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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: 10:32 A.M.

PENNSYLVANIA DEPARTMENT OF STATE

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

VIA MICROSOFT TEAMS

February 16, 2023

1 ***

2 State Board of Chiropractic

3 February 16, 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 [Tyesha C. Miley, Esquire, Board Counsel, advised
13 everyone the meeting was being recorded, and those
14 who continued to participate were giving their
15 consent to be recorded.

16 Ms. Miley noted the meeting was being held
17 pursuant to Act 100 of 2021 by way of virtual
18 meetings. She also noted a quorum has been satisfied
19 by the use of the virtual platform to complete and
20 effectuate the business of the Board.

21 Ms. Miley informed everyone that the Board met in
22 Executive Session to have attorney-client
23 consultation and for the purpose of conducting quasi-
24 judicial deliberations.]

25 ***

1 Official Call to Order

2 [William D. Aukerman, D.C., Chairperson, called the
3 meeting of the State Board of Chiropractic to order
4 at 10:32 a.m.

5 Jonathan W. McCullough, D.C., Secretary was not
6 present at the commencement of the meeting.]

7 ***

8 Introduction of Board Members and Attendees

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

11 ***

12 Approval of minutes of the December 29, 2022 meeting

13 CHAIR AUKERMAN:

14 We'd like to move on for approval of
15 the draft minutes of December 29, 2022.

16 Do we have a motion to approve the
17 minutes of the December 29, 2022 Board
18 meeting?

19 DR. SWANK:

20 I move to accept the Board minutes of
21 December 29, 2022.

22 CHAIR AUKERMAN:

23 Do we have a second?

24 MR. YOUNG:

25 I second that motion.

1 MS. MILEY:

2 Is there any discussion on this?

3 CHAIR AUKERMAN:

4 Roll call vote to approve.

5

6 Dr. Aukerman, aye; Commissioner
7 Claggett, aye; Ann Johnston, aye; Doyle
8 Young, aye; Dr. Swank, aye.

9 [The motion carried unanimously.]

10

11 Report of Prosecution

12 [J. Karl Geschwindt, Esquire, Acting Senior Board
13 Prosecutor, presented the Consent Agreement for Case
14 No. 20-43-001127.]

15 CHAIR AUKERMAN:

16 Do we have a motion to approve the
17 Consent Agreement and Order at Case No.
18 20-43-001127?

19 DR. SWANK:

20 I'd like to approve the Consent
21 Agreement for Case No. 20-43-001127.

22 MR. YOUNG:

23 I second that motion.

24 CHAIR AUKERMAN:

25 We're going to take a voice vote from

1 the Board. Any discussion?

2

3 Dr. Aukerman, aye; Commissioner
4 Claggett, aye; Ann Johnston, aye; Doyle
5 Young, aye; Dr. Swank, aye.

6 [The motion carried unanimously. The Respondent's
7 name at agenda item 2 for Case No. 20-43-001167 is
8 Guy Robert Schenker, D.C.]

9

10 CHAIR AUKERMAN:

11 I'd like to make a motion to return
12 Executive Session briefly.

13 MR. YOUNG:

14 I second that motion.

15

16 [Pursuant to Section 708(a)(5) of the Sunshine Act,
17 at 10:39 a.m. the Board entered into Executive
18 Session with Tyesha C. Miley, Esquire, Board Counsel,
19 to have attorney-client consultation and for the
20 purpose of conducting quasi-judicial deliberations.
21 The Board returned to open session at 10:44 a.m.]

22

23 Report of Acting Commissioner

24 [Arion R. Claggett, Acting Commissioner, Bureau of
25 Professional and Occupational Affairs, informed

1 everyone of new functionality being added to the
2 Pennsylvania Licensing System (PALS) in May to notify
3 licensees their actual license has expired.

4 Acting Commissioner Claggett informed Board
5 members that he received correspondence from the
6 Pennsylvania Chiropractic Association enquiring as to
7 why the Board does not allow preapproved continuing
8 education (CE) providers in Pennsylvania, including
9 the Professional Acknowledgment for Continuing
10 Education (P.A.C.E.), and explained that the
11 regulations do not allow for preapproved providers.

12 Ms. Miley further explained that the regulatory
13 revision process would take between 18 to 24 months
14 to add a designation for preapproved providers to the
15 current regulations governing the chiropractic
16 profession in Pennsylvania.

