



**NORTH DAKOTA
STATE BOARD OF CHIROPRACTIC EXAMINERS**

**Minutes of the Board Meeting of the North Dakota State Board of Chiropractic
Examiners held January 26, 2018 at the Radisson Hotel, Bismarck, ND**

Call to Order: Dr. Michael Remmick called the meeting to order at 8:01 AM.

Roll Call: Dr. Remmick, Dr. Ficek, Dr. Froehling, Dr. Pederson, Dr. Yohe, and Executive Director Lisa Blanchard were present. Board attorney, Mr. Edward Erickson, arrived shortly after the call to order.

Public attendees: Dr. Jacob Schmitz arrived shortly after the call to order. Matthew Krogen joined at 8:40 AM and exited at 2:30 PM. Dr. Joseph Grausgruber joined at 3:08 PM. Dr. Carol Winkler joined at 3:20 PM.

Reading of the Mission Statement: Dr. Michael Remmick

Additions to the Agenda: A motion was made by Dr. Ficek, second Dr. Pederson, to add question regarding Cash Discounts, NDCA proposed bylaw change/Legislative study, and Board member obligation to report violations to the proposed agenda. Motion passed.

Approvals:

A motion was made by Dr. Yohe, second by Dr. Ficek, to approve the minutes of the September 22, 2017 board meeting, October 18, 2017 conference call, November 15, 2017 conference call, and December 20, 2017 conference call meetings. Motion passed.

A motion was made by Dr. Froehling, second by Dr. Ficek, to approve the 2017 3rd and 4th quarter Executive Director reports. Motion passed.

A motion was made by Dr. Froehling, second by Dr. Yohe, to approve the 2017 3rd and 4th quarter financial reports. Motion passed.

A motion was made by Dr. Froehling, second by Dr. Ficek, to approve 2017 3rd and 4th quarter Treasurer approved checks over \$500.00. Motion passed.

The 2018 Proposed Budget was moved to the end of the Board's new business due to possible edits.

Reports:

A motion was made by Dr. Ficek, second by Dr. Yohe, to accept and approve the FCLB District Meeting reports by Dr. Froehling and Dr. Pederson and the NBCE Part IV Testing reports by Dr. Pederson and Dr. Yohe. Motion passed.

Old Business:

Board Policies:

- License Verification on website and roster information. Mr. Erickson informed the Board that it is not required to include this information on the board's website. No changes to current policy.
- Advertising complaint process. Most are done via email. Electronic signature is acceptable. Must not be anonymous.
- Continuing Education Hour approvals. Current procedure discussed. No changes made.
- NDCA Continuing Education Hour approvals. The Executive Director was instructed to inform the NDCA that they should be seeking the Board's approval prior to finalizing their speakers/seminars not after.
- T10/Preceptor approvals. Current procedure discussed. No changes made.
- Peer Review Policy Draft. All board members received a copy of the draft created from previous discussion. A motion was made by Dr. Froehling, second by Dr. Pederson, to approve the draft for future use. Motion passed.

Jurisprudence Examination. The Executive Director contacted FARB, but they suggested that Mr. Erickson make the contact with Mr. Atkinson. Mr. Erickson will make contact or draft a statement. The exam is ready to go pending this statement.

Disciplinary Review Alternatives. The Board has received information from KMC University and Dr. Fred Deutsch. Mr. Erickson requested that the Board view copies of the contracts used between these monitors and the license holders. Additionally, verification of an errors and omissions insurance policy for this type of activity. Mr. Erickson will contact Dr. Deutsch and request this information. Dr. Ficek or the Executive Director will be in contact with KMC to request their contract. Additionally, as the Board has not viewed a contract between Affiliated Monitors and the license holders, Mr. Erickson has been asked to request a copy and the Executive Director will contact Dr. Nathan Weiss.

Audits. The Board was not aware that audits for ND Boards were required every 2-years, not annually. As the last audit was completed for the calendar year 2016, we will wait to complete our next audit for the years 2017 and 2018.

