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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: 10:33 A.M.

PENNSYLVANIA DEPARTMENT OF STATE

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

VIA MICROSOFT TEAMS

October 12, 2023

State Board of Chiropractic
October 12, 2023

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ALSO PRESENT: (cont.)

Ted Mowatt, CAE, Vice President, Wanner Associates,
on behalf of the of the Chiropractor Fellowship of
Pennsylvania

Jeff Snyder, D.C., Snyder Family Chiropractic
Victoria Lantz, Sargent's Court Reporting Service,
Inc.

1 ***

2 State Board of Chiropractic

3 October 12, 2023

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 Tyesha C. Miley, Esquire, Board Counsel, to have
8 attorney-client consultations and for the purpose of
9 conducting quasi-judicial deliberations. 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 10:33 a.m.]

16 ***

17 Introduction of Board Members and Attendees

18 [William D. Aukerman, D.C., requested an introduction
19 of Board members and attendees.]

20 ***

21 [Tyesha C. Miley, Esquire, Board Counsel, advised
22 everyone that the Board is permitted to proceed with
23 the business of the Board pursuant to Act 100 of 2021
24 by way of a virtual platform to establish a quorum
25 and effectuate the business of the Board.

1 Ms. Miley noted that the meeting was being
2 recorded, and those who continued to participate were
3 giving their consent to be recorded.

4 Ms. Miley also informed everyone that the Board
5 met in Executive Session to have attorney-client
6 consultation and for the purpose of conducting quasi-
7 judicial deliberations.]

8 ***

9 Approval of minutes of the August 10, 2023 meeting

10 CHAIR AUKERMAN:

11 We would like to move on to approval of
12 the draft minutes from August 10, 2023.

13 Do we have a motion to approve the
14 minutes from the August 10, 2023
15 meeting?

16 DR. MCCULLOUGH:

17 I move that we accept the minutes as
18 transcribed.

19 CHAIR AUKERMAN:

20 Do we have a second to approve the
21 draft minutes of the August 10, 2023
22 meeting?

23 DR. SWANK:

24 I second the motion.

25 CHAIR AUKERMAN:

1 Is there any discussion? Roll call
2 vote for the minutes.

3
4 Dr. Aukerman, aye; Dr. McCullough, aye;
5 Ann Johnston, aye; Dr. Swank, aye; Dr.
6 Moreland, abstain.

7 [The motion carried. Brian Moreland abstained from
8 voting on the motion.]

9 ***
10 Report of Prosecution - No Report

11 ***
12 Report of Acting Commissioner - No Report

13 ***
14 Report of Board Counsel - Final Adjudication and
15 Order

16 CHAIR AUKERMAN:

17 I would entertain a motion to adopt the
18 Final Adjudication and Order in the
19 matter of Bradley Harryman, Case No.
20 20-43-007972.

21 DR. MCCULLOUGH:

22 I make a motion that we accept the
23 Final Adjudication and Order in the
24 matter of Bradley Harryman, Case No.
25 20-43-007972.

1 CHAIR AUKERMAN:

2 Do we have a second?

3 DR. SWANK:

4 I second that.

5 CHAIR AUKERMAN:

6 Is there a discussion? Roll call vote.

7

8 Dr. Aukerman, aye; Dr. McCullough, aye;

9 Ann Johnston, aye; Dr. Swank, aye; Dr.

10 Moreland, aye.

11 [The motion carried unanimously.]

12

13 Report of Board Chair

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

15 receiving numerous letters regarding the fee increase

16 for continuing education, including from the American

17 Chiropractic Association and Pennsylvania

18 Chiropractic Association, which would be discussed

19 under the Report of Regulatory Board Counsel.

20 Chair Aukerman addressed his attendance at the

21 Federation of Chiropractor Licensing Boards Meeting

22 September 21-24 in Boston. He reported numerous

23 states were in attendance, along with having two

24 representatives from the California State Board who

25 were in attendance at their meeting because they

1 missed their meeting.

