

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**

President Dr. Korchok called the three hundred and ninetieth 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 2012-001: Dr. Gloekler moved and Dr. Palkowski seconded a motion to approve the minutes of the June 9, 2011 Board meeting and the July 26, 2011 Board retreat. Motion passed unanimously.

**ACUPUNCTURE CERTIFICATES**

MOTION 2012-002: Mr. Kennedy moved and Dr. Gloekler seconded a motion to ratify the acupuncture certificates issued to Drs. Mark Drake, Thomas Bea and Christopher Farrell. Motion passed unanimously.

**COMPLIANCE MONITOR**

MOTION 2012-003: Dr. Palkowski moved and Dr. Gloekler seconded a motion to ratify the approval of Anthony Battaglia, D.C. to serve as compliance monitor for Keith Farrell, D.C. in Case No. 2010 CHR 065. Motion passed unanimously.

**PRECEPTORSHIP APPLICATION**

MOTION 2012-004: Dr. Gloekler moved and Mr. Kennedy seconded a motion to ratify the preceptorships approved for Lydia Ogden with Steve King, D.C., Douglas Stithem with Joseph Lindeman, D.C., Jason Coe with Bridgett Urban, D.C., Jeffrey Willoughby with Julia Keiser, D.C., Maximillian Zart with Gary Minorik, D.C., Scott Haggerty with Deeb Alawan, D.C., Eric Mersch with Paul Baker, D.C., Andrea Beaver with Greg Woeste, D.C., Scott Weaver with Joseph DiDomenico, D.C., Julie Holland with Steve King, D.C., Jesse Czajka with Shawn Brohl, D.C. and Krystal Huber with Todd Hamilton, D.C. Motion passed unanimously.

**RATIFICATION OF JULY 14, 2011 & AUGUST 25, 2011 LICENSES**

MOTION 2012-005: Mr. Kennedy moved and Dr. Palkowski seconded a motion to ratify the following licenses issued as a result of the July 14, 2011 and August 25, 2011 Jurisprudence examinations. July 14, 2011: Seth Bird, Jill Bryson, Patrick Bryson, Nicholas Curry, Delphine Deignan, Nicholas Deignan, Lena Haggerty, Michael Hess, Joseph Minnich, Sarah Moore, Justin

Schaefer, Jared Seigler, Nicholas Shifflet, Nicholas Southworth, Cory Stock and Richard Tsai. August 25, 2011: Robert Balza, David Bradford, William Ellis IX, Matthew Godwin, Scott Haggerty, Chan Haldeman, James Morosky, Lydia Ogden, Christy Paich, Jodi Rabas, Nicholas Tancheff and Jillian Wasson. Motion passed unanimously.

### **RATIFICATION OF CE WAIVERS**

MOTION 2012-006: Dr. Palkowski moved and Mr. Kennedy seconded a motion to ratify the approval of the following CE waivers for 2012 license renewal:

Jan Martensen, D.C. approved to earn 36 hours of continuing education credit, including 1.5 hours of ethics and/or professionalism, for his instruction of multiple continuing education programs in Ohio and across the country during the 2010 to 2012 period.

Charles Lindquist, Jr., D.C., MS, ACP, DACNB approved to earn 34.5 hours of continuing education credit for earning a Master of Science degree from National University of Health Sciences during the 2010 to 2012 period. Dr. Lindquist is required to earn 1.5 hours of ethics and/or professionalism.

Jeffrey Dunnigan, D.C. approved to earn 34.5 hours of continuing education credit for his instruction of "Orthopedic Assessment in Massage Therapy" at Cuyahoga Community College. Dr. Dunnigan is required to earn 1.5 hours of ethics and/or professionalism. Motion passed unanimously.

### **INTERNATIONAL CHIROPRACTIC PEDIATRIC ASSOCIATION**

MOTION 2012-007: Dr. Palkowski moved and Mr. Kennedy seconded a motion to ratify the approval of the International Chiropractic Pediatric Association as a Board-approved CE Sponsor. Motion passed unanimously.

### **EXECUTIVE DIRECTOR'S REPORT**

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 reported that the OSCA has met with the sponsor and it has been indicated that the bill will be amended to reflect that a chiropractic physician would be permitted to clear a concussed athlete to return to play under supervision of a medical physician. The Health & Aging Committee held a hearing on the bill on October 18, 2011. Director Caudill provided a report on the hearing.