CCCA. The Executive Director shared the status of some pending applicants. The Board instructed her to contact the license holders and advise them of this status as these individuals do not have their ND certifications. The 2000-hours grandfather clause will expire on March 1, 2018. The Executive Director was instructed to send a mass email to notify the license holders. The Board received a question asking whether or not a licensed/trained Athletic Trainer requires the CCCA certification. The law for athletic trainers does not allow chiropractors to oversee, therefore, this individual must complete the CCCA program. The Executive Director will respond to the license holder.

Board Records Retention Schedule. The Executive Director gave a status update. This is a work in progress and will report more when completed. Information only.

Board Phone. The Executive Director shared the Government plan information. A motion was made by Dr. Froehling, second by Dr. Pederson, to convert the current plan to the Government monthly plan and to upgrade the phone to the \$99 iPhone 7. Motion passed.

New Dr. Seminar. Options were discussed. To discontinue the seminar, it would require an administrative rule change. No action at this time.

Animal Chiropractic. No new information. A motion was made by Dr. Yohe, second by Dr. Ficek, to remove this item from the Board's agendas. Motion passed.

Website. The Executive Director shared that we are not using the website to its full potential regarding outreach/communications. Mass emails and News Items should be utilized more frequently, but she requests assistance for topics. Due to the volume of Advertising complaints, a mass email will be drafted reminding the license holders they should review and clean their sites of any violations or they will likely be reported.

New Business:

Dr. Redington letter. The Board had requested Mr. Erickson's advice and responded accordingly to Dr. Redington. No action taken.

Adobe Software Purchase. A motion was made by Dr. Yohe, second by Dr. Pederson, to purchase the Adobe Acrobat Pro software for \$155.51/year. Motion passed.

Fax received in the Board office. The Executive Director, per Dr. Remmick's request, showed the Board the fax that has been received twice. No action.

NDCA Proposed Bylaw revision. The Board reviewed the language that the NDCA is proposing to their bylaws regarding the nominations for the Board of Examiners. Mr. Erickson reported on the status of the legislative study currently being conducted by the Administrative Rules committee. Information only.

Cash Discount. The guidelines are established by the OIG and therefore are federal. The Executive Director will share this information with the license holder. Also, will include the OIG opinions on the Board's website.

FCLB Dues. A motion was made by Dr. Ficek, second by Dr. Froehling, to pay the 2018 FCLB dues of \$1097.00. Motion passed.

2018 Board Calendar. The Board discussed the options presented by the Executive Director for the meeting schedule. Option #1, which included monthly conference calls and meetings in January, April, and September was the preferred choice (same as 2017). A change for the selected date in July was altered due to Mr. Erickson's calendar. A motion was made by Dr. Pederson, second by Dr. Yohe, to select the first option for the 2018 Calendar. Motion passed. The Executive Director will update the website and the ND Public Meeting notice with the scheduled calendar. The other calendar assignments were discussed and determined. FCLB Annual: Remmick/Blanchard. May Part IV Testing: Pederson/Remmick (Ficek available to go as well if needed). Part IV Test Writing: Yohe. FCLB District: Froehling/Blanchard. November Part IV Testing: Yohe/Froehling.

During the calendar discussion, Mr. Erickson shared his retirement notice with the Board. He will be done at the end of September 2018. He would hope his replacement is announced and will be able to attend the September board meeting.

GoToMeeting/Conference Call company. Due to the calendar selection, we will continue with GoToMeetings with no changes made.

NBCE/FCLB Delegates. A motion was made by Dr. Pederson, second by Dr. Ficek, to assign Dr. Remmick as the FCLB and NBCE Delegate; Lisa Blanchard as the FCLB Alternate Delegate; no NBCE alternate delegate. Motion passed.

The Executive Director was asked to leave the room. Dr. Froehling takes over as recording officer.

Executive Director Contract and Review. Reviews were discussed, office situation was discussed, reviews were positive. A motion was made by Dr. Froehling, second by Dr. Yohe, to increase salary to \$36,000.00/year. Motion passed.

The Executive Director was invited back.

The Board recessed for lunch from Noon – 1:00 PM for lunch in the restaurant.

2018 Budget. The proposed budget was reviewed, and 3 corrections (Audit/Salary/Phone) were made due to decisions made earlier in the meeting. A motion was made by Dr. Froehling, second by Dr. Ficek, to approve the 2018 budget with corrections. Motion passed.

