



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 19, 2024 at 9:00 AM CST 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, Ms. Mellum, Dr. Yohe, Dr. Rokke, Dr. Askew, and Ms. Botz. Absent: None. Executive Director Lisa Blanchard and Assistant Attorney Generals Ms. Allyson Hicks and Mr. Austin Lafferty were present. Public: There were public attendees present.

Pledge of Allegiance.

Reading of the Mission Statement: Dr. Froehling

Additions to the Agenda:

No additions to the agenda. A motion was made by Dr. Rokke, second by Ms. Botz, to approve the agenda as proposed. A roll call vote was taken all members voting in the affirmative. Motion passes (7-0).

Approvals:

A motion was made by Dr. Yohe, second by Dr. Askew, to approve the minutes from the October 18, 2023 Board Meeting, November 22, 2023 Special Meeting, and December 13, 2023 Special Meeting. A roll call vote was taken all members voting in the affirmative. Motion passes (7-0).

A motion was made by Dr. Yohe, second by Ms. Mellum, to approve the Executive Director 2023 4th Quarter Report. A roll call vote was taken all members voting in the affirmative. Motion passes (7-0).

A motion was made by Ms. Mellum, second by Dr. Rokke, to approve the 2023 4th Quarter Financial Reports. A roll call vote was taken all members voting in the affirmative. Motion passes (7-0).

A motion was made by Ms. Mellum, second by Dr. Askew, to approve the 2023 4th Quarter Approval of Checks Written. A roll call vote was taken all members voting in the affirmative. Motion passes (7-0).

Licenses:

A motion was made by Dr. Rokke, second by Dr. Askew, to ratify the 2023 4th quarter chiropractic and certified chiropractic clinical assistant licenses issued. A roll call vote was taken all members voting in the affirmative. Motion passes (7-0).

Edison Arauz, D.C.: The second KMC report was received per the terms of the Conditional License agreement. Information was received directly from KMC just prior to the meeting regarding Dr. Arauz's voluntary agreement with KMC. A motion was made by Dr. Askew, second by Dr. Ten Broek, to amend the Conditional License agreement to extend it for a further six months per the voluntary agreement between Dr. Arauz and KMC. The Board will request one report from KMC at the end of the six months

to determine if Dr. Arauz can be released from the Conditional License agreement. A roll call vote was taken all members voting in the affirmative. Motion passes (7-0).

Reports:

A motion was made by Dr. Rokke, second by Ms. Botz, to accept the NBCE Part IV Testing Report from Dr. Ten Broek and the CLEAR Executive Leadership Training report from ED Blanchard. A roll call vote was taken all members voting in the affirmative. Motion passes (7-0).

Conflict of Interest Refresher. Ms. Hicks provided a brief refresher on the conflict-of-interest rules and requirements for the board members. Information only. No action taken.

Disciplinary Meeting Procedure. Ms. Hicks provided some advice for the Board to consider for their procedure regarding disciplinary cases based upon the Attorney General Opinions 2024-O-03 and 2024-O-04. In general, the Board determined that they will discuss new complaints in the open meeting vs. an executive session, however, this can be determined on a case-by-case basis as legal exemptions do exist for executive session. Procedure only. No formal action required.

They also discussed the use of Peer Review Committees (PRC) and when or how often to utilize one. They determined that this should be decided on a case-by-case basis, but that they will need to ask themselves with each new complaint whether a PRC should be appointed. Discussion about the difficulties of finding licensees to serve on a PRC was discussed. A motion was made by Ms. Mellum, second by Ms. Botz, to include a question on the annual License Renewal applications asking for PRC volunteers. A roll call vote was taken all members voting in the affirmative. Motion passes (7-0).

Litigation:

Dr. Schmitz v. ND Bd of Chiropractic Examiners, Case No. 08-2022-CV-02783. Ms. Hicks provided an update that we are currently waiting on the District Courts decision and a response from Dr. Schmitz's attorney. No action taken. Information/Update only.

Cases:

Dr. Jeffrey Pokorny (#2021-03). The Board received some updated information on the reimbursement progress, but there are still seven accounts that are pending. The conditional agreement remains open until verification that all accounts were reimbursed. No action taken. Information/Update only.

Dr. Jeffrey Pokorny (#2022-02). Dr. Pokorny provided a response to the Board's settlement offer through his attorney. A motion was made by Dr. Yohe, second by Dr. Rokke, to agree to the counteroffer accepting the removal of counts 1-11 and amending the civil penalty accordingly. A roll call vote was taken all members voting in the affirmative. Motion passes (7-0). Legal counsel will respond to the questions asked.

Dr. Daniel Pozarnsky (#2022-07). Dr. Pozarnsky's attorney requested additional time to review the information provided by Ms. Hicks. The extension was granted, and the Board may need to call a special meeting to review the response when received. No action taken. Information/Update only.

Dr. Daniel Pozarnsky (#2022-08). No action was taken as the Board will keep this case open during the pendency of #2022-07. Information only.

