

Board Members present: President Mickey E. Frame, D.C., Vice-President Kelly Roush, D.C., Rebecca J. Ault, D.C., Johnathan R. Haggerty, D.C. and Jessica Voltolini.

Others present: Kelly A. Caudill, Executive Director; Elizabeth Moore, Executive Assistant and LaTawnda Moore, AAG.

Members excused: None.

The Board's mission is...

to proactively protect the health and welfare of Ohio's citizens and to regulate the chiropractic profession with vision by setting high standards through examination of new doctors, annual license renewal, clinic inspections and timely investigation and disciplinary action when indicated.

CALL TO ORDER

President Dr. Frame called the four hundred and thirty-fifth Board meeting to order at 9:00 a.m. at the Vern Riffe Center for Government and the Arts; 77 South High Street, 16th Floor, Columbus, Ohio.

ADDITIONS OR CORRECTIONS TO THE AGENDA

Director Caudill added the review of the CSI Recommendation to the agenda.

REVIEW OF MINUTES

Dr. Ault moved and Vice-President Dr. Roush seconded a motion to approve the minutes of the February 14, 2019 Board meeting. Motion passed unanimously.

RATIFICATION OF CHIROPRACTIC LICENSES

Dr. Haggerty moved and Dr. Ault seconded a motion to ratify approval of the chiropractic licenses issued to Sandy Pham, Jonathan Saigh, Justin McLain, Daniel Shaw, Matthew Schlagheck, Daniel Edwards, Austin Warden, Glenn Poulain, Aimee Wrubel, Julian Pelfrey, Charlene Morrison, Jacque Moser III, Craig Bainszewski, Tyler Arsenault, Patrick Hughes, Derek Reutter, Jakes Adei and Luke Howell. Motion passed unanimously.

RATIFICATION OF ACUPUNCTURE CERTIFICATE

Vice-President Dr. Roush moved and Dr. Ault seconded a motion to ratify approval of the acupuncture certificate issued to Dr. Kristen Zumberger. Motion passed unanimously.

RATIFICATION OF PRECEPTORSHIPS

Dr. Ault moved and Dr. Haggerty seconded a motion to ratify approval of the preceptorships for Lauren Georges with Stephanie Spiers, D.C.; Matthew Liles with Kreg Huffer, D.C.; Kevin Powell with Jon Schwanz, D.C.; Kelly McGee with Bradley Walker, D.C.; Steven Barger with Jon Schwanz, D.C.; Hannah Jones with Joseph Fields, D.C.; Scott Short with Brandon Shriner, D.C.; Brandon James with Scott Haggerty, D.C.; Dylan Seeley with Daniel Leonard, D.C.; Tyler Morman with Dana Winchester, D.C.; Lauren Griswold with Jennifer Rafey, D.C. and Joseph Tait with Nick Koinoglou, D.C. Motion passed unanimously.

LEGAL ACTIVITIES

CONSENT AGREEMENT, CASE NO. 2019 CHR 012

Ms. Voltolini moved and Vice-President Dr. Roush seconded a motion to accept the proposed

Consent Agreement as presented. Voting Aye: Vice-President Dr. Roush, Dr. Ault, Dr. Haggerty and Ms. Voltolini. Voting Nay: None. Abstained: President Dr. Frame. Motion passed.

CONSENT AGREEMENT, CASE NO. 2019 CHR 033

Dr. Ault moved and Ms. Voltolini seconded a motion to accept the proposed Consent Agreement as presented. Voting Aye: Vice-President Dr. Roush, Dr. Ault, Dr. Haggerty and Ms. Voltolini. Voting Nay: None. Abstained: President Dr. Frame. Motion passed.

LICENSURE AGREEMENT

Dr. Ault moved and Vice-President Dr. Roush seconded a motion to accept the proposed Agreement as presented. Voting Aye: Vice-President Dr. Roush, Dr. Ault, Dr. Haggerty and Ms. Voltolini. Voting Nay: None. Abstained: President Dr. Frame. Motion passed.

FCLB VOTING MATTERS

Director Caudill presented the slate of announced candidates running for FCLB leadership positions at the FCLB Annual Meeting scheduled for May 1-5, 2019 in Mission Bay, CA, as well as two proposed Resolutions (1-19 Chiropractic Temporary Licensure and 2-19 Radiographic Protocol). Dr. Frame, as the Board's voting delegate, will vote on these matters on the Board's behalf at the meeting.

Ms. Voltolini moved and Dr. Haggerty seconded a motion to approve President Dr. Frame's discretionary opinion when voting for FCLB Treasurer, President and Vice-President at the FCLB Annual Meeting. Motion passed unanimously.

