

Board Members present: Jeffrey O. Brown, Esq., Norman J. Gloekler, D.C., Gregory P. Palkowski, D.C., Otto J. Schmidt, D.C. and Brian S. Wilson, D.C.

Others present: Kelly A. Caudill, Executive Director; Elizabeth Moore, Executive Assistant; Matt Lampke, AAG; Kim Stein, Investigator and Jeff Barker, Investigator.

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

The four hundred and twelfth Board meeting was called to order at 9:00 a.m. The meeting was held at the Ohio State Chiropractic Board Office; 77 South High Street, 16th Floor, Columbus, Ohio.

PUBLIC FORUM – 9:00 AM

No public in attendance.

REVIEW OF MINUTES

MOTION 2015-034: Vice-President Dr. Gloekler moved and Dr. Schmidt seconded a motion to approve the minutes of the April 9, 2015 Board meeting. Motion passed unanimously.

RATIFICATION OF ACUPUNCTURE CERTIFICATES

MOTION 2015-035: Dr. Palkowski moved and Mr. Brown seconded a motion to ratify the acupuncture certificates issued to Drs. Adam Solomon, Julie Gatelaro and Jeffery Metzger. Motion passed unanimously.

RATIFICATION OF PRECEPTORSHIP APPLICATIONS

MOTION 2015-036: Vice-President Dr. Gloekler moved and Mr. Brown seconded a motion to ratify the preceptorships approved for Kenneth Marsh with Dr. Michael Wheeler; Daniel Reed with Dr. Charles Elchert; Garth Schrock with Dr. Kristen Eash and Benjamin Knoderer with Dr. Kreg Huffer. Motion passed unanimously.

RATIFICATION OF CHIROPRACTIC LICENSES

MOTION 2015-037: Dr. Palkowski moved and Vice-President Dr. Gloekler seconded a motion to ratify the following chiropractic licenses issued: Jeffrey A. Metzger, William Munoz Jr., James F. Geiselman Jr., Jonathan J. Zook, Whitney A. Wills-Fernandez, Zachary W. Stoller, Moumita Majee, Jaclynn Uribe, Aaron M. DeChant, Jennifer L. Ross, Matthew A. Kemna and Mitchell G. Howard. Motion passed unanimously.

EXECUTIVE DIRECTOR'S REPORT

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

Director Caudill reported that Mari Walker resigned from her position as Licensing Coordinator for the Board effective April 30, 2015 and Kendra's job description has been upgraded to incorporate Mari's job duties. Director Caudill also reported that Jeff Barker and Kim Stein began their employment as investigators with the Board on May 4, 2015.

Director Caudill reported that the Board's full funding request for the FY 2016-2017 has been recommended.

Director Caudill informed the Board of important upcoming FCLB/NBCE dates including the FCLB District II Meeting being held October 8-11, 2015 in Fort Walton Beach, FL and NBCE Part IV Exams being held November 13-15, 2015.

Dr. Palkowski gave a report of his activities and provided a packet of information from the FCLB Annual Meeting and NBCE Annual Business Meeting held May 6-10, 2015 in New Orleans, LA.

Director Caudill updated the Board on the Medical Technical Assistance and Policy Program (MEDTAPP) Health Professions Data Warehouse (HPDW) and the analytical project to be conducted to collect and provide information regarding Ohio's healthcare workforce status and capacity and to identify barriers and solutions to improve recruitment and retention of providers that serve the Medicaid population. Minimum data set information for the project will be incorporated into the new E-License system after the system is operational. A packet of information was provided to the Board giving background and overview information regarding the project.

MOTION 2015-038: Mr. Brown moved and Dr. Palkowski seconded a motion to accept the Director's Report as presented. Motion passed unanimously.

MOTION 2015-039: Mr. Brown moved and Dr. Schmidt seconded a motion to authorize Kelly Caudill, Executive Director to act as the appointing authority for day-to-day operations of the Board, including but not limited to, hiring, firing, accepting resignations, imposing employee disciplinary action, approving or denying leave requests, to sign any fiscal or administrative documents, to contract for services necessary to carry out the Board's responsibilities, to serve as the custodian of the Board's records, with authority to delegate staff members to sign personnel, fiscal and administrative documents as needed. Motion passed unanimously.