17 Keith Miller, D.C., President, Pennsylvania
18 Chiropractic Association, informed Board members that
19 P.A.C.E. is the largest CE accreditation approval
20 program in the United States, of which roughly 30
21 states are a member.

22 Dr. Miller noted it creates two obstacles for the
23 Commonwealth of Pennsylvania, including a drop in
24 licensees versus other states that are still
25 increasing and makes it cost prohibitive for them to

1 bring other chiropractors to Pennsylvania to attend
2 CE. He also stated it decreases the opportunities
3 that chiropractors have to leave Pennsylvania in
4 order attend national conferences to certain types of
5 CE for advanced training degrees.

6 Dr. Miller requested the Chiropractic Board look
7 into and start adopting policies for the 18-month
8 approval process the Board needs in order start
9 creating something that allows P.A.C.E., so
10 Pennsylvania chiropractors could be competitive in
11 modern society.

12 George E. Khoury, D.C., District III Director,
13 Federation of Chiropractic Licensing Boards, has been
14 involved with P.A.C.E. since 2009 and believed there
15 has been some misconception because the Federation of
16 Chiropractic Licensing Boards (FCLB) has been
17 attempting to get this consummated for the last four
18 years.

19 Dr. Khoury commented that there may be some
20 confusion regarding FCLB and P.A.C.E. and explained
21 that P.A.C.E. is a preapproved continuing education
22 provided by FCLB for state member boards. He
23 mentioned that FCLB preapproves the provider who is
24 providing the CE regarding P.A.C.E.

25 Dr. Khoury further explained that the ultimate

1 decision would still be with the State Board of
2 Chiropractic to either approve or not, but FCLB helps
3 the state boards facilitate the approval process of
4 the provider. He stated FCLB designates one member
5 of the Board to oversee all of the provider
6 applications trying to provide CE.

7 Dr. Khoury explained that P.A.C.E. could be
8 approved by the state as a temporary bedding of the
9 provider, so there is no need for change in
10 legislation because it is not the ultimate
11 responsibility of changing approval and making FCLB
12 the approval process taking place through them.

13 Dr. Khoury referred to records concerning
14 language and paperwork signed with Nicole VanOrder
15 about three years ago, noting it is just a matter of
16 dotting the i's and crossing the t's as far as
17 getting the program going and offered to confirm and
18 provide any further assistance to the Board.

19 Acting Commissioner Claggett commented that it
20 was explained to him to be regulatory but would put
21 the issue back on the agenda to be discussed in
22 further detail at the next meeting.]

23 ***

24 Report of Board Counsel

25 [Tyesha C. Miley, Esquire, Board Counsel, provided an

1 annual review of Recusal Guidelines and the Sunshine
2 Act. She addressed mandatory recusal, where the
3 Board member has a prosecutorial role in the matter,
4 including being a member of the Probable Cause
5 Screening Committee, and should not participate in
6 the deliberation or voting regarding that matter.
7 She also noted mandatory recusal, where someone has a
8 direct personal interest, financial or otherwise in
9 the outcome.

10 Ms. Miley addressed strongly suggested recusal,
11 where someone has a personal affection or some other
12 involvement, although simply having heard of the
13 person is not significant enough for recusal.

14 Ms. Miley noted that strongly suggested recusal
15 also includes having knowledge from outside of the
16 case, where someone could not set aside
17 determinations or opinions about the matter.

18 Ms. Miley addressed discretionary circumstances,
19 where someone cannot participate in a manner that is
20 fair and lacks prejudice.

21 Ms. Miley informed Board members to contact Board
22 Counsel whenever they are uncertain whether to
23 recuse. She stated anyone who recuses from a matter
24 are not considered for quorum purposes in that
25 matter.

1 Ms. Miley addressed abstentions, where someone
2 does not have enough information to provide a vote,
3 was not present on a matter and do not have enough
4 information, or do not want to take a position.

5 Ms. Miley addressed the Sunshine Act, where the
6 Board is obligated to publish the agenda and business
7 of the Board, as well as advising public members what
8 items would be reviewed during the public meeting.
9 She stated the Sunshine Act further requires the
10 business of the meeting be preserved by having a
11 court reporter recording what is taking place.

12 Ms. Miley noted the public also has a right to
13 participate in the meeting, and any official action
14 must be taken publicly with votes recorded
15 efficiently. She mentioned the only exception to the
16 public viewing would be Executive Session.

