

**Arkansas State Board of Chiropractic Examiners
Board Meeting-Teleconference
Tuesday, April 7, 2020**

CALL TO ORDER

The board meeting via teleconference was called to order by Kent Moore, D.C., President, at 8:31 a.m.

ROLL CALL

Board Members present:

Kent Moore, D.C.
Greg Ungerank, D.C.
Michael Courtney, D.C.
Sarah Hays, D.C.
Harold Gunter
Jack McCoy
Tanya Holt, D.C. (called in at 8:35 a.m.)

Staff present:

Laurie Mayhan, Executive Director
Brad Nye, Assistant Attorney General

Guests present:

Chris Cathey, DC
Steven Bennett, DC (arrived at the agency just as teleconference ended)

NEW LICENSEE ORIENTATION

The new licensee orientation was postponed due to current social distancing guidelines. However, licenses will still be issued this day for those that were scheduled to attend. All applications were reviewed and approved by Dr. Michael Courtney prior to today's meeting.

Congratulations to the following applicants who were scheduled to attend orientation today but have been rescheduled to attend in July. These applicants will receive their licenses this day:

	Lic. No.	First Name	MI	Last Name
1	16236	I-Ching (Jessie)		Hsieh
2	16250	Martin	C	Hart
3	16251	Shelia	L	Hill
4	16252	Zachary	L	Hutt
5	16253	Lauren	B	Wall-Horn

Ms. Tracie Byrne was approved to attend orientation this day and has met all application requirements except for graduation. Due to late graduation, she will receive her license once her final chiropractic transcript and diploma is received.

	Lic. No.	First Name	MI	Last Name
6	16249	Tracie	R	Byrne

MINUTES

Dr. Courtney motioned to accept the *January 14, 2020, March 17, 2020* and *March 20, 2020* board minutes. Dr. Holt seconded the motion. Motion passed.

DIRECTOR'S REPORTS

The director informed the board that the NBCE has rescheduled their May Part IV Test Committee meeting to June 12 – 13th. The director asked if any of the professional members would like to participate. No members volunteered.

Budget Report

The monthly service bureau report was presented to the Board. Also presented was an itemized cash flow statement for FY2020 (July 1, 2019 – June 30, 2020). Total amount expended, thus far, for FY2020 is **\$102,676.81** with **\$85,263.19** remaining of FY20 budget (**\$187,940.00**). Total revenue received thus far is **\$190,281.89**, which includes monies receipted, interest distribution, and rebates received. A list of all agency expenditures for January – March was also provided.

FY2020 (July 1, 2019 – June 30, 2020)

Status	Apps received	Class hours offered	Fee Due	Fee Paid
Approved	391	4,012	\$20,060.00	\$20,060.00
Approved with Exception	1	18.5	\$92.50	\$92.50
Not Approved	0	0	\$0.00	\$0.00
Pending	0	0	\$0.00	\$0.00
Cancelled	3	66	\$330.00	\$330.00
Incomplete	0	0	\$0.00	\$0.00
Void	0	0	\$0.00	\$0.00
Total:	395	4,096.5	\$20,482.50	\$20,482.50

2020 License Renewals

As of March 2, 2020, the following licenses are considered expired and forfeited.

Lic No.	First Name	Last Name	Suffix	Emp. City	State	Expired Reason
16105	James	Bub	D.C.	Rogers	AR	Non-Renewal of License
16169	Jaymond	Clark	D.C.	Dallas	TX	Non-Renewal of License
15991	Rakesh	Kothari	D.C.	Irving	TX	Non-Renewal of License
15694	Scott	Parham	D.C.	Cameron	OK	Non-Renewal of License
16232	Martin	Parks	D.C.	Harrisonville	MO	Non-Renewal of License
1165	Christopher	Primeaux	D.C.	Texarkana	AR	Non-Renewal of License
1006	Paul	Raveling	D.C.	Dunedin	FL	Non-Renewal of License
16086	Spencer	Smith	D.C.	Hamburg	AR	Non-Renewal of License
15713	Nathan	Wagner	D.C.	Bentonville	AR	Non-Renewal of License
16210	Shane	Walker	D.C.	Pocola	OK	Non-Renewal of License
1028	Richard	Ward	D.C.	Fort Smith	AR	Non-Renewal of License
16157	Blake	Butler	D.C.	Fayetteville	AR	Voluntary Non-Renewal of License
1366	Crist	Cunico	D.C.	Springdale	AR	Retired; Voluntary Non-Renewal of License
16158	Anna	George	D.C.	Fayetteville	AR	Voluntary Non-Renewal of License
16174	Shannon	Green	D.C.	Chesterfield	MO	Voluntary Non-Renewal of License
16177	Dorothey	Pernell	D.C.	Greenwood	MS	Voluntary Non-Renewal of License
15966	Kendra	Pomeroy	D.C.	Hot Springs	AR	Voluntary Non-Renewal of License
1077	Richard	Sederberg	D.C.	Batesville	AR	Retired; Voluntary Non-Renewal of License

