

North Carolina Board of Chiropractic Examiners
Regular Board Meeting
July 26 - 27, 2019
Minutes



Time and Place of Meeting: A regular meeting of the North Carolina Board of Chiropractic Examiners was held in Durham, North Carolina at Sheraton Imperial Hotel on Friday, July 26 and Saturday, July 27, 2019.

Members Present: Dr. Kevin Sharp
Dr. Thomas Ayres
Dr. Thomas Mitchell
Dr. Christopher Outten
Dr. John Hammer
Dr. Raymond Chavez
Ms. Kimberly Swintosky
Ms. Lulu Caballeros

Absent: None.

Quorum Present: Yes

Staff Present: Mr. Thomas Sullivan, Executive Director
Ms. Catherine Lee, Esq., NCL Board Counsel
Ms. Christina Cress, Esq., NCL Board Counsel
Dr. Ricky Sides, Director – Standards & Enforcement
Ms. Lisa Jones, Investigator
Mr. John Riggleman, Licensing Specialist

Invited Guest: Ms. Heather Wrenn, Executive Director – NCCA

Meeting Called to Order: Dr. Sharp called the meeting to order at 10:00 AM.

Oath of Office: He then announced that the first order of business would be for the most recent appointees to be sworn in by taking the Oath of Office. The Oath of Office was administered by Ms. Bonnie Rattatz, paralegal and notary public in the Board Counsel firm of Nichols, Choi & Lee. The following appointees were sworn in and individual notarized statements were completed and are on file in the Board Office:

- Dr. Kevin Sharp (Senate appointee)
- Dr. Raymond Chavez (House appointee)
- Dr. Thomas Mitchell (Governor appointee)
- Dr. Christopher Outten (Governor appointee)
- Ms. Kimberly Swintosky (Governor appointee – Public Member)
- Ms. Lourdes Caballeros (Governor appointee – Public Member)

Dr. Sharp then took roll and stated that a Quorum was present. He reminded all Board Members of Ethics and Conflict of Interest

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Requirements and our Legislative mandate to properly regulate doctors of chiropractic for the benefit and protection of the people of North Carolina.

Approval of Minutes:

Dr. Sharp asked if there were any comments or corrections to the Minutes from the Regular Board Meeting held on April 26, 2019.

With no comments or corrections, a Motion was made to approve the Minutes of the Regular Board Meeting held on April 26, 2019 as submitted. The Motion was seconded and Approved.

President's Remarks:

Dr. Sharp reviewed the FCLB National Meeting held on May 2-4, 2019. At that meeting, the Board was named the recipient of the 2019 Chiropractic Licensing Board of the Year.

He concluded his remarks with a reminder of the upcoming Nominee Elections on September 13, 2019 in Wilmington, NC. Two Governor appointments are open on March 15, 2020; Dr. Thomas Ayres and Dr. John Hammer.

Election:

Dr. Sharp then stated that with the departure of Dr. Davis from the Board, a new Secretary needs to be elected.

Dr Sharp outlined the "training" process Dr. Hammer has been going through over the last 8 months to succeed Dr. Davis as Secretary. Continuity is especially important to the Secretary position and one can't be expected to walk-in to the position.

A motion was made to elect Dr. Hammer as Secretary. The motion was seconded and approved unanimously.

Dr. Sharp then called for the Attorney's Report

Attorney's Report:

Ms. Christina Cress attended in place of Jack Nichols and commented on the following areas:

- NC General Assembly
- Executive Branch
- Rulemaking
- Disciplinary Hearing Schedule Review
- Unlicensed Practice – Injunction Hearing 1/17/19

