



# NORTH DAKOTA BOARD OF CHIROPRACTIC EXAMINERS

P.O. Box 185 · Grafton, ND 58237

Phone: (701) 213-0476 · Fax: (855) 450-2153 · Email: [contact@ndsbce.org](mailto:contact@ndsbce.org) · Web: [www.ndsbce.org](http://www.ndsbce.org)

## **Minutes of the Board Meeting of the North Dakota Board of Chiropractic Examiners held July 14, 2021, at the ND Heritage Center, Bismarck, ND**

**Call to Order:** Dr. Dion Ficek called the meeting to order at 9:05 AM CST.

**Roll Call:** Dr. Ficek, Dr. Remmick, Dr. Froehling, Dr. Yohe, Dr. Ten Broek, Ms. Botz, Executive Director Lisa Blanchard, and Assistant Attorney General Ms. Allyson Hicks were present. Absent: Ms. Mellum.

There were public attendees present.

**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. Froehling, to add CCCA Reinstatement of License, Process, and Application and Online Jurisprudence Exam Policy for Issues and approve the agenda. Motion passed.

### **Approvals:**

A motion was made by Dr. Froehling, second by Dr. Yohe, to approve the minutes from the March 26, 2021, Board Meeting and the April 5, 2021, April 14, 2021, May 5, 2021, May 12, 2021, and June 9, 2021 Special Meetings. A roll call vote was taken with Ficek, Remmick, Froehling, Yohe, Ten Broek, and Botz voting in the affirmative. Mellum absent/not voting. (6-0-1) Motion passed.

A motion was made by Dr. Ten Broek, second by Ms. Botz, to approve the Executive Director 2021 1<sup>st</sup> and 2<sup>nd</sup> quarter reports. A roll call vote was taken with Ficek, Remmick, Froehling, Yohe, Ten Broek, and Botz voting in the affirmative. Mellum absent/not voting. (6-0-1) Motion passed.

A motion was made by Dr. Yohe, second by Dr. Ten Broek, to approve the 2021 1<sup>st</sup> and 2<sup>nd</sup> quarter financial reports. A roll call vote was taken with Ficek, Remmick, Froehling, Yohe, Ten Broek, and Botz voting in the affirmative. Mellum absent/not voting. (6-0-1) Motion passed.

A motion was made by Dr. Froehling, second by Dr. Yohe, to approve the 2021 1<sup>st</sup> and 2<sup>nd</sup> quarter approval of checks written. A roll call vote was taken with Ficek, Remmick, Froehling, Yohe, Ten Broek, and Botz voting in the affirmative. Mellum absent/not voting. (6-0-1) Motion passed.

### **Licenses:**

A motion was made by Dr. Ten Broek, second by Dr. Froehling, to ratify all chiropractic licenses issued and renewed, graduate internship approved, and certified chiropractic clinical assistant certifications issued between March 26, 2021 – July 12, 2021. A roll call vote was taken with Ficek, Remmick,

Froehling, Yohe, Ten Broek, and Botz voting in the affirmative. Mellum absent/not voting. (6-0-1) Motion passed.

### **Reports:**

A motion was made by Dr. Ten Broek, second by Dr. Froehling, to accept the Part IV test writing (Yohe) and Part IV testing (Ficek) reports. A roll call vote was taken with Ficek, Remmick, Froehling, Yohe, Ten Broek, and Botz voting in the affirmative. Mellum absent/not voting. (6-0-1) Motion passed.

### **New Complaints:**

Dr. Chantel Pokorny (#2021-02). Dr. Ficek announces a potential conflict and requests to be recused. A motion was made by Dr. Remmick, second by Dr. Froehling, to recuse Dr. Ficek from this complaint. A roll call vote was taken with Remmick, Froehling, Yohe, Ten Broek, and Botz voting in the affirmative. Mellum absent/not voting. Ficek abstaining. (5-0-1-1) Motion passed.

*Dr. Remmick takes over the meeting. Dr. Ficek recused.*

A motion was made by Dr. Froehling, second by Dr. Yohe, to discuss this topic in Executive Session. The legal authority for Executive Session is N.D.C.C. Section 44-04-19.2(1) Closed or Confidential records; and N.D.C.C. Section 43-06-15(2) Reports are not public record. A roll call vote was taken with Remmick, Froehling, Yohe, Ten Broek, and Botz voting in the affirmative. Mellum absent/not voting. Ficek abstaining. (5-0-1-1) Motion passed. The Executive Session began at 9:23 AM CST. The roll was taken with Dr. Remmick, Dr. Froehling, Dr. Yohe, Dr. Ten Broek, Ms. Botz, Dr. Ficek, Ms. Hicks, and Ms. Blanchard in attendance. The Executive Session was recorded as required by law. The executive session was closed, and the meeting was re-opened at 9:31 AM CST.

