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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: 9:08 A.M.

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

May 16, 2019

State Board of Chiropractic

May 16, 2019

BOARD MEMBERS:

- Joseph Gerard Halloran, D.C., Chair
- Kalonji Johnson, Acting Commissioner, Bureau 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:

- Kenneth J. Suter, Esquire, Board Counsel
- Paul J. Jarabeck, Esquire, Senior Prosecutor in Charge
- Michelle Roberts, Board Administrator, on behalf of Elizabeth Wecker, Board Administrator

ALSO PRESENT:

- Marc Farrell, Deputy Policy Director, Department of State
- Ted Mowatt, Wanner Associates, on behalf of the Chiropractic Fellowship of Pennsylvania
- Edward L. Nielsen, MHS, Executive Vice President, Pennsylvania Chiropractic Association

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1 ***

2 State Board of Chiropractic

3 May 16, 2019

4 ***

5 The regularly scheduled meeting of the State
6 Board of Chiropractic was held on Thursday, May 16,
7 2019.

8 ***

9 Official Call to Order

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

12 ***

13 Approval of minutes of the March 21, 2019 meeting

14 CHAIR HALLORAN:

15 The first item of business would be, did
16 we review the minutes, and are there any
17 corrections?

18 [The Board discussed corrections to the minutes.]

19 Do we have a motion to amend the
20 Board minutes as we have asked to be
21 amended?

22 MS. WOODS:

23 I would make a motion to amend the Board
24 minutes.

25 CHAIR HALLORAN:

1 Do I have a second?

2 DR. MCCARRIN:

3 Second.

4 CHAIR HALLORAN:

5 All in favor, say aye. We will have
6 those Board minutes corrected.

7 [The motion carried unanimously.]

8 ***

9 CHAIR HALLORAN:

10 Could I entertain a motion to accept the
11 minutes when we get them amended?

12 DR. MCCARRIN:

13 Motion.

14 CHAIR HALLORAN:

15 Dr. McCarrin's motion is to accept the
16 amended minutes.

17 Do I have a second?

18 DR. AUKERMAN:

19 Second.

20 CHAIR HALLORAN:

21 Dr. Aukerman seconds. Can I have a
22 voice vote on that? All in favor, say
23 aye.

24 [The motion carried unanimously.]

25 ***

1 Report of Board Prosecution

2 [David J. Schertz, Esquire, Board Prosecutor,
3 presented the Consent Agreements for Case No. 13-43-
4 08370 and Case No. 14-43-04146.]

5 ***

6 Report of Acting Commissioner

7 [Joseph Gerard Halloran, D.C., Chair, noted Kalonji
8 Johnson, Acting Commissioner, Bureau of Professional
9 and Occupational Affairs, exited the meeting and would
10 return in an hour.]

11 ***

12 Report of Board Counsel

13 [Kenneth J. Suter, Esquire, Board Counsel, noted items
14 4 and 5 for discussion during executive session.

15 Mr. Suter provided an overview of the Sunshine
16 Act, noting the basic essence of the act as the sun
17 appearing on what is done as a Board and what the
18 Board is not doing in the dark or in secret.

19 Mr. Suter stated consent agreements, personnel
20 issues, and legal advice of counsel are discussed in
21 executive session. He commented that all other
22 matters must take place in public. Mr. Suter is the
23 Board's resource and contact regarding any questions
24 or concerns.

25 Mr. Suter reviewed the recusal guidelines. He

1 also addressed mandatory recusal. Mr. Suter advised
2 the Board to not consider external information or
3 research upon making a determination on a matter.

4 Mr. Suter addressed the Commonwealth Court
5 opinion, where the device used by Dr. Lawrence Bennett
6 was not scientific or legitimate. He commented that
7 the Board should be proud of the work and thanked Mr.
8 Maloney, who presented the argument in that case.]

9

10 Report of Board Chair

11 [Joseph Gerard Halloran, D.C., Chair, addressed the
12 Federation of Chiropractic Licensing Boards Meeting in
13 San Diego, CA, May 1-5, 2019. He discussed the
14 Federal Sports Medicine Licensure Clarity Act
15 regarding licensure issues and portability. He
16 commented that many states state this is a violation
17 of their sovereignty to regulate who is entitled to
18 practice any sort of medicine in their state and a
19 practitioner following the guidelines of this federal
20 law may still have legal troubles if they practice
21 without state permission.

