

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

MARCH 5, 2020

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 10:04 a.m.

MEMBERS PRESENT:

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

Dr. Peter Martone, Vice Chair, was absent from the meeting.

STAFF PRESENT (at various times):

Richard Lawless, Board Executive Director
Deborah Cassano, Associate Exec. Director
Sheila York, Esq., Board Legal Counsel
Ellen D'Agostino, Office of Investigations
Lauren McShane, Chief Investigator

CHAIRMAN'S MESSAGE

None offered

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. The Board discussed headings and clarifications to the agenda.

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

MEETING MINUTES:

- The Board reviewed the draft public meeting minutes of February 6, 2020.

Thereafter, a motion was made by Dr. Shilts, seconded by Dr. Maddalo and VOTED (unanimous);
to approve the public meeting minutes of February 6, 2020 as amended.

- The Board reviewed the executive session meeting minutes of February 6, 2020.

Thereafter, a motion was made by Dr. Shilts, seconded by Dr. Fanselow and VOTED (unanimous);

to approve the executive session minutes of February 6, 2020 as drafted.

NEW & OPEN CASES:

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

Thereafter, a motion was made by Dr. Freedman, seconded by Dr. Maddalo and VOTED (unanimous); **to enter into Closed Session under M.G.L. c. 112, s. 65C at 10:27 a.m. for the purpose of discussing investigatory matters.**

Dr. Dodes estimated open session would resume in about 30 minutes.

Open Session resumed at 11:15 a.m.

During Closed Session the Board took the following actions:

- **CH-2018-000692-IT-ENF [KC]** Received update from staff
- **RE: VT-2019-000950-IT-ENF [MC]** Opened Investigative Intake

LEGAL UPDATE

John Doe et al. v. Board of Registration of Chiropractors, Suffolk Superior Court, C.A. NO 19-3962F

Dr. Dodes said the Board will be going into executive session to discuss strategy with respect to this matter, and that conducting this discussion in open session may have a detrimental effect on the Board's litigating position.

Thereafter, a motion was made by Dr. Shilts, seconded by Dr. Freedman and VOTED; **to enter into Executive Session under M.G.L. c. 30A, s. 21(a)(3) at 11:16 a.m. for the purpose of discussing litigation strategy.**

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

Members opposed: none

Dr. Dodes estimated that open session would resume in about 20 minutes.

Open Session resumed at 11:23 p.m.

REINSTATEMENT OF SUSPENDED LICENSE

Dr. Steven Jacobs

Dr. Jacobs presented to the Board seeking reinstatement of his suspended chiropractic license.

Thereafter, a motion was made by Dr. Shilts, seconded by Dr. Freedman and VOTED (unanimous); **to postpone action on this request for license reinstatement for up to sixty (60) days pending additional information from Dr. Jacobs.**

LICENSE APPLICATIONS:

- **Dr. Molly Casey**
The Board reviewed Dr. Casey's reciprocity application for a chiropractic license.

Thereafter, a motion was made by Dr. Shilts, seconded by Dr. Fanselow and VOTED (unanimous); **to allow Dr. Casey's application to proceed through the licensure process as a new license application.**

- **Dr. Joseph Marfisi**
The Board reviewed Dr. Marfisi's reciprocity application for a chiropractic license.

Thereafter, the Board gave direction to staff regarding license application procedures.

LEGAL REPORT

Update on proposed chiropractic regulations 233 CMR.

Atty. York said the Division would like additional information on chiropractic education regarding instruction in clean needle techniques.

Dr. Shilts said he would follow-up with chiropractic colleges on obtaining this specific information.

DISCUSSION:

- **State and Federal Clinical Laboratory Requirements.**

Dr. Maddalo discussed the process outlined in M.G.L. c.111D for obtaining a state laboratory license to perform clinical laboratory procedures within the Commonwealth. She said the state also processes laboratory applications on a federal level to determine if they meet the CLIA (Clinical Laboratory Improvement Amendments of 1988) standard, or when performing only certain ‘exempt’ tests, obtain a CLIA waiver. She said the typical laboratory procedures performed by chiropractors, including simple blood work and urinalysis, are considered ‘exempt’ tests. She said the state previously routinely processed CLIA waivers for chiropractors - but has since changed its process requiring a chiropractor to obtain a state laboratory license (a “Limited License”) under regulations 105 CMR 180 first, before processing any CLIA waiver. Dr. Maddalo provided the Board with the various application forms required for obtaining a state laboratory Limited License.

