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COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF STATE
BUREAU OF PROFESSIONAL AND OCCUPATIONAL AFFAIRS

F I N A L M I N U T E S

MEETING OF:

STATE BOARD OF CHIROPRACTIC

TIME: 9:03 A.M.

PENNSYLVANIA DEPARTMENT OF STATE
Board Room B
One Penn Center
2601 North Third Street
Harrisburg, Pennsylvania 17110

July 19, 2018

State Board of Chiropractic
July 19, 2018

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BOARD MEMBERS:

J. Gerard Halloran, D.C., Chair
Ian J. Harlow, Commissioner of Professional and
Occupational Affairs
John E. McCarrin, D.C., Secretary
William D. Aukerman, D.C.
George E. Khoury, D.C.
Michael S. Swank, D.C.
Nikole Brock, Deputy Attorney General, Consumer
Protection
Miriam Merry Woods, Public Member

BUREAU PERSONNEL:

Thomas A. Blackburn, Esquire, Senior Counsel-in-Charge
Anita P. Shekletski, Esquire, Board Prosecution
Liaison
Elizabeth Wecker, Board Administrator

ALSO PRESENT:

Ted Mowatt, Chiropractic Fellowship of PA
Kiersten Baumgardner, Wanner Associates, Association
for Professional Acupuncture
Edward Nielsen, MHS, Executive Vice President,
Pennsylvania Chiropractic Association

1 ***

2 State Board of Chiropractic

3 July 19, 2018

4 ***

5 The regularly scheduled meeting of the State
6 Board of Chiropractic was held on Thursday, July 19,
7 2018.

8 ***

9 Official Call to Order

10 [J. Gerard Halloran, D.C., Chair, called the meeting
11 to order at 9:03 a.m.]

12 ***

13 Approval of Minutes of the May 17, 2018 meeting

14 CHAIR HALLORAN:

15 Did everybody look at the minutes for
16 the May meeting? Are there any
17 questions on that, any corrections that
18 need to be done?

19 All right. Could I have a motion
20 from the floor to accept the minutes of
21 the May 17, 2018 meeting?

22 DR. AUKERMAN:

23 I make a motion to accept the minutes of
24 the meeting of May 17, 2018.

25 CHAIR HALLORAN:

1 research available on the website and requested
2 feedback from the Board. Commissioner Harlow noted a
3 \$425,000 grant from the Department of Labor to
4 continue the work nationally.

5 Commissioner Harlow discussed the 10-year bar
6 from licensure and automatic suspension if convicted
7 of a felony under the drug act. He stated Governor
8 Wolf was working to introduce legislation to repeal
9 these rigid bars affecting the Chiropractic Board, as
10 well as 12 other licensing Boards impacted by them.

11 Commissioner Harlow discussed the reallocation of
12 staff to customer service roles. He stated one of the
13 objectives of PALS was to automate a manual process in
14 order to eliminate dependence on contract employees
15 and to enhance reporting capabilities. He recognized
16 the help desk and additional employees to provide
17 adequate customer service and support for staff and
18 licensees.]

19 ***

20 Report of Board Counsel

21 [Thomas A. Blackburn, Esquire, Board Counsel, on
22 behalf of Kerry E. Maloney, noted matters for
23 deliberation by the Board in Executive Session.

24 Mr. Blackburn stated Senate Bill 892, amending
25 the Chiropractic Practice Act to exempt from the

1 licensure requirement chiropractic students under the
2 direct immediate and personal supervision of a
3 licensee, passed the General Assembly and was signed
4 by Governor Wolf as Act 67 of 2018. He noted the
5 proposed rulemaking, 16A-4312 - Chiropractic
6 Specialties, published in the Pennsylvania Bulletin
7 for discussion later in the meeting.

8 Mr. Blackburn noted the anticipated rulemaking
9 for limited delegation to unlicensed supportive
10 personnel, reporting that Mr. Maloney said he will
11 provide additional information at a future meeting
12 after receiving comments on the exposure draft.]