Director Caudill discussed Senate Bill 141, introduced by Senator Gillmor. The bill as introduced 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 reported that the bill has been amended to include chiropractic physicians and physical therapists.

Director Caudill discussed House Bill 251, introduced by Representative Schuring. The bill proposes to regulate the practice of oriental medicine but will only permit chiropractic physicians to refer patients to oriental medicine practitioners for acupuncture, not oriental medicine. The bill has not been assigned to committee yet.

Director Caudill discussed House Bill 259, introduced by Representatives J. Adams and Yuko. The bill is regarding the provision of complementary or alternative health services and has been referred to the Health & Aging Committee.

Director Caudill discussed Senate Bill 233, introduced by Senator Oelslager. The bill would limit copayments health insurers impose for physical therapy services and make changes to the law governing health insurers and intermediary organizations.

Director Caudill discussed the letter sent to the Medical Board and their Massage Therapy Committee on August 25, 2011 on behalf of the Board requesting that the Medical Board consider amending administrative rule 4734-1-15 to permit massage therapists to administer therapeutic ultrasound, diathermy, electrical stimulation and supervise therapeutic exercise at the direction of and under the direct supervision of a licensed M.D., D.O., D.C., D.P.M., or DDS. Director Caudill stated that she had not received a reply to the correspondence but reported that the Medical Board minutes reflect receipt and discussion of the Board's correspondence.

Director Caudill reported that the Board's biennial audit for fiscal years 2010/2011 is complete and the final Audit report was issued to Board members on September 2, 2011.

Director Caudill reported that the Jurisprudence examination through MyICourse.com is scheduled to begin effective January 1, 2012.

Director Caudill confirmed that Dr. Gloekler will represent the Board at the National Board of Chiropractic Examiners Part IV Exam on November 11-13, 2011.

MOTION 2012-008: Vice-President Dr. Farabaugh moved and Dr. Palkowski seconded a motion to accept the Director's Report as presented. Motion passed unanimously.

### **FCLB DISTRICT II MEETING REPORT**

President Dr. Korchok gave a report on the Federation of Chiropractic Licensing Board's District II Meeting held in Fort Walton Beach, FL on October 13-16, 2011 that he attended on behalf of the Board.

### **OHIO STATE CHIROPRACTIC ASSOCIATION**

Bharon Hoag, Executive Director of the Ohio State Chiropractic Association, gave an update on current OSCA activities.

### **PERTINENT CORRESPONDENCE**

Dr. Stone appeared before the Board to discuss his letter sent on August 2, 2011 in which he requests that the Board expand its rules to allow 12 hours of out-of-state acupuncture continuing education on the campus of a Board-approved chiropractic college and taught by the college faculty members.

MOTION 2012-009: Vice-President Dr. Farabaugh moved and Mr. Kennedy seconded a motion to approve a onetime waiver allowing Dr. Stone to earn all 12 hours of his acupuncture continuing education at a program held at National University of Health Sciences campus and taught by college faculty members.

Director Caudill presented a letter from Andrew Ragon, D.C. requesting that the Board review his

use of the Erchonia Zeronia laser in his health and wellness program at the Ragon Chiropractic Health Center.

The Board instructed Director Caudill to write Dr. Ragon advising him that it is their opinion that the use of lasers is within the scope of chiropractic practice as long as the device is used for therapeutic, musculoskeletal and/or inflammation reduction purposes but utilizing lasers for weight loss or cosmetic purposes does not fall within the scope of chiropractic practice in Ohio.

### **ETHICS TRAINING**

Board members and staff watched the Ohio Ethics Commission DVD entitled *The Ethics Law in Public Service 2010* to satisfy the ethics training required by Governor Kasich's Executive Order 2011-03K. The following individuals were in attendance: President Dr. Korchok, Vice-President Dr. Farabaugh, Dr. Palkowski, Dr. Gloekler, Mr. Kennedy, Leah V.B. O'Carroll, AAG, Director Caudill, Elizabeth Moore, Mark Brooks and Rex Waldenmyer.

### **INVESTIGATIVE STATUS REPORT**

#### **LEGAL ACTIVITIES BY AAG**

MOTION 2012-010: Vice-President Dr. Farabaugh moved and Dr. Gloekler 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 2012-011: Dr. Palkowski moved and Dr. Gloekler seconded a motion to accept the Investigative Status Report as presented. Motion passed unanimously.

MOTION 2012-012: Dr. Gloekler moved and Dr. Palkowski seconded a motion to accept the Legal Activities Report as presented. Motion passed unanimously.

