

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26

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: 9:08 A.M.

PENNSYLVANIA DEPARTMENT OF STATE
Board Room B
2601 North Third Street
Harrisburg, Pennsylvania 17109

September 19, 2019

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36
37
38
39
40
41
42
43
44
45
46
47
48
49
50

State Board of Chiropractic
September 19, 2019

BOARD MEMBERS:

- Joseph Gerard Halloran, D.C., Chair
- K. Kalonji Johnson, Commissioner Bureau of Professional and Occupational Affairs - Absent
- John E. McCarrin, D.C., Secretary - Absent
- William D. Aukerman, D.C.
- Michael S. Swank, D.C.
- Nicole N. Brock, Deputy Attorney General, Consumer Protection
- Miriam Merry Woods, Public Member

BUREAU PERSONNEL:

- Kenneth J. Suter, Esquire, Board Counsel
- Paul J. Jarabeck, Esquire, Senior Prosecutor in Charge
- David N. Smith, Esquire, Board Prosecutor
- Michelle Roberts, Acting Board Administrator

ALSO PRESENT:

- Peter M. Good, Esquire, Caldwell & Kearns, P.C.
- Ted Mowatt, Wanner Associates, on behalf of the Chiropractic Fellowship of Pennsylvania
- Edward L. Nielsen, MHS, Executive Vice President, Pennsylvania Chiropractic Association

1 ***

2 State Board of Chiropractic

3 September 19, 2019

4 ***

5 The regularly scheduled meeting of the State Board
6 of Chiropractic was held on Thursday, September 19,
7 2019.

8 ***

9 Official Call to Order

10 [J. Gerard Halloran, D.C., Chair, called the meeting
11 to order at 9:08 a.m.]

12 ***

13 Approval of Minutes of July 19, 2019.

14 CHAIR HALLORAN:

15 Has everyone had a chance to look over
16 the minutes? Is there any corrections?
17 I did not find any either, so could I
18 entertain a motion from someone to
19 approve the minutes?

20 MS. BROCK:

21 Nikole Brock will make a motion to
22 approve the minutes.

23 CHAIR HALLORAN:

24 Nikole Brock makes a motion to approve
25 the minutes. Do I have a second?

1 MS. WOODS.

2 I second.

3 CHAIR HALLORAN:

4 Miriam Woods for a second.

5 All in favor say - voice vote. Okay.

6 The motion is carried.

7 [The motion carried unanimously.]

8 ***

9 [Nikole Brock exited the meeting at 9:10 a.m. and
10 reentered at 9:12 a.m.]

11 ***

12 Report of Board Prosecutor

13 [David N. Smith, Esquire, Board Prosecutor, presented
14 the Consent Agreement for File No. 18-43-006214.]

15 ***

16 Report of Commissioner - No Report

17 ***

18 Report of Board Counsel

19 [Kenneth J. Suter, Esquire, Board Counsel, noted that
20 Item Nos. 3 and 4 would be discussed in Executive
21 Session.]

22 ***

23 Letter from Veterinary Board

24 [Chair Halloran discussed recent correspondence with
25 the Veterinary Board regarding animal chiropractic

1 procedures. He noted Pennsylvania veterinary law
2 requires direct supervision by a veterinarian. Chair
3 Halloran noted the Veterinary Board did not feel a
4 joint conference was necessary, as animal chiropractic
5 is already included in the veterinary law.

6 Mr. Suter provided excerpts of the Veterinary
7 Medicine Practice Act for review. The excerpts
8 include the definitions of veterinary medicine,
9 practice of veterinary medicine, and direct veterinary
10 supervision. He also presented a regulation regarding
11 professional relationships.

12 Chair Halloran noted some chiropractors have
13 voiced concerns related to a veterinarian supervising
14 a practice of which the veterinarian does not have
15 training. He explained that intent of the
16 veterinarian law in Pennsylvania is to provide
17 supervisory powers so that animal chiropractic can be
18 performed and the veterinarian is ultimately
19 responsible for the welfare of the animal.]

20 ***

21 Correspondence

22 [Mr. Suter discussed correspondence from Dr. Rachel
23 Levine in response to the Chairman's letter to
24 encourage the use of chiropractic as an alternative to
25 opioids.]

1 ***

2 [Chair Halloran discussed an upcoming teleconference
3 for the Federation of Chiropractic Licensing Boards
4 (FCLB). He noted the topics included changes to the
5 Arizona law and Act 41. He suggested Mr. Suter
6 register for the teleconference.]

