

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

September 3, 2015

A regularly scheduled meeting of the Massachusetts Board of Registration of Chiropractors, (the Board) was held in room 1D, 1000 Washington St., Boston, Massachusetts.

The meeting was called to order by Dr. Storozuk at 10:09 a.m.

Members Present

Dr. Scott Storozuk, Chair
Dr. Scott Garber, Vice Chair
Dr. Lori DeVeue, Secretary
Dr. Dan Reid, Member
Dr. Marsella Imonti, Member
Dr. Marsha Krohn, Member
Mrs. Diane Slater, Public Member

Staff Present at Various Times

Sheila York Esq., Board Counsel
Ana Garcia, Associate Executive Director
Joann Termine, Administrative Assistant
Alan Van Tassel, Office of Prosecutions
Ellen D'Agostino, Office of Prosecutions
Sara Wilkinson, Deputy Chief of Investigations

AGENDA

Motion was made by Dr. Reid and Seconded by Dr. Garber and was VOTED (unanimously);
To approve the meeting's agenda as amended.

MEETING MINUTES

Motion to approve the August 6, 2015 Public Minutes as amended by Dr. Krohn and Seconded by Dr. Reid. Passed unanimously. Motion to approve the August 6th, 2015 Executive Minutes as amended and to keep them confidential until the purpose of the Executive Session has transpired, was made by Dr. Garber and seconded by Dr. Reid. Passed unanimously

NEW CASES

The Board prepared to discuss investigative matters. Thereafter, a motion was made by Dr. Krohn, seconded by Diane Slater, and was VOTED (unanimous); to suspend the open meeting pursuant to MGL c.112, s65C and enter into closed investigative conference to discuss open investigative matters including:

- Adverse Action [MF]

Open session resumed at 10:33 a.m.

Report of Actions taken in Investigative Conference:

Adverse Action [MF] – Received. No action taken.

UPDATE ON INVESTIGATIVE MATTERS FROM UNIT CHIEF

Sara Wilkinson, Deputy Chief, introduced herself to the Board and thanked the Board for the hard work they do. The Office of Investigations is trying to make connections inside and outside the state of Massachusetts with District Attorneys to better enable the Investigation Unit to successfully prosecute administrative matters and to assist the DA offices in the prosecution of criminal matters. The Board is the Unit's "eyes and ears" to discern business trends and behaviors that could possibly do harm to the public before they get out of control. She said she has an open door and is always available to answer questions.

Final Decision and Order by Default

Motion made by Dr. Krohn to suspend the open meeting and go into a Closed quasi-judicial Session: under G.L. c. 30A, s. 18(d) to discuss the issuance of a Final Decision and Order by Default in CH-15-003. Seconded by Dr. Reida. Motion passed.

Open meeting resumed at 11:45 a.m.

CH-15-003[MS]

A Motion was made by Dr. Garber and Seconded by Dr. Krohn and it was VOTED (unanimous) to issue the Final Decision and Order by Default imposing an indefinite suspension in this matter.

GMC

An applicant presented for a discussion of his good moral character. Thereafter, **a Motion was made by Dr. Garber and Seconded by Dr. Reida and it was VOTED To suspend the open meeting pursuant to MGL c. 30A, § 21(a) (l) for the purpose of discussing the applicant's good moral character rather than professional competence.** Roll call vote, Members in favor: Dr. Storozuk, Dr. Reida, Dr. Krohn, Dr. Garber, Dr. Imonti, Dr. DeVeue, Mrs. Slater. Board members opposed: None. Dr. Storozuk stated that public session would resume in one hour.

Open meeting resumed at 12:15 p.m.

CHoR WAIVER

Application #960 [IN]

Licensee [IN] appeared before the Board for discussion of this matter. The Licensee answered question regarding his current practice and his responsibilities if he were to be approved as CHoR. **Motion made by Dr. Krohn and Seconded by Dr. Imonti and it was VOTED (unanimous) to grant the Licensee a waiver of the four year experience requirement and allow him to serve as CHoR for the facility in Application No. 960.**

Legal Report

Sheila York Esq., Board Counsel, discussed the comments received from the public regarding the EO 562 mandate to review all regulations. Ms. York noted that some of the regulatory changes already proposed by the Board, such as removing the Compliance Manual for Chiropractic Facility and increasing opportunities for licensees to share overhead expenses without triggering facility licensure requirements, reduce financial burden on doctors and further the goals of the EO 562 review.