Ms. Voltolini moved and Vice-President Dr. Roush seconded a motion to approve President Dr. Frame to vote for Resolution 1-19 and for Resolution 2-19 at the FCLB Annual Meeting. Motion passed unanimously.

CRIMINAL CONVICTION REVIEW POLICY

Director Caudill reported that in accordance with the requirements of Am. Sub. SB 255 (132nd GA), the Board is required to make pre-determinations, when requested by an applicant, as to whether a criminal conviction bars the individual from licensure. The Board must also develop a list of criminal convictions that absolutely bar an individual from licensure and post it on its website. The statute also permits the Board to charge \$25 for a conviction review.

The Board reviewed Director Caudill's Criminal Conviction Review Policy and determined that at this time the Board will not charge a fee for a conviction review.

Dr. Haggerty moved and Vice-President Dr. Roush seconded a motion to approve the Criminal Conviction Review Policy with the following disqualifying convictions for licensure: Aggravated murder, kidnapping, rape, sexual battery, gross sexual imposition, aggravated arson, aggravated robbery, aggravated burglary, any offense for which the applicant must register as a sex offender, or a plea of guilty to, or a conviction of, any substantially equivalent criminal offense in another jurisdiction. Motion passed unanimously.

SCOTT W. PALMER, D.C.; CASE NO. 2018 CHR 032 10:00 a.m.

In accordance with OAC § 4734-4-13, LaTawnda Moore, AAG addressed the Board regarding the matter of Dr. Palmer and requested the Board consider giving Dr. Palmer extra time to pay the \$3,000 civil fine recommended by the Hearing Officer, if the Board chooses to impose a fine.

Prior to consideration of the matter of Scott W. Palmer, D.C., Vice-President Dr. Roush, Dr. Ault, Dr. Haggerty and Ms. Voltolini verified that they reviewed the following materials: Hearing Transcript, Report and Recommendation from Hearing Examiner dated March 15, 2019, Respondent's Exhibits, Respondent's Closing Argument, State's Exhibits, State's Closing Argument.

10:12 a.m.

Dr. Ault moved and Dr. Haggerty seconded a motion to adjourn the meeting for the purpose of engaging as a quasi-judicial body for deliberations regarding the matter of Scott W. Palmer, D.C. Voting Aye: Vice-President Dr. Roush, Dr. Ault, Dr. Haggerty and Ms. Voltolini. Voting Nay: None. As Board Designate in the matter, President Dr. Frame abstained from voting and deliberating on the matter. Motion passed.

Only Vice-President Dr. Roush, Dr. Ault, Dr. Haggerty, and Ms. Voltolini deliberated on this matter. The Board meeting was called back to order at the conclusion of the deliberations at 10:38 a.m.

Ms. Voltolini moved to accept the Findings of Fact and Conclusions of Law in the Hearing Examiner's March 15, 2019 Report and Recommendation, and to modify the recommendation and ORDER the following:

The license of SCOTT W. PALMER, D.C. to practice chiropractic in the state of Ohio shall be SUSPENDED for a term of thirty (30) days. DR. PALMER shall pay a civil fine in the amount of \$3,000 within twelve (12) months of the effective date of this Order. DR. PALMER is further ordered to take and pass the Ethics and Boundaries Examination (EBAS) offered by Ethics and Boundaries Assessment Services within twelve (12) months of the effective date of the Order. The rationale for the modification to the Hearing Officer's recommendation is based upon DR. PALMER'S two prior disciplinary actions relating to telemarketing.

AAG Moore advised that Ordering the EBAS examination was not clearly delineated in ORC 4734.31 (B) as a sanction that may be imposed. The motion died for lack of a second.

Dr. Ault moved and Dr. Haggerty seconded a motion to adjourn the meeting for the purpose of engaging as a quasi-judicial body for deliberations regarding the matter of Scott W. Palmer, D.C. Voting Aye: Vice-President Dr. Roush, Dr. Ault, Dr. Haggerty and Ms. Voltolini. Voting Nay: None. As Board Designate in the matter, President Dr. Frame abstained from voting and deliberating on the matter. Motion passed.

Only Vice-President Dr. Roush, Dr. Ault, Dr. Haggerty, and Ms. Voltolini deliberated on this matter. The Board meeting was called back to order at the conclusion of the deliberations at 10:47 a.m.

Ms. Voltolini moved to accept the Findings of Fact and Conclusions of Law in the Hearing Examiner's March 15, 2019 Report and Recommendation, and to modify the recommendation and ORDER the following:

The license of SCOTT W. PALMER, D.C. to practice chiropractic in the state of Ohio shall be SUSPENDED for a term of thirty (30) days. Upon conclusion of the active suspension, DR.