Dr. Jason Moore (#2023-03). The Board received all the requested follow-up responses. Overall, the Board was satisfied with the information received and felt most of the allegations were not violations. Based upon the information received from Dr. Moore, there are issues with his Prepaid Care plans. A motion was made by Dr. Ten Broek, second by Dr. Rokke, to issue a Conditional Dismissal agreement for the violation of 17-03-01-05(8). The term of the agreement is a \$500.00 civil penalty due no later than 30 days from the signing of the agreement. A roll call vote was taken all members voting in the affirmative. Motion passes (7-0).

Dr. Timothy Corrigan (#2023-06). Dr. Corrigan's follow-up response was due on December 29th and was not received. The Board moved forward with action without a response. A brief discussion was held on the verbiage used in Board orders. It has been noted that when the Board requires monitoring, the term "quarter" can cause confusion. Dr. Froehling and ED Blanchard recommended defining the number of reviews and then defining a timeframe for each review vs. using the term quarter. Based upon the information they have, a motion was made by Dr. Ten Broek, second by Ms. Mellum, to offer Dr. Corrigan a Settlement Agreement for multiple violations of 17-03-01-01(3), 17-03-01-01(10), 17-03-01-01(12), 17-03-01-01(1)(a), 17-03-01-01(1)(c), 17-03-01-01(1)(d), 17-03-01-01(1)(b), and 43-06-15(4). The terms of the agreement are to include:

- 2 Reviews with KMC University.
 - Each review will consist of 10 charts.
 - Each review will cover a 90-day timeframe to include a report from KMC to the Board along with a written corrective action plan from Dr. Corrigan.
 - The second review will begin 30-days after the report from the first review is issued.
- A civil penalty of \$500.00 for each category of violation listed, totaling \$4,000.00.
- Completion of the ND Jurisprudence Examination.

A roll call vote was taken all members voting in the affirmative. Motion passes (7-0).

Dr. Anna Petry (#2023-07). The Board received the requested response from Dr. Petry. She answered all questions satisfactorily. A motion was made by Dr. Askew, second by Dr. Yohe, to dismiss the complaint for no violation of law. A roll call vote was taken all members voting in the affirmative. Motion passes (7-0).

New Complaints.

Dr. Crystal Long (#2024-01). A new complaint was received. The Board discussed the complaint and what they would like to initially request from Dr. Long. A motion was made by Dr. Ten Broek, second by Ms. Botz, to request a general response from Dr. Long to the complaint. Additionally, the Board will ask whether the individual identified in the complaint as the "father" has ever been a patient. If the answer to that question is yes, then the Board requests the full patient record. A roll call vote was taken all members voting in the affirmative. Motion passes (7-0).

Applications:

CCCA Weathermon. A response was received from Mr. Weathermon. The Board discussed the rehabilitation requirements in the Century Code. They also discussed whether they felt he intentionally responded incorrectly on the application or if it was an unintentional error. A motion was made by Dr. Yohe, second by Dr. Askew, to issue the CCCA license. A roll call vote was taken all members voting in the affirmative. Motion passes (7-0).

Board Business:

AG Open Record Complaint (December 2021) – Schmitz. The AG’s opinion #2024-O-03 was issued on January 9, 2024. The Board was found in violation. The required remedy was completed on January 10, 2024. Information only. No action required.

AG Open Record Complaint (January 18, 2022) – Schmitz. The AG’s opinion #2024-O-04 was issued on January 9, 2024. The Board was incorrect in their action, but not found in violation as they had already corrected the issue. The required remedy had already been completed. Information only. No action required.

AG Open Record Complaint (January 31, 2022) – Schmitz. The AG’s opinion #2023-O-06 was issued on November 20, 2023. The Board was not found in violation. Information only. No action required.

Release of Recordings pursuant to N.D.A.G. 2024-O-03. At their January 2022 board meeting, the Board indicated that they would proceed to executive session for 43-06-14.1(7) as the opinion of the Attorney General had not been completed. They indicated that if the AG’s opinion indicated that these discussions were to be held in an open meeting, they would release the recordings. There are 28 total recordings that apply. One of the 28 will not be released as the provisions of 43-06-14.1(7) do apply. A motion was made by Dr. Rokke, second by Dr. Ten Broek, to release the entire recordings only redacting PHI per HIPAA. A roll call vote was taken all members voting in the affirmative. Motion passes (7-0). A motion was then made by Dr. Yohe, second by Dr. Rokke, to maintain the availability of the recordings (accessible from the Board’s website) for 30 days from the date the last one is posted. After the 30 days have expired, they will be removed from the website and may be destroyed pursuant to the record retention laws. A roll call vote was taken all members voting in the affirmative. Motion passes (7-0). The Executive Director will work on this with the goal of completing one recording per day if possible. They will be completed in chronological order from the oldest to the newest. The recordings will be posted as soon as they are completed.

The Board recessed for lunch from approximately 12:00 PM – 12:49 PM.

