

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: 10:30 A.M.

Held at

PENNSYLVANIA DEPARTMENT OF STATE

2525 North 7th Street

CoPA HUB, Eaton Conference Room

Harrisburg, Pennsylvania 17110

as well as

VIA MICROSOFT TEAMS

October 17, 2024

State Board of Chiropractic
October 17, 2024

BOARD MEMBERS:

William D. Aukerman, D.C., Chairperson
Arion R. Claggett, Acting Commissioner, Bureau of
Professional and Occupational Affairs
Jonathan W. McCullough Jr., D.C., Secretary
Elizabeth Oquendo, Esquire, MBA, Senior Deputy
Attorney General, Consumer Protection Member
Michael S. Swank, D.C.
Brian Moreland, D.C.

BUREAU PERSONNEL:

Dana M. Wucinski, Esquire, Acting Senior Board
Counsel
Shawn J. Jayman, Esquire, Board Counsel
Thomas M. Davis, Esquire, Regulatory Board Counsel
J. Karl Geschwindt, Esquire, Senior Board Prosecutor
and Prosecution Liaison
Riley Baker, Esquire, Board Prosecutor
Shakeena Chappelle, Board Administrator
Andrew LaFratte, MPA, Deputy Policy Director,
Department of State
Carlton Smith, Deputy Chief Counsel, Prosecution
Division
Michael P. Merten, Esquire, Board Counsel, State
Board of Barber Examiners
Stephanie Dunkerley, Legal Analyst, Office of General
Counsel
Riley Baker, Law Clerk, Department of State

ALSO PRESENT:

Andrew Heck, D.C., President, Pennsylvania
Chiropractic Association
Keith Miller, D.C., Pennsylvania Chiropractic
Association
Jennifer Smeltz, Republican Executive Director,
Senate Consumer Protection & Professional Licensure
Committee
Chris Young, D.C., Secretary, Pennsylvania
Chiropractic Association

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ALSO PRESENT: (cont.)

James Kutz, Esquire, Co-Chair of the Appellate
Department/Chair of the Regulatory & Administrative
Agency Law and Professional Licensure Practice
Groups, Post & Schell, P.C.
Mike Barba, Executive Director, Pennsylvania
Chiropractic Association
Doug Babin, CPCU, AIC, CIFI, FCLS, State Farm
Insurance Companies Special Investigative Unit
President - Pennsylvania Auto Crime Investigator's
Association
Jeffrey Wack, D.C., Nazareth Chiropractic
Ted Mowatt, CAE, Vice President, Wanner Associates,
on behalf of the of the Chiropractor Fellowship of
Pennsylvania
Diana Rocco, D.C., Vital Link Chiropractic
Kristen Bentson, D.C., Lehigh Valley Chiropractic
Amanda Rodriguez, Paralegal, Post & Schell, P.C.
George E. Khoury, D.C., District III Director,
Federation of Chiropractic Licensing Boards
Allison Walker, Sargent's Court Reporting Service,
Inc.

1 ***

2 State Board of Chiropractic

3 October 17, 2024

4 ***

5 [Pursuant to Section 708(a)(5) of the Sunshine Act,
6 at 9:30 a.m. the Board entered into Executive Session
7 with Shawn J. Jayman, Esquire, Board Counsel, for the
8 purpose of conducting quasi-judicial deliberations
9 and to receive the advice of counsel. The Board
10 returned to open session at 10:30 a.m.]

11 ***

12 Official Call to Order

13 [William D. Aukerman, D.C., Chairperson, called the
14 meeting of the State Board of Chiropractic to order
15 at 10:30 a.m.]

16 ***

17 Introduction of Board Members and Attendees

18 [William D. Aukerman, D.C., Chairperson, requested an
19 introduction of Board members and attendees. A
20 quorum of Board members was present.]

21 ***

22 [Shawn J. Jayman, Esquire, Board Counsel, informed
23 everyone that the meeting was being recorded, and
24 those who continued to participate were giving their
25 consent to be recorded.]

Report of Prosecution - No Report

[J. Karl Geschwindt, Esquire, Senior Prosecutor and Board Prosecution Liaison, had nothing to report from prosecution.]

Report of Acting Commissioner

[Arion R. Claggett, Acting Commissioner, Bureau of Professional and Occupational, informed Board members that a vendor was selected for replacement of the Pennsylvania Licensing System (PALS), and System Automation would be implemented at the end of 2025.]

Report of Board Counsel

MR. JAYMAN:

Based on Executive Session deliberations, I believe the Chair would entertain a motion to accept the Final Adjudication and Order as written and deny the request for oral argument in the Matter of Stephen Dwight Herto, Case No. 20-43-010476.

