

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

Others present: Kelly A. Caudill, Executive Director; Leah V.B. O'Carroll, AAG; Rex Waldenmyer, Investigator; Kelly S. Duffner, D.C.

Members excused: John P. Kennedy, Esq.

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. Farabaugh called the three hundred and ninety-fourth Board meeting to order at 9:15 a.m. The meeting was held at the Ohio State Chiropractic Board Office; 77 South High Street, 16th Floor; Columbus, Ohio.

OATH OF OFFICE

President Dr. Farabaugh administered the Oath of Office to newly appointed Board member Brian S. Wilson, D.C.

PRECEPTORSHIP APPLICATIONS

MOTION 2013-018: Dr. Gloekler moved and Vice-President Dr. Palkowski seconded a motion to ratify the preceptorships approved for Suzanne J. Wisz with David T. Ryan, D.C.; Christopher R. Lorang with Steve W. King, D.C.; and Adam N. Sandmaier with Mark A. King, D.C. Motion passed unanimously.

ACUPUNCTURE CERTIFICATES

MOTION 2013-019: Dr. Gloekler moved and Dr. Wilson seconded a motion to ratify the acupuncture certificates issued to Drs. Jay Plotkin; Larry A. Halters, Jr.; and Scott D. McClure. Motion passed unanimously.

RATIFICATION OF LICENSES

MOTION 2013-020: Vice-President Dr. Palkowski moved and Dr. Wilson seconded a motion to ratify the following licenses issued as a result of the online Jurisprudence examination: Jessica Marie Eckman; Robert David Gavazzi; Jason Anthony Hollabaugh; Casey Lee Bittner; Anthony Joseph Evans; David Alan Caldwell; Jonathan David Wurstner; Brian Jason Wilson; Lynsi Marie Stonecipher Clinger; Alexander Svein Bue; Brian Edward Ellspermann; Shauna Kay Hart; and Nikohl Nishey Wulfsberg. Motion passed unanimously.

RATIFICATION OF APPROVAL OF CE SPONSOR

MOTION 2013-021: Dr. Wilson moved and Dr. Gloekler seconded a motion to ratify the approval of The MetroHealth System of Cleveland as a Board-approved CE sponsor. Motion passed unanimously.

EXECUTIVE DIRECTOR'S REPORT

Director Caudill reviewed the Executive Director's report with the Board.

Director Caudill advised the Board that the next NBCE Part IV testing opportunity is scheduled for November 9-11, 2012 and two Board members will be invited to attend. Director Caudill also advised that the FCLB District II meeting is scheduled for October 18-21, 2012 in Fort Walton Beach, Florida. The invitations/registration forms required to attend these events will be due prior to the Board's next meeting.

MOTION 2013-022: Vice-President Dr. Palkowski moved and Dr. Wilson seconded a motion that Director Caudill attend the FCLB District II meeting scheduled for October 18-21, 2012 in Fort Walton Beach, Florida on behalf of the Board. Motion passed unanimously.

MOTION 2013-023: Vice-President Dr. Palkowski moved and Dr. Wilson seconded a motion that Dr. Gloekler may represent the Board at the NBCE Part IV examination on November 9-11, 2012. Motion passed unanimously.

MOTION 2013-024: Vice-President Dr. Palkowski moved and Dr. Gloekler seconded a motion to accept the Director's Report as presented. Motion passed unanimously.

LEGAL ACTIVITIES

VOLUNTARY SURRENDER OF LICENSE TO PRACTICE AS A CHIROPRACTOR; CASE NO. 2011 CHR 047

MOTION 2013-025: Dr. Wilson moved and Dr. Gloekler seconded a motion to accept the proposed Voluntary Surrender Of License To Practice As A Chiropractor; Case No. 2011 CHR 047 as presented. Voting Aye: President Dr. Farabaugh; Vice-President Dr. Palkowski, Dr. Gloekler and Dr. Wilson. Voting Nay: None. Abstaining: None. Motion passed unanimously.

In accordance with the terms of the Voluntary Surrender of License to Practice as a Chiropractor, license number 2949 to practice as a chiropractor is Revoked effective forty-five (45) days after the date of the Board's approval of the Surrender.

