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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: 9:14 A.M.

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

January 17, 2019

State Board of Chiropractic
January 17, 2019

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BOARD MEMBERS:

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

BUREAU PERSONNEL:

- Kerry E. Maloney, Esquire, Board Counsel
- Paul J. Jarabeck, Esquire, Senior Prosecutor in Charge
- Kimberly A. Adams, Esquire, Board Prosecution Liaison
- David Smith, Esquire, Board Prosecutor
- Elizabeth Wecker, Board Administrator

ALSO PRESENT:

- Ted Mowatt, Chiropractic Fellowship of Pennsylvania
- Edward L. Nielsen, MHS, Executive Vice President, Pennsylvania Chiropractic Association

1 ***

2 State Board of Chiropractic

3 January 17, 2019

4 ***

5 The regularly scheduled meeting of the State
6 Board of Chiropractic was held on Thursday, January
7 17, 2019.

8 ***

9 Official Call to Order

10 [J. Gerard Halloran, D.C., Chair, called the meeting
11 to order at 9:14 a.m.]

12 ***

13 Approval of Minutes of the November 8, 2018 meeting

14 CHAIR HALLORAN:

15 I would like to review the draft minutes
16 of November 8, 2018. Has everyone had a
17 chance to do so?

18 Are there any changes that you
19 would like to do?

20 [The Board discussed corrections to the minutes.]

21 CHAIR HALLORAN:

22 Are there any other changes that Board
23 members need to note?

24 Could I have a motion to accept the
25 Board minutes as corrected?

1 MS. BROCK:

2 Yes.

3 CHAIR HALLORAN:

4 Nikole Brock. Is there a second?

5 MS. WOODS:

6 Second.

7 CHAIR HALLORAN:

8 Merry Woods, second. All in favor, say
9 aye. Thank you. The Board minutes have
10 been approved.

11 [The motion carried unanimously.]

12 ***

13 Report of Board Prosecutor

14 [Kimberly A. Adams, Esquire, Board Prosecutor,
15 presented the Consent Agreement for File No. 18-43-
16 008427.

17 Paul J. Jarabeck, Esquire, Senior Prosecuting
18 Attorney, informed the Board that he will be attending
19 meetings regularly, but Kim Adams will be listed as
20 liaison.]

21 ***

22 Report of Commissioner - No Report

23 ***

24 Report of Board Counsel

25 [Kerry E. Maloney, Esquire, Board Counsel, stated only

1 a few comments were received on the exposure draft for
2 the delegation regulation. He may send it out again
3 for more comments or bring it back to the Board before
4 moving it forward. He also noted a hearing scheduled
5 for later in the meeting.

6 Mr. Maloney announced this to be his last Board
7 meeting. Mr. Suter will be taking over as Board
8 Counsel. He will see the delegation regulation and
9 Bennett case through and provided an update on the
10 Bennett case.

11 Mr. Maloney stated that animal chiropractic
12 regulation will be discussed during Executive Session.
13 The Board may then decide to continue the discussion
14 in open session or at the next Board meeting.

15 Chair Halloran noted the Board's enjoyment with
16 working with Mr. Maloney.]

17 ***

18 Report of Board Chairman

19 [J. Gerard Halloran, D.C., Chair, welcomed the
20 Pennsylvania State Board of Chiropractic for 2019.
21 Chair Halloran reviewed the process for updating
22 passwords every 60 days to access state Board emails.

23 Chair Halloran advised using Adventure Travel
24 (ADTRAV) for state travel arrangements and reminded
25 Board members to use their Pennsylvania Tax Exemption

1 Certificate when checking into a hotel, noting the
2 importance of documentation on the Travel Expense
3 Reports.

4 Chair Halloran thanked Dr. Aukerman, Ms. Woods,
5 and Dr. Khoury, who is no longer with the Board, for
6 their travel to opioid conferences.

7 Chair Halloran and Dr. Khoury have been active in
8 traveling to the Federation of Chiropractic Licensing
9 Boards Meetings to discuss issues and discover
10 procedures to help with the regulations of the
11 chiropractic practice.

12 Dr. Swank traveled to the American Veterinary
13 Chiropractic Association Convention to discover how
14 other states are helping veterinarians and
15 chiropractors working together on the subject of
16 animal chiropractic.

17 Dr. Swank advised chiropractors who are
18 interested in this area of practice to remain patient.
19 He also commented that regulations take time and
20 cautioned against exposing oneself to unnecessary
21 legal problems with letters, advertisements, or
22 testimonials that become part of the public record.

