

Board Members present: President Ronald J. Farabaugh, D.C., Vice-President Gregory P. Palkowski, D.C., Norman J. Gloekler, 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, Investigator and Rex Waldenmyer, 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**

President Dr. Farabaugh called the three hundred and ninety-second Board meeting to order at 9:30 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 2012-036: Vice-President Dr. Palkowski moved and Mr. Kennedy seconded a motion to approve the minutes of the December 8, 2011 Board meeting. Motion passed unanimously.

### **PRECEPTORSHIP APPLICATION**

MOTION 2012-037: Dr. Gloekler moved and Vice-President Dr. Palkowski seconded a motion to ratify the preceptorships approved for Kelly S. Duffner with Brian Neidenthal, D.C. and Jarred G. Pertuset with Matthew Greene, D.C. Motion passed unanimously.

### **RATIFICATION OF LICENSES**

MOTION 2012-038: Dr. Gloekler moved and Vice-President Dr. Palkowski seconded a motion to ratify the following licenses issued as a result of the online Jurisprudence examination: Matthew Howe, Amanda Fisher, Joshua Schmerge, Eric Mersch, David Kauffman, Jason Coe, Jeffrey Willoughby, Maximillian Zart, Michael Turjanica, Jason Bittner, Chad Vogelgesang, Paula Cerasuolo, Monica Kiefer, Darcee Schmidt, Aaron Compton, Andrea Beaver, Christopher Meeks, Anthony DeMaria and Casen DeMaria. Motion passed unanimously.

### **RATIFICATION OF CE WAIVERS**

MOTION 2012-039: Mr. Kennedy moved and Vice-President Dr. Palkowski seconded a motion to ratify the approval of CE waivers granted to the following licensees for 2012 license renewal: Drs. Aaron Alford, Jonathan Bafford, Anthony Battaglia, Erik Bliss, Dennis Brown, Nicholas Hadzima, Jeffrey Hanes, Jeffrey Hunter Robin Hunter Derek McMurry, Naomi Saltes, Ronald Weisel II, James Williams and David Vascura. Motion passed unanimously.

### **ADENA HEALTH SYSTEMS**

MOTION 2012-040: Dr. Gloekler moved and Vice-President Dr. Palkowski seconded a motion to ratify the approval of Adena Health Systems as a Board-approved CE Sponsor. Motion passed. Mr. Kennedy abstained.

**ACUPUNCTURE SOCIETY OF AMERICA**

MOTION 2012-041: Vice-President Dr. Palkowski moved and Mr. Kennedy seconded a motion to approve the preceptorship program submitted by the Acupuncture Society of America and Parker University. Motion passed unanimously.

**EXECUTIVE DIRECTOR'S REPORT**

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

Director Caudill advised that the Jurisprudence exam through MyiCourse.com became effective January 1, 2012.

Director Caudill advised that she and Liz met with a representative of the Common Sense Initiative Office regarding the new CSI rule review process. A copy of the new forms required by CSI was provided to all Board members.

MOTION 2012-042: Vice-President Dr. Palkowski moved and Mr. Kennedy seconded a motion to accept the Director's Report as presented. Motion passed unanimously.

**LEGAL ACTIVITIES**

Leah V.B. O'Carroll, AAG made the Board aware of the Triplett Chapel of Peace v. Ohio Board of Embalmers and Funeral Directors case out of the Franklin County Court of Common Pleas.

**CASE NO. 2011 CHR 052**

MOTION 2012-043: Dr. Gloekler moved and Vice-President Dr. Palkowski seconded a motion to accept the proposed Consent Agreement Modification for the doctor cited in Case No. 2011 CHR 052 as presented. Voting Aye: President Dr. Farabaugh, Vice-President Dr. Palkowski and Dr. Gloekler. Voting Nay: None. Abstaining: Mr. Kennedy. Motion passed.

**ADJOURN**

MOTION 2012-044: Vice-President Dr. Palkowski moved and Dr. Gloekler seconded a motion to adjourn for the purpose of engaging as a quasi-judicial body by deliberating on the Report and Recommendation of John P. Musser, D.C. The Board meeting was called back to order at the conclusion of the deliberations.

**JOHN P. MUSSER, D.C., CASE NO. 2010 CHR 024**

Prior to consideration of the matter of John P. Musser, D.C., President Dr. Farabaugh, Vice-President Dr. Palkowski and Dr. Gloekler verified that they reviewed the following materials: Hearing Transcript, State's Exhibits, Respondent's Exhibits, and Report and Recommendation dated January 4, 2012.

MOTION 2012-045: Dr. Gloekler moved and Vice-President Dr. Palkowski seconded a motion to issue the following Adjudication Order to John P. Musser, D.C.