13

14 Report of Board Chair

15 [J. Gerard Halloran, D.C., Chair, informed the Board
16 of the requirement to enter a new password every 60
17 days, offering the help desk number at 717-783-1087
18 for assistance.

19 Chair Halloran reminded Board members to submit
20 tax exemption certificates for reimbursement. He
21 suggested using ADTRAV for room reservations and
22 travel at 866-530-8899, noting the need for an
23 employee number.

24 Chair Halloran referred to the PALS instruction
25 packet sent by Ms. Wecker via email. He thanked Dr.

1 McCarrin and Dr. Khoury with their assistance with
2 PALS.

3 Chair Halloran thanked Dr. Aukerman and
4 Dr. Khoury for participating in the opioid conference
5 in Pittsburgh.

6 Chair Halloran discussed animal chiropractic,
7 stating that it is too soon to draft a policy on this
8 matter. He discussed looking for a consensus on the
9 legal and ethical ramifications of animal-related
10 chiropractic practice.

11 Chair Halloran discussed the importance of a new
12 committee with a Board representative dedicated to the
13 Federation of Chiropractic Licensing Boards (FCLB) and
14 National Board of Chiropractic Examiners (NBCE). He
15 stated Dr. Swank was assisting with the inquiry
16 regarding Board members' participation in the National
17 Board of Chiropractic Examiners' (NBCE) testing and
18 meetings while conforming to the state ethics laws.

19 Chair Halloran noted the approval of Providers of
20 Approved Continuing Education (PACE). He suggested
21 developing a better method to communicate with
22 chiropractors regarding approved regulatory changes.

23 Chair Halloran noted the need for discussion
24 regarding Dr. Khoury's replacement in the future.

25 Commissioner Harlow presented Dr. Khoury with a

1 certificate recognizing his service to the Board and
2 the citizens of Pennsylvania. Dr. Khoury, as the
3 alternate director for District III of the Federation
4 of Chiropractic Licensing Boards, will be working on
5 the Board's behalf at a national level.]

6

7 Report of Regulatory Counsel

8 [Thomas A. Blackburn, Esquire, Regulatory Counsel, on
9 behalf of Kerry E. Maloney, discussed proposed
10 rulemaking, 16A-4312 - Chiropractic Specialties,
11 published in February, noting a number of comments by
12 the Independent Regulatory Review Commission (IRRC)
13 and members of the public.

14 Chair Halloran suggested compromising on the
15 regulation to achieve a consensus. The Board
16 discussed the meaning of the word political with
17 regard to the American Chiropractic Association (ACA)
18 and the International Chiropractic Association (ICA),
19 as well as the scope of spinal and chiropractic
20 subluxation treatment.

21 Chair Halloran noted a dichotomy of thought
22 regarding the expansive and/or restrictive scope of
23 practice of chiropractic. He referred to scientific
24 advancements and studies demonstrating that
25 chiropractic has not only efficacy but cost-saving

1 benefits. Many organizations, some in existence for
2 80-100 years, had different political and
3 philosophical roots and are beginning to collaborate
4 more often.

5 Dr. McCarrin added politically motivated is more
6 financially motivated to satisfy membership. He noted
7 the financial gain from offering classes.

8 Dr. Swank explained that the ACA and ICA offer a
9 subspecialty granting status within their
10 organizations for doctors who take 150- to 300-hour
11 postgraduate courses. He stated some of the
12 specialties, such as the diplomate in rehab, not
13 necessarily the letter received from the IACN, but the
14 other neurology program; the diplomate of Chiropractic
15 Neurology Board, which is under the ACA, have gone
16 beyond the trade organizations and referred to the
17 National Organization for Competency Assurance (NOCA),
18 which is a separate entity that grants those specialty
19 Boards additional recognition on a national basis.

20 Dr. Swank suggested reviewing criteria requiring
21 diplomates to stay current. He mentioned an ad in the
22 Pittsburgh paper regarding a free seminar to become a
23 board certified diplomate in chronic intractable pain
24 and neuropathy, which allows an individual to
25 advertise for neuropathy. Chair Halloran stated the

1 Board has no authority on the matter until regulations
2 are quantified and passed.

3 Chair Halloran commented that ICA should be
4 included, not just ACA, because ICA has been just as
5 diligent as ACA in making sure that coursework and
6 diplomates have rigorous training and rigorous
7 testing.

