

GEORGIA BOARD OF CHIROPRACTIC EXAMINERS
Board Meeting Minutes
Professional Licensing Boards
237 Coliseum Drive, Macon, GA
November 7, 2014 * 10:00A.M

The Georgia Board of Chiropractic Examiners met on Friday, November 7, 2014. The following members were present:

Board Members Present

Dr. Karen Mathiak, D.C. - Chairperson
Dr. David Wren, D.C. – Vice Chair
Dr. Andrew Krantz, D.C.
Dr. Chris Nelson, D.C.
Dr. Mary Watkins, D.C.

Administrative Staff Present

Adrienne Price, Executive Director
Wanda Jaffe, Licensing Supervisor

Attorney General's Office

D. Williams-McNeely, Assistant Attorney General

Visitors Present

Dr. Robert L. Alpert, D.C.
Craig Brazeman

Dr. Mathiak established a quorum and called the meeting to order at 10:21 a.m.

OPEN SESSION

Open Session Minutes

1. Dr. Watkins motioned, Dr. Krantz seconded and the Board voted unanimously in favor of the motion to approve the September 12, 2014 Board Meeting open session minutes.
2. Dr. Watkins motioned, Dr. Krantz seconded and the Board voted unanimously in favor of the motion to approve the October 9, 2014 Investigative Committee open session minutes.

Licenses to Ratify September 6-November 3, 2014

Dr. Krantz motioned, Dr. Wren seconded and the Board voted unanimously in favor of the motion to approve the licenses issued by application and by reinstatement that were issued in accordance with Board rules and policies between board meetings.

Correspondence from Dr. Matthew Graves – Mentoring of Chiropractic Students

Dr. Krantz motioned, Dr. Watkins seconded and the Board voted unanimously in favor of the motion to forward a letter to Dr. Graves thanking him for his concerns and recommending that he contact the colleges and universities in question regarding the level of training and clinical hours allotted to performing adjustments as the Board has no jurisdiction in this matter.

Correspondence from Marie Nothstine – Restrictions on Preceptorship Programs

Dr. Wren motioned, Dr. Krantz seconded and the Board voted unanimously in favor of the motion to forward a letter to Ms. Nothstine thanking her for her concerns and recommending that she contact the colleges and universities in question regarding the implementation of restrictions on their preceptorship programs and/or charging fees for the service as the Board has no jurisdiction in this matter.

Discussion – Jim Neuberger – Clarification of Law, Rules on Modalities Certification

Dr. Wren motioned, Dr. Watkins seconded and the Board voted unanimously in favor of the motion to notify the writer that the Board may not provide legal advice in this matter.

Discussion – William J. Rademacher, D.C. – Chiropractic Paradigm Resolution Support Request

Dr. Watkins motioned, Dr. Krantz seconded and the Board voted unanimously in favor of the motion to direct staff to forward a letter to Dr. Rademacher informing him that the Board is in support of the statutory requirements as outlined in Georgia Law O.C.G.A. §43-9, thank him for the invitation to sponsor the resolution; however, the Board must decline.

Discussion – Manipulation Under Anesthesia (MUA)

The Board entered into a discussion regarding MUA and the possibility that insurance companies may be driving the movement for chiropractic boards to further define the chiropractic scope of practice. Dr. Nelson motioned, Dr. Krantz seconded the Board voted unanimously in favor of the

motion to notify the writer that the Board may not provide legal advice in this matter and refer him to O.C.G.A. § 43-9-1(2) and O.C.G.A. § 43-9-16.

Discussion – Ownership of Chiropractic Offices/Business Upon request of the Board Chair Executive Director, Ms. Price, recapped the report she gave during the September 12, 2014 meeting on the statutory requirements regarding ownership of chiropractic offices and businesses for the states of Alabama, Florida, North Carolina, South Carolina and Tennessee. It was the consensus of the Board to accept the report as information and decline placing the matter on the legislative agenda at this time.

Public Rules Hearing BR 100-5-.02 – 10:30 AM

**SYNOPSIS OF PROPOSED CHANGES TO THE GEORGIA BOARD OF CHIROPRACTIC EXAMINERS
RULE FOR CHAPTER 100-5, CONTINUING EDUCATION, RULE 100-5-.02**

Purpose: The purpose of this rule is to remove insurance billing/coding from the exclusion list and add into an acceptable category.