DISMISSAL; CASE NO. 2007 CHR 037

MOTION 2013-026: Vice-President Dr. Palkowski moved and Dr. Wilson seconded a motion to Dismiss the Notice of Opportunity for Hearing issued to the Doctor cited in Case No. 2007 CHR 037. Voting Aye: President Dr. Farabaugh, Vice-President Dr. Palkowski, Dr. Gloekler and Dr. Wilson. Voting Nay: None. Abstaining: None. Motion passed unanimously.

DISMISSAL; CASE NO. 2008 CHR 026

MOTION 2013-027: Dr. Gloekler moved and Vice-President Dr. Palkowski seconded a motion to Dismiss the Notice of Opportunity for Hearing issued to the Doctor cited in Case No. 2008 CHR 026. Voting Aye: President Dr. Farabaugh, Vice-President Dr. Palkowski, Dr. Gloekler and Dr. Wilson. Voting Nay: None. Abstaining: None. Motion passed unanimously.

DISMISSAL; CASE NO. 2008 CHR 036

MOTION 2013-028: Dr. Wilson moved and Vice-President Dr. Palkowski seconded a motion to Dismiss the Notice of Opportunity for Hearing issued to the Doctor cited in Case No. 2008 CHR 036. Voting Aye: President Dr. Farabaugh, Vice-President Dr. Palkowski, Dr. Gloekler and Dr. Wilson. Voting Nay: None. Abstaining: None. Motion passed unanimously.

DISMISSAL; CASE NO. 2008 CHR 040

MOTION 2013-029: Dr. Gloekler moved and Vice-President Dr. Palkowski seconded a motion to Dismiss the Notice of Opportunity for Hearing issued to the Doctor cited in Case No. 2008 CHR 040. Voting Aye: President Dr. Farabaugh, Vice-President Dr. Palkowski, Dr. Gloekler and Dr. Wilson. Voting Nay: None. Abstaining: None. Motion passed unanimously.

DISMISSAL; CASE NO. 2008 CHR 051

MOTION 2013-030: Vice-President Dr. Palkowski moved and Dr. Wilson seconded a motion to Dismiss the Notice of Opportunity for Hearing issued to the Doctor cited in Case No. 2008 CHR 051. Voting Aye: President Dr. Farabaugh, Vice-President Dr. Palkowski, Dr. Gloekler and Dr. Wilson. Voting Nay: None. Abstaining: None. Motion passed unanimously.

DISMISSAL; CASE NO. 2008 CHR 059 and 2009 CHR 064

MOTION 2013-031: Vice-President Dr. Palkowski moved and Dr. Wilson seconded a motion to Dismiss the Notice of Opportunity for Hearing issued to the Doctor cited in Case No. 2008 CHR 059 and Case No. 2009 CHR 064. Voting Aye: President Dr. Farabaugh, Vice-President Dr. Palkowski, Dr. Gloekler and Dr. Wilson. Voting Nay: None. Abstaining: None. Motion passed unanimously.

ADMINISTRATIVE RULES**FIVE YEAR RULE REVIEW**

The Board reviewed and discussed the following administrative rules that are scheduled for five year rule review by November 15, 2012. Non CSI reviewable rules: 4734-1-02; 4734-1-09; 4734-5-01; 4734-2-01; 4734-2-02; 4734-2-03; 4734-4-01; 4734-4-02; 4734-4-03; 4734-4-04; 4734-4-05; 4734-4-06; 4734-4-07; 4734-4-08; 4734-4-09; 4734-4-10; 4734-4-11; 4734-4-12; 4734-4-13; 4734-4-14; 4734-5-01; 4734-6-06; 4734-6-09; 4734-6-10; 4734-10-01; 4734-10-02. CSI reviewable rules: 4734-8-02; 4734-8-05; 4734-6-05; 4734-6-07; 4734-8-03; 4734-8-08; 4734-9-03; 4734-9-06; 4734-9-08; 4734-9-10; 4734-10-03; 4734-10-05. Administrative rules 4734-5-02; 4734-5-03; 4734-5-04; and 4734-5-06 are not scheduled for five year rule review, but will be included in the Board's review of 4734-5-01 to consider of inclusion of CCEI. An extension was requested and granted by JCARR for a new rule review date of January 28, 2013 for the following rules: 1-02, 1-09, 5-01, 8-02, 8-05.

