

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; Leah V.B. O'Carroll, AAG, Elizabeth Moore, Executive Assistant, Rex Waldenmyer and Kate Borloglou, Investigators.

Members excused: None.

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 second Board meeting to order at 9:20 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 2014-014: Vice-President Dr. Gloekler moved and Dr. Wilson seconded a motion to approve the minutes of the August 22, 2013 Board meeting. Motion passed unanimously.

PRECEPTORSHIP APPLICATIONS

MOTION 2014-015: Dr. Farabaugh moved and Dr. Wilson seconded a motion to ratify the preceptorships approved for Charles E. Jaicks with Steve King, D.C.; Garrett M. Knuckles with Paul Baker, D.C. and Erica M. Gaitley with Ty Dahodwala, D.C. Motion passed unanimously.

ACUPUNCTURE CERTIFICATES

MOTION 2014-016: Dr. Wilson moved and Dr. Farabaugh seconded a motion to ratify the acupuncture certificate issued to Dr. Robert Dhaliwal. Motion passed unanimously.

RATIFICATION OF LICENSES

MOTION 2014-017: Dr. Wilson moved and Dr. Farabaugh seconded a motion to ratify the following licenses issued as a result of the online Jurisprudence examination: Scott A. Light, Cynthia L. Campbell, Gregory R. Busby, Lindsay M. Mack, Erick C. Leffler, LaRissa M. Tilley, Christopher D. Bragg, Lindsay A. Horn and Ross E. Browning. 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 that the amendments to Board Rules 4734-9-03, 9-08 and 9-11 went into effect October 6, 2013.

Director Caudill reported that JCARR advised Board Rule 4734-9-10 exceeded the Board's authority since ownership of a chiropractic practice is not limited to Ohio chiropractic licenses. Director Caudill advised the Board will need to vote on the matter so that an amended rule may be refiled and a public hearing can be scheduled for the December 5, 2013 meeting.

Director Caudill reported that Dr. Gloekler will attend the FCLB District II Meeting scheduled for October 17-20, 2013 in Fort Walton Beach, FL. Drs. Wilson and Gloekler will represent the Board at the Fall NBCE Part IV exams on November 8-10, 2013.

Director Caudill reported that the implementation of the new E-Licensing system will be delayed until September 2014.

Director Caudill reported that the Board will not be required to collect Minimum Data Set information to obtain health sector workforce data for the Ohio Department of Health as previously reported until the new ELicense 2.0 is configured and operational.

Director Caudill reported that in accordance with a new state policy on Human Trafficking Prevention and Awareness, all state employees who perform law enforcement duties must annually earn 3 hours of training on human trafficking by April 1. Training must be reported by December 31 of every year to the State Anti-Trafficking Coordinator. Director Caudill reported that there is also 30 minutes of electronic training that is elective that she and the staff will take.

Director Caudill reported the Board's new phones will be installed on October 30, 2013 and cutover to Voice Over Internet Protocol will begin November 6, 2013. If there are any problems with the conversion, a message will be placed on voicemail and the website notifying the public and licensees of possible service interruptions.

Director Caudill presented a copy of the FY 2013 Annual Report for the Board's review.

Director Caudill presented a draft copy of a Newsletter for the Board's review. The Newsletter will be emailed to those licensees with an email address on file and mailed to those that don't.

Director Caudill reported that a New Board Member Handbook is in the drafting stages and will be presented to the Board upon its completion.

MOTION 2014-018: Dr. Wilson moved and Vice-President Dr. Gloekler seconded a motion to accept the Director's Report as presented. Motion passed unanimously.

PERTINENT CORRESPONDENCE

Director Caudill presented a letter dated September 17, 2013 from Dr. A.G. Cole requesting to be exempt from earning the required continuing education hours for the March 31, 2014 renewal deadline due to numerous health issues that prevent him from earning continuing education.

MOTION 2014-019: Dr. Farabaugh moved and Dr. Wilson seconded a motion to approve Dr. Cole's request to be exempt from earning the required continuing education hours for the 2014 biennial license renewal. Motion passed unanimously.

LEGAL ACTIVITIES

CONSENT AGREEMENT; CASE NO. 2013 CHR 003

MOTION 2014-020: Dr. Wilson moved and Vice-President Dr. Gloekler seconded a motion to accept the proposed Consent Agreement for the doctor cited in Case No. 2013 CHR 003 as

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

OHIO STATE CHIROPRACTIC ASSOCIATION (OSCA)

Bharon Hoag, Executive Director of the OSCA, gave an update on current activities.

FIVE YEAR RULE REVIEW

The Board initiated its review of rules scheduled for five year rule review in April 2014. The Board posted notification and reviewed stakeholder comment on the first group of rules at the August 22, 2013 Board meeting. The Board posted notification of the review and opportunity to submit comment on its website and sent an email on September 3, 2013 to stakeholders seeking comment on rule 4734-6-01.

