

MINUTES
CHIROPRACTIC PHYSICIANS LICENSING BOARD

JULY 28, 2020 • 10:00 A.M

Electronic Meeting

Convened: 10:01 a.m.

Adjourned: 11:57 a.m.

DOPL STAFF PRESENT:

Allyson Pettley, Bureau Manager
Ernest Gamonal, Board Secretary
Sicily Hill, Compliance
Carolyn Dennis, Management Analyst

BOARD MEMBERS PRESENT:

Terry Martin, DC, Chair
Larry Vance, DC
Richard Engar, DDS
Dan S. Monson, DC
Kristina Stitcher, DC, Vice Chair

GUESTS:

Roxy Cross, UCPA
Dr. Stephen Jones, DC
Dr. Brent Friess, DC

ADMINISTRATIVE BUSINESS: (00:03:00)

Keep Board Chair Unanimous Engar, Monson 2

Read and Approve Minutes from April 28, 2020

Dr. Engar moved to amend and approve the minutes from the April 6, 2020 meeting, Dr. Stitcher seconded. The motion passed unanimously.

COMPLIANCE UPDATE: (00:04:25)

Ms. Hill provided a report on the probationers being seen today. Questions were asked and answered.

APPOINTMENTS:

Anthony John Simone, DC (00:08:25)

Dr. Vance interviewed Dr. Simone. Dr. Simone reported that he has been doing well throughout the pandemic. His business has dipped down a little but he sees his work as helping to take the pressure off the hospitals and other physicians. His employer is a large corporation that is very observant of CDC precautions. Dr. Simone was nominated for The Joint Chiropractor of the year.

Dr. Vance asked about Dr. Simone's Continuing Education. Dr. Simone said that he completed all of the required CEs for the May 31st renewal. He believes his only outstanding educational requirement is the Ethics and Boundaries Assessment Services Exam (EBAS), which has been financially challenging. Dr. Stitcher encouraged Dr. Simone to prioritize the completion of the EBAS because it is an outstanding requirement of his probation. Dr. Simone will come before the Board on October 27, 2020.

COMPLIANT

John Krage, DC (00:12:50, 0:16:50, 01:00:45)

Dr. Monson interviewed Dr. Krage. Dr. Krage said that his practice down due to the pandemic and he hasn't traveled to Utah due to the pandemic. Dr. Krage said he did not receive the result he wanted from his request to the California Chiropractic Board to end his probation in that state. He has taken a significant amount of his required Continuing Education. Dr. Krage will come before the Board on October 27, 2020.

COMPLIANT

Troy Graf, DC (00:14:20, 00:21:45)

The Board discussed some of the documents that the Board had requested from Dr. Graf at the previous meeting. Dr. Engar asked the Board to help him with some of technical jargon of the profession.

Dr. Engar interviewed Dr. Graf. Dr. Graf reported that he has been following the COVID-19 guidelines, but that Saint George is not as restrictive as Salt Lake so it hasn't affected him as much.

Dr. Engar noted that the Board had specifically requested Dr. Graf's sales refund policy and that the Board couldn't identify a refund policy in the documents presented. Dr. Graf said that he had changed his business model to a lease-to-own format so a patient could lease the equipment up to 90 days before buying it. Dr. Stitcher reminded Dr. Graf that Dr. Vance asked for a refund policy for 30, 60, and over 90 days after the purchase. Dr. Graf thought the lease-to-own model would eliminate the need for any refund policies. Dr. Stitcher told Dr. Graf that the Board requested policies for after the purchase, and it may be that the policy that there would be no refunds after 90 days, but the Board wants to see the policy that will be made available to the patients. Dr. Graf asked if this is something that he work submit to Ms. Hill. Ms. Pettley suggested that he forward the refund policy to Ms. Hill and she could send it to the Board, and they could respond individually if they have any concerns.

Dr. Engar asked if any equipment had been sold. Dr. Graf said that nothing had been sold since the last meeting and he would send receipts to Ms. Hill as items sell. Ms. Pettley encouraged Dr. Graf to submit any documentation that would show him being in compliance with his order. She told him that the Division would like to see that the patient knows what they are buying, what comes with it, and any regulations they need to be aware of, so the patient is completely clear about what they are getting.