FOIA Report

A total of **9** Freedom of Information Act requests have been received from December 6, 2019 to April 1, 2020. Overall **34** have been received since the July 1, 2019.

Mr. McCoy motioned to approve the director's reports. Motion seconded by Dr. Ungerank. Motion passed.

OLD BUSINESS

2019 Proposed Rules- Comment Period results

The public comment period was from February 9, 2020 to March 9, 2020. The agency only received two negative comments regarding the active military and veteran's automatic licensure rule. No positive comments were received regarding this rule. The agency did not receive comments on any other proposed rule and/or amendment.

Military Licensure rule update

Mr. McCoy motioned to table the proposed rule for active military and veteran's automatic licensure at this time as additional language may be provided by the governor's office. Motion seconded by Dr. Ungerank. Dr. Moore wanted to clarify if the board would move forward with the other rules and amendments. Clarification was that the board would move forward with the other rules and amendments and that the agency would just have to go back before the rules committee later to address the military licensure rule. Motion passed.

NEW BUSINESS

Late Renewal- reinstate license

Dr. Christopher Primeaux submitted a request to have his license reinstated due to not renewing on time. He stated he filed away his renewal accidentally in a file and had thought he mailed it. However, the director informed the board that since the agency did not have the licensee's current address, he didn't get the late notice until after the 60 days to renew late. Dr. Ungerank motioned to allow the license to be reinstated. Motion seconded by Mr. McCoy. Motion passed.

Temporary License Application

Phillip Boruff filed an original license application along with an unsupervised temporary license request. Mr. McCoy motioned to approve temporary license. Seconded by Dr. Courtney. Motion passed.

Waive Onsite CE requirement

The board received an emergency petition for removing limitation of distanced based learning for the current renewal period from Paul Powers, DC, owner/operator of ChiroCredit.com. The petition was also signed by Guy Annunziata, DC, owner/operator of DChours.com. The petition requests immediate action of the board to remove the distance based learning restrictions so that Arkansas licensees can obtain all CE hours by distance learning. Dr. Courtney pointed out that the petitioner has a vested interest in doing everything online and that the board should stick with the present idea that we don't make a decision on this until June simply because the virus stuff may be totally gone by that point and we can function as normal the rest of the year. Mr. McCoy motioned to postpone until June. Motion seconded by Mr. Gunter. Discussion followed. Dr. Ungerank suggested that the board should postpone the decision until July so that an additional teleconference would not have to be called. Motion amended to postpone until July. Motion passed with one No vote by Dr. Hays.

BCBS response to Bd Letter

The Board sent a letter to Arkansas Blue Cross Blue Shield along with copying the Arkansas Insurance Commissioner and the Arkansas Attorney General's office indicating what the board's position is regarding all x-rays including extremity x-rays being within chiropractic scope. ARBCBS submitted a response to the board's letter, which was received February 12, 2020. Dr. Moore stated that the letter appears to put the ball back in the board's court and kind of shuts the argument down. Dr. Courtney asked for counsel's advisement. Counsel stated that it sounds like it's a contract issue with the plan and he does not know that, other than the board reiterating that we feel it's within the scope of practice and should be covered, he's not sure what else the board could do. Dr. Moore asked if we should just let this go? Dr. Courtney agreed with counsel that it's a contract issue and send the response to Dr. Bennett and inform him that if he wishes to take further legal steps he can.