DR. MCCULLOUGH:

So moved.

CHAIR AUKERMAN:

1 Do we have a second?

2 DR. SWANK:

3 Second.

4 CHAIR AUKERMAN:

5 Roll call vote on the Adjudication and
6 Order at Case No. 20-43-010476.

7

8 Dr. Aukerman, aye; Commissioner
9 Claggett, aye; Dr. McCullough, aye;
10 Elizabeth Oquendo, aye; Dr. Swank, aye;
11 Dr. Moreland, aye.

12 [The motion carried unanimously.]

13 ***

14 Report of Board Counsel - Proposed Adjudication and
15 Order

16 MR. JAYMAN:

17 Item 3 on the agenda. Based on
18 Executive Session deliberations, I
19 believe the Chair would entertain a
20 motion to direct Board Counsel to draft
21 an Adjudication and Order consistent
22 with discussions in Executive Session
23 in the Matter of Antony Louis Graham,
24 Case No. 21-43-006953.

25 DR. MCCULLOUGH:

1 So moved.

2 DR. SWANK:

3 Second.

4 CHAIR AUKERMAN:

5 Roll call vote.

6

7 Dr. Aukerman, aye; Commissioner

8 Claggett, aye; Dr. McCullough, aye;

9 Elizabeth Oquendo, aye; Dr. Swank, aye;

10 Dr. Moreland, aye.

11 [The motion carried unanimously.]

12 ***

13 Appointment

14 [Shawn J. Jayman, Esquire, Board Counsel, noted
15 receiving confirmation that Mr. McGrath would not be
16 appearing for the scheduled hearing.]

17 MR. JAYMAN:

18 With regard to item 7 on the agenda,
19 based upon discussion in Executive
20 Session, it is my understanding that
21 the Board would entertain a motion to
22 table the Matter of Robert McGrath,
23 Case No. 23-43-012580, for him to
24 provide proof pursuant to 49 Pa. Code
25 § 5.17 regarding reactivating his

1 license.

2 DR. MCCULLOUGH:

3 So moved.

4 DR. SWANK:

5 Second.

6 CHAIR AUKERMAN:

7 Roll call vote, Shakeena.

8

9 Dr. Aukerman, aye; Commissioner

10 Claggett, aye; Dr. McCullough, aye;

11 Elizabeth Oquendo, aye; Dr. Swank, aye;

12 Dr. Moreland, aye.

13 [The motion carried unanimously.]

14 ***

15 Report of Board Counsel - Discussion - Chiropractic

16 Continuing Education

17 [William D. Aukerman, D.C., Chairperson, referred to

18 the Chiropractic Practice Act and stated the Board

19 would like to change the 24 hours of online

20 continuing education to 12 in person and 12 online.

21 He mentioned the Board voted on that change, but it

22 did not get to the Governor's Office during the

23 pandemic and is why it is not on this licensing

24 cycle.

25 Mr. Davis requested confirmation that the Board

1 currently allows 24 online and wanted to change that
2 to a mandatory 12 in person. He noted Act 100 was
3 passed approximately two or three years ago and
4 promotes the use of virtual continuing education, and
5 the Board would be doing the converse of Act 100. He
6 explained that it would be difficult to try to start
7 mandating in-person continuing education but could
8 certainly try.

9 Acting Commission Claggett informed Board members
10 that he would be against that requirement.

11 Chair Aukerman believed the profession would be
12 better served as a hands-on profession if it had more
13 in-person continuing education classes for licensees.

14 Keith Miller, D.C., former president,
15 Pennsylvania Chiropractic Association, noted being in
16 support but the Independent Regulatory Review
17 Commission (IRRC) shut it down around 2012 because it
18 did not go far enough to protect people. He
19 emphasized that they are a hands-on profession and
20 seeing the degradation of the physical skills of
21 their profession since permitting online education.

22 Dr. Miller mentioned that thousands of senior
23 doctors are bringing on younger doctors who do not
24 have the skills. He commented that not getting a
25 hands-on education in a hands-on profession is bad

1 for the public and profession, along with creating
2 inferior doctors, which will erode the profession
3 over time.

4 Dr. Miller stated there are many professions
5 where online education makes sense, but a hands-on
6 physical medicine physician-based skillset to not
7 have hands-on education is actually eroding their
8 skills and harming the public trust. He noted that
9 to be his personal belief and what their association
10 feels is best for the profession.