Therefore, a Motion was made by Mrs. Slater and Seconded by Dr. Garber and was VOTED (unanimous) to include the Board's existing proposed regulation changes as proposed EO 562 changes;

Sheila York Esq. informed the Board that she wanted to provide the Board with a procedural update and discuss potential settlement terms in the matters of CH-14-026 and CH-14-033. Mrs. Slater recused herself and left the room during discussion of these matters. **A Motion was made by Dr. Krohn, seconded by Dr. Imonti, to go into closed session under G.L. c. 112, s. 65C to discuss settlement terms in these cases. Motion passed.**

Open meeting resumed at 12:39 p.m
Mrs. Slater returned to the meeting.

CASE MONITORING REPORT

CH-11-023 (BCC) Quarterly Report

CH-10-068 [NEC] Interim Report

CH-93-003 [EO] Interim Report

Dr. Imonti reviewed the current cases under monitoring requirements. **Motion was made by Dr. Krohn, Seconded by Mrs. Slater and it was VOTE (unanimous) to accept the recommendations set forth in Dr. Imonti's Monitor Reports in the above referenced docket numbers.**

CE APPLICATIONS

Dr. DeVeue presented her recommendations regarding the current CE applications. **A Motion was made by Dr. Garber, Seconded by Dr. Reida and was VOTED (unanimous) to approve application #4173 through 4254 as presented.**

CORRESPONDENCE

- Email dated 8/3/15 from Dr. Denaro requesting advice as to whether she can shred paper documents if all patient records are stored safely in her computer software which is backed up nightly. The Board directed staff to respond to her inquiry by noting that it is unclear from Dr. Denaro's email as to whether the whole patient record has been transferred to an electronic file. If there are any hardcopies that were not made into an electronic record and stored, then those hardcopy medical records must continue to be stored for the time period required in Section 4.00 of the regulations. Also, the Board emphasized that if x-rays were originally in hard-copy film form, the x-ray films should be retained because electronic copies x-ray films are not the same quality as the original film. Further, the Board noted that the Board's advise is limited to 233 CMR and Dr. Denaro must check with other relevant entities such as insurance companies and malpractice and federal and state agencies to determine if they have any applicable requirements.
- Email dated 8/11/15 from Dr. King inquiring if using K-Laser to treat diabetic neuropathy and wound healing was within the scope of practice. The Board directed staff to explain to Dr. King that determining whether her use of the K-Laser is within the chiropractic scope of practice requires a fact-specific analysis, which the Board is unable to do based on her email. Dr. King should refer to the Board's regulations defining the scope of chiropractic practice and to the advertisement regulations.
- Email dated 8/20/15 from FCLB inquiring if Massachusetts Chiropractors had prescriptive rights. The Board directed staff to respond that it's not within the scope of practice.

Topics that were not anticipated by the Chair prior to 48 hours before the meeting and were therefore not on the posted agenda:

Needle EMG: The Board was asked if chiropractors can administer and interpret needle EMG. Only with proper training and certification in the administration and interpretation of needle EMG. This training would be in addition to training received in chiropractic college.

Notice of Preceptorship: An email was received notifying the Board that a senior from Palmer College of Chiropractic was assigned a preceptorship with a D.C. in Massachusetts. Read and filed.

Change of Facility Location within same floor of building: The Board discussed when a new facility license must be requested as it relates to change of address. It was agreed that a move from one suite to another in the same building would necessitate a notice to the BOR but not trigger a new facility fee/license.

NEW BUSINESS

Discussion on Weight Loss in Chiropractic offices. The Board has a current policy on Providing Dietary and Nutritional Advice. As stated in the policy, two places in the regs allow chiropractors to provide

dietary and nutritional advice. In one section it is allowed as a supportive procedure 233 CMR 4.01(1)(c)2 and in another section it is allowed as an independent therapy 233 CMR 4.01(1)(d). Any chiropractor providing nutritional advice must ensure compliance with Board regulations and policies.

ADJOURNMENT

Dr. Storozuk noted there were no more agenda items.

Therefore, a Motion was made by Dr. Reid and Seconded by Dr. DeVeue and was VOTED (unanimous);

To adjourn the September 3, 2015 public meeting of the Massachusetts Board of Registration of Chiropractors at 1:15 p.m.

NEW CANDIDATES INTERVIEW

The following candidates completed the new licentiate orientation /interview with one member of the Board after the public meeting:

Ann Goldberg

Gemma Sinclair

Respectfully submitted,

Lori DeVeue, D.C.

Secretary,

Massachusetts Board of Chiropractors

List of Documents Used by the Board at the Open Meeting

Agenda for September 3, 2015 Board Meeting

Draft of August 6, 2015 Public Meeting Minutes

Monitoring Reports from Dr. Imonti

CE Applications 4173 - 4254

Email from Dr. Denaro dated 8/3/15

Email from Dr. King dated 8/11/15

Email from FCL dated 8/20/15

Email from Dr. Storozuk regarding weight loss in the chiropractic office dated 8/21/15

Email from Palmer College of Chiropractic dated 9/1/15