr. Palkowski and Mr. Kennedy. Voting Nay: None. Abstaining: Vice-President Dr. Farabaugh. Motion passed.

#### **CASE NO. 2011 CHR 049**

MOTION 2011-073: Dr. Gloekler moved and Mr. Kennedy seconded a motion to accept the proposed Consent Agreement for the doctor cited in Case No. 2011 CHR 049 as presented. Voting Aye: President Dr. Korchok, Dr. Gloekler, Dr. Palkowski and Mr. Kennedy. Voting Nay: None. Abstaining: Vice-President Dr. Farabaugh. Motion passed.

**CASE NO. 2011 CHR 052**

MOTION 2011-074: Dr. Gloekler moved and Dr. Palkowski seconded a motion to accept the proposed Consent Agreement for the doctor cited in Case No. 2011 CHR 052 as presented. Voting Aye: President Dr. Korchok, Dr. Gloekler, Dr. Palkowski and Mr. Kennedy. Voting Nay: None. Abstaining: Vice-President Dr. Farabaugh. Motion passed.

**CASE NO. 2011 CHR 063**

MOTION 2011-075: Vice-President Dr. Farabaugh moved and Dr. Gloekler seconded a motion to accept the proposed Consent Agreement for the doctor cited in Case No. 2011 CHR 063 as presented. Voting Aye: President Dr. Korchok, Vice-President Dr. Farabaugh, Dr. Gloekler and Dr. Palkowski. Voting Nay: None. Abstaining: Mr. Kennedy. Motion passed.

At the conclusion of voting on the above listed Consent Agreements, Director Caudill provided the Board members with a list of the doctor's names and case numbers for the Consent Agreements voted on.

**DISMISSAL OF NOTICE OF OPPORTUNITY FOR HEARING; CASE NO. 2009 CHR 039**

MOTION 2011-076: Vice-President Dr. Farabaugh moved and Dr. Gloekler seconded a motion to approve the Dismissal of the Notice of Opportunity for Hearing dated February 27, 2009 issued to Christopher L. Gehrisch, D.C. Voting Aye: President Dr. Korchok, Vice-President Dr. Farabaugh, Dr. Gloekler and Dr. Palkowski. Voting Nay: None. Abstaining: Mr. Kennedy. Motion passed.

**DISMISSAL OF NOTICE OF OPPORTUNITY FOR HEARING; CASE NO. 2009 CHR 045**

MOTION 2011-077: Dr. Palkowski moved and Dr. Gloekler seconded a motion to approve the Dismissal of the Notice of Opportunity for Hearing dated February 27, 2009 issued to Bryce D. Arndt, D.C. Voting Aye: President Dr. Korchok, Vice-President Dr. Farabaugh, Dr. Gloekler and Dr. Palkowski. Voting Nay: None. Abstaining: Mr. Kennedy. Motion passed.

**AMENDED NOTICE OF OPPORTUNITY FOR HEARING; CASE NO. 2010 CHR 038**

MOTION 2011-078: Vice-President Dr. Farabaugh moved and Dr. Gloekler seconded a motion to approve the Amended Notice of Opportunity for Hearing issued to the doctor cited in Case No. 2010 CHR 038 for allegedly violating ORC § 4734.31 (C)(5). Voting Aye: President Dr. Korchok, Vice-President Dr. Farabaugh, Dr. Gloekler and Dr. Palkowski. Voting Nay: None. Abstaining: Mr. Kennedy. Motion passed.

**NOTICE OF OPPORTUNITY FOR HEARING; CASE NO. 2011 CHR 079**

MOTION 2011-079: Dr. Palkowski moved and Dr. Gloekler seconded a motion to approve the Notice of Opportunity for Hearing issued to the doctor cited in Case No. 2011 CHR 079 for allegedly violating ORC § 4734.14 (A)(6), 4734.25, 4734.31 (C)(7) & (C)(13) and OAC § 4734-7-01 (B) and 4734-7-03 (B). Voting Aye: President Dr. Korchok, Vice-President Dr. Farabaugh, Dr. Gloekler and Dr. Palkowski. Voting Nay: None. Abstaining: Mr. Kennedy. Motion passed.

**ACUPUNCTURE CERTIFICATES**

MOTION 2011-080: Vice-President Dr. Farabaugh moved and Dr. Palkowski seconded a motion to ratify the acupuncture certificates issued to Drs. Alexis Frantzis, Daniel P. Smith, Kathryn Kroyer-Forche, Michael L. Bentley, James Howell, Jill Gardner, Jason T. Marucci and Bryce Arndt. Motion passed unanimously.

