



**NORTH DAKOTA
STATE BOARD OF CHIROPRACTIC EXAMINERS**

**Minutes of the Board Meeting of the North Dakota State Board of Chiropractic
Examiners held January 17, 2020, at the ND Heritage Center, 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, Ms. Mellum, Assistant Attorney General Ms. Allyson Hicks, and Executive Director Lisa Blanchard were present.

There were public attendees present in the meeting location.

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. Pederson, to add to the agenda: Open Meetings/Open Records complaint opinion and annual reports during the website topic; and additional licenses issued after agenda was posted to the Licenses section. A roll call vote was taken with all members voting in the affirmative (6-0). Motion passed.

The minutes will reflect the order of the meeting as the order of the agenda was not followed.

Cases:

Dr. Wiseth. Held over item. No action taken.

Dr. Isaac. Pending. No action taken.

Dr. Millage. No response to the Board's previous offer has been received. Board instructed Ms. Hicks to resend. Information/Instruction only.

Dr. Pozarnsky. A signed, but not notarized, copy of the conditional dismissal was received along with a check for the fee payment. The Executive Director resent a blank agreement for signature/notary and the online jurisprudence examination information. No response has been received. The Board instructed the Executive Director to send a follow-up letter with a respond by date. Instruction only.

Dr. Hengel-Borud. First KMC University report has been received. Board is satisfied and is hopeful progress will be made in the future reports. Information only.

Board Business:

CE Course Approval Request – Badinger. The Board asked Dr. Badinger how many hours of CE he is requesting for the course approval. He responded with 20 hours. A motion was made by Dr. Pederson,

second by Dr. Froehling, to approve the Precision Nutrition Level 1 course for 20-hours of CE. A roll call vote was taken with all members voting in the affirmative (6-0). Motion passed.

Record Retention Disciplinary & Complaint Records. The Executive Director discussed the current Permanent schedule for all of these records and asked Ms. Hicks and the Board for their thoughts regarding the complaint records that do not result in any action or are dismissed. A motion was made by Dr. Remmick, second by Dr. Yohe, to update the agency specific record retention schedule for the complaint records resulting in no actions to 10 years. Complaint records resulting in any sort of action will be maintained permanently. A roll call vote was taken with all members voting in the affirmative (6-0). Motion passed.

Mr. Nathan Svihovec arrives at 8:50 AM CST.

Cases:

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 (6-0). Motion passed. The Executive Session began at 8:53 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. Yohe, second by Dr. Froehling, to adjourn the executive session and return to open meeting. A roll call vote was taken with all members voting in the affirmative (6-0). Motion passed. The meeting was re-opened at 10:02 AM CST and the public was invited to return. A motion was made by Dr. Froehling, second by Dr. Pederson, for Mr. Svihovec to proceed as discussed during the Executive Session. A roll call vote was taken with Ficek, Remmick, Froehling, Pederson, and Yohe voting in the affirmative and Mellum abstaining (5-0-1). Motion passed.

A motion was made by Dr. Yohe, second by Dr. Pederson, to accept the Zuger, Kirmis, and Smith retainer agreement as proposed, pending the SAAG request for Mr. Svihovec. A roll call vote was taken with Ficek, Remmick, Froehling, Pederson, and Yohe voting in the affirmative and Mellum abstaining (5-0-1). Motion passed.

Mr. Nathan Svihovec exits at 10:15 AM CST.

Dr. Howe. The legal authority for closing this portion of the meeting is N.D.C.C. 44-04-19.2(1), closed or confidential records; and N.D.C.C. 43-06-14.1(7), patient records acquired by the Board are confidential and closed to the public. The Executive Session began at 10:17 AM CST and the roll was taken with all board members, Ms. Hicks, and Ms. Blanchard in attendance. The Executive Session was recorded as required by law. The Executive Session was adjourned, and the meeting was re-opened at 10:24 AM CST and the public was invited to return. A motion was made by Dr. Pederson, second by Dr. Remmick, to dismiss the complaint for no violation of the law. A roll call vote was taken with all members voting in the affirmative (6-0). Motion passed.

