

STATE OF MARYLAND
BOARD OF CHIROPRACTIC EXAMINERS
OPEN SESSION BOARD MEETING
February 14, 2019 - 10:00 a.m. to TBD

MDH Metro Executive Building

Conference Room 106
4201 Patterson Avenue
Baltimore, MD 21215

Members Present
Present

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

Michael Moskowitz, Board Member (*Absent*)

Non-Members

Laurie Sheffield-James, Executive Director
Grant D. Gerber, AAG, Board Counsel
Marc Ware, Investigator III, Board Staff
David Ford, Investigator IV, Board Staff
Pamela Alston, Admin. Specialist, Board Staff
Lillian Reese, Legislative Coordinator
Louis Crivelli, D.C., MCA

MINUTES

On February 14, 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 10:15 a.m. It was noted 6 Out of 7 Board Members Present and Dr. Michael Moskowitz, D.C., Secretary (*Absent*)
 - 1.1 The Agenda was approved with an amendment (reorder of agenda items) to which the Regulatory report would be given to accommodate the arrival of the Lillian Reese, Legislative and Regulations Coordinator. *Dr. Lewis moved to approve; 2nd by Dr. Levin. Motion passed.*
 - 1.2 The amended December 13, 2018 Open Session Meeting Minutes were approved.
Dr. Lewis moved to approved; 2nd by Karen Munter. Motion passed.
 - 1.3 The January 10, 2019 Open Session Meeting Minutes were approved.
Dr. Lewis moved to accept; 2nd by Dr. Joshua Levin. Motion passed.
2. **Old Business - Regulatory Issues**
 - 2.1 *Dr. Frieman* provided background to the following Old Business topic regarding the Board's regulatory initiative(s): (1) The **Indirect Supervision** regulations were approved from the December 13, 2018 meeting and minutes. Lillian Reese vetted the draft and put into COMAR language. (2) In addition, since the Board was currently revising the Chiropractic Assistants (C.A.s) regulations section; the Board had revised discussion from last years proposed regulatory change for Chiropractic Assistants (CAs) **being allowed to take X-rays** and what that program should

encompass. The Board had drafted the proposed regulations back then and approved it for vetting by Lillian Reese. She noted to the Board that the present format presented today was to provide the Board with the entire overview of content for readability and placement in case of any changes proposed today. Afterwards, the proposed regulations would be reformatted to COMAR requirements for submission to the MDH, Office of Regulations.

2.2 Points of Clarification (1) – Regarding Page 7 of the Indirect Supervision section; (*Audience - Dr. Crivelli*) - points out it states, "...demonstration, administration and observation of therapeutic exercises as prescribe" - no change to that; but when you go to indirect supervision, that whole line is omitted. *Dr. Frieman* acknowledges that was a mistake. *Dr. Crivelli* suggested adding that sentence and take out the words, "demonstration and administration" and just say "observation of the therapeutic exercises that are already in the treatment plan". *Dr. Frieman* elicited a responses from the Board in the form of discussions regarding as to whether it should be listed under Indirect Supervision. Upon further discussion, a call for a motion and taken as a motion by Dr. Lewis and 2nd by Dr. Levin. Further discussion commenced on the verbiage and suggestions as to the most logical placement of the following correction of that specific regulatory language and placement as facilitated by *Dr. Ingram's* suggestion: (1) Instead of making another number entry as #3, make it an addendum to #2 stipulating it goes well under #2 because we are essentially talking about gait and ambulation. Therefore the final corrected regulatory language was facilitated by an **Amended Motion - "Gait practice and ambulation; (adding a letter "c" and deleting the word "demonstration") administration and observation of therapeutic exercises as prescribed by a Supervising Chiropractor"**. *Dr. Frieman, All in favor, none opposed, no abstention. Motion Passed.*