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- Rev Comm/Stds & Enforce: Mr. Sullivan reported on Complaint activity YTD 2019:
- Complaints filed – 27 (+2 from Oct)
 - PC Hearings held – 19 (+5 from Oct).
 - Complaints Resolved – 19 (+11 from Oct) (includes prior years).
 - PC found – 21 (+5 from Oct) (includes prior years).
- Executive Director's Report Mr. Sullivan reviewed the unaudited actual/budget results for Fiscal Year 2018-19 that ended June 30, 2019.
- Mr. Sullivan then discussed how the positive year just completed and the latest information on the coming year will impact the 2019-20 Business Plan/Budget.
- Old Business: Mr. Sullivan provided an update on the FDA's continuing review of CBD. The first public hearings were held on May 31, 2019 in Washington D.C. Over 4,000 comments were provided and the Public comment period was extended until July 16, 2019.
- There is no current information that has changed the Board's position that it will not make a recommendation on the use or sale of CBD or CBD-related products by licensees until the FDA rules on how they will regulate CBD and CBD-related products.
- Public Session: Dr. Sharp then announced that the Public Session of the meeting will begin and requested if anyone would like to speak and reminded them of the 5-minute time limit.
- Dr. Sharp thanked the public in attendance for coming and stated that this concluded the Public Comment section of the meeting.
- Lunch Recess: Dr. Sharp stated at 12:14 P.M. that the Meeting will continue following a lunch recess and reconvene at 1:00 PM.
- Reconvene Meeting: Dr. Sharp reconvened the Meeting at 1:00 P.M. and reminded all Board Members of Ethics and Conflict of Interest Requirements and our Legislative mandate to properly regulate doctors of chiropractic for the benefit and protection of the people of North Carolina.
- Dr. Sharp then called for any New Business to be brought before the Board.

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New Business:

Mr. Sullivan presented an overview of the Board Office staffing. Mr. Sullivan then led a group discussion to complete a SWOT (Strengths, Weaknesses, Opportunities, and Threats) analysis of the Board.

Mr. Sullivan next referenced the proposed amendments to existing Rules and New Rules for the Boards consideration.

He started with 21 NCAC 10 .0103 Structure of Board. Dr. Sharp asked if there was any discussion. Hearing none, Dr. Sharp asked if there was a motion to approve the amendments to 10 .0103 as submitted.

A motion was made to approve 10 .0103 as submitted. The motion was seconded and unanimously approved.

Mr. Sullivan than presented 21 NCAC 10 .0204 Licensure. Dr. Sharp asked if there was any discussion. Hearing none, Dr. Sharp asked if there was a motion to approve the amendments to 10 .0204 as submitted.

A motion was made to approve 10 .0204 as submitted. The motion was seconded and unanimously approved.

Mr. Sullivan than presented 21 NCAC 10 .0207 Continuing Education Seminars. Dr. Sharp asked if there was any discussion. Hearing none, Dr. Sharp asked if there was a motion to approve the amendments to 10 .0204 as submitted.

A motion was made to approve 10 .0207 as submitted. The motion was seconded and unanimously approved.

Mr. Sullivan than presented 21 NCAC 10 .0213 Certification of Clinical Assistants. Dr. Sharp asked if there was any discussion. Hearing none, Dr. Sharp asked if there was a motion to approve the amendments to 10 .0213 as submitted.

A motion was made to approve 10 .0213 as submitted. The motion was seconded and unanimously approved.

Mr. Sullivan than presented 21 NCAC 10 .0302 Advertising and Publicity. Dr. Sharp asked if there was any discussion. Hearing none, Dr. Sharp asked if there was a motion to approve the amendments to 10 .0302 as submitted.

A motion was made to approve 10 .0302 as submitted. The motion was seconded and unanimously approved.

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Mr. Sullivan than presented 21 NCAC 10 .0401 Petition For Adoption of Rules. Dr. Sharp asked if there was any discussion. Hearing none, Dr. Sharp asked if there was a motion to approve the amendments to 10 .0401 as submitted.

A motion was made to approve 10 .0401 as submitted. The motion was seconded and unanimously approved.

Mr. Sullivan than presented 21 NCAC 10 .0403 Procedure For Adoption of Rules. Dr. Sharp asked if there was any discussion. Hearing none, Dr. Sharp asked if there was a motion to approve the amendments to 10 .0403 as submitted.

A motion was made to approve 10 .0403 as submitted. The motion was seconded and unanimously approved.

Mr. Sullivan than presented 21 NCAC 10 .0406 Declaratory Rulings. Dr. Sharp asked if there was any discussion. Hearing none, Dr. Sharp asked if there was a motion to approve the amendments to 10 .0204 as submitted.

A motion was made to approve 10 .0406 as submitted. The motion was seconded and unanimously approved.

Mr. Sullivan than presented 21 NCAC 10 .0501 Filing Complaints. Dr. Sharp asked if there was any discussion. Hearing none, Dr. Sharp asked if there was a motion to approve the amendments to 10 .0501 as submitted.

A motion was made to approve 10 .0501 as submitted. The motion was seconded and unanimously approved.

