

**Arkansas State Board of Chiropractic Examiners
Orientation / Board Meeting
Tuesday, July 16, 2019**

CALL TO ORDER

The board meeting was called to order by Kent Moore, D.C., President, at 10:00 a.m.

ROLL CALL

Board Members present:

Kent Moore, D.C.
Dustin Heard, D.C.
Michael Courtney, D.C.
Jack McCoy
Harold Gunter
Tanya Holt, D.C.
Sarah Hays, D.C.

Staff present:

Laurie Mayhan, Executive Director
Brad Nye, Assistant Attorney General

Guests present:

Emily Hurley Baumann
Chris Cathey, DC
Rachel Hoard
Sam Haley, DC
Brad Chambers, DC
Matt Gilmore

NEW LICENSEE ORIENTATION

Dr. Sam Haley spoke on behalf of the Arkansas Chiropractic Physicians Association.

Dr. Steven Bennett spoke and presented information on behalf of the Arkansas Chiropractic Society.

Congratulations to the following licensee who attended the January 2019 orientation and who was approved to receive his license this day.

	Lic. No.	First Name	MI	Last Name
1.	16219	Tyler	E	Hicks

Congratulations to the following licensee who was licensed on 04/09/2019 and who is fulfilling his orientation requirement this day:

	Lic. No.	First Name	MI	Last Name
2.	16220	Jason	L	McAfee

Congratulations to the following applicants who attended today's orientation and received their licenses this day:

	Lic. No.	First Name	MI	Last Name
3	16221	Cliff	H	VanBuren
4	16222	Kaitlin	P	Bilbo
5	16223	Brett	J	Thackery
6	16224	Sarah	D	Bright
7	16225	Colby	A	Lovelace
8	16226	William	R	McCauley
9	16227	Jason	D	Inman

Short recess approximately 10:50am – 11:08am

MINUTES

After reviewing the minutes Dr. Moore questioned the motions made on page 5 under credentials review regarding Mr. Nicholas Boris application review. Two motions were made on that applicant and Dr. Moore wanted to clarify which motion was voted on. Dr. Heard explained the motions that were made and directed Dr. Moore to where the first motion failed and the second motion passed by majority with three members abstaining from the vote. Dr. Moore had no other questions regarding the minutes. Dr. Heard motioned to accept the June 11, 2019 minutes as written. Dr. Holt seconded the motion. Motion passed.

DIRECTOR'S REPORTS

Budget Report

The monthly Expenditure and Revenue reports were presented to the board along with an itemized cash flow report for FY2019 (July 1, 2018 – June 30, 2019). The total amount expended, for fiscal year 2019 was **\$132,441.49** with **\$55,337.51** remaining of the FY19 budget (\$187,779.00). The total revenue received, for fiscal year 2019 was **\$208,360.17**, which includes money received, transferred in, and interest on COI. The director did make the board aware of the discrepancy of her cash flow report versus the expenditure report as accounting adjusted the budget throughout the year by increasing the budget by \$153.75, thus the cash flow report is only reflecting the original budget total and remaining total after deductions.

Also provided on the cash flow report was the budget for FY2020 (July 1, 2018 – June 30, 2020) and what has been expended thus far for the new fiscal year. Total amount expended, thus far, for FY2020 is **\$4,248.75** with **\$187,965.00** remaining of FY20 budget (**\$187,965.00**).

FY2019 (July 1, 2018 – June 30, 2019) / END of YEAR REPORT

Status	Apps received	Class hours offered	Fee Due	Fee Paid
Approved	423	6,106.10	\$30,530.50	\$30,530.50
Approved with Exception	2	48	\$240.00	\$240.00
Not Approved	2	41	\$205.00	\$205.00
Pending	0	0	\$0.00	\$0.00
Cancelled	3	40	\$200.00	\$200.00
Incomplete	0	0	\$0.00	\$0.00
Void	0	0	\$0.00	\$0.00
Total:	430	6,235.10	\$30,175.50	\$30,175.50

2 approved w/exception: 1 hr. denied due to sponsor not able to provide CV of speaker after several requests
10hrs of TX law/rules not approved for AR.