23 Chair Halloran commented that the Pennsylvania
24 Chiropractic Association Counsel cautioned all
25 chiropractors, noting that they cannot legally

1 delegate therapeutic exercise in their office to
2 nonlicensed personnel. Chair Halloran stated the
3 Pennsylvania Chiropractic Association (PCA) did an
4 interesting survey on the subject, where a significant
5 number of chiropractors had routinely delegated
6 exercises to their personnel before the Superior Court
7 ruling.

8 Chair Halloran noted the need to develop a way to
9 work with the National Board of Chiropractic Examiners
10 so that current Board members can attend their Board
11 meetings. Chair Halloran contacted the NBCE to
12 investigate legally sending Board members in the
13 future and will keep the Board informed on this issue.

14 Chair Halloran stated Dr. Khoury will represent
15 the Board at the March NBCE Meeting and may have to
16 represent the Board at the May meeting as well.

17 Chair Halloran commented that the only NBCE
18 meetings the Board can attend are the joint meetings
19 and asked the Board to approve his travel expenses to
20 the Federation of Chiropractic Licensing Boards/
21 National Board of Chiropractic Examiners Annual
22 Meeting, May 1-5, 2019, in Mission Bay, CA. Chair
23 Halloran would be the voting delegate at the annual
24 meeting representing Pennsylvania.]

25

1 [A Formal Hearing was held from 9:33 a.m. until
2 10:52 a.m. in the matter of the Commonwealth of
3 Pennsylvania Bureau of Professional and Occupational
4 Affairs vs. John R. Vira, File No. 17-43-12601.]

5 ***

6 Report of Regulatory Counsel
7 [Kerry E. Maloney, Esquire, Regulatory Counsel,
8 addressed dry needling and its relation to the
9 definition of acupuncture in Pennsylvania. He
10 commented on the differences from other states
11 regarding providing an alternative to opioids to
12 patients as pain management. He noted a prior meeting
13 with the former deputy commissioner and Board Chairs
14 and would like to continue with the delegation
15 regulation, needing the Commissioner's Office on this
16 issue.

17 Mr. Maloney is now Counsel to the State Board of
18 Medicine and Osteopathic Medicine and will be able to
19 provide additional input on the issue.

20 Mr. Maloney discussed CE certification hours,
21 noting 300 hours for MDs and DOs and 2400 for a person
22 without medical training. He made the argument at the
23 meeting that with the amount of education, training,
24 and focus chiropractors have on anatomy and the
25 nervous system as it relates to pain and traveling of

1 pain that 300 hours would be sufficient.

2 Mr. Maloney also mentioned the possibility of a
3 sublicensure class authorization, like an adjunctive
4 procedures certificate to provide the Board the
5 ability to regulate. He noted discussion at the
6 meeting arguing that dry needling was acupuncture and
7 the general definition of acupuncture, likely included
8 dry needling.

9 Dr. Swank stated chiropractic colleges are
10 teaching students acupuncture, where they receive an
11 acupuncture licenses that may be applied in the state
12 where the college resides.

13 Mr. Maloney explained that it is two separate
14 licenses and authorizations to do two sets of
15 procedures. He stated now is the time to act, whether
16 the legislature needs to amend the Chiropractic Act or
17 change the Medical Board's regulations.]

18 ***

19 Report of Board Administrator

20 [Elizabeth Wecker, Board Administrator, noted the
21 Application for Certification to Use Adjunctive
22 Procedures for discussion during Executive Session.]

23 ***

24 Old Business

25 [Elizabeth Wecker, Board Administrator, addressed the

1 mandated Child Abuse Recognition and Reporting
2 Continuing Education under Act 31 of 2014. Ms. Wecker
3 reviewed Act 31 initial and renewal child abuse
4 requirements.]

5

6 New Business

7 [Michael S. Swank, D.C., addressed his attendance at
8 the American Veterinary Chiropractic Association
9 Conference in Dallas in November. Dr. Swank provided
10 a report and discussed training through specialty
11 classes, didactic class time, and hands-on adjusting.

12 Chair Halloran questioned how many states now
13 have some version of a chiropractic law that
14 chiropractors can treat animals.

15 Dr. Swank referred to Oklahoma law, where a
16 chiropractor has taken 200 hours of CE credits, passed
17 the examination, are able to adjust animals
18 accurately, and maintain CE. He stated that Colorado
19 has one in the process of being passed and Ohio has
20 one, but most states do not have anything on the
21 record.

22 Dr. Swank commented that veterinarians are upset
23 with their profession for not permitting chiropractors
24 the ability to perform this in some states. He noted
25 a list of chiropractors and veterinarians who are

1 within the state of Pennsylvania who have taken these
2 classes and are certified.