Bharon Hoag, Executive Director of the OSCA and attorney Keith Karr were both present for the rules discussion from 11:00 a.m. – 1:00 p.m.

4734-6-01 Application for Licensure

The Board reviewed and considered stakeholder comment received from Canadian Memorial Chiropractic College. CMCC recommended that the rule be updated to reflect that foreign educated applicants must meet the appropriate equivalent of a bachelor, masters, or doctorate degree.

The Board approved drafts of the following rules as presented: 4734-6-01 Application for Licensure; 4734-6-02 Licensure by Endorsement; 4734-6-04 Preceptorships; 4734-6-08 Pre-Chiropractic Educational Requirements; 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; 4734-8-04 Documentation and Record Keeping 4734-8-07 Terminating the Doctor Patient Relationship.

The Board tabled their final review of Board rule 4734-9-02, Advertising and Solicitation, in order to get more stakeholder input and comments and tabled their final review of rule 4734-9-07, Billing Practices, until Dr. Farabaugh completes his research on gifts, incentives and complimentary transportation.

MOTION 2014-021: Dr. Wilson moved and Vice-President Dr. Gloekler seconded a motion to approve the creation of a working group for the purpose of gathering comments and input on Board rule 4734-9-02 Advertising and Solicitation. Dr. Farabaugh is appointed to serve as the chair of the working group. Motion passed unanimously.

The Board reviewed rule 4734-9-10, Conduct Following Action Against A License, currently on To Be Refiled status.

A new draft of rule 4734-9-10 was presented which only limits chiropractic physicians who are serving a suspension from sharing in any fee for chiropractic and/or acupuncture services performed by any other chiropractic physician during the suspension.

MOTION 2014-022: Dr. Farabaugh moved and Dr. Wilson seconded a motion to refile rule 4734-9-10 with JCARR with the presented changes. Motion passed unanimously.

DELIBERATION**PATRICK J. MULCAHY, D.C., CASE NO. 2012 CHR 015**

The Board deliberated in open session to consider the Notice of Opportunity for Hearing and supporting evidence in Case No. 2012 CHR 015.

Notice was given to Patrick J. Mulcahy, D.C. on or about March 1, 2013 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. The said Notice was issued to Dr. Mulcahy in accordance with Section 119.07 of the Ohio Revised Code. The March 1, 2013 certified mail of the Notice was returned unclaimed. On or about August 13, 2013, the Board perfected service by hand delivery. Dr. Mulcahy did not submit a request for hearing.

The Board considered the charges against Dr. Mulcahy in the March 1, 2013 Notice of Opportunity for Hearing and State's Exhibits 1-11 supporting the charges.

MOTION 2014-023: Dr. Wilson moved and Dr. Farabaugh seconded a motion to issue the following Order to Patrick J. Mulcahy, D.C.:

Dr. Patrick J. Mulcahy's license to practice chiropractic in the State of Ohio shall be Suspended for five (5) years.

The Board shall not consider restoration of Dr. Mulcahy's license unless and until the following terms and conditions have been met:

Dr. Mulcahy shall have served not less than five (5) years of Suspension;

Three (3) months preceding any application for reinstatement, Dr. Mulcahy shall submit to an examination/evaluation to determine his ability to maintain an alcohol and drug free lifestyle and to determine his ability to practice according to acceptable and prevailing standards of chiropractic care. The examination/evaluation shall be conducted by a licensed physician, psychiatrist or psychologist, whom has been provided with a copy of this Order prior to conducting the examination/evaluation. Dr. Mulcahy shall submit the report from his examination/evaluation to the Board with any Application for Reinstatement and shall include evidence that that he followed, or is following, all recommendations of the examination/evaluation;

Dr. Mulcahy shall submit to a BCI and FBI criminal records check no earlier than three (3) months prior to his application for reinstatement. The results of the BCI and FBI background checks must be received in the Board office prior to any reinstatement of Dr. Mulcahy's license;

Dr. Mulcahy shall submit proof of successfully passing, with a score of 375 or greater, the Special Purposes Examination for Chiropractic (SPEC) offered by the National Board of Chiropractic Examiners (NBCE) taken within the six (6) months preceding his application for reinstatement. Dr. Mulcahy shall cause the NBCE to directly furnish the Board with a transcript of his SPEC scores;

Dr. Mulcahy shall submit proof of entering into the necessary financial and/or contractual arrangements with a drug testing facility and/or collection site as approved by the Board in order to facilitate a urine screening process for drug and/or alcohol testing. This screening shall require a daily call-in or log-on process. Dr. Mulcahy shall provide to the Board written documentation of

completion of such arrangements, including a copy of the contract entered into between Dr. Mulcahy and the Board-approved testing facility and/or collection site;

Dr. Mulcahy shall take and successfully pass, with a score of 75% or greater, the Board's online Jurisprudence examination.