22 Chair Halloran addressed states that have
23 legalized cannabis for medical purposes only, noting
24 that the states will probably not have any federal
25 repercussions, but providers who engage in state legal

1 cannabis may have some liability if the federal
2 government seeks to keep it criminal.

3 Chair Halloran stated it is not recommended by
4 the Federation of Chiropractic Licensing Boards at
5 this time to recommend the 0.3% tetrahydrocannabinol
6 (THC) from hemp, which is still considered illegal by
7 the federal government.

8 Chair Halloran mentioned that the Food and Drug
9 Administration (FDA) is insisting on additional
10 studies before reaching conclusions on cannabidiol
11 (CBD) oil being sold commercially out of a
12 chiropractic practice or any other commercial venue.
13 He commented that the issue will need more study by
14 the Board before safely coming up with guidelines for
15 chiropractors who wish to have CBD oil sales out of
16 their offices in this state.

17 Mr. Suter referred to the Code of Federal
18 Regulations (CFR) regarding CBD oil. He noted
19 receiving questions from chiropractors asking if they
20 can legally use CBD oil, noting that he cannot give
21 them an answer and believes it is a dangerous issue
22 for the Board to address as a whole because it is
23 illegal at the federal level. He also noted it to be
24 illegal under state law because it is classified as a
25 Schedule I drug under the Federal Food, Drug, and

1 Cosmetic Act.

2 Chair Halloran mentioned that Professor Marianne
3 Jennings from Arizona State University spoke about
4 regulatory ethics, where making sure not to cross the
5 line into politics and firmly separate the Board from
6 political influence, trade associations, and lobbyists
7 was emphasized.

8 Chair Halloran addressed criminal background
9 checks, noting that Pennsylvania does criminal
10 background checks only on new applicants.

11 Mr. Suter explained that there is a statute that
12 requires individuals to report criminal convictions,
13 and the prosecution office is using a reporting system
14 and does not believe it is necessary with renewal.

15 Mr. Jarabeck mentioned the Pennsylvania Justice
16 Network (JNET), which is a reporting system that comes
17 directly through the unified judicial system reporting
18 arrests in 67 counties in Pennsylvania. He emphasized
19 the system is Pennsylvania state and county courts,
20 and no data is received from federal courts.

21 Ms. Roberts noted that criminal history record
22 checks are required for reactivations.

23 Chair Halloran mentioned a candidate to replace
24 Dr. Khoury and having a review committee to help the
25 Governor's Office vet candidates.

1 Mr. Suter commented that the Board could have a
2 regulatory committee that works separate and apart
3 from the Board but could not adopt a draft or approve
4 what happens. He checks on backgrounds, but the
5 dynamics and politics involved with that and whether
6 or not the Governor's Office would welcome input could
7 be answered by Acting Commissioner Johnson.

8 Chair Halloran noted discussion with Dr. Carl
9 Cleveland from the Cleveland Chiropractic College
10 concerning preceptorship. He is in the process of
11 getting preceptorship information from all of the
12 chiropractic colleges and will share this information
13 at the next Board meeting. He noted that it is
14 essential for the Chiropractic State Board to lead on
15 this issue and start appropriate regulations after
16 gathering the information to evaluate this issue and
17 develop rules to guide licensees, clinics, or even a
18 college program.

19 Chair Halloran referred to a proposed letter from
20 the State Board of Chiropractic to the State Board of
21 Veterinary Medicine, requesting a joint meeting
22 concerning animal chiropractic. He noted the need to
23 have communication on both sides for mutually
24 acceptable regulations on this issue.

25 Chair Halloran commented that Acting Commissioner

1 Johnson mentioned that the state is definitely
2 interested in having both Boards come to some sort of
3 agreement on this matter.]

4 ***

5 CHAIR HALLORAN:

6 Do I have a motion to accept this letter
7 to go out on state letterhead, which
8 will be signature stamped and sent to
9 Dr. Garg at the State Board of
10 Veterinary Medicine?

11 Do I have anybody?

12 MS. WOODS:

13 Motion to accept the Chairman's letter
14 to the Chair of the Vet Board from the
15 Chiropractic Board.

16 CHAIR HALLORAN:

17 Do I have a second?

18 DR. MCCARRIN:

19 Second.

20 CHAIR HALLORAN:

21 Second, Dr. McCarrin. All in favor, say
22 aye.

23 [The motion carried unanimously.]