The rules deemed CSI reviewable will be emailed to stakeholders for input and feedback that the Board will review at its October 11, 2012 meeting.

The Board discussed amending the following rules: 4734-2-02 (B) to require five year rule reviews to determine whether the rule has an adverse impact on businesses as required by ORC Section 119.032; Board rule 4734-4-08 (C) to update mileage fees in accordance with ORC Section 119.094 and Board rule 4734-6-06 to remove language regarding prescribing the location and times of the Jurisprudence examination.

The Board discussed rescinding Board rule 4734-6-10 as the rule is no longer necessary.

MOTION 2013-032: Dr. Wilson moved and Dr. Gloekler seconded a motion to file the following non CSI reviewable rules as no change: 4734-1-02; 4734-1-09; 4734-2-01; 4734-2-03; 4734-4-01; 4734-4-02; 4734-4-03; 4734-4-04; 4734-4-05; 4734-4-06; 4734-4-07; 4734-4-09; 4734-4-10; 4734-4-11; 4734-4-12; 4734-4-13; 4734-4-14; 4734-6-09; 4734-10-01 and 4734-10-02. Motion passed unanimously.

MOTION 2013-033: Vice-President Dr. Palkowski moved and Dr. Gloekler seconded a motion to file amendments to the following rules non CSI reviewable rules: 4734-2-02; 4734-4-08 and 4734-6-06. Motion passed unanimously.

MOTION 2013-034: Dr. Wilson moved and Vice-President Dr. Palkowski seconded a motion to rescind Board rule 4734-6-10. Motion passed unanimously.

Dr. Farabaugh presented a draft copy of ORC Chapter 4734. that he prepared reflecting changes to the statute and rules that he'd like to enact. The document was distributed but not reviewed and discussed.

REVIEW OF MINUTES

MOTION 2013-035: Vice-President Dr. Palkowski moved and Dr. Gloekler seconded a motion to approve the minutes of the July 12, 2012 Board meeting. Motion passed unanimously.

PERTINENT CORRESPONDENCE

The Board reviewed correspondence from Dr. Alan Palgut in which he inquires if it is within the scope of chiropractic practice for Ohio licensed chiropractic physicians to administer B12 injections. The Board tabled its discussion on this inquiry pending further research by AAG O'Carroll and consultation with the State Medical Board. Until this matter is reviewed further, the Board's prior decision that injecting vitamins is not within the scope of chiropractic practice in Ohio remains.

11:50 A.M.

MOTION 2013-36: Vice-President Dr. Palkowski moved and Dr. Wilson seconded a motion to suspend the Board meeting until 1:30 p.m. Motion passed unanimously.

ADJUDICATION HEARING, CASE NO. 2012 CHR 050

At 1:30 p.m. the matter of Charles W. Theisler, D.C. came for hearing in accordance with Ohio Revised Code Chapters 119 and 4734, before the following members of the Board: President Ronald J. Farabaugh, D.C., Vice President Gregory P. Palkowski, D.C., Norman J. Gloekler, D.C. and Brian S. Wilson, D.C. Board President Dr. Ronald J. Farabaugh presided over the hearing. As Board Designate, John Kennedy, Esq. was not present for the proceedings. The Board was represented by Leah V. B. O'Carroll, Esq., Assistant Attorney General. Anderson Reporting Services made a stenographic record of the proceedings at the Board's expense. The hearing concluded at 2:30 p.m.

DELIBERATION - 2:35 P.M.

CHARLES W. THEISLER, D.C., CASE NO. 2012 CHR 050

MOTION 2013-037: Vice-President Dr. Palkowski moved and Dr. Wilson seconded a motion to go into executive session in accordance with ORC 121.22 (G)(5) for the purpose of deliberating on the Notice Of Proposed Refusal Of Application For Licensure And Opportunity For Hearing and supporting evidence on Case No. 2012 CHR 050. Motion adopted by roll call vote. Voting Aye: President Dr. Farabaugh, Vice-President Dr. Palkowski, Dr. Gloekler and Dr. Wilson. Voting Nay: None. Abstaining: none. Motion passed unanimously.