A motion was made by Dr. Yohe, second by Dr. Froehling, to have Ms. Hicks proceed with requesting a response as directed in the executive session. A roll call vote was taken with Remmick, Froehling, Yohe, Ten Broek, and Botz voting in the affirmative. Mellum absent/not voting. Ficek abstaining. (5-0-1-1) Motion passed.

*Dr. Ficek takes over the meeting.*

### **Cases:**

Dr. Schmitz: District Court Case #08-2020-CV-01827 & Supreme Court Docket #20210135. Ms. Hicks provided a verbal update on the status of the two cases. Update only. No action taken.

Dr. Isaak. Trial is currently scheduled for August 2021. Update only. No action taken.

Dr. Millage (#2019-01). Ms. Hicks provided an update on the status of the case. Update only. No action taken.

*Dr. Remmick takes over the meeting. Dr. Ficek recused.*

Dr. M. (Pokorny) Custer (#2020-04). An update was provided by Dr. Remmick on the status of this case. No new information to discuss at this meeting. Update only. No action taken.

Dr. Jeffrey Pokorny (#2021-03). The requested response was received. A motion was made by Dr. Ten Broek, second by Dr. Yohe, to table this case until a future meeting when additional information from

other pending cases is received, reviewed, and considered. A roll call vote was taken with Remmick, Froehling, Yohe, Ten Broek, and Botz voting in the affirmative. Mellum absent/not voting. Ficek abstaining. (5-0-1-1) Motion passed.

*Dr. Ficek takes over the meeting.*

**Board Business:**

AG Open Record/Open Meeting Complaints (Schmitz & Custer). Responses were submitted. The Attorney General's office has not issued opinions at this time. Information only.

CCCA Application – Possible practice without certification. The Executive Director reported on a question regarding an individual's license number received during CCCA renewal. The individual had previously applied, but the license was not issued as the criminal history record check materials were not returned for processing, therefore, there is no license. The individual submitted a new application in February 2021 as the original application had expired, but as with the original application, the completed CHRI materials have not been returned to the office. A motion was made by Dr. Remmick, second by Dr. Yohe, to have Ms. Hicks send letters to the applicant and to the clinic/chiropractor requesting further information. A roll call vote was taken with Ficek, Remmick, Froehling, Yohe, Ten Broek, and Botz voting in the affirmative. Mellum absent/not voting. (6-0-1) Motion passed.

CCCA Reinstatement of License. An individual that allowed her CCCA Certification lapse inquired on the process to have it reinstated. Upon review of the Laws/Rules, the Executive Director was instructed to inform the individual that she should submit a new application. The education and examination are not required as they have been previously completed. Instruction only.

Printing updated Law/Rule books for all license holders. The Board has previously provided all license holders with copies of the laws/rules when extensive changes have been made. As there were many updates effective in 2021, it would be an appropriate time to do so again. A motion was made by Dr. Yohe, second by Dr. Ten Broek, to have the Treasurer approve a quote from Central Duplicating up to \$2,000.00 for the printing and mailing of updated books to all license holders. A roll call vote was taken with Ficek, Remmick, Froehling, Yohe, Ten Broek, and Botz voting in the affirmative. Mellum absent/not voting. (6-0-1) Motion passed.

Dry Needling Continuing Education. Upon discussion, a motion was made by Dr. Remmick, second by Dr. Yohe, to establish a policy that grants the Vice President of the Board the ability to review and approve dry needling continuing education hours when the Executive Director is not able to do so independently. A roll call vote was taken with Ficek, Remmick, Froehling, Yohe, Ten Broek, and Botz voting in the affirmative. Mellum absent/not voting. (6-0-1) Motion passed.

2019/2020 Audit. The Executive Director reported that the audit is completed, but the final report has not been provided in time for this meeting. She will mail the reports to the board members when received for review and approval at the September 2021 meeting. Information only.

Review of License Renewal Application Questions. The Board of Medicine provided a copy of their application questions based upon discussions from the last meeting. They have updated the wording of their question regarding mental health. The Board instructed the Executive Director to update/reword the D.C. application questions and to add the question to the CCCA applications. Instruction only.

Unlicensed Practice Report Follow-up. Ms. Hicks indicated that the Board has fulfilled their duty by reporting the information to the Cass County State's Attorney and there is nothing further that they can do unless contacted by Cass County for additional information. A motion was made by Dr. Froehling, second by Ms. Botz, to close the matter. A roll call vote was taken with Ficek, Remmick, Froehling, Yohe, Ten Broek, and Botz voting in the affirmative. Mellum absent/not voting. (6-0-1) Motion passed.

ND BCI/CJIS Audit. The audit request was made. The Executive Director submitted the online questionnaire. There was one follow-up question and that was answered satisfactorily. The audit was approved, and the Board is compliant. Information only.