PALMER shall serve Probation. DR. PALMER is further Ordered to pay a civil fine in the amount of \$3,000 and shall take and pass the Ethics and Boundaries Examination offered by Ethics and Boundaries Assessment Services. DR. PALMER'S Probation shall end upon the latter of payment of his civil fine and passage of the EBAS exam. The rationale for the modification to the Hearing Officer's recommendation is based upon DR. PALMER'S two prior disciplinary actions relating to telemarketing.

AAG Moore advised that Ordering the EBAS examination was not clearly delineated in ORC 4734.31 (B) as a sanction that may be imposed. The motion died for lack of a second.

Vice-President Dr. Roush, Dr. Ault, Dr. Haggerty, and Ms. Voltolini deliberated on this matter in open session regarding Ordering Dr. Palmer to take and pass the EBAS examination. These members deliberated Ordering Dr. Palmer to take CE on the topic of telemarketing in lieu of EBAS and inquired of Director Caudill of the availability of such CE. Director Caudill advised she was not aware of any CE on the topic of telemarketing. Vice-President Dr. Roush, Dr. Ault, Dr. Haggerty, and Ms. Voltolini then deliberated and discussed Ordering CE on the topic of ethics and/or professionalism.

Ms. Voltolini moved to issue the following Adjudication Order to Scott W. Palmer, D.C.:

The Board accepts the Findings of Fact and Conclusions of Law in the Hearing Examiner's March 15, 2019 Report and Recommendation, and modified the recommendation and ORDERS the following:

The license of SCOTT W. PALMER, D.C. to practice chiropractic in the state of Ohio shall be SUSPENDED for a term of thirty (30) days. DR. PALMER shall pay a civil fine in the amount of \$3,000 within six (6) months of the effective date of this Order. The rationale for the modification to the Hearing Officer's recommendation is based upon DR. PALMER'S two prior disciplinary actions relating to telemarketing.

The Order shall become effective thirty (30) days from the date of the Board's mailing.

Dr. Ault seconded the motion. A roll call vote was called. Voting Aye: Vice-President Dr. Roush, Dr. Ault, Dr. Haggerty and Ms. Voltolini. Voting Nay: None. Abstaining: President Dr. Frame. Motion passed.

EXECUTIVE DIRECTOR'S REPORT

Director Caudill reviewed the Executive Director's report with the Board which included the Board Docket, Legislative Matters, Administrative Rules, Budget, Investigative Statistics and miscellaneous matters.

Director Caudill reported that House Bill 151 was introduced by Representative R. Carfagna proposing a chiropractic loan repayment program and includes a requirement that the Board contract with the Ohio State Chiropractic Association to approve continuing education. The Board discussed the bill and requested that Director Caudill invite the OSCA Executive Director, Nicholas Strata to the June Board meeting to discuss the bill.

Director Caudill reported that she, Dr. Frame, and Ms. Moore will be representing the Board at the FCLB Annual Meeting scheduled for May 1-5, 2019 in Mission Bay, CA.

Ms. Voltolini moved and Dr. Haggerty seconded a motion to accept the Director’s Report as presented. Motion passed unanimously.

FIVE YEAR RULE REVIEW

Director Caudill reported that a favorable CSI Recommendation was received in regard to the Board’s current five year rule review package. No comments were received by the Board or the Common Sense Initiative Office and no recommendations were made by CSI and CSI concluded that the Board should proceed in filing the proposed rules with JCARR.

Ms. Voltolini moved and Dr. Haggerty seconded a motion to file the following rules with JCARR with authority to Director Caudill to make any non-substantive changes that may be recommended by JCARR: 4734-5-02, 5-03, 6-01, 6-02, 6-04, 6-08, 8-01, 8-04, 8-07, 9-02, 9-07 and 11-01. Motion passed unanimously.

OLD/NEW BUSINESS

Director Caudill advised the Board that as state employees, they are required to take mandatory Active Aggressor training. The training was loaded onto a Board laptop and presented to the group. Moore will report to the Department of Administrative Services, Central Service Agency, that Drs. Frame, Roush, Ault and Haggerty completed the training. Ms. Voltolini has already completed the training.

Dr. Haggerty moved and Vice-President Dr. Roush seconded a motion to adjourn the meeting. Motion passed unanimously.

With no further business to be brought before the Board, President Dr. Frame adjourned the meeting at 12:00 p.m.

Approved By Majority of Board:

Attested By Its Secretary:

Mickey E. Frame, D.C.
President

Kelly A. Caudill
Executive Director

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