OHIO STATE CHIROPRACTIC ASSOCIATION (OSCA)

Dr. Kreg Huffer, President and Nick Strata, COO of the Ohio State Chiropractic Association came before the Board to discuss possible scope of practice legislation and to get feedback and concerns from the Board. Dr. Wilson advised that if the OSCA can provide a report of items to be included in any proposed legislation the Board will review it and provide comment at that time.

LEGAL ACTIVITIES

CONSENT AGREEMENT, CASE NO. 2013 CHR 006

MOTION 2015-040: Dr. Schmidt moved and Mr. Brown seconded a motion to approve the proposed Consent Agreement for the doctor cited in Case No. 2013 CHR 006 as presented. A roll call vote was taken. Voting Aye: President Dr. Wilson, Vice-President Dr. Gloekler, Dr. Schmidt and Mr. Brown. Voting Nay: None. Abstaining: Dr. Palkowski. Motion passed.

CONSENT AGREEMENT, CASE NO. 2013 CHR 039

MOTION 2015-041: Mr. Brown moved and Dr. Schmidt seconded a motion to approve the proposed Consent Agreement for the doctor cited in Case No. 2013 CHR 039 as presented. A roll call vote was taken. Voting Aye: Dr. Palkowski, Dr. Schmidt and Mr. Brown. Voting Nay: None. Abstaining: President Dr. Wilson and Vice-President Dr. Gloekler. Motion passed.

CONSENT AGREEMENT, CASE NO. 2015 CHR 023

MOTION 2015-042: Dr. Palkowski moved and Vice-President Dr. Gloekler seconded a motion to approve the proposed Consent Agreement for the doctor cited in Case No. 2015 CHR 023 as presented. A roll call vote was taken. Voting Aye: Vice-President Dr. Gloekler, Dr. Palkowski, Dr. Schmidt and Mr. Brown. Voting Nay: None. Abstaining: President Dr. Wilson. Motion passed.

CONSENT AGREEMENT, CASE NO. 2015 CHR 039

MOTION 2015-043: Vice-President Dr. Gloekler moved and Dr. Schmidt seconded a motion to approve the proposed Consent Agreement for the doctor cited in Case No. 2015 CHR 039 as presented. A roll call vote was taken. Voting Aye: Vice-President Dr. Gloekler, Dr. Palkowski, Dr. Schmidt and Mr. Brown. Voting Nay: None. Abstaining: President Dr. Wilson. Motion passed.

ADMINISTRATIVE RULE REVIEW

Director Caudill presented rules 4734-7-01; 4734-7-02; 4734-7-03; 4734-7-04 and 4734-10-06 (rules 4734-7-05 and 4734-10-04 are proposed for rescission) with proposed draft amendments the Board instructed her to make at the April 9, 2015 Board meeting.

Director Caudill also presented proposed amendments to Board rule 4734-6-04 and a new draft rule regarding concussion management as required by ORC 3707.521.

MOTION 2015-044: Dr. Palkowski moved and Mr. Brown seconded a motion to rescind and draft as new Board Rules 4734-7-01 and 4734-7-02 as presented and to proceed with the procedures of the Common Sense Initiative Office and, provided CSI recommends filing the rules, file the rules with JCARR with authority to Director Caudill to make any non-substantive changes that may be recommended by CSI and/or JCARR. Motion passed unanimously.

MOTION 2015-045: Vice-President Dr. Gloekler moved and Mr. Brown seconded a motion to amend Board Rules 4734-7-03 and 4734-7-04 as presented and to proceed with the procedures of the Common Sense Initiative Office and, provided CSI recommends filing the rules, file the rules with JCARR with authority to Director Caudill to make any non-substantive changes that may be recommended by CSI and/or JCARR. Motion passed unanimously.

MOTION 2015-046: Mr. Brown moved and Dr. Palkowski seconded a motion to rescind Board Rules 4734-7-05 and 4734-10-04 and to proceed with the procedures of the Common Sense Initiative Office and, provided CSI recommends filing the rules, file the rule with JCARR with authority to Director Caudill to make any non-substantive changes that may be recommended by CSI and/or JCARR. Motion passed unanimously.

