

**Arkansas State Board of Chiropractic Examiners  
Board Meeting- Video/Teleconference  
Tuesday, October 20, 2020**

**CALL TO ORDER**

The board meeting via Zoom video/teleconference was called to order by Tanya Holt, D.C., President, at 10:02 a.m.

**ROLL CALL**

Board Members present:

Harold Gunter  
Kent Moore, D.C.  
Michael Courtney, D.C.  
Sarah Hays, D.C.  
Gregory Ungerank, D.C.

Board Members absent:

Jack McCoy

Staff present:

Laurie Mayhan, Executive Director  
Brad Nye, Assistant Attorney General

Guests present:

Steven Bennett, DC  
Amy McKee, DC  
Chris Cathey, DC  
Rachel Hoard

## NEW LICENSEE ORIENTATION

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

Dr. Bennett spoke on behalf of the Arkansas Chiropractic Society and Dr. McKee spoke on behalf of the Arkansas Chiropractic Physicians association. Each board member was given a turn to speak as well as the board's director.

Congratulations to the following applicants who received their license this day with their attendance at today's orientation.

	License No.	First Name	MI	Last Name
1	16261	Clay	E	Wilkins
2	16262	Garrett	M	Nikolay
3	16263	Monte	M	Broussard
4	16264	Cassidy	M	Ransom
5	16265	Tim	T	Nguyen

## MINUTES

Dr. Moore motioned to accept the July 21, 2020 minutes, seconded by Mr. Gunter. Motion passed  
Dr. Moore motioned to accept the September 30, 2020 minutes, seconded by Dr. Courtney. Motion passed.

## DIRECTOR'S REPORTS

### Budget Report

The FY21 service bureau report along with the FY21 expenditure and revenue reports were presented to the Board. Also presented was an itemized cash flow statement for FY2021 (July 1, 2020 – June 30, 2021). The allotted budget for FY21 is **\$187,370.00**. Total amount expended thus far for FY2021 is **\$32,942.66**. Total revenue received thus far for FY21 is **\$27,439.81**, which includes monies received, interest distribution, and rebates or transfers received. A list of all agency expenditures for July – September was also provided.

#### (July 1, 2020 – June 30, 2021) FY2021

CE Status	# of Applications	# of Hours	Fee Due	Fee Paid
Approved	162	1107	\$ 5,535.00	\$ 5,535.00
Approved w/exception	1	8	\$ 40.00	\$ 40.00
Not Approved	0	0	\$ 0.00	\$ 0.00
Pending	0	0	\$ 0.00	\$ 0.00
Cancelled	2	87	\$ 435.00	\$ 435.00
Incomplete	0	0	\$ 0.00	\$ 0.00
Void	0	0	\$ 0.00	\$ 0.00
<b>Total:</b>	<b>165</b>	<b>1202</b>	<b>\$ 6,010.00</b>	<b>\$ 6,010.00</b>

1 approved w/exception: AR7967, (TCA) disallowed breaks as CE time

### **2021 License Renewal**

672 renewals were mailed out on August 31, 2020. 117 of those have been submitted as of October 16, 2020. 555 renewals still remain to be submitted as of 10/16/2020.

### **FOIA Report FY21**

A total of 9 Freedom of Information Act requests have been received from July 16, 2020 to June 16, 2020 to October 16, 2020. A report of those FOIA's was also provided to the board.

The Director also reported that the agency finished their FY2019 Fiscal Audit and that it was to be presented to committee in November, and FY2020 Closing Books and FY2021-2023 Biennial Budget has also been completed. The biennial budget was approved at the 10/13/20 budget committee hearing, and no questions were asked of the department.

Dr. Ungerank motioned to accept the director's reports. Motion seconded by Dr. Hays. Motion passed.

## **OLD BUSINESS**

### **Late Fee refund: Brenda Snow**

Dr. Snow has requested that the board reconsider a refund of her late fee from the 2020 license renewal. She submitted an additional health record pertaining to her health in 2019, however she still failed to supply a written letter from her provider stating that she was unable to renew on time for her 2020 license. The board was informed that Dr. Snow was assessed the 2020 late fee, that she agreed to pay, in order to get her 2020 license issued, since a letter had not been received from her treating physician. Dr. Courtney brought up a point that he does admit she has a significant, severe problem, but again there is not a precedent in the past for the board to waive the late fee. Dr. Courtney motioned to stay with the original vote and stay with the board's rules. Motioned seconded by Mr. Gunter. Motion passed.

## **NEW BUSINESS**

### **Preceptor application- rule amendment**

Dr. Brady DeClerk was denied a preceptorship because he had disciplinary action within the last 5 years. Due to that denial, Dr. DeClerk is appealing to the board for reconsideration of approval. The director explained to the board that according to the new preceptorship rule, the licensee cannot have any disciplinary action during the last 5 years. This was also explained to Dr. DeClerk. The Board gave a directive to the Director to send a letter reiterating the rule and that they will not make an exception.

