



CHIROPRACTIC EXAMINING BOARD
Room 121A, 1400 East Washington Avenue, Madison
Contact: Tom Ryan (608) 266-2112
March 6, 2014

The following agenda describes the issues that the Board plans to consider at the meeting. At the time of the meeting, items may be removed from the agenda. Please consult the meeting minutes for a record of the actions of the Board.

AGENDA

8:30 A.M.

OPEN SESSION – CALL TO ORDER – ROLL CALL

- A) Adoption of Agenda**
- B) Welcome New Members**
- C) Approval of Minutes of January 23, 2014 (5-11)**
- D) Appointments/Reappointments/Confirmations**
 - 1) Kelly Brown (**12**)
 - 2) Jeffrey Mackey (**13**)
- E) Administrative Updates**
 - 1) Staff Updates
 - 2) Election of Officers
 - a) Chair
 - b) Vice Chair
 - c) Secretary
 - 3) Appointment of Liaisons, Alternates, and Delegates
 - a) Preceptor Liaison
 - b) Monitoring Liaison and Alternate
 - c) Credentialing Liaison
 - d) Examination, Education and Continuing Education Liaison and Alternate
 - e) Travel Liaison
 - f) Administrative Rules Liaison and Alternate
 - g) Other Liaisons
 - h) Screening Panel (3 members)

F) Preceptor Approvals – Discussion and Consideration (14-15)

	<u>Chiropractor</u>	<u>Lic. Granted</u>
<u>Life University</u>	J. Peter Heffenan, D.C.	11/20/1975
<u>Palmer</u>	Robin Frank, D.C.	06/03/1982
	Russell Hauser, D.C.	09/04/1986

G) Legislative/Administrative Rule Matters:

- 1) Current and Future Rule Making and Legislative Initiatives
- 2) Administrative Rules Report
- 3) 2013 Senate Bill 518 – Duty of Chiropractors to Inform Patients of Treatment Options
(16-23)
- 4) 2013 Assembly Bill 765 – Chiropractor Registration to Practice Acupuncture **(24-29)**

H) Review of Disciplinary Complaint History (30)

I) Items Added After Preparation of Agenda:

- 1) Introductions, Announcements and Recognition
- 2) Administrative Updates
- 3) Education and Examination Matters
- 4) Credentialing Matters
- 5) Preceptor Approvals
- 6) Practice Matters
- 7) Legislation/Administrative Rule Matters
- 8) Liaison Report(s)
- 9) Informational Item(s)
- 10) Disciplinary Matters
- 11) Presentations of Petition(s) for Summary Suspension
- 12) Presentation of Proposed Stipulation(s), Final Decision(s) and Order(s)
- 13) Presentation of Proposed Decisions
- 14) Presentation of Interim Order(s)
- 15) Petitions for Re-Hearing
- 16) Petitions for Assessments
- 17) Petitions to Vacate Order(s)
- 18) Petitions for Designation of Hearing Examiner
- 19) Motions
- 20) Petitions
- 21) Appearances from Requests Received or Renewed
- 22) Speaking Engagement(s), Travel, or Public Relation Request(s)

J) Public Comments

CONVENE TO CLOSED SESSION to deliberate on cases following hearing (s. 19.85(1)(a), Stats.); to consider licensure or certification of individuals (s. 19.85(1)(b), Stats.); to consider closing disciplinary investigations with administrative warnings (ss. 19.85 (1)(b), and 440.205, Stats.); to consider individual histories or disciplinary data (s. 19.85 (1)(f), Stats.); and to confer with legal counsel (s. 19.85(1)(g), Stats.).

K) Presentation and Deliberation on Appeals of Administrative Warnings

- 1) 13 CHI 033 – K.A.A. – Administrative Warning# WARN00000040 **(31-35)**
 - a) **10:00 A.M. – APPEARANCE** – James Polewski, DLSC Attorney
 - b) **10:00 A.M. – APPEARANCE** – K.A.A. (Respondent)

L) Presentation and Deliberation on Proposed Stipulations, Final Decisions, and Orders by the Division of Legal Services and Compliance (DLSC):

- 1) Christopher S. Druml, D.C. – 12 CHI 037 **(36-44)**
- 2) Martin L. Hazuka, D.C. – 13 CHI 006 **(45-50)**
- 3) Gary J. Luhman, D.C. – 13 CHI 017 **(51-55)**

M) DLSC Matters – Discussion and Consideration

- 1) Case Closings:
 - a) 12 CHI 023 – K.A.A. **(56-62)**
 - b) 13 CHI 018 – G.F.H. **(63-66)**

N) Monitoring Matters – Discussion and Consideration

- 1) Aaron Arfstrom, D.C. – Requesting Full License **(69-92)**
- 2) Steven Bircher, D.C. – Requesting Full License **(93-101)**
- 3) Wanda Erdman, D.C. – Requesting Full License **(102-114)**
- 4) Michael Trabbold, D.C. – Requesting Extension Of Time To Complete CE's **(115-122)**

O) Application Matters – Discussion and Consideration

- 1) Chiropractic Technician Training Review – M.B. **(123-131)**
- 2) Preceptor Approval – M.M. **(132-140)**
- 3) Preceptor Approval – D.S. **(141-156)**

P) Deliberation of Items Added After Preparation of the Agenda

- 1) Education and Examination Matters
- 2) Credentialing Matters
- 3) Disciplinary Matters
- 4) Monitoring Matters
- 5) Professional Assistance Procedure (PAP) Matters
- 6) Petition(s) for Summary Suspensions
- 7) Petition(s) for Extension of Time
- 8) Proposed Interim Orders
- 9) Petitions for Assessments and Evaluations
- 10) Petitions to Vacate Orders
- 11) Remedial Education Cases
- 12) Proposed Stipulations, Final Decisions and Orders
- 13) Administrative Warnings
- 14) Proposed Decisions
- 15) Matters Relating to Costs
- 16) Complaints
- 17) Case Closings
- 18) Case Status Report
- 19) Motions
- 20) Petitions for Re-Hearing
- 21) Appearances from Requests Received or Renewed