Main Features: The rule will allow Chiropractic Examiners to obtain continuing education in the area of insurance billing and coding.

**DIFFERENCES BETWEEN THE EXISTING RULE AND THE PROPOSED AMENDMENTS TO THE
GEORGIA BOARD OF CHIROPRACTIC EXAMINERS RULE FOR CHAPTER 100-5, CONTINUING
EDUCATION, RULE 100-5-.02.**

[Note: underlined text is proposed to be added; lined-through text is proposed to be deleted.]

100-5-.02 Approval of Educational Programs

(1) A chiropractor must obtain a minimum of twenty (20) hours of continuing education per annum. Of these twenty (20) hours, fifteen (15) must be in chiropractic clinical science and must be on a topic in compliance with the current scope of practice, four (4) hours must be in ethics or risk management, and one (1) hour must be in Georgia Laws and Rules (NOTE: non-resident chiropractors, licensed but not practicing in Georgia, may take an additional hour of continuing education in the chiropractic clinical sciences or risk management in lieu of the required hour in Georgia Laws and Rules).

(a) Approved areas of study to satisfy the fifteen (15) hours in chiropractic clinical science are:

1. Examination Procedures/Diagnoses
2. Adjustive Technique
3. Radiographic Technique/Safety
4. Diagnostic Imaging Interpretation
5. Nutrition
6. Research Trends
7. Physiological Therapeutics
8. Chiropractic Philosophy; a maximum of 3 hours credit in chiropractic philosophy will be considered by the Board for continuing education approval.
9. Clinical documentation which includes insurance billing/reporting/coding and procedures; a maximum of 4 hours credit in clinical documentation will be considered by the Board for continuing education approval.

(b) Approved areas of study to satisfy the four (4) hours in ethics or risk management are:

1. Risk Management
2. Chiropractic Medical/Legal
3. Public Health Issues
4. Professional Conduct/Boundaries Issues
5. Scope of Practice.

(c) Non-resident chiropractors, licensed but not practicing in Georgia, may take an additional hour of continuing education in the chiropractic clinical sciences or risk management in lieu of the required hour in Georgia Laws and Rules.

(d) Courses specifically excluded from continuing education approval include, but are not limited to the following:

~~1. Insurance Billing, Reporting, Coding and Procedures.~~

~~2. 1. Practice Management or Practice Building.~~

~~3. 2. Courses which have content beyond the scope of practice as defined by Georgia law. (e) Current members~~

of the Georgia Board of Chiropractic Examiners shall receive four (4) hours of continuing education credit in ethics or risk management and one (1) hour of continuing education credit in Georgia laws and rules during each year that they serve on the Board.

(f) Licensees that assist with the administration of the National Board of Chiropractic Examiners National Board Examination shall receive fifteen (15) hours of clinical science continuing education credit per each examination administration, four (4) hours of continuing education credit in ethics or risk management and one (1) hour of continuing education credit in Georgia laws and rules.

(g) Up to eight (8) hours of continuing education in clinical sciences may be obtained per year by teaching clinical or chiropractic sciences courses at any CCE-accredited college or school.

These hours shall be awarded in writing by the course director/dean at the college or school. (2) Courses must be those in which actual attendance by the licensee shall be required. However, distance based learning courses offered via audio/visual electronic media, such

as the internet, may be approved by the Board if the course meets the following criteria: (a) The course must meet all of the requirements as cited in this Rule.

(b) The program must be test and time monitored to insure active participation by the licensee.

(c) No more than twenty (20) hours per biennial renewal period can be taken via audio/visual/electronic media, such as on-line/internet courses.

Authority: O.C.G.A. §§ 43-1-24, 43-1-25, 43-9-4, 43-9-6.1 and 43-8-11

No Public Comments were received or offered by those in attendance.

Dr. Nelson motioned, Dr. Krantz seconded and the Board voted unanimously in favor of the motion to adopt the proposed amendments to 100-5-.02 as presented.

Dr. Watkins motioned, Dr. Krantz seconded and the Board voted unanimously in favor of the motion that the formulation and adoption of this rule does not impose excessive regulatory cost on any licensee and any cost to comply with the proposed rule cannot be reduced by a less expensive alternative.

