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APRIL 1, 2021 Public Meeting Minutes

A posted public meeting of the Massachusetts Board of Registration of Chiropractors (the Board) was held remotely by telephone or by videoconference as an alternate means of public access pursuant to an Executive Order issued by the Governor of Massachusetts dated March 12, 2020, suspending certain provisions of the open meeting law.

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

MEMBERS PRESENT

Dr. Kirk Shilts, Chair
Dr. Glen Dodes, Vice Chair
Dr. Candace Maddalo, Secretary
Ms. Barbara Bush, Public Member
Dr. Daniel Fanselow, Member
Dr. Gabriel Freedman, Member

STAFF PRESENT (at various times)

Matthew Keigan, Board Executive Director
Charles Kilb, Esq, Board Legal Counsel
Ellen D'Agostino, Office of Investigations
Allan VanTassel, Office of Investigations
Julie Brady, Esq., Office of Prosecutions
Ellen D'Agostino, Office of Investigations

Chairman's Message

Dr. Shilts informed the Board that there are new Federal Employee Workers Compensation guidelines relative to telemedicine. He said their guidelines list the providers that are able to bill for telemedicine services and chiropractic was among them. Dr. Shilts will send the link to Mr. Keigan to forward to the other Board members for review.

Agenda

Dr. Shilts reviewed the posted agenda with the Board. There were no New Business items.

Motion to approve the May 1, 2021 agenda as posted made by Dr. Dodes, seconded by Dr. Freedman and VOTED (roll call)

Members in Favor: Dodes, Maddalo, Bush, Fanselow, Freedman and Shilts

Members opposed: none



Conflict of Interest Open Meeting Reminder

Atty. Kilb gave a brief overview of The Commonwealth's Conflict of Interest and Open Meeting Laws. Atty. Kilb also discussed when Board members should recuse themselves from Board discussions or votes.

Public Meeting Minutes

March 4, 2021

The Board reviewed the draft public meeting minutes of 3/4/2021.

Dr. Shilts noted there were minor typographical errors in the minutes, which he outlined for the Board.

A motion was made by Dr. Maddalo, seconded by Dr. Shilts to approve the public meeting minutes of March 4, 2021 as amended and VOTED (roll call);

Members in Favor: Dodes, Maddalo, Bush, Fanselow, Freedman and Shilts

Members opposed: none

Legal Report

none

Discussion

- **Proposed Compliance Plans Advisory:**

Dr. Shilts provided the Board a copy of a draft policy guideline the Board considered when the original chiropractic facility regulations required a compliance plan. He stated that the Board should consider adopting certain aspects of the policy just as an advisory only to make it easier for licenses to organize their chiropractic practices to keep them compliant. He stated the Board did away with compliance plans for facilities thus the policy was never adopted. He suggested that the Board should provide information regarding compliance plans as a helpful tool for licensees to utilize as they go into practice.

Dr. Shilts asked that the Board discuss developing a compliance plan advisory at the next meeting during which the members can go more into details.

Correspondence:

- **Email from David Gelinaeu, D.C. 3/15/21 regarding possible insurance billing conflict of interest**

Atty. Kilb said that Board regulations states the treating physician must be objective and so there could be a conflict of interest for treating members of the physician's household. He said objectivity and ethics come into question with third party payers.

Dr. Shilts states the conflict has two prongs: (1) Immediate family –father, mother, brothers, sisters, and children under you and (2) Members of the same household.

By unanimous consent, the members gave direction to staff to answer that treating and then billing for direct family members would not be appropriate. The Board also discussed adopting a policy regarding objectivity, conflict of interest generally, and ethics.

Compliance Monitoring

Dr. Shilts stated the quarterly monitoring documents are subject to confidentiality rules. Therefore, the Board would need to go into closed session if any substantive issues need to be discussed.

- 2018-000164-IT-ENF: - Quarterly Monitoring – January 21, 2021
Motion to accept the report by Dr. Dodes, seconded by Dr. Freedman and VOTED (roll call);
Members in Favor: Dodes, Maddalo, Bush, Fanselow, Freedman and Shilts
Members opposed; none
- 2019-000027-IT-ENF: E.L. – Quarterly Monitoring – January 20, 2021
Motion to accept the report by Dr. Dodes, seconded by Dr. Fanselow and VOTED (roll call);
Members in Favor: Dodes, Maddalo, Bush, Fanselow, Freedman and Shilts

Members opposed: none

- 2019-001379-IT-ENF: E.H. – Proposed Monitors
Dr. Freedman recused herself from this matter and left the meeting

Dr. Shilts noted that only one application was sufficiently completed.
The Board gave direction to staff to require complete applications.

Motion to table to next meeting by Dr. Dodes, second by Dr. Fanselow and VOTED (roll call);
Members in Favor: Dodes, Maddalo, Bush, Fanselow, and Shilts
Members opposed: none

Dr. Freedman returned to the meeting

New Business

none

Public Comment

Atty. Linda Grasso requested Board approval of certain continuing education courses. Mr. Keigan said he will follow-up on this matter.

Quasi-Judicial Session and New & Open Cases (closed meetings)

Dr. Shilts informed the public that the Board will be going into closed session and will not be coming back to an open meeting after the Quasi-Judicial Session and after New and Open cases. He said the meeting will conclude at the end of the closed sessions.

Motion to close the open meeting at 11:13 a.m. per G.L. c. 30A, § 18 and go into a Quasi-Judicial session by Dr. Dodes, seconded by Dr. Fanselow and VOTED (roll call);
Members in Favor: Dodes, Maddalo, Bush, Fanselow, Freedman, and Shilts
Members opposed: none

Quasi-Judicial Session

- **2020- 000230-IT-ENF:**
After a presentation by Atty. Brady, a Motion to amend the terms of the Board's recommended sanction in this case was made by Dr. Dodes, seconded by Dr. Freedman and VOTED (roll call);
Members in Favor: Dodes, Maddalo, Bush, Fanselow, Freedman, and Shilts
Members opposed: none
- **2020-000229-IT-ENF:**
After a presentation by Atty. Brady, a Motion to amend the terms of the Board's recommended sanction in this case was made by Dr. Dodes, seconded by Dr. Fanselow and VOTED (roll call);
Members in Favor: Dodes, Maddalo, Bush, Fanselow, Freedman, and Shilts
Members opposed: none

The Board exited Quasi-Judicial Session at 11:59 a.m.

The Board entered into New and Open Cases per G.L. c. 112 § 65C at 12:00 p.m.

New and Open Cases

- AIB Fraud Investigation no update
- 2021-000153-IT-ENF closed investigative intake
- 2021-000135 -IT-ENF Dismissed with an Advisory Letter
- 2020-001108 - IT-ENF Voted to Reconsider Imposed Sanction, and
Send to office of prosecution

Adjournment

The meeting adjourned at 1:16 p.m.

New Licensee Orientation / Interviews

The following individuals participated in the Board's New Licensee Orientation and Interview Presentation with Dr. Freedman.

- Dr. Rachel Schein: (MA)

*The above minutes were approved during the open meeting of the Board held on May 6, 2021

Candace Maddalo, D.C. – Secretary
Massachusetts Board of Registration of Chiropractors

Documents used by the Board during open session:

- *Proposed meeting agenda 4/1/21*
- *Draft public meeting minutes from 3/4/21*
- *Draft Board Policy Guideline on Practice Compliance Plans (8/15/11)*
- *Email from Dr. David Gelineau (3/15/21)*
- *Clinical Monitoring Reports (3)*