11 Ms. Oquendo requested clarification that it would
12 be a change from a full 24 hours of online education
13 to 12 in-person hours and 12 online hours.

14 Dr. Miller explained that the problem is that the
15 act currently does not specify it, noting the Board
16 tried to promulgate a regulation around 2010, 2011,
17 and 2012, but IRRC did not feel it went far enough.
18 He explained that the Act was created in the 1970s
19 and updated in 1985 when there was no such thing as
20 online education, so it does not even exist in the
21 Act.

22 Dr. Miller further explained that because it does
23 not exist and the Board's regulation got shutdown.
24 He stated there is a process right now where the Act
25 would be updated and is a law that will have to be

1 passed, but the Act update could take four to eight
2 years to make its way through the House and the
3 Senate. He reported that Pennsylvania has been rated
4 the second most archaic act in the entire United
5 States by the FCLB.

6 Dr. Miller noted the importance of updating
7 Pennsylvania, because they are losing doctors to
8 other states. He also noted it is becoming very
9 challenging, because their Act is archaic and does
10 not require in-person education like almost every
11 other state does for their profession.

12 Acting Commissioner Claggett asked Mr. Davis to
13 explain the process if the Board were to change the
14 hours.

15 Mr. Davis informed Board members that he would
16 speak with policy because he did not think it would
17 go through policy in light of Act 100. He mentioned
18 that it was passed in 2021 and referred to a section,
19 where each licensing board and licensing commission
20 shall establish rules and regulations for continuing
21 education that provides for distance education if
22 continuing education is required for license, etc.

23 Mr. Davis explained that the way of the
24 Commonwealth and 99% of licensed professions is to
25 start allowing virtual education in the cases where

1 virtual was not allowed and provided an example. He
2 reported writing regulations in the past year or two
3 explaining how much better virtual education has
4 become post-pandemic. He believed it would be an
5 uphill battle, because it is contrary to what every
6 other board is trying to do at this point.

7 Dr. McCullough stated manipulation is a motor
8 skill and provided an analogy. He commented that
9 chiropractic is unique as a hands-on profession and
10 mentioned that the 24 hours the other way around is
11 just not cutting it. New graduates are not getting
12 it without having some in-person instruction.

13 Mr. Davis explained that when proposing something
14 that would be unpopular and contrary to Act 100, the
15 Board can still do it with good reasoning. He asked
16 whether Dr. McCullough would be comfortable with him
17 writing a preamble stating the quality of
18 chiropractic care in Pennsylvania is becoming less
19 and less as time goes by.

20 Andrew Heck, D.C., President, Pennsylvania
21 Chiropractic Association, stated they have been
22 seeing in some chiropractic schools that newer
23 graduates are not fully adjusting patients until
24 trimester 7 out of 10 and noted the importance of the
25 art form of their profession, where they want to

1 craft their skills in a way where they are continuing
2 to get better. He stated the online component does
3 not provide the ability to refine their art form. He
4 commented that the skills of chiropractors who have
5 been practicing for a long time are not
6 deteriorating, and they just want to build up the
7 skills of the younger professionals entering the
8 state.

9 Dr. Swank mentioned that they also have a new
10 chiropractic college coming into Pennsylvania at the
11 University of Pittsburgh starting next year with the
12 expectation of graduates coming out within three
13 years. He noted the Board will need to look into
14 having some kind of regulation on that new college as
15 well.

16 Acting Commissioner Claggett asked Mr. Davis to
17 run that issue by policy for further Board discussion
18 at the next meeting.

19 Mr. Davis offered to reach out to policy and
20 speak with the national association to gather
21 information as far as what other states are doing,
22 because it is something required for the preamble to
23 explain where this would put Pennsylvania in a
24 competitive basis.

25 George Khoury, D.C., District III Director,

1 Federation of Chiropractic Licensing Boards, offered
2 to provide state-by-state comparison from the federal
3 and national boards on those statistics for a side-
4 by-side comparison on states' practices that would
5 include continuing education (CE) and some of the
6 other suggestions regarding certified chiropractic
7 clinical assistants (CCCAs) and some of the specialty
8 programs.

9 Dr. Khoury commented that Florida has three
10 chiropractic conventions a year to get CE credits,
11 where all credits had to be by attendance and then
12 went to 50 but can now be all virtual. He mentioned
13 that practitioners can choose to get their credits in
14 just X-ray and not manipulation, and some
15 chiropractors do not do manipulation that much, where
16 they are looking at just being able to do CE hours.

