

**CHIROPRACTIC EXAMINING BOARD  
MEETING MINUTES  
May 28, 2009**

**PRESENT:** Steven R. Conway DC, Wendy M. Henrichs DC, James P. Koshick DC, Kathleen A. Schneider, Steven J. Silverman DC.

**VIA TELEPHONE:** Mania Moore

**STAFF:** Yolanda McGowan, Bureau Director; Peggy Wichmann, Legal Counsel; Karen Rude-Evans, Bureau Assistant; Ben Hanes, Intern/Minute Taker, and other DRL Staff

**GUESTS:** Mark Grapentine, WI Medical Society; Dean Willhite DC, CDID; Kelly Rindfleisch, WAHP

**CALL TO ORDER**

Chair Wendy Henrichs called the meeting to order at 8:06 a.m. A quorum of 6 members was present.

**ADOPTION OF AGENDA**

**MOTION:** James Koshick moved, seconded by Steven Conway, to approve the agenda as presented. Motion carried unanimously.

**APPROVAL OF MINUTES OF MARCH 26, 2009**

**Corrections:**

- In the first paragraph on page 5 of the minutes change the word “inhibiting” to “prohibiting.”

**MOTION:** James Koshick moved, seconded by Steven Conway, to approve the Minutes of March 26, 2009 as corrected. Motion carried unanimously.

**BOARD MEMBER APPOINTMENT TO COMMITTEES BY THE CHAIR –  
JURISPRUDENCE EXAM COMMITTEE**

Steven Silverman was appointed to the Jurisprudence Exam Committee. Wendy Henrichs resigned from the committee.

**ADMINISTRATIVE REPORT**

Yolanda McGowan informed the board of reorganization within the Department and effects on staffing.

Gail Sumi introduced herself to the board. She mentioned the possibility of cost-saving measures that may be implemented due to the budget deficit, such as starting meetings later so that members do not have to stay overnight.

The board welcomed new board member, Kathleen Schneider. The board members and staff introduced themselves and gave brief summaries of their backgrounds.

**HECTOR COLON, EXECUTIVE ASSISTANT**

Hector Colon introduced himself to the board. He addressed potential cost-saving measures that the Governor is considering, but noted that nothing has been made final. He said details will be made available to the board as they come to light. He also discussed e-credentialing, which the Department is in the process of developing.

**PRESENTATION OF PROPOSED STIPULATIONS, FINAL DECISIONS AND ORDERS**

**JUDITH A. YAGER, D.C. (DOE CASE # 05 CHI 003)**

Attorney Jeanette Lytle presented a Proposed Stipulation, Final Decision and Order in the matter of Judith A. Yager, DC. This will be deliberated in closed session.

**JOHN T. FRIEDRICHS, D.C. (DOE CASE # 06 CHI 054)**

Attorney Pam Stach presented a Proposed Stipulation, Final Decision and Order in the matter of John T. Friedrichs, DC. This will be deliberated in closed session.

**MICHAEL M. HAMILTON, D.C. (DOE CASE #'S 07 CHI 018 & 07 CHI 042)**

Attorney Pam Stach presented a Proposed Stipulation, Final Decision and Order in the matter of Michael M. Hamilton, DC. This will be deliberated in closed session.

**AIMEE HAMILTON, D.C. (DOE CASE # 07 CHI 042)**

Attorney Pam Stach presented a Proposed Stipulation, Final Decision and Order in the matter of Aimee Hamilton, DC. This will be deliberated in closed session.

**MARC D. DITTY, D.C. (DOE CASE # 07 CHI 042)**

Attorney Pam Stach presented a Proposed Stipulation, Final Decision and Order in the matter of Marc D. Ditty, DC. This will be deliberated in closed session.

**PRESENTATION OF PROPOSED STIPULATIONS THAT MAY BE SIGNED AFTER MAILING OF AGENDA**

None.

**SUMMARY REPORTS ON PENDING COURT CASES, DISCIPLINARY CASES  
AND ADMINISTRATIVE RULES AND PRESS RELEASES**

Noted.

**REVIEW OF JOINT FINANCE COMMITTEE (JFC) MOTION #189:  
(LEHMAN/COLON) REGARDING: CHIROPRACTOR EXAMINATIONS  
AND LICENSING**

The board discussed the motion. Hector Colon noted that although the motion has passed the Joint Finance Committee, it does not contain the final language that will appear in the amendment. The Department has requested that the final language of the amendment be made available to the Board once it has been finalized.