Q) Consulting with Legal Counsel

RECONVENE TO OPEN SESSION IMMEDIATELY FOLLOWING CLOSED SESSION

R) Open Session Items Noticed Above not Completed in the Initial Open Session

S) Vote on Items Considered or Deliberated Upon in Closed Session, if Voting is Appropriate

ADJOURNMENT

**CHIROPRACTIC EXAMINING BOARD
MEETING MINUTES
January 23, 2014**

PRESENT: John Church, Jodi Griffith, James Koshick, and Patricia Schumacher

EXCUSED: Kathleen Schneider

STAFF: Tom Ryan, Executive Director; Gretchen Mrozinski, Legal Counsel; Daniel Agne, Bureau Assistant; and other Department staff

CALL TO ORDER

James Koshick, Chair, called the meeting to order at 8:40 A.M. A quorum of four (4) members was confirmed.

ADOPTION OF AGENDA

Amendments:

- Item K.2 – Administrative Warnings – **CORRECT** respondent initials to “K.A.A.”
- Item I.22 – Speaking Engagement(s), Travel, or Public Relation Requests – **ADD** “Federation Of Chiropractic Licensing Boards (FCLB)Annual Meeting”

MOTION: John Church moved, seconded by Jodi Griffith, to adopt the agenda as amended. Motion carried unanimously.

APPROVAL OF MINUTES

MOTION: John Church moved, seconded by Patricia Schumacher, to approve the minutes of October 3, 2013 as published. Motion carried unanimously.

ADMINISTRATIVE MATTERS

ELECTION OF OFFICERS

BOARD CHAIR

NOMINATION: Jodi Griffith nominated James Koshick for the Office of Board Chair. Nomination carried by unanimous consent.

Tom Ryan called for other nominations three (3) times.

James Koshick was elected as Board Chair.

VICE CHAIR

NOMINATION: Jodi Griffith nominated John Church for the Office of Vice Chair.
Nomination carried by unanimous consent.

Tom Ryan called for other nominations three (3) times.

John Church was elected as Vice Chair.

SECRETARY

NOMINATION: John Church nominated Jodi Griffith for the Office of Secretary.
Nomination carried by unanimous consent.

Tom Ryan called for other nominations three (3) times.

Jodi Griffith was elected as Secretary.

2014 ELECTION RESULTS	
Board Chair	James Koshick
Vice Chair	John Church
Secretary	Jodi Griffith

APPOINTMENT OF LIAISONS, ALTERNATES, AND DELEGATES

PRECEPTOR LIAISON

MOTION: Patricia Schumacher moved, seconded by John Church, to appoint Jodi Griffith as the Preceptor Liaison. Motion carried unanimously.

MONITORING LIAISON

MOTION: Jodi Griffith moved, seconded by John Church, to appoint James Koshick as the Monitoring Liaison, and Jodi Griffith as the Alternate. Motion carried unanimously.

DELEGATED AUTHORITY MOTIONS

MOTION: Jodi Griffith moved, seconded by John Church, to adopt the Roles and Authorities Delegated to the Monitoring Liaison and Department Monitor document as presented in today's agenda packet. Motion carried unanimously.

MOTION: John Church moved, seconded by Jodi Griffith, that the Board delegates authority to the Chair (or order of succession) to sign documents on behalf of the Board. In order to carry out duties of the Board, the Chair has the ability to delegate this signature authority for purposes of facilitating the completion of assignments during or between meetings. The Chair delegates the authority to the Executive Director to sign the name of the Chair (or order of succession) on documents as necessary. Motion carried unanimously.

MOTION: James Koshick moved, seconded by John Church, that, in order to facilitate the completion of assignments between meetings, the Board delegates its authority by order of succession to the Chair, highest ranking officer, or longest serving member of the Board, to appoint liaisons to the Department where knowledge or experience in the profession is required to carry out the duties of the Board in accordance with the law. Motion carried unanimously.

CREDENTIALING LIAISON

MOTION: John Church moved, seconded by Patricia Schumacher, to appoint Jodi Griffith as the Credentialing Liaison. Motion carried unanimously.

EXAMINATION, EDUCATION, AND CONTINUING EDUCATION LIAISON AND ALTERNATE

MOTION: Jodi Griffith moved, seconded by Patricia Schumacher, to appoint John Church as the Examination, Education, and Continuing Education Liaison, and to appoint James Koshick as the Primary Alternate and Patricia Schumacher as the Secondary Alternate. Motion carried unanimously.

SCREENING PANEL

MOTION: James Koshick moved, seconded by Jodi Griffith, to appoint Patricia Schumacher, James Koshick, and Jodi Griffith, to the Screening Panel, and John Church as the Alternate. Motion carried unanimously.

TRAVEL LIAISON

MOTION: John Church moved, seconded by Jodi Griffith, to appoint James Koshick as the Travel Liaison. Motion carried unanimously.

OTHER LIAISON(S)

MOTION: Jodi Griffith moved, seconded by Patricia Schumacher, to appoint James Koshick as the Administrative Rules Liaison, and John Church as the Alternate. Motion carried unanimously.

PRECEPTOR APPROVALS

MOTION: John Church moved, seconded by Patricia Schumacher, to approve all preceptors as noted below. Motion carried unanimously.