17 Dr. Khoury noted it also comes into play with
18 licensees who have different licenses in different
19 states, where one of the issues with continuing
20 education in Pennsylvania not approving Providers of
21 Approved Continuing Education (PACE) is that somebody
22 who holds a license in Florida, Delaware, and PA may
23 have to attend each state to get their CE credits.

24 Dr. Khoury noted stated having online CE, makes
25 it easier for people to maintain their CE and

1 maintain licenses in different states. He reported
2 that most practitioners throughout the country are
3 not holding multiple state licenses because of the
4 fees and because of the in-person credits. He
5 mentioned that the trend is more online credits but
6 noted chiropractic is a manual therapy and a
7 manipulative-type treatment for most chiropractors.

8 Dr. Khoury stated it is the job of the schools to
9 teach manipulation and their job to make sure they
10 are able to maintain that skill. He also reported
11 hearing more complaints by patients being injured or
12 hurt by young practitioners doing manipulation
13 because they are not trained and do not have that
14 skillset.

15 Mr. Davis asked Dr. Khoury to send an email
16 through their resource account on the main website at
17 st-chiropractic@pa.gov to get the conversation
18 going.]

19 ***

20 Report of Board Counsel - Discussion - Chiropractic
21 Regulations

22 [William D. Aukerman, D.C., Chairperson, noted prior
23 Board discussion concerning chiropractic regulations
24 involving specialty chiropractic and Board
25 certifications. He stated the Federation of

1 Chiropractic Licensing Boards now has a chiropractor
2 specialty program to vet chiropractic specialty
3 certifications. He noted the importance of making
4 the public aware of who is and is not certified and
5 whether the specialty is false or not. He provided
6 an outline from FCLB.

7 Dr. Khoury explained that the FCLB has created
8 the Recognized Chiropractic Specialties
9 Program (RCSP) for recognized chiropractic specialty
10 programs. He noted it to be a problem in all states
11 where somebody is doing neuropathy, noting
12 chiropractic does not have a specialty in neuropathy.
13 He explained that people are taking weekend courses
14 by somebody who says they are certified, but there is
15 no certifying agency to certify the person who is
16 certified.

17 Dr. Khoury stated there is not really an approval
18 anywhere of specialties that are common other than
19 the American Chiropractic Association and the
20 International Chiropractic Association. He noted
21 there are other neurology programs and concussion
22 programs that are valid and some are not, so the FCLB
23 created a program where they do the vetting of the
24 specialties and are approved as a specialty or not.
25 He explained that state boards could have the trust

1 that the FCLB vetted them and approved them as a
2 specialty and can be called specialists in their
3 state.

4 Dr. Khoury reported about 17 states have adopted
5 RCSP in their regulations and are looking for
6 Pennsylvania to do the same. He mentioned that it is
7 similar to PACE and is not totally autonomous, where
8 the Board always has the final rule.

9 Dr. Khoury explained that it is only to reduce
10 the burden, overlap in costs, and the differences
11 from a state like Pennsylvania, Ohio, and West
12 Virginia to make sure doctors who have those licenses
13 in those three states can call themselves specialists
14 and and have some type of standardization.

15 Dr. McCullough commented that the Board has been
16 discussing this since 2000 and had a regulatory
17 package. He stated the public is defrauded into
18 thinking that a group of initials after the doctor's
19 name actually means something. He noted the American
20 Chiropractic association- and International
21 Chiropractic Association-approved programs, residency
22 programs would be accepted at that time.

23 Dr. McCullough noted Dr. Khoury to be correct,
24 and anybody who comes before the Board could say they
25 are a specialist or have diplomate status if the

1 Board does not commit to who is and is not a
2 specialist if it is not stipulated in the Act.

3 Dr. Khoury addressed the difference between
4 certification and diplomate status, where
5 certification can be 12 hours and does not have a
6 competency-based test. He noted the vast difference
7 for the public to see is someone certified in 12
8 hours compared to a 100-hour program through the
9 University of Pittsburgh as a primary spine
10 practitioner (PSP) or a 300-hour program through ACA
11 or ICA as a diplomate.

12 Dr. Khoury also noted they all have competency-
13 based testing and continuing education attached to
14 them to maintain their diplomate status, which is
15 different than certification.

16 Dr. Miller stated the scope of practice is being
17 updated. He noted consulting with the FCLB, other
18 states, and experts around the country. He noted
19 that they realized that there was no delineation that
20 makes someone a board-certified X, Y, or Z because
21 the scope was archaic and marginally updated in 1985
22 to add the adjunct license.

23 Dr. Miller noted the problem is that immediately
24 recognizing the ICA and the ACA diplomate programs
25 and being aware that quality organizations are out

1 and wanted to include them into the updated scope to
2 protect the public.

