

**Commonwealth of Massachusetts**  
**Division of Professional Licensure**  
**Board of Registration of Chiropractors**  
1000 Washington Street  
Boston, MA 02118

**AUGUST 1, 2019**

A posted public meeting of the Massachusetts Board of Registration of Chiropractors (the Board) was held in Room 1D, 1000 Washington Street, Boston, Massachusetts.

Dr. Dodes noted a quorum of members present and called the meeting to order at 10:07 a.m.

**MEMBERS PRESENT:**

Dr. Glenn Dodes, Chair  
Dr. Kirk Shilts, Secretary  
Ms. Barbara Bush, Public Member  
Dr. Daniel Fanselow, Member  
Dr. Gabrielle Freedman, Member  
Dr. Candace Maddalo, Member

Dr. Peter Martone was absent from the meeting.

**STAFF PRESENT (at various times):**

Richard Lawless, Board Executive Director  
Sheila York, Esq., Board Legal Counsel  
Nick Horne, DPL Intern

**CHAIRMAN'S MESSAGE**

None provided

**CONFLICT OF INTEREST REMINDER**

Dr. Dodes briefly reviewed the state's conflict of interest process and procedures for Board member recusals.

**AGENDA**

Dr. Dodes reviewed the draft agenda with the Board.

Thereafter, a motion was made by Dr. Fanselow, seconded by Dr. Maddalo and VOTED (unanimous);  
**to approve the meeting's agenda as drafted.**

**PUBLIC MEETING MINUTES**

The Board reviewed the draft public meeting minutes of June 6, 2019.

Thereafter, a motion was made by Dr. Shilts, seconded by Dr. Fanselow and VOTED (unanimous);  
**to approve the public meeting minutes of June 6, 2019 as drafted.**

**NEW & OPEN CASES:**

The Board prepared to discuss investigative matters involving new and open cases.

Thereafter, a motion was made by Dr. Dodes, seconded by Dr. Fanselow and VOTED (unanimous);  
**to enter into Closed Session under M.G.L. c. 112, s. 65C at 10:11 a.m. for the purpose of discussing investigatory matters.**

*Dr. Dodes estimated that open session would resume in about 60 minutes.*

*Open Session resumed at 12:07 p.m.*

During Closed Session the Board took the following actions:

- **2018-000667-IT-ENF [RR]** Sent to Office of Prosecutions
- **2018-000952-IT-ENF [JG]** Dismissed with Advisory Letter
- **2019-000342-IT-ENF [JD]** Dismissed with Advisory Letter, *Note: Dr. Fanselow was recused from this case*
- **2019-000491-IT-ENF [KC]** Sent to Office of Prosecutions
- **2019-000498-IT-ENF [TA]** Dismissed with Prejudice
- **2019-000537-IT-ENF [JR]** Gave Direction to Staff
- **2019-000647-IT-ENF [DFC]** Sent to Office of Prosecutions
- **Automobile Ins. Bureau Report** Reviewed 2018 report

#### **OUASI-JUDICIAL SESSION:**

The Board prepared to discuss matters involving open cases.

Thereafter, a motion was made by Dr. Dodes, seconded by Dr. Maddalo and VOTED (unanimous); **to enter into Closed Session under M.G.L. c. 30A, s. 18 at 12:07 p.m. for the purpose of issuing decisions in quasi-judicial matters.**

*Dr. Dodes estimated that open session would resume in about 15 minutes.*

*Open Session resumed at 12:14 p.m.*

During Closed Session the Board took the following actions:

- **2018-000910-IT-ENF [MC]** Revocation of License
- **2018-001128-IT-ENF [MR]** Revoke right to Renew License & Impose Fine

#### **CHIROPRACTOR OF RECORD WAIVER APPLICATION**

**Stephen Loughlin, D.C.**

Postponed

#### **LEGAL REPORT**

None provided

#### **CORRESPONDENCE:**

- **6/20/19 Letter from Steve Heney, D.C. RE: CE course approval standards for online programs**  
Thereafter, the Board will respond explaining its intention to maintain a single standard for CE course approvals in Massachusetts.
- **Phone Call From T. Eustace RE: Chiropractic program accreditation standards**  
Thereafter, the Board will respond explaining its recognition of CCE-USA as the only accepted accrediting body for chiropractic programs in Massachusetts.

#### **DISCUSSION**

- **School Bus Driver Examinations in Massachusetts**  
The Board discussed the practical and legal process of examining school bus drivers in Massachusetts.  
Dr. Maddalo reviewed a spreadsheet comparing the medical history review and physical examination

procedures for a Massachusetts school bus driver and a federal CDL bus/truck driver. The examination procedures were identical. She said the federal government maintains an official registry of health providers, who after completing an approved course and obtaining a passing score on a federal examination are certified by the United States government to provide this service of examining commercial drivers to the public. She said medical physicians, osteopathic physicians, chiropractic physicians, physician assistants and certain advanced practice nurses comprise the federal registry. Dr. Maddalo said the MA Registry of Motor Vehicles (RMV) only allows medical physicians and osteopathic physicians to conduct state school bus exams but not chiropractic physicians. She said the exclusion is also linked to the length of the school bus. Dr. Maddalo said she is perplexed as to why the RMV discriminates against chiropractic physicians performing these public safety examinations.