2 Chair Aukerman mentioned having a discussion
3 concerning jurisdictions seeing an increase in
4 advertising violations, especially online, where
5 doctors of chiropractic are stating they are
6 certified or board certified. He noted the
7 importance of better clarifying that and honing down
8 who is actually board certified to prevent false
9 advertising. He mentioned that the issue was brought
10 up in other states, including Maryland and South
11 Carolina.

12 Chair Aukerman reported some states are seeing an
13 increase in chiropractic use of social media to
14 promote questionable adjusting techniques. He
15 commented that it is becoming a problem and probably
16 needs more regulation as far as licensees.

17 Chair Aukerman addressed the discussion regarding
18 impersonating scams involving chiropractic boards,
19 where people try to extort monies because of
20 violations that went unfounded, noting many states
21 sent out electronic letters notifying the
22 practitioners.

23 Chair Aukerman stated there were questions about
24 whether lobbying is ever acceptable by a Board member
25 and informed everyone that it would be a Board

1 violation and not acceptable in Pennsylvania. He
2 reported some states are allowed to lobby within
3 certain degrees with their legislature.

4 Chair Aukerman mentioned being asked whether new
5 Pennsylvania State Board of Chiropractic members were
6 educated on Robert's Rules. He noted informing
7 everyone that he received a book on Robert's Rules of
8 Order but did not have an education on it.

9 Chair Aukerman noted being asked whether their
10 Board has a strategic plan, noting many states follow
11 a written strategic plan for 5 to 10 years.

12 Chair Aukerman commented that specialty boards
13 and approvals was a big item addressed in many
14 states, and the Federation of Chiropractic Licensing
15 Boards (FCLB) was working on getting nationwide
16 approval for those. He referred to the draft letter
17 from FCLB stating that nationally recognized boards
18 with extensive testing should be recognized in each
19 state and approved. He mentioned that everyone would
20 hear more about specialty boards and approvals at
21 next year's Federation of Chiropractic Licensing
22 Boards Meeting May 1-4, 2024, in Phoenix, AZ.]

23 ***

24 Report of Board Administrator - Review of
25 Applications

1 CHAIR AUKERMAN:

2 We have a Review of Application from
3 Peter A. Holst, Chiropractor by
4 Reciprocity. He is practicing in New
5 York and wanted to receive an active PA
6 license.

7 I want to entertain a motion, after
8 discussion prior, for a license of
9 reciprocity for Peter A. Holst.

10 Do we have a motion to entertain
11 that?

12 DR. MCCULLOUGH:

13 I make a motion that we accept the
14 Reciprocity Application by Peter A.
15 Holst, D.C.

16 CHAIR AUKERMAN:

17 Do we have a second for Peter Holst
18 reciprocity licensing?

19 DR. SWANK:

20 I second that motion.

21 CHAIR AUKERMAN:

22 Any discussion? Roll call vote.

23

24 Dr. Aukerman, aye; Dr. McCullough, aye;
25 Ann Johnston, aye; Dr. Swank, aye; Dr.

1 Moreland, aye.

2 [The motion carried unanimously.]

3 ***

4 Old Business

5 [Shakeena L. Chappelle, Board Administrator, referred
6 to prior Board discussion concerning continuing
7 education applications being moved to an electronic
8 submission through the Pennsylvania Licensing System
9 (PALS) Dashboard. She noted there had been testing
10 and it was supposed to roll out on September 29,
11 2023, but was postponed until November. She had not
12 been given an exact date but would keep everybody up
13 to date on the testing and rollout for the
14 applications to go live.]

15 ***

16 New Business

17 [Jonathan W. McCullough Jr., D.C., Secretary, asked
18 whether 2024 Board meeting dates were available.

19 Ms. Chappelle informed everyone that the 2024
20 Board meetings dates are posted on their website but
21 offered to send the dates to Board members.