<u>Palmer</u>	<u>Chiropractor</u>	<u>Lic. Granted</u>
	Daniel Hyatt, D.C.	02/08/1990
	John Jordan, D.C.	02/23/1989
	James Fox, D.C.	07/13/1995
	Mark Davis, D.C.	12/21/2000
	Allen Van Scoyk, D.C.	04/18/2003
	Kevin Herrle, D.C.	03/11/1999
	Kris Erlandson, D.C.	09/16/1982

REVIEW OF SCOPE STATEMENT FOR CHIR 2, 3 PRACTICAL EXAM

MOTION: John Church moved, seconded by Patricia Schumacher, to approve the amended Scope Statement on 165-CHI 2 and 3 relating to the Practical Exam for Chiropractors for resubmission to the Governor's Office and publication and to authorize the Chair to approve the scope for implementation no less than 10 days after publication. Motion carried unanimously.

REQUEST FOR APPROVAL OF CT CERTIFICATION

CHIROPRACTIC SOCIETY OF WISCONSIN – THERAPEUTIC MODALITIES FOR CT CERTIFICATION: PARTS I AND II

MOTION: Jodi Griffith moved, seconded by John Church, to deny the Request for Approval, as written, of the Chiropractic Society of Wisconsin for the Therapeutic Modalities for CT Certification Parts I and II. **Reason for Denial:** Does not meet the current minimum accepted standard for training or class hours; lacks information about instructors; and the request may not be for ongoing approval. Motion carried unanimously.

FEDERATION OF CHIROPRACTIC LICENSING BOARDS (FCLB) ANNUAL MEETING

MOTION: Patricia Schumacher moved, seconded by James Koshick, to designate John Church as a Delegate, and Jodi Griffith as an Alternate, to attend the FCLB Annual Meeting from April 30 to May 4, 2014 in Myrtle Beach, South Carolina, and to authorize the Delegate's or the Alternate's travel. Motion carried unanimously.

PUBLIC COMMENTS

Elizabeth McLean, Chiropractor, appeared before the Board to comment on education requirements.

Steven Bircher, Chiropractor, appeared before the Board to pose a question regarding disciplinary procedure.

Steve Conway, with the Chiropractic Society of Wisconsin, appeared before the Board to comment on “Reasonable Patient” versus “Reasonable Chiropractor” Informed Consent standards.

John Murray, with the Wisconsin Chiropractic Association, appeared before the Board to comment on Continuing Education approval procedure and legislation related to acupuncture.

CLOSED SESSION

MOTION: Jodi Griffith moved, seconded by Patricia Schumacher, to convene to closed session to deliberate on cases following hearing (s. 19.85(1) (a), Stats.; consider closing disciplinary investigations with administrative warning (s. 19.85(1)(b), Stats. and 440.205, Stats., to consider individual histories or disciplinary data (s. 19.85 (1)(f), Stats.; and, to confer with legal counsel (s. 19.85(1)(g), Stats.). The Chair read the preceding language into the record. Roll Call Vote: John Church - yes; Jodi Griffith - yes; James Koshick - yes; and Patricia Schumacher - yes. Motion carried unanimously.

The Board convened into Closed Session at 10:55 A.M.

RECONVENE TO OPEN SESSION

MOTION: John Church moved, seconded by Patricia Schumacher, to reconvene in Open Session at 1:18 P.M. Motion carried unanimously.

ADMINISTRATIVE WARNINGS

MOTION: Patricia Schumacher moved, seconded by Jodi Griffith, to issue an Administrative Warning in the matter of 13 CHI 006. Motion carried unanimously.

MOTION: Jodi Griffith moved, seconded by Patricia Schumacher, to issue an Administrative Warning in the matter of 13 CHI 033. Motion carried unanimously.

PROPOSED STIPULATIONS, FINAL DECISIONS, AND ORDERS

11 CHI 052 IDA C. ALLEN, D.C.

MOTION: Patricia Schumacher moved, seconded by Jodi Griffith, to adopt the Findings of Fact, Conclusions of Law, Stipulation, and Order, in the matter of 11 CHI 052 – Ida C. Allen. Motion carried unanimously.

11 CHI 052 JEROD J. BERGMAN, D.C.

MOTION: Patricia Schumacher moved, seconded by Jodi Griffith, to adopt the Findings of Fact, Conclusions of Law, Stipulation, and Order, in the matter of 11 CHI 052 – Jerod J. Bergman. Motion carried unanimously.

12 CHI 015
JEFFREY A. MARTIN, D.C.

MOTION: Patricia Schumacher moved, seconded by Jodi Griffith, to adopt the Findings of Fact, Conclusions of Law, Stipulation, and Order, in the matter of 12 CHI 015 – Jeffrey A. Martin. Motion carried unanimously.

CASE CLOSINGS

MOTION: Jodi Griffith moved, seconded by Patricia Schumacher, to close case 12 CHI 020 for No Violation (NV). Motion carried unanimously.

MOTION: Patricia Schumacher moved, seconded by Jodi Griffith, to close case 12 CHI 027 for Insufficient Evidence (IE). Motion carried unanimously.

MOTION: John Church moved, seconded by Patricia Schumacher, to close case 13 CHI 003 for Insufficient Evidence (IE). Motion carried unanimously.

APPLICATION MATTERS

MOTION: John Church moved, seconded by Jodi Griffith, to grant the request of M.J.K. for licensure by endorsement when all other requirements for licensure are met. Motion carried unanimously.

MOTION: Jodi Griffith moved, seconded by Patricia Schumacher, to grant the request of P.N. for licensure by endorsement when and all other requirements for licensure are met. Motion carried unanimously.

MOTION: Jodi Griffith moved, seconded by Patricia Schumacher, to grant the request of D.M.S. for licensure by endorsement when all other requirements for licensure are met. Motion carried unanimously.

MOTION: Patricia Schumacher moved, seconded by Jodi Griffith, to grant K.M.A. certification in Patient History, Physical Examination, Physiologic Therapeutics Overview, Light Therapy, Mechanical Therapy, and Electrotherapy when all other requirements for licensure are met. Motion carried unanimously.