DC/APRN

Mary Trentham, attorney specialist with the Arkansas state board of nursing, inquired about Arkansas licensed chiropractors who also hold an APRN license. If the DC is practicing both licenses at the same time, where does one license begin and end versus the other? Does the DC practice chiropractic one day and practice as an APRN the next day? Concerns were that if the DC practices both at the same time it could appear as though the DC is performing the practices of an APRN. The board did not see an issue with this as long as the DC is duly licensed in both fields and it would be up to the ASBCE to discipline the DC for violating the chiropractic practice act and the Nursing board would discipline the licensee for any violations of the nursing board practice act. No motion or additional action was taken by the board at this time as there is no complaint filed.

Therapy/OT

Dr. James Raker submitted an email to the board asking, “Is it in a DC’s scope of practice to render ultrasound CPT 97035, electronic stimulation CPT 97014, and manual therapy CPT 97140?” He stated that an insurance company is saying these are Occupational Therapy codes and can not be provided by a DC, or that I would be practicing “occupational therapy”. After a brief discussion, Dr. Courtney motioned that under Arkansas chiropractic scope of practice, DC’s are certainly able to render ultrasound, electrical stimulation, manual therapy and any physical therapy modality. Motion seconded by Mr. McCoy. Motion passed.

Selling CBD products

An email was received from Elliott Feldman, esq., Head of New Business Development with Dao Zen CBD. His inquiry asks for the board’s stance on chiropractors retailing and recommending CBD to their patients. The board did not take a position on the subject. They did state that the board does not dispense legal advice and that this person should seek out their own legal opinion. No other actions were taken by the board.

Chiropractic Aide inquiry

Dr. William Carbary inquired about Chiropractic Aides and if a licensed massage therapist working as an employee in a DC’s office in Arkansas doing a massage therapy session (97124 CPT code) as part of the chiropractic treatment plan, would the DC be required to be physically present in the office during this therapy procedure? Dr. Courtney motioned that if the insurance company is billed under the physicians provider number then the chiropractor must be onsite and if there is no billing through a third party then the massage therapist can work independent without supervision if he/she is so licensed as a licensed massage therapist. Motion seconded by Dr. Holt. Motion passed.

Investigative Committee Report

The complaint committee presented the regular report listing of the current complaints on file with their recommendations highlighted. The committee gave a brief explanation of each complaint and its recommendation and/or consent agreement.

719-06-05-19 regarding solicitation and **729-06-21-19** regarding unregistered procurer, offering services for free but charge, guarantee of settlement amounts, etc.

Committee recommended a consent agreement in lieu of rescheduling the hearing since the respondent agreed to the consent agreement after being noticed for the hearing that was to be held today. Motion made by Dr. Ungerank to accept the signed consent agreements. Motion seconded by Dr. Courtney. Mr. McCoy apposed, and Dr. Holt abstained. Motion passed.

741-01-06-20 regarding DC not providing records when requested by attorney and/or patient

Committee recommended a consent agreement in lieu of a hearing since the respondent failed to produce records and/or lost them in which he admitted too. Not keeping accurate records of a patient is in violation of Ark. Code. Dr. Ungerank motioned to accept the consent agreement. Motion seconded by Mr. McCoy. Counsel stated that this has not been sent to the respondent yet, so if he does not accept it we still might have to issue a notice for a hearing. Motion passed

704-12-03-19 regarding fraudulent solicitation: recommendation dismiss with letter of advisement

733-08-21-19 regarding billing: recommendation dismiss-lack of violation

736-09-03-19 regarding billing: recommendation, dismiss- lack of violation

737-09-16-19 regarding billing: recommendation, dismiss- lack of violation

738-11-04-19 regarding defamation: recommendation, dismiss-lack of evidence to prove a violation

739-12-17-19 regarding advertising with the word Physiotherapy: recommendation, dismiss-complaint resolved

740-01-02-20 regarding unprofessional conduct: recommendation, dismiss-lack of violation

742-02-05-20 regarding advertising without credentials: recommendation, dismiss-complaint resolved

743-02-18-20 regarding billing: recommendation, dismiss-lack of violation

Motion made by Mr. McCoy to accept the investigative report. Motion seconded by Dr. Ungerank.
Motion passed.

ADJOURN

Dr. Moore moved to adjourn. The Board adjourned at 10:12 a.m.

*Board minutes approved: **July 21, 2020***