The board discussed the specific provisions of the motion:

- **Examinations.** The Board's discussion on this topic included this being an opportunity to better protect the health, safety and welfare of the public; concerns about substantial costs related to the development and implementation of a State exam; the need (or lack thereof) for a separate state exam; the fact that requiring a state exam contradicts the national trend of having a third party vendor create and administer exams; concerns about the possibility that one could fail a portion of the National exam and still qualify for licensure and concern that this would require all applicants seeking licensure in Wisconsin to take a State exam, which could cause others not to want to seek license to practice in Wisconsin.
- **Student loan repayments.** When discussing this topic, the Board considered the question of whether the issue is beyond the scope of this Board's purview; whether it is good policy to require the Department to use its limited resources to police matters of personal responsibility; concerns about the substantial impact this provision would have on actual and potential licensees; the high default rate among members of this profession, and the need for personal responsibility of those seeking to practice chiropractic in this state.
- **Duty to refer.** The Board's discussion on this topic included whether clarification was necessary regarding to whom referrals should be made; whether it was good practice and whether it needed to be mandated; whether such a provision would place an excessive burden on chiropractors, and whether such a provision actually raises or lowers the standard of practice.
- **Continuing Education for Chiropractic Technician and Chiropractic Radiological Technicians.** When discussing this topic, the Board noted that this provision is in line with the national trend of requiring CE for these technicians, and that it is generally a good thing. Some concerns were raised as to whether the continuing education requirements for CT and CRT would be excessive in some cases.

- **Sexual misconduct:** The Board's discussion on this issue included concerns about the harsh penalties; problems associated with the definitions of terms; and the potential loss of the Board's discretion in disciplinary matters. Discussion about the provision forbidding an individual whose license is suspended due to sexual misconduct from hiring somebody to oversee his or her practice during the suspension centered around the potential for substantial impact (financial and otherwise) on the offending member's staff, partners and/or community. It was also noted that such a provision would present an opportunity to better protect the public, and would prevent an offending member from receiving remuneration during the suspension period.
- **Chiropractor fees:** Peggy Wichmann noted that the substance of this provision is largely already in the rules, so it will probably have little impact on the profession. The Board questioned whether parts of this provision conflict with insurance law, and noted that it adds a mandatory discipline in the Statute.
- **Continuing education:** The Board's discussion on this topic included concerns about the Department's ability to monitor continuing education of all licensees, as opposed to the current practice of random audits; the opportunity to simplify the process of tracking CE courses attended; that it could create an incentive on the part of licensees to comply with CE rules, and that this provision removes the responsibility from the licensee to the department to keep up with licensee CE attendance.

The Board members voted on whether they support each provision of JFC Motion #189 as written:

- **Examinations:** Steven Conway, DC -no; Wendy Henrichs, DC -yes; James Koshick, DC -yes; Steven Silverman, DC -no; Kathleen Schnieder -yes; Mania Moore -yes.
- **Student Loan Repayments:** Steven Conway DC -no; Wendy Henrichs, DC -yes; James Koshick DC -yes; Steven Silverman DC -no; Kathleen Schneider -no; Mania Moore -no.
- **Duty to Refer:** Steven Conway, DC -no; Wendy Henrichs, DC -yes; James Koshick -yes; Steven Silverman -no; Kathleen Schnieder -yes; Mania Moore -yes
- **Continuing Education for Chiropractic Technician & Chiropractic Radiological Technicians:** Steven Conway, DC -yes; Wendy Henrichs, DC -yes; James Koshick -yes; Steven Silverman, DC -no; Kathleen Schneider -yes; Mania Moore -yes.
- **Sexual Misconduct:** Steven Conway, DC -no; Wendy Henrichs, DC -yes; James Koshick, DC -no; Steven Silverman, DC -no; Kathleen Schnieder -yes; Mania Moore -yes
- **Chiropractor Fees:** Steven Conway, DC -no; Wendy Henrichs DC -yes; James Koshick, DC -yes; Steven Silverman -no; Kathleen Schneider -yes; Mania Moore -yes.

- **Continuing Education:** Steven Conway, DC -yes; Wendy Henrichs DC -yes; James Koshick, DC -yes; Steven Silverman, DC -yes; Kathleen Schneider -yes; Mania Moore -yes.

**MOTION:** James Koshick moved, seconded by Mania Moore, to support the inclusion of motion 189 adopted by the Joint Finance Committee for its inclusion into the substitution amendment to AB 75. Motion failed. Opposed: Steven Conway, Kathleen Schneider, Steven Silverman.

**MOTION:** Steven Silverman moved, seconded by Kathleen Schneider, to compile the Board's positions and individual board members' comments regarding motion 189 adopted by the Joint Finance Committee for review and approval by the Chair and receipt of comments from board members prior to the Chair's submission to the Governor. Motion carried unanimously.