MOTION: Jodi Griffith moved, seconded by John Church, to grant N.M.B. certification in Physical Examination, Physiologic Therapeutics Overview, Thermotherapy/Cryotherapy, Mechanical Therapy, Electrotherapy, and Therapeutic Ultrasound Therapy when all other requirements for licensure are met. Motion carried unanimously.

MOTION: John Church moved, seconded by Jodi Griffith, to grant L.A.N. certification in Physiologic Therapeutics Overview, Thermotherapy/Cryotherapy, Mechanical Therapy, Electrotherapy, and Therapeutic Ultrasound Therapy when all other requirements for licensure are met. Motion carried unanimously.

MOTION: Jodi Griffith moved, seconded by John Church, to grant T.Z. certification in Physiologic Therapeutics Overview, Thermotherapy/Cryotherapy, Mechanical Therapy, Electrotherapy, and Therapeutic Ultrasound Therapy when all other requirements for licensure are met. Motion carried unanimously.

MOTION: Patricia Schumacher moved, seconded by Jodi Griffith, to grant M.R.W. certification as a Chiropractic Radiological Technician when all other requirements for licensure are met. Motion carried unanimously.

MOTION: Patricia Schumacher moved, seconded by Jodi Griffith, to rescind the August 15, 2013 motion which denied J.J.K. certification in Exercise/Rehabilitation. Motion carried unanimously.

MOTION: Patricia Schumacher moved, seconded by Jodi Griffith, to grant J.J.K. certification as a Chiropractic Technician in Exercise/Rehabilitation when all other requirements for licensure are met. Motion carried unanimously.

MOTION: John Church moved, seconded by Patricia Schumacher, to deny C.S. certification in Exercise/Rehabilitation. **Reason for Denial:** Insufficient education. Motion carried unanimously.

MOTION: Patricia Schumacher moved, seconded by John Church, to grant the request of J.T.D. for licensure reinstatement upon successful completion of the Wisconsin Jurisprudence Exam. Motion carried unanimously.

MOTION: John Church moved, seconded by Jodi Griffith, to grant the request of S.T. for obtaining continuing education credits online due to hardship, provided all courses are preapproved by the Board Continuing Education Liaison prior to enrolling. Further, S.T. is encouraged to take, in person, approved Continuing Education courses in the Eau Claire area. Motion carried unanimously.

MOTION: Jodi Griffith moved, seconded by John Church, to deny the request of D.J.S. for grandfathering his NBCE score. **Reason for Denial:** Does not qualify for grandfathering because he did not take the Wisconsin Practical Exam. Motion carried unanimously.

**VOTE ON ITEMS CONSIDERED OR DELIBERATED UPON IN CLOSED SESSION,
IF VOTING IS APPROPRIATE**

MOTION: John Church moved, seconded by Patricia Schumacher, to affirm all Motions made and all Votes taken in Closed Session. Motion carried unanimously.

ADJOURNMENT

MOTION: Patricia Schumacher moved, seconded by John Church, to adjourn the meeting. Motion carried unanimously.

The meeting adjourned at 1:19 P.M.



SCOTT WALKER
OFFICE OF THE GOVERNOR
STATE OF WISCONSIN

P.O. Box 7863
MADISON, WI 53707

GOVERNOR'S APPOINTMENT

NAME: Ms. Kelly Brown

MAILING ADDRESS: [REDACTED]

E-MAIL ADDRESS: [REDACTED]

RESIDES IN: [REDACTED]

TELEPHONE: [REDACTED]

OCCUPATION: [REDACTED]

APPOINTED TO: Chiropractic Examining Board
Public Member 2

TERM: A term to expire July 1, 2016

SUCCEEDS: Ms. Kathleen A. Schneider

SENATE CONFIRMATION: Required

DATE OF APPOINTMENT: December 18, 2013

DATE OF NOMINATION: December 18, 2013



SCOTT WALKER
OFFICE OF THE GOVERNOR
STATE OF WISCONSIN

P.O. Box 7863
MADISON, WI 53707

GOVERNOR'S APPOINTMENT

NAME: Mr. Jeffrey Mackey

MAILING ADDRESS: [REDACTED]

E-MAIL ADDRESS: [REDACTED]

RESIDES IN: [REDACTED]

TELEPHONE: [REDACTED]

OCCUPATION: [REDACTED]

APPOINTED TO: Chiropractic Examining Board
Chiropractor 3

TERM: A term to expire July 1, 2017

SUCCEEDS: Mr. James P. Koshick

SENATE CONFIRMATION: Required

DATE OF APPOINTMENT: December 18, 2013

DATE OF NOMINATION: December 18, 2013

State of Wisconsin
Department of Safety and Professional Services

AGENDA REQUEST FORM

Name and Title of Person Submitting the Request: Maggy McGarry		Date When Request Submitted: 2/21/2014 Items will be considered late if submitted after 5 p.m. and less than: ▪ 10 work days before the meeting for Medical Board ▪ 14 work days before meeting for all other boards	
Name of Board, Committee, Council: Chiropractic Examining Board			
Board Meeting Date: 03/06/2014	Attachments: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	How should the item be titled on the agenda page? Preceptor Approvals	
Place Item in: <input checked="" type="checkbox"/> Open Session <input type="checkbox"/> Closed Session <input type="checkbox"/> Both	Is an appearance before the Board being scheduled? If yes, by whom? <input type="checkbox"/> Yes by _____ (name) <input checked="" type="checkbox"/> No	Name of Case Advisor(s), if required:	
Describe the issue and action the Board should address: Chiropractor eligibility for preceptor program. Decide to approve or not approve preceptors.			
If this is a "Late Add" provide a justification utilizing the Agenda Request Policy:			
Directions for including supporting documents: 1. This form should be attached to any documents submitted to the agenda. 2. Documents submitted to the agenda must be single-sided. 3. Only copies of the original document will be accepted. 4. Provide original documents needing Board Chairperson signature to the Bureau Director or Program Assistant prior to the start of a meeting.			
Authorization:			
 Signature of person making this request		2-21-14 Date	
Supervisor signature (if required)		Date	
Bureau Director signature (indicates approval to add late items to agenda)		Date	



