

**Arkansas State Board of Chiropractic Examiners
Board Meeting
Thursday, November 4, 2021**

CALL TO ORDER

The board meeting was called to order by Tanya Holt, D.C., President, at 9:08 a.m.

ROLL CALL

Board Members present:

Michael Courtney, D.C.
Sarah Hays, D.C.
Kent Moore, D.C.
Gregory Ungerank, D.C.
Tanya Holt, D.C.
Jack McCoy

Board Members absent:

Harold Gunter

Staff present:

Laurie Mayhan, Executive Director
Joe West, Assistant Attorney General

Guests present:

Chris Cathey, DC
Bonnie Hicks
Rachel Hoard

NEW LICENSEE ORIENTATION

The board's director went over new licensee orientation materials. Mrs. Bonnie Hicks spoke on behalf of the Arkansas Chiropractic Physicians Association and Dr. Chris Cathey spoke on behalf of the Arkansas Chiropractic Society. Each board member introduced themselves and gave some words of encouragement to the new licensees.

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

| License # | First Name | MI | Last Name |
|-----------|-------------|----|--------------------|
| 16299 | Carol | A | Carson |
| 16300 | Tanner | J | Hebert |
| 16301 | Joseph | T | Gustafson |
| 16302 | Christopher | A | Lewis |
| 16303 | David | G | Contreras |
| 16304 | Billy | D | Huddleston |
| 16305 | Tanner | S | Oxford |
| 16306 | Matthew | P | Tuttle |
| 16309 | Robert | S | Ligon, III |
| 16310 | Brandon | A | Sontheimer |
| 16311 | Luke | M | Oldham |
| 16312 | Jessica | A | Gustafson |
| 16313 | Thomas | E | Danisiewicz |

Board recessed at 10:03 am for a break and resumed at 10:20 am.

MINUTES

Dr. Courtney motioned to accept the July 20, 2021 board meeting and September 7, 2021 special meeting minutes. Mr. McCoy seconded the motion. Motion passed.

DIRECTOR'S REPORTS

Budget Report

An itemized cash flow statement for FY2022 (July 1, 2021 – June 30, 2022) was presented to the Board along with accounting reports through September. The allotted budget for FY22 was **\$188,457.00**. Total amount expended thus far for FY2022 is **\$35,159.56**. Total revenue received thus far for FY22 is **\$27,985.57**, which includes monies receipted, interest distribution, and rebates or transfers received. A list of all agency expenditures for July-September was also provided.

(July 1, 2021– June 30, 2022) FY2022

| CE Status | # of Applications | # of Hours | Fee Due | Fee Paid |
|----------------------|--------------------------|-------------------|--------------------|--------------------|
| Approved | 79 | 1510 | \$ 7550.00 | \$ 7560.00 |
| Approved w/exception | 1 | 35 | \$ 175.00 | \$ 175.00 |
| Not Approved | 0 | 0 | \$ 0.00 | \$ 0.00 |
| Pending | 0 | 0 | \$ 0.00 | \$ 0.00 |
| Cancelled | 0 | 0 | \$ 0.00 | \$ 0.00 |
| Incomplete | 0 | 0 | \$ 0.00 | \$ 0.00 |
| Void | 0 | 0 | \$ 0.00 | \$ 0.00 |
| Total: | 80 | 1510 | \$ 7,550.00 | \$ 7,560.00 |

(one sponsor paid \$10 too much on an app and will be using it on their next submission)

AR8631: Northwestern Health Sciences University (NWSU), exception was disallowing 2.75 hrs as a speaker was an APRN and not a physician.

2022 License Renewal

687 renewals were mailed out the first week of September.

146 have renewed as of October 28, 2021

541 renewals still outstanding

FY2022

A total of 7 Freedom of Information Act request have been received from July 1, 2021 to November 1, 2021. A FOIA report, containing the requests, was provided to the board.

The board discussed one request that was received from David Domina on August 4, 2021 regarding James D. Sheen who may be practicing in AR without a license. The board directed the investigator to look into this further.