17 She offered to aid concerning any questions
18 pertaining to the law enacted in Pennsylvania.]

19

20 Report of Regulatory Board Counsel

21 [Tyesha C. Miley, Esquire, Board Counsel, referred to
22 16A-4335 regarding the fee regulation and noted a
23 minor non-substantive edit to the annex approved at
24 the December meeting. She stated it continues to go
25 through the internal review process and informed

1 Board members of a language adjustment regarding the
2 Pennsylvania Chiropractic Law Examination.]

3 ***

4 Report of Board Chair

5 [William D. Aukerman, D.C., Chairperson, commented
6 that he has been on the Board for 7 years and has
7 been practicing for 40 years. He mentioned the Board
8 has two professional and one public member vacancies
9 and encouraged anyone who may be interested to
10 contact the Board administrator.

11 Chair Aukerman mentioned the importance of moving
12 forward with continuing education with P.A.C.E. He
13 also noted being aware of exercise and rehabilitation
14 guidelines and problems in the past and would like to
15 move that forward this year. He commented that the
16 Board is trying to protect the public and
17 chiropractors also with their agendas in a timely
18 manner and respect everybody in attendance and on the
19 call.]

20 ***

21 Report of Board Administrator

22 [Shakeena Chappelle, Board Administrator, referred to
23 the proposed 2024 Board meeting dates, noting the
24 August and December dates were not available but
25 provided August 22 and December 9 dates for the

1 Board's approval.]

2 CHAIR AUKERMAN:

3 Could we have somebody make a motion to
4 approve the August 22, 2024 date and
5 December 9, 2024 date, which was a
6 Monday. We are going to try to
7 eliminate that date for 2024. It is a
8 Monday, so it's not going to work out
9 for our Board.

10 We want to take up a motion to
11 approve the August 22 date and
12 disapprove the December 9, 2024 date.
13 We'd like to make a motion to approve
14 the August 22, 2024 date.

15 DR. SWANK:

16 I propose a motion to accept the August
17 22, 2024 Board meeting.

18 MR. YOUNG:

19 I second that motion.

20 CHAIR AUKERMAN:

21 Could we have a voice vote to approve
22 the August 22, 2024 date?

23

24 Dr. Aukerman, aye; Commissioner

25 Claggett, aye; Dr. McCollough, aye; Ann

1 Johnston, aye; Doyle Young, aye; Dr.
2 Swank, aye.

3 [The motion carried unanimously.]

4 ***

5 CHAIR AUKERMAN:

6 The second motion for scheduling is to
7 discontinue the Monday, December 9,
8 2024 date as far as attendance
9 purposes.

10 We need a motion to discontinue
11 that date.

12 DR. SWANK:

13 I propose a motion to cancel the
14 December 9, 2024 meeting.

15 MR. YOUNG:

16 I second that motion.

17 CHAIR AUKERMAN:

18 Any discussion? We need a voice call
19 on it.

20
21 Dr. Aukerman, aye; Commissioner
22 Claggett, abstain; Dr. McCollough, aye;
23 Ann Johnston, aye; Doyle Young, aye;
24 Dr. Swank, aye.

25 [The motion carried. Arion Claggett abstained from

1 voting on the motion.]

2 ***

3 MS. MILEY:

4 Dr. Aukerman, will you be making a
5 subsequent motion to decline the
6 previously approved December 2024 date?

7 CHAIR AUKERMAN:

8 Yes.

9 MS. MILEY:

10 You will be accepting that motion?

11 CHAIR AUKERMAN:

12 We are accepting that and had a voice
13 vote on that to disapprove the December
14 9, 2024 date.

15 ***

16 Review of Applications

17 CHAIR AUKERMAN:

18 The next item on the agenda is review
19 of applications. We discussed the
20 Reactivation Application for
21 Chiropractor and need to have a motion
22 of provisional denial of the
23 Reactivation Application for
24 Chiropractor of Jean Laine.

25 DR. SWANK:

1 I bring a motion to deny the
2 reactivation of Jean Laine.

3 MR. YOUNG:

4 I second that motion.

5 CHAIR AUKERMAN:

6 Do we have any discussion on this item?
7 We need a voice call on this, Shakeena.

8

9 Dr. Aukerman, aye; Commissioner
10 Claggett, abstain; Dr. McCollough, aye;
11 Ann Johnston, aye; Doyle Young, aye;
12 Dr. Swank, aye.

