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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
VIA VIDEOCONFERENCE**

TIME: 10:33 A.M.

PENNSYLVANIA DEPARTMENT OF STATE

May 6, 2021

State Board of Chiropractic

May 6, 2021

BOARD MEMBERS:

- Joseph Gerard Halloran, D.C., Chair
- Theodore Stauffer, Executive Secretary, Bureau of Professional and Occupational Affairs, on behalf of K. Kalonji Johnson, Commissioner, Bureau of Professional and Occupational Affairs
- William D. Aukerman, D.C.
- Kelsie Coats, Consumer Protection Member - Absent
- John E. McCarrin, D.C.
- Michael S. Swank, D.C.
- Miriam Merry Woods, Public Member

BUREAU PERSONNEL:

- Nicole L. VanOrder, Esquire, Board Counsel
- Nicole Ehrhart, Esquire, Board Counsel
- Carole Clarke Smith, Esquire, Senior Board Counsel
- Peter D. Kovach, Esquire, Board Prosecution Liaison
- David N. Smith, Esquire, Board Prosecutor
- Colby B. Widdowson, Esquire, Board Prosecutor
- Carolyn DeLaurentis, Deputy Chief Counsel, Prosecution Division
- Heather J. McCarthy, Esquire, Senior Prosecutor
- Michelle Roberts, Acting Board Administrator
- Marc Farrell, Deputy Director, Office of Policy, Department of State
- Kimberly Adams, Chief of Fiscal Management, Bureau of Finance and Operations, Department of State

ALSO PRESENT:

- Edward Nielsen, MHS, Executive Vice President, Pennsylvania Chiropractic Association

1 ***

2 State Board of Chiropractic

3 May 6, 2021

4 ***

5 [Pursuant to Section 708(a)(5) of the Sunshine Act,
6 prior to the meeting, the Board entered into Executive
7 Session with Nicole L. VanOrder, Esquire, Board
8 Counsel, for the purpose of conducting quasi-judicial
9 deliberations. The Board returned to open session at
10 10:30 a.m.]

11 ***

12 [Theodore Stauffer, Executive Secretary, Bureau of
13 Professional and Occupational Affairs, reminded
14 everyone that the meeting was being recorded, and
15 those who remained on the line were giving their
16 consent to be recorded.]

17 ***

18 The regularly scheduled meeting of the State
19 Board of Chiropractic was held on Thursday, May 6,
20 2021.

21 ***

22 [Nicole L. VanOrder, Esquire, Board Counsel, noted the
23 Board met in Executive Session prior to the public
24 meeting to discuss items 2 through 5 on the agenda.]

25 ***

1 Official Call to Order

2 [Joseph Gerard Halloran, D.C., Chair, called the
3 meeting to order at 10:33 a.m.]

4 ***

5 Introduction of Board Members/Attendees

6 [Chair Halloran requested an introduction of Board
7 members and attendees. A quorum was noted to be
8 present.]

9 ***

10 Approval of minutes of the March 11, 2021 meeting

11 CHAIR HALLORAN:

12 The next order of business is to make
13 some corrections to the Board minutes
14 and see if any other Board members have
15 reviewed the minutes and want
16 corrections and then make a motion to
17 accept the Board minutes as amended.

18 [The Board discussed corrections to the minutes.]

19 CHAIR HALLORAN:

20 Does any other member of this Board have
21 any corrections to make to the Board
22 minutes?

23 Could I obtain someone to accept
24 the Board minutes as we amended?

25 DR. AUKERMAN:

1 I'll make a motion to accept the minutes
2 as amended for the previous meeting in
3 March.

4 CHAIR HALLORAN:

5 Do I have a second for that? Dr.
6 Aukerman made a motion to accept the
7 minutes as amended.

8 DR. SWANK:

9 Second.

10 CHAIR HALLORAN:

11 We could do this by acclamation. All
12 members that agree to accept the Board
13 minutes of the last meeting as amended,
14 say aye.

15 [The motion carried unanimously.]

16 ***

17 Report of Prosecution

18 [David N. Smith, Esquire, Board Prosecutor, addressed
19 item 5 on the agenda at Case No. 20-43-014759 for
20 clarity per the Board's request. He presented the
21 Consent Agreement for item 2 at Case No. 20-43-
22 014759.]

23 ***

24 DR. MCCARRIN:

25 I would like to make a motion to accept

1 the Consent Agreement at Case No. 20-43-
2 014759.