The Board shall consider restoration of Dr. Mulcahy's license to practice chiropractic in Ohio upon his submission of a complete Application for Reinstatement of License which shall be accompanied by proof of compliance with the provisions outlined in paragraphs (1-6) and a reinstatement fee in effect at the time of restoration made payable to the Treasurer, State of Ohio and proof of earning the requisite number of continuing education hours in effect at the time of restoration. The continuing education hours must meet the requirements for license renewal at the time of application.

Upon restoration of Dr. Mulcahy's license, Dr. Mulcahy shall serve a term of Probation for not less than three (3) years.

Dr. Mulcahy shall serve his three (3) year probationary period while actively residing and practicing within the state of Ohio. In the event Dr. Mulcahy moves out of state or ceases to practice in Ohio, he shall notify the Board of these events in writing at least fifteen (15) days prior to the event. The terms and conditions of the Probation may be stayed by the Board until Dr. Mulcahy returns to practice chiropractic in Ohio. Dr. Mulcahy shall notify the Board in writing that he is returning to the practice of chiropractic at least fifteen (15) days prior to returning to practice in any capacity. The notice shall provide the date he will return to practice and the location(s) of practice.

Probationary Terms

Monitoring and Drug Testing for not less than twelve (12) months

For a minimum of twelve (12) months after restoration and while Dr. Mulcahy is actively practicing, Dr. Mulcahy shall submit, at his own expense and on the day selected, urine specimens for drug and/or alcohol analysis at a collection site specified by the Board at such times the Board may request. Refusal to submit such specimen, failure to submit such specimen on the day he is selected or in such a manner as the Board may request, or failure to comply with the daily call-in or log-on process, shall constitute a violation of Probation. The specimens submitted by Dr. Mulcahy shall be negative except for substances prescribed, administered, or dispensed to him by another so authorized by law.

After twelve (12) months of continuous compliance and negative screens, Dr. Mulcahy may request to be released from this probationary provision only.

Continuing Education

Within the initial twelve (12) months of Probation, Dr. Mulcahy shall earn thirty-four (34) hours of continuing education (CE) on the topics of case management, documentation and coding and two (2) hours of CE on the topic of Ethics. The CE must be pre-approved by the Board or its Designate and shall not count towards Dr. Mulcahy's biennial continuing education requirements for license renewal. Dr. Mulcahy shall submit certificates of attendance, transcripts, or other proof of evidence of completion.

General Terms of Probation

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

If Dr. Mulcahy is arrested, charged, or convicted of any violation of law, 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 ORC Chapters 4734 and 119 based upon any such new information it receives. In the event Dr. Mulcahy fails to provide the notification to the Board within the required time, the Board reserves the right to proceed on a similar basis.

Dr. Mulcahy shall notify the Board of any changes in his employment and residence addresses and telephone numbers within fifteen (15) days of any such change.

Dr. Mulcahy shall appear before the full Board or its designated representative for interviews, as requested or directed by the Board, during which time he may be required to answer questions under oath.

Dr. Mulcahy shall not knowingly 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. Mulcahy shall provide a copy of this Agreement 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. Mulcahy shall consent to 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 Agreement. These inspections may be accomplished during regular business hours and at all other reasonable times.

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

Dr. Mulcahy shall submit with his application for license renewal certificates of attendance, transcripts, or other proof of evidence of completion for all CE programs he earns for license renewal purposes.

This ORDER shall become effective immediately and is hereby entered upon the Journal of the Board for the 10th of October 2013. Voting Aye: President Dr. Palkowski, Dr. Farabaugh and Dr. Wilson. Voting Nay: None. Abstaining: Vice-President Dr. Gloekler. Motion passed.

NOTICE OF OPPORTUNITY FOR HEARING; CASE NO. 2014 CHR 028

MOTION 2014-038: Dr. Farabaugh moved and Dr. Wilson seconded a motion to accept the proposed Notice of Opportunity for Hearing for the doctor cited in Case No. 2014 CHR 028 as presented. Voting Aye: President Dr. Palkowski, Vice-President Dr. Gloekler, Dr. Farabaugh and Dr. Wilson. Voting Nay: None. Abstaining: None. Motion passed unanimously.

OLD/NEW BUSINESS/MISCELLANEOUS**Veterans Health Administration**

President Dr. Palkowski presented a memo dated August 15, 2013 from Kate Borloglou, Investigator regarding some questions and answers regarding the Veterans Health Administration as it relates to licensure and regulation of chiropractic physicians in the state of Ohio. Dr. Palkowski stated that he does not have a problem with the issue he just wanted to be educated on the process and feels it may be beneficial for Board staff to be educated about the process as well.

2014 Board Meeting Dates

The Board set the following Board meeting dates for 2014: February 13, April 10, June 12, August 14, October 9 and December 4, 2014.

MOTION 2014-039: Dr. Farabaugh moved and Dr. Wilson 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 3:15 p.m.

Approved By Majority of Board:

Attested By Its Secretary:

Gregory P. Palkowski, D.C.
President

Kelly A. Caudill
Executive Director

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