

GEORGIA BOARD OF CHIROPRACTIC EXAMINERS
Board Teleconference Minutes
Friday, September 6, 2019 – 9:00 a.m.

The Georgia Board of Chiropractic Examiners met via teleconference on Friday, September 9, 2019. The following members were present:

Board Members Present

Dr. Mary Watkins, D.C., Chairperson
Dr. Andrew Krantz, D.C., Vice Chair
Dr. Robert Alpert, D.C., Board Member
Dr. David Wren, D.C., Board Member

Administrative Staff Present

Adrienne Price, Executive Director
Michelle Hornaday, Board Support Specialist
Amanda Califf, Licensing Supervisor
Jessica Uzzo, Staff Attorney

Board Members Not Present

Dr. Joe Krzemien, D.C., Board Member
Emily Campbell Marsh, Consumer Member

Attorney General's Office Present

Bryan Thernes, Senior Assistant Attorney General

Visitors Present

Carly Sharec, Director of Communication and Events, Georgia Chiropractic Association (GCA)

Call to Order: Dr. Watkins established a quorum of the Board was present called the meeting to order at 9:10 a.m.

OPEN SESSION

Agenda The Board accepted the agenda as presented.

Open Session Minutes

1. July 19, 2019 Open Session Teleconference Minutes

Dr. Alpert motioned, Dr. Krantz seconded and the Board voted unanimously in favor of the motion to accept the July 19, 2019 open session Board teleconference minutes as amended.

2. August 2, 2019 Open Session Investigative Committee Minutes

Dr. Alpert motioned, Dr. Krantz seconded and the Board voted unanimously in favor of the motion to accept the August 2, 2019 open session investigative committee minutes as presented.

Licenses to Ratify July 12, 2019 – August 30, 2019 Ratification List – Modalities & Reinstatements

Dr. Alpert motioned, Dr. Krantz seconded and the Board voted unanimously in favor of the motion to ratify the licenses by application and by reinstatement that were issued in accordance with Board Rules and Policies between Board meetings.

Correspondence – Licensing Board Fees, Bruce Widener, Widener & Associates, Inc.

Table discussion for Executive Session.

Correspondence – Preceptor Placement

1. J. Kate Duga, CHIR008751

Dr. Krantz motioned, Dr. Alpert seconded and the Board voted unanimously in favor of the motion to accept the preceptorship placement as presented.

2. Jon Wise, CHIR006562

Dr. Alpert motioned, Dr. Krantz seconded and the Board voted unanimously in favor of the motion to accept the preceptorship placement as presented.

Correspondence – Case Involving Chiropractors Ordering MRIs

The Board accepts the correspondence in reference to Chiropractors Ordering MRIs as information.

Correspondence – The Academy of Chiropractic Orthopedists Changes Its Name

The Board accepts the correspondence in reference to The Academy of Chiropractic Orthopedists as information.

Discussion – National Board of Chiropractic Examiners (NBCE) – Scoring Policy Change

The Board accepts the correspondence in reference to NBCE as information.

Jessica Uzzo joined the meeting at 9:23 a.m.

Discussion – Joint Secretary Rule Changes – Legal Services, Jessica Uzzo, Staff Attorney

Ms. Uzzo presented the Board with information concerning proposed Joint Secretary of State Rule amendments regarding the lapsed-late renewal period. The current lapsed-late renewal period is 90 days and the proposed amendment will change this time limit to 30 days. If passed, the change would go into effect for the 2022 renewal biennium and not apply towards the current renewal cycle.

The proposed rule amendment will encourage licensees to renew in a timely manner and avoid a more costly reinstatement fee. If passed, the amended rules will apply to all Boards who do not have statutory provisions to the contrary. Ms. Uzzo pointed out that the current Board Rule regarding the lapsed-late renewal period would need to be amended to fall in line with the Joint Secretary Rule. Dr. Krantz noted the importance of including a discussion about this change within the required Georgia Laws and Rules continuing education courses.

Dr. Watkins and Dr. Krantz expressed significant concerns over the change and the cost for reinstatement should licensees fail to renew before the lapsed-late renewal period has ended. Dr. Wren stated that he feels this will not make a significant difference, and he is in support of the amendment since it will decrease administrative burden. Ms. Uzzo noted that if the Board has concerns about the reinstatement fee, the Board could always consider voting to amend the fee schedule.