The Board reported out of Executive Session at 3:45 p.m. and the meeting was called back to regular session at the conclusion of the deliberations.

MOTION 2013-038: Dr. Wilson moved and Dr. Gloekler seconded a motion to issue the following Adjudication Order to Charles W. Theisler, D.C.:

The Board hereby finds as Findings of Fact the following:

State's exhibits as presented. Respondent's exhibits as presented.

On or about May 5, 1977 Respondent CHARLES W. THEISLER, D.C. was issued chiropractic license number 688 by the Board. The Board's records reflect the current status of DR. THEISLER'S license as Revoked effective January 23, 2006.

On or about January 23, 2006 the Board issued an Adjudication Order to CHARLES W. THEISLER, D.C. Permanently Revoking his license to practice chiropractic in the state of Ohio.

On or about November 23, 2011 the Board issued an Adjudication Order to CHARLES W. THEISLER, D.C. Ordering DR. THEISLER'S Application for licensure as a doctor of chiropractic in Ohio filed on or about June 21, 2010 be Refused. Said Refusal was a non-permanent refusal.

On or about March 26, 2012 CHARLES W. THEISLER, D.C. filed an Application for License to Practice Chiropractic in the State of Ohio.

On or about July 13, 2012 the Board issued a Notice of Proposed Refusal of Application for Licensure and Opportunity for Hearing to CHARLES W. THEISLER, D.C.

DR. THEISLER has kept up to date with continuing education by completing chiropractic and medical education and has authored "The Doctor's Guide to the Law" and is currently authoring a publication titled "Clinical Pearls."

As alleged in Count 2 of the July 13, 2012 Notice of Proposed Refusal of Application for Licensure and Opportunity for Hearing, on or about May 2, 2005 in the Court of Common Pleas, Trumbull County, Ohio, DR. THEISLER was found guilty of one felony count of Engaging In Pattern of Corrupt Activity, a violation of ORC § 2923.32 (A)(1) & (B)(1); two felony counts of Trafficking In Drugs, a violation of ORC § 2925.03 (A)(1) & (B)(1) & (C)(2)(c); three felony counts of Illegal Processing of Drug Documents, a violation of ORC § 2925.23 (B)(1) & (E) & (F)(2); three felony counts of Aggravated Trafficking In Drugs, a violation of ORC § 2925.03 (A)(1) & (B)(1) & (C)(1)(d); thirty-two felony counts of Illegal Processing of Drug Documents, a violation of ORC § 2925.23 (B)(1) & (E) & (F)(1); thirty-five felony counts of Practice of Medicine or Surgery Without Certificate, a violation of ORC § 4731.41 and § 4731.99 and ten felony counts of Aggravated Trafficking in Drugs, a violation of ORC § 2925.03 (A)(1) & (B)(1) and (C)(1)(c).

As alleged in Count 2 of the July 13, 2012 Notice of Proposed Refusal, the Board previously issued a Notice of Opportunity for Hearing on October 18, 2005 and considered the acts in DR. THEISLER'S convictions in its Adjudication Order permanently revoking DR. THEISLER'S license on January 23, 2006.

As alleged in Count 3 of the July 13, 2012 Notice of Proposed Refusal, on or about October 8, 2010 the Board issued DR. THEISLER a Notice of Proposed Refusal of Application for Licensure and Opportunity for Hearing. In accordance with ORC Chapter 119 a hearing was held on this matter on May 5, 2011. On or about November 23, 2011 the Board issued DR. THEISLER an

Adjudication Order refusing his application for licensure for failing to establish by clear and convincing evidence that he possessed the necessary moral character and fitness to be licensed, in violation of ORC § 4734.20 and OAC § 4734-6-01 and § 4734-6-09 and for making false, fraudulent and deceitful statements to the Board in his application for licensure in violation of ORC § 4734.31 (C)(13) and OAC § 4734-6-09.

