

Minutes of the April 6, 2022 Board of Chiropractic Meeting

1. ROLL CALL

Dr. Scott Misek, Chairperson, called the meeting of the Board of Chiropractic to order at 9:03a.m. on Wednesday, April 6, 2022 in Conference Room 6F 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 website at <https://dhhs.ne.gov/licensure/Pages/Agendas-and-Minutes.aspx>, and posted in the Licensure Unit on March 23, 2022.

Misek announced that this is an open meeting and the Open Meetings Act is posted.

Members Present: The following members answered roll call:

Dr. Scott Misek, Chair
Dr. Heather Henrichs, Vice-Chair
Dr. Brian Stevens, Secretary
David Henske, Public Member

Staff Present:

Milissa Johnson-Wiles, Assistant Attorney General
Joe Neuhaus, Assistant Attorney General
Suzanna Glover-Ettrich, DHHS Legal Counsel
Claire Covert-ByBee, Program Manager
Amy Blinston, Health Licensing Coordinator

Guests Present:

Dr. Nick Payne, NCPA
Dr. Douglas Vander Broek, Board of Health Liaison

2. ADOPTION OF AGENDA

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

3. REAFFIRMATION OF MAIL BALLOT

The Board reaffirmed the mail ballot approving the February 2, 2022 Meeting Minutes on February 11, 2022. Members Henrichs, Henske, and Misek, voted to approve the minutes as written. The minutes were approved.

4. INVESTIGATIONAL & CONFIDENTIAL INFORMATION/REPORTS – CLOSED SESSION

MOTION: Henske moved, seconded by Misek to move into closed session at 9:05 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, Stevens, and Misek. Voting nay: none. Motion carried.

5. BOARD RECOMMENDATIONS ON APPLICATIONS – OPEN SESSION

The Board did not make any recommendations.

6. LEGISLATIVE UPDATE

Covert-ByBee shared updates on legislation, including LB752 which involves the Occupational Therapy Interstate Compact, requires notifications regarding stem cell therapy, and expand the scope of practice of respiratory care under the Respiratory Care Practice Act. Covert-ByBee indicated this is an omnibus bill which includes proposed changes to the Uniform Credentialing Act (UCA).

Covert-ByBee stated LB 709, changes requirements relating to preliminary applications under the Occupational Board Reform Act. LB 709 requires any credentials that are issued by any state entities to allow individuals who have a criminal history to apply to the Board to determine if their criminal history would disqualify them from getting a license.

Covert-ByBee advised that LB 963 adopts the Medical Ethics and Diversity Act ("MED Act") to protect the right of conscience for medical practitioners in any instance of conscientious medical objection. She also stated that LB 436 is bill that would expand the scope of practice for licensed athletic trainers in Nebraska.

7. UPATE ON LANCE

Covert-ByBee provided an update regarding LANCE. LANCE is a complex database which will allow licensees to create a profile, complete their application electronically, make fee payments, submit documentation, and view their application process through an online system. The first professions enabled in LANCE will be Physical Therapy and Cosmetology, all other professions will follow suit.

8. CE/REGULATION REVISION

Covert-ByBee indicated Dr. Anthone, Director and Chief Medical Officer for the Nebraska Division of Public Health approved the Board's request to amend regulations, specifically, Title 172, Chapter 29. The basis of the request was to amend section 006 regarding continuing education (CE) to expand the number of hours accepted though home study/independent study.

Dr. Nick Payne, Executive Director of the Nebraska Chiropractic Physicians Association, gave a presentation on proposed changes to DHHS regulations, Title 172, Chapter 29, Section 008.

Dr. Payne indicated that in a recent Nebraska Supreme Court case, Yagodinski v. Sutton, 309 Neb. 179 (2021), the Court looked at Section 008 of the regulations and noted that an examination and clinical evaluation must be performed to determine whether the patient is a proper subject for chiropractic care. The Court did not mention a portion of the regulation which specifies that clinical evaluations may also be performed to assess the patient's current health status. Dr. Payne expressed concern that as a result, there may be confusion as this section could be interpreted to indicate that any examination that is not performed for the purpose of identifying whether the patient is a proper candidate for chiropractic care, would be considered beyond the scope of chiropractic care.

Dr. Payne asked the Board to consider making changes to the existing regulations to clarify that an examination may be performed to 1). Determine the status of the patient's health, and 2). Determine whether the patient is a proper candidate for chiropractic care. The proposed change in language does not expand the scope of practice nor change the intent of the regulations.

9. APPLICATION PROCESSING REPORT

Covert-ByBee presented the Licensure Application Processing Report. This was for informational purposes only.

10. TOPICS FOR NEXT MEETING

Suggested topics for next meeting include CE/Regulation Revision, Legislative Update, Update on LANCE, Executive Orders, FCLB Report, and Application Processing Report.

11. ADJOURNMENT

There being no further business, the meeting adjourned at 10:35 a.m.

Respectfully submitted,

Dr. Brian Stevens, Secretary