3 CHAIR HALLORAN:

4 There is a motion to accept the Consent
5 Agreement at Case No. 20-43-014759.

6 I need a second on that.

7 DR. SWANK:

8 I second that motion.

9 CHAIR HALLORAN:

10 We are going to have to put that to an
11 individual voice vote.

12

13 Dr. Halloran, aye; William Aukerman,
14 aye; Dr. Swank, aye; John McCarrin, aye;
15 Merry Woods, recuse; Stauffer, aye.

16 [The motion carried. Miriam Woods recused herself
17 from deliberations and voting on the motion. The
18 Respondent's name is Randolph A. Magone, D.C.]

19

20 CHAIR HALLORAN:

21 I'd like to move down to item 5 because
22 these are related. I would like to see
23 if Dr. Swank could make a motion on
24 this.

25 DR. SWANK:

1 I would like to make a motion on Case
2 No. 20-43-014759. I move to ratify the
3 delegation of this matter to the hearing
4 examiner.

5 CHAIR HALLORAN:

6 Do I have a second on that?

7 DR. AUKERMAN:

8 I'd like to second Case No. 20-43-
9 014759, the ratification of the
10 delegation to a hearing examiner.

11 CHAIR HALLORAN:

12 Dr. Aukerman, do you want to start the
13 vote?

14
15 Dr. Halloran, recuse; William Aukerman,
16 aye; Dr. Swank, aye; John McCarrin, aye;
17 Merry Woods, recuse; Stauffer, aye.

18 [The motion carried. Dr. Halloran and Merry Woods
19 recused themselves from deliberations and voting on
20 the motion. The Respondent's name is Randolph A.
21 Magone, D.C.]

22 ***

23 CHAIR HALLORAN:

24 Let's go down to item 3 at Case No. 19-
25 43-008035. I would like to make a

1 motion to approve the Final
2 Adjudication and Order in Case No. 19-
3 43-008035 as discussed in executive
4 session. I would like to make a motion
5 to approve the Final Adjudication and
6 Order.

7 Do I have a second?

8 DR. SWANK:

9 I'd like to second that motion.

10 CHAIR HALLORAN:

11 Before we vote on this, does prosecution
12 have anything else to add on this? I
13 assume prosecution does not.

14 We have a motion on the floor by
15 Dr. Halloran to accept the Final Order
16 for Case No. 19-43-008035. It was
17 seconded by Dr. Swank. We are going to
18 have to do a voice vote on this.

19
20 Dr. Halloran, aye; Dr. Aukerman, aye;
21 Dr. Swank, aye; McCarrin, aye; Merry
22 Woods, aye; Stauffer, aye.

23 [The motion carried unanimously. The Respondent's
24 name is John J. DeMatte IV, D.C.]

25 ***

1 CHAIR HALLORAN:

2 Let us go with the next item on the
3 agenda at Case No. 20-43-013005.

4 MS. WOODS:

5 I make a motion to approve the
6 Adjudication and Order for Case No. 20-
7 43-013005.

8 CHAIR HALLORAN:

9 There is a motion on the floor from
10 Miriam Woods to approve the Adjudication
11 and Order for Case No. 20-43-013005.

12 CHAIR HALLORAN:

13 I will second that motion. We will take
14 this to a voice vote as well.

15

16 Dr. Halloran, aye; Dr. Aukerman, aye;

17 Dr. Swank, aye; McCarrin, aye; Merry

18 Woods, aye; Stauffer, aye.

19 [The motion carried unanimously. The Respondent's
20 name is Stephen Michael Rios, D.C.]

21

22 Appointment - Bureau of Finance and Operations Fee

23 Package Presentation

24 [Kimberly Adams, Chief of Fiscal Management, Bureau of

25 Finance and Operations, Department of State, presented

1 a fee package increase for the Board's review. She
2 addressed FY 2020-2021 revenue and expenses, where the
3 Board was overspending.

4 Ms. Adams referred to the Board's history of
5 expenses versus revenue since 2013, noting several
6 years where expenses exceeded revenue. She mentioned
7 that the bottom line is getting smaller with each
8 biennial year, where the Board will have a negative
9 balance by FY 2027-2028.

10 Ms. Adams stated current application fees are \$25,
11 \$65, \$30, and \$25 but costing \$105, \$150, \$100, and
12 \$105 to process those applications. She discussed
13 step increases at 9.5% biennially for FY 2024-2025 and
14 FY 2025-2026. She also noted incorporating a 6%
15 renewal increase.

16 Chair Halloran agreed that the application fees
17 should increase to meet the cost of processing the
18 applications but requested more information regarding
19 renewal fee projections.