### **DELIBERATIONS**

MOTION 2012-013: Vice-President Dr. Farabaugh moved and Dr. Gloekler seconded a motion to go into executive session for the purpose of deliberating on three proposed Consent Agreement Modifications, four proposed Consent Agreements and two Notices of Opportunity for Hearing. Voting Aye: President Dr. Korchok, Vice-President Dr. Farabaugh, Dr. Palkowski, Dr. Gloekler and Mr. Kennedy. Voting Nay: None. Abstaining: None. Motion passed unanimously.

President Dr. Korchok called an executive session for the purpose of deliberating on the three proposed Consent Agreement Modifications, four proposed Consent Agreements and two Notices of Opportunity for Hearing. The meeting was called back to regular session at the conclusion of the discussion.

**CASE NO. 2010 CHR 030**

MOTION 2012-014: Vice-President Dr. Farabaugh moved and Dr. Palkowski seconded a motion to accept the proposed Consent Agreement Modification for the doctor cited in 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 2012-015: Dr. Gloekler moved and Vice-President Dr. Farabaugh seconded a motion to accept the proposed Consent Agreement Modification for the doctor cited 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. 2011 CHR 052**

MOTION 2012-016: Dr. Gloekler moved and 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. Korchok, Dr. Gloekler and Dr. Palkowski. Voting Nay: None. Abstaining: Vice-President Dr. Farabaugh and Mr. Kennedy. Motion passed.

**CASE NO. 2004 CHR 086**

MOTION 2012-017: Dr. Gloekler moved and Dr. Palkowski seconded a motion to accept the proposed Consent Agreement for the doctor cited in Case No. 2004 CHR 086 as presented. Voting Aye: Vice-President Dr. Farabaugh, Dr. Gloekler, Dr. Palkowski and Mr. Kennedy. Voting Nay: None. Abstaining: President Dr. Korchok. Motion passed.

**CASE NO. 2010 CHR 062**

MOTION 2012-018: Dr. Palkowski moved and Vice-President Dr. Farabaugh seconded a motion to accept the proposed Consent Agreement for the doctor cited in Case No. 2010 CHR 062 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 008**

MOTION 2012-019: Vice-President Dr. Farabaugh moved and Dr. Palkowski seconded a motion to accept the proposed Consent Agreement for the doctor cited in Case No. 2011 CHR 008 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. 2012 CHR 015**

MOTION 2012-020: Vice-President Dr. Farabaugh moved and Dr. Gloekler seconded a motion to accept the proposed Consent Agreement for the doctor cited in Case No. 2012 CHR 015 as presented. 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 048**

MOTION 2012-021: Vice-President Dr. Farabaugh moved and Dr. Palkowski seconded a motion to approve the Notice of Opportunity for Hearing issued to the doctor cited in Case No. 2011 CHR 048 for allegedly violating ORC § 4734.31 (C)(1). 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. 2012 CHR 014**

MOTION 2012-022: Dr. Gloekler moved and Dr. Palkowski seconded a motion to approve the Notice of Opportunity for Hearing issued to the doctor cited in Case No. 2012 CHR 014 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.

At the conclusion of voting on the above listed Consent Agreements, Director Caudill disclosed the doctor's names cited above in case numbers 2010 CHR 030, 2010 CHR 065, 2011 CHR 052, 2004 CHR 086, 2010 CHR 062, 2011 CHR 008 and 2012 CHR 015.

**ELECTION OF BOARD PRESIDENT**

MOTION 2012-023: President Dr. Korchok moved and Dr. Palkowski seconded a motion to elect Dr. Farabaugh as President of the Board. Voting Aye: President Dr. Korchok, Vice-President Dr. Farabaugh, Dr. Palkowski, Dr. Gloekler and Mr. Kennedy. Voting Nay: None. Motion passed unanimously.

President Dr. Farabaugh appointed Dr. Palkowski as Vice-President of the Board.