24 ***

25 Report of Board Chair (Continued)

1 [Joseph Gerard Halloran, D.C., Chair, noted awaiting
2 approval from the Governor's Office on the National
3 Board of Chiropractic Examiners Meeting in Greeley,
4 CO, for the Part IV examination meeting between June
5 20 and June 23. He stated the meeting helps set
6 chiropractic college curriculum along with the Council
7 on Chiropractic Education (CCE).

8 Chair Halloran noted that the Board can finally
9 find a way to work between the National Board of
10 Chiropractic Examiners' rules for attending and state
11 ethics rules for attending and find a way to mesh
12 those rules to send active sitting Board members to
13 these important meetings in the future.]

14 ***

15 Report of Regulatory Counsel - No Report

16 ***

17 Report of Board Administrator

18 [Michelle Roberts, Board Administrator, on behalf of
19 Elizabeth Wecker, announced that Ms. Wecker had a baby
20 boy on April 14 and both are doing well.]

21 ***

22 Review of Applications

23 [Kenneth J. Suter, Esquire, Board Counsel, noted a
24 matter for discussion during executive session.]

25 ***

1 Old Business

2 [Joseph Gerard Halloran, D.C., Chair, noted delegation
3 regulations.

4 Dr. McCarrin explained that the Board develop a
5 regulation to define what chiropractors can and cannot
6 do. He stated Mr. Maloney believed it passed
7 everything and should be moving through the
8 committees. He also provided information regarding
9 House Bill 517, which is within the House of
10 Representatives.

11 Mr. Suter thanked the Board for their help
12 regarding an analysis that he provided on a piece of
13 legislation and will place it on the agenda for the
14 next meeting if permitted.

15 Chair Halloran noted prior discussion concerning
16 animal chiropractic and requested chiropractors be
17 patient and not put the Board in a legal or ethical
18 position.]

19 ***

20 Miscellaneous

21 [Joseph Gerard Halloran, D.C., Chair, mentioned
22 committee assignments and the need for clarification
23 of some issues if the Board is going to have a
24 committee for vetting people.

25 Mr. Suter addressed Board business. He suggested

1 developing a workshop that usually follows or precedes
2 Board meetings, where the public can attend. He
3 commented that it is just for work and no votes or
4 official decisions will be made.]

5 ***

6 [Pursuant to Section 708(a)(5) of the Sunshine Act, at
7 10:08 a.m. the Board entered into Executive Session
8 with Kenneth J. Suter, Esquire, Board Counsel, for
9 receipt of legal advice and the purpose of conducting
10 quasi-judicial deliberations. The Board returned to
11 open session at 11:51 a.m.]

12 ***

13 MOTIONS

14 CHAIR HALLORAN:

15 We need to start with Case No. 13-43-
16 08370.

17 Dr. Swank, do you have a motion on
18 that?

19 DR. SWANK:

20 I'd like to make a motion to approve the
21 Consent Agreement and Order on Case No.
22 13-43-08370.

23 CHAIR HALLORAN:

24 Dr. Aukerman, do you have a second?

25 DR. AUKERMAN:

1 I want to second that order.

2 CHAIR HALLORAN:

3 Dr. Aukerman seconds. We should do a
4 voice vote on this.

5

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

10 [The motion carried unanimously. The Respondent's
11 name in this case is Joshua Michael Rosinski, D.C.]

12

13 CHAIR HALLORAN:

14 Case No. 14-43-04146.

15 DR. MCCARRIN:

16 I'd like to make a motion to accept the
17 Consent Agreement for Case No. 14-43-
18 04146.

19 CHAIR HALLORAN:

20 Thank you, Dr. McCarrin.

21 MS. WOODS:

22 Second.

23 CHAIR HALLORAN:

24 Woods seconds. Could I have a voice
25 vote starting with Ms. Woods.

1

2

Miriam Merry Woods, aye; John E.

3

McCarrin, aye; Nikole N. Brock, aye;

4

William D. Aukerman, aye; Michael S.

5

Swank, aye; Joseph Gerard Halloran, aye.

6

[The motion carried unanimously. The Respondent's

7

name in this case is Lawrence Scott Herman, D.C.]

8

9

CHAIR HALLORAN:

10

File No. 16-43-12611. This case is a

11

deem facts case. I make a motion that

12

we accept the facts in this case, and I

13

direct our Board counsel to write up an

14

adjudication and order on that.

15

Do I have a second?

16

MS. WOODS:

17

Second.

