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December 3, 2020 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 10:02 a.m.

MEMBERS PRESENT:

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

STAFF PRESENT (at various times):

Richard Lawless, Board Executive Director
Deborah Cassano, Associate Executive Director
Peter Kelley, Esq., Board Legal Counsel
Charles Kilb, Esq., Board Legal Counsel (new)
Ellen D'Agostino, Office of Investigations

CHAIRMAN'S MESSAGE

Dr. Shilts asked members to switch from public to closed session immediately, before having a brief recess, to avoid delays related to technology.

Dr. Shilts hoped Board members, staff and attendees had an enjoyable Thanksgiving, and wished everyone a safe and pleasant upcoming holidays.

AGENDA:

Dr. Shilts reviewed the draft agenda with the Board.

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

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

Members opposed: none

CONFLICT OF INTEREST/OPEN MEETING LAW REMINDER

Atty. Kelley provided a reminder of the Commonwealth's Conflict of Interest and Open Meets Laws.

Atty. Kelley introduced Attorney Charles Kilb as the Board's new counsel.

2021 MEETING SCHEDULE:

The Board discussed holding a January meeting in 2021.

Thereafter, a motion was made by Dr. Shilts, seconded by Dr. Dodes and VOTED (roll call);
to amend the Board meeting schedule to include a January 7, 2021 meeting.

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

Members opposed: none

PUBLIC MEETING MINUTES – OCTOBER 1, 2020

The Board reviewed the draft public meeting minutes of October 1, 2020.

Mr. Lawless and Atty. Kelley suggested minor edits.

Thereafter, a motion was made by Dr. Maddalo, seconded by Dr. Dodes and VOTED (roll call);
to approve the public meeting minutes of October 1, 2020 as amended.

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

Members opposed: none

EXECUTIVE SESSION MINUTES – OCTOBER 1, 2020

The Board reviewed the draft Executive Session minutes of October 1, 2020.

Thereafter, a motion was made by Dr. Maddalo, seconded by Dr. Dodes and VOTED (roll call);
to approve the Executive Session minutes of October 1, 2020 as amended.

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

Members opposed: none

PUBLIC MEETING MINUTES – NOVEMBER 5, 2020

The Board reviewed the draft public meeting minutes of November 5, 2020.

Dr. Maddalo said the draft minutes seemed incomplete relative to her submitted version. Dr. Shilts noted the minutes were also missing from the Board package and suggested the Board may wish to table this item.

Thereafter, a motion was made by Dr. Maddalo, seconded by Dr. Fanselow and VOTED (roll call);
to table the public meeting minutes of November 5, 2020 until the January meeting.

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

Members opposed: none

EXECUTIVE SESSION MINUTES – NOVEMBER 5, 2020

The Board reviewed the draft Executive Session minutes of November 5, 2020.

Thereafter, a motion was made by Dr. Maddalo, seconded by Dr. Shilts and VOTED (roll call);
to approve the Executive Session minutes of November 5, 2020 as amended.

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

Members opposed: none

LEGAL REPORT:

Atty. Kelley introduced Atty. Kilb as the Board's new legal counsel. He said staffing needs prompted his reassignment. Dr. Shilts expressed the Board's gratitude for the effort Atty. Kelley brought to the position during his tenure. Atty. Kilb reviewed his history with the Division and his expertise in the healthcare fraud arena.

Dr. Shilts asked Atty. Kilb to review for the next meeting the Division's disclaimer letter connected to the Board's Policy Guideline on Dry Needle Myotherapy.

CHIROPRACTOR OF RECORD WAIVER REQUEST:

Chiropractic Facility # 872-CH-CF

Dr. Alexandra Sibert appeared before the Board to request an experience waiver to be Chiropractor of Record at Milton Chiropractic in Norwell.

Thereafter, a motion was made by Dr. Dodes, seconded by Dr. Fanselow and VOTED (roll call); **to deny the waiver request, and require Milton Chiropractic-Norwell submit a new Chiropractic Facility application to the Board.**

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

Members opposed: none

CASE MONITORING:

- **2018-000164-IT-ENF (W.L.), 1st Quarterly Monitoring Report**

The Board reviewed the monitor's initial Quarterly Monitoring Report .

