



NORTH DAKOTA BOARD OF CHIROPRACTIC EXAMINERS

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Minutes of the Board Meeting of the North Dakota Board of Chiropractic Examiners held January 20, 2023, at the ND Heritage Center, Bismarck, ND

Call to Order: Dr. Eric Froehling called the meeting to order at 9:00 AM CST.

Roll Call: Those present included Dr. Froehling, Dr. Ten Broek, Dr. Ficek, Dr. Yohe, Dr. Rokke and Ms. Botz. Absent: Ms. Mellum. Executive Director Lisa Blanchard and Assistant Attorney General Ms. Allyson Hicks were present. Public: Ms. Rebecca Binstock, Executive Director of ND Ethics Commission present for her presentation. There were other public attendees present.

Pledge of Allegiance.

Reading of the Mission Statement: Dr. Froehling

Additions to the Agenda:

- 1) Legislative bills: HB 1198; HB 1285; HB 1308; HB 1344; HB 1372; HB 1517; SB 2184; SB 2232; SB 2249; SB 2296; and SB 2337
- 2) Nametags

A motion was made by Dr. Ficek, second by Dr. Yohe, to include the additions and approve the agenda as amended. A roll call vote was taken with Froehling, Ten Broek, Ficek, Yohe, Rokke, and Botz voting in the affirmative. Mellum absent. Motion passes (6-0-1).

Presentation by Ms. Rebecca Binstock, Executive Director ND Ethics Commission. Ms. Binstock provided an overview of the new and current Rules of the Ethics Commission. The presentation started at 9:05 AM and concluded at 9:43 AM. Ms. Binstock exited the meeting at the conclusion of her presentation.

Approvals:

A motion was made by Dr. Yohe, second by Ms. Botz, to approve the minutes from the September 21, 2022 Board Meeting, October 10, 2022 Special Meeting, October 26, 2022 Special Meeting, November 9, 2022 Special Meeting, and December 14, 2022 Special Meeting. A roll call vote was taken with Froehling, Ten Broek, Ficek, Yohe, Rokke, and Botz voting in the affirmative. Mellum absent. Motion passes (6-0-1).

A motion was made by Dr. Ten Broek, second by Dr. Ficek, to approve the Executive Director 2022 3rd and 4th Quarter Reports. A roll call vote was taken with Froehling, Ten Broek, Ficek, Yohe, Rokke, and Botz voting in the affirmative. Mellum absent. Motion passes (6-0-1).

A motion was made by Dr. Ficek, second by Dr. Yohe, to approve the 2022 3rd and 4th Quarter Financial Reports. A roll call vote was taken with Froehling, Ten Broek, Ficek, Yohe, Rokke, and Botz voting in the affirmative. Mellum absent. Motion passes (6-0-1).

A motion was made by Dr. Yohe, second by Dr. Ten Broek, to approve the 2022 3rd and 4th Quarter Approval of Checks Written. A roll call vote was taken with Froehling, Ten Broek, Ficek, Yohe, Rokke, and Botz voting in the affirmative. Mellum absent. Motion passes (6-0-1).

Licenses:

A motion was made by Dr. Ficek, second by Dr. Rokke, to ratify the chiropractic licenses issued and certified chiropractic clinical assistant certifications issued and renewed. A roll call vote was taken with Froehling, Ten Broek, Ficek, Yohe, Rokke, and Botz voting in the affirmative. Mellum absent. Motion passes (6-0-1).

Edison Arauz, D.C. Dr. Arauz notified the office with his new practice location. The terms of his conditional licensure are ongoing with the first report due in May 2023.

Reports: No reports

Cases:

Dr. Schmitz – Remand & Consideration of Settlement Offer to resolve Schmitz v. Board of Chiropractic Examiners, Case No. 2020-CV-01829. A counteroffer to the board's final offer was received. A lengthy discussion was held regarding the counteroffer with each board member providing their opinion on the offer and direction the board should take. A motion was made by Dr. Ten Broek, second by Ms. Botz, to accept Dr. Schmitz's counteroffer, received January 19, 2023. A roll call vote was taken with Froehling, Ten Broek, Yohe, and Botz voting in the affirmative. Ficek and Rokke voting no. Mellum absent. Motion passes (4-2-1).

Dr. Schmitz v. ND Bd of Chiropractic Examiners, Case No. 08-2022-CV-02783 and Case No. 08-2022-CV-02955. Ms. Hicks provided an update on the status of these lawsuits indicating that motions to consolidate have been made. Information/Update only.

Dr. Jeffrey Pokorny (#2021-03). The Complaint was served, and an Answer has been filed. Information/Update only.