2 Not approved: Dry Needling course not approved for CE by board on 3/8/19 teleconference
Bd approved I.C.E. course in previous mtg. then denied course per E3(b) & (d)(5) on 6-11-19

3 cancelled: 3 courses cancelled by sponsors

FY2020 (July 1, 2019 – June 30, 2020)

Status	Apps received	Class hours offered	Fee Due	Fee Paid
Approved	4	72	\$ 360.00	\$ 360.00
Approved with Exception	0	0	\$0.00	\$0.00
Not Approved	0	0	\$0.00	\$0.00
Pending	5	117.5	\$587.50	\$587.50
Cancelled	0	0	\$0.00	\$0.00
Incomplete	0	0	\$0.00	\$0.00
Void	0	0	\$0.00	\$0.00
Total:	9	189.5	\$947.50	\$947.50

Director reported that as of today there are no pending CE applications as this report was ran on Friday, July 12.

FOIA Report FY2019

A total of **21** Freedom of Information Act requests were received from July 1, 2018 to June 30, 2019. **1** was received after the June meeting before fiscal year end.

FY2020

A total of **2** Freedom of Information Act requests have been received from July 1, 2019 to July 12, 2019. **2** have been received since the start of the fiscal year meeting.

The three (3) FOIA's received since June 11 were provided to the Board on the FOIA report.

The Director also provided the board a final printed copy of all the daily expenditures and deposits from FY19. She keeps track of these each fiscal year, to which the board treasurer has access too. The director explained that the items in red font are previous fiscal year expenses that were paid within the 45 day grace period allowed by procurement. Those previous year payments are made after the fiscal year due the invoices not being received until after July 1.

A motion to accept the Directors reports, as is, was made by Dr. Holt. Motion seconded by Mr. Heard. Motion passed.

OLD BUSINESS

Daith ear piercing

The director informed the board that she reached out to the acupuncture board via email and have not had a response as of today. She also reviewed the archived powerpolls on the FCLB website and there were no archived polls regarding this topic, so she requested one be sent out. The results were supposed to be in by Monday, July 15, but they have not been received yet. Item Tabled for October.

Last minute item added: Re: complaint closure letters

Board counsel informed the chairman, Dr. Moore, that there was at least one more matter of old business to discuss before going onto the new business, if it may be discussed. Dr. Moore obliged. The board's counsel stated that it was brought to his attention that there were four complaints that the complaint committee made a recommendation to dismiss at the June meeting, 675, 678, 679, and 680 reflected on page 6 of the June minutes. He believes that we were a bit inarticulate with the language we chose. We dismissed and it says, “, with a letter of caution”, however that really was more of a letter of reminder to check rules regarding advertising issues. The concern that's been brought up, which he thinks is valid, is that by coining a letter a “letter of caution” it could be construed as a disciplinary action even if it's not being reported nationally. His concern was that if a DC were to apply for licensure in another state and there was a specific question on the application that might include a letter of caution whether that DC would then have to divulge that since it not a disciplinary action in Arkansas. He recommends on those four complaints that were dismissed that we change those to just a dismissal with the understanding that just a letter asking the respondent to review the rules as an FYI. Mr. McCoy motioned to the effect of board counsel's recommendation. Seconded by Dr. Holt. Board discussion with public discussion. Motion passed.