20 Ms. Adams explained that renewal fees in FY 2022-
21 2023 and FY 2023-2024 would be \$223 and increases to
22 \$236 and then to \$250 for a 6% increase each time.

23 Chair Halloran mentioned that the Board voted for
24 a mild increase three years ago but it was determined
25 to not be necessary.

1 Ms. Adams explained that the Board's bottom line
2 was still in the black at that time and needed
3 approval from the Independent Regulatory Review
4 Commission (IRRC), noting the current financial status
5 would still keep the Board in the black in 2027 but
6 would not be meeting expenses each year. She noted
7 the Board would not see another increase for years,
8 and it would get expenses below revenue.

9 Dr. Aukerman expressed concern with the increase
10 in the chiropractic license by examination application
11 from \$25 to \$126 in 2026 and questioned whether that
12 number could be modified for new applicants.

13 Ms. Adams noted she would review the information
14 for a possible decrease but believed the Board was low
15 compared to other states.

16 Ms. Adams referred to previous Board approval of
17 increases in 2016 with a chiropractic fee increase
18 from \$210 to \$285 while increasing all of the
19 application fees at the same time. She noted it was
20 \$100 for everything except reciprocity at \$150. She
21 mentioned license by exam was \$125 for New Jersey in
22 2016 compared to \$25 for Pennsylvania.

23 Ms. Roberts noted the National Board of
24 Chiropractic Examiners' (NBCE) website shows an
25 initial application fee of \$257 in Delaware.

1 Mr. Farrell commented that Maryland has a \$200
2 application fee and a \$300 examination fee.

3 Edward L. Nielsen, MHS, Executive Vice President,
4 Pennsylvania Chiropractic Association, noted not
5 disagreeing with anything, especially looking at
6 contiguous states. He emphasized the importance of
7 making a clear and concise case, so the doctors who
8 get the notice read it and understand why it is being
9 done as opposed to bureaucratic language because of
10 the hits businesses took from COVID even with support
11 from the federal and state government.

12 Chair Halloran tabled the issue until the next
13 Board meeting on July 15, 2021, where Ms. Adams will
14 present additional information to the Board, including
15 application fees in contiguous states.]

16

17 Report of Commissioner

18 [Theodore Stauffer, Executive Secretary, Bureau of
19 Professional and Occupational Affairs, on behalf of K.
20 Kalonji Johnson, Commissioner, had no formal report
21 but offered to present any questions to Commissioner
22 Johnson.

23 Chair Halloran mentioned Commissioner Johnson was
24 to provide more information at this meeting concerning
25 administrative questions and complying with Act 116.

1 Mr. Stauffer stated Act 116 would have to be
2 tabled for the next meeting.

3 Chair Halloran noted the importance of working on
4 Act 116 to give administrators time to prepare if the
5 Board accepts the one-time rollover of credits.]

6 ***

7 Report of Board Counsel

8 [Nicole L. VanOrder, Esquire, Board Counsel,
9 introduced Nicole Ehrhart as new Board counsel.

10 Ms. Ehrhart provided a brief summary of her
11 professional background. She looked forward to
12 working with everyone.

13 Chair Halloran thanked Ms. VanOrder for her
14 service and looks forward to working with Ms. Ehrhart.

15 Ms. VanOrder read a scam alert informing the
16 Board that the Bureau of Professional and Occupational
17 Affairs has received reports that persons pretending
18 to be from one of the health-related licensing boards
19 are contacting licensees by phone and mail about the
20 status of their licenses. She stated the scammers are
21 altering their information that shows on the caller ID
22 to appear to be from the Commonwealth of Pennsylvania.

23 Ms. VanOrder also noted the scammers are
24 threatening license suspension for failure to act and
25 falsely claiming involvement with the Federal Bureau

1 of Investigation (FBI) and the Drug Enforcement
2 Administration (DEA). She provided reminders from the
3 Bureau of Professional and Occupational Affairs (BPOA)
4 concerning contact and personal information.

5 Ms. VanOrder mentioned that those who are the
6 subject of an investigation or disciplinary action
7 would receive notice by certified mail and/or personal
8 service and provided with a contact name and phone
9 number. She informed everyone to contact their local
10 police department or the state police if they have
11 been a victim of the scam. She noted the announcement
12 is available on the Department of State's general
13 website.

14 Ms. VanOrder addressed Senate Bill 596, which
15 would be administered by the Department of Insurance
16 to amend the Insurance Company Law to provide for
17 parity, where a chiropractor cannot be paid less for a
18 service or procedure than it pays another licensed
19 professionals under the same or similar code.