The hearing was adjourned at 10:43 AM.

Reconsideration – Status of Career Improvement and Advancement Opportunities (CIAO) Physiotherapeutic Certification Courses/Program for Modalities Dr. Watkins motioned, Dr. Krantz seconded and the Board voted unanimously in favor of the motion to notify CIAO that the certification courses or program for modalities is not approved by the Board.

2015 Board Meeting Dates Dr. Watkins motioned, Dr. Krantz seconded and the Board voted unanimously in favor of the motion to change the Investigative Committee Meeting time to 9:00AM and accept the dates and times as amended.

Continuing Education Approval Requests Dr. Watkins motioned, Dr. Krantz seconded and the Board voted unanimously in favor of the motion to accept the cognizant recommendation to approve the list of continuing education program applications for the hours requested.

Dahlhauser v. Deal, et. al. Assistant Attorney General, D. Williams-McNeely reviewed the Complaint For Declaratory Judgment and Injunctive Relief and the Standing Order Regarding Civil Litigation filed in the United States District Court for the Northern District of Georgia, Atlanta Division which challenges the constitutionality of the O.C.G.A. § 33-24-53(a)(c) and (d) and Board Rule 100-7-.03(1). Ms. Williams-McNeely indicated that since the members of the Board are named in their official capacity as members of the Georgia Board of Chiropractic Examiners, one of the attorneys in the Attorney General's Office will be responding to the complaint on behalf of the Board. The Board accepts Ms. Williams-McNeely's report as information.

Response from Secretary Brian Kemp The Board reviewed the response to their request to obtain membership to the Federation of Chiropractic Licensing Boards (FCLB). It is the consensus of the Board to draft a letter to Secretary requesting laterality to seek funding by soliciting sponsorship from other agencies and universities with the willingness to fund the Board's membership.

Board President's Report – Dr. Mathiak

1) **Pursuing Runner/Solicitation Cases** Dr. Mathiak posed the question as to how the Board could further pursue runner/solicitation complaint cases. Assistant Attorney General Ms. Williams-McNeely reminded the Board that they

will be difficult to pursue those cases if there is no patient willing to testify that the law was broken. Ms. Williams-McNeely further suggested that the Board pursue the cases based on the evidence obtained during the course of an investigation and in accordance with the law and recommended that the Board consider tabling any discussion of rule changes in this area due to the law suit which was previously discussed. It was the consensus of the Board that further discussion be delayed pending the outcome of the law suit.

2) **Georgia Law and Ethics** Dr. Mathiak indicated that Dr. Krantz posed the question as to whether or not chiropractors who teach the jurisprudence course may receive continuing education credit and should the Board approve who may teach the course. Ms. Price, Executive Director, reported that Board Rule 100-5-.02 does not currently allow those individuals to receive credit for teaching the course nor does it speak to who may teach the course. Dr. Wren motioned, Dr. Krantz seconded and the Board voted unanimously in favor of the motion to refer the topic under discussion to the rules committee to develop a policy and/or amend Board Rule 100-5-.02 rule to include criteria for who may teach the Georgia law and ethics course and who may receive credit for teaching the course.

3) **Breaches of Advertising and Unlicensed Practice Rules** Dr. Mathiak reported that she came across a Canadian Public Display Protocol for advertising and for health screenings and thought that the profession could benefit from having some clear guidelines on what is or is not considered unlicensed practice or a violation of the advertising rules. Dr. Krantz motioned, Dr. Watkins seconded and the Board voted unanimously in favor of the motion to refer Board Rule 100-4-.01 to the rules committee to review the Canadian Public Display Protocol and draft a proposed amendment to addressing breaches in advertising and unlicensed practice rules.