Ms. Price informed the Board that should they wish to amend their fee schedule, they will need to be prepared to justify the reasons for lowering the fees, particularly when considering statewide budget cuts, high administrative burden and the potential for a reduction in human resources.

Dr. Alpert motioned, Dr. Krantz seconded and the Board voted unanimously in favor of the motion to support this change. Dr. Krantz opposed the motion and the motion carried.

Jessica Uzzo left the meeting at 9:48 a.m.

Discussion – Rules Committee – R. Alpert, DC

1. Board Rule 100-7-.01. Unprofessional Conduct

Dr. Krantz motioned, Dr. Wren seconded and the Board voted unanimously in favor of the motion to accept the recommendations from the Rules Committee and refer Board Rule 100-7-.01. Unprofessional Conduct and Board Rule 100-7-.04. Minimum Standards of Practice to the Attorney General’s Office for a Memorandum of Authority, and if no objections, vote to post.

Rule 100-7-.01. ~~Immoral and~~ Unprofessional Conduct

- (1) Failure to comply with any portion of Chapter 100-7 shall be deemed unprofessional conduct and may subject the licensee to revocation, suspension, probation, [a reprimand, fines](#) or other disciplinary action.

- (2) ~~It shall be considered immoral and unprofessional conduct to~~ The Board has the authority to refuse to grant a license to an applicant or to discipline a chiropractor licensed in Georgia if that individual has engaged in unprofessional conduct. For the purpose of the implementation and enforcement of this rule, unprofessional conduct is defined to include but not limited to, the following:
- (a) ~~Knowingly performing an act which in any way aids, assists, procures, advises, or encourages any unlicensed person to practice chiropractic;~~
 - (b) Fail to conform to or comply with the minimum standards of acceptable and prevailing chiropractic care;
 - (c)
 - (3) ~~It shall be considered immoral and unprofessional conduct to f~~ Fail to release patient records in compliance with O.C.G.A. § 31-33-2 Title 31, Chapter 33, to the patient, to another healthcare professional or any other authorized person within ~~ten~~thirty (30) business days upon proper written authorization by the patient;
 - (d) Fail to comply with continuing education requirements of the Board;
 - (e) Fail to respond to a request for records or a subpoena from the Board or any of its agents;
 - (f) Fail to timely respond to an investigative subpoena issued by the Board;
 - (g) Fail to cooperate with a lawful investigation conducted by the Board;
 - (h) Make a written false or inaccurate statement to the Board or the Board's designee in the course of an investigation; and,
 - (i) Fail to provide a patient written disclosure of the existence of an investment interests and their rights in relation to those interests in compliance with Chapter 1B of Title 43 known as the "Patient Self-Referral Act of 1993."
 - (j) Participate in any arrangement in which patients are exploited for the purpose of enhancing the personal incomes of referring or recommending chiropractor, chiropractic service or a specific chiropractic practice.

Cite as Ga. Comp. R. & Regs. R. 100-7-.01

Authority: O.C.G.A. Secs. 31-33-2, 31-33-3, 31-33-8, 43-1-25, 43-9-6.1, 43-9-12, 43-9-19.

History. Original Rule entitled "Immoral and Unprofessional Conduct Defined" adopted. F. May 25, 1982; eff. June 14, 1982.

Amended: F. Oct. 26, 1984; eff. Nov. 15, 1984.

Amended: F. Sept. 8, 1987; eff. Sept. 28, 1987.

Repealed: New Rule of same title adopted. F. Oct. 29, 1987; eff. Nov. 18, 1987.

Amended: F. Aug. 14, 1990; eff. Sept. 3, 1990.

Amended: F. Jan. 16, 1991; eff. Feb. 5, 1991.

Amended: F. June 3, 1994; eff. June 23, 1994.

Amended: F. Jan. 20, 1998; eff. Feb. 9, 1998.

Amended: F. Apr. 1, 1998; eff. Apr. 21, 1998.

Amended: F. Apr. 15, 1998; eff. May 5, 1998.

Amended: F. Aug. 28, 1998; eff. Sept. 17, 1998.