2.3 Points of Clarification (2) acknowledged by the Dr. Frieman - Page 7 (*Dr. Crivelli*) states - As an Instructor talking with CAs regarding their regulations; there was one point needing clarification... "Activities CA can perform without supervision..." We always felt letter "D" was unclear, "...observing treatments and modalities as authorized by the Supervising Chiropractor" The CAs questions were. What exactly does that mean and how is that not requiring supervision? *Dr. Frieman* responded: "A CA applicant can observe the treatment that a registered CA has been authorized by the supervising chiropractor to perform."
Dr. Ingram reiterated the following: Reading the regulatory subtitle dictates what you are trying to ask us to write out plainly. The subtitle and its corresponding language made sense. "Activities performed by chiropractic applicants and / or chiropractic assistants without direct supervision"... So, the applicant **can observe** the treatments and modalities as dictated to the assistant by the supervising chiropractor. *Dr. Frieman* determines no further clarification is needed to the language.

At conclusion of this regulatory section 2.1, 2.2, and 2.3, Dr. Frieman reiterates that a Motion on the floor to accept the document before the Board with the amended changes was unanimously approved. Passed

2.4 C.A. X-Ray Program - *Dr. Ingram* suggested for under letter "A" within regulation 11 based on a prior email notification. Lillian injected that changes had been made since the email. *Dr. Ingram* agreed with the change was needed. *Dr. Lewis* wanted to know exactly what the specific change was. In the email it indicated under letter "A", I was concerned. It says, "A chiropractic assistant may perform the duties of a chiropractic radiologic technologist only as directed by a duly licensed and qualified chiropractor." *Dr. Ingram* expressed the need for language congruency "supervising chiropractor" should have been placed instead of just the term chiropractor in the sentence asa duly licensed and qualified **supervising** chiropractor.

Dr. Frieman elicited and accepted a Motion to accept the CA X-ray Program as it has been

presented to the Board this day. *Move to accept by Dr. Lewis, 2nd by Dr. Levin. All in favor. None opposed. No abstentions. Motion Passed*

3. Reports

- 3.1 **President's Report** - The Annual Federation of Chiropractic Licensing Boards (FCLB) meeting will take place in May 2019 (May 1-5). Dr. Frieman will be attending and discussing the X-ray protocol that this Board has passed. In addition, Dr. Frieman will have the opportunity to speak to the FCLB Executive Board regarding furthering the chiropractic profession. It has occurred to him that there is no singular voice in the chiropractic profession that speaks for the profession except for the FCLB by their membership does have purview over all licensees. There is an opportunity to set up a system to where the FCLB can pass resolutions stating what chiropractic is and if those resolutions can be adopted by individual states; we will have then made a broad statement as to the profession. For example, third party payers cannot then impose restrictions.
- 3.2 **Committee(s) Reports** - Nothing to Report This Meeting
- 3.3 **Executive Director** - *Laurie Sheffield-James*

Dr. Frieman in the interim welcomed Laurie Sheffield - James back and indicated that Adrienne Congo has done a fabulous job in your absence. Adrienne Congo will be stepping back in and stepping back up in Laurie Sheffield-James' upcoming departure. Laurie Sheffield-James confirmed her last day is February 28, 2019 and March 1, 2019 is her official retirement date.

1. **HB 404 – State Acupuncture Board** – <https://legiscan.com/MD/bill/HB404/2019>. Discussion with the Acupuncture Executive Director yield that this is a “Clean Up” Bill. Verbal assurance that the intent of this proposed legislation is not to prohibit D.C.’s and PT’s from practicing Dry Needling along with an email stating the same. The Board is taking a “No Position” stance on this Bill. **Discussion:** *Dr. Frieman* reiterates the Board has taken an official position of ‘No Position and opines that it significantly expands the acupuncturist scope. *Grant Gerber, AAG* more so addressed the point regarding the way the statute is supposed to work in that all Practice Acts have a “right to practice provision” which says, “Nothing in the Title limits the right of an individual to practice the health occupation that the individual is authorized to practice under this Article 1A or 102”. The Board’s Practice Act has a very similar provision and that it’s intended to protect your turf without infringing on another practice turf exclusively. *Grant Gerber* doesn’t feel that it has a huge impact on the Chiropractic Practice Act. **Audience** - *Louis Crivelli, MCA* requested to speak on this subject as he stipulated he testified at the Senate regarding HB 404 and was acknowledged by the Dr. Frieman.

