



**NORTH DAKOTA
STATE BOARD OF CHIROPRACTIC EXAMINERS**

**Minutes of the Board Meeting of the North Dakota State Board of Chiropractic
Examiners held April 20, 2018 at the Radisson Hotel, Bismarck, ND**

Call to Order: Dr. Michael Remmick called the meeting to order at 7:00 AM.

Roll Call: Dr. Remmick, Dr. Ficek, Dr. Froehling, Dr. Pederson, Dr. Yohe, Mr. Edward Erickson (board attorney) and Executive Director Lisa Blanchard were present.

Public attendees: Dr. Jacob Schmitz, Dr. Kelly Remillard, Dr. Margaret Peterson, Dr. Carson Muth, and Dr. Kristian Anderson. All public attendees, except for Dr. Schmitz, exited the meeting at 7:45 AM.

Reading of the Mission Statement: Dr. Michael Remmick

Additions to the Agenda: A motion was made by Dr. Ficek, second Dr. Pederson, to add the new complaint regarding Dr. Hanson and the email information provided by Dr. Schmitz to the agenda. Motion passed.

Approvals:

A motion was made by Dr. Froehling, second by Dr. Yohe, to approve the minutes of the January 26, 2018 board meeting and February 21, 2018 conference call meeting. Motion passed.

A motion was made by Dr. Ficek, second by Dr. Pederson, to approve the 2018 1st quarter Executive Director report. Motion passed.

A motion was made by Dr. Froehling, second by Dr. Yohe, to approve the 2018 1st quarter financial report. Motion passed.

A motion was made by Dr. Froehling, second by Dr. Ficek, to approve 2018 1st quarter Treasurer approved checks over \$500.00. Motion passed.

2018 Calendar Review:

Discussion regarding the date of the scheduled September board meeting was discussed due to Mr. Erickson's retirement date. The August 22, 2018 Conference Call will be cancelled, and the September 28, 2018 Board Meeting/New Doctor Seminar will be rescheduled for Friday, August 17, 2018 in Bismarck.

New/Old Business:

CCCA Applicant. The Board received a Criminal History Record report that included an incident. The applicant properly reported the incident on all applications. After discussion, the Board felt the incident

was not a threat to the public. A motion was made by Dr. Ficek, second by Dr. Froehling, to approve the application. Motion passed.

HBOT – Dr. Peterson. Dr. Peterson was invited to present further materials and information on HBOT. From the information provided and discussed, a change to the chiropractic law may be required in order to allow chiropractors to perform HBOT. Information only at this time.

Complaint Withdrawal Information. Mr. Erickson provided information to the Board members regarding the withdrawal of a complaint. A complaint, once issued, essentially cannot be withdrawn. However, the complainant may no longer be a cooperative witness and the case could be difficult to prosecute. The Board may elect to dismiss the complaint due to the withdrawal of information. Information only.

Cases:

Dr. T. Johnson. A motion was made by Dr. Froehling, second by Dr. Ficek, to dismiss the complaint against Dr. Johnson due the complainant's request to withdraw their complaint. A roll call vote was taken with Ficek, Froehling, and Remmick - Yes; Pederson and Yohe – No. Motion passed (3-2).

Dr. Scott/Dr. Carlile. A motion was made by Dr. Pederson, second by Dr. Ficek, to dismiss the complaint against these doctors due the complainant's request to withdraw their complaint. A roll call vote was taken with all members voting in the affirmative. Motion passed (5-0).

Dr. Eberts. A motion was made by Dr. Froehling, second by Dr. Yohe, to close the case against Dr. Eberts as he has successfully completed all terms of the Conditional Dismissal. Motion passed.

Dr. Simnioniw. A motion was made by Dr. Yohe, second by Dr. Ficek, to close the case against Dr. Simnioniw as she has successfully completed all terms of the Conditional Dismissal. Motion passed.

Dr. Wiseth. The Board has received the EBAS transcript. A motion was by Dr. Ficek, second by Dr. Yohe, to acknowledge all terms of the settlement agreement were met and to close the case. Motion passed.

Dr. Wiseth. The completion of the Jurisprudence Examination has not occurred. The Executive Director believes that Dr. Wiseth was likely confused as he was receiving information regarding the EBAS exam at the same time. A motion was made by Dr. Ficek, second by Dr. Froehling, to send a letter to Dr. Wiseth reminding him of the requirement and giving him until May 15, 2018 for completion. Motion passed.

Dr. Blackwood. A motion was made by Dr. Froehling, second by Dr. Yohe, to close the consumer case against Dr. Blackwood as he has successfully completed all terms of the Conditional Dismissal. Motion passed.

Dr. Blackwood. Dr. Blackwood appealed the Conditional Dismissal offer regarding the advertising complaint. A motion was made by Dr. Pederson, second by Dr. Yohe, to accept the appeal and dismiss the complaint. The Board requests that Dr. Blackwood attempt to avoid future confusion regarding the separate businesses and attempt to differentiate such. A roll call vote was taken with Pederson, Froehling, and Yohe – Yes; Ficek and Remmick – No. Motion passed. (3-2).

Dr. Sauer. The response from his attorney was received. The Board instructed Mr. Erickson to respond with the re-offer of the Conditional Dismissal for the usage of the free dinners. Attorney instruction.

Dr. N. Weiss. The Minnesota Board has communicated with the ND Board that they are willing to amend their agreement to exclude Affiliated Monitors. Mr. Erickson will prepare and mail an amended agreement to Dr. Weiss. Information only.