13 [The motion carried. Arion Claggett abstained from
14 voting on the motion.]

15

16 New Business

17 CHAIR AUKERMAN:

18 We have a nomination for the National
19 Board of Chiropractic Examiners, Dr.
20 Kathleen McConnell, a PA licensed
21 practitioner and past Board member, to
22 attend as a proctor for Part IV of the
23 exam in New York Chiropractic College
24 in May.

25

We need a voice vote to have her as

1 our state representative proctoring the
2 exam at New York Chiropractic College.

3 We need a motion to nominate
4 Kathleen McConnell as a National Board
5 of Chiropractic Examiners proctor in
6 the May exam at New York Chiropractic
7 College.

8 DR. SWANK:

9 I make a motion to accept Kathleen
10 McConnell as a proctor at the New York
11 Chiropractic College National Board
12 Examination in May 2023.

13 MR. YOUNG:

14 I second that motion.

15 CHAIR AUKERMAN:

16 Any discussion? Could we have a voice
17 vote on that, Shakeena.

18
19 Dr. Aukerman, aye; Commissioner
20 Claggett, aye; Dr. McCollough, nay; Ann
21 Johnston, aye; Doyle Young, aye; Dr.
22 Swank, aye.

23 [The motion carried. Dr. McCollough opposed the
24 motion.]

25

1 New Business - Annual Federation of Chiropractic
2 Licensing Boards Meeting

3 [William D. Aukerman, D.C., Chairperson, requested
4 approval to attend the Annual Federation of
5 Chiropractic Licensing Boards Meeting April 26-30,
6 2023, as the delegate and Dr. McCollough as an
7 alternate delegate.]

8 CHAIR AUKERMAN:

9 Do I have a motion to approve the
10 delegates for the Annual Federation of
11 Chiropractic Licensing Boards Meeting?

12 DR. SWANK:

13 I make a motion to accept Dr. Aukerman
14 as the primary and Dr. McCollough as
15 the secondary to go to the Federation
16 of Chiropractic Licensing Boards
17 Meeting April 26-30, 2023.

18 MR. YOUNG:

19 I second that motion.

20 CHAIR AUKERMAN:

21 Any discussion?

22 DR. MCCOLLOUGH:

23 I'm withdrawing my name. I won't be
24 able to attend.

25 CHAIR AUKERMAN:

1 We are going to modify the proposal to
2 have Dr. Aukerman, myself, as a
3 delegate and possible replacement as an
4 alternate delegate for the April 26-30
5 meeting of the Federation of
6 Chiropractic Licensing Boards.

7 DR. SWANK:

8 I make a motion to accept Dr. Aukerman
9 as a member of the Board to go to the
10 FCLB Meeting April 26-30, 2023, and
11 will name an alternate at a later date.

12 DR. MCCOLLOUGH:

13 I second it.

14 CHAIR AUKERMAN:

15 Any other discussion? Could we have a
16 voice vote on this, Shakeena?

17

18 Dr. Aukerman, aye; Commissioner
19 Claggett, aye; Dr. McCollough, aye; Ann
20 Johnston, aye; Doyle Young, aye; Dr.
21 Swank, aye.

22 [The motion carried unanimously.]

23

24 Appointment - Prosecution Division Annual Report
25 Presentation

1 [Carolyn A. DeLaurentis, Esquire, Executive Deputy
2 Chief Counsel, Department of State, informed Board
3 members that she is now the executive deputy chief
4 counsel for the Department of State but is presenting
5 to the Board on behalf of the prosecution division in
6 her former role to provide the presentation.

7 Ms. DeLaurentis presented to the Board to provide
8 a summary of the prosecution division's role and
9 present annual numbers for 2022. She informed Board
10 members that the Bureau of Professional and
11 Occupational Affairs provides administrative and
12 legal support to all 29 licensing boards and
13 commissions with the mission to protect the health
14 and safety of the public and the integrity of the
15 profession. She noted legal support includes the
16 prosecution division, counsel division, hearing
17 examiners, and staff.

18 Ms. DeLaurentis explained that the Office of
19 Chief Counsel is under the Governor's Office of
20 General Counsel and assigned to the Department of
21 State, noting the prosecution division is one
22 division under the Office of Chief Counsel with about
23 38 prosecuting attorneys and support staff. She
24 noted the prosecution division works with the Bureau
25 of Enforcement and Investigation (BEI), along with

1 the Professional Compliance Office (PCO).