Dr. Jeffrey Pokorny (#2022-02). This case is pending the conclusion of the Peer Review Committee's investigation. Information/Update only.

Dr. Daniel Pozarnsky (#2022-06). The 90-day deadline for the terms of the signed conditional dismissal is February 20, 2023. The payment of the fee and the completion of the online jurisprudence examination have not been completed. Information only.

Dr. Daniel Pozarnsky (#2022-07). Dr. Pozarnsky was granted an extension to respond until February 1, 2023. Ms. Hicks informed the Board that Dr. Pozarnsky has retained legal counsel. Information only.

Dr. Daniel Pozarnsky (#2022-08). Ms. Hicks provided a letter to Dr. Pozarnsky as directed by the Board. No action was taken as the Board will keep this case open during the pendency of #2022-07. Information only.

Dr. Mason Custer (#2022-09). Ms. Hicks provided general information regarding the letters received by the Board. Information/Update only.

New Complaints. No new complaints for discussion.

Applications: No applications for discussion.

Board Business:

AG Open Record Complaint (December 2021) – Schmitz; AG Open Record Complaint (January 18, 2022) – Schmitz; AG Open Record Complaint (January 31, 2022) – Schmitz. These three are pending opinions from the AG’s office. No action.

2023 Legislative Session/Bills. The Board reviewed the list of bills presented by the Executive Director that have the potential of affecting the Board. These include: HB 1105; SB 2064; HB 1154; HB 1198; HB 1221; HB 1285; HB 1308; HB 1344; HB 1372; HB 1517; SB 2184; SB 2232; SB 2249; SB 2296; and SB 2337. Information only. No action was taken.

Website, Technology & Office Equipment Planning:

- **Website**
 - **New Participating Agreement/Costs/Future.** The Executive Director provided the new annual fee and support costs for the website/license management system with the new participating agreement. Additional information was provided on the next level of costs when the Board reaches 1001 records as we are currently at approx. 925 records. Information only.
 - **CE Reporting options.** The Executive Director proposed waiting until the April meeting to discuss due to the pending legislation.
- **Board Phone Upgrade.** The Executive Director indicated it was time to upgrade the office phone (cell phone). She provided prices for a variety of models per the state contract. A motion was made by Dr. Yohe, second by Dr. Ficek, to upgrade to the iPhone 14 (\$349.99). A roll call vote was taken with Froehling, Ten Broek, Ficek, Yohe, Rokke, and Botz voting in the affirmative. Mellum absent. Motion passes (6-0-1).
- **Disciplinary Records.** The Executive Director proposed waiting until the April meeting to discuss due to the pending legislation.

2023 Calendar. The Board reviewed the proposed 2023 Calendar including the meeting schedule and other events. A motion was made by Dr. Yohe, second by Dr. Ten Broek, to approve the 2023 Calendar as discussed. A roll call vote was taken with Froehling, Ten Broek, Ficek, Yohe, Rokke, and Botz voting in the affirmative. Mellum absent. Motion passes (6-0-1).

Office/Administrative Matters.

- **State P-Card Update.** The Executive Director indicated this was on hold until the 2021/2022 audit was complete. Pending legislation may also affect the application. Information only.
- **Name Tags.** The Board discussed purchasing updated name tags for each member. A motion was made by Dr. Rokke, second by Dr. Ten Broek, to purchase new name tags. Motion passes.
- **Approved Minutes Signing – Adobe.** The Executive Director shared the current process of using Adobe for Treasurer signed documents. A request was made to utilize this for approved minutes starting in 2023. A motion was made by Dr. Rokke, second by Dr. Ficek, to utilize Adobe for the signing of approved minutes starting in 2023. A roll call vote was taken with Froehling, Ten Broek, Ficek, Yohe, Rokke, and Botz voting in the affirmative. Mellum absent. Motion passes (6-0-1).

CHRI – Internal Policy & Procedure Review/Training. The Board’s CHRI policy was reviewed and discussed. All members signed updated Acknowledgement Statements of Misuse. As required, these items will be completed every 2-years at the January board meeting. A motion was made by Dr. Ten Broek, second by Ms. Botz, to approve the CHRI policy. A roll call vote was taken with Froehling, Ten Broek, Ficek, Yohe, Rokke, and Botz voting in the affirmative. Mellum absent. Motion passes (6-0-1).

Dues: FCLB. The 2023 dues for the FCLB will be \$1,377.00 A motion was made by Dr. Ficek, second by Dr. Yohe, to pay the 2023 dues. A roll call vote was taken with Froehling, Ten Broek, Ficek, Yohe, Rokke, and Botz voting in the affirmative. Mellum absent. Motion passes (6-0-1).