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

OLD BUSINESS**Scope of Practice – AG Opinion update**

During previous board meetings in June and in July, the Board discussed concerns about insurance companies defining or determining what is within the ASBCE scope of practice. The Board took this matter up with their counsel on June 24th where Dr. Courtney motioned that the board request an AG opinion. With that, counsel researched previous and current opinions to help the board draft a request for an AG opinion. The drafted language was reviewed by the board on July 20, 2021, and a motion was made by Dr. Courtney to approve it and send it for an AG opinion. However, the request has to go through several approval before it goes to the AG. The request was sent to the Department of Health and the agency was informed that the board should not ask for an AG opinion as the board does not need to become involved in billing or issues with non-payment to a licensee. After discussion about the opinion request not being about billing, but who can determine scope of practice, Dr. Courtney motioned to send a representative of the board to the Department of Health or have a representative from the Department of Health come to their next meeting in order to explain and clarify the opinion request. Motion seconded by Mr. McCoy. Motion passed.

93rd General Assembly Health Related Acts review

The board discussed a listing of Acts that were recently passed during the 93rd General Assembly. The majority of the Acts did not affect this board however, the following Acts do and the board will be reviewing for potential rule changes.

Act 135: *Arkansas Occupational Licensing of Uniformed Service Members, Veterans, and Spouses Act of 2021. Amends military licensure section again. Will require updated Rules reflecting updated definitions. **EMERGENCY CLAUSE***

A draft was presented to the board as to what the AG's model language would look like added into the board's current rule(s) regarding Act 135. A motion was made by Dr. Moore to accept the rule draft with the term full instead of partial on section E of the drafted rule. Motion seconded by Mr. McCoy. Motion passed.

Act 390: *Clarifies the exemption to the Licensure by the veterinary medical examining board for chiropractors performing chiropractic upon animals.*

A draft was presented to the board of the update needed for the animal chiropractic rule according to Act 390. A motion was made by Dr. Ungerank to accept the drafted rule. Motion seconded by Dr. Courtney. Motion passed.

Act 589: *Regulates the use of procurers by Chiropractic Physicians. Board of Chiropractic Examiners may adopt rules to implement.*

A draft was presented to the board of the update needed for the current procurer rule according to Act 589, however, this rule was tabled for further review of potential edits to the rule.

Act 725: *Workforce Expansion Act, to waive the initial licensing fee if the applicant meets certain eligibility requirements.*

A draft was presented to the board of the update(s) needed for Act 725. Dr. Moore motioned to change the wordage from "initial licensing fee" on the AG model language to "application fee". Additional discussion on this topic regarding a recent licensee at today's orientation who may meet the requirements, but counsel will have to look into the language in the Act to determine if the Act does not require rule promulgation before it is effective.

Act 746: *The Board shall grant a license to an applicant who fulfills the Arkansas requirements for licensure and is a person who holds a Federal Form I-766 United States Citizenship and Immigration Services-issued Employment Authorization Document, known popularly as a "work permit."*

A draft was presented to the board of the update(s) needed for Act 725 and 746. Dr. Ungerank motioned to accept the drafted rule updates. Motioned seconded by Dr. Moore. Motion passed.

Act 748: *Provides potential for waiver for what were permanent prohibiting offenses in criminal background checks under Act 990 of 2019.*

A draft was presented to the board of the update(s) needed for Act 748. Dr. Ungerank motioned to accept the drafted rule update. Motioned seconded by Dr. Moore. Motion passed.

NEW BUSINESS

Externship and Preceptor Application Requests

Chase Alexander submitted an externship application along with a preceptorship application for **Dr. Jim Weatherley**. Mr. Alexander is in the process of finishing up his NBCE exams and is scheduled to complete them in May of 2022. Dr. Courtney motioned to approve the externship and preceptor requests. Motion seconded by Dr. Moore. Motion passed.

