

STATE OF MARYLAND
BOARD OF CHIROPRACTIC EXAMINERS
OPEN SESSION BOARD MEETING
April 11, 2019 – 10:08 A.M. TO 12:07 P.M.

MDH METRO EXECUTIVE BUILDING

Conference Room 110
4201 Patterson Avenue
Baltimore, Maryland 21215

Members Present

Robert G. Frieman, D.C., President
Gregory Lewis, D.C., Vice President
Michael Moskowitz, D.C., Secretary,
Kindra Ingram, D.C., Board Member
Karen Munter, Consumer Member
Nelson Miranda, Consumer Member
Joshua Levin, D.C., Board Member

Non-Members

Adrienne Congo, MS, Acting Exec. Director
Grant D. Gerber, AAG, Board Counsel
David Ford, Investigator IV, Board Staff
Marc Ware, Investigator III, Board Staff
Serita Anderson Admin. Specialist, Board Staff
Kim Lang, MDH
Lillian Reese, Legislative Coordinator
Louis Crivelli, DC, MCA
Marc Cohen, Board Counsel, MCA
Dr. Keith Scott, D.C., CA Instructor

MINUTES

On April 11, 2019, the MD State Board of Chiropractic Examiners (the Board) met in Baltimore, Maryland at the MD Department of Health – Metro Executive Building. In accordance with the Open Public Meeting Act, the regular meeting agenda was made available online at least 24 – hours prior to the meeting.

1. Call to Order, Roll Call, Announcements - Dr. Robert Frieman, President called the meeting to order at 10:07 a.m. *It was noted 7 Board Members Present.*

1.1 The Open Session Agenda was approved with an amendment (to add another bulletin to New Business: Nominating Committee for June elections), *Michael Moskowitz, DC moved to approve the agenda with the noted amendments; 2nd by Gregory Lewis, DC. Motion passed*

1.2 The March 14, 2019 Open Session Minutes were approved with an amendment (Robert Frieman item #2.4 two members from the MD State Board of Massage Therapy Board will be added to the Search Committee for the Executive Director's position). *Dr. Lewis moved to accept amended minutes as provided after initial board packet; 2nd by Michael Moskowitz. Motion Passed.*

2. Reports President – Dr. Robert Frieman

2.1 Search Committee – Vacancy – Executive Director Position - Nelson Miranda, Consumer Member and Dr. Gregory Lewis who are the MD State Board of Chiropractic Examiners along with Carlton Curry, Executive Director of the PT Board will make up the Search Committee in concert with Paula Jilanis, Chair for the MD State Board of Massage Therapy Examiners whom is one of the two members of the Search Committee members for the MD State Board of Massage Therapy Examiners regarding this vacancy; there will be a 5 member Search Committee Panel created to interview the candidates. There were 20 people whom applied for the position of which were vetted by downtown (MDH) and not the committee. Of the 20 candidates, only 10 met minimum qualifications. The Search Committee is

now working through those 10 candidates for setting up interviews and future updates will be forwarded.

2.2 The board will be calling Old Business: *Unfinished Business*.

2.3 Dry Needling – Proposed Drafted Regulations - There are two drafts of the dry needling regulations coming before the board today. The Board would like to publicly thank Lillian Reese, Legislative Regulations Coordinator for drafting the two from the Board's created provisions. Also an acknowledgment of thanks to the committee and Dr. Ingram for working long and tirelessly in the creation of dry needling provisions. The origin of the two drafts; goal was to present two perfect copies with different provisions and the board will vote on one. The second draft (February 2019) came about because the board authorized and asked me to visit with the stakeholders as to what the board was thinking. Dry Needling was an issue before 2019 and would continue to be a work in progress long after my tenure as the President. Therefore the goal was an approved draft to present to the Secretary from this meeting and not expected that today would facilitate the final proposed draft for actual regulation at this time.