Labor Commissioner Questionnaire for Legislative Study (SB2249). The Board’s response was submitted on December 28th after review with Dr. Ten Broek. The Board’s meeting with Mr. Svihovec is scheduled for March 6, 2024 at 11:00 AM. There were no changes/additions/addendums requested for the response. A motion was made by Ms. Mellum, second by Dr. Yohe, to ratify the response submitted to the Labor Commissioner. A roll call vote was taken all members voting in the affirmative. Motion passes (7-0).

Website, Technology & Office Equipment Planning.

- Licensee Dashboard Project. ED Blanchard provided a brief update on the project with the goal that it is ready for Chiropractor License Renewal in July.
- Wide Format Printer – Ornamental License Certificates. ED Blanchard researched what other ND licensing boards do for ornamental licenses. She gave a brief history of the certificates. She requested the purchase of an Epsom WF-7310 printer for \$250.00 to be able to produce these in-house. A motion was made by Dr. Yohe, second by Dr. Rokke, to approve the purchase of the printer and supplies needed. A roll call vote was taken all members voting in the affirmative. Motion passes (7-0).

2024 Calendar. The Board reviewed the 2024 calendar, office hours, and closures. They selected April 19th, July 11th, October 11th, and January 17, 2025 as the regular board meeting schedule for the year. No motion required.

Dues: FCLB. The Executive Director received the invoice via email this morning. A motion was made by Dr. Askew, second by Dr. Rokke, to approve the FCLB dues for \$1,411.00. A roll call vote was taken all members voting in the affirmative. Motion passes (7-0).

FCLB/NBCE Voting Delegate and Alternate Delegate. A motion was made by Dr. Yohe, second by Ms. Botz, to submit Dr. Rokke as Delegate and Ms. Blanchard as Alternate for the FCLB and Dr. Rokke as Delegate and Dr. Ten Broek as Alternate for the NBCE. A roll call vote was taken all members voting in the affirmative. Motion passes (7-0).

Executive Director Employment Agreement & Review. The Executive Director voluntarily exited the meeting for the Board's discussion. A motion was made by Ms. Mellum, second by Dr. Askew, to give a 5% raise (\$3,000). A roll call vote was taken all members voting in the affirmative. Motion passes (7-0). The Executive Director came back to the meeting room. She was asked to review the questions on the annual review form as some can be removed and others may be reworked. Instruction only.

Administrative Rules. The Board began a review of the Administrative Rules for possible revisions. Discussion was held on the required process and timeframe. ED Blanchard prepared possible revisions based upon questions, issues, concerns, etc. that have arisen since the last update of the Rules. No decisions were reached, and no action was taken. When time allows, the Board will continue to review.

Manuals (Policy and Procedure & Operations). No revisions for this meeting. ED Blanchard will make some updates based upon decisions reached at this meeting for future approval. No action taken.

Financial: Reserve Accounts. ED Blanchard and Treasurer Mellum shared their discussion on the Reserve Accounts. A motion was made by Ms. Mellum, second by Dr. Askew, to transfer \$20,000 to the Litigation account, \$12,500 to the Operating Account, \$12,500 + \$2,685 to the Technology Account [the \$2,685 is dedicated to future board device purchases], and \$5,210 to the Board Liability account. A roll call vote was taken all members voting in the affirmative. Motion passes (7-0).

Payroll Outsourcing & Quote. ED Blanchard explained the issue regarding the printing/e-filing of the annual 1099 forms. She also shared that she requested a quote from Legacy CPA in Grafton for the outsourcing of the annual Payroll. The quote was \$80/month. This would allow the Board to cancel their QuickBooks Payroll Subscription. A motion was made by Dr. Yohe, second by Dr. Rokke, to approve the outsourcing of payroll to Legacy CPA. A roll call vote was taken all members voting in the affirmative. Motion passes (7-0).

2024 Proposed Budget. The salary line item was adjusted for the payroll increase approved earlier. Additionally, a new account was added for the Payroll Outsourcing for \$1,100.00. A motion was made by Ms. Mellum, second by Dr. Askew to approve the 2024 budget as presented with the additions. A roll call vote was taken all members voting in the affirmative. Motion passes (7-0).

Election of Officers.

A motion was made by Dr. Rokke, second by Dr. Askew, to nominate Dr. Ten Broek for President, Dr. Yohe for Vice President, and Ms. Mellum as Secretary/Treasurer. A roll call vote was taken with

Froehling, Ten Broek, Mellum, Rokke, Askew, and Botz voting in the affirmative. Yohe voting No. Motion passes (6-1).

Per Diem.

January 19, 2023 Board Meeting. A motion was made by Dr. Ten Broek, second by Dr. Yohe, to pay per diem (\$250) and appropriate expenses for this meeting. A roll call vote was taken all members voting in the affirmative. Motion passes (7-0).

Adjourn: A motion was made by Dr. Ten Broek, second by Ms. Botz, to adjourn the meeting. Motion passed. The meeting ended at approximately 3:10 PM CST.

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

Signature: Christa Mellum
Christa Mellum (Apr 22, 2024 09:26 CDT)

Email: ndsbce.mellum@gmail.com

04/22/2024

Christa Mellum, Secretary

Date