3 Mr. Maloney questioned whether any states require
4 some sort of consultation or referral with the
5 veterinarian.

6 Dr. Swank referred to the Colorado law, where
7 there must be a referral note of some kind from a
8 veterinary doctor for the chiropractor or the
9 veterinary doctor, explaining that veterinarians can
10 do their own but have to have something in the record
11 stating why they are doing it.

12 Dr. Swank stated that this became a problem in
13 Colorado, where most veterinarians are not trained on
14 the reasons for adjustment, and the veterinary
15 profession wants referral status as well, which seems
16 to be the holdup.

17 Dr. Swank commented that the testing Board is
18 separate from the organization, where they have their
19 own bylaws and write their own test and do not
20 intermix because it is a growing organization.

21 Chair Halloran thanked Dr. Swank for his hard
22 work, noting the possibility of having a separate
23 committee on that issue.

24 Mr. Maloney addressed the gift ban, suggesting
25 the Board vote on the record to send Board members to

1 conferences because it will already be authorized if
2 the gift ban changes.

3 Chair Halloran requested someone attend the NBCE
4 Annual/FCLB Annual Conference May 1-5, 2019, in
5 Mission Bay, CA. Chair Halloran will be the voting
6 member with Dr. Khoury leaving the Board. He
7 commented that Dr. Khoury was involved with FCLB,
8 moving up to higher leadership with them, and will be
9 there on his own.]

10 CHAIR HALLORAN:

11 I would like somebody to make a motion
12 that Dr. Halloran and Dr. Aukerman
13 attend the Federation Chiropractic
14 Licensing Boards and National Board of
15 Chiropractic Examiners combined annual
16 meeting in Mission Bay, CA, May 1-5,
17 2019.

18 DR. SWANK:

19 I make a motion that Dr. Halloran and
20 Dr. Aukerman go to the Federation of
21 Chiropractic Licensing Boards and
22 National Board of Chiropractic Examiners
23 Annual Convention in Mission Bay, CA,
24 May 1-5.

25 DR. MCCARRIN:

1 I'll second.

2 CHAIR HALLORAN:

3 Seconded by Dr. McCarrin. All in favor,
4 say aye?

5 [The motion carried unanimously.]

6 ***

7 New Business - NBCE Part IV Exam & Test

8 Committee Schedule for 2019

9 [J. Gerard Halloran, D.C., Chair, addressed NBCE
10 Meetings, noting that the Board does not mesh with
11 their separate meetings rules. Chair Halloran stated
12 that the Board needs to convince the NBCE to find a
13 way through this, so the state will pay our way but
14 they will not assist on reimbursing the Board. He
15 asked NBCE to accept Dr. Khoury and possibly Dr.
16 McConnell if they have room for her.

17 Chair Halloran noted that Dr. Khoury will
18 represent the Board at several NBCE meetings this
19 year. He was hopeful that the Board will be able to
20 send a Board member in March and to the June meetings
21 in Greeley, Colorado.

22 Ms. Woods addressed her attendance last month at
23 the National Conference on Alcohol & Addiction in
24 Baltimore. She noted confusion with the distinction
25 between opioids and stimulants and frustration for the

1 people treating them because they cannot get the
2 doctors to be on their side. She also noted no
3 resources for minors in Maryland.

4 Ms. Woods noted the difficulty of introducing
5 prevention and treatment for chiropractic when their
6 topic was so clearly defined. She stated that she
7 would like to attend seminars regarding prevention,
8 treatment, and public health.

9 Chair Halloran suggested focusing on the opioid
10 conference in April.

11 Mr. Maloney commented that there may be pushback
12 from the administrative offices because chiropractors
13 do not prescribe opioids and recommended noting that
14 chiropractors treat patients for pain who are often
15 using pain medications, opioids, or anything else in
16 addition to seeking chiropractic treatment.

17 Ms. Woods suggested creating a partnership,
18 chiropractors with athletic directors, due to the
19 percentage of chiropractors that are athletic
20 directors because a lot of teenagers receive sports
21 injuries.]

22 ***

23 Miscellaneous

24 [J. Gerard Halloran, D.C., Chair, noted 2019 Board
25 meeting dates. Chair Halloran also noted proposed

1 2020 Board meeting dates.]

2 ***

3 DR. AUKERMAN:

4 I'll make a motion to approve these
5 Board meeting dates for 2020 as
6 proposed.

7 CHAIR HALLORAN:

8 Do I have a second?

9 MS. BROCK:

10 I second that motion.

11 CHAIR HALLORAN:

12 All in favor, say aye?

13 [The motion carried unanimously.]

