

Board Members present: President Gregory P. Palkowski, D.C., Vice-President Norman J. Gloekler, D.C., Ronald J. Farabaugh, D.C. and Brian S. Wilson, D.C.

Others present: Kelly A. Caudill, Executive Director; Elizabeth Moore, Executive Assistant, Rex Waldenmyer and Kate Borloglou, Investigators.

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**

President Dr. Palkowski called the four hundred and third Board meeting to order at 9:06 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 2014-040: Dr. Wilson moved and Vice-President Dr. Gloekler seconded a motion to approve the minutes of the October 10, 2013 Board meeting. Motion passed unanimously.

**RATIFICATION OF LICENSES**

MOTION 2014-041: Vice-President Dr. Gloekler moved and Dr. Wilson seconded a motion to ratify the following licenses issued since October 10, 2013: Bryon G. Jackson, Tyler D. Vorst, Earl M. House, Andrew C. Sanders, Paul G. Bowen, Ashley J. Jackson, Christine C. Lindsey, Guy E. Phillips, Timothy J. Prater and Suzanne J. Wisz. Motion passed unanimously.

**RATIFICATION OF APPROVAL OF CE SPONSOR**

MOTION 2014-042: Dr. Farabaugh moved and Dr. Wilson seconded a motion to ratify the approval of the Ohio Foot and Ankle Medical Association as a Board-approved CE sponsor. Motion passed unanimously.

**RATIFICATION OF CE WAIVER**

MOTION 2014-043: Vice-President Dr. Gloekler moved and Dr. Farabaugh seconded a motion to ratify the approval of the following CE waivers for 2014 license renewal:

Daniel D. Doudna, D.C. 12 hours of CE waived for the 2012-2014 license renewal period.

Harry J. Shullo, D.C. 5 hours of CE waived for the 2012-2014 license renewal period. Motion passed unanimously.

**EXECUTIVE DIRECTOR'S REPORT**

Director Caudill reviewed the Executive Director's report with the Board which includes the Board Docket, Legislative Matters, Budgetary Matters, Investigative Statistics and the following miscellaneous matters:

Director Caudill reported the NBCE Ethics & Boundaries exam is now offered under the auspices of the Ethics and Boundaries Assessment Services (EBAS) and the exam for the chiropractic profession will be available as of January 1, 2014 and offered six days a week.

Director Caudill reported the Board's new phones were installed October 30, 2013 with cutover to Voice Over Internet Protocol on November 6, 2013.

Director Caudill reported the Board received a letter from an attorney on behalf of the National Center for Acupuncture Safety and Integrity advising that the FDA restricts the sale of acupuncture needles only for persons authorized to practice acupuncture and that the sale of needles to anyone other than a licensed acupuncturist for dry needling purposes is a violation of the FDA and FDCA rules. Director Caudill responded to this letter advising that the Board considers dry needling the practice of acupuncture and advises licensees of the same.

Director Caudill reported a representative of Groupon emailed her on November 12, 2013 concerning the Board's newsletter article regarding social advertising. Groupon believes their advertising services conform to the Board's fee splitting rule and was to send supporting materials for review. No further contact has been received to date.

The Executive Director's report was recessed at 9:30 a.m. in order to begin the scheduled Public Rules Hearing.

### **PUBLIC RULES HEARING**

A Public Rules Hearing was held at 9:30 a.m. on the 16<sup>th</sup> Floor, in the Chiropractic Board Office regarding the following rule: 4734-9-10 Conduct following action against a license. Deposition Specialists made a stenographic record of the proceedings at the Board's expense.

Testimony was offered at the hearing from Kelly O'Reilly of Governmental Policy Group on behalf of the Chiropractic Strategies Group regarding rule 4734-9-10.

Upon conclusion of the hearing, the Board deliberated in public session on the rule and the testimony received.

