



NORTH DAKOTA BOARD OF CHIROPRACTIC EXAMINERS

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Minutes of the Special Meeting of the North Dakota State Board of Chiropractic Examiners held December 14, 2022 via Zoom.

Call to Order: Dr. Eric Froehling called the meeting to order at 12:00 PM CST.

Roll Call: Those present included Dr. Froehling, Dr. Ten Broek, Ms. Mellum, Dr. Ficek, Dr. Yohe, Dr. Rokke, and Ms. Botz. Also present were Assistant Attorney General Ms. Allyson Hicks and Executive Director Lisa Blanchard. Public: There were public attendees present.

Reading of the Mission Statement: Dr. Froehling

As this was a special meeting, no additions to the agenda were permitted.

Agenda:

Dr. Schmitz - Remand & Consideration of Settlement Offer to resolve Schmitz v. Board of Chiropractic Examiners, Case No. 2020-CV-01829. Ms. Hicks updated the SAAG status for Mr. Svihovec and informed the Board of their litigating attorney options moving forward. The counteroffer from Dr. Schmitz was received. Ms. Hicks also provided an explanation why she would advise the Board to discuss this topic in open meeting versus moving to executive session. No member moved for executive session, therefore the Board remained in an open meeting to discuss the counteroffer and options. Each board member was given the opportunity to share their thoughts on the counteroffer and how the Board should proceed. After discussion, a motion was made by Dr. Ficek, second by Dr. Yohe, to reject the most recent counteroffer; reoffer the Board's previous offer; and to authorize Ms. Hicks to proceed with filing with OAH if the Board's offer is rejected. A roll call vote was taken with Froehling, Ten Broek, Ficek, Yohe, Rokke, and Botz voting in the affirmative. Mellum recused. Motion passes (6-0-1).

Dr. Schmitz v. ND State Bd of Chiropractic Examiners, Case No. 08-2022-CV-02783 and Case No. 08-2022-CV-02955. Ms. Hicks provided the Board with an update and the status of these lawsuits. She made two requests for the following motions. A motion was made by Dr. Ficek, second by Dr. Yohe, to allow Mr. Sagsveen to file a demand for a change of judge due to the assigned Judge overseeing the Administrative Complaint. A roll call vote was taken with Froehling, Ten Broek, Ficek, Yohe, Rokke, and Botz voting in the affirmative. Mellum recused. Motion passes (6-0-1). A motion was made by Dr. Yohe, second by Dr. Ten Broek, to authorize Mr. Sagsveen to discuss with Schmitz's attorney and to file a motion to consolidate these cases. A roll call vote was taken with Froehling, Ten Broek, Ficek, Yohe, Rokke, and Botz voting in the affirmative. Mellum recused. Motion passes (6-0-1).

Dr. Daniel Pozarnsky (#2022-06). Dr. Pozarnsky has signed the Conditional Dismissal. He has 90 days to complete the terms. Information only.

Dr. Daniel Pozarnsky (#2022-07) & (#2022-08). Dr. Froehling confirmed that we could discuss both cases in one executive session. A motion was made by Dr. Ficek, second by Dr. Rokke, to move to executive session. The legal authorities for this Executive Session are N.D.C.C. 44-04-19.1(2) Attorney Consultation;

and N.D.C.C. 43-06 14.1(7) All data and information, including patient records acquired by the board or the peer review committee, in the exercise of its duties and functions, are confidential and closed to the public. All board and peer review committee meetings wherein patient testimony or records are taken or reviewed are confidential and closed to the public. A roll call vote was taken with all members voting in the affirmative. Motion passes (7-0). The Executive Session began at 12:24 PM CST. Attending the executive session were Dr. Froehling, Dr. Ten Broek, Ms. Mellum, Dr. Ficek, Dr. Yohe, Dr. Rokke, Ms. Botz, Ms. Hicks, and Ms. Blanchard. The Executive Session was recorded as required by law. The Executive Session ended at 12:43 PM CST and the meeting was reopened.

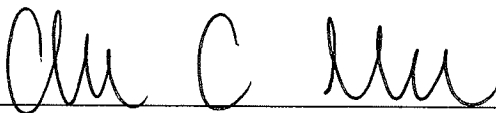
Dr. Daniel Pozarnsky (#2022-07). Upon returning to the open session, a motion was made by Ms. Mellum, second by Dr. Yohe, to proceed with requesting additional information from Dr. Pozarnsky as discussed in executive session. A roll call vote was taken with all members voting in the affirmative. Motion passes (7-0).

Dr. Daniel Pozarnsky (#2022-08). Upon returning to the open session, a motion was made by Dr. Yohe, second by Dr. Ficek, to proceed with sending a letter to Dr. Pozarnsky as discussed in executive session. A roll call vote was taken with all members voting in the affirmative. Motion passes (7-0).

Per Diem. A motion was made by Dr. Ficek, second by Dr. Ten Broek, to pay a full per diem payment (\$250) for this meeting. A roll call vote was taken with all members voting in the affirmative. Motion passes (7-0).

Adjourn: A motion was made by Dr. Ten Broek, second by Dr. Yohe, to adjourn the meeting. Motion passed. The meeting ended at approximately 12:46 PM CST.

These minutes were prepared by Lisa Blanchard, Executive Director, for signature by Ms. Christa Mellum, Secretary.



Christa Mellum, Secretary

01-30-23

Date