## **PRACTICE QUESTIONS**

### **Questions from Kevin K. Bodling, President & CEO of Doctor's Choice P.L.D.S**

- **“Are WI chiropractors permitted to order routine, diagnostic laboratory tests?”** Yes.
- **“Are WI chiropractors or their staff legally permitted to perform venipunctures and/or capillary sticks for performing routine, diagnostic laboratory tests?”** Chiropractors – yes; staff – no.
- **“Excluding obstetrical procedures, are WI chiropractors legally permitted to perform specimens such as pap smears and cultures?”** The Board agreed that further research and discussion are required on this question.
- **“Are WI chiropractors legally permitted to surgically remove any tissue(s) for the purpose(s) of histological evaluation (biopsy).”** No.

### **Question from Dean Willhite, D.C.**

- **“When a WI Chiropractor Orders a Laboratory Analysis on a Blood Specimen, If the Chiropractor Received a Fee, Either from the Patient or the Insurance Company Which Was Over and Above the Fee Charged by the Laboratory, Is this Considered Fee Splitting?”** No.

**Scope of Practice Questions for Deliberation or Future Consideration submitted by Dean Willhite, D.C.** The Board asked Dr. Willhite (present at the meeting) to condense the issues presented in his submission to concrete questions that the board can address at a subsequent meeting.

**CHIROPRACTIC BOARD APPROVAL OF NUTRITIONAL COUNSELING PROGRAMS PURSUANT TO CHIR 12.03 – “DOES THE BOARD HAVE THE AUTHORITY TO DESIGNATE THE FORMAT OF THE WRITTEN ASSESSMENT REQUIRED FOR APPROVAL OF NUTRITIONAL COUNSELING PROGRAMS AS PER S. CHIR 12.03 (1) (I)”**

The Board debated the merits of closed-book examination versus open-book. Legal Counsel advised the board that it cannot mandate one format (closed vs. open) over the other as either is permissible under the rule as presently written. The board was reminded of its authority to change the rule as it sees fit.

**MOTION:** James Koshick moved, seconded by Mania Moore, to give the Board authority to set the format of the written assessment required for approval of nutritional counseling programs as per s. Chir 12.03(1)(i). Motion failed. Opposed: Steven Conway, Wendy Henrichs, Kathleen Schneider, Steven Silverman.

**MOTION:** James Koshick moved, seconded by Mania Moore, that the Board take the position that the written assessment required for receipt of a nutritional counseling certificate as per s. Chir 12.03(1)(i) must be in closed-book format. Motion carried. Opposed: Steven Silverman.

**PRECEPTOR APPROVALS**

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

<u>School</u>	<u>Chiropractor</u>	<u>Lic Granted</u>
<u>Palmer</u> ( <i>Pregrad</i> )	Dr. Heather Steffes	09/24/2002
	Dr. Kevin Blau	07/08/1993
	Dr. Mark Bergquist	01/17/1985
	Dr. Russell Hauser	09/04/1986
	Dr. Patrick Murphy	10/27/1984
	Dr. William Melby	10/26/1985
	Dr. Melissa Kincaid	03/20/1997
	Dr. Mark Oas	12/14/2001
	Dr. Michael Saatkamp	10/27/1984
	( <i>Postgrad</i> )	Dr. Sandra Litang-Canon

	Dr. Kent Belville	07/19/1984
<u>Parker (Postgrad)</u>	Dr. Jay Laguardia	07/12/1990

Northwestern (Postgrad for the dates of placement 08/17/09 to 11/19/09)

<u>Chiropractor</u>	<u>Lic. Granted</u>
Dr. Phillip Brooks	11/20/1975
Dr. Mark Dull	06/30/1988
Dr. Kenneth Krimpelbein	01/06/1995
Dr. Miriam Leean	03/09/2000
Dr. Patricia Marsden	04/10/2001
Dr. Timothy McCulloch	12/08/1994
Dr. Clint Moses	12/19/2003
Dr. Steven Yeomans	07/26/1979
Dr. Katherine Gravesen	12/21/2000

Northwestern (Pregrad for the dates of placement 11/20/09 to 05/19/10)

<u>Chiropractor</u>	<u>Lic. Granted</u>
Dr. Phillip Brooks	11/20/1975
Dr. Mark Dull	06/30/1988
Dr. Timothy McCulloch	12/08/1994

**MOTION:** James Koshick moved, seconded by Mania Moore, to approve the preceptors as presented. Motion carried unanimously.

**PRECEPTOR APPROVAL FOR REQUESTS RECEIVED AFTER THE PRINTING OF THE AGENDA**

None.