14 ***

15 [The Board recessed from 10:42 a.m. until 10:52 a.m.]

16 ***

17 Miscellaneous (Continued) - Committee Assignments

18 [J. Gerard Halloran, D.C., Chair, noted Ms. Brock as
19 the Probable Cause Screening Committee contact and
20 Ms. Woods as the alternate. Chair Halloran noted no
21 changes to the Regulations Committee. He noted the
22 Board to be clear on the Opioid Committee, waiting for
23 contact from a state standpoint. He mentioned the
24 Master Committee, noting his impression from
25 Commissioner Harlow to be that it was too massive of a

1 committee to be effective and was unwieldy with all
2 the different groups on it.

3 Chair Halloran discussed the Newsletter Committee
4 and will start working with Dr. McCarrin and
5 Ms. Woods, stating that he would like to have
6 newsletters online and will obtain approval from
7 Counsel and Commissioner Harlow before putting it on
8 the site.

9 Chair Halloran noted that the Continuing
10 Education Review Committee was good.

11 Dr. Swank addressed graduates from schools
12 outside of the United States, non-Council on
13 Chiropractic Education (CCE). He questioned whether
14 colleges from Canada that come to our state to do CE
15 can be approved since we do not take their CE. He
16 noted reviewing regulations where it only states
17 Board-approved colleges for CE and does not state CCE
18 requirements. He noted that he approved two of those
19 for Canadian Memorial Chiropractic College.

20 Dr. Swank reviewed regulations under CE credits
21 and what is needed, noting that it just stated Board-
22 approved chiropractic colleges and did not
23 specifically say CCE.

24 Mr. Maloney commented that this was the right
25 distinction between CE provider and an applicant who

1 went to a Canadian chiropractic college.

2 Mr. Maloney questioned whether the University of
3 Pittsburgh School of Medicine College of Chiropractic
4 was anywhere near opening.

5 Mr. Nielsen stated that it was not near opening,
6 and Mike Schneider keeps him briefed on what is going
7 on. He stated that Dr. Levine, who was the Dean of
8 the University of Pittsburgh School of Medicine, was
9 no longer there. He commented that he was waiting for
10 things to settle down to see if he could get support
11 of the dean and a calendar for presentation.]

12 DR. MCCARRIN:

13 I'll make a motion to approve the
14 committee list.

15 CHAIR HALLORAN:

16 Dr. McCarrin has made a motion to
17 approve the committee list. Second?

18 MS. WOODS:

19 Second.

20 CHAIR HALLORAN:

21 Woods, second. All in favor?

22 [The motion carried unanimously.]

23 ***

24 Review of Applications - No Report

25 ***

1 [Pursuant to Section 708(a)(5) of the Sunshine Act, at
2 11:02 a.m. the Board entered into Executive Session
3 with Kerry E. Maloney, Esquire, Board Counsel, for
4 receipt of legal advice and the purpose of conducting
5 quasi-judicial deliberations. The Board returned to
6 open session at 12:16 p.m.]

7 ***

8 MOTIONS

9 CHAIR HALLORAN:

10 We were in executive session to receive
11 legal advice and conduct quasi-judicial
12 discussion and deliberations.

13 The first order of business is the
14 report of Board prosecutor, File No. 18-
15 43-008427, Commonwealth of Pennsylvania
16 Bureau of Professional and Occupational
17 Affairs vs. Patrick Trent Ryan, D.C.

18 MS. BROCK:

19 I make a motion to approve the Consent
20 Agreement entered into by the party at
21 File No. 18-43-008427 as indicated.

22 CHAIR HALLORAN:

23 Do I have a second?

24 DR. MCCARRIN:

25 Second.

1 CHAIR HALLORAN:

2 John McCarrin seconds that. I think we
3 should do this by voice vote.

4

5 Michael S. Swank, aye; William D.
6 Aukerman, aye; Nikole N. Brock, aye;
7 John E. McCarrin, aye; Miriam Merry
8 Woods, aye; J. Gerard Halloran, aye.

9 [The motion carried unanimously.]

10

11 CHAIR HALLORAN:

12 The next order of business is the review
13 of applications for certification for
14 use of adjunctive procedures by Bruce
15 Warninger, D.C.

16 DR. SWANK:

17 I'd like to make a motion to deny the
18 request by Dr. Warninger with the
19 provisions that we did in executive
20 session.