State of Wisconsin

DEPARTMENT OF SAFETY AND PROFESSIONAL
SERVICES

CORRESPONDENCE / MEMORANDUM

DATE: February 21, 2014
TO: CHIROPRACTIC EXAMINING BOARD
FROM: MAGGY MCGARRY
SUBJECT: PRECEPTOR APPROVAL

The following requests for approval of preceptors have been submitted to the DSPS 45 days in advance of the beginning of the school's next trimester:

	<u>Chiropractor</u>	<u>Lic. Granted</u>
<u>Life University</u>	J. Peter Heffenan, D.C.	11/20/1975
<u>Palmer</u>	Robin Frank, D.C. Russell Hauser, D.C.	06/03/1982 09/04/1986

All of the above have current licenses in good standing.

**State of Wisconsin
Department of Safety & Professional Services**

AGENDA REQUEST FORM

1) Name and Title of Person Submitting the Request: Shawn Leatherwood		2) Date When Request Submitted: February 19, 2014 <small>Items will be considered late if submitted after 4:30 p.m. and less than:</small> <ul style="list-style-type: none"> ▪ 10 work days before the meeting for Medical Board ▪ 08 work days before the meeting for all others 	
3) Name of Board, Committee, Council, Sections: Chiropractic Examining Board			
4) Meeting Date: March 6, 2014	5) Attachments: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	6) How should the item be titled on the agenda page? 2013 Senate Bill 518 duty of chiropractors to inform patients of treatment options.	
7) Place item in: <input checked="" type="checkbox"/> Open Session <input type="checkbox"/> Closed Session <input type="checkbox"/> Both	8) Is an appearance before the Board being scheduled? If yes, who is appearing? <input type="checkbox"/> Yes by _____ (name) <input checked="" type="checkbox"/> No	9) Name of Case Advisor(s), if required: N/A	
10) Describe the issue and action that should be addressed: The Board will review 2013 Senate Bill 518 and discuss its impact on the duty of chiropractors to inform patients of treatment options.			
11) Shawn Leatherwood		Authorization February 19, 2014	
Signature of person making this request		Date	
Supervisor (if required)		Date	
Bureau Director signature (indicates approval to add post agenda deadline item to agenda)			
Date			
Directions for including supporting documents: <ol style="list-style-type: none"> 1. This form should be attached to any documents submitted to the agenda. 2. Post Agenda Deadline items must be authorized by a Supervisor and the Board Services Bureau Director. 3. If necessary, Provide original documents needing Board Chairperson signature to the Bureau Assistant prior to the start of a meeting. 			



2013 SENATE BILL 518

January 27, 2014 - Introduced by Senators GROTHMAN, TIFFANY and LASEE, cosponsored by Representative CZAJA. Referred to Committee on Judiciary and Labor.

1 **AN ACT** *to renumber and amend* 448.695 (1); and *to create* 446.02 (11), 446.08,
2 447.02 (2) (f), 447.40, 448.695 (1) (b), 448.697 and 449.25 of the statutes;
3 **relating to:** a duty of podiatrists, chiropractors, dentists, and optometrists to
4 inform patients of treatment options and granting rule-making authority.

Analysis by the Legislative Reference Bureau

Under Wisconsin's physician informed consent law, a physician who treats a patient has a duty to inform the patient about treatment options. A physician who fails to so inform a patient about modes of treatment may be held civilly liable for damages under tort law. This common law duty, as it relates to physicians, has been codified as a statutory duty.

In the case *Hannemann v. Boyson*, 2005 WI 94, the Wisconsin Supreme Court wrote that this duty to inform a patient about treatment options was not necessarily limited to physicians, and the court held in *Hannemann* that a chiropractor had such a duty to inform a patient. The duty, as it relates to chiropractors or any other types of health care professionals other than physicians, has not previously been codified as a statutory duty.

2013 Wisconsin Act 111 modified the codified duty of physicians to inform a patient about treatment options in a number of ways, including: 1) providing that the "reasonable physician standard," as defined in the act, is the standard for informing a patient and 2) providing that the physician's duty does not require the disclosure of information about alternate medical modes of treatment for any

SENATE BILL 518

condition the physician has not included in his or her diagnosis at the time the physician informs the patient.

This bill codifies into the statutes a similar duty to inform a patient about treatment options with respect to the following types of health care professionals: 1) chiropractors; 2) dentists; 3) podiatrists; and 4) optometrists.

Specifically, the bill provides that any chiropractor, dentist, podiatrist, or optometrist who treats a patient must inform the patient about the availability of reasonable alternate modes of treatment and about the benefits and risks of these treatments. The bill provides that the reasonable chiropractor, dentist, podiatrist, or optometrist standard, whichever is applicable, is the standard for informing a patient under that duty. The bill provides that this standard requires disclosure only of information that a reasonable chiropractor, dentist, podiatrist, or optometrist would know and disclose under the circumstances. The bill provides that a chiropractor's, dentist's, podiatrist's, or optometrist's duty to so inform the patient does not require disclosure of any of the following:

1) Detailed technical information that in all probability a patient would not understand.

2) Risks apparent or known to the patient.

3) Extremely remote possibilities that might falsely or detrimentally alarm the patient.

4) Information in emergencies where failure to provide treatment would be more harmful to the patient than treatment.

5) Information in cases where the patient is incapable of consenting.

6) Information about alternate modes of treatment for any condition the chiropractor, dentist, podiatrist, or optometrist has not included in his or her diagnosis at the time the chiropractor, dentist, podiatrist, or optometrist informs the patient.