Mr. Sullivan than presented 21 NCAC 10 .0503 Determination of Probable Cause. Dr. Sharp asked if there was any discussion. Hearing none, Dr. Sharp asked if there was a motion to approve the amendments to 10 .0503 as submitted.

A motion was made to approve 10 .0503 as submitted. The motion was seconded and unanimously approved.

Mr. Sullivan than presented 21 NCAC 10 .0706 Conduct of Board Hearings. Dr. Sharp asked if there was any discussion. Hearing none, Dr. Sharp asked if there was a motion to approve the amendments to 10 .0706 as submitted.

A motion was made to approve 10 .0706 as submitted. The motion was seconded and unanimously approved.

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Mr. Sullivan than presented 21 NCAC 10 .0708 Continuances. Dr. Sharp asked if there was any discussion. Hearing none, Dr. Sharp asked if there was a motion to approve the amendments to 10 .0708 as submitted.

A motion was made to approve 10 .0708 as submitted. The motion was seconded and unanimously approved.

Mr. Sullivan than presented 21 NCAC 10 .0709 Subpoenas. Dr. Sharp asked if there was any discussion. Hearing none, Dr. Sharp asked if there was a motion to approve the new Rule 10 .0709 as submitted.

A motion was made to approve 10 .0709 as submitted. The motion was seconded and unanimously approved.

Mr Sullivan stated that this addresses all amended Rules and New Rules for the Board's consideration. The Rules will be submitted to the Rules Review Committee on August 23, 2019. The required Public Hearing will be held at 6 P.M. on October 3, 2019 at the Board office in Raleigh. The conclusion of the Public Comment Period is November 15, 2019.

Dr. Sharp thanked Mr. Sullivan for his work in getting these Rules together for Board review. He also stated that this activity is a continuation of the modernization of the Board office.

Dr. Sharp then stated that we will begin a review of proposed Position Statements. Position Statements will be used by the Board going forward to deal with issues that don't require a Statute or Rule but provide clarification on the Board's position on specific topics.

Dr. Ayres began the Position Statement discussion with a review of what the differences are between Statutes, Rules, and Position Statements.

Mr. Sullivan then began a review of the proposed Position Statements for the Board's consideration.

Mr. Sullivan presented the Position Statement on Advertising and Publicity. Dr. Sharp asked if there was any discussion. Hearing none, Dr. Sharp asked if there was a motion to approve the Position Statement on Advertising and Publicity as submitted.

A motion was made to approve the Position Statement on Advertising And Publicity as submitted. The motion was seconded and unanimously approved.

Mr. Sullivan than presented the Position Statement on the Use of Audio and Video Recordings in Patient Care. Dr. Sharp asked if there was any discussion. Hearing none, Dr. Sharp asked if there was a motion to

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approve the Position Statement on Use of Audio and Video Recordings in Patient Care as submitted.

A motion was made to approve the Position Statement on Use of Audio and Video Recordings in Patient Care as submitted. The motion was seconded and unanimously approved.

Mr. Sullivan than presented the Position Statement on Child Maltreatment. Dr. Sharp asked if there was any discussion. Hearing none, Dr. Sharp asked if there was a motion to approve the Position Statement on Child Maltreatment as submitted.

A motion was made to approve the Position Statement on Child Maltreatment as submitted. The motion was seconded and unanimously approved.

Mr. Sullivan than presented the Position Statement on Departure from or Closing a Practice. Dr. Sharp asked if there was any discussion. Hearing none, Dr. Sharp asked if there was a motion to approve the Position Statement on Departure from or Closing a Practice as submitted.

A motion was made to approve the Position Statement on Departure from or Closing a Practice as submitted. The motion was seconded and unanimously approved.

Mr. Sullivan than presented the Position Statement on Dry Needling. Dr. Sharp asked if there was any discussion. Following some discussion, Dr. Sharp asked if there was a motion to approve the Position Statement on Dry Needling as submitted.

A motion was made to approve the Position Statement on Dry Needling as submitted. The motion was seconded and unanimously approved.

Mr. Sullivan than presented the Position Statement on Informed Consent. Dr. Sharp asked if there was any discussion. Hearing none, Dr. Sharp asked if there was a motion to approve the Position Statement on Informed Consent as submitted.

A motion was made to approve the Position Statement on Informed Consent as submitted. The motion was seconded and unanimously approved.