Externship Extension Request

Chee Kue, a current extern, submitted a request to have his externship extended until the end of January. With that request he also submitted letters from his patients asking the board to approve Mr. Kue for an extension. Mr. Kue explained that he has to retake part IV in November 2021 due to not passing it in May of 2021. The director explained that Mr. Kue has been in the program since 2019 and had given him an expiration date of October of 2021. Also, since she was out prior to his expiration date and could not send a reminder of the expiration she gave him one additional month since he had previously prepaid for the month of November. The Board discussed the extern statute and then Dr. Courtney motioned to deny the request according to Ark. Code Ann. § 17-81-316(b) in that the graduate is eligible to participate in the program for a maximum of two (2) years from the date of graduation. Motion seconded by Mr. McCoy. Motion passed.

PTs Practicing Outside of Scope

The board president inquired with the board and board counsel as to what the board can do if the PT board fails and/or chooses to take no action against a PT licensee for practicing outside their scope, with regards to practicing chiropractic. A letter from the PT board was provided regarding Hunt Physical Therapy and the fact that the PT board will not be taking further action. Counsel to investigate what action the board can take from here.

Scope for DC/NP offices

The board president inquired with the board and board counsel as to calls she has been getting regarding a DC office doing injections with a nurse practitioner on staff and/or a DC being duly licensed as a NP. Question posed was whose board are they subject to, if duly licensed. Consensus was that the dual licensure would be subject to both boards.

AR8547 Council of Chiropractic Acupuncture 2021 Symposium

Dr. Courtney asked that the board review and compare the contents provided to them for the Council of Chiropractic Acupuncture 2021 Symposium. The director explained that the course was originally approved by Dr. Hays as it was sponsored by Logan University on June 14, 2021. Logan ultimately cancelled the course without notifying our agency of the cancellation, however, the CCA still held the symposium but with a different speaker and course content. Two Arkansas licensees took the course thinking it was still approved until the ASBCE received their renewal form and the CE certificate did not match anything on file. CCA sent a statement of what happened regarding speakers and content, noting that the original speaker had a family emergency and so they found another speaker to teach the acupuncture course. After reviewing the content, and at no fault of the licensees who attended, the board felt the content was comparable and the speaker met the qualifications to teach the course. Dr. Courtney motioned to approve the course. Motioned seconded by Dr. Moore. Motion passed.

Investigative Committee Report

The complaint committee presented the complaint report with their recommendations. The committee gave a brief explanation of three complaints and their recommendations.

751-12-16-20 regarding social distancing, treatment, & billing: recommendation, dismiss for lack of evidence to prove a violation, however a letter of warning be sent to the respondent reiterating that it is a violation to not respond to board communications in a timely manner.

Dr. Courtney motioned regarding complaint 751-12-16-20 that the committee's recommendation be held. Motion seconded by Dr. Moore. Motion passed.

755-05-12-21 regarding solicitation, unregistered procurer: recommendation, send a consent agreement regarding not having the procurer registered according to the ASBCE laws and rules. Consent agreement would only contain an order for the respondent to pay \$1,000 fine for the violation.

Dr. Moore motioned to accept the committee's recommendation. Motion seconded by Dr. Courtney. Motion passed.

756-06-28-21 regarding being subject of a scam, billing: recommendation, dismiss for lack of evidence to prove a violation, as well as the complainant requested the complaint be dismissed as he and the respondent worked out a refund agreement, which the complainant was satisfied with.

Mr. McCoy motioned to dismiss the complaint. Motion seconded by Dr. Courtney. Motion passed.

Other business before the board

Temporary Supervised License Request

Nicholas A Wuthnow submitted a supervised temporary license request along with his original license application. The director explained that his application is not as complete as it could be since his paperwork had been filed away one evening for security and then she failed to remember to process the application the next day. Otherwise, his application would be complete except for proof of graduation with final transcripts, copy of diploma and Part IV results. Director asked the board to consider approving the request pending receipt of missing items. Dr. Moore motioned to accept the supervised temporary license request pending eligible background check results, graduation, and submission of final chiropractic transcript with copy of diploma, completed JP exam, and NBCE Part IV passing score. Motion seconded by Dr. Ungerank. Motion passed.

ADJOURN

Dr. Ungerank moved to adjourn. Seconded by Dr. Moore. The Board adjourned at 12:17 p.m.

Board minutes approved: January 20, 2022