**DELIBERATIONS****CHARLES W. THEISLER, D.C.; CASE NO. 2011 CHR 001****M. STEPHEN MILLS, D.C., CASE NO. 2011 CHR079**

MOTION 2012-024: Vice-President Dr. Farabaugh moved and Dr. Palkowski seconded a motion to go into executive session for the purpose of deliberating on the Report and Recommendation of Hearing Officer Paul Stehura regarding Charles W. Theisler, D.C. and the Notice of Opportunity for Hearing and the supporting documentation regarding Mark Stephen Mills, D.C. Dr. Mills did not request a hearing. President Dr. Korchok, Vice-President Dr. Farabaugh, Dr. Palkowski and Dr. Gloekler present. Voting Aye: President Dr. Korchok, Vice-President Dr. Farabaugh, Dr. Palkowski and Dr. Gloekler. Voting Nay: None. Abstaining: Mr. Kennedy. Motion passed. The meeting was called back to regular session at the conclusion of the deliberations.

Prior to consideration of the matter of Charles W. Theisler, D.C., President Dr. Korchok, Vice-President Dr. Farabaugh, Dr. Palkowski and Dr. Gloekler verified that they reviewed the following materials: Hearing Transcript, State's Exhibits, Respondent's Exhibits, Report and Recommendation dated July 5, 2011, and Respondent's Objections.

MOTION 2012-025: Dr. Palkowski moved and Dr. Gloekler seconded a motion to issue the following Adjudication Order to Charles W. Theisler, D.C.:

Having reviewed and considered the Hearing Transcript, States' Exhibits, Respondent's Exhibits, Report and Recommendation dated July 5, 2011 and Respondent's Objections and in accordance with the character and fitness standards enumerated in Ohio Administrative Code 4734-6-09, the Board accepted the Findings of Fact and Conclusions of Law in the Hearing Examiner's Report and Recommendation and modified the Hearing Officer's Recommendation from shall be Sustained to shall be Refused and ORDERED the following:

DR. THEISLER'S application for licensure as a doctor of chiropractic in the state of Ohio is REFUSED. Said Refusal is a non-permanent refusal. DR. THEISLER may reapply for licensure by submitting a complete and accurate Application for License to Practice Chiropractic in the State of Ohio.

This ORDER shall become effective immediately upon the date of mailing indicated on the Certificate of Service and is hereby entered upon the Journal of the Board for the 20<sup>th</sup> of October 2011.

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

MOTION 2012-026: Vice-President Dr. Farabaugh moved and Dr. Palkowski seconded a motion to issue the following Order to Mark Stephen Mills, D.C.:

Notice was given to DR. MILLS on or about June 10, 2011 that the Ohio State Chiropractic Board intended to consider disciplinary action against his license to practice chiropractic in the state of Ohio and that he was entitled to a hearing on the matter if such hearing was requested within thirty (30) days of the mailing of the Notice. Said Notice was sent and received via certified mail, return receipt requested, to the address of record of DR. MILLS in accordance with Section 119.07 of the Ohio Revised Code. DR. MILLS did not submit a request for hearing within the thirty (30) day timeframe.

The Board considered the charges against DR. MILLS in the June 10, 2011 Notice of Opportunity for Hearing and evidence supporting the charges at its meeting on October 20, 2011. The Board finds that DR. MILLS committed acts in violation of the Chiropractic Practice Act, Ohio Revised Code Chapter 4734, as stated in the Notice of Opportunity for Hearing and hereby ORDERS the following:

DR. MILLS' license to practice chiropractic in the State of Ohio shall be suspended for sixty (60) days, all of which shall be Stayed.

DR. MILLS shall earn 12 (twelve) hours of continuing education held within the state of Ohio on or before March 31, 2012. Said continuing education must be pre-approved by the Board. The 12 (twelve) hours of continuing education shall not count towards DR. MILLS' biennial continuing education requirement of 36 hours for license renewal. DR. MILLS shall cause the CE provider to submit proof of attendance to the Board office upon completion of the program.

DR. MILLS shall earn 3 (three) hours of continuing education on the topic of ethics held within the state of Ohio on or before March 31, 2012. Said continuing education must be pre-approved by the Board. The 3 (three) hours of continuing education shall not count towards DR. MILLS' biennial continuing education requirement of 36 hours for license renewal. DR. MILLS shall cause the CE provider to submit proof of attendance to the Board office upon completion of the program. DR. MILLS shall submit transcripts to the Board or other proof of evidence of attendance for all continuing education programs that he takes for continuing education purposes with his application for renewal for the next 3 (three) license renewal periods (2012, 2014 and 2016).

This ORDER shall become effective immediately upon the date of mailing indicated on the Certificate of Service and is hereby entered upon the Journal of the Board for the 20<sup>th</sup> of October 2011.

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

MOTION 2012-0: Vice-President Dr. Farabaugh 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 2:30 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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