3. Committee Report(s)

3.1 Dry Needling Committee, Dr. Kindra Ingram, and Chair – There are two (2) drafts one (1) was committee based and that's the one that will be discussed first. This particular draft addressed a lot of the issues I heard throughout this process since I've been Chair of this committee. What we suggested in this draft was very methodical and covers the educational component as well as addressing the chiropractor and how they would move forward once the initial education has been completed. On the first page, the committee added 3 hours of dry needling for registered dry needling chiropractors. The dry needling chiropractor would be required to take 3 hours of continuing education at each biennial renewal period (every 2 years) as a part of the already regulated 48 hours for continuing education for renewal. Not in addition to the 48 hours. This would keep the dry needling chiropractor current. This innovation has not been addressed in any other draft or legislation for any other discipline to which dry needling was in their scope of practice (i.e., P.T. Board). This would be setting a precedence as to how our Maryland chiropractors addressed continuing education. Generally, the average chiropractor's may practice up to 30 years. Within this 30 years, there are 15 cycles for renewal (biannually). Three (3) hours every biannual renewal period would equal 45 hours of continuing education in dry needling within those 30 years. This would more than suffice for the additional 40 hours that others think such as the PT Board and the Acupuncture Board feel should be added to the provisions of dry needling for Chiropractors w/ P.T. despite chiropractors walking in with our gross anatomy and additional education. The chiropractors would be getting more education with this provision.

On page two, pertinent definitions were added: dry needling competency test which would put the chiropractors ahead of the bar; (4) previously trained chiropractors with physical therapy privileges giving this a definition for those chiropractors that were trained in dry needling prior to the enactment of the regulation. Conversation can be held regarding reasonable provisions. A waiting period of 1 year was added of active practice with 40 hours of that 80 hours to be completed based upon our chiropractic instruction and education. All of that information has been listed and the information about the chiropractor's education was within the 50 page Dry Needling Power Point previously presented to the Board in an open meeting session. On page four (4) regarding minimum education and training required; 24 hours of face to face, hands on didactic training. Also added was that 40 hours; 16 hours of classroom or online training/module; that discuss specifically the components those items listed there. After completion a competency test. On page 5, registration would be required. Every chiropractor with physical therapy privileges would have to register with the Board with no fee

attached. However, the registration process affords the Board and public to know who is registered to practice dry needling within the State of Maryland. For previously trained chiropractors (definition in the beginning) it accepts the continuing education already completed prior to the effective date of the regulation whom had dry needling experience. They would have to register and have to demonstrate they completed a course in substantially similar form; complete a 8 hour refresher course within 1 year effective date of the new chapter (minimum of 4 hours hands on review); and take a 3 hour refresher course for renewal biannually.

So the chiropractor would come out of this program with more than enough education, competency and experience. The committee's draft substantiates the chiropractor's education and the chiropractor's ability to be competent in the State of Maryland and to protect the public as well.

3.2 Dr. Frieman asked Dr. Ingram as to whether she would like to comment on the other draft. Dr. Ingram - After getting permission to speak with the PT Board Executive Director; it was indicated that more hours were needed as a suggestion. *Dr. Frieman* indicated that he spoke with the PT Board Chair. He reviewed with her point by point the circulated draft (updated February 2019 circulated draft with stakeholders). He shared that the PT Chair indicated she had no issues with the proposed draft contents however cited she could not speak for her full Board. *Dr. Levin*, provided background information to his educational experience and chiropractic college curriculum. In addition, he provided information regarding acupuncture and chiropractic within the chiropractic college curriculum in addition to comparison to training of those of acupuncturists. *Dr. Lewis* commented that
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Dr. Frieman called a 5 minute recess.

The meeting was called back to order by Dr. Frieman- Board members had an opportunity to comment and there were 3 individuals in the audience that would like to make comments, *Dr. Frieman* requested 5 minutes per speaker.

3.3 Penny Heisler, Director Acupuncture Board – Penny Heisler - Thanked *Dr. Frieman* for being kind enough to come to the Board of Acupuncture (BOA) Meeting last month to address her Board with the Chiropractic proposal. Her attendance was on the behalf of her Board to bring back the proposal being voted on today. “The Acupuncture Board believes that Chiropractors working with physical therapy privileges should abide by the drying needling regulations established by the Board Physical Therapy (BOPT)”. We (the Acupuncture Board) worked very closely with the BOPT in drafting their regulations. We established the Attorney General’s (AG) opinion – where the AG, said that the P.T. had the authority to determine dry needling within their scope but initially the opinion stated that BOPT should have the educational requirements equivalent to physicians practicing acupuncture. Then AG came back and stated that since BOPT was not practicing acupuncture and just dry needling the hours did not need to be 250 hours. So back and forth, we came up with 80 hours. The BOA strongly believed the BOPT did not have appropriate training to needle people. It went back and forth for 10 years. *Dr. Frieman* asked for clarification on the 250 hours as he was advised that it was 200 hours to which Ms. Heisler indicated the correction and should have said 200 hours. *Grant Gerber* interjected and pointed out that Ms. Heisler in the capacity of Board Executive Director could not solely agree or disagree with the proposed draft as she was providing representation her of her board in their position and to report back to her board the results of this meeting.