Atty. York said the RMV is the agency with statutory authority to interpret terms as it is used in the school bus operator statute. She said the RMV has defined "licensed physician" for the purpose of school bus operator medical examinations to mean a medical doctor or osteopathic doctor licensed in Massachusetts.

Dr. Shilts said MGL chapter 90 (Motor Vehicles and Aircraft), section 8A says only a "licensed physician" may perform a school bus examination in Massachusetts. He said MGL chapter 112, section 95 defines licensed chiropractors as a "chiropractic physician" in Massachusetts. He said MGL chapter 175, section 108D describes and differentiates how a "medical physician" (but not an osteopathic physician) may seek insurance reimbursement for providing chiropractic physician services. He said MGL chapter 112, section 8A states that a chiropractor is not prohibited from using the word physician, specifically "chiropractic physician", in public advertising. He said MGL chapter 111, section 1 defines a "medical peer review committee", which may comprise chiropractic physicians, as legally tasked to "the determination of whether a health care provider's action call into question such health care provider's fitness to provide health care services, or the evaluation and assistance of health care providers impaired or allegedly impaired by reasons of alcohol, drugs, physical disability, mental instability or otherwise". He said 42 USC 1395x, section 1861(r) of the federal Social Security Act that covers both Medicare (federal) and Medicaid (state/federal) health programs define a "physician" as a doctor of medicine, doctor of osteopathy, doctor of dental medicine, doctor of podiatric medicine, doctor of optometry or doctor of chiropractic". He said Medicare rules Pub 100-04, section 30.6.1 describe how only "physicians" may "code physician services, including evaluation and management (E/M) services", which is what a school bus driver examination entails. He added the same rule describes nurse practitioners, clinical nurse specialist, certified nurse midwives and physician assistants, as well as physical therapists and occupational therapists, as "non-physician" practitioners.

Dr. Shilts said based on professional competence and public safety, existing practicality, the Supreme Court decision regarding the non-restriction of healthcare markets, as well as Governor Baker's decree to eliminate barriers to public commerce, licensed chiropractic physicians should be able to perform RMV school bus driver exams and Federal Aviation Administration basic medical exams within the Commonwealth.

Mr. Lawless said the Board's mission is to protect the public and not to advocate for the professional interests of chiropractors. He said advocacy activities, especially those concerning another state agency's regulations, are often handled by nongovernment entities such as professional associations.

Thereafter, a motion was made by Dr. Fanselow seconded by Dr. Maddalo and VOTED (unanimous); **to view the Massachusetts school bus driver exam when performed by a licensed chiropractor in a similar manner to the Board's (March 2019) position on licensed chiropractors performing the Federal Aviation Administration basic medical exam.**

#### **NEW BUSINESS**

None

### **PUBLIC COMMENT PERIOD**

None offered

### **NEW LICENSEE INTERVIEWS**

After the meeting, the following candidates were scheduled to complete their new licentiate orientation/interview:

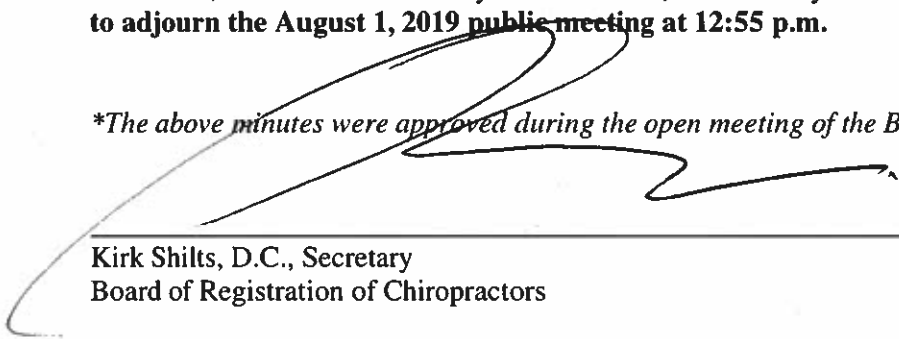
- Hanna Brucker (RI) & Dylan Dyer (FL)

### **ADJOURNMENT**

Dr. Dodes noted there were no more agenda items.

Thereafter, a motion was made by Dr. Freedman, seconded by Dr. Maddalo and VOTED (unanimous); to adjourn the August 1, 2019 public meeting at 12:55 p.m.

*\*The above minutes were approved during the open meeting of the Board held on September 5, 2019.*



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Kirk Shilts, D.C., Secretary  
Board of Registration of Chiropractors

*Documents used by the Board during open session:*

- *Proposed meeting agenda for 8/1/19*
- *Draft public meeting minutes from 6/6/19*
- *Letter from S. Heney, D.C., dated 6/20/19*