7 ***

8 Report of Board Chair

9 [J. Gerard Halloran, D.C., Chairman, read his
10 Pennsylvania Chiropractic State Board Chairman Report
11 into the record as follows:

12 1. A year ago our Board passed a rate increase for
13 Chiropractic licenses and renewal of chiropractic
14 licenses so that we could keep up with anticipated
15 board needs. This rate increase was paused pending
16 further review. We have had our financial people for
17 the state visit us on this issue and we were to get a
18 definitive report on whether or not a rate increase in
19 the fees for Chiropractic licenses were warranted or
20 not. I would like to get our accounting office for
21 the Board invited back to our next meeting to discuss
22 the possible need for any rate increases and what they
23 project our financial needs to be for the next three
24 years. (Mr. Suter noted that fee increases are on
25 graduated levels.)

1 2. We have received a letter back from the
2 Pennsylvania State Board of Veterinary Medicine
3 concerning veterinarian use of trained animal
4 chiropractors. We will be discussing this letter at
5 our Board meeting. I want to warn chiropractors that
6 provisions in the veterinary law allow professional
7 contact between chiropractors and veterinarians, but
8 the veterinarian Pennsylvania state law is explicit in
9 that the animal chiropractor must be directly
10 supervised by having a veterinarian present during
11 procedures. That means that chiropractors practicing
12 on animals must do so in conjunction with veterinary
13 care. If you advertise and perform solo animal
14 chiropractic, you may be putting yourself in jeopardy
15 with the State Board of Veterinary Medicine.

16 3. I have received a lot of information about
17 preceptorships for chiropractic students in
18 Pennsylvania chiropractic offices. Ken Suter has
19 provided us the basic law amendment that allowed
20 preceptorships at the last meeting. I reported
21 extensively on this at the last meeting, but for
22 clarity, the basic rules as follows:

23 a. The Doctor of Chiropractic must go through some
24 certification process with the Chiropractic College or
25 university, usually including Curriculum Vitae,

1 transcripts from your chiropractic college or
2 university, usually a criminal background check and
3 possibly a phone interview.

4 b. The Doctor of Chiropractic must give the
5 chiropractic student a minimum of 20 supervised hours
6 a week.

7 c. As a preceptor you are required to evaluate the
8 chiropractic student's progress.

9 d. Most chiropractic colleges and universities are
10 SARA, State Authorization Reciprocity Agreement,
11 approved and therefore you, the chiropractor, do not
12 have to report your preceptorship to the Pennsylvania
13 Department of Education. (Chair Halloran noted this
14 issue was cleared up after the last Board meeting.)

15 e. Chiropractors must report to their malpractice
16 carriers that they have a Preceptorship Student with
17 minimum malpractice liability limits of \$1,000,000 to
18 \$3,000,000. Some chiropractic colleges and
19 universities add you as the preceptor to their
20 malpractice plan along with the preceptorship student.

21 f. The preceptorship is not a job interview. The
22 student must be returned to his or her program until
23 they graduate, get NBCE certification. You may hire
24 them after they have fully graduated, are NBCE
25 certified and have a Pennsylvania chiropractic

1 license.

2 The Pennsylvania State Board will decide what
3 regulations should be posted in the future about
4 preceptorships. Until then, a chiropractor must work
5 closely with their Chiropractic College or university
6 in order to stay compliant in their preceptorship
7 program.

8 4. Due to Pennsylvania State regulations, sitting
9 State Board members cannot participate directly in the
10 National Board of Chiropractic Examiners examination
11 process. I am sending Dr. Kathleen McConnell, a
12 former state Board Chair, to be our representative for
13 this process.

14 5. The Federation of FCLB District III meeting is in
15 Jersey City, New Jersey, from October 3 to October 6,
16 2019. I will not be able to attend due to prior
17 commitments. Fortunately our state will be
18 represented by Dr. George Khoury, former Board Chair,
19 who is the new District III director. Dr. Aukerman
20 may still be able to attend, pending approval as
21 alternate voting delegate if his schedule permits it.
22 I will ask Kenneth Suter to participate in the FCLB
23 legal counsel, CBLAC, conference call on November 1,
24 2019.

25 We will ask Dr. Khoury to and Dr. Aukerman to

1 discuss the following subjects at the Federation of
2 Chiropractic Board's District III meeting:

3 a. What are the other states' positions on selling
4 CBD oil out of a chiropractor's office?