3.4 Marc Cohen, Counsel, MCA- First and foremost it appears that you heard our comments and concerns for the changes we requested to one of the earlier drafts. Along with the comments I heard today from many of your board members. The Maryland Chiropractic Association (MCA) reviewed the new version one (1) and we believe that it is appropriate and reasonable regulation in protecting the

public and not over burden the need and necessary practice of providing dry needling. It is important for chiropractors to have the ability to have alternatives to opioids to manage long term chronic pain. Thanks again for hearing our comments and accommodating them in version one (1). The MCA think it is important not to have regulations to “restrain trade” but to have regulations that reasonably protects the public, it’s a balance and we think that the committee has struck that balance in version one (1). A point to be made with regard to a comment that was heard, Board certification has nothing to do with licensure. All our professional and licensed chiropractors are supposed to know what they are competent to provide before they provide it. The same is true with drawing blood. Chiropractors do not have to draw blood but if they do, they are supposed to know how to do it. So in viewing this regulations; you do not want to single out this particular dry needling service. This is an area to which chiropractors have been providing without any problem for 10 -15 years. There is no reason now to elevate dry needling to the most critical and sensitive service that a chiropractor can provide.

3.5 Louis Crivelli, D.C., MCA- the Maryland Chiropractic Association (MCA) supports version one (1) we feel that’s the best version out of the two. The MCA took a good look at both of them. The basic message that is worth saying over and over again is that chiropractors are not physical therapist. We are two different professions. Dr. Crivelli shared with the board some of the differences between chiropractic education in comparison to the physical therapist and acupuncturist education. Chiropractic from its inception has always been a doctorate level program. The MCA supports version one (1). The AG has been very clear that professions can govern themselves and although there may be some overlap. It’s up to each profession to determine their educational and licensure standards.

Robert Frieman, D.C. - allowed the Board members to give final comments before the vote.

Dr. Kindra Ingram – As far dry needling was concern, the way the Board instructed/tasked the Dry Needling Committee to move forward was under the vein of physical therapy privileges. We (the committee) went under that auspices to come up with the proposed regulations. This draft 2 of 2 was a result of committee work. This was the first opportunity the committee had a chance to come up with something to present because of procedural things that had happened which placed us on hold. In the short time between last meeting and this meeting was the first opportunity to draft version in 2019 we were tasked to do under the P.T. privileges. According to how it stands right now; dry needling is not a chiropractic modality. That a very different conversation, if dry needling was specifically a chiropractic modality which it does not fall under. It falls under P.T. privileges. In addressing the issue of Medicare, chiropractors are the first portable entry; but if you look at what is actually billable under Medicare codes it’s definitely not evaluation and management codes and not P.T. codes. It is only manipulation codes. Those are the only codes billable by Medicare and we’re recognized. As far as the grandfathering initially discussion of those hours (60 hours), per subject matter experts; we were told to have more provisional hours. The committee was looking at a version to move forward with that was a meeting of the minds. A version which came together with BOA and BOPT based upon our education that was fair. We can’t look at this as what chiropractors can do. If it was about chiropractic; we would not be having conversation with other boards so intensively. That was the direction the committee went in as it fell under our P.T. privileges. Note: We have chiropractors who cannot do dry needling because they do not have P.T. privileges. We did our job as a committee and that needs to be taken under consideration because dry needling is an advance modality that falls under P.T. privileges regardless of anything else you heard today. You must keep that part in mind.

Grant Gerber, AAG – Suggest that the Board vote one at a time for one (1 of 2) and then the other (2 of 2) of the drafts. **Robert Frieman, D.C.** - Before the Board are two drafts, draft labeled 1 of 2 and draft labeled 2 of 2. **Karen Munter** – Inquiry – So when we vote, it is to accept the draft as it is without any re-tweaking of anything. **Robert Frieman, D.C.** – Correct. If the Board cannot approve either of the drafts; we will

