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January 7, 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 10:09 a.m.

MEMBERS PRESENT

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

Dr. Candace Maddalo was absent from the meeting

STAFF PRESENT (at various times)

Richard Lawless, Board Executive Director
Matthew Keigan, Board Executive Director (new)
Charles Kilb, Esq., Board Legal Counsel
Ellen D'Agostino, Office of Investigations
Allan VanTassel, Office of Investigations

CHAIRMAN'S MESSAGE

Dr. Shilts expressed dismay over yesterday's shocking events at our nation's capitol. He said government exists to make our communal lives better; and as government employees ourselves who volunteer our time to help others, we live this truth. He said the people that stormed the capital on false acclamations of liberty were ignorant to understanding the difference between the public trust and wanton individualism.

AGENDA

Dr. Shilts reviewed the draft agenda with the Board. Dr. Shilts said he had a disclosure for New Business.

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

Members in favor: Dodes, Bush, Fanselow, Freedman, and Shilts
Members opposed: none

CONFLICT OF INTEREST/OPEN MEETING LAW REMINDER

Atty. Kilb gave a brief overview of the Commonwealth's Conflict of Interest and Open Meeting Laws as well as his contact number for Board member concerns.

Atty. Kilb gave a brief explanation of the differences between an Open Meeting, a Closed Meeting, a Quasi-Judicial Session and an Executive Session.

STAFF REPORT

Mr. Lawless said additional staff changes have occurred. The Board no longer has an Associate Executive Director and he has been assigned to a different set of boards. The Board expressed its appreciation to Mr. Lawless on his steadfast dedication to public service and to our Board in particular.

Mr. Lawless introduced the Board's new Executive Director Mr. Matthew Keigan. Mr. Keigan introduced himself and briefly relayed his experience with the Division of Professional Licensure (DPL).

PUBLIC MEETING MINUTES

- **November 5, 2020**

The Board reviewed the draft public meeting minutes of 11/5/20. Dr. Shilts provided minor edits.

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

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

Members opposed: none

- **December 3, 2020**

The Board reviewed the draft public meeting minutes of 12/3/20. Dr. Shilts provided minor edits.

Thereafter, a motion was made by Dr. Shilts, seconded by Ms. Bush and VOTED (roll call);
to approve the public meeting minutes of December 3, 2020 as amended.

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

Members opposed: none

LEGAL REPORT

Atty. Kilb did not have a formal report including an update on the Board's proposed new regulations.

DISCUSSION

- **Board Policy Guideline on Dry Needle Myotherapy**

Dr. Shilts reviewed with Atty. Kilb the Board's long-standing concerns that the January 2019 Board policy is not posted on the DPL website - and that the DPL includes an unnecessary disclaimer with the policy when responding to a public records request regarding this topic.

Atty. Kilb agreed that it was an unusual practice he had not seen before and said he will discuss the matter with DPL administration and will report back to the Board.

CORRESPONDENCE

- **Email (12/15/20) from Mark Snyder RE: MA Chiropractic Jurisprudence Exam Test Locations**

Mr. Lawless said our jurisprudence test vendor, PSI, appears to have a testing center in Dr. Snyder's home state of Georgia. He will follow-up with Dr. Snyder with the list of testing centers in the United States.

- **Email (12/16/20) from Annika Jordan RE: MA Chiropractic Jurisprudence Exam Test Locations**

Mr. Lawless said our jurisprudence test vendor, PSI, does not have a testing center in Singapore. He will provide Dr. Jordan with the list of testing centers in the United States.

- **Email (12/16/20) from National Board of Chiropractic Examiners (NBCE) RE: Invitation for MA Board Members to Participate in the NBCE Part IV Exam and Test Development**

Dr. Shilts recommended that Board members participate in these two activities to assure that our state's chiropractic licensing examinations meet the Board's expectations. Mr. Keigan said any Board member wishing to participate contact him as soon as possible to obtain the necessary state travel forms for any necessary approvals.