5 b. Should all chiropractors have criminal background
6 check during each license renewal?

7 c. How do other states regulate multidiscipline
8 practices?

9 d. How can chiropractors best become involved with
10 stem cell practices, weight loss practices and Cool
11 Sculpting practices?

12 e. What are the other states' positions on animal
13 chiropractic practices?

14 f. What are the others states; position on formal
15 training of chiropractic personnel?

16 6. Dr. Rachel Levine sent our chiropractic Board a
17 letter in which she congratulates our efforts as a
18 chiropractic community in the war against opioid
19 abuse. She will certainly visit our Board in the
20 future to discuss joint efforts in the opioid crisis.

21 (Chair Halloran noted that Dr. Levine welcomes any
22 efforts from any medical organization to help with
23 this crisis.)

24 7. Please check your State Board e-mail. You need to
25 call the help desk at 1-717-783-1087. Tell the help

1 desk that you are on the Pennsylvania State Board and
2 you need to reset your password. This needs to be
3 done every 90 days. (Mr. Suter noted some Board
4 members have been kicked out of the system. He stated
5 that the Board is required to communicate with members
6 through the state e-mail system. Ms. Roberts noted
7 the IT issues with the system are being addressed.)

8 Please remember to call ADTRAV at 1-866-530-8899
9 to get your state-approved reservations for hotel or
10 rentals for the meeting. Please use the Pennsylvania
11 tax exemption certificate every time you check in to a
12 hotel the night before our Chiropractic Board meeting.
13 (Chair Halloran stressed that the tax exemption
14 certificate needs to be presented when checking in.
15 He noted that attendees should check the next day to
16 ensure the state tax exemption is honored.)

17 8. I will ask Kenneth Suter, our Board Counsel to
18 explain what we did as a Board to comply with Act 41
19 and the procedures are. The Federation of
20 Chiropractic Licensing Boards legal committees meeting
21 will discuss this new law in Pennsylvania during their
22 CBLAC conference call at 11:00 a.m. Mountain time,
23 9:00 a.m. our time on November 1, 2019. Hopefully Mr.
24 Suter can participate in the call and be a resource
25 for any questions that CBLAC attorneys have concerning

1 Act 41.]

2 ***

3 Report of Board Administrator - No report

4 ***

5 Old Business - None

6 ***

7 Miscellaneous

8 [There was discussion regarding formal approval of
9 2020 meeting dates.]

10 ***

11 [The Board recessed from 9:43 a.m. until 9:50 a.m.]

12 ***

13 New Business

14 CHAIR HALLORAN:

15 I would like to make a motion that Dr.
16 Aukerman be granted travel approval go to
17 the FCLB District III meeting October 3rd
18 through October 6th, understanding that
19 we have an out-of-state travel situation
20 here and it may take some time. But we
21 do want to make that motion that he go
22 and attend that meeting if he can.

23 Do I have a second on that?

24 DR. SWANK:

25 Second.

1 CHAIR HALLORAN:

2 Dr. Swank seconds that. All in favor
3 voice vote.

4 [The motion passed unanimously.]

5 ***

6 Board Meeting Dates

7 [Chair Halloran confirmed the Board meeting dates for
8 2020 had been formally approved.]

9 ***

10 Miscellaneous

11 [Chair Halloran provided an overview of animal
12 chiropractic practice in other states. He noted 23
13 states mention direct access of an animal
14 chiropractor, and 7 states mention holistic
15 procedures, which include chiropractic.]

16 ***

17 Act 41

18 [Mr. Suter outlined the provisions of Act 41. He
19 explained that a provisional license may be issued by
20 a board if an individual has practiced in another
21 jurisdiction and meets the requirements of
22 Pennsylvania. He noted that the provisional licenses
23 will be good for a year.

24 Mr. Suter addressed the need for quick
25 implementation of the Act and that Chair Halloran has

1 been the sole member of the committee to implement Act
2 41. He noted other Board members may join the
3 committee to set Board regulations.

4 Mr. Suter explained the licensure by endorsement
5 provision of the Act. He noted the provision applied
6 to an individual who has a license or registration in
7 another state, territory, or country. He listed the
8 conditions that must apply: The jurisdiction's
9 requirements are substantially equivalent to or exceed
10 Pennsylvania requirements; and the applicant
11 demonstrates competency, including having completed
12 continuing education or having experience for at least
13 two of the five years preceding the application.