The Board finds the following Conclusions of Law:

Based upon the testimony of the witness, the exhibits admitted into evidence, and the above-listed Findings of Fact, the Board makes the following Conclusions of Law. To the extent that any Findings of Fact constitute Conclusions of Law, they are offered as such. To the extent that any Conclusions of Law constitute Findings of Fact, they are so offered.

Pursuant to ORC Chapter 4734, respondent CHARLES W. THEISLER, D.C. is subject to the jurisdiction of the Board in actions taken in regard to the Application for License to Practice Chiropractic in the State of Ohio he filed on or about March 26, 2012.

Pursuant to ORC Chapter 4734, the Board is authorized to take action with respect to CHARLES W. THEISLER'S application for licensure upon sufficient cause to believe he has violated a provision of ORC Chapter 4734.

The Board's allegation as described in Count 1 of the Notice of Proposed Refusal of Application for Licensure and Opportunity for Hearing issued to DR. THEISLER on or about July 13, 2012 is Dismissed.

Pursuant to ORC Section 4734.31 (C)(7), upon sufficient proof that an applicant for licensure has violated or attempted to violate any provision of ORC Chapter 4734, the Board may refuse to issue, renew, restore or reinstate a license to practice chiropractic. By a preponderance of the evidence the State establishes, DR. THEISLER'S license number 688 to practice chiropractic in the state of Ohio was Permanently Revoked in an Adjudication Order of the Board on or about January 23, 2006 for committing acts or actions that demonstrated he does not possess the character and fitness to practice chiropractic in the state of Ohio for being convicted of eighty-six (86) felonies. The State has met its burden of proving DR. THEISLER has violated ORC Section 4734.31 (C)(7) for failing to demonstrate he possesses the character and fitness to practice chiropractic in the state of Ohio in accordance with ORC Section 4734.20 and OAC Sections 4734-6-01 (P) and 4734-6-09 (C).

Pursuant to ORC Section 4734.31 (C)(7), upon sufficient proof that an applicant for licensure has violated or attempted to violate any provision of ORC Chapter 4734, the Board may refuse to issue, renew, restore or reinstate a license to practice chiropractic. By a preponderance of the evidence the State establishes, DR. THEISLER'S application for licensure was previously Refused in an Adjudication Order of the Board on or about November 23, 2011 for failing to establish by clear and convincing evidence that he possessed the necessary moral character and fitness to be licensed and for making false, fraudulent or deceitful statements to the Board in his application for licensure. The State has met its burden of proving DR. THEISLER has violated ORC Section 4734.31 (C)(7) for failing to demonstrate he possesses the character and fitness to practice chiropractic in the state of Ohio in accordance with ORC Section 4734.20 and OAC Sections 4734-6-01 and 4734-6-09.

On the basis of the above Findings of Fact and Conclusions of Law, the Board hereby ORDERS:

CHARLES W. THEISLER, D.C. failed to demonstrate by clear and convincing evidence that he possesses the character and fitness to practice chiropractic in the State of Ohio.

DR. CHARLES W. THEISLER’S application for licensure as a doctor of chiropractic in the state of Ohio is REFUSED. Pursuant to ORC 4734.31 (A) the Board specifies that this is a PERMANENT REFUSAL to issue a license to practice chiropractic in the state of Ohio. DR. THEISLER shall be ineligible for, and shall not apply for, licensure to practice chiropractic in the state of Ohio or issuance of any other license or certificate pursuant to Chapter 4734 of the Ohio Revised Code. Any attempted application shall be considered null and void and shall not be processed or accepted by the Board.

Voting Aye: President Dr. Farabaugh, Vice-President Dr. Palkowski, Dr. Gloekler, Dr. Wilson and Mr. Kennedy. Voting Nay: None. Abstaining: Mr. Kennedy. Motion passed.

MOTION 2013-039: Vice-President Dr. Palkowski moved and Dr. Gloekler seconded a motion to adjourn the meeting. Motion passed unanimously.

With no further business to be brought before the Board, President Dr. Farabaugh adjourned the meeting at 4:00 p.m.

Approved By Majority of Board:

Attested By Its Secretary:

Ronald J. Farabaugh, D.C.
President

Kelly A. Caudill
Executive Director

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