

**North Carolina Board of Chiropractic Examiners**  
**Regular Board Meeting**  
**October 21, 2016**  
**Minutes**



Time and Place of Meeting: A regular meeting of the North Carolina Board of Chiropractic Examiners was held in Concord, North Carolina on Friday, October 21, 2016.

Presiding: Dr. Bruce Hilton, President

Members Present: Dr. Ray Armstrong, Vice President  
Dr. Richard Davis, Jr., Secretary  
Dr. Randy Schilsky, Treasurer  
Dr. Kevin Sharp  
Dr. Jessica Benningfield  
Ms. Jacqueline Hobbs  
Mr. Adam Bridgers

Members Absent: None

Quorum Present: Yes

Staff Present: Mr. Thomas Sullivan, Executive Director  
Mr. Vance Kinlaw, Counsel to the Board  
Dr. Ricky Sides, Director - Standards and Enforcement

Meeting Called to Order: President Dr. Hilton called meeting to order at 10:10 AM and stated that a Quorum was present. He then turned the meeting over to Mr. Sullivan to review several procedural matters.

Procedural Matters: Mr. Sullivan reminded all Board Members of their responsibilities under the Ethics and Conflict of Interest statutes and the Board's mission and statutory responsibilities to protect the public in all of its actions.

Mr. Sullivan then presented the Minutes from the Regular Meeting of the Board on July 22, 2015 and the Special Meeting of the Board on September 22, 2016. He asked if there were any comments or corrections.

**With no comments or corrections, a motion was made to approve the Minutes of the respective meetings, as submitted. The motion was seconded and Approved.**

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Attorney's Report:

Mr. Kinlaw reported on the following:

Amended Rule 10.0503 Determination of Probable Cause passed, effective Oct. 1, 2016.

Public Meeting held Oct. 6 in Concord on New Prepaid Treatment Plan Rule - 10.0305. No one from the Public attended the Meeting, however, two comments were received via email. Both comments were presented and reviewed by the Board.

Mr. Kinlaw reviewed an Amendment to the Rule that more specifically defined a Prepaid Treatment Plan.

**After some discussion, a Motion was made to approve the Amendment. The Motion was seconded and Approved.**

Public Comment period open through Oct. 31st. A Board Call will be held to approve the Final Version.

Standards & Enforcement:

Dr. Sides reported on Complaint Activities:

- Backlog and Complaints filed YTD = 60
- Pace of new Complaint filing has leveled off since July.
- 5 new complaints filed since July, down from 11.
- 9 complaints currently open/active, down from 13.

Legislative Report:

Mr. Sullivan reported on the recent APO Meeting

- Held meeting on Oct. 4th to discuss next steps with 22 OLA's for elimination /consolidation and reviewing evaluation criteria.
- Sen. Andy Wells named Committee Co-Chair to replace Sen. Hartsell (retiring). Wells running unopposed.
- Co-Chair Jordan also running for re-election.
- Next APO meeting to be scheduled after the election in November.

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Education Committee: Chairmen of the Committee, Dr. Sharp reported the following:

- Appointed by Dr. Hilton in August.
- Committee has met three times since August.
- Focused on XT Exam Review (NC 55% +/- vs Nat'l 75% +/- pass rate).
- Reviewed statistical analysis of exam questions and each question/answer; created new exam for December 4th.
- Recommend Board approve a passing grade of 70% on XT Exam.

**A Motion was made to establish the passing grade for the XT exam at 70% and make the appropriate amendment to Rule 10.0206. The Motion was seconded and with no further discussion was Approved.**

Old Business:

*Random Office Inspection Update*

Mr. Sullivan and Dr. Sides presented a Report on 2 initial office inspections completed since the July Meeting. These inspections were completed in the offices of Board members Hilton and Davis.

After some discussion, Dr. Sides and Mr. Sullivan were asked to review and recommend a course of action on Random Office Inspections at the January 2017 Board Meeting

New Business:

*Request to review VM solicitation of PI related patients.*

Dr. Hurst presented a request for a Declaratory Rule as an exception to Rule 10.0303 (a) regarding the use of "Voicemail Drop" technology to solicit PI victims. After some discussion, a request was made to take this up in Closed Session to get counsel's advice and maintain Attorney/Client Privilege.

*"Non-Conforming" Certification Disclosure proposal*

Dr. Davis brought forth a concern about the number and usage of certifications listed by DC's that could be considered misleading and possibly an advertising violation. He presented a proposal that outlined requirements necessary for the BOE to recognize specific certifications.

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**After some discussion, a Motion as made to have this topic taken up by the Education Committee and have a recommendation for the Board to review at the January 2017 Meeting. The motion as seconded and with no further discussion was Approved.**

*Request for Reinstatement*

Dr. Mulvihill - Dr. Sides reviewed the case for Reinstatement of Dr. Mulvihill.