8 Dr. Khoury referred to the Florida Chiropractic
9 Board of Medicine Regulation, Section 456.062, noting
10 that chiropractic specialties recognized by the Board
11 are those recognized by the various Councils of ACA,
12 ICA, or IACN. He added that each specialty requires a
13 minimum of 300 hours of postgraduate credit hours and
14 passage of a written and oral examination approved by
15 the ACA, ICA, or IACN.

16 Chair Halloran noted that ACA was included in the
17 regulation and ICA was excluded. He questioned
18 whether any other chiropractic educational
19 organization was as rigorous as ICA or ACA.

20 Dr. Swank discussed electrodiagnostic classes in
21 the schools.

22 Chair Halloran suggested including ICA on the
23 list regarding the regulation. He reviewed the
24 differences between being board certified and having a
25 certification for advertisement. He suggested the

1 Board identify established agencies or accredited
2 chiropractic colleges for certification of the
3 professors teaching the courses, as well as obtaining
4 records of the candidates' testing.]

5

6 [Ian J. Harlow, Commissioner of Professional and
7 Occupational Affairs, exited the meeting at 9:57 a.m.]

8

9 [Dr. McCarrin emphasized the need for a policy to
10 require random attendance in classes in Pennsylvania.
11 Chair Halloran complemented the Pennsylvania
12 Chiropractic Association (PCA) for requiring and
13 maintaining a copy of photo identification.

14 The Pennsylvania Code, Chapter 5, §5.31 -
15 Professional Advertising provisions were noted.
16 Approved Chiropractic College does not denote
17 certification through the Council on Chiropractic
18 Education (CCE) and the US Department of Education.

19 Dr. Swank commented that PACE, ICA, and ACA all
20 include colleges, which covers the CCE requirements in
21 the law. He also noted classes under pain management
22 are not affiliated with any chiropractic college.

23 Dr. Swank discussed the certifications and
24 testing available through the PACE programs, as well
25 as the American Academy of Pain Management. He

1 commended ICA and ACA for their excellent instructors
2 in their programs and affiliation with chiropractic
3 colleges. Chair Halloran suggested including ACA,
4 ICA, and any certification or diplomate courses that
5 are accredited through an accredited chiropractic
6 college.

7 Ms. Brock noted consumer protection and quality
8 of care issues. She stated this regulation would
9 touch on both, because there is a difference between
10 advertising as a specialist and practicing a
11 specialty. Chair Halloran reiterated the Board's
12 intent to ensure efficacious education.

13 Ms. Shekletski offered to email prosecutors to
14 closely investigate certifications when prosecuting a
15 chiropractor and use it as an evidentiary issue if
16 their certification was not rigorous course work.]

17 DR. SWANK:

18 I make a motion that we direct counsel
19 to draft the final annex for rulemaking
20 16A-4312 to add into the advertising of
21 specialties that we approve ICA
22 diplomate courses and certifications,
23 ACA diplomate courses and
24 certifications, and certifications or
25 diplomates from CCE-approved accredited

1 chiropractic colleges as well.

2 CHAIR HALLORAN:

3 Do I have a second on the motion to
4 direct Counsel to draft a package for
5 those?

6 DR. MCCARRIN:

7 I'll second it.

8 CHAIR HALLORAN:

9 Dr. McCarrin seconds. We're going to
10 have to take a roll call on this one.

11

12 Khoury, aye; Woods, aye; McCarrin, aye;
13 Brock, aye; Aukerman, aye; Swank, aye;
14 and Halloran, aye.

15 [The motion carried unanimously.]

16

17 Report of Board Administrator

18 [Elizabeth Wecker, Board Administrator, noted a
19 CE/waiver request for discussion in Executive
20 Session.]