20 Chair Halloran requested an update on the status
21 of general regulations.

22 Ms. VanOrder referred to the Status of
23 Regulations Report listed on the agenda. She reported
24 no comments were received from the exposure draft sent
25 out on February 18 concerning Act 41 regarding

1 licensure by endorsement. She noted the package would
2 be ready to be drafted and brought back to the Board.

3 Ms. VanOrder referred to 16A-4329 regarding
4 unlicensed supportive personnel. She informed the
5 Board of a meeting on May 18 for internal discussions
6 regarding unlicensed supportive personnel, noting she
7 would bring that information back to the Board.]

8 ***

9 Report of Board Administrator - No Report

10 ***

11 Report of Board Chair

12 [Joseph Gerard Halloran, D.C., Chair, announced he and
13 Dr. Aukerman participated in the virtual meetings of
14 the National Board of Chiropractic Examiners on April
15 30, 2021 and the Federation of Chiropractic Licensing
16 Boards on May 1, 2021. He noted they participated in
17 voting for resolutions and seats on the new boards for
18 both the National Board of Chiropractic Examiners and
19 the Federation of Chiropractic Licensing Boards.

20 Chair Halloran and Dr. Aukerman will be attending
21 the Federation of Chiropractic Licensing Boards
22 District III Meeting in Jersey City, New Jersey
23 October 7-9, 2021, provided participation in state
24 travel is permitted by then.

25 Chair Halloran will be working with the Board

1 administrator and Board counsel to update the
2 Pennsylvania state profile for the Federation of
3 Chiropractic Licensing Boards.

4 Chair Halloran will also be working with Dr.
5 Swank and Dr. Khoury, the Federation of Chiropractic
6 Licensing Boards District III Director and former
7 chair of the State Board of Chiropractic, and the
8 Board administrator to help various chiropractic
9 licensing boards understand how to certify continuing
10 education programs to the rules of the state Board.

11 Chair Halloran provided research data received
12 through the Federation of Chiropractic Licensing
13 Boards regarding license renewal and preceptorship
14 differences in New Jersey, New York, Pennsylvania,
15 Connecticut, Ohio, Delaware, and West Virginia.

16 Chair Halloran noted the law passed for
17 preceptorship in Pennsylvania was very clear. He
18 mentioned prior discussion that chiropractic colleges
19 and universities are tough on their preceptor program,
20 so the Board decided to just follow the letter of the
21 law and not add any regulations.

22 Chair Halloran addressed criminal activity among
23 professionals, stating Board prosecution scans
24 internet databases and have a safety net in place.

25 Chair Halloran commented that the Pennsylvania

1 State Board will continue to explore the feasibility
2 of a regulatory package regarding non-licensed
3 supportive personnel.

4 Chair Halloran noted previous discussions, where
5 it may be possible that the reason for efforts for
6 clarification was that the commissions look at their
7 law and already believed they have the authority to
8 delegate therapeutic exercise. He also noted the
9 Regulatory Commissions may reject the regulation if
10 there is pending legislation to fix the problem.

11 Chair Halloran referred to his report on the
12 status on the state-by-state comparisons of
13 neighboring states and restrictions that he sent to
14 Marc Farrell, hoping the Governor's Office could weigh
15 in on the issue. He commented that there are no
16 contiguous local states around Pennsylvania that
17 restrict chiropractors from delegating therapeutic
18 exercise.

19 Chair Halloran addressed a statement issued by
20 the Governor's Office. He noted chiropractors must
21 still obey the Governor's Office, state health
22 department, and local health department.

23 Chair Halloran emphasized the importance of
24 following not just the state guidelines but local
25 guidelines and being aware of requirements and

1 ensuring compliance when operating chiropractic
2 offices.

3 Chair Halloran addressed COVID compliance,
4 stating that it is not the responsibility of the
5 Pennsylvania State Board of Chiropractic to
6 investigate, as there is a process that separates
7 investigative functions and quasi-judicial functions
8 in accordance with Lyoness. He reported complaints
9 were not coming from the Board but probably from
10 patients in how the practice was dealing with COVID
11 regulations.

12 Chair Halloran thanked Mr. Nielsen and the
13 Pennsylvania Chiropractic Association for their
14 assistance in spreading the scam alert.

15 Ms. VanOrder commented that the items offered by
16 Dr. Halloran in his report are general information and
17 were not advisory opinions of the Board. She
18 recommended the Board take a formal vote for attendees
19 at the Federation of Chiropractic Licensing Boards
20 (FCLB) Meeting.