Having reviewed and considered the materials delineated above, the Board accepted the Findings of Fact and Conclusions of Law in the Hearing Examiner's Report and Recommendation and modified the recommendation in the Hearing Examiner's Report and Recommendation and ORDERED the following:

The Board hereby ORDERS that DR. JOHN P. MUSSER'S license to practice chiropractic in Ohio

is hereby Suspended Indefinitely retroactive to February 28, 2010 for a period of not less than three (3) years. One year of said Suspension shall be Stayed provided that DR. MUSSER comply with the following conditions:

DR. MUSSER shall obey all federal, state and local laws and all statutes and rules governing the practice of chiropractic in Ohio;

DR. MUSSER shall appear before the Board or its designee as requested by the Board;

Any other conditions that the Board may institute.

Upon completion of the Suspension imposed by the Board, DR. MUSSER shall be subject to the following requirements, probationary terms, conditions and limitations effective February 29, 2012:

PROBATIONARY TERMS, CONDITIONS AND LIMITATIONS

DR. MUSSER shall be subject to the following probationary terms, conditions, and limitations for a minimum period of two (2) years.

DR. MUSSER shall obey all federal, state and local laws, and all laws and rules governing the practice of chiropractic in Ohio.

DR. MUSSER shall appear in person for interviews before the full Board or its designated representative as requested by the Board.

DR. MUSSER shall inform the Board within fifteen (15) business days, in writing, of any change in address and/or telephone number.

DR. MUSSER shall allow the Board or its agents entering onto the office, clinic or any premises where he may practice chiropractic or where the billing for his chiropractic services occurs in order to conduct an inspection of his patient and billing records to assure compliance with this Order. Said inspections may be accomplished during regular business hours and at all other reasonable times.

DR. MUSSER shall not associate professionally with any other doctor of chiropractic or other health care provider who has been disciplined by the Board or any regulatory authority, or with any convicted felon, unless granted written permission to do so by the Board in advance of any such professional association.

DR. MUSSER shall provide a copy of this Order to any healthcare or chiropractic organization that contracts with or employs him to provide chiropractic services, via its director or equivalent, prior to his being employed or contracting with said organization, including but not limited to, managed care organizations and/or hospitals where he holds privileges.

DR. MUSSER shall cooperate in good faith in any investigation, inquiry, proceeding, or hearing conducted by the Board. Good faith cooperation is defined as DR. MUSSER being forthcoming with information and providing truthful information or testimony in any such investigation, inquiry, proceeding, or hearing.

If DR. MUSSER is arrested, charged, or convicted of any violation of law other than those which gave rise to this action, he shall report said arrest, charge or conviction to the Board within ten (10)

days from the date of arrest, charge or conviction. The Board may issue a Notice of Opportunity for Hearing for cause under Ohio Revised Code Chapters 4734 and 119 of the Revised Code based upon any such new information it receives. In the event DR. MUSSER fails to provide said notification to the Board within the required time, the Board reserves the right to proceed on a similar basis.

DR. MUSSER'S chiropractic license shall be without restriction upon successfully completing his two (2) years of Probation.

This ORDER shall become effective immediately upon the date of mailing indicated on the attached Certificate of Service and is hereby entered upon the Journal of the Board for the 9<sup>th</sup> of February 2012.

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

### **ADMINISTRATIVE RULES DISCUSSION**

Director Caudill presented the Board with proposed amendments to the following administrative rules: 4734-7-01 Chiropractic license renewal requirements; 4734-7-02 Standards for board-approved continuing education sponsors; continuing education held within the state of Ohio; 4734-7-03 Continuing education offered outside the state of Ohio and via supervised self instruction; 4734-7-04 Inactive chiropractic license; restoration of chiropractic license; 4734-7-05 Forfeiture of chiropractic license; restoration of chiropractic license and 4734-10-04 Acupuncture certificate renewal requirements.

The Board discussed the proposed amendments and instructed Director Caudill to make further revisions to the rules and to research what type of video and online continuing education is accepted by other state boards. Once the proposed amendments are complete, Director Caudill is to proceed with posting the rules for stakeholder comments and completing the necessary forms in accordance with the policies of the Common Sense Initiative Office.

### **OLD/NEW BUSINESS/MISCELLANEOUS**

Director Caudill discussed the Federation of Chiropractic Licensing Board's Annual Meeting being held May 2-6, 2012 in San Antonio, TX and the National Board of Chiropractic Examiners' Annual Meeting being held May 4, 2012 at the same location. Director Caudill advised that the Board needs to vote on Board member attendance and voting delegates for these meetings.

MOTION 2012-046: Dr. Gloekler moved and President Dr. Farabaugh seconded a motion to approve the attendance of Vice-President Dr. Palkowski and Director Caudill at the FCLB Annual Meeting and to designate Dr. Palkowski as the voting delegate for the FCLB and NBCE Annual Meetings being held May 2-6, 2012 in San Antonio, TX. Motion passed unanimously.

Director Caudill advised that two Board members have been invited to participate in the National Board of Chiropractic Examiners' Park IV Exam being held May 18-20, 2012. Board members interested in participating must register by March 5, 2012.

MOTION 2012-047: 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 12:35 p.m.

Approved By Majority of Board:

Attested By Its Secretary:

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Ronald J. Farabaugh, D.C.  
President

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Kelly A. Caudill  
Executive Director

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