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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 C
One Penn Center
2601 North Third Street
Harrisburg, Pennsylvania 17110

September 21, 2017

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State Board of Chiropractic
September 21, 2017

BOARD MEMBERS:

- John E. McCarrin, DC, Chair
- Ian J. Harlow, Commissioner of Professional and Occupational Affairs
- George E. Khoury, DC, Secretary
- William D. Aukerman, DC
- J. Gerard Halloran, DC
- Michael S. Swank, DC
- Nicole VanOrder, Consumer Protection Member
- Miriam Merry Woods, Public Member

BUREAU PERSONNEL:

- Kerry Maloney, Esquire, Board Counsel
- Anita Shekletski, Esquire, Board Prosecution Liaison
- Jason Anderson, Esquire, Board Prosecutor
- Elizabeth Wecker, Board Administrator

ALSO PRESENT:

- Ted Mowatt, Chiropractic Fellowship of PA
- Ed Nielsen, MHS, Executive Vice President, Pennsylvania Chiropractic Association
- Braheem Zaki Tolbert, DC
- Howard Van Nostrand, DC

1 ***

2 State Board of Chiropractic

3 September 21, 2017

4 ***

5 The regularly scheduled meeting of the State
6 Board of Chiropractic was held on Thursday, September
7 21, 2017.

8 ***

9 Official Call to Order

10 [John E. McCarrin, DC, Chair, called the meeting to
11 order at 9:03 a.m.]

12 ***

13 Approval of Minutes of the July 20, 2017 meeting

14 CHAIR MCCARRIN:

15 I'd like to have everybody review the
16 Minutes from the last meeting in July.
17 Any motions on previous Minutes?

18 MS. VANORDER:

19 Motion to approve the Minutes as
20 drafted.

21 CHAIR MCCARRIN:

22 Is there a second?

23 DR. AUKERMAN:

24 I'll second.

25 CHAIR MCCARRIN:

1 All in favor?

2 [The motion carried unanimously.]

3 ***

4 Report of Board Prosecutor - No Report

5 ***

6 Report of Commissioner

7 [Ian J. Harlow, Commissioner of Professional and
8 Occupational Affairs, updated the Board on the PALS
9 project, which he noted was on time. He stated
10 additional money in the line item resulted in another
11 \$500,000 being invested into the project.

12 Commissioner Harlow noted John McCarrin's
13 reappointment as the Board Chair. He informed the
14 Board that all agencies under the Governor's
15 jurisdiction have been placed on an out-of-state
16 travel freeze contingent upon the developments in the
17 legislature.]

18 ***

19 Report of Board Counsel

20 [Kerry E. Maloney, Esquire, Board Counsel, requested a
21 motion to amend the agenda to include the case of
22 Commonwealth vs. Bennett for the Board's review and
23 approval of the Adjudication and Order.]

24 MS. VANORDER:

25 Motion to add Commonwealth vs. Bennett

1 to the agenda.

2 DR. HALLORAN:

3 I second.

4 CHAIR MCCARRIN:

5 All in favor?

6 [The motion carried unanimously.]

7 ***

8 [Mr. Maloney stated two hearings scheduled for later
9 in the meeting were continued. The documents were
10 available for the Board's review.

11 Mr. Maloney could provide no new update regarding
12 the regulations. He did note that Regulatory Counsel
13 was in the process of moving 129 regulations
14 throughout all Boards, many of which have been in
15 different policy offices for a couple of years. Mr.
16 Maloney noted a renewed drive to move forward with all
17 of these regulations, including the unlicensed
18 supportive personnel regulation.

19 Mr. Maloney referred to additional matters to be
20 discussed during Executive Session.]

21 ***

22 Report of Board Chair

23 [John E. McCarrin, DC, Chair, discussed his four-year
24 reappointment, the travel ban, and the delegation
25 issue.]

1 ***

2 Report of Board Administrator

3 [Elizabeth Wecker, Board Administrator, noted an
4 Application for License by Reciprocity for discussion
5 in Executive Session.]

6 ***

7 Public Comment Period

8 [Kerry E. Maloney, Esquire, Board Counsel, discussed
9 House Bill 1737, which would allow chiropractic
10 interns to lay hands on a patient and practice
11 techniques in Pennsylvania. Only that section of the
12 Act would be amended.

13 Mr. Maloney discussed recommended changes in the
14 language to certify that the student would have an
15 internship or externship under the supervision of a
16 licensed chiropractor. He noted further discussion
17 regarding the matter would occur during Executive
18 Session.