3 Dr. Miller stated the FCLB program allows them,
4 as they rewrite the scope and as the Board
5 promulgates regulations, to refer to another body, so
6 when the regulation is either done or the scope is
7 rewritten that they could say based on the
8 recommendation of their organization, which would
9 prevent them from having to go back and rewrite a
10 law.

11 Dr. Miller noted they can make it more open-ended
12 by using the FCLB's policies and also makes the
13 Pennsylvania license more ubiquitous to all other
14 states, because they are rated the second most
15 archaic state in the nation by scope. He stated PCA
16 supports this and believes it is would standardize
17 the profession, bring higher standards, and stop some
18 of the people taking silly certifications.

19 Acting Commissioner Claggett asked Dr. Miller to
20 provide information where Pennsylvania is the second
21 most archaic state by scope.

22 Dr. Miller explained that Dr. Khoury attended a
23 recent FCLB Convention where they actually used
24 Pennsylvania's scope as the example of what scopes
25 should not look like and could provide more

1 information.

2 Dr. Khoury informed Acting Commissioner Claggett
3 that it is accumulated information put out by the
4 Council of Chiropractic Education and is determined
5 through the United States Department of Education, to
6 certify chiropractic colleges. He explained that
7 they look at all of the state scope of practices and
8 how licensees can come into each state based on that
9 scope.

10 Dr. Miller commented that the Department of
11 Education that licenses and certifies chiropractic
12 education programs in universities in the nation,
13 noting Pennsylvania is behind, should have a wake-up
14 call to what the 2024 standards should be, which is
15 why the Board needs to rewrite their scope. He also
16 mentioned that students are going to universities
17 like Penn State and Pitt and leaving the state to go
18 elsewhere.

19 Dr. Miller noted the importance of updates for
20 certified chiropractic assistants and formalizing
21 what is or is not a diplomate and a specialist. He
22 also commented that Act 100 does not direct all
23 online education but says that boards need to create
24 rules for online education.]

25 ***

1 Report of Board Counsel - Discussion - Out-of-State
2 Chiropractic Care

3 [William D. Aukerman, D.C., Chairperson, addressed
4 insurance companies now dictating care with
5 technology using out-of-state chiropractors. He
6 noted the importance of deciding whether it is legal
7 or not for doctors sitting out of state and not
8 having a PA license examining the patient. He also
9 noted they are so intrusive that a lot of doctors are
10 not taking those patients.

11 Mr. Geschwindt stated prosecution would have to
12 receive a complaint first to start investigating and
13 did not see that conducting a records review for an
14 insurance company to determine what the company would
15 cover would generally be something that they regard
16 as practice that would require a license.

17 Chair Aukerman explained that they do not have
18 the records and are doing this by looking at the
19 number of visits and maybe the age of the patient,
20 where they want the patient released and have
21 different care. He reported receiving a call to get
22 rid of 13 people. He commented that they are into a
23 legal issue and chiropractic malpractice at this
24 point and wanted to make sure he is legally
25 protected.

1 Acting Commissioner Claggett asked Mr. Jayman to
2 reach out to his chain of command concerning the
3 issue and provide information at the next meeting.

4 Dr. McCullough commented that someone who starts
5 or stops chiropractic is venturing into the practice
6 of chiropractic medicine, noting the Board has no
7 ability to adjudicate anything if the person does not
8 have a Pennsylvania license. He mentioned that he
9 did not see how they are protecting the public if it
10 involves a Pennsylvania resident and they cannot
11 control who does and does not get chiropractic care.

12 Dr. Miller stated he recently had an insurance
13 carrier who was cutting off care for no care reason
14 based on just data metrics, noting the review doctor
15 he was speaking with was not only not licensed in
16 Pennsylvania but just graduated and did not have a
17 license in the state he was living, and they would
18 hire him based on the fact he graduated because
19 Pennsylvania does not require licensing at all for
20 them to do this.

21 Dr. Miller noted that it was a student who had
22 never actually seen a patient in private practice,
23 never practiced, never saw a patient, never took them
24 through a care plan, and never did anything outside
25 of a school and was now telling him as a 24-year

1 veteran of his field how he is supposed to be
2 managing that patient. He explained that the student
3 was not licensed in any of the states but was doing
4 this as an intermediate job while he was awaiting a
5 license. This loophole needs to be corrected.