Ms. Pettley asked Dr. Graf what other services he provides in his office aside from the sale of equipment. Dr. Graf said that he is a holistic Chiropractor and he tries to help patients who aren't responding to conventional ways, including adjustments, neurological assessments, brain mapping, stress management, coaching, and mentoring. Ms. Pettley asked Dr. Graf, how many people he had working in his practice. He replied that he has had several Chiropractic Physicians with him in the past, but for now, it's just him. He is looking to add more people to his team.

Ms. Pettley reminded Dr. Graf that he needs to be careful to not diagnose or treat mental health conditions listed in the DSM5 that are outside his scope of practice.

Dr. Sticher asked if his business bills insurance or is it all self-pay. Dr. Graf said about 90% of his business is self-pay. Dr. Sticher about the billing codes he uses with insurance.

Ms. Pettley asked about the issues brought up in the previous meeting regarding his website on the internet. Dr. Graf doesn't remember the specific issues. Ms. Pettley asked him to go through his websites and narrow down his offerings to only what he is authorized to treat. Ms. Pettley told Dr. Graf that he needs to familiarize himself with the limited scope of practice for a Chiropractic Physician and his online presence needs to reflect that. Dr. Sticher listed some of the conditions listed on Dr. Graf's website, mynaturalhealingcenter.com, and said that some of them are outside the scope of practice and he could get in trouble for implying he can treat ailments that are clearly outside his diagnostic and treatment scope of practice.

Until the refund policy and the websites are cleaned up, Dr. Engar finds him out of compliance. Dr. Graf will come back before the Board, in person if the COVID restrictions are lifted, on October 27, 2020.

NON-COMPLIANT

Kent Pollock, DC (00:45:05)

Dr. Sticher interviewed Dr. Pollock and his supervisors Drs. Stephen Jones and Brent Friess. Dr. Pollock is currently working in the Dr. Baker Provo clinic, Wednesdays and Thursdays every week, between 8 and 10 hours per week, and filling in for others who are out, as available. Dr. Jones is supervising at the Provo clinic Monday through Friday.

Dr. Pollock is having some trouble finding the required CEs with billing as the main subject, but he is moving forward toward meeting the requirement.

Dr. Jones said that most of Dr. Pollock's billing has been billed under Dr. Jones, but that most of Dr. Pollock's patients have been cash patients. Dr. Friess may take some time off and Dr. Jones is covering the supervisory role. All of the supervisor report have been turned in on time.

Dr. Pollock has completed all of his criminal obligations. He told the Board that he has learned to provide better more attentive care and he emphasized that he doesn't do any billing at all. He is completing his notes in a timely manner; he usually has them completed by the end of the day. Dr. Friess is working with Dr. Pollock regarding some of the new clinic technology.

Dr. Freiss asked when Dr. Pollock would be able to work without direct supervision. Dr. Stitcher said that it may be premature to loosen the supervisory requirement. The Board may look at it again at the halfway point of the three year probation. Ms. Pettley said that Dr. Pollock would need to demonstrate a routine of providing regular care without any issues before the Division could consider easing supervisory requirements because he has been out of practice for a while. Dr. Stitcher asked about Dr. Pollock increasing his hours. Dr. Pollock is open to that. Dr. Pollock will have that discussion with the other doctors in the practice. Ms. Pettley suggested that Dr. Pollock's supervisory requirement may be reassessed in February of 2021. Dr. Pollock will come back before the Board for the October 27, 2020, meeting.

COMPLIANT

DISCUSSION ITEMS:

Special Purposes Examination for Chiropractic (SPEC) (01:06:45)

Ms. Pettley did some research with Dr. Stitcher and Ms. Pettley said that she thinks that this is a statutory issue. Ms. Pettley said that the associations may want to look at working to change the law if they feel that it would be appropriate. She doesn't know if the Division would be putting another DOPL bill forward in the next session, so the associations may want to try to move it forward with the legislature.

Ms. Pettley told the Board how the law is currently applied. Dr. Stitcher agreed. Unless there is a change in the law the Division must apply it written.