Mr. Sullivan than presented the Position Statement on Professional Obligations Pertaining to Incompetence, Impairment or Unethical Conduct. Dr. Sharp asked if there was any discussion. Hearing none, Dr. Sharp asked if there was a motion to approve the Position Statement on

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Professional Obligations Pertaining to Incompetence, Impairment or Unethical Conduct as submitted.

A motion was made to approve the Position Statement on Professional Obligations Pertaining to Incompetence, Impairment or Unethical Conduct as submitted. The motion was seconded and unanimously approved.

Mr. Sullivan than presented the Position Statement on Professional Use of Social Media. Dr. Sharp asked if there was any discussion. Hearing none, Dr. Sharp asked if there was a motion to approve the Position Statement on Professional Use of Social Media as submitted.

A motion was made to approve the Position Statement on Professional Use of Social Media as submitted. The motion was seconded and unanimously approved.

Mr. Sullivan than presented the Position Statement on Retention of Patient Records. Dr. Sharp asked if there was any discussion. Hearing none, Dr. Sharp asked if there was a motion to approve the Position Statement on Retention of Patient Records as submitted.

A motion was made to approve the Position Statement on Retention of Patient Records as submitted. The motion was seconded and unanimously approved.

Mr. Sullivan than presented the Position Statement on Referral Fees and Fee Splitting. Dr. Sharp asked if there was any discussion. Hearing none, Dr. Sharp asked if there was a motion to approve the Position Statement on Referral Fees and Fee Splitting as submitted.

A motion was made to approve the Position Statement on Referral Fees and Fee Splitting as submitted. The motion was seconded and unanimously approved.

Mr. Sullivan than presented the Position Statement on Sexual Exploitation of Patients. Dr. Sharp asked if there was any discussion. Hearing none, Dr. Sharp asked if there was a motion to approve the Position Statement on Sexual Exploitation of Patients as submitted.

A motion was made to approve the Position Statement on Sexual Exploitation of Patients as submitted. The motion was seconded and unanimously approved.

Mr. Sullivan than presented the Position Statement on Unethical Agreements in Complaint Settlement. Dr. Sharp asked if there was any discussion. Hearing none, Dr. Sharp asked if there was a motion to

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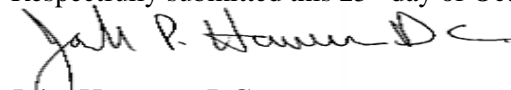


approve the Position Statement on Unethical Agreements in Complaint Settlement as submitted.

A motion was made to approve the Position Statement on Unethical Agreement in Complaint Settlements as submitted. The motion was seconded and unanimously approved.

- Dinner Recess: Dr. Sharp stated that it was 5:00 PM and that the Meeting will continue Saturday morning at 8:30.
- Reconvene Meeting: Dr. Sharp reconvened the Meeting at 8:30 AM Saturday, July 27, 2019 and reminded all Board Members of their Ethics and Conflict of Interest Requirements and our Legislative mandate to properly regulate doctors of chiropractic for the benefit and protection of the people of North Carolina.
- Required 93-B Training Dr. Sharp introduced Catherine Lee, partner at the Board Counsel firm of Nichols, Choi & Lee, PLLC who will give the NCGS 93B Training. This training is required for new Board members within 6 months of appointment date and every two years thereafter by all Board members (*Chavez absent*).
- Full Board Training Dr. Sharp then asked Mr. Sullivan to provide an overview of the Full Board Hearing process. Mr. Sullivan explained the process and went through a timeline of a theoretical hearing.
- Dr. Sharp picked up the discussion on the remaining Position Statements that were not reviewed yesterday. After some discussion and consideration of the time, the remaining Position Statements will be reviewed at the October meeting.
- Dr. Sharp asked if there is any further business to be brought before the Board. Hearing none, he moved into Announcement.
- Announcements: Dr. Sharp reminded the Board of the Nominee Elections on September 13, 2019 will begin at Noon.
- Dr. Sharp announced that the next Regular Board Meeting will be held at 10 AM on Friday, October 25, 2019 at a TBD Triangle location.
- Adjournment: With no further business to be brought before the Board, Dr. Sharp adjourned the Meeting at 12:17 PM. on Saturday, July 27, 2019.

Respectfully submitted this 25th day of October 2019.


John Hammer, DC

Secretary, Board of Chiropractic Examiners