6 Dr. Miller further explained that the person is
7 practicing medicine in Pennsylvania and telling him
8 what he can or cannot do and how to treat a patient,
9 where it is not like utilizing a code improperly or
10 doing exams too often. He commented that the number
11 one rule in medicine is do no harm, but they are
12 doing harm to patients on a daily basis because of
13 the archaic scope of practice and loopholes.

14 Dr. Khoury stated insurance companies are also
15 determining what codes they will pay, where insurance
16 companies are practicing chiropractors without a
17 license and puts the licensee in a position of
18 changing their standard of care based off of economic
19 extortion by the insurance company.

20 Dr. Khoury also stated insurance companies will
21 do pre- and post-authorization for care that are
22 supposed to be peer review in Pennsylvania, noting he
23 has been reviewed by OB/GYNs for sciatic cases who
24 have never treated a sciatic case ever in their life.
25 He commented that it may not be the purview of the

1 State Board of Chiropractic until a complaint is
2 filed but believed that is putting the Commonwealth
3 constituents in harm's way.]

4 ***

5 Report of Board Chair

6 [William D. Aukerman, D.C., Chairperson, addressed
7 his attendance at the Federation of Chiropractic
8 Licensing Boards (FCLB) Meeting in Asheville, North
9 Carolina. He reported on spirited discussions and
10 going over regulations in different states.

11 Chair Aukerman noted the president of the Council
12 on Chiropractic Education president spoke, and there
13 were many different discussions on how a
14 chiropractor's social media history factors in with
15 investigations, professional misconduct, and
16 prosecutions.

17 Chair Aukerman cautioned against broadcasting
18 everything they are doing in their office online,
19 because state prosecutors go on Facebook and Twitter.

20 Chair Aukerman reported on discussion on the use
21 of artificial intelligence in the chiropractic
22 profession. He stated programs are already out there
23 for medical doctors that creates a note from their
24 conversation with the patient. He mentioned the
25 importance of deciding at some point how the Board

1 would use that in their profession to protect the
2 public.

3 Chair Aukerman announced the Federation of
4 Chiropractic Licensing Boards Annual Conference is
5 April 30 through May 4, 2025, in St. Louis, MO.]

6 ***

7 Miscellaneous - Vote for Board Member Attendance at
8 the Federation of Chiropractic Licensing Boards
9 Annual Conference

10 [William D. Aukerman, D.C., Chairperson, requested
11 approval to attend the Federation of Chiropractic
12 Licensing Boards Annual Conference, April 30 through
13 May 4, in St. Louis, MO, as a delegate for
14 Pennsylvania, along with Dr. McCullough as the
15 alternate.]

16 CHAIR AUKERMAN:

17 Motion for attendance at the Annual
18 Federation of Chiropractic Licensing
19 Boards National Chiropractic Examiners
20 Annual Meeting April 30 through May 4
21 in St. Louis for Dr. Aukerman and Dr.
22 McCullough.

23 We need a voice vote to approve
24 that.

25 DR. MORELAND:

1 So moved.

2 ACTING COMMISSIONER CLAGGETT:

3 Second.

4 CHAIR AUKERMAN:

5 Roll call vote.

6

7 Dr. Aukerman, aye; Commissioner

8 Claggett, aye; Dr. McCullough, aye;

9 Elizabeth Oquendo, aye; Dr. Swank, aye;

10 Dr. Moreland, aye.

11 [The motion carried unanimously.]

12 ***

13 Miscellaneous - Probable Cause Screening Committee

14 [William D. Aukerman, D.C., Chairperson, introduced

15 Elizabeth Oquendo as the new attorney general for the

16 Board. He noted Dr. McCullough would like to serve

17 on the Probable Cause Screening Committee also, and

18 Ms. Oquendo agreed.]

19 ***

20 Report of Regulatory Board Counsel - Regulations

21 Status Report October 2024

22 [Thomas M. Davis, Esquire, Board Regulatory Counsel,

23 provided a Status of Regulations Report prior to the

24 meeting for the Board's review. He noted the general

25 revisions and licensure by endorsement are on that

1 report. He mentioned several boards still have Act
2 41 regulations in the works and will be drafting
3 those as a package. He plans to work on licensure by
4 endorsement next and hopefully get that moving
5 sometime by the end of the year.

6 Dr. McCullough referred to proposed regulations
7 in 2012 regarding independent chiropractic
8 examination. He noted the Board considered those
9 reasonable regulations regarding that because their
10 act was silent as to what was and was not an
11 independent chiropractic examination.