21

22 [Pursuant to Section 708(a)(5) of the Sunshine Act, at
23 10:30 a.m. the Board entered into Executive Session
24 with Thomas A. Blackburn, Esquire, Board Counsel, for
25 the purpose of conducting quasi-judicial deliberations

1 and to receive advice of Counsel. The Board returned
2 to open session at 12:11 p.m.]

3 ***

4 MOTIONS

5 MR. BLACKBURN:

6 The Board was just in Executive Session.
7 While in Executive Session, the Board
8 conducted quasi-judicial deliberations
9 in the matter of Howard Richard Van
10 Nostrand, D.C., File No. 17-43-02352;
11 the matter currently on appeal of
12 Lawrence Charles Bennett, D.C. vs. the
13 State Board of Chiropractic; and also
14 concerning the request for a waiver or
15 extension of time to complete continuing
16 education of Richard H. Clark, D.C.

17 Additionally, while in Executive
18 Session, the Board received legal advice
19 from Counsel concerning the assistance
20 of unlicensed supportive personnel,
21 animal chiropractic and dry needling, as
22 well as communications to or from
23 licensees and the methodology for
24 identifying potential new members of the
25 Board for nominations.

1 With that, I understand that there
2 may be some motions.

3 CHAIR HALLORAN:

4 In regard to Howard Richard Van
5 Nostrand, D.C., Docket No. 0420-43-17,
6 File No. 17-43-02352, I would like
7 Dr. Aukerman to make a motion on the
8 final Adjudication and Order.

9 DR. AUKERMAN:

10 I'd like to make a motion on the final
11 order regarding license to practice
12 chiropractic of Howard Richard Van
13 Nostrand, D.C., Docket No. 0420-43-17,
14 File No. 17-43-02352.

15 I make a motion to approve the
16 final adjudication and order as
17 presented by Counsel.

18 DR. KHOURY:

19 I'll second that motion.

20 CHAIR HALLORAN:

21 We are going to take a roll call vote.

22
23 Khoury, aye; Woods, aye; McCarrin, aye;
24 Brock, aye; Aukerman, aye; Swank, aye;
25 and Halloran, aye.

1 [The motion carried unanimously.]

2 ***

3 CHAIR HALLORAN:

4 In the matter of Richard H. Clark, D.C.,
5 his petition for extension or waiver of
6 CE, I would like Miriam Woods to make
7 that motion.

8 MS. WOODS:

9 Concerning the request from Richard H.
10 Clark for extension or waiver of his CE,
11 I move that the Board grant him six
12 months to complete the CE as well as the
13 child abuse training.

14 DR. MCCARRIN:

15 I'll second.

16 CHAIR HALLORAN:

17 Khoury, aye; Brock, aye; Aukerman, aye;
18 Swank, aye; Halloran, aye; Woods, aye;
19 and McCarrin, aye.

20 [The motion carried unanimously.]

21 ***

22 New Business

23 [Chair Halloran noted Senate Bill 892, amending the
24 Chiropractic Practice Act for Interns signed by
25 Governor Wolf on June 28, 2018 as Act 67.]

1 Dr. Swank questioned whether malpractice for the
2 intern would be under the doctor or through the
3 college. Mr. Blackburn pointed out that the Bill
4 requires that the students be under the direct
5 immediate personal supervision of a chiropractor
6 licensed by the Board and that the Chiropractic Act
7 requires all licensees to obtain professional
8 liability insurance.

9 Mr. Blackburn noted that the Bill does not
10 require licensure for student enrollment in a
11 chiropractic education program at a chiropractic
12 college approved by the Board, provided that the
13 students are conducting chiropractic activity as part
14 of the curriculum established by the chiropractic
15 college and that the student is under the direct,
16 immediate, and personal supervision of a chiropractor
17 licensed by the Board. The Bill also states that this
18 paragraph shall not be construed to require new or
19 additional third-party reimbursement for chiropractic
20 activities performed by the student as authorized
21 under this paragraph.]

22

23 Opioid Symposium and Conference Report

24 [George E. Khoury, D.C., addressed the Council for
25 Clinical Excellence Summit regarding the opioid

1 epidemic. Dr. Khoury noted discussion regarding
2 strategies for treatment, advocacy and community
3 collaboration for clinicians, intersection of chronic
4 pain and addiction, solutions, medications for
5 treatment, client welfare, therapist responsibility,
6 and legal and ethical considerations.