21 DR. MCCARRIN:

22 I'll second it.

23 CHAIR HALLORAN:

24 Let's have a voice vote on this.

25

1 Michael S. Swank, aye; William D.
2 Aukerman, aye; Nikole N. Brock, aye;
3 John E. McCarrin, aye; Miriam Merry
4 Woods, aye; J. Gerard Halloran, aye.

5 [The motion carried unanimously.]

6 ***

7 CHAIR HALLORAN:

8 The next matter that we have to attend
9 to is the case of BPOA vs. John R. Vira,
10 D.C., File No. 17-43-12601.

11 DR. AUKERMAN:

12 I make a motion for Board counsel to
13 prepare an Adjudication and Order in the
14 case of the Commonwealth of PA BPOA vs.
15 John R. Vira, D.C. as we discussed in
16 executive session.

17 MS. WOODS:

18 Second.

19 CHAIR HALLORAN:

20 I would like a voice vote on that.

21

22 Michael S. Swank, aye; Nikole N. Brock,
23 aye; John E. McCarrin, aye; Miriam Merry
24 Woods, aye; William D. Aukerman, aye; J.
25 Gerard Halloran, aye.

1 [The motion carried unanimously.]

2 ***

3 CHAIR HALLORAN:

4 Next, we need to talk about the petition
5 from Attorney Artz on animal
6 chiropractic.

7 DR. MCCARRIN:

8 I motion to table the petition until the
9 next Board meeting.

10 MS. WOODS:

11 Second.

12 CHAIR HALLORAN:

13 We are going to table Attorney Artz'
14 petition on animal chiropractic to the
15 next Board meeting.

16 [The motion carried unanimously.]

17 ***

18 CHAIR HALLORAN:

19 I'd like to ask Dr. McCarrin to direct
20 our Board counsel about the regulations.

21 DR. MCCARRIN:

22 I'd like to request that we prepare the
23 regulation for delegation forms and move
24 forward, requesting that when we return
25 to the next Board meeting that we can

1 vote on the documentation as prepared.

2 CHAIR HALLORAN:

3 Who is going to second that?

4 MS. WOODS:

5 Second.

6 CHAIR HALLORAN:

7 Let's have a vote on that.

8

9 Michael S. Swank, aye; William D.

10 Aukerman, Nikole N. Brock, aye; John E.

11 McCarrin, aye; Miriam Merry Woods, aye;

12 J. Gerard Halloran, aye.

13 [The motion carried unanimously.]

14 ***

15 CHAIR HALLORAN:

16 I want to vote by acclimation on tabling

17 the petition of Attorney Artz' animal

18 chiropractic petition to the next

19 meeting by voice acclamation.

20 All in favor?

21 [The motion carried unanimously.]

22 ***

23 DR. MCCARRIN:

24 I'd like to make the motion to send

25 Merry Woods to the opioid conference in

1 April.

2 DR. SWANK:

3 Second.

4 CHAIR HALLORAN:

5 By acclimation, all in favor?

6 [The motion carried unanimously.]

7 ***

8 Adjournment

9 CHAIR HALLORAN:

10 Could we entertain a motion for adjourn?

11 DR. AUKERMAN:

12 I'll make a motion to adjourn the
13 meeting.

14 CHAIR HALLORAN:

15 Is there a second?

16 DR. MCCARRIN:

17 Second.

18 CHAIR HALLORAN:

19 All in favor?

20 [The motion carried unanimously.]

21 ***

22 [There being no further business, the State Board of
23 Chiropractic Meeting adjourned at 12:24 p.m.]

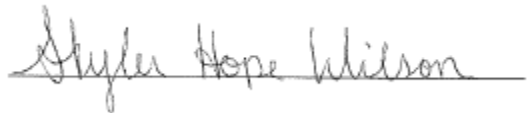
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CERTIFICATE

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.



Skyler Hope Wilson,
Minute Clerk
Sargent's Court Reporting
Service, Inc.

STATE BOARD OF CHIROPRACTIC
REFERENCE INDEX

January 17, 2019

TIME	AGENDA
9:14	Official Call to Order
9:15	Approval of Minutes
9:16	Report of Prosecutorial Division
9:20	Report Board Counsel
9:24	Report of Board Chairman
9:33	Formal Hearing - BPOA vs. John R.
10:52	Vira, D.C.
10:07	Report of Regulatory Counsel
10:17	Report of Board Administrator
10:18	Old Business
10:19	New Business
10:40	Miscellaneous
10:42	Recess
10:52	Return to Open Session
10:52	Miscellaneous (Continued)
11:02	Executive Session
12:16	Return to Open Session
12:16	Motions
12:24	Adjournment