4) **Chiropractic Peer Reviewers/Review Agents** Dr. Mathiak reported that it was the consensus of the Investigative Committee (IC) to asking Executive Director Price to invite a representative from the Office of the Insurance and Safety Fire Commissioner, Aubrey T. Villines, Esq., and other interested parties to participate in a discussion over this issue if it could not be further clarified. Executive Director Price reported that she did speak with Michael Carr at the Insurance Commissioner's office who indicated that he would pass her information to both Estella Smith and Edith Johnson as they are the two individuals in the office who handle review agent issues on a daily basis and he felt that they would be better equipped to research the issues/concerns that have been raised by the Board. He did indicate that Ms. Smith is currently out due to illness but was hopeful that Ms. Johnson would contact me on tomorrow. Mr. Carr was provided Ms. Price's contact information to include email address to provide to the ladies in question. Ms. Price indicated that she was hopeful that the Board will have some clarity by the time the IC meets on December 11, 2014. Based on this information, it was the consensus of the Board to table inviting other parties to discuss the matter at this time and allow Ms. Price to report any additional findings during the IC meeting.

Executive Director's Report – A. Price Executive Director's report presented the Board with statistical data relevant to the processing of applications, renewals and complaints/compliance. Ms. Price recapped the peer reviewer/review agent discussion and notified the Board that the request for a memorandum of advice on reciprocity with the states of Arizona and Massachusetts was forwarded to the Legal Services Department; and she was notified by that department that the Board will receive a response during the next Board meeting. The Board accepts the report as presented.

Rules Committee Report Dr. Wren motioned, Dr. Krantz seconded and the Board voted unanimously in favor of the motion to accept the recommendations of the rules committee as presented and refer Board Rules 100-9-.01 and 100-15-.01 to the Attorney General's Office for a memorandum of authority and if no objections, post as amended.

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| 1) 100-4-.01 Record Retention Schedule | Accept amendments to the rule as presented and refer back to rules committee to propose additional amendments related to display protocols for advertising and health screenings |
| 2) 100-9-.01 Modalities | Accept proposed amendments as presented |
| 3) 100-15-.01 Chiropractic Assistants with Modalities | Accept proposed amendments as presented |
| 4) 100-7-.03 Relevant to O.C.G.A. § 33-24-53 (HB 828) | No amendments proposed at this time. |
| 5) 100-7-.07 Handling of Patient Record In the Event of Death | No amendments proposed at this time. |

Miscellaneous

Dr. Mathiak reported that the Georgia Chiropractic Association expressed concerns regarding whether or not licenses are being issued as soon as possible after one submits an application, particularly since students are no longer able to adjust after graduation nor can a chiropractor bill CMS and insurance if a student adjusts. Executive Director Price provided statistics regarding the average processing time for complete applications with no disciplinary concerns. The Board entered into a discussion about when adjustment clinical hours have to be completed for the Practice, Excellence,

Arts, and Knowledge (PEAK) Program. It was the consensus of the Board to appoint Dr. Krantz to speak with Dr. Markum regarding PEAK Program as well as obtain information regarding student adjustments hours and CMS/insurance billing associated with those adjustments.

Dr. Wren motioned, Dr. Krantz seconded, and the Board voted to enter into Executive Session in accordance with O.C.G.A. § 43-1-2(k) (1) (2), O.C.G.A. § 50-14-2(1), O.C.G.A. § 43-1-2-(k) (4), O.C.G.A. § 43-1-19 (h) (2) & (4) to receive and review information pertaining to applications, complaints, and to receive the Assistant Attorney General’s and Investigative Committee reports. Voting in favor of the motion were those present who included Dr. Mathiak, Dr. Krantz, Dr. Watkins, Dr. Nelson, and Dr. Wren.

At the conclusion of Executive Session on Friday, November 7, 2014, Dr. Mathiak declared the meeting to be “open” pursuant to the Open and Public Meeting Act O.C.G.A. § 50-14-1 et seq. No votes were obtained during Executive Session

OPEN SESSION

Executive Minutes

1. Dr. Wren motioned, Dr. Watkins seconded and the Board voted unanimously in favor of the motion to approve the September 12, 2014 Board Meeting executive session minutes.
2. Dr. Wren motioned, Dr. Watkins seconded and the Board voted unanimously in favor of the motion to approve the October 9, 2014 Investigative Committee executive session minutes.

Review of Jurisprudence Exam Dr. Nelson motioned, Dr. Watkins seconded and the Board voted unanimously in favor of the motion to approve the amendments to the jurisprudence examination as discussed.

Attorney General’s Report – D. Williams-McNeely Dr. Krantz motioned, Dr. Wren seconded and the Board voted unanimously in favor of the motion to accept the Attorney General’s report as presented.