7 Dr. Khoury and Dr. Aukerman requested that
8 Commissioner Harlow write directly to Dr. Levine
9 regarding the assurance that chiropractic be included
10 in all future guidelines and consider legislation to
11 enhance chiropractic access to care legislatively. It
12 was noted that Dr. Levine has been requested to meet
13 with the Board.

14 Dr. Khoury addressed the Federal Chiropractic
15 Licensing Board Meeting in Dallas, noting that the
16 Foundation for Chiropractic Progress discussed the
17 chiropractor's role in battling the opioid epidemic,
18 which is another foundation that has statistics and
19 information to integrate chiropractic into that
20 solution.

21 Dr. Khoury noted opioid conferences in Pittsburgh
22 in October 2018 and June 2019.

23 Ms. Woods requested to be Dr. Khoury's
24 replacement to the conference. Chair Halloran will
25 consider sending Dr. Aukerman and Ms. Woods to the

1 opioid conference as a public member.]

2 ***

3 Federation of Chiropractic Licensing Boards Regional
4 Conference

5 [Chair Halloran noted the Federation of Chiropractic
6 Licensing Boards Regional Conference (FCLB) September
7 14-16, 2018. Dr. Khoury will be attending as a
8 District III alternate.]

9 CHAIR HALLORAN:

10 I entertain a motion to send
11 Dr. Halloran and Dr. Aukerman to the
12 District III FCLB Meeting in September.

13 DR. KHOURY:

14 I'll be happy to make that motion.

15 MS. WOODS:

16 Second.

17 CHAIR HALLORAN:

18 We'll do a roll call vote on this.

19

20 Khoury, aye; Woods, aye; McCarrin, aye;
21 Brock, aye; Aukerman, aye; Swank, aye;
22 and Halloran, aye.

23 [The motion carried unanimously.]

24 ***

25 [Dr. Khoury again mentioned Ms. Wecker's eligibility

1 for an administrative scholarship. He also notified
2 Mr. Maloney of a Chiropractic Board Legal Advisors
3 Committee (CBLAC), noting the next phone conference on
4 September 3, 2018.

5 Dr. Khoury requested to be added to the agenda
6 for future meetings in order to communicate
7 information on developments at the federal level.]

8

9 National Board of Chiropractic Examiners Test
10 Committee

11 [Michael S. Swank, D.C., discussed his attendance and
12 observation of candidates at the National Board of
13 Chiropractic Examiners testing in Georgia.

14 Dr. Swank stated an unlimited number of Board
15 members can be submitted to attend but require
16 approval from the National Board of Chiropractic
17 Examiners for travel expenses and the hotel
18 reimbursement. He also noted a two-person limit for
19 the committee that rewrites questions or writes new
20 questions in Colorado.

21 Dr. Khoury reviewed the conflict of writing test
22 questions, as well as reviewing adjudication
23 procedures for retesting by licensees where a Board
24 member might have participated in writing the test
25 questions.

1 Mr. Blackburn discussed the provision in the
2 Administrative Code for the Board to maintain
3 professional testing organizations to develop and
4 administer the exam. He noted the professional
5 testing service was the national organization.

6 Dr. Khoury noted the importance of attendance
7 because of discussions regarding test examinations,
8 including Special Purposes Examination for
9 Chiropractic (SPEC) and Ethics and Boundaries
10 Assessment Services, LLC (EBAS), which familiarizes
11 Board members on testing.

12 Dr. Khoury will be participating in the National
13 Board of Chiropractic Examiners Test Committee on
14 August 24, 2018. He noted the National Board of
15 Chiropractic Examiners testing locations at the
16 university or college administering the exam in May
17 and November.]

18

19 Miscellaneous - Committee Assignments

20 [Chair Halloran suggested creating a committee to
21 evaluate FCLB and NBCE issues.]