21 Chair Halloran emphasized that he was not making
22 an advisory opinion and telling everyone that it is
23 their responsibility to follow their local health
24 boards, state health boards, and Governor's Office.

25 Mr. Nielsen noted that Pennsylvania Chiropractic

1 Association is working on the specifics of the
2 authority of the Pennsylvania Department of Health (PA
3 DOH) versus county and have advised members of that as
4 well. He reported briefings with members through the
5 COVID-19 Response Director, Wendy Braund, at the PA
6 DOH. He stated the Pennsylvania Chiropractic
7 Association will continue to reinforce that point
8 regarding the relationship between PA DOH and their
9 local county DOH.]

10 ***

11 New Business

12 CHAIR HALLORAN:

13 I am going to make a motion based on
14 advice from current Board counsel who is
15 going to be leaving us that for the
16 Federation of Chiropractic Licensing
17 Board District Meeting scheduled in
18 Jersey City, New Jersey scheduled for
19 October 7-10, 2021 with a travel day for
20 Thursday and a travel day for Saturday.

21

22 I am making a motion that the State
23 Board of Chiropractic approve Dr.
24 Aukerman and me to attend that meeting,
25 whether it be virtually or in person

1 depending on the status of what we can
2 do as a state for travel or attending.

3 That's my motion. Could I have a
4 second on that?

5 MS. WOODS:

6 Second.

7 CHAIR HALLORAN:

8 We have a motion on the floor to allow
9 Dr. Halloran and Dr. Aukerman to attend,
10 either virtually, if that's the case, or
11 in person, if that's the case, the
12 District III Federation of Chiropractic
13 Licensing Boards Meeting, specifically
14 October 7-10, in Jersey City, New
15 Jersey. We will do a voice vote on
16 that.

17

18 Dr. Halloran, aye; Dr. Aukerman, aye;
19 Dr. Swank, aye; McCarrin, aye; Merry
20 Woods, aye; Stauffer, aye.

21 [The motion carried unanimously.]

22

23 Miscellaneous

24 [J. Gerard Halloran, D.C., Chair, noted the next Board
25 meeting date is schedule for July 15, 2021.]

1 Public Comment

2 [Edward L. Nielsen, MHS, Executive Vice President,
3 Pennsylvania Chiropractic Association, noted
4 continuing to proceed with looking at delegation to
5 unlicensed personnel from a legislative standpoint and
6 requested a discussion after the May 18 meeting to
7 better understand each other's intentions.
8

9 Mr. Nielson applauded Dr. Halloran for looking at
10 all of the information and agrees with the lack of
11 restrictions in contiguous states concerning
12 delegating to unlicensed personnel.

13 Mr. Stauffer commented that after reviewing the
14 previous minutes, Act 116 findings were to be brought
15 back to the Board after review from the Commissioner's
16 Office and Office of Chief Counsel regarding the
17 auditing process, outside vendors, and what the other
18 boards are doing.

19 Mr. Stauffer explained that Act 116 had not been
20 presented to all boards as of yet, and internal
21 discussions to generate the report had not been done
22 but would keep the Board posted.

23 Chair Halloran thanked Mr. Stauffer and noted his
24 appreciation for all of Mr. Stauffer's work to keep
25 the meetings going in the virtual state.]

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Adjournment

CHAIR HALLORAN:

Does anybody want to move to adjourn
this meeting?

DR. AUKERMAN:

I'll make a motion to adjourn this
meeting.

CHAIR HALLORAN:

Dr. Aukerman made a motion to adjourn
the meeting.

Do I have a second?

MS. WOODS:

Second.

CHAIR HALLORAN:

By voice acclamation, do we accept
adjournment of this meeting? All in
favor, say aye.

[The motion carried unanimously.]

[There being no further business, the State Board of
Chiropractic Meeting adjourned at 11:52 a.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.



Evan Bingaman,

Minute Clerk

Sargent's Court Reporting
Service, Inc.

STATE BOARD OF CHIROPRACTIC
REFERENCE INDEX

May 6, 2021

TIME	AGENDA
9:00	Executive Session
10:30	Return to Open Session
10:33	Official Call to Order
10:33	Introduction of Board Members/Attendees
10:37	Approval of Minutes
10:40	Report of Prosecution
10:52	Appointment - Bureau of Finance and Operations Fee Package Presentation
11:18	Report of Board Counsel
11:26	Report of Board Chair
11:44	New Business
11:47	Miscellaneous
11:47	Public Comment
11:52	Adjournment