FCLB/NBCE Voting Delegate and Alternate Delegate. A motion was made by Dr. Ficek, second by Dr. Ten Broek, to submit Dr. Froehling and Ms. Blanchard as the FCLB Delegate/Alternate and Dr. Froehling and Dr. Ten Broek as the NBCE Delegate/Alternate. A roll call vote was taken with Froehling, Ten Broek, Ficek, Yohe, Rokke, and Botz voting in the affirmative. Mellum absent. Motion passes (6-0-1).

Executive Director Employment Agreement & Review. Ms. Blanchard voluntarily exited the room and Dr. Froehling took over as recorder. A motion was made by Dr. Ficek, second by Dr. Rokke, to increase the salary to \$60,000/year. The leave package will be modified to include 132 sick days (retroactively earned) vested at 10% for 10-years earning an additional 1-day/month; and 30-days paid leave (retroactively earned) + 1 day earned/month not to carry over more than 30-days. A roll call vote was taken with Froehling, Ten Broek, Ficek, Yohe, Rokke, and Botz voting in the affirmative. Mellum absent. Motion passes (6-0-1). Ms. Blanchard rejoined the meeting.

Administrative Rules. The Board will wait until April to review and work on these. No action taken.

Policy Manual. The Executive Director provided a revised manual. The content remains the same, however, Policy and Procedure were separated. Additionally, like items were organized and grouped together. No additions to the current policy manual were made. Last, upon the suggestion of Ms. Hicks, the Executive Director is drafting a Peer Review Policy manual with anticipated review and approval at the next meeting. Information only. No action taken.

Financial: Reserve Accounts. The current balances of the board’s reserves were reviewed. The Executive Director shared the Treasurer’s proposal in her absence. A motion was made by Dr. Ficek, second by Dr. Ten Broek, to transfer \$5,000 to the litigation fund and \$3,000 to each of the Operating and Technology funds (\$11,000 total). A roll call vote was taken with Froehling, Ten Broek, Ficek, Yohe, Rokke, and Botz voting in the affirmative. Mellum absent. Motion passes (6-0-1).

Additional discussion was held on the creation of a Board Liability Reserve account. A motion was made by Dr. Ficek, second by Dr. Yohe, to create a Board Liability Reserve account, specifically for the employee leave items, and to transfer \$5,000.00 to the account. A roll call vote was taken with Froehling, Ten Broek, Ficek, Yohe, Rokke, and Botz voting in the affirmative. Mellum absent. Motion passes (6-0-1).

2023 Proposed Budget. The proposed budget was reviewed. A motion was made by Dr. Rokke, second by Dr. Ten Broek, to approve the budget with the updates to the Salary/Payroll tax items. A roll call vote was taken with Froehling, Ten Broek, Ficek, Yohe, Rokke, and Botz voting in the affirmative. Mellum absent. Motion passes (6-0-1).

Election of Officers. A motion was made by Dr. Yohe, second by Ms. Botz, to maintain the current officers for another year; President – Dr. Froehling, Vice President Dr. Ten Broek, Secretary/Treasurer Ms. Mellum. A roll call vote was taken with Froehling, Ten Broek, Ficek, Yohe, Rokke, and Botz voting in the affirmative. Mellum absent. Motion passes (6-0-1).

Per Diem.

HB1105 (01/04/2023) & SB2064 (01/13/2023). A motion was made by Dr. Ficek, second by Dr. Yohe, to pay the appropriate per diem and expenses to Dr. Froehling, Dr. Ten Broek, and Ms. Blanchard for their attendance at these hearings. A roll call vote was taken with Froehling, Ten Broek, Ficek, Yohe, Rokke, and Botz voting in the affirmative. Mellum absent. Motion passes (6-0-1).

January 20, 2023 Board Meeting. A motion was made by Dr. Ficek, second by Dr. Ten Broek, to pay per diem (\$250) and appropriate expenses for this meeting. A roll call vote was taken with Froehling, Ten Broek, Ficek, Yohe, Rokke, and Botz voting in the affirmative. Mellum absent. Motion passes (6-0-1).

Adjourn: A motion was made by Dr. Ficek, second by Dr. Yohe, to adjourn the meeting. Motion passed. The meeting ended at approximately 12:42 PM CST.

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

Signature: Christa Mellum
Christa Mellum (Apr 12, 2023 14:27 CDT)

Email: ndsbce.mellum@gmail.com

04/12/2023

Christa Mellum, Secretary

Date