### **Battlefield Acupuncture - VA**

Dr. DuPriest recently completed training and certification to perform Battlefield Acupuncture (BFA) for veterans with chronic pain. BFA is a technique developed within the Department of Defense for pain management and used widely within VA as part of our Whole Health and Wellness interventions that includes a range of Complementary and Integrative Health procedures. Dr. DuPriest also stated in his correspondence that BFA is unique to the DOD/VA and performed by a variety of providers from MD/DOs, DCs, PTs, nurses for example. His question is, "does the board have statutory problem with performance of BFA on federal property only (this will be added to his credentials relative to scope within the VA) for the veteran population? Dr. Holt asked counsel's opinion on this matter. Counsel stated he would have to research it before he gave a legal opinion to the board. Dr. Courtney motioned to table this item until the next meeting. Motion seconded by Dr. Ungerank. Motion passed.

### **CAs- Massage**

Patrick Mammay, LMT submitted correspondence to the board concerning Chiropractic Assistants. His question is, “Can Chiropractic Assistants perform massage under a Chiropractor or do they have to be licensed massage therapists?” The director did respond to Mr. Mammay, quoting the Chiropractic Aide rules, which outlines what a CA can do. In addition to that, the director sent an additional response to Mr. Mammay stating that a CA could not perform massage therapy unless they were licensed to do so. After discussion of this item, Dr. Courtney stated “Licensed chiropractic physicians can do massage therapy as part of their chiropractic practice, but any chiropractic aide (assistant) cannot. Any other person would have to be a licensed massage therapist. Chiropractic aides (assistants) can do ultrasound under the direction of a chiropractor or apply electrodes per the instructions of a chiropractor, which are considered physical medicine procedures, but they cannot perform massage therapy unless they are a licensed massage therapist.” A directive was given to the board director to issue a letter reiterating what Dr. Courtney had stated. Dr. Ungerank motioned to have Dr. Courtney review the letter prior to being sent out. Motion seconded by Mr. Gunter. Motion passed.

### **New Computers/Computer Quote**

The director presented a quote for two new computers as the current ones are no longer being supported by Microsoft Windows. The agency was contacted by the analyst who reviews their IT Plan that is submitted/updated every year and/or biannually. The analyst stated that the agency would have to update their current Windows 7 to windows 10, as windows 7 is no longer being supported, and security can be an issue. The director reached out to the ADH IT team for help in finding a good computer. The quote presented is one type of computer out of three or four that what was recommended. A dual screen was also requested for both in order to be more productive with being able to view multiple items at once. The director also reviewed the FY21 budget to make sure the budget can handle this purchase, and it can. Mr. Gunter motioned to accept the quote. Motion seconded by Dr. Ungerank. Motion passed.

### **New Database proposals – Thentia & Certemy**

Due to the changing times, and the fact that the agency still does not accept online or credit card payments, or online renewals, etc., the director presented two (2) new database quotes along with two older quotes that the board put on hold a year or two ago due to the transformation of state government. The two new quotes, one from Thentia, and one from Certemy, were both fairly similar with similar concepts of how one accesses the program both by the agency and by the licensee. However, either one will take some time getting used to by all parties. Thentia quoted a slightly cheaper price than Certemy, but Certemy is also already being used by another state agency. Either would work for the Chiropractic Board for what is needed. Dr. Moore motioned to table this item for the next meeting and in the meantime make sure Thentia gets approved as a vendor since we aren’t going to pursue this until after the new year. Dr. Courtney seconded the motion. Motion passed.

### **Previous Database proposals – InLumon & FileMaker/Gordon Consulting**

This item was discussed along with the previous agenda item, but was not considered due to pricing.

### **Investigative Committee Report**

The complaint committee presented the complaint report with their recommendations. The committee provided and gave a brief explanation of three (3) complaints and the recommendation for each.

735-08-12-19 regarding advertising, and practicing outside of scope: recommendation, dismiss for lack of evidence to prove a violation.

745-04-27-20 regarding solicitation of patient already seeking treatment: recommendation, dismiss for lack of evidence to prove a violation due to the lack of cooperation of the complainant.

746-08-26-20 regarding DC and staff not following mask mandate: recommendation, dismiss for lack of violation of the ASBCE Laws and Rules, however this complaint will be forwarded to the ADH for their records.

Motion made by Dr. Courtney to accept the recommendations of the committee. Motion seconded by Mr. Gunter. Motion passed.

### **Procurer Rule**

Due to the complaint committee not being able to access certain procurer records they are requesting the board to amend the procurer rule to require that call logs are to be kept for one year. After discussion Dr. Ungerank motioned to table this item and discuss later about putting more teeth into the rule about holding the chiropractor and procurer both accountable for the same actions. Motion seconded by Dr. Courtney. Discussion followed. Motion passed.

### **ADJOURN**

Dr. Moore moved to adjourn. Seconded by Dr. Ungerank. The Board adjourned at 12:40 p.m.

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*Board minutes approved: 01-12-2021*