19 Ed Nielsen, MHS, Executive Vice President,
20 Pennsylvania Chiropractic Association, was invited to
21 address the Board on the matter. Mr. Nielsen stated
22 the idea was to clarify and reestablish the education
23 language. Mr. Nielsen noted support from sources
24 including New York Chiropractic College (NYCC), the
25 Medical Director of the Winter Games for the U.S.

1 Olympics Committee, and the American Chiropractic
2 Association, all of which will be introduced into the
3 record once the hearings commence on House Bill 1737,
4 which he noted is sponsored by Representative
5 Ravenstahl.

6 He also mentioned a companion bill in the Senate
7 sponsored by Senator Reschenthaler.

8 Mr. Nielsen noted the delegation issue has yet to
9 be resolved. He noted concerns with regard to opening
10 up Act 188. There was discussion regarding the Cavoto
11 appeal case.

12 Dr. Khoury noted the University of Pittsburgh
13 Physical Therapy Department was in collaboration with
14 the School of Chiropractic.

15 Dr. Khoury stated a \$13 million National
16 Institutes of Health (NIH) grant was given to the
17 University of Pittsburgh and the University of
18 Minnesota for research and the establishment of the
19 school.

20 Ted Mowatt, CFOP, noted the bill was scheduled
21 for a vote by the House Professional Licensure
22 Committee. He agreed that something needs to be done
23 regarding the unclearness of the educational part of
24 the bill.

25 Dr. Khoury addressed the Council on Chiropractic

1 Education (CCE) accredited program for the University
2 of Pittsburgh. He also noted the preceptorship,
3 externship, or internship following graduation.

4 Mr. Maloney mentioned the sponsor's memo. He
5 commented that students attracted to Pennsylvania may
6 stay and obtain licensure in Pennsylvania.]

7 ***

8 [The Board recessed from 9:42 a.m. until 10:01 a.m.]

9 ***

10 [Ian Harlow, Commissioner of Professional and
11 Occupational Affairs, exited the meeting during the
12 recess at 10:00 a.m.]

13 ***

14 [A Formal Hearing was held from 10:11 a.m. until 10:13
15 a.m. In the Matter of the Commonwealth of Pennsylvania
16 Bureau of Professional and Occupational Affairs vs.
17 Braheem Zaki Tolbert, DC, File No. 17-43-07941.]

18 ***

19 [A Formal Hearing was held from 10:14 a.m. until 11:23
20 a.m. In the Matter of the Commonwealth of Pennsylvania
21 Bureau of Professional and Occupational Affairs vs.
22 Howard Van Nostrand, DC, File No. 17-43-02352.]

23 ***

24 [Pursuant to Section 708(a)(5) of the Sunshine Act, at
25 11:25 a.m. the Board entered into Executive Session

1 with Kerry Maloney, Esquire, Board Counsel, for the
2 purpose of conducting quasi-judicial deliberations.
3 The Board returned to open session at 12:11 p.m.]

4

5 MOTIONS

6 CHAIR MCCARRIN:

7

8

9

10

The first file we want to look at is
BPOA vs. David Thomas Young, File No.
14-43-12507. Can we have a motion on
that?

11

MS. VANORDER:

12

13

14

Motion to approve the draft Adjudication
and Order of BPOA vs. David Thomas
Young, DC, File No. 14-43-12507.

15

CHAIR MCCARRIN:

16

Need a second on that.

17

DR. HALLORAN:

18

Second.

19

CHAIR MCCARRIN:

20

21

I guess we'll do a roll call on this
one.

22

23

24

25

VanOrder, aye; Aukerman, aye, Swank,
aye; McCarrin, aye; Khoury, aye; Woods,
aye; Halloran, aye.

1 [The motion carried unanimously.]

2 ***

3 CHAIRMAN MCCARRIN:

4 The next one we're looking at is a
5 Licensure by Reciprocity by Daniel
6 Benenfeld Application.

7 MS. WOODS:

8 Motion to approve License by Reciprocity
9 by Daniel Benenfeld as approved by the
10 Board.

11 CHAIR MCCARRIN:

12 Second?

13 MS. VANORDER:

14 Second.

15

16 Roll Call.

17

18 VanOrder, aye; Aukerman, aye, Swank,
19 aye; McCarrin, aye; Khoury, aye; Woods,
20 aye; Halloran, aye.

21 [The motion carried unanimously.]