Also under current law, the Medical Examining Board must promulgate rules implementing the physician's duty to inform a patient about treatment options, as codified into the statutes. This bill similarly requires the Chiropractic Examining Board, the Dentistry Examining Board, the Podiatry Affiliated Credentialing Board, and the Optometry Examining Board to promulgate rules implementing the chiropractor's, dentist's, podiatrist's, and optometrist's duties to inform a patient about treatment options, as those duties are codified into the statutes by the bill.

For further information see the *state and local* fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1 **SECTION 1.** 446.02 (11) of the statutes is created to read:

2 446.02 (11) The examining board shall promulgate rules implementing s.

3 446.08.

SENATE BILL 518

1 **SECTION 2.** 446.08 of the statutes is created to read:

2 **446.08 Informed consent.** Any chiropractor who treats a patient shall inform
3 the patient about the availability of reasonable alternate modes of treatment and
4 about the benefits and risks of these treatments. The reasonable chiropractor
5 standard is the standard for informing a patient under this section. The reasonable
6 chiropractor standard requires disclosure only of information that a reasonable
7 chiropractor would know and disclose under the circumstances. The chiropractor's
8 duty to inform the patient under this section does not require disclosure of any of the
9 following:

10 (1) Detailed technical information that in all probability a patient would not
11 understand.

12 (2) Risks apparent or known to the patient.

13 (3) Extremely remote possibilities that might falsely or detrimentally alarm
14 the patient.

15 (4) Information in emergencies where failure to provide treatment would be
16 more harmful to the patient than treatment.

17 (5) Information in cases where the patient is incapable of consenting.

18 (6) Information about alternate modes of treatment for any condition the
19 chiropractor has not included in his or her diagnosis at the time the chiropractor
20 informs the patient.

21 **SECTION 3.** 447.02 (2) (f) of the statutes is created to read:

22 447.02 (2) (f) Provisions implementing s. 447.40.

23 **SECTION 4.** 447.40 of the statutes is created to read:

24 **447.40 Informed consent.** Any dentist who treats a patient shall inform the
25 patient about the availability of reasonable alternate modes of treatment and about

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1 the benefits and risks of these treatments. The reasonable dentist standard is the
2 standard for informing a patient under this section. The reasonable dentist standard
3 requires disclosure only of information that a reasonable dentist would know and
4 disclose under the circumstances. The dentist's duty to inform the patient under this
5 section does not require disclosure of any of the following:

6 (1) Detailed technical information that in all probability a patient would not
7 understand.

8 (2) Risks apparent or known to the patient.

9 (3) Extremely remote possibilities that might falsely or detrimentally alarm
10 the patient.

11 (4) Information in emergencies where failure to provide treatment would be
12 more harmful to the patient than treatment.

13 (5) Information in cases where the patient is incapable of consenting.

14 (6) Information about alternate modes of treatment for any condition the
15 dentist has not included in his or her diagnosis at the time the dentist informs the
16 patient.

17 **SECTION 5.** 448.695 (1) of the statutes is renumbered 448.695 (1) (intro.) and
18 amended to read:

19 448.695 (1) (intro.) The affiliated credentialing board shall promulgate all of
20 the following rules defining:

21 (a) Rules defining the acts or attempted acts of commission or omission that
22 constitute unprofessional conduct under s. 448.60 (5).

23 **SECTION 6.** 448.695 (1) (b) of the statutes is created to read:

24 448.695 (1) (b) Rules implementing s. 448.697.

25 **SECTION 7.** 448.697 of the statutes is created to read:

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1 **448.697 Informed consent.** Any podiatrist who treats a patient shall inform
2 the patient about the availability of reasonable alternate modes of treatment and
3 about the benefits and risks of these treatments. The reasonable podiatrist standard
4 is the standard for informing a patient under this section. The reasonable podiatrist
5 standard requires disclosure only of information that a reasonable podiatrist would
6 know and disclose under the circumstances. The podiatrist's duty to inform the
7 patient under this section does not require disclosure of any of the following:

8 (1) Detailed technical information that in all probability a patient would not
9 understand.

10 (2) Risks apparent or known to the patient.

11 (3) Extremely remote possibilities that might falsely or detrimentally alarm
12 the patient.

13 (4) Information in emergencies where failure to provide treatment would be
14 more harmful to the patient than treatment.

15 (5) Information in cases where the patient is incapable of consenting.

16 (6) Information about alternate modes of treatment for any condition the
17 podiatrist has not included in his or her diagnosis at the time the podiatrist informs
18 the patient.

19 **SECTION 8.** 449.25 of the statutes is created to read:

20 **449.25 Informed consent.** (1) Any optometrist who treats a patient shall
21 inform the patient about the availability of reasonable alternate modes of treatment
22 and about the benefits and risks of these treatments. The reasonable optometrist
23 standard is the standard for informing a patient under this section. The reasonable
24 optometrist standard requires disclosure only of information that a reasonable
25 optometrist would know and disclose under the circumstances. The optometrist's

SENATE BILL 518**SECTION 8**

1 duty to inform the patient under this section does not require disclosure of any of the
2 following:

3 (a) Detailed technical information that in all probability a patient would not
4 understand.

5 (b) Risks apparent or known to the patient.

6 (c) Extremely remote possibilities that might falsely or detrimentally alarm the
7 patient.

8 (d) Information in emergencies where failure to provide treatment would be
9 more harmful to the patient than treatment.

10 (e) Information in cases where the patient is incapable of consenting.

11 (f) Information about alternate modes of treatment for any condition the
12 optometrist has not included in his or her diagnosis at the time the optometrist
13 informs the patient.

14 (2) The examining board shall promulgate rules implementing sub. (1).