22 Chair Aukerman noted the next scheduled 2023
23 Board meeting date is December 14.]

24 ***

25 Miscellaneous

1 [George E. Khoury, D.C., District III Director,
2 Federation of Chiropractic Licensing Boards, thanked
3 Chair Aukerman for attending the Federation of
4 Chiropractic Licensing Boards District Meeting and
5 representing Pennsylvania.

6 Dr. Khoury informed Board members that FCLB
7 developed a slideshow regarding Robert's Rules, along
8 with a strategic planning slideshow, that he would
9 like to forward to the Board.

10 Ms. Chappelle offered to distribute the
11 slideshows to Board members.]

12

13 Report of Regulatory Board Counsel - General
14 Revisions

15 [Tyesha C. Miley, Esquire, Board Counsel, informed
16 Board members that Thomas Davis has been assigned as
17 regulatory counsel to the State Board of
18 Chiropractic.

19 Mr. Davis informed Board members that he served
20 on three other boards over the past five years and
21 explained that his new role as regulatory counsel
22 would help move regulations along for nine separate
23 boards. He mentioned having the opportunity to
24 discuss the Board's regulations with Ms. Miley and
25 working with her on the fee regulation.

1 Ms. Miley addressed 16A-4328 regarding general
2 revisions. She noted prior Board discussion
3 concerning incorporating unlicensed supported
4 personnel, also referred to as the delegation
5 regulation, into the general revisions.

6 Ms. Miley noted incorporating what was formally
7 16A-4333 into the General Revisions Annex identified
8 as 16A-4328 and what currently exists at this time as
9 a result of that inclusion are the prior general
10 revisions, as well as what has been short termed as a
11 delegation of duties to unlicensed personnel.]

12 MS. MILEY:

13 I believe the Chair would entertain a
14 motion to release an exposure draft of
15 the proposed Annex of the General
16 Revisions at 16A-4328 to interested
17 parties and stakeholders for comment.

18 Is there such a motion?

19 DR. MCCULLOUGH:

20 I make a motion that we accept the
21 Reciprocity Application by Peter A.
22 Holst, D.C.

23 CHAIR AUKERMAN:

24 Do we have a second for Peter Holst
25 reciprocity licensing?

1 DR. SWANK:

2 I second that motion.

3 CHAIR AUKERMAN:

4 Any discussion? Roll call vote.

5

6 Dr. Aukerman, aye; Dr. McCullough, aye;

7 Ann Johnston, aye; Dr. Swank, aye; Dr.

8 Moreland, aye.

9 [The motion carried unanimously.]

10

11 Report of Regulatory Board Counsel - Licensure by

12 Endorsement Pursuant to Act 41

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

14 addressed licensure by endorsement pursuant to Act

15 41. He referred to the current status, noting Ms.

16 Miley and one of the legal assistants has been

17 working on it quite a bit in the last few weeks. He

18 reported the proposed package is almost ready for

19 approval by the Board and may see that before the

20 Board at the next meeting.

21 Mr. Davis noted 16A-4335 regarding the fee

22 regulation was released as proposed and published in

23 the *Pennsylvania Bulletin* August 5, 2023. He stated

24 the comment period closed September 5, 2023, and the

25 Board received comments from the Independent

1 Regulatory Review Commission (IRRC), along with
2 comments from the American Chiropractic Association
3 (ACA) and the Pennsylvania Chiropractic Association
4 (PCA)

5 Mr. Davis informed Board members that ACA
6 mentioned the proposed fee increases makes delivery
7 of affordable quality and approved continuing
8 education credits to licensed doctors of chiropractic
9 in Pennsylvania a cost prohibitive undertaking and
10 would prefer a model where there are preapproved
11 course providers, like accredited chiropractic
12 colleges or state and national organizations.