Initial Application for CCCA Certification. The legal authority for closing this portion of the meeting is N.D.C.C. 44-04-19.2(1), closed or confidential records; and N.D.C.C. 12-60-24(1)(c), criminal history record information is confidential. The Executive Session began at 10:27 AM CST and the roll was taken with all board members, Ms. Hicks, and Ms. Blanchard in attendance. The Executive Session was

recorded as required by law. The Executive Session was adjourned, and the meeting was re-opened at 10:35 AM CST and the public was invited to return. A motion was made by Dr. Froehling, second by Ms. Mellum, to deny the application for initial CCCA certification for violation of 43-06-16.1(8)(d). A roll call vote was taken with all members voting in the affirmative (6-0). Motion passed.

New Complaints:

Dr. Dietz. A motion was made by Dr. Remmick, second by Dr. Pederson, to move to Executive Session for N.D.C.C.44-04-19.2(1), closed or confidential records; and N.D.C.C. 43-06-15(2), reports are not public records. A roll call vote was taken with all members voting in the affirmative (6-0). Motion passed. The Executive Session began at 10:38 AM CST. The roll was taken with all board members, Ms. Hicks, and Ms. Blanchard in attendance. The Executive Session was recorded as required by law. The Executive Session was adjourned, and the meeting was re-opened at 10:41 AM CST and the public was invited to return. A motion was made by Dr. Pederson, second by Dr. Yohe, to proceed as discussed in the Executive Session. A roll call vote was taken with all members voting in the affirmative (6-0). Motion passed.

Business:

Unlicensed Practice Report Follow-up. A motion was made by Dr. Remmick, second by Dr. Froehling, to move to Executive Session for N.D.C.C.44-04-19.2(1), closed or confidential records; and N.D.C.C. 43-06-15(2), reports are not public records. A roll call vote was taken with all members voting in the affirmative (6-0). Motion passed. The Executive Session began at 10:48 AM CST. The roll was taken with all board members, Ms. Hicks, and Ms. Blanchard in attendance. The Executive Session was recorded as required by law. The Executive Session was adjourned, and the meeting was re-opened at 11:03 AM CST and the public was invited to return. A motion was made by Dr. Pederson, second by Ms. Mellum, to file a complaint regarding the unlicensed practice information with the State's Attorney. A roll call vote was taken with all members voting in the affirmative (6-0). Motion passed.

Administrative Rules. The Board reviewed the most current draft for final edits. Discussion regarding the next steps in the process occurred and who carries those steps out along with the timing. The goal is to have these finalized and submitted by May 1st for the June meeting of the Administrative Rules Committee. A motion was made by Dr. Pederson, second by Dr. Froehling, to approve the Title 17 edits as presented and discussed. A roll call vote was taken with all members voting in the affirmative (6-0). Motion passed.

Website. The Executive Director shared that website edits and updates can be made at any time; however, she requests more direction and input from the board members. Discussion regarding the inclusion of the quarterly executive director reports was held. The Board instructed the executive director to post the executive director quarter reports on the website, after they are formally accepted by the board. The initial posting should include the reports for 2018 & 2019. Additional discussion was held regarding the Open Records/Open Meetings complaint filed against the board. As that opinion is an open record, the executive director was instructed to include that information on the website as a news item.

Board Member Appointment – Consumer Member. The consumer member position is still vacant. Ms. Hicks indicated that it is difficult to fill the consumer/public member positions. The Board instructed the

executive director to post the vacancy/position information, with a link to the Governor's application, as a news item on the website.