Attorney General's Office Board Member Orientation. Ms. Hicks reported that it is scheduled for October 19<sup>th</sup> and will include some updated information that was not included in the previous seminars. A motion was made by Dr. Yohe, second by Dr. Froehling, to pay per diem and appropriate expenses for any board member and the executive director to attend. All new board members (that had not attended previously) are strongly encouraged to attend. A roll call vote was taken with Ficek, Remmick, Froehling, Yohe, Ten Broek, and Botz voting in the affirmative. Mellum absent/not voting. (6-0-1) Motion passed. Ms. Hicks will invite Mr. Dave Thiele, Executive Director of the Ethics Commission, to attend/present at the September board meeting so all members can receive this information.

Policy Manual – Executive Director Authority regarding executive session open record requests. Ms. Hicks advised that the Board could consider permitting the Executive Director some authority regarding certain executive session/open record requests. A motion was made by Dr. Froehling, second by Dr. Ten Broek, to allow the Executive Director to deny open record requests for executive session recordings held with the legal authorities of Attorney Consultation and Attorney Work Product only. A roll call vote was taken with Ficek, Remmick, Froehling, Yohe, Ten Broek, and Botz voting in the affirmative. Mellum absent/not voting. (6-0-1) Motion passed.

#### 2021 Calendar Review:

FCLB District Meeting. A motion was made by Dr. Remmick, second by Dr. Froehling, to authorize Ms. Mellum (if available) and Ms. Blanchard, to attend the 2021 FCLB District Meeting in October. A roll call vote was taken with Ficek, Remmick, Froehling, Yohe, Ten Broek, and Botz voting in the affirmative. Mellum absent/not voting. (6-0-1) Motion passed.

NBCE Part IV Testing – November. Dr. Ten Broek.

FARB RLS (Hicks). Ms. Hicks discussed attending this seminar. We sent her to the seminar in 2019. She is asking the boards she represents for financial assistance. A motion was made by Dr. Froehling, second by Dr. Yohe, to provide \$500.00 towards the cost of attending FARB RLS for Ms. Hicks. A roll call vote was taken with Ficek, Remmick, Froehling, Yohe, Ten Broek, and Botz voting in the affirmative. Mellum absent/not voting. (6-0-1) Motion passed.

Online Jurisprudence Exam Policy. The Executive Director reported there was an issue with the online JP exam and that she had to turn off access while Albertson's was working on a solution. Concerns about issuing licenses were discussed as this is not an applicant issue, but rather a board issue. A motion was made by Dr. Ten Broek, second by Ms. Botz, to add a policy that permits the Executive Director to issue a Provisional License to an applicant if there are JP Exam issues preventing the applicant from completing the exam but having all other license application items completed. The Provisional License expires 14-days after the applicant has been notified the JP exam is available for completion. A roll call

vote was taken with Ficek, Remmick, Froehling, Yohe, Ten Broek, and Botz voting in the affirmative. Mellum absent/not voting. (6-0-1) Motion passed.

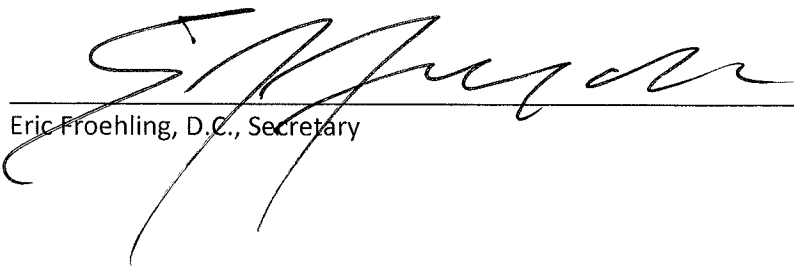
**Per Diem:**

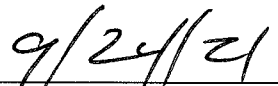
Dr. Ficek and Dr. Remmick attended the virtual NBCE and FCLB Annual Meetings and requested a per diem payment for each. A motion was made by Dr. Froehling, second by Dr. Ten Broek, to pay Dr. Ficek and Dr. Remmick 2-days Per Diem (\$500.00 total) for their attendance of the NBCE and FCLB Annual Meetings. A roll call vote was taken with Ficek, Remmick, Froehling, Yohe, Ten Broek, and Botz voting in the affirmative. Mellum absent/not voting. (6-0-1) Motion passed.

A motion was made by Dr. Froehling, second by Ms. Botz, to pay 1-day Per Diem and appropriate expenses for this meeting. A roll call vote was taken with Ficek, Remmick, Froehling, Yohe, Ten Broek, and Botz voting in the affirmative. Mellum absent/not voting. (6-0-1) Motion passed.

**Adjourn:** A motion was made by Dr. Remmick, second by Dr. Yohe, to adjourn the meeting. Motion passed. The meeting ended at 11:00 AM CST.

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

  
Eric Froehling, D.C., Secretary

  
Date