

Minutes of the February 4, 2021 Board of Chiropractic Video Conference Meeting

1. ROLL CALL

Dr. David Lauer, Vice-Chairperson, called the meeting of the Board of Chiropractic to order at 9:06 a.m. on Thursday, February 4, 2021 in the First Floor Licensure Unit Conference Room at the Nebraska State Office Building located at 301 Centennial Mall South, Lincoln, Nebraska. In accordance with Neb. Rev. Stat. § 84-1411 of the Nebraska Open Meetings Act, copies of the agenda were e-mailed to the Board members and other interested parties, posted on the DHHS web site at <https://dhhs.ne.gov/licensure/Pages/Agendas-and-Minutes.aspx>, and posted in the Licensure Unit on January 27, 2021.

Lauer announced that this is a public meeting and the Open Meetings Law is posted.

Members Present: The following members answered roll call:

Dr. David Lauer, Vice-Chairperson
David Henske, Secretary
Dr. Heather Henrichs, Member
Dr. Scott Misek, Member

Others Present:

Rachel O'Toole, DHHS Staff Attorney
Natalee Hart, Assistant Attorney General
Anna Harrison, Compliance Monitor
Jeff Newman, Investigator
Dr. Douglas Vander Broek DC, Board of Health Liaison to the Board of Chiropractic
Lori Beck, Director of Marketing and Events, Nebraska Chiropractic Physicians Association
Linda Rohman, Court Reporter, General Reporting Service
Christen Kirkendall, Chiropractic Applicant
Claire Covert-ByBee, Program Manager
Antonio Carranza, Health Licensing Coordinator

2. ADOPTION OF AGENDA

MOTION: Henske moved, seconded by Henrichs to adopt the agenda. Voting aye: Henrichs, Henske, Lauer and Misek. Voting nay: None. Motion carried.

3. WELCOME AND INTRODUCTION OF NEW BOARD MEMBER

Dr. Heather Henrichs is the newest Chiropractic Member of the Board, she officially joined the Board on December 1, 2020. She is a licensed Chiropractor in Nebraska since 2008 working in private practice in addition to as a professor at a local college. The other Board members and the Department welcomed Dr. Henrichs to the Board.

These minutes were approved via mail ballot by the Board of Chiropractic on February 24, 2021.

4. REAFFIRMATION OF MAIL BALLOT

The Board reaffirmed the mail ballot approving the October 15, 2020 Meeting Minutes on October 24, 2020. Members Henske, Lauer and Misek voted to approve the minutes as written and they were approved.

5. HEARING: DR. CHRISTEN KIRKENDALL (MORTEN) CHIROPRACTIC REINSTATEMENT

The reinstatement hearing requested by Christen Kirkendall, DC convened at 9:15 a.m. Rachel O'Toole, Department Attorney, served as the hearing officer. Dr. Kirkendall attended via teleconference and confirmed that she was not represented by counsel. The Department was represented by Natalee Hart, Assistant Attorney General. A court reporter was present. Exhibits were presented and testimony was provided by Antonio Carranza, DHHS Health Licensing Coordinator for the Office of Rehabilitation and Community Services and Dr. Kirkendall.

6. INVESTIGATIONAL & CONFIDENTIAL INFORMATION/REPORTS – CLOSED SESSION

MOTION: Henske moved, seconded by Misek to go into closed session at 10:05 a.m. to hear discussions regarding confidential information and to protect the reputation of individuals named or referenced in such discussions. Voting aye: Henrichs, Henske, Lauer and Misek. Voting nay: None. Motion carried.

7. BOARD'S MOTION ON HEARING

MOTION: Henske moved, seconded by Misek to uphold the denial of Dr. Kirkendall's Chiropractic reinstatement of voluntary surrender application originally arrived at October 15, 2020. Voting aye: Henrichs, Henske, Lauer and Misek. Voting nay: None. Motion carried.

(The Board took a break at 10:25 a.m. to 10:38 a.m.)

8. INVESTIGATIONAL & CONFIDENTIAL INFORMATION/REPORTS – CLOSED SESSION

MOTION: Henske moved, seconded by Henrichs to go into closed session at 10:39 a.m. to hear discussions regarding confidential information and to protect the reputation of individuals named or referenced in such discussions. Voting aye: Henrichs, Henske, Lauer and Misek. Voting nay: None. Motion carried.