2 Ms. DeLaurentis stated BEI, PCO, and prosecution
3 are all tasked with receiving complaints,
4 investigating allegations, ensuring public safety,
5 and enforcing compliance with the acts and
6 regulations that govern the 29 licensing boards and
7 commissions.

8 Ms. DeLaurentis stated the prosecution division
9 has five senior prosecuting attorneys with Karl
10 Geschwindt as the acting senior prosecutor who
11 handles their Board, along with Paul Jarabeck,
12 Heather McCarthy, Ray Michalowski, and William
13 Newport as senior counsel for other boards. She
14 mentioned there are currently 32 prosecuting
15 attorneys serving under the senior attorneys, along
16 with supervisors watching over those people and those
17 boards.

18 Ms. DeLaurentis explained that prosecution is a
19 complaint-driven agency, noting complaints are
20 received from any source but prefer complaints be
21 submitted through the Pennsylvania Licensing System
22 (PALS) at pals.pa.gov because it is the most
23 efficient. She noted prosecution also accepts
24 complaints from sister agencies, state and federal
25 agencies, law enforcement, and through media outlets.

1 Ms. DeLaurentis discussed levels of review,
2 including jurisdiction checks to see if the complaint
3 falls under their jurisdiction. She mentioned
4 complaints are referred to the appropriate agency if
5 prosecution does not have jurisdiction.

6 Ms. DeLaurentis stated the prosecution staff
7 works with BEI inspectors and investigators to
8 determine whether there is a violation. She noted
9 BEI interviews witnesses, gathers documents, and
10 social media evidence.

11 Ms. DeLaurentis addressed the various levels of
12 review and determining whether there was a violation.
13 She explained that matters could be closed if there
14 is not a violation and focus attention on cases where
15 there may be a violation.

16 Ms. DeLaurentis noted attorneys make charging
17 decisions and determine whether to file an order to
18 show cause or issue a citation. She addressed due
19 process rights with formal charges through a hearing
20 process, noting it is similar to a regular trial,
21 where both sides are able to present evidence by way
22 of witness testimony, documents, and legal arguments.

23 Ms. DeLaurentis noted hearing examiners issue a
24 proposed adjudication and order and then the final
25 decision is made by the Board. She addressed consent

1 agreements, where both sides have negotiated and
2 reached terms they wished to present before the
3 Board, but the Board has the final authority of
4 whether to accept or reject the consent agreement.

5 Ms. DeLaurentis addressed the prosecution
6 division's role at Board meetings, including
7 presenting consent agreements and listening to
8 concerns of the Board. She pointed out that
9 prosecution has a confidentiality statute that
10 applies to their files, where all of the contents
11 within their files is confidential under the law and
12 is why prosecution cannot speak on some matters. She
13 noted all of the prosecuting attorneys and staff sign
14 confidentiality affidavits indicating they understand
15 all records are confidential and privileged and may
16 be disciplined for any violations.

17 Ms. DeLaurentis stated BEI conducts interviews
18 for certain boards and inspections to obtain
19 evidence. She noted BEI also serves subpoenas and
20 deliver orders and letters, along with testifying to
21 the results of their investigations and inspections.

22 She noted BEI is not considered law enforcement in
23 Pennsylvania and does not have search warrant
24 authority.

25 Ms. DeLaurentis addressed document authority,

1 where some boards have regulations that require
2 cooperation if a request is made to review their
3 records but not everyone complies, where a subpoena
4 may be warranted.

5 Ms. DeLaurentis addressed post-investigation,
6 where BEI is gathering facts and present the evidence
7 to the legal office for review. She stated BEI is
8 not determining whether or not a law has been
9 violated or determining whether discipline should be
10 issued because that is the role of the prosecution
11 division. She noted prosecuting attorneys work with
12 legal analysts to determine whether there was a
13 violation to decide whether to close the matter or
14 file charges.

15 Ms. DeLaurentis addressed immediate temporary
16 suspensions, where a license is immediately suspended
17 if someone is an immediate danger to the health and
18 safety of the public. She noted automatic
19 suspensions include 302 commitments, drug act
20 violations, and orders for examination for some
21 boards. She also noted petitions for appropriate
22 relief are when someone has violated a board order.

23 Ms. DeLaurentis stated the levels of discipline
24 include revocations, suspensions, probations,
25 reprimands, fines, remedial education, and cost of

1 the investigation.