**FEDERATION OF CHIROPRACTIC LICENSING BOARD (FCLB) ANNUAL MEETING REPORT – STEVEN CONWAY, D.C.**

**Review and Discussion of Form from FCLB Meeting Regarding Chiropractic Examining Board Review and Analysis of New Technologies Available for Chiropractic Practice**

Steven Conway gave his report on the annual FCLB meeting to the Board. He presented a worksheet for evaluating new treatments and devices. He also suggested the website [www.mycourse.com](http://www.mycourse.com) as a useful tool for online education.

**CORRESPONDENCE AND PHONE INQUIRIES BY LEGAL COUNSEL**

None.

**PUBLIC COMMENTS**

None.

**CLOSED SESSION**

**MOTION:** Mania Moore moved, seconded by Steven Silverman, to adjourn to closed session to deliberate on cases following hearing (s. 19.85(1)(a), Stats.; consider closing disciplinary investigation 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.). Roll Call Vote: Steven Conway – yes; Wendy Henrichs – yes; James Koshick – yes; Mania Moore – yes; Kathleen Schnieder – yes; Steven Silverman – yes. Motion carried unanimously.

Open session recessed at 2:43 p.m.

**RECONVENE TO OPEN SESSION**

**MOTION:** Mania Moore moved, seconded by Kathleen Schneider, to reconvene in open session. Motion carried unanimously.

Open session reconvened at 3:49 p.m.

**VOTING ON ITEMS CONSIDERED OR DELIBERATED ON IN CLOSED SESSION**

**MONITORING**

**RANDALL HAMMETT, DC  
REQUEST FOR FULL LICENSURE**

**MOTION:** Kathleen Schneider moved, seconded by Mania Moore, to approve the request for full licensure to Randall Hammett, DC. Motion carried unanimously.

**WILLIAM ATKINSON, DC  
REQUEST FOR FULL LICENSURE**

**MOTION:** Steven Silverman moved, seconded by Mania Moore, to approve the request for full licensure to William Atkinson, DC. Motion carried unanimously.

**JOHN MURPHY, DC**

**MOTION:** Mania Moore moved, seconded by Steven Silverman, to suspend the license of John Murphy, DC, for failure to comply with the order of the Board dated October 16, 2003. Motion carried unanimously.

**PROPOSED STIPULATIONS**

**MARC D DITTY, DC**

**MOTION:** Mania Moore moved, seconded by Steven Conway, to adopt the Findings of Fact, Conclusions of Law, Proposed Stipulation, Final Decision and Order in the matter of Marc D. Ditty, D.C. Motion carried unanimously.

**JOHN T FRIEDRICHS, DC**

**MOTION:** Mania Moore moved, seconded by Kathleen Schneider, to adopt the Findings of Fact, Conclusions of Law, Proposed Stipulation, Final Decision and Order in the matter of John T. Friedrichs, D.C. Motion carried unanimously.

**AIMEE HAMILTON, DC**

**MOTION:** Mania Moore moved, seconded by Steven Conway, to adopt the Findings of Fact, Conclusions of Law, Proposed Stipulation, Final Decision and Order in the matter of Aimee Hamilton, D.C. Motion carried unanimously.

**MICHAEL M HAMILTON, DC**

**MOTION:** Mania Moore moved, seconded by Steven Conway, to adopt the Findings of Fact, Conclusions of Law, Proposed Stipulation, Final Decision and Order in the matter of Michael M. Hamilton, D.C. Motion carried unanimously.

**JUDITH A YAGER, DC**

**MOTION:** James Koshick moved, seconded by Mania Moore, to reject the Findings of Fact, Conclusions of Law, Proposed Stipulation, Final

Decision and Order in the matter of Judith A. Yager, D.C. Motion carried. Abstain: Steven Conway.

Deliberation of Proposed Stipulations that May be Signed after Mailing of the Agenda

None.

Deliberation of Proposed Administrative Warnings Received after Mailing of Agenda

None.

Deliberation of Proposed Final Decisions & Orders that May be Signed after Mailing Of the Agenda.

None.

Deliberation of Order Fixing Costs Received After the Mailing of the Agenda

None.

Deliberation of Petitions for Rehearings Received After the Mailing of the Agenda

None.

**DIVISION OF ENFORCEMENT – CASE STATUS REPORT**

Noted.

**REVIEW OF APPLICATIONS RECEIVED AFTER MAILING OF THE AGENDA**

None.

**DOE SIGNATURE COLLECTION**

**OTHER BOARD BUSINESS**

**ADJOURNMENT**

**MOTION:** Mania Moore moved, seconded by Kathleen Schneider, to adjourn the meeting. Motion carried unanimously.

The meeting adjourned at 3:53 p.m.