



**NORTH DAKOTA
STATE BOARD OF CHIROPRACTIC EXAMINERS**

**Minutes of the Board Meeting of the North Dakota State Board of Chiropractic
Examiners held September 20, 2019, at the Radisson Hotel, Bismarck, ND**

Call to Order: Dr. Dion Ficek called the meeting to order at 8:30 AM CST.

Roll Call: Dr. Ficek, Dr. Remmick, Dr. Froehling, Dr. Pederson, Dr. Yohe, Assistant Attorney General Ms. Allyson Hicks, and Executive Director Lisa Blanchard were present.

There were public attendees present in the meeting location and via teleconference.

Pledge of Allegiance.

Reading of the Mission Statement: Dr. Dion Ficek

Additions to the Agenda: A motion was made by Dr. Remmick, second by Dr. Yohe to add to the agenda: 1) Website Update; and 2) Tablets for new appointees to the Board. A roll call vote was taken with all members voting in the affirmative (5-0). Motion passed.

Approvals:

A motion was made by Dr. Froehling, second by Dr. Pederson, to approve the Minutes of the July 10, 2019 Board Meeting and July 24, 2019 Special Meeting. A roll call vote was taken with all members voting in the affirmative (5-0). Motion passed.

Reports:

No reports.

Board Business:

Administrative Rules Review. Ms. Hicks provided a first draft of the initial edits discussed to the Administrative Rules. The Board reviewed the document in its entirety for additions, subtractions, corrections, additional research, and further discussion. No action was taken as this is still a working document and further research will be completed. Ms. Hicks will provide a copy of the updated or second draft when it is completed.

Open Meetings/Open Records Law Complaint. Attorney General's opinion has not been received. No action.

Public Recording of Board Meetings that include Executive Sessions. Dr. Ficek asked Ms. Hicks a procedural question on how the Board may or may not proceed regarding the hypothetical possibility of

hidden recording devices being left in the meeting rooms when an executive session occurs. To the Board's knowledge, this has not occurred. No action. Information only.

2017/2018 Audit. The Executive Director distributed the 2017/2018 Audit report to the Board members. Discussion regarding the standard deficiencies occurred as the Executive Director indicated these are not unique to only this Board and these deficiencies have existed in all previous audit reports for this Board. The Board members requested additional time for review prior to approval of the report. Approval pending until the next board meeting. No action taken.

Management Report – Auditor. The Board reviewed the Management Report from the Auditor. There were 4 suggestions made and the following are the Board's actions taken:

- 1) A motion was made by Dr. Froehling, second by Dr. Yohe, to have the Executive Director attach a QuickBooks report of all checks/payments issued each quarter to the ED quarter reports for full Board approval. This will replace the listing of the checks over \$500.00. This is to be implemented starting with the Executive Director 2019 3rd quarter report. A roll call vote was taken with all members voting in the affirmative (5-0). Motion passed.
- 2) Capitalization policy. This was discussed and set at the July 10th meeting and is included in the Policy Manual updates that are to be approved later on this agenda.
- 3) A motion was made by Dr. Froehling, second by Dr. Yohe, to have the Executive Director begin recording all check or cash payments received in QuickBooks as Sales Receipts, along with the deposit information. This is to be implemented beginning on October 1, 2019. A roll call vote was taken with all members voting in the affirmative (5-0). Motion passed.
- 4) A motion was made by Dr. Froehling, second by Dr. Yohe, to have the Executive Director fax the monthly bank statements and reconciliation reports to the Treasurer. A form acknowledging the receipt and review of the statements will be included for the Treasurer to sign, date, and fax back to the Executive Director to keep on file. This is to be implemented starting with the September 2019 bank statements. A roll call vote was taken with all members voting in the affirmative (5-0). Motion passed.

Mr. Nathan Svihovec joined the meeting at 11:46 AM CST.

Freedom Chiropractic/Dr. Schmitz. A motion was made by Dr. Remmick, second by Dr. Pederson, to move to Executive Session for attorney work product, legal authority 44-04-19.1(1); attorney consultation, legal authority N.D.C.C. 44-04-19.1(2); and active investigatory work product, legal authority N.D.C.C. 44-04-19.1(3). A roll call vote was taken with all members voting in the affirmative (5-0). Motion passed. The Executive Session began at 11:51 AM CST. The roll was taken with all board members, Ms. Hicks, Mr. Svihovec, and Ms. Blanchard in attendance. The Executive Session was recorded as required by law. A motion was made by Dr. Pederson, second by Dr. Remmick, to adjourn the executive session and return to open meeting. A roll call vote was taken with all members voting in the affirmative (5-0). Motion passed. The meeting was re-opened at 12:15 PM CST and the public was invited to return. A motion was made by Dr. Pederson, second by Dr. Froehling, for Mr. Svihovec to proceed as discussed during the Executive Session. A roll call vote was taken with all members voting in the affirmative (5-0). Motion passed.