MOTION 2014-044: Dr. Farabaugh moved and Vice-President Dr. Gloekler seconded a motion to approve final filing rule 4734-9-10 with JCARR with authority to Director Caudill to make any non-substantive changes that may be recommended by JCARR. Motion passed unanimously.

### **EXECUTIVE DIRECTOR'S REPORT – continued**

Director Caudill resumed her Executive Director's Report with the Board.

Director Caudill reported a Stakeholder Meeting was held November 21, 2013 to gather input regarding the Board's consideration of requiring recording of telemarketing calls. Dr. Farabaugh chaired the Stakeholder Meeting and gave a brief report.

Director Caudill discussed the email sent to all Board members regarding the draft scope of practice language for the FCLB's Model Practice Act. Director Caudill advised there is additional time to provide comment and if any Board members would like to email their comments to her she will put them together for review at the February 13, 2014 meeting.

Director Caudill reported the Northwest Ohio Chiropractic Association submitted a CE registration form for a program prior to securing co-sponsorship of the program. Board Designate Dr. Farabaugh recommended issuing a warning letter to the NOCA.

MOTION 2014-045: Dr. Wilson moved and Vice-President Dr. Gloekler seconded a motion to issue a warning letter to the Northwest Ohio Chiropractic Association for submitting a CE registration form for a program prior to securing a co-sponsor for the program. Motion passed unanimously.

Director Caudill recommended revising the 2014 license renewal application to require an attestation that all CE was earned appropriately in lieu of listing all CE earned. The Board agreed with Director Caudill's recommendation and advised to revise the renewal application accordingly.

Director Caudill discussed the need to draft rules regarding military considerations and reported Stakeholder comment will need to be obtained prior to considering rules to adopt regarding which military programs of training, military primary specialties, and length of service are substantially equivalent to or exceed the educational and experience requirements of a chiropractic license and acupuncture certificate.

Director Caudill reported that Executive Order 2013-05K issued by Governor Kasich requires all agencies that issue certifications and licenses to identify state and federal law that are barriers to the revision of policies and procedures to further streamline the issuance of certification and licenses based upon relevant military education, training, or service, and advise the Governor's Office of Workforce Transformation regarding any such barriers and recommended actions by December 31, 2013. Director Caudill advised that she will draft military consideration rules for the Board's review and provide an answer to the Governor's Office of Workforce Transformation by the deadline.

Director Caudill reported that Dr. Gloekler attended the FCLB District II Meeting on October 17-20, 2013 in Fort Walton Beach, FL. Dr. Gloeker gave a report of his attendance and activities at the meeting.

MOTION 2014-046: Dr. Farabaugh moved and Dr. Wilson seconded a motion to accept the Director's Report as presented. Motion passed unanimously.

## **LEGAL ACTIVITIES**

### **NOTICE OF OPPORTUNITY FOR HEARING, CASE NOS. 2011 CHR 046; 2013 CHR 013; 2013 CHR 029**

MOTION 2014-047: Dr. Wilson moved and Vice-President Dr. Gloekler seconded a motion to issue the proposed Notice of Opportunity for Hearing for the doctor cited in Case Nos. 2011 CHR 046; 2013 CHR 013 and 2013 CHR 029. Voting Aye: President Dr. Palkowski, Vice-President Dr. Gloekler and Dr. Wilson. Voting Nay: None. Abstaining: Dr. Farabaugh. Motion passed.

### **CONSENT AGREEMENT; CASE NO. 2010 CHR 036**

MOTION 2014-048: Vice-President Dr. Gloekler moved and Dr. Farabaugh seconded a motion to accept the proposed Consent Agreement for the doctor in Case No. 2010 CHR 036 as presented. Voting Aye: President Dr. Palkowski, Vice-President Dr. Gloekler and Dr. Wilson. Voting Nay: None. Abstaining: Dr. Farabaugh. Motion passed.

## **MCMASTER UNIVERSITY**

Director Caudill presented an email and curriculum packet from Alejandro Elorriaga of McMaster University requesting Board approval for their Contemporary Medical Acupuncture program.