Louis Crivelli, MCA – The Maryland Chiropractic Association found the Bill problematic and viewed it as a scope expansion. *Dr. Hirsh* testified that the MCA would support this Bill for the acupuncturist with the provision they insert language stipulating that the Bill is not intended to exclude any other providers. This language currently provided a list of descriptions as to what is acupuncture. The MCA concluded that concerns are warranted for future regulations and the with regard to possible restrictions for dry needling. The way this Bill is currently structured, it has taken out reference to acupuncture needles and just use the term needles, taken out acupuncture points and instead, stimulate the body and a clause in the Bill to any other East Asian therapies are problematic. When *Dr. Hirsh* testified in the House and it was fairly amenable. I (*Dr. Crivelli*) testified yesterday in the Senate and it was openly hostile. The Physical Therapists got their amendment in citing this is not intended to interfere specifically with dry needling when it comes to the practice of physical therapy. A tonal change from acupuncture’s House testimony from their Senate testimony; which may warrant grounds for reevaluation. The MCA will try to further talks with the Acupuncture Association and will keep the Board posted.

2. **Legislative positions** – *Laurie Sheffield-James* - March 8th is the last day that proposed Bills can be dropped. Procedures & options for the Board regarding Bills: (1) Immediate review, (2) Determine if the Bill should be opposed or supported, (3) Whether a letter of support, opposition or no position. If the Board wants to make a statement via a position statement; it would require Board representation in then that would be a position paper to which Board representation would be required to testify before the Senate and House.
3. **CA Renewals** – *Laurie Sheffield-James* – Opened live February 15 – March 30, 2019. An email blast was disseminated prior to opening to 770 emails total; 726 were delivered. CA's cannot practice if not registered after March 31st.
4. **Chiropractic Externship Regulation** – Update: 10.43.05.01 Chiropractic Externship Program Proposal was printed in the February 1, 2019 Maryland Register with the comment period ending March 4, 2019. Currently at the Maryland Register for the comment period and the next course of action would be: If comments – Board response. If there are no comments, then it move to the Final Action and Signature phase.
5. **HB 1252 – Child Abuse and Neglect** (<https://trackbill.com/bill/maryland-house-bill-1252-child-abuse-and-neglect-training-of-health-care-professionals/1681260/>) – *Laurie Sheffield-James* - **Training of Health Care Professionals – Mandates for Health Occupation Practitioners.** This Bill will mandate Health Occupation practitioners to give requirements on how to handle and identify signs of child abuse. The intent is to require Boards to put courses that are recommended by MDH relating to reporting child abuse and the identification of abused and neglected children on the Board's website. The Hearing for this Bill is March 28, 2019. *Dr. Lewis moved for the Board to take a position of support for the Bill; 2nd by Dr. Levin. Motion Passed*

*Break: Case Resolution Conflict (CRC) Attending Dr. Greg Lewis and Nelson Miranda, Consumer Member. All other Board Members short recess 20 minutes and the Board will reconvene at 11:15 a.m.