Repealed: New Rule of same title adopted. F. May 25, 1999; eff. June 14, 1999.

Repealed: New Rule entitled "Immoral and Unprofessional Conduct" adopted. F. Apr. 27, 2004; eff. May 17, 2004.

Repealed: New Rule of same title adopted. F. May 3, 2007; eff. May 23, 2007.

2. Board Rule 100-7-.04. Minimum Standards of Practice

Rule 100-7-.04. Minimum Standards of Practice

(1) For the purposes of this Section, minimum standards of practice shall include, but not be limited to, the following:

- (a) Exercising the care required to maintain patient confidentiality and privacy in accordance with HIPAA and other relevant state and federal laws and rules.

~~Knowingly performing an act which in any way aids, assists, procures, advises, or encourages any unlicensed person to practice chiropractic; 1. Nothing in this Section shall prohibit the activities authorized in O.C.G.A. 43-9-7.2(3)(A) and (B).~~

- (b) ~~failing to conform or comply with the minimum standards of acceptable and prevailing chiropractic care; 1. Chiropractic care shall include~~ Evaluating the quality and efficiency of services ordered or performed by other chiropractors in compliance with the statute in a moral, ethical, and truthful manner that will not prove to jeopardize the quality of chiropractic care or patient outcomes.

~~ffering or rendering a professional chiropractic opinion, which has the capacity or intent of affecting the frequency, duration, necessity, or outcome of chiropractic treatment or patient care.~~

- (c) Properly identifying yourself as a licensed chiropractor ~~Any person rendering such a chiropractic opinion in Georgia must identify themselves~~ by name, degree designation, location of practice, and Georgia chiropractic license number in accordance with O.C.G.A. §§ 43-1-33 and 43-9-10.1(a).

- (ed) ~~Failing to release patient information to another healthcare professional or any other authorized person upon proper written authorization by the patient.~~ Respecting and protecting the patient's rights and maintaining the confidentiality of patient records in accordance with state and federal laws and rules.

- (ed) Providing chiropractic care as medically indicated to all patients regardless of race, gender, age, religion, disability or sexual preference ~~It shall be considered unprofessional conduct to deny care for a covered condition or service by a review agent when there is a reasonable expectation for improvement or the patient is demonstrating a reasonable rate of improvement. A reasonable rate of improvement would be influenced by condition chronicity, patient age, co-morbid factors, frequency of care and exposure to activities that would impede progress.~~

- (fe) Documenting all considerations of the patient's physical, psychological and socioeconomic welfare when rendering professional decisions and implementing a plan of care ~~It shall be considered unprofessional conduct to deny care for a covered condition or service by a review agent for care to prevent the deterioration of a condition once the patient has achieved maximum clinical improvement, if sufficient evidence exists demonstrating that reduction or withdrawal of care has and will continue to have a deleterious effect on the patient.~~

- (g) Remaining unbiased and objective when conducting peer reviews by ensuring that the facts of each case, to include documented treatment, functional assessments and outcomes, are a primary consideration.

(2) Provide accurate information to the consumer about the profession and the services provided.

- (a) Chiropractors are to refrain from use, or participate in the use of, any form of communication containing false, plagiarized, fraudulent, misleading, deceptive, or unfair statements; and,

- (b) Document client communications in the medical record.

Cite as Ga. Comp. R. & Regs. R. 100-7-.04

Authority: O.C.G.A. Secs. 31-33-1 to 31-33-3, 43-1-25, 43-9-4, 43-9-6.1, 43-9-12, 43-9-12.1, 43-9-16.

History. Original Rule entitled "Standards of Practice" adopted. F. Apr. 27, 2004; eff. May 17, 2004.

Repealed: New Rule of same title adopted. F. Aug. 19, 2008; eff. Sept. 8, 2008.

Amended: F. Dec. 20, 2011; eff. Jan. 09, 2012.

Board Member Elections

1. Board Chairperson

Dr. Watkins motioned, Dr. Alpert seconded and the Board voted unanimously in favor of the motion to elect Dr. Andrew Krantz as the Board's Chair.

2. Vice Chairperson

Dr. Watkins motioned, Dr. Krantz seconded and the Board voted unanimously in favor of the motion to elect Dr. Robert Alpert as the Board's Vice Chairperson.