22 ***

23 CHAIRMAN MCCARRIN:

24 I believe the next one we're looking at
25 is File 17-43-07941, Braheem Zaki

1 Tolbert, D.C.

2 DR. AUKERMAN:

3 I'd like to make a motion to deny the
4 application for License to Practice
5 Chiropractic of Braheem Zaki Tolbert,
6 DC, File No. 17-43-07941.

7 DR. SWANK:

8 Second.

9 CHAIR MCCARRIN:

10 Second, Swank.

11

12 Roll Call.

13

14 VanOrder, aye; Aukerman, aye, Swank,
15 aye; McCarrin, aye; Khoury, aye; Woods,
16 aye; Halloran, aye.

17 [The motion carried unanimously.]

18

19 CHAIRMAN MCCARRIN:

20 Dr. Khoury, you have the last one, I
21 believe, on Dr. Bennett.

22 DR. KHOURY:

23 I make a motion to table this discussion
24 to our next Board meeting in regards to
25 Lawrence Charles Bennett, D.C., Docket

1 No. 0360-43-15.

2 CHAIR MCCARRIN:

3 Second.

4 DR. SWANK:

5 Second, Swank.

6

7 Roll Call.

8

9 VanOrder, aye; Aukerman, aye, Swank,
10 aye; McCarrin, aye; Khoury, aye; Woods,
11 aye; Halloran, aye.

12 [The motion carried unanimously.]

13

14 Old Business

15 [J. Gerard Halloran, D.C., noted that Commissioner
16 Harlow was writing an article regarding PALS for the
17 newsletter. He asked Board members to also consider
18 writing articles. It was noted the last newsletter
19 was in 2006. Nicole VanOrder noted two articles that
20 could be reprinted.

21 It was noted the articles could be submitted to
22 Ms. Wecker to include on the website or reviewed in
23 November.]

24

25 New Business

1 [It was noted that Mr. Blackburn had previously noted
2 the regulation was stuck in the policy office and that
3 office was not inclined to approve it. It was
4 suggested that the regulation be pulled back, tweaked,
5 and sent back for reconsideration because of the
6 unsettled law that was being decided without the
7 Board's approval.

8 Dr. McCarrin noted the Board's initial intent
9 with the regulation from the beginning.

10 Dr. Halloran noted that the state rep in his
11 county will meet with the Governor and several
12 chiropractors to try to push the regulation through.

13 It was suggested that the proposed resubmission
14 be completed before the next Board meeting. There was
15 discussion with regard to application changes being
16 submitted within the 90-day rule.

17 Tax reimbursement was discussed.]

18 ***

19 Adjournment

20 CHAIR MCCARRIN:

21 Motion to adjourn?

22 DR. AUKERMAN:

23 I make a motion to adjourn.

24 CHAIR MCCARRIN:

25 Second?

1 DR. HALLORAN:

2 Second.

3 CHAIR MCCARRIN:

4 All in favor?

5 [The motion carried unanimously.]

6 ***

7 [There being no further business, the State Board
8 Chiropractic meeting adjourned at 12:29 p.m.]

9 ***

10 [The next State Board Chiropractic meeting is
11 scheduled for November 9, 2017.]

12 ***

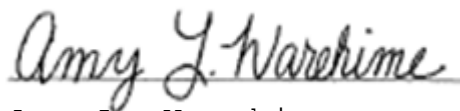
13 CERTIFICATE

14

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

20

21



22

Amy L. Warehime,

23

Minute Clerk

24

Sargent's Court Reporting

25

Service, Inc.

STATE BOARD OF CHIROPRACTIC
REFERENCE INDEX
September 21, 2017

	TIME	AGENDA
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6		
7	9:03	Official Call to Order
8		
9	9:04	Approval of Minutes
10		
11	9:05	Report of Commissioner
12		
13	9:08	Report of Board Counsel
14		
15	9:14	Report of Board Chair
16		
17	9:14	Report of Board Administrator
18		
19	9:22	Public Comment Period
20		
21	9:42	Recess
22	10:01	Return to Open Session
23		
24	10:11	Formal Hearing -Braheem Zaki Tolbert, DC
25		
26	10:14	Formal Hearing - Howard Van Nostrand, DC
27		
28	11:25	Executive Session
29	12:11	Return to Open Session
30		
31	12:11	Motions
32		
33	12:15	Old Business
34		
35	12:20	New Business
36		
37	12:29	Adjournment
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