- **Email (12/29/20) from Lisa Pranter RE: Telehealth and MA Chiropractic Facility licensing**

Dr. Shilts said this matter is incredibly complex which touches upon the premise behind the 2006 law that established a licensing provision on all businesses that provide chiropractic services to MA consumers. Dr. Shilts gave a brief history of the 2006 statute and resulting regulations including their development and initial roll-out. He described numerous examples of insurance fraud and abuse by chiropractic businesses that were successfully prosecuted and shut-down due to this law. He said he didn't know what Ms. Pranter's Texas-based chiropractic business is – but where she indicates that multiple chiropractors are working in collusion to promote their chiropractic services to MA consumers, he believes the Commonwealth should have regulatory oversight over this entity as we have over every other chiropractic entity in Massachusetts.

Atty. Kilb said he will get more information about this Texas company seeking a Chiropractic Facility license. He will solicit questions from individual Board members, all information will then be brought to the Board for review at its February meeting.

NEW BUSINESS

- **Contacts from a Former Licensee, Public Disclosure**

Dr. Shilts said he has received calls from a former licensee professing irrational conspiracies as well as a stated request to have his chiropractic license returned to him. Dr. Shilts said he always contacts Mr. Lawless after one of these calls and hopes that all Board members would do the same. Mr. Lawless confirmed these and his own communications with this individual. He said it is important for staff to document this information for the Board to reference troubling behavior as an example of questionable good moral character.

PUBLIC COMMENT

- **Jennifer Herlihy, Esq.**

Atty. Herlihy expressed a concern that accusations of a frivolous nature which are filed against a licensee are documented as a 'complaint'. She said these complaints are reportable in certain circumstances to the detriment of the licensee. She suggested the DPL consider assessing the merit of a complaint allegation before it becomes publicly listed as a formal complaint.

- **Mark Davini, D.C.**

Dr. Davini reiterated his comments from last month that the disclosure document attached to the Board's Policy on Dry Needle Myotherapy should be removed. He gave an analogy that even though chiropractors provide what are essentially physical therapy services, the Allied Health Board does not have proprietary jurisdiction over the therapeutic tools and apparatus being used but rather the terms 'PT', 'physical therapy' and 'physiotherapy'. He said the Acupuncture Board similarly does not have jurisdiction over all needles used therapeutically but only the practice of 'Acupuncture'.

Dr. Shilts said all matters for open meeting have been completed and the Board will soon enter into closed sessions for the remainder of the agenda.

He said the Board will not return to open meeting after the conclusion of these sessions.

SUSPENDED LICENSE REINSTATEMENT REQUEST

1297-CH-CH [SJ]

The Board prepared to discuss this matter.

Thereafter, a motion was made by Dr. Shilts, seconded by Dr. Dodes and VOTED (roll call);
to enter into Quasi-Judicial Session at 12:08 p.m., per G.L c. 30A, sec. 18, to discuss a licensee's

request for reinstatement of a suspended license.

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

Members opposed: none

The Board exited Quasi-Judicial Session at 1:49 p.m.

The Board reported for the record that the subject decision was continued to the next meeting.

The Board entered into Closed Session at 1:50 p.m., per G.L. c. 112, sec. 65C, for the purpose of discussing investigatory matters.

NEW AND OPEN CASES

During Closed Session the Board took the following actions:

- 2020-000743-IT-ENF [BA] Sent to Office of Prosecutions
- 2020-001707-IT-ENF [KS] Sent to Office of Prosecutions
- AIB Annual Fraud Investigation Discussed Survey Form

NEW LICENSEE INTERVIEWS

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

- Dr. Troy Niezgodka (MA)
- Dr. Sheridan French (NH)
- Dr. Megan Woo (MA)
- Dr. Alexander Castellno (MA)

ADJOURNMENT

The public meeting of January 7, 2021 adjourned at the conclusion of Closed Session at 2:08 p.m.

**The above minutes were approved during the open meeting of the Board held on February 4, 2021*



Kirk Shilts, D.C, Chair
Massachusetts Board of Registration of Chiropractors

Documents used by the Board during open session:

- *Proposed meeting agenda 1/7/21*
- *Draft public meeting minutes from 11/5/20 (with Board member suggested edits)*
- *Draft public meeting minutes from 12/3/20 (with Board member suggested edits)*
- *Board Policy Guideline on Dry Needle Myotherapy 1/3/19*
- *DPL cover letter 2/7/19*
- *Email (12/15/20) from M. Snyder*
- *Email (12/16/20) from A. Jordan*
- *Email (12/16/20) from National Board of Chiropractic Examiners*
- *Email (12/29/20) from L. Prather*