Cases (established):

Dr. W. Nelson. The signed conditional dismissal and payment of the fee were received. The fee was paid by HealthSource corporate. A motion was made by Dr. Pederson, second by Dr. Ficek, to close the case upon completion of the online jurisprudence examination. A roll call vote was taken with all members voting in the affirmative (5-0). Motion passed.

Dr. Scott. The signed conditional dismissal and payment of the fee were received. The fee was paid by HealthSource corporate. A motion was made by Dr. Froehling, second by Dr. Yohe, to close the case upon completion of the online jurisprudence examination. A roll call vote was taken with all members voting in the affirmative (5-0). Motion passed. Dr. Scott emailed the Board asking if there was any additional method other than written letters to discuss clarification of the laws/rules. The Executive Director was instructed to respond to Dr. Scott that law/rule clarifications should be referred to his personal/business attorney.

Dr. Eberts. The response to the advertising complaint was received. Although Dr. Eberts states that he did not participate in the HealthSource promotion, the promotion was found on his clinic's website. A motion was made by Dr. Froehling, second by Dr. Pederson, to offer Dr. Eberts a Conditional Dismissal to include a \$500.00 fee and the completion of the online jurisprudence examination when it is available for the potential violation of 17-03-01-01 (15). A roll call vote was taken with all members voting in the affirmative (5-0). Motion passed.

Dr. Simnioniw. The response to the advertising complaint was received. The value of the gift card exceeds the nominal value threshold policy statement of the OIG. A motion was made by Dr. Pederson, second by Dr. Ficek, to offer Dr. Simnioniw a Conditional Dismissal to include a \$500.00 fee and the completion of the online jurisprudence examination when it is available for the potential violation of 17-

03-01-01 (4). The Board will include copies of the OIG documents. A roll call vote was taken with all members voting in the affirmative (5-0). Motion passed. Mr. Erickson will review this draft.

Freedom Chiropractic (Dr. Schmitz). Mr. Erickson received a letter dated December 20, 2017 from Dr. Schmitz's attorney rejecting the Board's Settlement Agreement offer. A discussion was held on the Board's options ranging from modification of agreement to litigation. Dr. Schmitz requested to speak. He asked, if he were to agree, if he could be released from the monitoring portion of the agreement if the monitor found his documentation up to par. A motion was made by Dr. Ficek, second by Dr. Froehling, to modify and offer a new settlement agreement to Dr. Schmitz. The terms are to include the reimbursement of the Peer Review costs; the reimbursement of therapy charges only to the insurance company; monitoring by KMC or Dr. Deutsch with release upon satisfactory completion. A roll call vote was taken (4-1) with Remmick voting negative. Motion passed. Mr. Erickson will prepare the agreement.

Dr. Wiseth. The signed conditional dismissal and payment of the fee were received. A motion was made by Dr. Pederson, second by Dr. Yohe, to close the case upon completion of the online jurisprudence examination. A roll call vote was taken with all members voting in the affirmative (5-0). Motion passed. Mr. Erickson will contact Dr. Wiseth's attorney regarding the Settlement Agreement as it has not been received by the Board or in his office.

Dr. Sauer. Mr. Erickson has not had a chance to prepare a response due to his schedule. No action at this time.

Dr. N. Weiss. Dr. Remmick spoke with the Dr. Otto, the MN Board Investigative Panel member, to discuss the possibility of a monitor change in this case. Dr. Otto felt they would be agreeable to a change. A motion was made by Dr. Pederson, second by Dr. Yohe, to amend Dr. Weiss's current agreement from Affiliated Monitors to Dr. Deutsch when the contracts are completed. Dr. Weiss's probation is to end upon a report of satisfactory/acceptable notes from Dr. Deutsch. Mr. Erickson will contact Dr. Weiss's attorney to share the offer and terms while we are waiting for Dr. Deutsch's information. A roll call vote was taken with all members voting in the affirmative (5-0). Motion passed.