2 Ms. DeLaurentis referred to the confidentiality
3 statute under 63 Pa.C.S. § 3109, where prosecution and
4 investigative files are deemed privileged and
5 confidential under the law. She explained that
6 investigative records are deemed noncriminal
7 investigative records and exempt from disclosure
8 under the Right-to-Know Law.

9 Ms. DeLaurentis stated information could be
10 shared with other agencies in furtherance of
11 investigative efforts but only their final action
12 could be shared publicly, including final
13 adjudications and orders, final consent agreements,
14 and closing letters.

15 Ms. DeLaurentis provided data as of January 3,
16 2023, where the number of open cases for the
17 prosecution division was 13,154, which is down from
18 2022 at 15,141. She stated 16,084 cases were opened
19 in 2022 and is down from 2021 at 18,363 cases. She
20 reported closing 17,826 files in 2022 and is up from
21 2021, where 15,994 cases were closed. She thanked
22 the prosecution division, counsel division, hearing
23 examiners, BEI, and the Board for their group effort.

24 Ms. DeLaurentis informed Board members that an
25 annual report is issued to the General Assembly,

1 which includes a breakdown of case categories, and
2 that counsel would be notified when the report is
3 finalized.

4 Ms. DeLaurentis addressed specific information
5 for the State Board of Chiropractic as of January 3,
6 2023, noting 108 open cases and 97 at the same time
7 last year. She reported 104 cases were opened in
8 2022 and 112 in 2021. She also noted 93 cases were
9 closed in 2022 and 118 in 2021.

10 Ms. DeLaurentis addressed a question in chat from
11 Dr. Miller and explained that the number of active
12 licensees pulled from PALS includes permits to do
13 certain things and every type of category, but the
14 licensee population presented by the Bureau of
15 Finance and Operations (BFO) would be the accurate
16 number.

17 Ms. DeLaurentis referred to disposition of closed
18 cases, including discipline and non-discipline,
19 noting the Board is a compliant licensee population.

20 She reported 11 Act 48 fines or citations in 2022
21 and 3 in 2021, 2 probations in 2022 and 3 in 2021, 8
22 suspensions in 2022 and 1 in 2021.

23 Ms. DeLaurentis addressed the disposition of
24 closed cases without discipline and referred to Z
25 codes that are used when closing cases in their

1 system. She referred to code Z18, which are warning
2 letters, and explained that warning letters are not
3 disciplinary but used for de minimis violations. She
4 noted warning letters are a great tool for
5 prosecutors on behalf of the Board to remind
6 licensees to follow the act and regulations.

7 Dr. Miller presented questions from the
8 Pennsylvania Chiropractic Association members. He
9 asked whether physicians, chiropractors, and medical
10 licensees are allowed to have a medical cannabis card
11 and practice without fear as long as it is properly
12 being used and not affecting their ability to work or
13 is it a concern for their license.

14 Ms. DeLaurentis informed Dr. Miller that she was
15 unable to provide an advisory opinion at this time.

16 Ms. Miley also stated they are prohibited from
17 providing advisory opinions.

18 Dr. Miller stated the Pennsylvania Chiropractic
19 Association (PCA) has been asking, as an association
20 representing 3,900 chiropractors, that question for
21 years and believed it is appropriate at some point to
22 have something in writing that addresses the issue.

23

24 Dr. Miller commented that it is better to let
25 people know the rules versus having to punish them,

1 noting it to be a major issue that would benefit tens
2 of thousands of licensees in the Commonwealth of
3 Pennsylvania.

4 Ms. DeLaurentis informed Dr. Miller that she and
5 Acting Commissioner Claggett would relay that to
6 their leadership and follow up on that.

7 Dr. Miller asked what happens to files deemed to
8 be a false claim and closed without prosecution.

9 Ms. DeLaurentis stated a false claim is not one
10 of their closing codes, but cases could be closed
11 under prosecution not warranted and maintained
12 pursuant to their record retention policy for around
13 20 years. She offered to provide the policy for Dr.
14 Miller's review.

15 Dr. Miller noted being aware of a lot of false
16 claims that get filed, not just for chiropractors but
17 across the Commonwealth of Pennsylvania, on different
18 licensees, where it is clear and concluded that the
19 report was done in a vindictive manner and asked
20 whether those cases are ever referred to law
21 enforcement as perjury cases because they are filing
22 claims through a state agency.