13 Mr. Davis noted PCA's comments were similar,
14 however, suggested the fee increase be reflected in a
15 tiered manner specific to per credit ranges as
16 opposed to per course somewhere between 0 and 2
17 credits, \$45; between 2 and 6, \$75;, and then 6 plus
18 maybe \$125.

19 Mr. Davis also reported that PCA and their
20 members believe the 90-day lead time to approve CEs
21 is far longer than any other state board approval
22 times. He noted having a legal assistant look into
23 the 90-day lead time, where the current act says a
24 sponsor shall submit to the Board in writing the
25 following information at least 90 days prior to the

1 date on which the program is scheduled to be
2 presented.

3 Mr. Davis explained that the Board does not have
4 the ability via regulation to shorten that time frame
5 because it is in the statute. He mentioned looking
6 into all of the other boards, noting 90 days is not
7 much different. He reported 6 boards currently
8 require the application for CE credit approval be
9 submitted 60 days prior, 5 boards require 90 days
10 prior, and 1 board requires 120 days prior.

11 Mr. Davis addressed other comments, noting the
12 Board's act does not allow for preapproved course
13 providers and just talks about approving courses and
14 referred to paragraph (g) approved programs, where it
15 looks like there is a requirement that the Board
16 approve certain programs depending upon where that
17 program is being held, noting the caveat so long as
18 the course requirements of the section are met.

19 Mr. Davis revisited the way that the Bureau of
20 Finance and Operations (BFO) determines fees, where
21 they present fee forms and explain the cost to the
22 bureau for processing the application. He noted BFO
23 tries to determine how long it would take Board
24 admin, legal, and possibly Board members to determine
25 how much is paid for that estimated time of review of

1 applications.

2 Mr. Davis mentioned that it takes the same amount
3 of time to review an application, whether the course
4 is a 2-hour or 12-hour course and is why there is a
5 set fee for that particular application. He stated
6 it does not really allow for what is being suggested.

7 He noted the Fee Report Form can show and document
8 exactly where the fees are coming from and they do
9 not charge more for an application than it takes to
10 process.

11 Mr. Davis referred to the suggested \$125 fee for
12 the six plus, which would obviously be even higher in
13 six years from now, noting they would potentially be
14 charging more for that application than it takes the
15 bureau to review it to compensate for the lower fees
16 on the other one. He noted the actual fees obtained
17 from membership for renewals is where probably 90-95
18 percent of their income comes from on a biennial
19 basis.

20 Mr. Davis suggested not changing anything in the
21 regulations based upon the comments. He noted IRRC
22 also mentioned the same thing, where they wanted the
23 Board to elaborate on question 21 of the the
24 Regulatory Analysis Form (RAF) regarding the estimate
25 of the cost and/or savings to state government

1 associated with the implementation of the regulation.

2 Mr. Davis noted IRRC also reiterated what ACA and
3 PCA said with regard to the fee for CE course
4 approval, noting that he would like to look into
5 approved programs under subsection (g) between now
6 and next meeting because it does not take the Board
7 administrator nearly as long to review and approve
8 those courses. He mentioned that maybe there is
9 something they can do when it comes to courses that
10 have been approved in the past.

11 Keith Miller, D.C., President, Pennsylvania
12 Chiropractic Association, informed Board members that
13 PCA is concerned about the growing belief among
14 providers that the competitive nature of practice in
15 Pennsylvania is extremely limited and is looking into
16 updating the scope of practice to hopefully change
17 and clarify some of the items.

18 Dr. Miller stated the process has to be done by
19 law and would take anywhere from three to seven
20 years. He noted PCA is seeing a shortage of doctors
21 and is in contact with schools and students on a
22 regular basis. He addressed the importance of not
23 making CE expensive in Pennsylvania. He mentioned CE
24 is going to smaller formats, where people are doing
25 online formats even when they attend conventions. He

1 referred to the Congress of Chiropractic State
2 Associations (COCSA) Convention and ACA Engage,
3 noting doctors are getting used to this type of
4 format having 1 to 2 hours of CE.