Dr. Shilts said M.G.L. c. 111D, sec. 4 excludes licensed physicians in group practices of two or less from obtaining a state laboratory license exclusively in connection with the diagnosis and treatment of the physician(s)’ own patients. He believed licensed chiropractic physicians should be able to apply for this exclusion and subsequently obtain a CLIA waiver from the federal government too.

Dr. Maddalo said chiropractors who perform ‘exempt’ tests for clients rather than for their own patients would not be eligible for the previously mentioned exemption. She said any chiropractor certified as a Commercial Driver License (CDL) examiner in the federal DOT registry program and performing examination services in Massachusetts would need to obtain a state laboratory ‘Limited License’ and then a CLIA waiver to perform dipstick urinalysis services in their offices.

- **Chiropractic Facility Applications:**

Mr. Lawless discussed updating the chiropractic facility application to require disclosure of ownership in any state licensed facility in addition to their listing any out-of-state professional licenses. Following discussion, the Board instructed Mr. Lawless to update the application form.

CORRESPONDENCE:

- **National Board of Chiropractic Examiners, 2/12/20, RE: (NBCE) Part-4 Practical Examination**

Mr. Lawless reviewed the NBCE correspondence seeking state board members to participate as examiners at the May 15-17, 2020 Part-4 exam. He said anyone seeking to participate should follow-up with him on completing the appropriate state travel and ethics disclosure forms.

- **Email from Bryan Cotter, 10/23/19, RE: Laboratory CLIA Waivers for DOT Examinations**

Dr. Shilts said Atty. York’s December 2019 response adequately describes the new state licensing process outlined by Dr. Maddalo.

- **Email from Laurie Isenberg, 2/18/20, RE: Chiropractic CE Approvals**

The Board instructed staff to forward the Board’s CE policy guideline to Ms. Isenberg.

- **Email from Nick Neville, 2/5/20, RE: Chiropractic CE Approvals**

The Board instructed staff to forward the Board's CE policy guideline to Dr. Neville.

- **Email from Mallory McQuillen, 2/4/20, RE: Chiropractic Concierge Services**
The Board instructed staff to forward the Board's Fee Discounts and Discount Payment Plans policy guideline to Dr. McQuillen.

SCHEDULING

Dr. Dodes discussed potentially moving the April 2, 2020 meeting to April 9th. Following discussion, the schedule was not changed.

NEW BUSINESS

None

PUBLIC COMMENT PERIOD

- **Thomas Sullivan, D.C.**, described the history of the chiropractic enabling act in Massachusetts including it being "chiropractic medicine" under the state's medical act.
- **Steven Saro, D.C.**, said the Massachusetts Chiropractic Society would offer assistance to the Board in regards to helping DOT chiropractic examiners.

NEW LICENSEE INTERVIEWS

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

- Nancy Livingstone (MA); Douglas Murray (CA); Jasmine Bhoola (PA); Ryan Bernstein (NY); Desiree Fraiser (MA) and Harrison Saro (MA)

ADJOURNMENT

Dr. Dodes noted there were no more agenda items.

Thereafter, a motion was made by Dr. Shilts, seconded by Dr. Fanselow and VOTED (unanimous); **to adjourn the March 5, 2019 public meeting at 1:00 p.m.**

**The above minutes were approved during the open meeting of the Board held on April 2, 2020.*



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

Documents used by the Board during open session:

- *Proposed meeting agenda for 3/5/20*
- *Draft public meeting minutes from 2/6/20*
- *Draft executive session minutes from 2/6/20 (protected)*
- *Reciprocity application, Dr. Molly Casey (redacted)*
- *Reciprocity application, Dr. Joseph Marfisi (redacted)*

- *M.G.L. c. 111D, sections 1 & 4*
- *105 CMR 180 pages 2-6*
- *www.mass.gov, 'Frequently Asked Questions about Clinical Laboratory State Licensure'*
- *2018 CCE Standards (pg 29)*
- *NBCE email dated 2/12/20*
- *Email from B. Cotter dated 10/23/19*
- *Email from L. Isenberg dated 2/18/20*
- *Email from N. Neville dated 2/5/20*
- *Email from M. McQuillen dated 2/4/20*
- *Chiropractor of Record Acknowledgement form*