Criminal History Determination Matrix and Application Review (01:32:35)

Ms. Pettley reminded the Board about previous discussions about the Criminal History Determination Matrix. Ms. Pettley explained how a previous criminal history event is examined for licensing. She also explained that candidates may make an Application for Criminal History Determination prior to entering school or formally applying for a license. She explained what would trigger the Division to process an application, require a Manager Review, require a manager or Board interview prior to licensing. She asked the Board to look it over and give her any feedback regarding any omissions or corrections.

Licensing by Endorsement (01:11:50)

Ms. Pettley introduced Carolyn Dennis to the Board. Ms. Pettley told the Board about Senate Bill 23, from the 2020 legislative session and the changes it has made to the licensing by endorsement provisions, including that an applicant by endorsement must be licensed in good standing for at least one year, and the state where they are being endorsed by must have a similar scope of practice. The Division may deny a license if it makes the determination that the applicant is not qualified. This path may be a way for chiropractic physicians coming by endorsement to not have to take the SPEC.

Ms. Dennis asked the Board for advice regarding the statutory requirements because the Division has to report back to the legislature in 2022 the ways that this endorsement pathway was utilized

and in cases where the professional Board doesn't believe the pathway should be used, that the Board need to help the Division articulate the issue for the required report.

Dr. Martin asked if an applicant were coming from a state that hypothetically didn't require the NBCE Part IV, the practical examination, and instead had their own state specific practical examination, would the applicant qualify for this endorsement path to licensure? He explained that he was asking because in the past, there were Doctors who wanted to practice in Utah but they didn't pass the Part IV, so they would establish licensure for a year in the other state and then come to Utah without ever having to take the Part IV. His concern is that the standards in the other states may be inferior to the current new license requirements in Utah.

Ms. Dennis explained that the research she has done in other professions has been to make those types of determinations. Ms. Dennis told the Board that these determinations are based on the current licensing requirements so if a Doctor were licensed 10 years ago and all of the examinations were not required then, but the state has continued to renew their license without additional requirements, the Division would view the applicant as meeting the current requirements for the purpose of endorsement.

Dr. Stitcher said that for a veteran doctor who has practiced for decades, the practical exam may not be necessary because 30 years of practice is an equivalent. However, she does believe that the Chiropractic Physician Law and Rule should be required for all newly licensed Chiropractic Physicians by endorsement or through their education and the NBCE Boards.

Ms. Dennis said that if the Law and Rule examination is more than 50% Utah specific, most of the other professional Boards have decided to keep it as a requirement for the endorsement pathway to licensure. Dr. Martin, who was in the last group to work on the Law and Rule examination thinks that the examination is very Utah specific. He agrees with Dr. Stitcher, that the Law and Rule should be required.

Ms. Dennis will research which states are withdrawing from the NBCE Part IV and find what they are replacing it with and present her research for the Board's determination of the equivalency. Ms. Dennis asked if there was anything else that she should focus on, like schooling or accreditation. Ms. Pettley said that she thinks the schools are pretty well credentialed and mostly equivalent.

Ms. Pettley thanked Ms. Dennis for all of the work she does and the meticulous way she compiles it for the Board's use. The Board will revisit this issue at the October 27, 2020, Board meeting.

TENTATIVE MEETING DATES

October 27, 2020

January 26, 2021

April 27, 2021

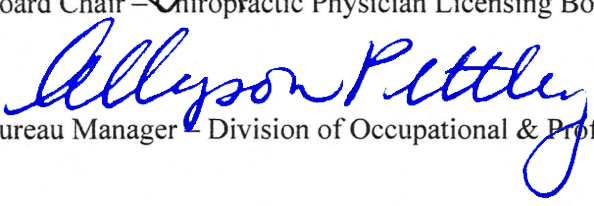
July 27, 2021

October 26, 2021

ADJOURN: 11:57 a.m. (no motion required)

Note: These minutes are not intended to be a verbatim transcript but are intended to record the significant features of the business conducted in this meeting. Discussed items are not necessary shown in the chronological order they occurred.

10/27/2020 
Date Approved Board Chair – Chiropractic Physician Licensing Board

October 27, 2020 
Date Approved Bureau Manager – Division of Occupational & Professional Licensing