15 **SECTION 9. Initial applicability.**

16 (1) The treatment of section 446.08 of the statutes first applies to a chiropractor
17 required to inform a patient about modes of treatment on the effective date of this
18 subsection.

19 (2) The treatment of section 447.40 of the statutes first applies to a dentist
20 required to inform a patient about modes of treatment on the effective date of this
21 subsection.

22 (3) The treatment of section 448.697 of the statutes first applies to a podiatrist
23 required to inform a patient about modes of treatment on the effective date of this
24 subsection.

**State of Wisconsin
Department of Safety & Professional Services**

AGENDA REQUEST FORM

1) Name and Title of Person Submitting the Request: Shawn Leatherwood		2) Date When Request Submitted: February 24, 2014	
Items will be considered late if submitted after 4:30 p.m. and less than:			
<ul style="list-style-type: none"> ▪ 10 work days before the meeting for Medical Board ▪ 08 work days before the meeting for all others 			
3) Name of Board, Committee, Council, Sections: Chiropractic Examining Board			
4) Meeting Date: March 6, 2014	5) Attachments: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	6) How should the item be titled on the agenda page? 2013 Assembly Bill 765 chiropractor registration to practice acupuncture	
7) Place Item in: <input checked="" type="checkbox"/> Open Session <input type="checkbox"/> Closed Session <input type="checkbox"/> Both	8) Is an appearance before the Board being scheduled? If yes, who is appearing? <input type="checkbox"/> Yes by _____ (name) <input checked="" type="checkbox"/> No	9) Name of Case Advisor(s), if required: N/A	
10) Describe the issue and action that should be addressed: The Board will review 2013 Assembly Bill 765 and discuss chiropractors and a registration to practice acupuncture.			
11) Shawn Leatherwood Signature of person making this request		Authorization February 24, 2014 Date	
Supervisor (if required)		Date	
Bureau Director signature (indicates approval to add post agenda deadline item to agenda) Date			
Directions for including supporting documents: 1. This form should be attached to any documents submitted to the agenda. 2. Post Agenda Deadline items must be authorized by a Supervisor and the Board Services Bureau Director. 3. If necessary, Provide original documents needing Board Chairperson signature to the Bureau Assistant prior to the start of a meeting.			



2013 ASSEMBLY BILL 765

February 14, 2014 - Introduced by Representatives WEININGER, SPIROS, KOOYENGA, KRUG, PETRYK and STRACHOTA, cosponsored by Senators LASEE and SCHULTZ. Referred to Committee on Health.

1 **AN ACT to amend** 446.01 (2) (a), 446.03 (intro.), 446.03 (1), 446.04 (2), 446.04 (4),
2 446.05 (1) and 451.02 (1); and **to create** 440.08 (2) (a) 24a., 446.01 (1a), 446.01
3 (1b), 446.023, 446.04 (6) and 632.87 (3) (d) of the statutes; **relating to:**
4 chiropractor registration to practice acupuncture, fee-splitting with a
5 nonchiropractor acupuncturist, and granting the exercise of rule-making
6 authority.

Analysis by the Legislative Reference Bureau

Under current law, a person generally may not practice acupuncture in Wisconsin unless the person is an acupuncturist certified by the Department of Safety and Professional Services (DPS). Under this bill, a chiropractor who is licensed for the practice of chiropractic by the Chiropractic Examining Board (board) may practice acupuncture without being certified by DPS if the board registers the licensed chiropractor to practice acupuncture. Under the bill, the board may register a licensed chiropractor to practice acupuncture if the chiropractor does all of the following:

1. Applies to the board for registration to practice acupuncture.
2. Submits evidence satisfactory to the board that the licensed chiropractor has completed at least 100 hours of instruction in acupuncture at a college of chiropractic approved by the board or at an accredited college or university.
3. Successfully completes the acupuncture examination administered by the National Board of Chiropractic Examiners.

ASSEMBLY BILL 765

4. Pays a one-time registration fee of \$100.

Under the bill, once registered by the board to practice acupuncture, a licensed chiropractor must complete at least two hours of continuing education in acupuncture annually.

Also under current law, a licensed chiropractor may not split a fee for a chiropractic service with another person unless that person is also a licensed chiropractor. The bill authorizes a chiropractor to split a fee for a chiropractic service with an acupuncturist certified by DSPS.

For further information see the *state* fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1 **SECTION 1.** 440.08 (2) (a) 24a. of the statutes is created to read:

2 440.08 (2) (a) 24a. Chiropractor registration to practice acupuncture:
3 December 15 of each even-numbered year.

4 **SECTION 2.** 446.01 (1a) of the statutes is created to read:

5 446.01 (1a) "Acupuncture" has the meaning given in s. 451.01 (1).

6 **SECTION 3.** 446.01 (1b) of the statutes is created to read:

7 446.01 (1b) "Acupuncturist" has the meaning given in s. 451.01 (2).

8 **SECTION 4.** 446.01 (2) (a) of the statutes is amended to read:

9 446.01 (2) (a) To examine into the fact, condition, or cause of departure from
10 complete health and proper condition of the human; to treat without the use of drugs
11 as defined in s. 450.01 (10) or surgery; to counsel; to practice acupuncture if the
12 acupuncturist is registered under s. 446.023; to advise for the same for the
13 restoration and preservation of health or to undertake, offer, advertise, announce,
14 or hold out in any manner to do any of the aforementioned acts, for compensation,
15 direct or indirect or in expectation thereof; and

16 **SECTION 5.** 446.023 of the statutes is created to read:

ASSEMBLY BILL 765**1 446.023 Chiropractor registration to practice acupuncture. (1)**

2 DEFINITION. In this section, "licensed chiropractor" means a person who is licensed
3 by the examining board to engage in the practice of chiropractic.

4 (2) REGISTRATION REQUIRED. (a) Except as provided under par. (b), no licensed
5 chiropractor may practice acupuncture unless he or she is registered by the
6 examining board under this section.

