



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 June 21, 2023 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, and Dr. Rokke. Absent: Ms. Botz. Also present were Assistant Attorney General Ms. Allyson Hicks and Executive Director Lisa Blanchard. Public: There were no public attendees present.

Reading of the Mission Statement: Dr. Froehling

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

Agenda:

Cases:

Dr. Daniel Pozarnsky (#2022-07). Dr. Froehling and Ms. Hicks discussed and instructed the Board as to what discussions or information would require an executive session and what could be discussed in an open meeting. The Board remained in open meeting for the duration of the discussion.

All members of the Board completed their reviews and findings assigned at the May 10, 2023 special meeting. A motion was made by Dr. Ficek, second by Dr. Yohe, to find reasonable cause to believe that Dr. Pozarnsky committed approximately 305 violations as follows:

- 6 violations of N.D.C.C. § 43-05-15(1)(e)
- 126 violations of N.D.C.C. § 43-06-15(1)(l), N.D.A.C. § 17-03-01-01(3)
- 58 violations of N.D.C.C. § 43-06-15(4)
- 67 violations of N.D.C.C. § 43-06-15(1)(l), N.D.A.C. § 17-03-01-01(1)
- 12 violations of N.D.C.C. § 43-06-15(1)(l), N.D.A.C. § 17-03-01-01(19)
- 35 violations of N.D.C.C. § 43-06-15(1)(l), N.D.A.C. § 17-03-01-01(12)
- 1 violation of N.D.C.C. § 43-06-15(1)(l), N.D.A.C. § 17-03-01-05

A roll call vote was taken with Froehling, Ten Broek, Mellum, Ficek, Yohe, and Rokke voting in the affirmative. Botz absent. Motion passes (6-0-1).

Initial discussion was held on the quantity of violations and the goals of a settlement offer. It was agreed that the main objective is public protection with the priority of assessments and licensee rehabilitation. Following, discussion was held on the terms of a settlement agreement offer with each board member providing their proposals. A detailed discussion occurred regarding fees for violations and how this may be calculated or determined; a lump sum, a fee for each statute violation, or a fee for every violation. A discussion occurred regarding the Board's statutory authority to assess attorneys fees and civil penalties up to \$10,000 per violation under N.D.C.C. § 43-06-15(8). Similarly, extensive discussion occurred regarding the proportionality of the fees for violations related to the number and severity of the

violations; the economic benefit of the violations to the chiropractor; the costs of the other requirements of the settlement offer; and the ability of the chiropractor to pay. A separate detailed discussion was held regarding the terms of practice monitoring; duration and quantity of charts.

A motion was made by Dr. Rokke, second by Dr. Ten Broek, to offer the following settlement agreement terms to Dr. Pozarnsky for the violations under the eight statutes found by the Board. A roll call vote was taken with Froehling, Ten Broek, Mellum, Ficek, Yohe, and Rokke voting in the affirmative. Botz absent. Motion passes (6-0-1).

Settlement Agreement Terms:

Dr. Pozarnsky's license will be placed on Probation for the duration of the settlement agreement under the following terms:

- 1) Fee for Violations:
 - a. 8 categories of violations at \$2,500.00 per category, for a total of \$20,000.00.
 - b. May be paid in full; or by a payment plan within 12 months of signature of agreement.
- 2) Fee equal to repayment for attorney costs, to be provided to the Board within 30 days of signature of agreement.
- 3) Take and pass one essay question from each of the five sections of the Ethics and Boundaries Assessment Service (EBAS) exam.
 - a. The cost of the exam is Dr. Pozarnsky's responsibility.
 - b. First attempt at the exam must occur within 30 days of signature of agreement.
 - c. If successful passing on the first attempt does not occur, Dr. Pozarnsky's license will be suspended until successful passage occurs.
- 4) Professional Monitoring by KMC University at Dr. Pozarnsky's expense.
 - a. Six quarterly reviews consisting of 10 charts focusing on the topics of documentation and billing.
 - b. The Board may end the monitoring early if KMC indicates that documentation is adequate. If KMC reports the notes are deficient, then monitoring continues as required.
 - c. If the license is suspended under the terms of this agreement, the monitoring is also suspended and will resume when the license is reinstated.
- 5) Take and Pass the Special Purposes Examination for Chiropractic (SPEC).
 - a. Cost of exam is Dr. Pozarnsky's responsibility.
 - b. If successful passing on the first attempt does not occur, Dr. Pozarnsky's license will be suspended until successful passage occurs.
 - c. First attempt at exam should occur during the October 2-7, 2023 testing opportunity. Contact the Board if unable to sit for this examination.
- 6) Adhere to all laws and rules related to the practice of chiropractic.

Per Diem. A motion was made by Dr. Yohe, second by Dr. Ten Broek, to pay a full per diem payment (\$250) for this meeting. A roll call vote was taken with Froehling, Ten Broek, Mellum, Ficek, Yohe, and Rokke voting in the affirmative. Botz absent. Motion passes (6-0-1).

Adjourn: A motion was made by Dr. Ten Broek, second by Ms. Mellum, to adjourn the meeting. Motion passed. The meeting ended at approximately 1:03 PM CST.

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

Signature: Christa Mellum
Christa Mellum (Jul 27, 2023 10:56 CDT)

Email: ndsbce.mellum@gmail.com

07/27/2023

Christa Mellum, Secretary

Date