18

CHAIR HALLORAN:

19

Woods seconds. Let's do a voice vote on

20

that starting with Miriam.

21

22

Miriam Merry Woods, aye; John E.

23

McCarrin, aye; Nikole N. Brock, aye;

24

William D. Aukerman, aye; Michael S.

25

Swank, aye; Joseph Gerard Halloran, aye.

1 [The motion carried unanimously.]

2 ***

3 CHAIR HALLORAN:

4 I will make a motion that we invite Dr.
5 Bruce Warninger to testify on his own
6 behalf in front of the Board at our next
7 Board meeting in order to discuss his
8 complaints about our denial of his
9 adjunctive physiotherapy license.

10 Can I have a second on that, Dr.
11 McCarrin?

12 DR. MCCARRIN:

13 Second.

14 CHAIR HALLORAN:

15 Dr. McCarrin seconds that. Let's do a
16 voice vote.

17
18 Miriam Merry Woods, aye; John E.
19 McCarrin, aye; Nikole N. Brock, aye;
20 William D. Aukerman, aye; Michael S.
21 Swank, aye; Joseph Gerard Halloran, aye.

22 [The motion carried unanimously.]

23 ***

24 CHAIR HALLORAN:

25 In the case of Chris Chianese,

1 application for a license to practice
2 chiropractic, I would like to make a
3 motion to direct our Board counsel to
4 write a letter to him explaining a
5 provisional denial. If Dr. Chianese
6 decides to appeal that, that we send
7 that appeal to a hearing examiner.

8 Do I have an appeal on that Nikole?

9 MS. BROCK:

10 I second that motion.

11 CHAIR HALLORAN:

12 Any discussion on that? Let's do a
13 voice vote on that.

14

15 Miriam Merry Woods, aye; John E.
16 McCarrin, aye; Nikole N. Brock, aye;
17 William D. Aukerman, aye; Michael S.
18 Swank, aye; Joseph Gerard Halloran, aye.

19 [The motion carried unanimously.]

20

21 MR. SUTER:

22 The purpose of the executive session was
23 to discuss Item No. 2 on the agenda,
24 Case No. 13-43-08370; Item 3 on the
25 agenda, Case No. 14-43-04146; Item 4 on

1 the agenda, File No. 16-43-12611; Item 5
2 on the agenda, which is an Appeal of a
3 Provisional Denial for Bruce Warninger,
4 D.C. as well as Item 10 on the agenda,
5 which is an Application for Licensure to
6 Practice Chiropractic by Chris Chianese.

7 In addition to that, the Board
8 received legal advice from their Board
9 counsel regarding legal procedures in
10 terms of how they can resolve cases in
11 terms of delegation or before the Board
12 and general legal procedures from a
13 legal perspective.

14 ***

15 DR. MCCARRIN:

16 I would like to make a motion that we
17 ask Dr. Rachel Levine, Physician
18 General/Secretary of Health, for a
19 statement endorsing chiropractic care as
20 an alternative treatment for opioid
21 addiction.

22 CHAIR HALLORAN:

23 Do I have a second?

24 MS. WOODS:

25 Second.

1 CHAIR HALLORAN:

2 Woods seconds. I think we can do a
3 voice vote on this. All in favor, say
4 aye.

5 [The motion carried unanimously.]

6 ***

7 Adjournment

8 CHAIR HALLORAN:

9 Do I have a motion to adjourn?

10 DR. AUKERMAN:

11 I'll make a motion to adjourn.

12 CHAIR HALLORAN:

13 Dr. Aukerman has made a motion to
14 adjourn.

15 Do I have a second?

16 MS. BROCK:

17 I second that.

18 CHAIR HALLORAN:

19 This meeting is adjourned.

20 [The motion carried unanimously.]

21 ***

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

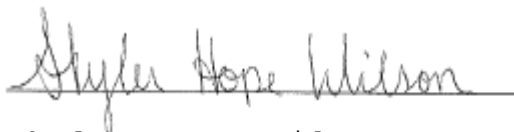
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CERTIFICATE

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

May 16, 2019

TIME	AGENDA
9:08	Official Call to Order
9:09	Approval of Minutes
9:13	Report of Prosecutorial Division
9:19	Report Board Counsel
9:33	Report of Board Chair
10:01	Old Business
10:05	Miscellaneous
11:08	Executive Session
11:51	Return to Open Session
11:51	Motions
12:00	Adjournment