MOTION 2015-047: Vice-President Dr. Gloekler moved and Dr. Palkowski seconded a motion to amend Board Rule 4734-6-04 as presented and to proceed with the procedures of the Common Sense Initiative Office and, provided CSI recommends filing the rule, file the rule with JCARR with authority to Director Caudill to make any non-substantive changes that may be recommended by CSI and/or JCARR. Motion passed unanimously.

MOTION 2015-048: Dr. Schmidt moved and Mr. Brown seconded a motion to adopt Board Rule 4734-8-09 with the recommended changes and to proceed with the procedures of the Common Sense Initiative Office and, provided CSI recommends filing the rule, file the rule with JCARR with authority to Director Caudill to make any non-substantive changes that may be recommended by CSI and/or JCARR. Motion passed unanimously.

ADJUDICATION HEARING, CASE NO. 2015 CHR 040

At 1:00 p.m. the matter of Michael F. Peretti, D.C. came for hearing in accordance with ORC Chapters 119 and 4734, before the following members of the Board: Vice-President Dr. Gloekler, Dr. Palkowski, Dr. Schmidt and Mr. Brown. Vice-President Dr. Gloekler presided over the hearing. As Board Designate, President Dr. Wilson was not present for the proceedings. The Board was represented by Matt Lampke, Esq., Assistant Attorney General. Deposition Specialists made a stenographic record of the proceedings at the Board's expense.

ADJOURN – 1:35 PM

MOTION 2015-049: Mr. Brown moved and Dr. Schmidt seconded a motion to adjourn the meeting for the purpose of engaging as a quasi-judicial body for deliberations regarding the matters of Charles E. Dunkerley D.C. and Michael F. Peretti, D.C. President Dr. Wilson did not participate in the deliberations. The Board meeting was called back to order at the conclusion of the deliberations at 2:25 p.m.

CHARLES E. DUNKERLEY, D.C., CASE NO. 2015 CHR 031

On or about April 9, 2015 the Board issued a Notice of Opportunity for Hearing to Charles E. Dunkerley, D.C. Service of the Notice was perfected to Dr. Dunkerley on or about April 27, 2015. Dr. Dunkerley did not request a hearing in accordance with ORC Section 119.07.

Prior to consideration of the matter of Dr. Charles E. Dunkerley, Vice-President Dr. Gloekler, Dr. Palkowski, Dr. Schmidt and Mr. Brown verified that they reviewed and considered the charges against Dr. Dunkerley in the April 9, 2015 Notice of Opportunity for Hearing and State's Exhibits A-G supporting the charges.

Action MOTION 2015-050: Mr. Brown moved and Dr. Palkowski seconded a motion to issue the following Order to Charles E. Dunkerley, D.C.:

Dr. Dunkerley's license to practice chiropractic in the state of Ohio is hereby permanently REVOKED effective June 25, 2015.

Any application for licensure filed by Dr. Dunkerley shall be accompanied by a \$500 civil penalty and evidence of passing the National Board of Chiropractic Examiners Special Purposes Examination for Chiropractic taken within the six (6) months preceding application.

Dr. Dunkerley shall comply with all applicable requirements of OAC Section 4734-9-10 regarding conduct following action against a licensee and shall file an affidavit specifying how he has complied with the requirements of the rule within thirty (30) days.

This ORDER shall become effective immediately and is hereby entered upon the Journal of the Board for the 25th day of June 2015. Voting Aye: Vice-President Dr. Gloekler, Dr. Palkowski, Dr. Schmidt and Mr. Brown. Voting Nay: None. Abstaining: President Dr. Wilson. Motion passed.

MICHAEL F. PERETTI, D.C., CASE NO. 2015 CHR 040

Action MOTION 2015-051: Mr. Brown moved and Dr. Schmidt seconded a motion to issue the following Adjudication Order to Michael F. Peretti, D.C.:

The Board hereby finds as Findings of Fact the following:

State's exhibits as presented. Respondent did not present any exhibits.

On or about August 29, 1991 Respondent Michael F. Peretti, D.C. was issued chiropractic license number 1754 by the Board. The Board's records reflect the current status of Dr. Peretti's license as Forfeited and expired on March 31, 2010.