2020 Calendar.

- Scheduled Board meetings, to be held in Bismarck, on
 - March 25, 2020
 - June 9, 2020
 - September 18, 2020
- New Doctor Seminars – none scheduled at this time – will wait for Administrative Rules decisions.
- NBCE Part IV Testing
 - May: Dr. Remmick & Dr. Ficek
 - November: Dr. Froehling
- NBCE Part IV Test Writing – Vacant
- FCLB Annual Meeting – President, Vice President, and Executive Director
- FCLB District Meeting – Dr. Yohe and Executive Director (will apply for CBAC scholarship)
- Board Office Hours & Closures
 - Board Office hours will change to:
 - Monday – Thursday 8:00 AM CST – 5:00 PM CST
 - Friday 8:00 AM – 12:00 PM CST
 - Holiday Closures
 - New Year's Day; Good Friday; Memorial Day; Independence Day; Labor Day; Thanksgiving Day and Friday after; Christmas Eve; and Christmas Day.

Reports:

A motion was made by Dr. Remmick, second by Dr. Yohe, to accept the FCLB District Meeting Reports, the FARB RLS Seminar Report, and the NBCE Part IV testing Reports. A roll call vote was taken with all members voting in the affirmative (6-0). Motion passed.

Licenses:

A motion was made by Dr. Pederson, second by Dr. Froehling, to ratify the chiropractic licenses issued. A roll call vote was taken with all members voting in the affirmative (6-0). Motion passed.

A motion was made by Dr. Yohe, second by Dr. Pederson, to ratify the CCCA certifications issued and renewed. A roll call vote was taken with all members voting in the affirmative (6-0). Motion passed.

Board Business:

Board Office Insurance. The Executive Director reported that she met with her insurance agent and additional coverage was added to her homeowner's policy as the Board does not own, lease, or rent the office space and therefore would not be eligible for a policy. The cost of the increase was \$60.00/year. Information only.

Record Retention Final Report. The Executive Director reported that the first year of the retention project is complete. For future years, the deadline to complete will be June 30th vs. December 31st. This will not cause any issues. Information only.

Dues. A motion was made by Dr. Remmick, second by Dr. Pederson, to pay the FCLB dues as billed and the FARB dues not to exceed \$250.00. A roll call vote was taken with all present members (Yohe absent) voting in the affirmative (5-0-1). Motion passed.

The Board recessed for lunch from 1:00 PM – approx. 1:45 PM CST.

Mr. David Schaibley, Assistant Attorney General sat in on the meeting for Ms. Hicks for approx. 1-hour.

Approvals:

A motion was made by Dr. Froehling, second by Dr. Yohe, to approve the minutes from the September 20, 2019, November 20, 2019, December 4, 2019, and January 8, 2020 meetings. A roll call vote was taken with all members voting in the affirmative (6-0). Motion passed.

A motion was made by Dr. Pederson, second by Ms. Mellum, to accept and approve the 2019 3rd and 4th quarter Executive Director Reports. A roll call vote was taken with all members voting in the affirmative (6-0). Motion passed.

A motion was made by Dr. Froehling, second by Dr. Yohe, to approve the 2019 3rd and 4th quarter Financial Reports. A roll call vote was taken with all members voting in the affirmative (6-0). Motion passed.

A motion was made by Dr. Froehling, second by Dr. Pederson, to approve the 2019 3rd and 4th quarter checks written. A roll call vote was taken with all members voting in the affirmative (6-0). Motion passed.

Board Business:

Technology and Office Supplies Future Planning. The Executive Director reported on the current main office computer. She was instructed to do some research on replacement costs, etc. and bring to the next board meeting. Additionally, she requested the board's thoughts on future letterhead and whether or not it should be pre-printed or if decorative paper may be purchased and the letterhead printed directly from Word. The Board instructed her to purchase regular paper vs. pre-printed letterhead.

FCLB/NBCE Voting Delegates. A motion was made by Dr. Pederson, second by Dr. Froehling, to nominate the President as the voting delegate and the Vice President as the alternate delegate. A roll call vote was taken with all members voting in the affirmative (6-0). Motion passed.