reassign the Dry Needling Committee and send the entire project back to committee which would be putting the Secretary's office off once already citing we should have something this meeting. **Grant Gerber, AAG** – Procedurally, we would vote on either version and then it would go down to the Secretary's office for approval. Then, it would go out for comment and ALER. There is significant procedural hoops to go through in this process despite presuming it will go through as it may not be the case (noting it took 5 years regarding BOA & BOPT). Basically, because we vote on a draft doesn't necessary mean it would be approved. **Karen Munter** – Interjected that she can see both sides of each drafts and elicited further clarification of the differences between the two drafts and components of each appealed to her. **Dr. Gregory Lewis, D.C.** – I'm in favor of regulation that meet the problem. Felt that draft 2 of 2 is a remedy in search of a problem not related to solving a problem as there are no problems with dry needling as it is practiced. Version 1 of 2 would increase that training and draft one is the "sweet spot" as to what we are trying to do. **Dr. Kindra Ingram, D.C.** – To address the comments which I appreciate, the voices we have not heard would be coming from the public. As chiropractors we sit around this table, we focus on our own personal interest and what we think is best for the profession. We do not focus on the perception as what this looks like to the public. Your comments are warranted. With regard to comment does every technique require certification, this is an advanced modality. It is not taught in every chiropractic college. Chiropractic colleges are looking in the future to incorporate these type modalities; then regulations can change with that time. There are items in the draft that could be revisited (i.e., 1 year waiting period has to be revisited, then fine); however education looking from the outside in, needs to have some guidelines. I am not a proponent of over regulating but am proponent of education.

Robert Frieman, D.C. – *Closing Comment* - It is always the Doctor of Chiropractic responsibility to ensure they are competent in the procedures they perform on a patient. Therefore before the Board are 2 Drafts labeled – Draft 1 of 2 and Draft 2 of 2 *Asked for a show of hands for Board members in favor of "Draft 1 of 2" (Vote: 4 hands and President) and *Asked for a show of hands for Board members in favor of "Draft 2 of 2" (Vote: 2 hands). Grant Gerber advised of a motion of the conclusion. **Dr. Gregory Lewis moved to accept Draft 1 of 2; 2nd by Dr. Joshua Levin. All in Favor; 2 opposed. Motion carried**

4. New Business

4.1 Preceptor Application & Site Visit Reports- (Hyattsville, MD) 3/28/2019 - *Dr. Kindra Ingram & David Ford, Senior Investigator* – The facility and record keeping meets the board's recommendations. Based on the findings we recommend that the board accept the preceptor application. **All in Favor - Passed**

4.2 Nominating Committee for June elections -Dr. Robert Frieman appointed Adrienne Congo, Acting Executive Director to the committee, would like to have two more board members to volunteer that are not interested in running for any office to sit on the committee. No one was interested in sitting on the committee. *Dr. Frieman and Adrienne Congo will be the two members on the Nominating Committee.*

5. Committee(s)

- **CE Committee Report /Recommendations**–[Licensee's Request towards 48 CE's] *Medstar National Rehabilitation Hospital – Washington, D.C., - Level 2 Myo Fascial Decompression: Myofascial Mobility and Neuromuscular Re-education* – Recommendation (Dr. Michael Moskowitz, Chair) – **All in Favor; Approved.**
- **CE Committee Report/Recommendations** – [Course Provider] *Advanced Bio Structural Correction (Basic) 12 Hours* – Instructor *Jessie Jutkowitz, DC* – Recommendation (Dr. Michael Moskowitz, Chair) Moskowitz, Chair) - **All in Favor; None Opposed Approved.**

- **CE Committee Report Recommendations-** [Course Provider] *DNS Exercise Part 1 (14 Hours)- Prague School of Rehabilitation* – Recommendation (Dr. Michael Moskowitz, Chair)-**All in Favor; None Opposed Approved.**
- **CE Committee Report/Recommendations-** [Course Provider] *Mindfulness & Stress Reduction (6 Hours)- Institute for Natural Resources (INR)-* Recommendation (Dr. Michael Moskowitz, Chair)- **All in Favor None Opposed Approved.**