Thereafter, a motion was made by Dr. Fanselow, seconded by Dr. Dodes and VOTED (roll call); **to accept the first quarterly monitoring report dated 10/26/20.**

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

Members opposed: none

- **2018-000164-IT-ENF (W.L.), Corrective Action Letter**

The Board reviewed the licensee's initial Corrective Action Letter .

Thereafter, a motion was made by Dr. Freedman, seconded by Dr. Dodes and VOTED (roll call); **to accept the initial corrective action letter dated 11/23/20.**

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

Members opposed: none

DISCUSSION:

- **Telehealth Policy Guideline Development**

The Board discussed the draft Policy Guideline on Telehealth Chiropractic Services

Thereafter, a motion was made by Dr. Dodes, seconded by Ms. Bush and VOTED (roll call); **to adopt a Policy Guideline on Telehealth Chiropractic Services.**

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

Members opposed: none

- **Continuing Education Courses Policy Guideline**

The Board briefly reviewed the previously approved updates to its Policy Guideline on Continuing Education.

No additional action was taken

- **Executive Director's Meeting with the Massachusetts Chiropractic Society**

Mr. Lawless reported on his meeting with the Massachusetts Chiropractic Society. He relayed their concerns about the jurisprudence exam and Board interview delays influencing the processes for getting a chiropractic license.

The Board reiterated its pending regulation changes that will move the Board interview from the licensing process to license renewal which should help reduce application processing times.

CORRESPONDENCE:

- **11.18.20 email from the National Board of Chiropractic Examiners RE: exam fee increases**
Read and received.

- **11.26.20 email from M. Fletcher RE: scope of practice for a certified chiropractic assistant**

The Board gave direction to staff to respond that only Massachusetts licensed chiropractors can provide chiropractic services in Massachusetts

NEW BUSINESS:

None

PUBLIC COMMENT:

Mark Davini, D.C.

Dr. Davini offered comments on dry needle myotherapy relative to what he heard at November's meeting. He said it is different from Acupuncture and that dry needling falls within the chiropractic scope of practice as a supportive procedure. He said chiropractic physicians are taught the physiologic and anatomical bases to neuromusculoskeletal care in college which allows doctors to choose the procedures they will eventually use in practice. He gave the example of needle electromyography (EMG) that is similarly instructed at chiropractic colleges but not typically practiced in the school's clinics, He said alternatively, therapists are taught procedures and applications but don't have the statutory scope as a physician to become a practicing specialist or utilize the full spectrum of therapeutic modalities available. Dr. Davini also asked that the Division of Professional Licensure's disclaimer letter on the Board's Policy on Dry Needle Myotherapy be removed.

Dr. Shilts said the Board will discuss this item at the January meeting.

NEW AND OPEN CASES:

The Board prepared to enter into Closed Session to discuss investigatory matters.

Thereafter a motion was made by Dr. Freedman, seconded by Dr. Dodes and VOTED (roll call); **to enter into Closed Session per M.G.L. c. 112, s. 65C at 11:36 a.m. for the purpose of discussing investigatory matters.**

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

Members opposed: none

Dr. Shilts said the Board would not return to Open Meeting after this Closed Session.

During Closed Session the Board took the following actions:

- 2020-001063-IT-ENF Conducted Licensee Interview and Sent to Prosecutions

Dr. Maddalo left the meeting at 12:34 p.m.

- AIB Discussion Direction Given to Staff

NEW LICENSEE INTERVIEWS:

None

ADJOURNMENT

The public meeting of December 3, 2020 adjourned at the conclusion of Closed Session at 12:46 p.m.

**The above minutes were approved during the open meeting of the Board held on January 7, 2021.*

Randace Maddalo, D.C.

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

Documents used by the Board during open session:

- *Proposed meeting agenda 12/3/2020*
- *Draft public meeting minutes from 10/1/2020*
- *Draft Executive Session minutes from 10/1/2020*
- *Draft public meeting minutes from 11/5/2020*
- *Draft Executive Session minutes from 11/5/2020*
- *Application materials for Change of Chiropractor of Record for Milton Chiropractic--Norwell*
- *2018-000164-IT-ENF (W.L.), 1st Quarterly Monitoring Report 10/26/20*
- *2018-000164-IT-ENF (W.L.), Corrective Action Letter 11/23/20*
- *Draft Policy Guideline on Telehealth Chiropractic Services*
- *Updated Policy Guideline on Continuing Education Courses*
- *11.18.20 email from National Board of Chiropractic Examiners*
- *11.26.20 email from M. Fletcher*