The Board tabled their decision regarding approval of McMaster University's Contemporary Medical Acupuncture program until the February 13, 2014 meeting in order to appoint a volunteer to research the program more thoroughly.

### **ADMINISTRATIVE RULE REVIEW**

The Board reviewed the following CSI reviewable rules scheduled for five year rule review in April 2014: 4734-5-02 Board relationship with the CCE; 4734-5-03 Site visitation procedures; 4734-5-04 Initial approval of chiropractic educational institutions or programs; 4734-5-06 Revocation of approval of chiropractic educational institutions or programs; 4734-6-01 Application for licensure; 4734-6-02 Licensure by endorsement; 4734-6-04 Preceptorships; 4734-6-08 Pre-chiropractic educational requirements; 4734-8-04 Documentation and record keeping ; 4734-8-07 Terminating the doctor patient relationship; 4734-9-02 Advertising and solicitation and 4734-9-07 Billing practices. The Board also reviewed new rule 4734-8-01 Dismissing a patient for a chiropractic practice.

MOTION 2014-049: Dr. Farabaugh moved and Dr. Wilson seconded a motion to approve proposed draft rules 4734-5-02; 4734-5-03; 4734-5-04 and 4734-5-06 as presented. Motion passed unanimously.

MOTION 2014-050: Vice-President Dr. Gloekler moved and Dr. Farabaugh seconded a motion to approve proposed draft rule 4734-6-01 as presented. Motion passed unanimously.

MOTION 2014-051: Dr. Wilson moved and Dr. Farabaugh seconded a motion to approve proposed draft rule 4734-6-02 as presented. Motion passed unanimously.

MOTION 2014-052: Dr. Farabaugh moved and Vice-President Dr. Gloekler seconded a motion to approve proposed draft rule 4734-6-04 with the removal of paragraph (F)(3). Motion passed unanimously.

MOTION 2014-053: Dr. Farabaugh moved and Dr. Wilson seconded a motion to approve proposed draft rule 4734-6-08 as presented. Motion passed unanimously.

MOTION 2014-054: Dr. Farabaugh moved and Vice-President Dr. Gloekler seconded a motion to approve proposed draft rule 4734-8-01 with the removal of the proposed wording in B(2). Motion passed unanimously.

MOTION 2014-055: Vice-President Dr. Gloekler moved and Dr. Farabaugh seconded a motion to approve proposed draft rule 4734-8-04 as presented. Motion passed unanimously.

MOTION 2014-056: Dr. Wilson moved and Dr. Farabaugh seconded a motion to approve proposed draft rule 4734-8-07 with the addition of the words "in the event" to section (R). Motion passed unanimously.

MOTION 2014-057: Dr. Wilson moved and Dr. Farabaugh seconded a motion to approve proposed draft rules 4734-9-02 and 4734-9-07 with changes as discussed. Motion passed unanimously.

Director Caudill stated she will make all of the recommended changes to the proposed draft rules and proceed with the procedures of the Common Sense Initiative Office.

**CONSENT AGREEMENT; CASE NO. 2014 CHR 005**

MOTION 2014-058: Dr. Farabaugh moved and Dr. Wilson seconded a motion to accept the proposed Consent Agreement for the doctor in Case No. 2014 CHR 005 as presented. Voting Aye: President Dr. Palkowski, Vice-President Dr. Gloekler, Dr. Farabaugh and Dr. Wilson. Voting Nay: None. Abstaining: None. Motion passed.

MOTION 2014-059: Dr. Wilson moved and Vice-President Dr. Gloekler seconded a motion to adjourn the meeting. Motion passed unanimously.

With no further business to be brought before the Board, President Dr. Palkowski adjourned the meeting at 12:30 p.m.

Approved By Majority of Board:

Attested By Its Secretary:

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Gregory P. Palkowski, D.C.  
President

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Kelly A. Caudill  
Executive Director

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