6. Adrienne Congo, Acting Executive Director

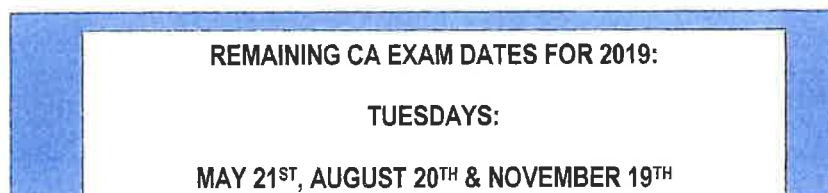
6.1 CA Renewal Update – As it is April 11, 2019 we have until the end of April for the CA's to complete late renewals. There are no individuals in the que waiting to be updated to the master and printed. Completed CA's – 551 roughly 68%, 9 who logged on and not completed. Those individuals were contacted 2 of them have been working in a chiropractic office as a CA they forgot that they needed to renew. They renewed under the late renewal window. There is 251 CA's that did not log on to renew. *Dr. Frieman* - do we know the status why they have not renewed? Ms. Congo - doesn't think there is enough information out there for the CA's to know if they are not currently working in a chiropractic office they still have the ability to renew and keep their registration or the campaign option to go inactive which was new this year. Hopefully when the Board drafts new regulations for the "inactive status"; it will facilitate a larger group going inactive verses letting their registration lapse because they are no longer working in a chiropractor's office. We will campaign to provide them with the information that your registration is not hinged on whether you are still currently working in a chiropractic office. There were a few individuals that did read the information and elected to go inactive. Email blast have consistently gone out to the C.A's and Doctors of Chiropractic as the window closes to this biennial renewal.

6.2 CA Examination Update – I have reached out to the CA Instructors and only received a response back from heard back from Dr. Keith Scott. I sent a Memorandum in what the board objective was in regards to coming up with a new exam for the CA's. One of the Instructors opened the email I believe using his phone I advised because of the large content of the email that they use their computer instead.

6.3 Personnel – OHR MDH Downtown – In reference to emergency temp help possibly and Intern and also someone in the paralegal arena. I have two employees going on the leave anywhere from 30-60 days. They both will be leaving around the same time May 1st.

6.4 Legislative Update House Bill 22- *Lillian Reese*- regarding the use of the criminal history background for Occupational Licenses and Certificates this HB22 did pass despite several boards objecting to it. There was new language I can forward this to Adrienne Congo and she can forward it to the board members.

7. **Grant Gerber, Board Counsel- Attorney General's (AG) office** is looking at HB 22 I don't think the governor signed this yet we have some concerns that are being embrace as a challenge. Will have more information at our May meeting.



8. Ratification of New Licensees & Registrants -

8.1 Ratification of New Licensees & Registrants –

Congratulations to the New Registration & Welcome to the State of Maryland!

- Owens, Candice L. (04005)- Original Licensed Date 03/04/2019
- Terrier, John N. (S04004)- Original Licensed Date 03/04/2019
- Smith, Adam P. (S04006)- Original Licensed Date 03/04/2019
- Thronset, Ryan J. (S04007)- Original Licensed Date 03/04/2019
- Lee, Byung Nam (S04008)- Original Licensed Date 03/28/2019
- Bayakhmedova, Umida (RC2235)-Original Registration Date 03/05/2019
- Yeager, Alecia D. (RC2236)- Original Registration Date 03/05/2019
- Pereira, Christina L. (RC2237)- Original Registration Date 03/05/2019
- DeVries, Brooke L. (RC2238)- Original Registration Date 03/05/2019
- Ramirez, Gabriella S. (RC2239)- Original Registration Date 03/05/2019
- Stutman, Hillel O. (RC2240)- Original Registration Date 03/07/2019
- Henriquez, Jaquelin V. (RC2241)- Original Registration Date 03/07/2019
- Bittinger, Megan M. (RC2242)- Original Registration Date 03/07/2019
- Tewari, Pinky (RC2243)- Original Registration Date 03/07/2019
- Simpson, Kara (RC2244)- Original Registration Date 03/08/2019

Moved to ratify by Dr. Gregory Lewis: 2nd by Dr. Joshua Levin. All in favor. Motion Passed.

9. Miscellaneous – FYI – Licensing Database Update as of January 5, 2019

Board	Status Codes	Numbers
Chiropractor	Active	909
Chiropractor	Inactive	63
Chiropractic Assistant	Active	811

- **FYI:** Dr. Frieman (participating as the Guest Host), Dr. Lewis and Dr. Ingram will be attending the Federation of Chiropractic Licensing Boards (FCLB) – Annual Education Congress May 1-5, 2019

Dr. Gregory Lewis moves to Adjourn General Session Meeting and enter into Closed Session at 12:07 p.m.; 2nd by Michael Moskowitz. All in favor. Motion Passed.

Respectfully Submitted,



Michael Moskowitz, D.C.
Secretary/Treasurer

With Appreciation to Adrienne Congo for assistance with the Minutes.