**After some discussion, a Motion was made to reinstate Dr. Mulvihill upon successful completion of the following: 18 CE hours (6 hours in Documentation), pay reinstatement fee and license fee, and pass the JP Exam. The Motion was seconded and with no further discussion was Approved.**

*Review of Practice Guidelines*

Mr. Sullivan notified the Board that the current Guidelines for the Practice of Chiropractic in NC have not been reviewed since 2009 and suggested a review would be appropriate.

Following some discussion, a Motion was made that Dr. Hilton Chair and appoint members to the Practice Guidelines Review Committee. The Committee will meet and make recommendations to the Board for any changes/updates to the Guidelines. The Committee finds will be presented at the January 2017 Board Meeting.

Committee members appointed were:

Dr. Benningfield  
Dr. Rick Davis  
Dr. Armstrong  
Dr. Sides  
Mr. Kinlaw

**The motion was seconded and with no further discussion was Approved.**

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2017 Board Nominee Elections

Mr. Sullivan reminded the Board of 3 term expirations in 2017 and the need to set a date, time, and location for the Nominee Election. The terms that will expire are:

*Dr. Ray Armstrong – March 15, 2017 (Governor appointment)*  
*Dr. Randy Schilsky – March 15, 2017 (Governor appointment)*  
*Dr. Rick Davis – June 30, 2017 (House appointment)*

Dr. Hilton proposed that the Nominee Elections be held during the 2017 Spring NCCA Convention on March 24, 2017. The location will be the Embassy Suites in Cary, NC.

**A Motion was made to hold the Nominee Elections on Friday, March 24, 2017 during the NCCA Spring Conference being held at the Embassy Suites in Cary, NC. The Motion was seconded and with no further discussion was Approved.**

Adjourned for Lunch at 12:40 PM

Meeting Called to Order at 1:30 PM

New Business (Continued):

Dr. Schilsky requested a clarification on CE credits for Board Members for attending Board Meetings, attendance at Interstate Regulatory Meetings and DC's teaching classes.

- Mr. Kinlaw clarified that in NCGS 90-155 "attendance" includes the CE class instructor. Therefore, instructors of CE course can claim CE credits toward their annual CE requirement.
- Rule 10.0210 addresses that DC's attending both morning and afternoon sessions of Interstate Regulatory Meetings of

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the FCLB and/or NBCE can earn up to 12 hours of CE credits toward their annual CE requirements.

- As follow-up to the July Meeting's decision to not allow CE credit's for attending Board Meetings, an effective date was not specified.

**A motion was made to have the effective date of the change be 1/1/17. The motion was seconded and with no further discussion was Approved.**

Mr. Sullivan then brought up the use of Position Statements which the Board has not used in the past. After some discussion, Mr. Sullivan was assigned the task of reviewing the use of Position Statements and make a recommendation at the January Board meeting.

The Location of Board meetings was brought up. A desire for more centrally located meetings was discussed. Mr. Sullivan will work with Dr. Hilton on planning and cost analysis of Board Meeting locations for 2017.

A request was made for the Board Office to follow-up and confirm attendance of all Board members for meetings that occur between Regularly scheduled Board Meetings. Mr. Sullivan, or a member of the Board staff, will confirm directly with all Board members.

Executive Director's Report: Mr. Sullivan reported on the following:

- 2015-2016 Financial Audit completed and filed.
- 93-B Annual Report completed and filed.
- 2016-17 Budget Recap
- Presentation of Revised Budget for 2016-17.
- Discussion and Q&A around various items in the Revised Budget. A request was made to continue the Budget discussion in Closed session to address employee compensation.
- Presentation of Q1 Financial results

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Public Comments: Several comments were made and questions asked about the Budget. Mr. Sullivan provided answers to the questions.

Closed Session: Dr. Hilton stated that there was business to bring before the Board that would require a Closed Session per G.S. 143-318.11.

**A motion was made to move into Closed Session. The Motion was seconded and Approved.**

**With Closed Session business completed, a motion was made to return to Open Session. The motion was seconded and with no further discussion was Approved.**

Return to Open Session:

Announcements: Dr. Hilton announced that the next Regular Board Meeting will be held on Friday, January 27, 2017.

Adjournment: With no further business to be brought before the Board, Dr. Hilton adjourned the Meeting at 4:15 PM.

Respectfully submitted this 27<sup>th</sup> day of January 2017.

*Richard K Davis, DC, DABCO*

Richard K. Davis, Jr., DC, DABCO  
Secretary, Board of Chiropractic Examiners