14 There was discussion regarding the applicant's
15 responsibility to provide licensure provisions in
16 their jurisdiction.

17 Mr. Suter presented the additional conditions:
18 The applicant has not committed any act that would
19 disqualify them for licensure; be in good standing in
20 their profession; has not been disciplined in their
21 jurisdiction; and pay the necessary fees.

22 Chair Halloran questioned how to rectify Act 41
23 with state law regarding accreditation. It was
24 clarified, if there was a conflict, Act 41 would
25 prevail, since it was passed later in time.

1 There was discussion of the term substantially
2 equivalent. Mr. Suter stressed substantially
3 equivalent deals with the jurisdiction and their
4 current requirements.

5 He noted the Board needs to determine competency
6 criteria; either continuing education or experience,
7 meaning an individual has practiced for at least of
8 two of the five years preceding their application.

9 Mr. Suter explained the process of license by
10 endorsement. He noted the committee can decide to
11 grant a license, but if a provisional denial is
12 issued, the matter must go before the Board.

13 Mr. Suter commented the Board must have
14 regulations within 18 months. Members wanting to be a
15 member of the regulations committee may still
16 participate in discussions going forward.

17 He noted the committee recommended determining
18 competency based on experience and having passed
19 scores on parts 1 through 4 of the National Board
20 examination or the Special Purposes Exam for
21 Chiropractic (SPEC).

22 Mr. Suter provided a form to Board members to aid
23 in developing the regulation.

24 There was a question about whether the provisional
25 license was related to sports teams and temporary

1 licenses. Mr. Suter clarified the provisional license
2 is to allow applicants to complete the necessary
3 criteria to obtain a full license.

4 There was discussion regarding dissemination of
5 information about Act 41. It was noted that press
6 releases had been distributed and the Governor's
7 Office was also sending out information.

8 Board members commented that the Act will open up
9 opportunities for professionals from a number of
10 countries.

11 Chair Halloran asked if the Board wanted to keep
12 him solely on the committee or whether any other
13 members wanted to join him. Dr. Swank offered to
14 serve on the committee.]

15 ***

16 CHAIR HALLORAN:

17 I'll make a motion that the committee for
18 licensure by endorsement will be composed
19 of Dr. Halloran, Board Chair, and Dr.
20 Michael Swank. And so I'm making a
21 motion that we accept those two Board
22 members on this committee.

23 So can I have a second?

24 MS. WOODS:

25 Woods, second.

1 CHAIR HALLORAN:

2 Woods, second. Voice vote.

3

4 Michael S. Swank, aye; William D.

5 Aukerman, aye; Nikole Brock, aye; Miriam

6 Merry Woods, aye; and J. Gerard Halloran,

7 aye.

8 [The motion passed unanimously.]

9

10 [Ms. Roberts noted in discussions with two other

11 boards to set a minimum number of hours for the two

12 years of experience. She mentioned other boards have

13 set a minimum of 500 hours.

14 There was discussion related to defining the hours

15 of experience in order to include professional engaged

16 in academic work and lecturing, who have fewer hours

17 of direct patient contact.]

18

19 CHAIR HALLORAN:

20 I want to make a motion that what we had

21 discussed in the proposed license by

22 endorsement, Section (2) that we keep

23 Section (i), with the addition of 500

24 hours a week per year practice, education

25 or research; and we keep section (iii),

1 achieve a passing score of board-
2 approved/commission approved skills
3 examination; that we keep (3), has not
4 committed any act prohibited by the
5 Chiropractic Practice Act or has not been
6 disciplined by the jurisdiction that they
7 are currently in who has issued their
8 license and certification and proof of
9 compliance with all other administrative
10 requirements. So that is what I'm
11 proposing in this proposal right now.
12 I've made that motion. Does anybody
13 second that motion?

14 DR. SWANK:

15 Swank, second.

16 CHAIR HALLORAN:

17 Dr. Swank has seconded that motion.
18 We're going to need a voice vote for
19 this.

20
21 Michael S. Swank, aye; William D.
22 Aukerman, aye; Nikole Brock, aye; Miriam
23 Merry Woods, aye; and J. Gerard Halloran,
24 aye.

25 [The motion carried unanimously.]

1 ***

2 Public Comment Period

3 [Ed Nielsen, M.H.S., Executive Vice President,
4 Pennsylvania Chiropractic Association, offered the
5 Association's assistance in distributing information
6 on college preceptorships.