7 (b) No registration is required under this section for any of the following:

8 1. A licensed chiropractor who is an acupuncturist certified under ch. 451.

9 2. A licensed chiropractor who practices acupuncture as part of a supervised
10 course of study or residency program in acupuncture that is approved by the
11 examining board.

12 (c) The examining board shall register a licensed chiropractor under this
13 section who does all of the following:

14 1. Submits an application for registration to the examining board on a form
15 provided by the examining board.

16 2. Submits evidence satisfactory to the examining board that the licensed
17 chiropractor has completed at least 100 hours of instruction in acupuncture at a
18 college of chiropractic approved by the examining board or at a college or university
19 accredited by an accrediting agency that is recognized by the secretary of the federal
20 department of education.

21 3. Successfully completes the acupuncture examination administered by the
22 National Board of Chiropractic Examiners.

23 4. Pays a registration fee of \$100.

24 (3) REGISTRATION RENEWAL. (a) The renewal date for a registration under this
25 section is specified under s. 440.08 (2) (a). There is no renewal fee.

ASSEMBLY BILL 765**SECTION 5**

1 (b) A licensed chiropractor registered under this section shall, at the time that
2 he or she applies for renewal of a registration under par. (a), submit evidence
3 satisfactory to the examining board that he or she has completed at least 2 hours
4 annually of continuing education in an acupuncture-related program approved by
5 the examining board under s. 446.028.

6 (4) RULES. The examining board shall promulgate rules to implement this
7 section. The rules promulgated under this subsection shall incorporate the rules of
8 the department promulgated under s. 451.12.

9 **SECTION 6.** 446.03 (intro.) of the statutes is amended to read:

10 **446.03 Reprimand; revocation, limitation, or suspension of a license or**
11 **certificate.** (intro.) The examining board, by order, may reprimand a licensee,
12 certificate holder, or registrant and may deny, limit, suspend or revoke any license,
13 certificate, or ~~certificate~~ of registration if the licensee, certificate holder, or registrant
14 does any of the following:

15 **SECTION 7.** 446.03 (1) of the statutes is amended to read:

16 446.03 (1) Obtains the license, certificate, or ~~certificate~~ of registration through
17 error or fraud.

18 **SECTION 8.** 446.04 (2) of the statutes is amended to read:

19 446.04 (2) Loaning of a chiropractic license or certificate, or of a registration
20 issued under s. 446.023, to anyone.

21 **SECTION 9.** 446.04 (4) of the statutes is amended to read:

22 446.04 (4) Splitting or dividing any fee for chiropractic service with any person
23 except an associate licensed chiropractor or an acupuncturist certified under ch. 451.

24 **SECTION 10.** 446.04 (6) of the statutes is created to read:

ASSEMBLY BILL 765

1 446.04 (6) Use of unsanitary or unsafe acupuncture equipment, contrary to the
2 rules promulgated under s. 446.023 (4).

3 **SECTION 11.** 446.05 (1) of the statutes is amended to read:

4 446.05 (1) Subject to the rules promulgated under s. 440.03 (1), the examining
5 board may make investigations and conduct hearings in regard to the conduct of any
6 licensed chiropractor who, it has reason to believe, violated s. 446.02, 446.023, or
7 446.03. The person complained against may proceed to review any action of the
8 examining board under ch. 227.

9 **SECTION 12.** 451.02 (1) of the statutes is amended to read:

10 451.02 (1) An individual holding a license, permit, registration, or certificate
11 under ch. 441, 446, 447, 448, or 449 who engages in a practice of acupuncture that
12 is also included within the scope of his or her license, permit, registration, or
13 certificate.

14 **SECTION 13.** 632.87 (3) (d) of the statutes is created to read:

15 632.87 (3) (d) Paragraphs (a) and (b) do not apply to a licensed chiropractor's
16 practice of acupuncture within the scope of a registration issued under s. 446.023.

17 **SECTION 14. Effective date.**

18 (1) This act takes effect on the first day of the 7th month beginning after
19 publication.

20

(END)

**State of Wisconsin
Department of Safety & Professional Services**

AGENDA REQUEST FORM

1) Name and Title of Person Submitting the Request: Janie Brischke, Program Policy Analyst Adv		2) Date When Request Submitted: 02/24/14 Items will be considered late if submitted after 4:30 p.m. on the deadline date: <ul style="list-style-type: none"> ▪ 8 business days before the meeting for paperless boards ▪ 14 business days before the meeting for all others 	
3) Name of Board, Committee, Council, Sections: Chiropractic Examining Board			
4) Meeting Date: 03/06/14	5) Attachments: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	6) How should the item be titled on the agenda page? Complaint Information/Data	
7) Place Item in: <input checked="" type="checkbox"/> Open Session <input type="checkbox"/> Closed Session <input type="checkbox"/> Both	8) Is an appearance before the Board being scheduled? <input type="checkbox"/> Yes (Fill out Board Appearance Request) <input checked="" type="checkbox"/> No	9) Name of Case Advisor(s), if required:	
10) Describe the issue and action that should be addressed: <p>The information being provided is based on an appearance I made before the board in 2013. At that time they requested additional years of data regarding complaints in DLSC.</p> <p>Please note that the information will be sent sometime the week of March 2, 2013 and will need to be sent to the board members.</p>			
11) Authorization			
Signature of person making this request		Date	
Supervisor (if required)		Date	
Executive Director signature (indicates approval to add post agenda deadline item to agenda) Date			
Directions for including supporting documents: 1. This form should be attached to any documents submitted to the agenda. 2. Post Agenda Deadline items must be authorized by a Supervisor and the Policy Development Executive Director. 3. If necessary, Provide original documents needing Board Chairperson signature to the Bureau Assistant prior to the start of a meeting.			