Applications

1. T.B. Dr. Wren motioned, Dr. Watkins seconded and the Board voted unanimously in favor of the motion to refer the file to Legal Services for a Public Consent Agreement for Endorsement of Licensure for the misrepresentation of information on an application to include the following conditions: probation for two years or until released by the Board, a requirement that all continuing education be obtained in-person for the 2014-2016 renewal cycle, a fine of \$500 to be paid prior to issuance of the license and the respondent must petition to be released from the terms of probation.
2. B. K. Dr. Wren motioned, Dr. Watkins seconded and the Board voted unanimously in favor of the motion to schedule an Investigative Interview and require the respondent to bring certified copies of court documents.
3. J. F. Dr. Wren motioned, Dr. Watkins seconded and the Board voted unanimously in favor of the motion to issue the license with a Letter of Concern regarding criminal history.
4. M. R. T. Dr. Wren motioned, Dr. Watkins seconded and the Board voted unanimously in favor of the motion to issue the license.

Probation Termination

CHIR007110 Dr. Watkins motioned, Dr. Krantz seconded and the Board voted unanimously in favor of the motion to terminate the probation.

Miscellaneous

1. CHIR120015/CHIR150021 Dr. Wren motioned, Dr. Watkins seconded and the Board voted unanimously in favor of the motion to renew the license if the respondent meets all requirements; however, respondent must provide updates to the Board regarding pending Theft by Conversion case upon request and a certified copy of the final disposition of the case within ten (10) days of adjudication.
2. Board Approval of Continuing Education Programs Dr. Krantz motioned, Dr. Watkins seconded and the Board voted unanimously in favor of the motion to implement Board Policy #17 which states that any continuing education program granted Board approval must submit a new application for approval each year.

Applications are to be submitted at least sixty (60) days prior to the anniversary of the approval date from the previous year. The Board reserves the right to deny the acceptance of hours submitted from participants of any program which fails to timely submit a new application for approval.

3. Certification of Electrical Therapeutic Modalities

Dr. Krantz motioned, Dr. Nelson seconded and the Board voted unanimously in favor of the motion to notify Life University that the Board will not accept any certification forms that do not include the university seal.

Investigative Committee Report – Dr. Mathiak

Dr. Watkins motioned, Dr. Wren seconded and the Board voted unanimously in favor of the motion to accept the Cognizant’s report as presented.

Investigative Interviews Recommendations:

- 1. CHIR140055 Close with a letter of concern for unprofessional conduct
- 2. CHIR150007 Close, no action no violations identified
- 3. CHIR150001 Close, no action

Discussion Cases Recommendations:

- 1. CHIR130076 Refer to the Attorney General’s office for a Public Consent Order for failure to meet the standard of reasonable care and skill to include a \$500 fine, 4 Hours of in person Continuing Education in Ga Law and Ethics; in accordance with the Georgia Board of Chiropractic Examiners Rules and Laws. All Continuing Education submitted to satisfy the requirements of the order may not be used to satisfy the requirements for the next renewal period.
- 2. CHIR130041 Close with a letter of concern regarding violations of the law and advertising rule relevant to appropriate terms and titles used by licensed chiropractors in this state as referenced in O.C.G.A. § 43-9-16(h) and Board Rule 100-4-.01(3).
- 3. CHIR130052 Close, no violation in the standard of care CHIR140020 Close, no action
- 4. CHIR140037 Close with a letter of concern regarding advertising with reference to Board Rule 100-4-.02 regarding use of diplomatic status.
- 5. CHIR140047 Close with a letter of concern regarding advertising with reference to Board Rule 100-4-.01(2)
- 6. CHIR140052 Close, no action
- 7. CHIR140057 Schedule Investigative Interview
- 8. CHIR130084 Accept documentation to fulfill the requirement of anger management course specified by the Board Order

With no additional business to be discussed, the meeting was adjourned at 3:21 pm.

Minutes recorded by:

Adrienne Price, Executive Director

Minutes reviewed and edited by:

Wanda Jaffe, Licensing Supervisor & Adrienne Price, Executive Director

Minutes approved on:

January 16, 2015

KAREN MATHIAK
BOARD CHAIR

ADRIENNE PRICE
EXECUTIVE DIRECTOR