22 CHAIR HALLORAN:

23 Could somebody make a motion that we
24 will create that committee to coordinate
25 FCLB and NBCE issues?

1 DR. KHOURY:

2 I make a motion to form a committee by
3 state Board members to include the
4 Federal Chiropractic Licensing Board and
5 National Chiropractic Board of
6 Examination to further enhance our Board
7 member participation.

8 CHAIR HALLORAN:

9 Do I have a second?

10 MS. WOODS:

11 Second.

12 CHAIR HALLORAN:

13 Can I have a roll call vote?

14

15 Khoury, aye; Woods, aye; McCarrin, aye;
16 Brock, aye; Aukerman, aye; Swank, aye;
17 and Halloran, aye.

18 [The motion carried unanimously.]

19

20 Committee Assignments

21 [Chair Halloran noted committee assignment changes.]

22 CHAIR HALLORAN:

23 Dr. Aukerman, Dr. Halloran, and Liz on
24 the committee. Can I get a motion for
25 that?

1 MS. BROCK:

2 I'll support the motion for those to be
3 put on the FCLB Logistics Committee.

4 CHAIR HALLORAN:

5 Do I have a second?

6 DR. MCCARRIN:

7 I'll second.

8 CHAIR HALLORAN:

9 Roll call.

10

11 Khoury, aye; Woods, aye; McCarrin, aye;
12 Brock, aye; Aukerman, aye; Swank, aye;
13 and Halloran, aye.

14 [The motion carried unanimously.]

15

16 Probable Cause Committee Members - Ms. Brock, Ms.
17 Woods, and Dr. McCarrin.

18

19 Regulations Committee Members - Dr. Halloran, Dr.
20 McCarrin, and Dr. Swank.

21

22 Continuing Education Review Committee - Dr. Swank, Dr.
23 Halloran, and Dr. Aukerman.

24

25 Public Comment Period

1 [Ted Mowatt, Chiropractic Fellowship of PA, requested
2 clarification regarding the host of the opioid
3 conference, which was the Council for Clinical
4 Excellence. It was noted Ms. Woods would replace Dr.
5 Khoury on the non-cancer opioid committee.

6 A question was raised whether fellowship would be
7 satisfactory with the decision to include ICA, ACA,
8 and chiropractic colleges in the regulations. The
9 advertising and standard care issues were reiterated.

10 Mr. Mowatt discussed the transmittal of
11 communications from the Board and reports of
12 proceedings in the public part of meetings as well.
13 He comments as appropriate on regulations and exposure
14 drafts and communicates with PCA to concur on the
15 matters.]

16 ***

17 Adjournment

18 CHAIR HALLORAN:

19 I entertain a motion to adjourn.

20 DR. KHOURY:

21 I'd like to make a motion to adjourn
22 this meeting.

23 CHAIR HALLORAN:

24 Seconded by?

25 DR. AUKERMAN:

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I'll second.

CHAIR HALLORAN:

All in favor?

[The motion carried unanimously.]

[There being no further business, the State Board of
Chiropractic Meeting adjourned at 1:15 p.m.]

CERTIFICATE

I hereby certify that the foregoing summary
minutes of the State Board of Chiropractic meeting,
was reduced to writing by me or under my supervision,
and that the minutes accurately summarize the
substance of the State Board of Chiropractic meeting.



Adam Beck,

Minute Clerk

Sargent's Court Reporting
Service, Inc.

STATE BOARD OF CHIROPRACTIC
REFERENCE INDEX
July 19, 2018

	TIME	AGENDA
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7	9:03	Official Call to Order
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9	9:03	Approval of Minutes
10		
11	9:04	Report of Prosecutorial Division
12		
13	9:05	Report of Commissioner
14		
15	9:19	Report Board Counsel
16		
17	9:22	Report of Board Chairman
18		
19	9:37	Report of Regulatory Counsel
20		
21	10:30	Executive Session
22	12:11	Return to Open Session
23		
24	12:11	Motions
25		
26	12:15	New Business
27		
28	1:03	Miscellaneous
29		
30	1:08	Public Comment Period
31		
32	1:15	Adjournment
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