*Mr. Nathan Svihovec exited the meeting at the conclusion of the topic.
The Board recessed for lunch from 12:20 PM – 1:00 PM.*

Board Office/Insurance. The Executive Director reported on all of the information received from Vaaler Insurance and the Risk Management office. The Board instructed the Executive Director to research the cost of adding a rider on her personal home insurance policy, to include temporary office space rental costs, as that situation may be a possibility. No action taken, instruction only. The Executive Director will report at a future meeting.

Office Equipment – Label Printer. The Executive Director reported on the 10+ year old original printer purchased by the board. She requested approval to purchase a single-label printer as that is the only task that is still completed on the original printer. A motion was made by Dr. Froehling, second by Dr. Pederson, to authorize to the Executive Director to purchase the DYMO Label Printer for \$89.19 and Labels for \$11.97. A roll call vote was taken with all members voting in the affirmative (5-0). Motion passed.

Record Retention Progress. The Executive Director reported on the progress of the initial year of purging of records. Most is complete. Permanent records were delivered to the state archives on September 19, 2019. The Licensure records are all that is remaining. Project will be completed by end of year as required. Information only. No action taken.

CJIS Audit. The Executive Director reported on the office visit that occurred on September 17, 2019 as a part of the Audit of the State. The FBI agent was very satisfied with our operations and verbally stated he will report the highest commendations to the state. The Board may or may not be selected again for future review. Information only. No action taken.

License Renewal Report. The Executive Director distributed the current report. This will be finalized and attached to the Executive Director 2019 3rd Quarter report. Information only. No action taken.

Late Renewals. The Board and Executive Director discussed the late renewals and if there were any other options available to them. No changes to the current procedure followed by the Executive Director in contacting and notifying the license holders that have not renewed their licenses by the deadline. No action taken.

Application Questions (D.C. Initial/D.C. Renewal). The Executive Director provided the Board members with a printout of the current questions for easier review. Issues in correctly responding are still occurring even after the edit made prior to renewal in 2019. A motion was made by Dr. Yohe, second by Dr. Pederson, to edit the renewal questions from “past 3 years” to “past 2 years” and to remove the portion of the question asking about malpractice claims; additionally, remove all questions from the Initial application as they are all answered by other portions of the application process. A roll call vote was taken with all members voting in the affirmative (5-0). Motion passed.

License Holder Question: Injection Therapy. The Executive Director received a question from a license holder. She verbally shared the question with the Board at the meeting, per the license holder’s request to do so. She previously notified the license holder that the Board may not be able to respond to the question as it is requesting a legal or advisory opinion. The Executive Director was instructed to follow-up with the license holder utilizing the standard inquiry response.

Dr. Jones License status question. The license was converted to the inactive status and after further consideration, the license holder realized that he should not have done so. The Administrative Rules do

not allow for waiver to the reactivation process; therefore, Dr. Jones must complete the reactivation of an inactive license process.

ND Professional Health Program. They contacted the Executive Director regarding their program in conjunction with the Medical Board as they felt this could benefit all of the health-related regulatory boards in ND. The Board was provided a copy of their Century Code for review. They indicated they would be willing to meet with the Board to provide their information and answer questions. The Executive Director will contact them to discuss a future meeting date/time for this to occur. Information only.

Board Member Appointments. The Governor's office has been in contact with the Executive Director regarding the appointments. They were not aware of the updated Law. The ED informed them that the Board sent a mass email to all CCCA's after August 1, 2019 regarding the board position available and eligibility, including a link to the online application. Information only.

Policy Manual. At their July 10, 2019 meeting, the Board gave the Executive Director edits/updates for the manual. The ED provided the Board with a copy of the manual, including the drafted updates discussed. A motion was made by Dr. Remmick, second by Dr. Yohe, to accept and approve the updates made on pages 5, 6, 7, 8, 10, 14, and 21 of the manual. A roll call vote was taken with all members voting in the affirmative (5-0). Motion passed.

Further discussion was held regarding the implementation of reserve financial accounts and the 2019 Legislative interest in such policies. A motion was made by Dr. Remmick, second by Dr. Yohe, to include a fiscal policy consisting of 3 reserve accounts (1-year Operating Fund; Litigation Fund; Technology Fund) with the dollar amounts for each account to be determined and finalized at the January 2020 board meeting. The Executive Director will research how to organize this information in QuickBooks. A roll call vote was taken with all members voting in the affirmative (5-0). Motion passed.