3. Investigative Committee Members

Dr. Krantz motioned, Dr. Wren seconded and the Board voted unanimously in favor of the motion to elect Dr. Robert Alpert to Chair the Investigative Committee.

Dr. Alpert motioned, Dr. Watkins seconded and the Board voted unanimously in favor of the motion to elect Dr. Andrew Krantz as the Vice Chair of the Investigative Committee.

4. Application Cognizant

Dr. Alpert motioned, Dr. Wren seconded and the Board voted unanimously in favor of the motion to elect Dr. Andrew Krantz as the Board's Application Cognizant.

5. Continuing Education Cognizant

Dr. Watkins motioned, Dr. Krantz seconded and the Board voted unanimously in favor of the motion to re-elect Dr. David Wren as the Board's Education Cognizant.

6. Rules Committee

Dr. Watkins motioned, Dr. Krantz seconded and the Board voted unanimously in favor of the motion to re-elect Dr. Robert Alpert to Chair the Board's Rules Committee.

Executive Director's Report – A. Price

Executive Director's report presented the Board with statistical data relevant to the processing of applications to include renewal applications, the number of active and inactive licensees, and complaints/compliance matters.

Other Relevant Topics:

- FCLB Resolution to Fund Board Members & Administrators for Annual and District Meeting Participation

Dr. Krantz motioned, Dr. Alpert seconded and the Board voted unanimously in favor of the motion to accept the Executive Director's Report as presented.

Board President's Report – M. Watkins, D.C.

1. CE Broker Status

Dr. Watkins queried Board staff as to the status of establishing and promoting the use of CE Broker. Ms. Price explained that in light of pending budget cuts, the system implementation may be on hold. Dr. Watkins questioned the purpose of the delay as the process will make it more efficient and cost effective for staff. Ms. Price indicated that there are some costs on the front end as it relates to the technical aspects of data sharing with CE Broker and if the current budget does not allow for the agency to absorb the cost, the project will be delayed and not denied.

Dr. Alpert motioned, Dr. Wren seconded and the Board voted unanimously in favor of the motion for Dr. Watkins to draft letter to the Division Director regarding the Board's concern for the delay in implementing CE Broker.

2. Board Chair Meeting to Discuss Amendments to the General Provisions

Dr. Watkins referenced the meeting she wanted to have with the Board Presidents and Executive Directors and inquired as to when it may be scheduled. Ms. Price reported that a member of the Appropriations Committee of the House of Representatives has requested to be present when such a meeting takes place and the delay in scheduling is relative to the agency's attempt to coordinate everyone's schedule.

3. PACE Pre-Check CE Provider Applications

Dr. Watkins queried staff on the status of CE providers using the PACE Pre-Check applications. Dr. Wren explained that a very small percentage of providers are taking advantage of this option.

Dr. Watkins suggested accessing a fee to providers for Board review of CE applications. Ms. Price informed the Board that their practice act does not appear to provide statutory authority for the Board to assess a fee for processing CE Provider applications.

Dr. Krantz and Dr. Watkins recommended that the state associations (Georgia Chiropractic Association and Georgia Council of Chiropractic) consider having their lobbyists include propose an amendment to the practice act to allow for the Board to charge a fee for t processing CE Provider applications.

Dr. Alpert motioned, Dr. Krantz seconded and the Board voted unanimously in favor of the motion to accept the Board President's Report as presented.

Dr. Krantz motioned, Dr. Wren seconded, and the Board voted to enter into Executive Session in accordance with O.C.G.A. §§ 43-1-2 (k); 43-1-19 (h) and 50-14-2 (1) to receive and review information pertaining to applications, pending cases, investigative reports and enforcement matters and to receive the Assistant Attorney General's report. Voting in favor of the motion were those present who included Board members: Dr. Mary Watkins, Dr. David Wren, Dr. Andrew Krantz and Dr. Robert Alpert.