5 Dr. Miller commented that people want 1- to 2-
6 hour CEs in a TikTok and Instagram generation and
7 would make that extremely difficult if the ACA is
8 doing twelve 1-hour CEs at their convention and
9 costing them \$1,200 or \$1,300 just to be able to have
10 Pennsylvania participate.

11 Dr. Miller addressed the recent Parker situation,
12 where Parker did not have Pennsylvania credits in
13 Florida and hurt many of their doctors. He stated
14 Pennsylvania was one of the only states that did not
15 have credits because the process in Pennsylvania went
16 slow and is why PCA made the comments over the 90
17 days.

18 Dr. Miller explained that Pennsylvania is not
19 going to be included in the COCSA, ACA Engage, and
20 Parker classes if they start expecting these massive
21 amounts of fees on 1- and 2-credit courses. He
22 stated Pennsylvania is already at a competitive
23 disadvantage because of issues with veterinary
24 chiropractors and dry needling, which has come before
25 the Board, along with things in their scope where

1 doctors are choosing to not come to Pennsylvania.

2 Dr. Miller commented that it is creating not only
3 a provider shortage for doctors hiring associates,
4 but patients are going to start having a limited and
5 smaller gene pool of doctors. He noted the
6 importance of understanding that there is a business
7 climate that needs to be addressed for doctors to
8 want to come to Pennsylvania.

9 Dr. Miller mentioned the governor put out a
10 massive incentive to try to make Pennsylvania more
11 competitive for healthcare with tax credits for
12 nurses and other providers but chiropractors were
13 left out.

14 Dr. Miller noted PCA understands and agrees that
15 fees have to increase because the Board needs revenue
16 but provided the tiering suggestion to balance the
17 competitive nature necessary for Pennsylvania to not
18 fall even further behind and further drop. He
19 reported an increase in the number of chiropractors
20 in other states and a decrease in Pennsylvania.

21 Dr. Miller commented that this is going to have
22 that law of unintended consequences if they believe
23 someone is going to pay \$130 for 1 credit when they
24 are doing 15 or 20 at a national symposium. He
25 explained that the reason ACA put comments out is

1 because they are going to be an outlier on what
2 chiropractic CE costs nationally.

3 Dr. Miller encouraged Board members to think this
4 through and what they are going to do to the future
5 of the profession in Pennsylvania because it would
6 have large unintended consequences that would be felt
7 for decades to come.

8 Dr. Khoury agreed with Dr. Miller on a national
9 level and referred to the Federation of Chiropractic
10 Licensing Boards program called Providers of Approved
11 Continuing Education (PACE), which facilitates the
12 process to get it done much quicker than the 90-day
13 role.

14 Dr. Khoury addressed Pennsylvania restrictions,
15 noting the scope of practice is probably one of the
16 most restrictive, if not top three or five in the
17 country. He informed Board members of a recent
18 presentation by the president of the Council on
19 Chiropractic Education (CCE), Dr. Craig Little, who
20 used Pennsylvania as a poster child of archaic
21 regulation.

22 Dr. Khoury offered to have Dr. Little present to
23 the Board on why restrictive practices and increase
24 in CE prices would affect students nationally and on
25 a deeper level with the U.S. Department of Education

1 and how it funds schools and offers loans to
2 students.

3 Dr. Khoury noted Dr. Little could provide a
4 presentation on the regulatory side for the state
5 Board and also for the Pennsylvania Chiropractic
6 Association because it is going to take an
7 association or trade group association to facilitate
8 the rules and regulations and get them passed but
9 also has to behoove the state Board and the
10 protection of the consumer in the Commonwealth of
11 Pennsylvania.]