Additional discussion was held regarding a case-by-case policy for military personnel. The Executive Director will work with Ms. Hicks on a draft for board review and approval. Instruction only.

Website Update. The Executive Director reported that the Board's account manager is no longer with Albertson's, but that we have been assigned a new manager. Edits to the site have been worked on, but are still in the development area. Information only.

Tablets for new board appointments. A motion was made by Dr. Yohe, second by Dr. Froehling, to authorize the Executive Director to purchase devices, equivalent to the existing tablets, for the new appointments (CCCA & Public Members) when the appointments have been completed. A roll call vote was taken with all members voting in the affirmative (5-0). Motion passed.

Cases:

Dr. N. Weiss. Dr. Weiss did not renew his license. All terms of his agreement have been met. A motion was made by Dr. Froehling, second by Dr. Remmick, to close the case. A roll call vote was taken with all members voting in the affirmative (5-0). Motion passed.

Dr. Hengel Borud. A letter was sent to Dr. Hengel Borud and copied to KMC regarding the monitoring portion of her agreement. Responses indicated that an agreement did not exist but has since been rectified. No monitoring reports have been received. Information only.

Dr. Sauer. The signed conditional dismissal and payment were received. A motion was made by Dr. Yohe, second by Dr. Froehling, to close the case. A roll call vote was taken with Remmick voting No (4-1). Motion passed.

Dr. Wiseth. License was renewed as Inactive. Board has copies of the plea agreement and the sentencing agreement. No action taken at this time – will remain on the agenda.

Dr. Isaak. The signed agreement was received and has been reported to CINBAD. His license was renewed as inactive. Information only.

Dr. Millage. Ms. Hicks had questions regarding the settlement agreement she was to draft. Additionally, Dr. Millage did not renew his license. A motion was made by Dr. Remmick, second by Dr. Pederson, to instruct Ms. Hicks to complete a new settlement agreement upon the terms discussed based on the violation of 17-03-01-01(9) and offer the agreement to Dr. Millage. A roll call vote was taken with all members voting in the affirmative (5-0). Motion passed.

Dr. Pozarnsky. The response was received. After review of the complaint and response, the Board felt information found on pages 7, 9, and 13 of the response were violations of the Administrative Rules. A motion was made by Dr. Pederson, second by Dr. Froehling, to offer a conditional dismissal to Dr. Pozarnsky including a \$500.00 Administrative Fee and the successful completion of the online Jurisprudence Examination for violation of 17-03-01-01(18)(b) and (d). A roll call vote was taken with all members voting in the affirmative (5-0). Motion passed.

Dr. Howe. The response was received. The Board members require further information in order to render a decision. Ms. Hicks will request the patient records for the individual in the complaint from January 2019 – current. Instruction only.

Board Calendar:

A motion was made by Dr. Remmick, second by Dr. Pederson, to add discussion of the scheduled November meeting to the agenda. A roll call vote was taken with all members voting in the affirmative (5-0). Motion passed.

November 13, 2019 Scheduled Board Meeting. Ms. Hicks has a conflict with this date and the Board members feel we would not require a full in-person board meeting. The meeting schedule will be edited from November 13, 2019 to November 20, 2019 for a 2-hour conference call from 11:00 AM CST – 1:00 PM CST.

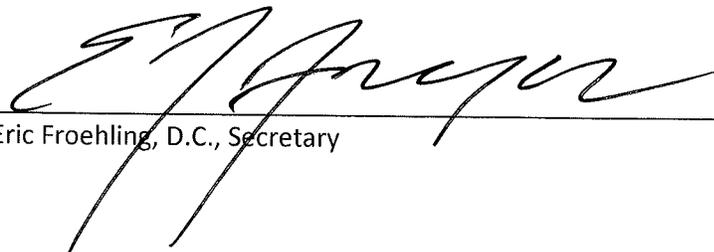
Per Diem: A motion was made by Dr. Froehling, second by Dr. Pederson, to pay Per Diem and appropriate expenses for this meeting. A roll call vote was taken with all members voting in the affirmative (5-0). Motion passed.

The meeting recessed at 3:25 PM CST until the New Doctor Seminar at 5:30 PM.

New Doctor Seminar: The seminar began at 5:30 PM CST, with 5 license holders in attendance. Additionally, Ms. Sue Hanna with BCBSND was in attendance, per their request, to present briefly to the attendees.

Adjourn: A motion was made by Dr. Remmick, second by Dr. Yohe, to adjourn the meeting. Motion passed. The meeting ended at 6:45 PM CST.

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

 
Eric Froehling, D.C., Secretary Date