NEW BUSINESS

Last minute item added by chairman at request of Dr. Courtney: Regarding letter Dated 7/8/19 to All Chiropractic Licensees who have registered Procurers

Dr. Courtney stated he received a copy of this letter by registered mail and by regular mail and doesn't have any memory of this being voted on by the board as the letter is stated it is from the board. The letter mentions the board several times and again he doesn't remember the board voting on this letter. Dr. Courtney thinks the letter is somewhat inappropriate and that a letter detailing the practitioner's responsibilities is certainly always a good thing for review of the current regulation as it is written. Also, he thinks it is somewhat burdensome on the last portion where it states "Additionally, the board requests the following information be provided to the board within 30-days: with listed items 1, 2, 3, 4, 5", and he is not sure that is reasonable. Another issue on number 3, Dr. Courtney stated, the practitioner is not the custodian of those records.

Board counsel stated he was of the impression that this was part of the adoption of the complaint committee report. He explained that this letter he drafted by going through the proper promulgated rules of the board. The rules indicate that the board has the right and responsibility to investigate complaints allegations or suspicions of violation of practice act. We directed the letter to go to any and all D.C.'s that use active procurers not just D.C.'s that have had complaints filed against them in the past. He does not think there is disparaging treatment, because it is all chiropractors that use procurers. They all were sent a letter requesting information that they are supposed to already have in their possession, so he does not think providing that information is overly burdensome, they should be in a file to ready to be transmitted to the board. The Board may decide now that they don't want to go with that approach, but the complaint committee has seen a trend of a lot of procurer complaints filed against D.C.'s and D.C.'s complaints filed against other D.C.'s dealing with advertising issues and while we want their to be fairness in advertising with all D.C.'s it's not the boards job to police competition, it's the boards job to make sure the public health, welfare and safety is being taken care of. So, as long as they provide the scripts and they show us how everything their doing is per the rules and is above board, which it should be, there will be no further issue, but we did want to send this letter to make sure more than anything that these are the requirements and the board has the authority to request this information. After the boards counsel, director, and board investigator tried to clarify some concerns of the board and/or the public in attendance the board did not make changes to the original letter other than the discussion of extending the deadline. Mr. McCoy motioned that a letter be sent clarifying that the board has extended the due date to January 1, 2020 and that if there is an investigation against a D.C. the board has the right and expectation to request the information sooner, as needed. Motion seconded by Dr. Courtney. Motion passed.

Temporary License requests

Emily L. Baumann has submitted an original license application request along with a supervised temporary license request. She meets all requirements for licensure, except for graduating from Chiropractic College. She is set to graduate next month, August. If approved her license would not be issued until receipt of her final transcript, copy of diploma and attendance at Orientation in January. However, the applicant has requested if the board would issue her a full license once graduated due to the passing of her mother Dr. C. Hurley in order to take over the clinic. Ms. Baumann is also in attendance today and would like approval for attending today's orientation. Dr. Courtney motioned that her application be approved for full licensure pending the receipt of her diploma and final transcript. Mr. Gunter seconded the motion. Motion passed.

Erika B Eckman has submitted an original license application request along with an Unsupervised temporary license request. She does qualify under the Transfer of license rule, but did not request licensure under that rule. She meets all requirements for licensure. Dr. Heard moved that the applicant is approved under the transfer of license rule. Dr. Holt seconded the motion. Motion passed.

Jeffrey S Stone has submitted an original license application request along with an Unsupervised temporary license request. He meets all requirements for temporary licensure with the exception of not having NBCE Parts III and IV due to graduating prior to 1990. The director was unsure of the applicant's undergraduate hours and therefore provided the board a copy of the transcript and course descriptions for review. Dr. Heard moved that the board accept the unsupervised temporary license request. Dr. Courtney seconded the motion. Motion passed.

Election of Officers – FY2020

Dr. Moore opened the floor for nominations for President. Dr. Holt nominated Dr. Moore. Mr. McCoy seconded the nomination. No other nominations were made. Motion passed.

Dr. Moore opened the floor for nominations for Secretary. Dr. Hays nominated Dr. Heard. Dr. Holt seconded. No other nominations were made. Motion passed.

Dr. Moore opened the floor for nomination for Treasurer. Dr. Courtney nominated Mr. Gunter. Dr. Heard seconded. No other nominations were made. Motion passed.