12 Dr. McCullough stated it stopped with Governor
13 Corbett at the time of the new administration. He
14 explained that their primary goal is to protect the
15 public, and if a person is sent to an independent
16 doctor, there is nothing that regulates what is being
17 done to the patient because there is no doctor-
18 patient relationship. He mentioned that the treating
19 chiropractor oftentimes never sees the independent
20 doctor's report and the patient never sees the
21 independent doctor's report.

22 Dr. McCullough referred to subsection (7), noting
23 the Board put that in at that time because they would
24 like the independent doctor to identify any
25 potentially serious medical condition that they might

1 discover. He proffered it for the Board's review and
2 discussion about seeing whether they can get a
3 regulation regarding the practice of independent
4 medical examination.

5 Acting Commissioner Claggett stated the
6 information would be shared with Mr. Davis.]

7 ***

8 Appointment - Andrew Heck - PCA Presentation - FCLB

9 Certification Program for Chiropractic Assistants
10 [Andrew Heck, D.C., President, Pennsylvania
11 Chiropractic Association, presented to the Board to
12 discuss the delegation and role of chiropractic
13 assistants in Pennsylvania. He stated chiropractic
14 assistants help chiropractors through both
15 administrative means and providing basic clinical
16 support.

17 Dr. Heck mentioned that chiropractic assistants
18 (CAs) have taken on more responsibilities, especially
19 with adjunctive procedures being covered by insurance
20 carriers, such as therapeutic exercise and other
21 passive modalities like electric stimulation and
22 traction.

23 Dr. Heck referred to a court case in 2018, *State*
24 *Farm v. Cavuto*, which really reshaped the role of the
25 CA and how they practiced in Pennsylvania. He

1 reported losing the ability to delegate therapeutic
2 exercise to chiropractic assistants as a result of
3 that case.

4 Dr. Heck explained that the decision was made by
5 the judge because it was deemed that therapeutic
6 exercise in a chiropractic setting required the
7 education and training of a chiropractor. He stated
8 there is currently no mechanism for a chiropractic
9 assistant to be delegated to do therapeutic exercise
10 or be trained in therapeutic exercise and noted that
11 to be an issue they have been trying to solve since
12 that court case.

13 Dr. Heck stated they have been putting forth
14 legislative efforts since 2018 in order to resolve
15 this issue and also had discussions at the state
16 Board level as well through potential regulatory
17 solutions. He reported engaging with a number of
18 stakeholders, the Insurance Federation of
19 Pennsylvania, the Physical Therapy Association of
20 Pennsylvania, Occupational Therapy Association, etc.,
21 but continue to have opposition to their bill because
22 of the lack of national standards.

23 Dr. Heck noted the Federation Chiropractic
24 Licensing Boards announced a certified clinical
25 chiropractic assistant program, which provided

1 national CA standards and a way to educate them. He
2 reported many states have adopted this program and
3 hoped that Pennsylvania would get ahead of the curve.

4 Dr. Heck addressed the program's educational
5 requirements, noting a minimum of 24 hours of
6 coursework. He mentioned there are different ways
7 education is approved by the FCLB, including (PACE),
8 which is probably the easiest way.

9 Dr. Heck noted there is also the ability for the
10 FCLB to approve other programs that are reviewed by
11 their committee that meet the standards required for
12 the certified clinical chiropractic assistant. He
13 mentioned CAs are also able to get approved to take
14 the test for certification if they already have 2000
15 hours of clinical experience.

16 Dr. Heck explained that the examination is
17 administered by the National Board of Chiropractic
18 Examiners, noting that entity also provides
19 chiropractic board exams as well. He further
20 explained that it has 100 multiple choice questions
21 and is proctored by a chiropractor who is sitting in
22 on the examination.

23 Dr. Heck noted that candidates who pass the
24 examination receive an identification (ID), which is
25 a way the patient could differentiate between a

1 typical chiropractic assistant versus a certified
2 clinical assistant.

3 Dr. Heck addressed the renewal process, noting
4 candidates are required to complete 300 hours of
5 supervised clinical experience. He also noted they
6 would be exempt from the continuing education
7 requirements the first year but in subsequent
8 renewals at the FCLB there is a minimum of 6 hours of
9 continuing education, which is something actively
10 being negotiated with interest groups.

11 Dr. Heck mentioned that the negotiated rate in
12 their bill currently is 16, which is about two-thirds
13 the requirement of a chiropractor for their
14 continuing education. He noted continuing education
15 is approved in a similar way to how their education
16 is approved for chiropractors.

17 Dr. Heck referred to the initial application fees
18 of the program, noting it is cost-effective for
19 chiropractors to be able to hire people and provide
20 them with additional education that makes them more
21 valuable for their practices. He discussed the
22 importance of protecting the public, noting the
23 Certified Clinical Assistant Committee would review
24 allegations of wrongdoing by a certified clinical
25 assistant.