Dr. Lamp. A review of the Second Settlement Agreement was completed. The final term is a 25-patient review by a Peer Review Committee. Discussion was held regarding further amending or proceeding as signed. No changes will be made. Dr. Remmick will work on finding 3-license holders to form the Peer Review Committee. Information only.

New Complaints:

Dr. Hanson. A complaint was received. A motion was made by Dr. Pederson, second by Dr. Ficek, to request a response to the complaint. Motion passed.

Dr. Everett. A complaint was received. Dr. Everett's response was received. After review of the complaint and response, a motion was made by Dr. Pederson to send a letter to Dr. Everett directing him that all procedures must be attended by the licensed chiropractor or delegated to a CCCA. The motion failed due to lack of a second. A motion was made by Dr. Ficek, second by Dr. Froehling, to offer Dr. Everett a Conditional Dismissal with a \$250.00 fee and successful completion of the Jurisprudence Examination for violation of 17-03-01-01 (17). A roll call vote was taken with all members voting in the affirmative. Motion passed (5-0).

Healing Arts Chiropractic/Dr. K. Paape (owner). A complaint was received. Dr. Paape's response was received. After review of the complaint and response, numerous violations were noted. A motion was made by Dr. Ficek, second by Dr. Pederson, to offer a Settlement Agreement to Dr. K. Paape for violation of 43-06-16.1(6), 17-03-01-01 (11), 17-03-01-01(17), and 17-03-01-01(18)(g). Terms of the agreement to include a \$3,000.00 fine (\$1,000/incident) and successful completion of the 3 parts of the EBAS examination (Fraud, Professional Standards, and Unprofessional Conduct) in 6 months. A roll call vote was taken with all members voting in the affirmative. Motion passed (5-0).

Cases:

Executive Session:

A motion was made by Dr. Froehling, second by Dr. Pederson, to move the meeting into Executive Session for attorney consultation regarding the complaints against Dr. Barton and Dr. Hengel Borud. The legal authority for closing this portion of the meeting is ND Century Code section 44-04-19.1. A roll call vote was taken with all members voting in the affirmative. Motion passed (5-0). The meeting was closed at 10:08 AM with Dr. Schmitz exiting the room. The Board members, Mr. Erickson, and Ms. Blanchard remained. The Executive Session was recorded.

A motion was made by Dr. Pederson, second by Dr. Yohe, to exit the Executive Session and to return to the open meeting. A roll call vote was taken with all members voting in the affirmative. Motion passed (5-0). The meeting was reopened at 11:05 AM. Dr. Schmitz rejoined the meeting.

Dr. Barton. The Board instructed Mr. Erickson on proceeding per the Executive Session. A motion was made by Dr. Froehling, second by Dr. Pederson, to have the Executive Director write a letter to the ChiroTouch Software company requesting the possibility of performing Audit Logs and if it is possible, to provide the instructions. Motion passed.

Dr. Hengel Borud. A motion was made by Dr. Yohe, second by Dr. Pederson, to request the patient schedules from February 2016 and February 2017. The Executive Director will randomly select 5 patients from each year and request those patient files. Additionally, the board would like clarification of the undocumented therapies. Motion passed.

Freedom Chiropractic/Dr. Schmitz. A motion was made by Dr. Froehling, second by Dr. Pederson to deny the March 16, 2018 counter-proposal by Dr. Schmitz, provided by his attorney. A roll call vote was taken with all members voting in the affirmative. Motion passed (5-0). A discussion was held regarding this case and possible directions to take, including options available if it is moved to litigation. A motion was made by Dr. Ficek, second by Dr. Pederson, to re-offer the 2nd draft of the Settlement Agreement, but to include the previously eliminated EBAS evaluation. Mr. Erickson is to allow for 21-days to respond. The case will be sent to litigation without further review if the offer is rejected. A roll call vote was taken with Pederson, Yohe, Ficek, and Froehling – Yes; Remmick – No. Motion passed (4-1). Dr. Schmitz indicated he would like to speak. President Remmick asked if any of the board members wanted to hear from Dr. Schmitz. No member expressed an interest, therefore, President Remmick proceeded with the meeting.

New/Old Business:

CBD. A mass email to all license holders was sent sharing the state's position on these products. The Board will continue to monitor the state's position and relay any information to the license holders as it is learned. Information only.


Stem Cell Information. Dr. Remmick attended a joint meeting with the AG's office and other agencies. Due to the case, nothing further was discussed. Information only.

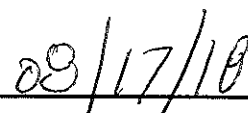
Board Retention Schedule. The Executive Director provided the Board members with the list of records that are not included in the state's general schedule. The Board reviewed each group and discussed proposed retention lengths. The Executive Director will complete the next steps in the process for review by the state. Information only.

Per Diem. A motion was made by Dr. Froehling, second by Dr. Ficek, to pay 1-day per diem, 1-night hotel, 1-day food, and mileage. Motion passed.

Adjourn. A motion was made by Dr. Ficek, second by Dr. Yohe, to adjourn the meeting. Motion passed. The meeting concluded at 12:45 PM.

These minutes were prepared by Lisa Blanchard, Executive Director, for signature by Dr. Eric Froehling, Secretary.


Eric Froehling, D.C., Secretary


Date