Dr. Moore nominated Dr. Holt to continue as the Board Investigator.

Meeting Dates for FY2020

October 15, 2019	Tuesday	10:00 am
December 10, 2019	Tuesday	10:00 am
January 14, 2020	Tuesday	10:00 am
April 7, 2020	Tuesday	10:00 am
June 9, 2020	Tuesday	10:00 am
July 21, 2020	Tuesday	10:00 am

FCLB District Meeting

The district meeting will be held at the Hyatt Regency Jersey City hotel in New Jersey on October 3-6, 2019. Registration fee is \$295 and the room block rate is \$225 + tax. Dr. Heard volunteered to attend if he is reappointed in the coming weeks. Dr. Courtney also volunteered to attend, but if Dr. Heard is reappointed, he can go instead. The director did inform the board that both could attend if funds allowed.

Proposed rules- Working & Clean Drafts & model language from AG's office

Skipped to discuss at the end of the agenda

Letter from Governor – FYI to Board

The ASBCE office received a letter from the governor informing the agency that he received the letter sent to him from the FCLB on our behalf. The governor thanked the agency for being able to attend as well as representing Arkansas in an exemplary manner and appreciated our contributions to improving Arkansans' health.

Complaint Committee Report

Dismiss, lack of evidence to prove violation

721-06-05-19/Solicitation, 722-06-05-19/Solicitation, 723-06-05-19/Solicitation,
725-06-07-19/Unprofessional Conduct, 726-06-07-19/Unprofessional Conduct

The remaining 8 complaints are pending or under further investigation/review.

Dr. Heard motioned to accept investigation committee's report, but that we send a letter informing the respondent to review specific laws and rules that pertain to the complaint. Motioned seconded by Mr. McCoy. Motion passed.

New Business continued

Markup of Proposed Rules & Legislative changes

The board was provided with a markup of all proposed rule changes that the board wishes to make and those required from the recent general session. This booklet is simply a markup for the board to review and consider the changes in the rules section. The board's counsel explained three different model rules regarding several laws that were passed during this past session. The "Military veteran Automatic Licensure under Act 820" language is for military applicants and does not need additional drafting. This language was vetted and provided by the AG's office. The second model language presented by counsel is "pre-licensure criminal background check" per Act 990. It was explained that an applicant may petition the board for a pre-licensure determination of whether the individual's criminal record will disqualify them from licensure and whether a waiver may be obtained. This language was vetted and provided by the AG's office, however, the board could draft their own language if they choose. The third model language provided "Reciprocity Under Acts 426/1011" does need board specific educational requirements added to it. This rule would add additional work for agency staff to research other state requirements in relation to the board's requirements for licensure. Dr. Moore called for a vote regarding the Military veteran language. Mr. McCoy motioned to accept it as written. Dr. Courtney seconded the motion. Motion passed.

The pre-licensure criminal background check language and reciprocity language will be tabled until the October meeting to allow the board to review and fill in the sections of the reciprocity rule.

The board was provided a working draft rule booklet as well as a clean rule draft booklet to give them an idea of what the rules will look like with their changes.

Other business before the board

Externship/Preceptor Application requests

Alexander Burbach submitted an externship application due to not having all his national board exams completed. Dr. Brian Reilly submitted a preceptor/supervisor application as well, however, it was not submitted by the agenda deadline. Due to health reasons Dr. Reilly asked if this could be reviewed by the board even though it was late. All application fees have been paid and the applicants chiropractic transcript is on file proving he has graduated chiropractic college. Dr. Courtney moved to accept the externship and preceptor applications. Motion seconded by Mr. Gunter. Motion passed.

ADJOURN

Dr. Moore moved to adjourn. Dr. Courtney seconded. Motion passed. The Board adjourned at 1:05 p.m.

*Board minutes approved: **October 15, 2019***