1 Dr. Heck mentioned there is also a board of
2 directors that govern and administer the program, so
3 a lot of the administrative burden that would be
4 placed on the state board is kind of taken away
5 because the FCLB already has established
6 administration for the program.

7 Dr. Heck addressed other states using this mode,
8 noting there are 45 different programs across 25
9 different states, and 7 out of the 18 chiropractic
10 colleges have a program. He mentioned the American
11 Chiropractic Association also has a program.

12 Dr. Heck explained that Pennsylvania has a unique
13 need for the program because of their inability to
14 delegate therapeutic exercise, and the program
15 provides a clear path forward. He mentioned that
16 they have a national standard and could make their
17 program specific to include training and exercise
18 therapy, which would be able to differentiate their
19 current chiropractic assistance from the certified
20 chiropractic assistance.

21 Dr. Heck stated therapeutic exercise from a
22 billing perspective is a timed modality, where the
23 doctor has a requirement of the amount of time they
24 are to spend with that patient, where the more the
25 doctor or chiropractic is performing therapeutic

1 exercise, the smaller number of patients they can see
2 in a certain amount of time.

3 Dr. Heck noted being hopeful that chiropractors
4 across the state will help with their legislative
5 effort in passing this bill. He requested Board
6 member feedback regarding the program as the way
7 their bill will be set up to give the Board the
8 ability to approve a national standard program to fit
9 the needs of their profession for the unique issue
10 with delegating therapeutic exercise.

11 Dr. Moreland thanked PCA for addressing this
12 issue and FCLB for creating the program. He referred
13 to the court ruling, noting it has made it more
14 difficult on everyone within the state to practice.
15 He asked whether the ultimate hope is to try to pass
16 the legislation, so they do not necessarily have to
17 have certified chiropractic assistants.

18 Dr. Heck explained that they would need a program
19 like this in order for the legislation to move
20 forward. He further explained that the order of
21 operations would be the legislation, which gives the
22 Board the authority to approve a program for
23 certified chiropractic assistance specific to the
24 delegation of therapeutic exercise, which would then
25 create the program through PCA to meet that specific

1 need, which could be approved by the Board.

2 Dr. Moreland requested clarification that would
3 help the PCA with the legislative to get the votes
4 needed if the state approves using the FCLB model to
5 create a certified chiropractic assistant.

6 Dr. Heck mentioned that feedback would be
7 invaluable, because they are always asked by
8 legislators how something would work from a
9 regulatory standpoint and whether it would work for
10 the State Board of Chiropractic.

11 Mr. Jayman requested an update on the status of
12 House Bill 630.

13 Dr. Heck noted it is currently in the House
14 Professional Licensure Committee. He reported having
15 meetings with the chairman of that committee, but
16 that is as far as it has gone.]

17 ***

18 Report of Board Administrator - No Report

19 ***

20 Adjournment

21 CHAIR AUKERMAN:

22 Motion to adjourn the meeting?

23 DR. MCCULLOUGH:

24 I'd like to make a motion that we
25 adjourn the meeting.

1 DR. SWANK:

2 Second.

3 CHAIR AUKERMAN:

4 The meeting is adjourned.

5 ***

6 [There being no further business, the State Board of
7 Chiropractic Meeting adjourned at 11:44 a.m.]

8 ***

9
10 CERTIFICATE

11
12 I hereby certify that the foregoing summary
13 minutes of the State Board of Chiropractic meeting,
14 was reduced to writing by me or under my supervision,
15 and that the minutes accurately summarize the
16 substance of the State Board of Chiropractic meeting.

17
18
19 

20 Allison Walker,

21 Minute Clerk

22 Sargent's Court Reporting
23 Service, Inc.

STATE BOARD OF CHIROPRACTIC
REFERENCE INDEX

October 17, 2024

TIME

AGENDA

9:30	Executive Session
10:30	Return to Open Session
10:30	Official Call to Order
10:31	Introduction of Board Members/Attendees
10:31	Approval of Minutes
10:33	Report of Acting Commissioner
10:33	Report of Board Counsel
10:35	Appointment - Robert McGrath
10:36	Report of Board Counsel (cont.)
11:19	Report of Board Chair
11:21	Miscellaneous
11:24	Report of Regulatory Board Counsel
11:28	Appointment - Andrew Heck - PCA Presentation - FCLB Certification Program for Chiropractic Assistants
11:44	Adjournment