9. BOARD RECOMMENDATIONS ON APPLICATIONS

The Board returned to open session at 11:31 a.m. There were no recommendations.

10. REGULATION UPDATE

Covert-ByBee advised that the regulations were officially promulgated last year. She acknowledged the hard work of the department and Board and noted it had been a work in progress for some time. She noted the removal of Chapter 30 to allow more flexibility for licensed Chiropractors to perform routine tests in Nebraska.

11. LEGISLATIVE UPDATE

Covert-ByBee highlighted a few bills of interest to the Board. LB 14 would adopt the Audiology and Speech-Language Pathology Interstate Compact. It was introduced last year but was indefinitely suspended and has been reintroduced in this session. LB 15 was introduced and would adopt the Occupational Therapy Practice Interstate Compact. LB 390 was set for hearing on February 11th and would establish a new avenue of licensure for most professions under the Uniform Credentialing Act through reciprocity. It would be slightly different than the current methods of licensing applicants who are licensed in a different jurisdiction. Lastly, LB 436 would modify and expand the scope of practice for Athletic Trainers in Nebraska. It is the culmination of the credentialing review process that took place last year. Dr. Vander Broek was part of the process with the Board of Health and felt the current bill was consistent with what was reviewed during the process.

12. COVID-19 AND LICENSURE

Covert-ByBee advised Executive Order 20-27 has been rescinded and replaced with Executive Order 20-37. The language is the same but instead of having an expiration date of December 31, 2020, Executive Order 20-37 is now set to expire 30 days after the lifting of the Public Health Emergency Declaration. Beck had concerns with continuing education and how hours would be counted for the next renewal period. Covert-ByBee advised the Department is working on releasing a new guidance document that will have updated information regarding continuing education among other topics. Both Covert-ByBee and Beck expressed the importance of communication to keep Chiropractors in Nebraska updated.

13. UPDATE ON THE NEW LICENSURE DATABASE

Covert-ByBee stated that the Licensure Unit has started the process of implementing a new licensure database. The Department has contracted with Visual Vault to build the licensure database, which will be called LANCE (Licensing And Credentialing Environment). The projected start date for LANCE is September 2021. The database is designed to be all electronic so licensees will be able to create a profile, complete their application, pay any fees and submit supporting documentation all online allowing the Department to review all applications through the same system. The Department and Visual Vault have begun going through reviews of all the license types processed by the licensure unit and determining what the system needs to be able to accomplish

14. LICENSURE APPLICATION PROCESSING REPORT

Carranza shared the application process report, this was for informational purposes only.

15. NOTICE OF MEETING PUBLICATION

The Board is required to inform the public each year of the method by which it will provide notice of meetings. In the past, the Board has elected to post meeting agendas at the Nebraska State

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Office Building, email the agenda to the interested parties list, and post agendas on the Department's website.

MOTION: Henske moved, seconded by Lauer to continue with the current notification process. Voting aye: Henrichs, Henske, Lauer and Misek. Voting nay: None. Motion carried.

16. NBCE ANNUAL BUSINESS MEETING DELEGATES AND NBCE PART IV EXAMINERS

Covert-ByBee shared there are two different opportunities for Board members to represent the Board with the National Board of Chiropractic Examiners, the Annual Business Meeting and Part IV Administration. She advised the Department is currently under a travel ban which would mean if it's not lifted the Department may not be able to support a board member traveling.

MOTION: After discussion, Henske moved, seconded by Lauer to select Lauer as the delegate and Henrichs as the alternate for the Annual Business Meeting and both Lauer and Henrichs as examiners for the Part IV Exam Administration. Voting aye: Henrichs, Henske, Lauer and Misek. Voting nay: None. Motion carried.

17. ELECTION OF OFFICERS

MOTION: After discussion, Henske moved, seconded by Lauer to elect Lauer as Chairperson, Misek as Vice-Chairperson, Henrichs as Secretary and Lauer as Investigative Consultant. Voting aye: Henrichs, Henske, Lauer and Misek. Voting nay: None. Motion carried.

18. TOPICS FOR NEXT MEETING

The Board suggested legislative update, regulations update, COVID-19 and licensure and update on the new licensure database as topics to discuss at the next meeting.

19. ADJOURNMENT

There being no further business, the meeting adjourned at 12:12 p.m.

Respectfully submitted,

Dr. Heather Henrichs, Secretary