On or about March 12, 2015 Michael F. Peretti, D.C. filed an Application for Reinstatement of License to Practice Chiropractic in the State of Ohio.

Dr. Peretti submitted evidence of completing 36 hours of continuing education, including 1.5 hours on the topic of ethics and/or professionalism, earned between January 24, 2015 and February 22, 2015.

On or about April 9, 2015 the Board issued a Notice of Proposed Refusal of License Reinstatement and Opportunity for Hearing to Michael F. Peretti, D.C.

Dr. Peretti timely requested a hearing on this matter in accordance with ORC Section 119.07 on May 7, 2015.

On May 12, 2015 the Board issued a Hearing Scheduling Notice setting Dr. Peretti's adjudication hearing for June 25, 2015.

Dr. Peretti has not practiced chiropractic in any jurisdiction since on or about March 31, 2010. His most recent employment was as a salesman for a monument company.

Dr. Peretti did not demonstrate that he has the current knowledge, experience and training to practice chiropractic according to prevailing standards of care based upon his five years of inactive practice prior to making application for reinstatement of his chiropractic license.

Dr. Peretti was directed by the Board to successfully complete the National Board of Chiropractic Examiners Special Purposes Examination for Chiropractic before being considered for reinstatement.

Dr. Peretti has not taken the National Board of Chiropractic Examiners Special Purposes Examination for Chiropractic.

Based upon the evidence and testimony presented, Dr. Peretti admitted he did not complete the training or testing as required by the Board due to his concerns over the cost of the examination.

The Board finds the following Conclusions of Law:

Pursuant to ORC Chapter 4734, respondent Michael F. Peretti, D.C. is subject to the jurisdiction of the Board in actions taken in regard to the Application for Reinstatement of License to Practice

Chiropractic in the State of Ohio he filed on or about March 12, 2015.

Pursuant to ORC Chapter 4734, the Board is authorized to take action with respect to Michael F. Peretti’s application for reinstatement upon sufficient cause to believe he does not meet the requirements for reinstatement as outlined in ORC Section 4734.25 and OAC Section 4734-7-05.

Pursuant to ORC Section 4734.31 (C)(7), upon sufficient proof that an applicant for licensure has violated or attempted to violate any provision of ORC Chapter 4734, the Board may refuse to issue, renew, restore or reinstate a license to practice chiropractic. By a preponderance of the evidence, the State establishes that Dr. Peretti does not meet the requirements outlined in ORC Section 4734.25 and OAC Section 4734-7-05 for reinstatement of his chiropractic license number 1754 since he has not completed training or testing as required by the Board. The State has met its burden of proving Dr. Peretti has violated ORC Section 4734.31 (C)(7) for failing to demonstrate he has completed training or testing as required by the Board in accordance with ORC Section 4734.25 and OAC Section 4734-7-05.

The Board may properly refuse to reinstate the license to practice chiropractic in Ohio to Dr. Peretti in accordance with Ohio Revised Code 4734.25 and Section 4734.31 (C) and Ohio Administrative Code Section 4734-7-05.

On the basis of the above Findings of Fact and Conclusions of Law, the Board hereby ORDERS:

Dr. Michael Peretti’s Application for Reinstatement of License to Practice Chiropractic in the State of Ohio is REFUSED.

Upon receipt of a valid transcript issued directly by the National Board of Chiropractic Examiners reflecting passage of the Special Purposes Examination for Chiropractic, the Board shall reinstate Dr. Peretti’s chiropractic license number 1754.

Voting Aye: Vice-President Dr. Gloekler, Dr. Palkowski, Dr. Schmidt and Mr. Brown. Voting Nay: None. Abstaining: President Dr. Wilson. Motion passed.

MOTION 2015-052: Mr. Brown moved and Vice-President Dr. Gloekler seconded a motion to adjourn the meeting. Motion passed unanimously.

With no further business to be brought before the Board, President Dr. Wilson adjourned the meeting at 2:30 p.m.

Approved By Majority of Board:

Attested By Its Secretary:

Brian S. Wilson, D.C.
President

Kelly A. Caudill
Executive Director

enm