Financial: Reserve Accounts. A motion was made by Dr. Froehling, second by Dr. Pederson, to establish, within the Bank of North Dakota Savings account, 3 reserve or dedicated accounts, including the current desired account balance for each: Operating = \$150,000.00; Litigation = \$300,000.00; Technology = \$50,000.00. A roll call vote was taken with all members voting in the affirmative (6-0). Motion passed. A motion was made by Dr. Froehling, second by Dr. Yohe, to distribute the following current savings account dollars as the opening balances for the newly established reserve accounts. Operating =

\$50,000.00; Litigation = \$100,000.00; Technology = \$20,000.00. A roll call vote was taken with all members voting in the affirmative (6-0). Motion passed.

Executive Director Employment Agreement & Review. The Executive Director voluntarily stepped out of the meeting space so the Board could review and discuss this topic. The Secretary/Treasurer took over as the recorder. A motion was made by Dr. Pederson, second by Ms. Mellum, to increase the salary for February 1, 2020 – January 31, 2021 by 7.5% to \$43,000.00 total. A roll call vote was taken with all members voting in the affirmative (6-0). Motion passed.

Ms. Hicks returned. Mr. Schaibley exits.

Policy Manual. The Board reviewed the previously approved edits that were completed. Discussion was held regarding the Peer Review Committee Policy. A motion was made by Dr. Remmick, second by Dr. Froehling, to update the policy to include a \$250.00/hour reimbursement rate for depositions and further trial testimony. A roll call vote was taken with all members voting in the affirmative (6-0). Motion passed. Additionally, the executive director was instructed to remove the travel-to-treat section as it is no longer applicable.

Law (43-06) Review. A preliminary review of the Law was completed including the proposed changes for the 2019 Legislative Session that the Board did not submit as a bill. No action taken – further review to be completed at future meetings.

Administrative Rules. In the review of the law, discussion regarding CCCA's and certifications that have lapsed occurred. A motion was made by Dr. Froehling, second by Dr. Pederson, to accept and approve the Title 17 Amendments to include the CCCA lapsed certification sections. A roll call vote was taken with all members voting in the affirmative (6-0). Motion passed.

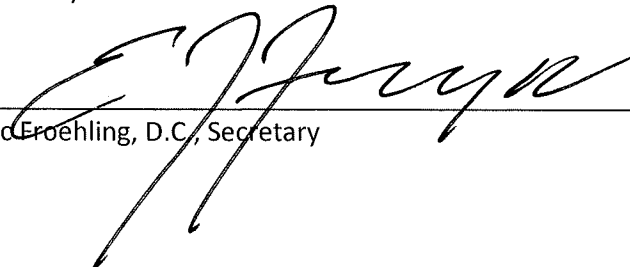
2020 Proposed Budget. A motion was made by Dr. Remmick, second by Dr. Pederson, to edit the salary line of the budget to \$43,000.00 and approve the budget as proposed. A roll call vote was taken with all members voting in the affirmative (6-0). Motion passed.

Election of Officers. A motion was made by Dr. Yohe, second by Dr. Pederson, to maintain the current officers for another year – Dr. Ficek, President; Dr. Remmick, Vice President; Dr. Froehling, Secretary-Treasurer. A roll call vote was taken with all members voting in the affirmative (6-0). Motion passed.

Per Diem: A motion was made by Dr. Froehling, second by Dr. Pederson, to pay 1-day Per Diem and appropriate expenses based on the weather for this meeting. A roll call vote was taken with all members voting in the affirmative (6-0). Motion passed.

Adjourn: A motion was made by Dr. Yohe, second by Dr. Froehling, to adjourn the meeting. Motion passed. The meeting ended at 4:42 PM CST.

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


Eric Froehling, D.C., Secretary

05/21/2020
Date