At the conclusion of Executive Session on Friday, September 6, 2019, Dr. Watkins 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 Session Minutes

- 1. July 19, 2019 Executive Session Teleconference Minutes**
- 2. August 2, 2019 Executive Session Investigative Committee Minutes**

Dr. Alpert motioned, Dr. Krantz seconded and the Board voted unanimously in favor of the motion to accept the July 19, 2019 executive session Board teleconference minutes as amended and the August 2, 2019 executive session investigative committee minutes as presented.

Attorney General's Office Report – B. Thernes

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.

Investigative Committee Report – A. Krantz, D.C.

Dr. Wren motioned, Dr. Watkins seconded and the Board voted unanimously in favor of the motion to accept the following recommendations made in Executive Session.

- | | |
|-------------------|---|
| CHIR190008 | Table pending additional investigation. |
| CHIR190071 | Table pending additional investigation. |
| CHIR170027 | Close with Letter of Concern regarding compliance with BR 100-7.04(1)(b). |
| CHIR190035 | Close with Letter of Concern regarding compliance with BR 100-10.01. |
| CHIR160066 | Terminate probation and restore the license to active status. |
| CHIR180011 | Close with Letter of Concern regarding false attestation and failure to read and review questions accurately on the renewal application [BR 100-7-.06(c)(2) and O.C.G.A. 43-9-12(2)]. |
| CHIR190061 | Accept documentation received and close the case. |
| CHIR190062 | Table pending additional investigation and upon completion of the investigation, schedule an Investigative Interview. |
| CHIR190072 | Close the case. |
| CHIR190077 | Table pending additional investigation. |

- CHIR190083** Notify the Respondent of advertising violations. Table pending receipt information regarding diligent efforts to make corrections to the advertisement. If resolved, close the case.
- CHIR200007** Close the case, no jurisdiction.
- CHIR200005** Close the case.
- CHIR180003** Table pending additional investigation. Upon receipt of investigative files, refer for a Peer Review.

Miscellaneous Executive Discussions

1. Elections for FCLB and NBCE

Dr. Alpert motioned, Dr. Krantz seconded and the Board voted unanimously in favor of the motion to decline providing a response.

2. Cases for Closure Due to Lapsed Licenses – No Jurisdiction

Dr. Krantz motioned, Dr. Alpert seconded and the Board voted unanimously in favor of the motion to close the following cases, no jurisdiction. If attempt to reinstate, must present the application and case files to the Board to review the facts of the underlying case before reinstatement will be considered.

- CHIR170050**
- CHIR190029**
- CHIR190016**
- CHIR190063**
- CHIR180050**
- CHIR160060**
- CHIR170035**
- CHIR180042**

3. CHIR180021

Dr. Alpert motioned, Dr. Wren seconded and the Board voted unanimously in favor of the motion to refer to Investigative Committee.

4. Correspondence – Licensing Board Fees, Bruce Widener, Widener & Associates, Inc.

Dr. Alpert motioned, Dr. Krantz seconded and the Board voted unanimously in favor of the motion to notify the writer that matters relative to complaint investigations are subject to the provisions of O.C.G.A. § 43-1-19(h)(2) which makes this information confidential and not subject to release as requested.

Applications

Dr. Alpert motioned, Dr. Wren seconded and the Board voted unanimously in favor of the motion to accept the following recommendations made in Executive Session.

- Applicant 2796551** Issue license with a Letter of Concern regarding false attestation on application and disciplinary action by another jurisdiction.
- Applicant 2816928** Issue license with a Letter of Concern regarding criminal history.
- Applicant 2798296** Issue license with a Letter of Concern regarding false attestation on application and disciplinary action by another jurisdiction.
- Applicant 2822006** Issue license.
- Applicant 163906** Renew license with Letter of Concern regarding unlicensed practice from April 3, 2019 – August 6, 2019. Notify the applicant that the Board does not retroactively approve applications for renewal of licensure; therefore, if the applicant continued to practice after the license expired, the applicant is liable for any violations of law that occurred within that timeframe.

Adjournment With there being no additional business to discuss, the meeting adjourned at 11:26 a.m.

Minutes recorded by:

Minutes reviewed and edited by:

Minutes approved on:

Michelle Hornaday, Board Support Specialist

Adrienne Price, Executive Director

DR. MARY WATKINS, D.C.
BOARD CHAIR

MS. ADRIENNE PRICE
EXECUTIVE DIRECTOR