4. **Board Counsel** – *Grant Gerber* - **Moved to Executive Session**
5. **New Business**
 - 5.1 **Preceptor Application** – *David Ford, Senior Investigator* - Request of application approval and Site Visit. Scheduled site visit Dr. Eric Lindsell- Columbia, Maryland – Board Members, Dr. Ingram & Karen Munter, Consumer Member to conduct. *Date TBD*
 - 5.2 **Preceptor Application** – *David Ford, Senior Investigator* - Request of application approval and Site Visit. Scheduled site visit Dr. William James - Columbia, Maryland – Board Members, Dr. Ingram & Karen Munter, Consumer Member to conduct. *Date TBD*
 - 5.3 **Policy Re: Continuing Education Applications (Course Review for Approval)** – *Laurie Sheffield-James* - **Discussion:** Fees, timely submission for Board to review & structure. *Dr. Ingram* offered suggestions regarding structure of approving CEU's and pricing. *Dr. Ingram* moves to allow a discount of \$15 for courses submitted prior to the 30 day deadline; Courses that are submitted within the 30 day date will be charged \$25 and Courses submitted more than 30 days prior to the Course date will be charged \$25 and may be subject to non-approval. *Dr. Ingram moved; 2nd by Karen Munter. All in favor. Motion Passed.*
 - 5.4 **Scope of Practice – Oxygen Concentrator with Hyperbaric Oxygen** – Motion to approve use of Oxygen Concentrator was amended by Dr. Ingram to refer inquirer back to the original prior approval letter issued to him by the Board. *Moved by Dr. Lewis; 2nd by Dr. Levin. All in favor. Motion Passed.*

6. Ratification of New Licensees & Registrants –

6.1 Ratification of New Licensees & Registrants –

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

- *Henrickson, Jennifer (03996) – Original License Date 01-02-2019*
- *Rios-Rivera, Alexa Lissette (03997) – Original License Date 01-04-2019*
- *Hashtroudilar, Tina (S03998) – Original License Date 1-22-2019*

Moved to ratify by Dr. Lewis; 2nd by Dr. Levin. All in favor. Motion Passed.

6.2 New Chiropractic Assistants, January 2019

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

- *Biesel, Paige N. (RC2225) – Original 1-17-2019*
- *Olvera Salas, Christian (RC2226) – Original 1-28-2019*

Moved to accept new CA's by Dr. Lewis; 2nd by Dr. Levin. All in favor. Motion Passed.

7. Miscellaneous:

7.1 2019 FARB Forum Comprehensive Regulatory Training Course Report - Dr. Ingram

Discussion: (Resource – Outline of notes starting page 51 provided to the Board). Discussion on key points of her report was (1) Pre- Qualifier pre licensure questions to where an individual would elicit the Board's position on a blemish on his/her criminal history record before enrolling in an education program for being a healthcare practitioner. *Grant Gerber* – Current trends are leading to changes regarding criminal history. As far predetermining prior to education; there is currently no process. It would be cutting edge if it could be put into regulation. It would require significant work. *Laurie Sheffield* – *James* stated that it would be difficult to deny the person/licensee based on <https://trackbill.com/bill/maryland-house-bill-22-occupational-licenses-or-certificates-application-determinations-use-of-criminal-history/1612569/> if the Amendment goes through. The Bill hasn't gone to Senate (could be dropped). *Motion to support HB 22 Bill by with amendments by Dr. Levin; 2nd by Dr. Lewis; All in favor. Motion Passed.* *Dr. Ingram* continues: (2) Bankruptcy – would there be a potential for fraud, etc. and (3) Previous convictions unrelated to the profession as to how it would be handled health wise or not. If some of these points are applicable to the Board as regulators.

7.2 FCLB's 93rd Annual Educational Congress – May 1 – 5, 2019 – Dr. Frieman to Guest Host topics.

Attending: Dr. Gregory Lewis

Dr. Kindra Ingram

NBCE Business Meeting – May 3, 2019 – Dr. Frieman & Dr. Lewis will attend.

NBCE Part 4 Examination Program - May 17 – 19, 2019 – Dr. Lewis & Dr. Levin will attend.

Karen Munter moves to Adjourn General Session Meeting and enter into Executive Session at 12:42 p.m., 2nd by Dr. Gregory Lewis. All in favor. Motion Passed

Respectfully Submitted,

*Robert Frieman, D.C.,
Board President*