7 He affirmed PCA's position in favor of restoring
8 the right of DCs to delegate to unlicensed personnel.
9 He noted that legislation, Senate Bill 592 and HB 517,
10 was being stalled. He said, if the legislation does
11 not go through, the Board may have to consider the
12 concept of certified chiropractic assistants.

13 Chair Halloran noted the Chiropractic law protects
14 the right of chiropractors to delegate care. He
15 expressed a concern with opening up the law for
16 exposure. Mr. Halloran further noted that there would
17 be a significant cost to certify a CA and suggested
18 PCA conduct a cost analysis.]

19 ***

20 [The Board recessed from 11:11 a.m. until 11:16 a.m.]

21 ***

22 [Pursuant to Section 708(a)(5) of the Sunshine Act, at
23 11:16 a.m. the Board entered into Executive Session
24 with Kenneth J. Suter, Esquire, for the purpose of
25 conducting quasi-judicial deliberations. The Board

1 returned to open session at 12:22 p.m.]

2 ***

3 MOTIONS:

4 MR. SUTER:

5 The purpose of the Executive session was
6 to discuss Item Nos. 2, 3 and 4 on the
7 agenda. Item 2 is File No. 18-43-006214.
8 Item 3 is a Proposed Adjudication and
9 Order in File No. 17-43-06843. And Item
10 4 is a Motion to Enter Default and Deem
11 Facts Admitted for File No. 18-43-03862.
12 And I understand as a result of Executive
13 Session discussions, there will be some
14 motions forthcoming.

15 ***

16 CHAIR HALLORAN:

17 We're going to go now to File No. 18-43-
18 006214. Dr. Swank?

19 DR. SWANK:

20 Dr. Swank would like to make a motion
21 that we accept the Consent Agreement and
22 Order on File No. 18-43-006214.

23 CHAIR HALLORAN:

24 Second?

25 DR. AUKERMAN:

1 Dr. Aukerman. I second File No. 18-43-
2 006214.

3 CHAIR HALLORAN:

4 So the motion has been seconded. Can I
5 have a voice vote on that, starting with
6 Dr. Swank?

7
8 Michael S. Swank, aye; William D.
9 Aukerman, aye; Nikole Brock, abstain;
10 Miriam Merry Woods, aye; and J. Gerard
11 Halloran, aye.

12 [The motion carried. Ms. Brock abstained from voting
13 on the motion. The Respondent's name is Brian Michael
14 Feeney, D.C.]

15 ***

16 CHAIR HALLORAN:

17 The next one is File No. 17-43-06843.
18 And I'd like to make a motion to adopt
19 the Adjudication and Order, but with the
20 following change: I make the motion that
21 we do not suspend and we change the
22 suspension in the Adjudication and Order
23 to two years probation. Can I have a
24 second on that?

25 MS. WOODS:

1 Woods, second.

2 CHAIR HALLORAN:

3 Woods seconded that. Can I have a voice
4 vote, starting with Dr. Swank?

5

6 Michael S. Swank, aye; William D.
7 Aukerman, aye; Nikole Brock, aye; Miriam
8 Merry Woods, aye; and J. Gerard Halloran,
9 aye.

10 [The motion carried unanimously. The Respondent's
11 name is Robert C. McGrath, Jr., D.C.]

12

13 CHAIR HALLORAN:

14 Now we're on File No. 18-43-03862. And I
15 want to make a motion to grant a Motion
16 to Deem Facts Admitted in this case.
17 Could I have a second on that?

18 DR. SWANK:

19 Dr. Swank, second.

20 CHAIR HALLORAN:

21 Dr. Swank second. Could we do a voice
22 vote, starting with Dr. Swank?

23

24 Michael S. Swank, aye; William D.
25 Aukerman, abstain; Nikole Brock, aye;

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26

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.



Bridget Hockenbroch,
Minute Clerk
Sargent's Court Reporting
Service, Inc.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36
37
38
39
40
41
42
43
44
45
46
47
48
49
50

STATE BOARD OF CHIROPRACTIC
REFERENCE INDEX
September 19, 2019

TIME	AGENDA
9:08	Official Call to Order
9:09	Adoption of Minutes
9:10	Report of Prosecutorial Division
9:12	Report Of Board Counsel
9:26	Report of Board Chair
9:43	Recess
9:50	Return to Open Session
11:02	Public Comment
11:11	Recess
11:16	Return to Open Session
11:16	Executive Session
12:22	Return to Open Session
12:22	Motions
12:29	Adjournment