12 ***

13 Report of Regulatory Board Counsel - Chiropractic
14 Specialties

15 [Tyesha C. Miley, Esquire, Board Counsel, addressed
16 chiropractic specialties, noting the prior regulation
17 was identified as 16A-4312 and previously withdrawn
18 by law on March 26, 2020. She asked Board members
19 whether they wished to create a new regulation
20 pertaining to chiropractic specialties.]

21 MS. MILEY:

22 Would the Board entertain a motion to
23 direct Board and regulatory counsel to
24 draft a new proposed regulation
25 regarding chiropractic specialties?

1 DR. MCCULLOUGH:

2 I make a motion that we direct Board
3 and regulatory counsel to draft a new
4 regulation regarding chiropractic
5 specialties.

6 MS. MILEY:

7 Is there a second?

8 DR. SWANK:

9 Second.

10 CHAIR AUKERMAN:

11 Any discussion on this?

12 [Dr. McCullough commented that the public should be
13 protected against doctors holding themselves out as
14 specialists. He stated there are fine programs and
15 diploma mills, noting the public does not know the
16 American Board for Certification (ABC) from Diplomate
17 of the American Board of Chiropractic Orthopedists
18 (DABCO) and deserves protection.]

19 CHAIR AUKERMAN:

20 Any other discussion on this from Board
21 members? Roll call vote.

22

23 Dr. Aukerman, aye; Dr. McCullough, aye;
24 Ann Johnston, aye; Dr. Swank, aye; Dr.
25 Moreland, aye.

1 [The motion carried unanimously.]

2

3 [Keith Miller, D.C., President, Pennsylvania
4 Chiropractic Association, agreed with Dr. Khoury that
5 the scope is one of the most archaic, out of date,
6 and restricted scopes in the nation. He noted that
7 one of the matters addressed in the draft language
8 was the issue of the specialists and everything else.

9 Dr. Miller also noted creating language in the
10 new scope to make it clean and clear as far as what
11 it is to be board certified and how that is done. He
12 stated it would be codified into law once the draft
13 becomes law.

14 Dr. Miller welcomed Board members to speak with
15 PCA on those items and what was already created, so
16 regulations could mimic what PCA is looking to put
17 into law. He commented that PCA is willing, ready,
18 and able to support the Board and protect the public
19 and profession at all costs.

20 Dr. Khoury commented that the FCLB is here to
21 help regulatory boards and state boards, noting the
22 FCLB Specialty Council Committee was almost ready to
23 distribute a Specialty Council Committee paper called
24 the Recognized Chiropractic Specialty Program (RCSP),
25 where each state board does not have to go through

1 this.

2 Dr. Khoury explained that they would be able to
3 approve specialties throughout each state and are
4 currently receiving input from stakeholders, which
5 would be a valuable asset to the Board's regulations.

6 Chair Aukerman commented that the regulation was
7 denied 12 years ago and should not be taking this
8 long in Pennsylvania.]

9 ***

10 CHAIR AUKERMAN:

11 I'll make a motion to adjourn the
12 meeting of October 12, 2023, of the
13 Pennsylvania State Board of
14 Chiropractic.

15 DR. MCCULLOUGH:

16 I make a motion to adjourn.

17 DR. SWANK:

18 Second.

19 CHAIR AUKERMAN:

20 That concludes the meeting.

21 ***

22 [There being no further business, the State Board of
23 Chiropractic Meeting adjourned at 11:18 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.



Victoria Lantz,

Minute Clerk

Sargent's Court Reporting
Service, Inc.

STATE BOARD OF CHIROPRACTIC
REFERENCE INDEX

October 12, 2023

TIME

AGENDA

9:30	Executive Session
10:30	Return to Open Session
10:33	Official Call to Order
10:33	Introduction of Board Members/Attendees
10:34	Approval of Minutes
10:36	Report of Board Counsel
10:38	Report of Board Chair
10:43	Report of Board Administrator
10:45	Old Business
10:46	New Business
10:46	Miscellaneous
10:47	Report of Regulatory Board Counsel
11:18	Adjournment