Dr. Blackwood. We have received the two requested responses from Dr. Blackwood. A motion was made by Dr. Froehling, second by Dr. Pederson, to offer Dr. Blackwood a Conditional Dismissal to include a \$500.00 fee and the successful completion of the online jurisprudence examination when it is available for offering a \$100.00 discount to Medicare patients, which is a violation of 17-03-01-01 (4). The OIG documents will be included. A roll call vote was taken with all members voting in the affirmative (5-0). Motion passed. A motion was made by Dr. Pederson, second by Dr. Ficek, to notify the Board of Integrative Health (Naturopathic Board) regarding Dr. Linda Nelson and Dr. Wallace Nelson, to include copies of our documents. A roll call vote was taken with all members voting in the affirmative (5-0). Motion passed. A motion was made by Dr. Pederson, second by Dr. Yohe, to send a letter to Dr. Blackwood to respond to the Bismarck Tribune Ad regarding the chance to win a 4-day stay in Jamaica. A roll call vote was taken with all members voting in the affirmative (5-0). Motion passed. A motion was made by Dr. Yohe, second by Dr. Pederson, to draft a letter to the complainant. The Executive Director will work with Mr. Erickson on this letter. Motion passed.

Dr. Lamp. No action.

New Complaints:

Dr. Barton. The complaint has been received and reviewed by the Board. A motion was made by Dr. Pederson, second by Dr. Yohe, to write to the complainant and request that in order to proceed the Board will require the records of the case(s) being referenced in the complaint letter. Motion passed.

Anonymous Complaints. The information provided to the Board has been shared. The Board asked Mr. Erickson about the receiving of anonymous complaints and their options. The law states the Board must receive a signed written statement (complaint). The Executive Director will respond to the individuals that had provided these anonymous complaints that they will be required to identify themselves in order for the board to investigate.

There appears to be a trend of reporting older or expired promotions and advertisements to the Board. Mr. Erickson shared that due to the rule change that took effect on April 1, 2017, the Board could consider not pursuing conditional dismissals on ads prior to that date, but rather notifying the license holder that the ad in question would currently be considered in violation. A motion was made by Dr. Yohe, second by Dr. Ficek, to establish a board policy to not pursue advertisements/promotions prior to April 1, 2017. Motion passed.

Unprofessional Conduct/Facebook. There is no violation of the ND Century Code in the information provided to the Board. Additionally, without supporting verification, no action can be taken on the alleged advertising violation. The Executive Director will share this with the individual that questioned the conduct of the Facebook post.

Board Member responsibility to report potential violations. The question was asked, and Mr. Erickson shared that Board members, just as all license holders, have the same responsibility to report if they find violations. Information only.

Per Diem. A motion was made by Dr. Ficek, second by Dr. Froehling, to pay 1 day per diem, 2 nights hotel, breakfast/supper for 1-day, and mileage. Motion passed.

Election of Officers.

A motion was made by Dr. Yohe, second by Dr. Pederson, to nominate Dr. Remmick as President. No further nominations were made. Motion passed.

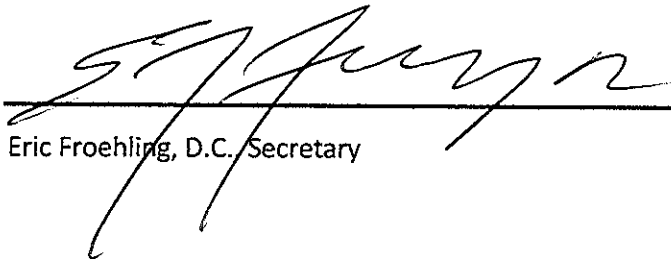
A motion was made by Dr. Yohe, second by Dr. Froehling, to nominate Dr. Pederson as Vice President. No further nominations were made. Motion passed.

A motion was made by Dr. Pederson, second by Dr. Yohe, to nominate Dr. Froehling as Secretary/Treasurer. No further nominations were made. Motion passed.

Recess for the New Doctor Seminar. A motion was made by Dr. Yohe, second by Dr. Ficek, to recess until the New Doctor Seminar. Motion passed. The meeting recessed at 4:30 PM. The New Doctor Seminar began at 6:30 PM. There were 13 doctors in attendance.

Adjourn. A motion was made by Dr. Ficek, second by Dr. Yohe, to adjourn the meeting. Motion passed. The meeting concluded at 8:00 PM.

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


Eric Froehling, D.C. Secretary

04/20/18
Date