23 Ms. DeLaurentis noted there is a section on the
24 complaint indicating someone is providing information
25 to the best of their knowledge, information, and

1 belief subjecting themselves to potential penalties.
2 She stated the prosecution division reviews all cases
3 on a case-by-case basis and takes the appropriate
4 action. She mentioned that anyone who feels their
5 reputation is damaged could seek counsel from their
6 private attorney.

7 Dr. Miller asked whether cases in prejudicial
8 filings clearly done for vindictive and malicious
9 reasons are ever referred to law enforcement.

10 Ms. DeLaurentis could not speak to what may
11 happen in every case but noted that the prosecution
12 division would refer any matter to law enforcement if
13 appropriate. She reiterated that the prosecution
14 division is looking at everything with an open mind
15 to make sure the right thing happens.

16 Dr. Miller asked whether false claim metrics are
17 tracked like other metrics.

18 Ms. DeLaurentis noted that they do not have a
19 false pretenses code in their system.

20 Dr. Miller asked how false claim metrics could be
21 created, noting there is a need for the public and
22 other providers to have the ability to file a claim
23 against a licensee but also a need for some kind of
24 checks and balances to protect the licensee against
25 false claims.

1 Dr. Miller commented that anyone could file a
2 claim knowing the worst thing that happens is it just
3 gets closed, and with no penalty system in place and
4 no tracking metric, there is no disincentive for
5 people to file them.

6 Ms. DeLaurentis trusted the prosecution review,
7 noting discipline levels for the licensee populations
8 overall are quite low because the prosecution
9 division is appropriately reviewing the cases and
10 protecting the licensees.

11 Dr. Miller mentioned that prosecution is doing a
12 good job at removing false claim cases but expressed
13 concern that prosecution is not referring someone
14 purposely trying to harm a licensee to law
15 enforcement.

16 Dr. Miller stated there should be a mechanism in
17 place when it is clearly a malicious complaint, where
18 something happens to the person filing the complaint
19 and then followed up on, along with having a metric
20 prosecution track.

21 Dr. McCollough asked why the report is indicating
22 8,139 active licensees, because it seemed to be
23 double the amount of chiropractic licenses.

24 Acting Commissioner Claggett explained that the
25 Board does not have 8,139 active licensees and is an

1 issue on the numbers pulled through PALS.

2 Ms. DeLaurentis stated everyone should go by the
3 number the Bureau of Finance and Operations provides
4 and informed everyone that the issue would be
5 addressed for the next fiscal year.

6 Chair Aukerman thanked Ms. DeLaurentis for the
7 presentation.]

8 ***

9 Adjournment

10 CHAIR AUKERMAN:

11 Do we have a motion to adjourn the
12 meeting of February 16, 2023, for the
13 State Board of Chiropractic?

14 DR. MCCOLLOUGH:

15 I'd like to make a motion that we
16 adjourn.

17 CHAIR AUKERMAN:

18 Do we have a second?

19 MR. YOUNG:

20 Second.

21 CHAIR AUKERMAN:

22 This concludes the meeting.

23 ***

24 [There being no further business, the State Board of
25 Chiropractic Meeting adjourned at 11:56 a.m.]

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.



Ben Morrow,

Minute Clerk

Sargent's Court Reporting
Service, Inc.

STATE BOARD OF CHIROPRACTIC
REFERENCE INDEX

February 16, 2023

	TIME	AGENDA
1		
2		
3		
4		
5		
6		
7		
8	9:30	Executive Session
9	10:30	Return to Open Session
10		
11	10:32	Official Call to Order
12		
13	10:33	Introduction of Board Members/Attendees
14		
15	10:34	Approval of Minutes
16		
17	10:35	Report of Prosecution
18		
19	10:39	Executive Session
20	10:44	Return to Open Session
21		
22	10:45	Report of Acting Commissioner
23		
24	10:51	Report of Board Counsel
25		
26	10:58	Report of Regulatory Board Counsel
27		
28	10:59	Report of Board Chair
29		
30	11:01	Report of Board Administrator
31		
32	11:06	Review of Applications
33		
34	11:08	New Business
35		
36	11:13	Appointment - Carolyn A. DeLaurentis,
37		Esquire, Executive Deputy Chief
38		Counsel, Department of State, Annual
39		Prosecutorial Division Presentation
40		
41	11:56	Adjournment
42		
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