**NEW YORK CHIROPRACTIC COLLEGE**

MOTION 2011-081: Vice-President Dr. Farabaugh moved and Dr. Gloekler seconded a motion to approve the preceptorship program submitted by New York Chiropractic College. Motion passed unanimously.

**PRECEPTORSHIP APPLICATION**

MOTION 2011-082: Vice-President Dr. Farabaugh moved and Dr. Palkowski seconded a motion to ratify the preceptorship approved for Chad Vogelgesang with James D. Powell, D.C. Motion passed unanimously.

**RATIFICATION OF MAY 19, 2011 LICENSES**

MOTION 2011-083: Mr. Kennedy moved and Vice-President Dr. Farabaugh seconded a motion to ratify the following licenses issued as a result of the May 19, 2011 Jurisprudence examination: Trisha Amborski, Joseph Aromola, Rachel Berent, Sarah Borisuk, Deidra Brumfield, Craig Butler, Jennifer Dennis, Chad Eagy, Jeffrey Elmore, Amanda Everaert, Joshua Fothergill, Nicholas Gatto, Jack Ginther, Bradley Guindon, Russell Hulbert, Jason Jarmusz, Sarah Joint, Kara Kalkreuth, Leo Kormanik, Travis Morgan, Ian Palmer, Jason Peisley, Jennifer Schneider, Cale Snedden, Timothy Sopp, Sara Stewart, Richard Sullivan, Jr., David Tharp, Richard Ulm, James Washam, Jr., Amanda Weeks, Andrew Wright, Dustin Zimpfer, Vincent Perlmutter and Matthew Stasek. Motion passed unanimously.

**MIAMI VALLEY CHIROPRACTIC SOCIETY**

MOTION 2011-084: Dr. Palkowski moved and Vice-President Dr. Farabaugh seconded a motion to ratify the approval of Miami Valley Chiropractic Society as a Board-approved CE Sponsor. Motion passed unanimously.

**PERTINENT CORRESPONDENCE 1:10 p.m.**

Director Caudill presented an email from David Norris, D.C. received on April 4, 2011 requesting that his disciplinary information published in the Board's 2008 Annual Report posted on the Board's website be removed.

The Board advised Director Caudill to reply to Dr. Norris stating that disciplinary actions are public record and it is the Board's responsibility to report disciplinary actions that are taken and therefore his request is denied.

Mr. Kennedy departed the Board meeting at 1:30 p.m.

**OLD/NEW BUSINESS/MISCELLANEOUS 1:30 p.m.****SUPERVISION OF UNLICENSED PERSONNEL**

The Board discussed whether or not a licensed chiropractic physician must specifically be on the premises when unlicensed personnel are performing duties as directed by the chiropractic physician.

The Board concluded that the chiropractic physician does not need to specifically be on the premises as long as the unlicensed personnel is properly trained and is following a treatment plan that the chiropractic physician has documented in the patient's file.

**CPT CODE 97140**

The Board discussed CPT Code 97140 (Manual Therapy) and whether or not the service can be provided by an unlicensed individual.

The Board determined that further communication with the BWC is needed regarding this matter. Vice-President Dr. Farabaugh will communicate with the BWC and give a report at the next meeting.

**MASSAGE THERAPY SCOPE**

The Board discussed the scope of practice for massage therapists and requested that Director Caudill contact the Medical Board about amending the scope to allow massage therapists to perform modalities under the supervision or delegation of a chiropractic physician.

**NEEDLELESS ACUPUNCTURE**

The Board discussed needleless acupuncture and whether or not additional education and training is needed to perform it.

The Board concluded that chiropractic physicians must have additional education and training in order to perform needleless acupuncture.

**BOARD RETREAT**

The Board discussed holding an off site retreat for the purpose of discussing scope of practice and planning issues. A tentative date of July 28, 2011 was set.

MOTION 2011-085: Dr. Gloekler moved and Dr. Palkowski seconded a motion to adjourn the meeting. Motion passed unanimously.

With no further business to be brought before the Board, President Dr. Korchok adjourned the meeting at 3:00 p.m.

Approved By Majority of Board:

Attested By Its Secretary:

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Mark A. Korchok, D.C.  
President

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Kelly A. Caudill  
Executive Director

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