

**FULL BOARD MEETING MINUTES
OF THE
BOARD OF CHIROPRACTORS
301 S PARK, HELENA, MT BASEMENT CONFERENCE ROOM
1:00 PM – 5:30 PM – OCTOBER 16, 2015**

1. CALL TO ORDER- ESTABLISH QUORUM-INTRODUCTION OF BOARD AND STAFF MEMBERS PRESENT (00:00:01)

Presiding Officer, Dr. Cathleen Fellows called the meeting to order in open session at 1:15 p.m. It was established that a quorum was present to begin deliberations.

Board Members Present:

Dr. Cathleen Fellows
Dr. Lee Hudson
Dr. Amy Pezo
Dr. V.J. Maddio

Board Members Not Present:

Ms. Alice Whiteman

Staff Present:

Mr. Dennis Clark, Executive Officer
Ms. Darcee Moe, Board Counsel
Ms. Debra Tomaskie, Administrative Specialist

Others Present:

Mr. Todd Younkin, DLI/BSD Administrator
Ms. Colleen White, Department Counsel
Mr. Kevin Maki, Department Counsel
Dr. Spence Jahner
Dr. Mark Wilson
Dr. Michael McClain
Dr. Jim Brandau
Dr. Kevin Willmot
Dr. Forrest Lumpry (phone)
Ms. Vanessa Reid (phone)

2. APPROVAL AND TENTATIVE MODIFICATION OF AGENDA ORDER (00:00:40)

October 16, 2015 (00:40)

The Board made no changes to the agenda.

3. REVIEW MINUTES (00:01:30)

April 17, 2015 Open Session (00:01:30)

Motion (00:02:11): Dr. Lee Hudson moved to approve the April 17, 2015 minutes of the Board of Chiropractors open session meeting as written. Dr. Amy Pezo seconded. Dr. Cathleen Fellows noted that her name was misspelled throughout the minutes.

Dr. Cathleen Fellows moved to amend the motion to approve the minutes with corrections. Dr. Lee Hudson seconded. Motion carried.

April 17, 2015 Closed Session (00:04:06)

Motion (00:04:00): Dr. Amy Pezo moved to accept the April 17, 2015 minutes of the Board of Chiropractors closed session meeting. Dr. Lee Hudson seconded. Motion carried.

4. PUBLIC OPPORTUNITY TO COMMENT (00:04:24)

“Under this item, the Board will offer an opportunity to members of the public in attendance to comment on any public matter under the jurisdiction of the Board that is not on the agenda of this meeting. While the Board cannot take action on any issues presented, the board will listen to comments and may ask staff to place the issue on a subsequent agenda. The presiding officer may limit the comment period in order to proceed with the board meeting.”

There were no public comments.

5. BOARD ACTION (00:05:00)

a. DIVISION UPDATE BY TODD YOUNKIN, ADMINISTRATOR FOR THE BUSINESS STANDARDS DIVISION: (00:30:00)

b. ADMINISTRATIVE SUSPENSION POLICY (SB 76): (00:05:20)

Review policy and motion to allow for administrative suspension of a license contingent on specific conditions – Darcee Moe, Board Counsel

Motion (00:27:27): Dr. Amy Pezo moved that the Board authorize the Department to administratively suspend a license as provided by 37-1-321 when:

- (a) an audit of continuing education, certification, or other qualification necessary for continued licensure demonstrates that the licensee is noncompliant with requirements established by a board;
- (b) the licensee fails to respond to an audit in (a) above;
- (c) the department receives notice of insufficient funds in the account used by the licensee to pay for an administrative fee or board fee or fine;
- (d) the department has reasonable grounds to believe the licensee did not possess the qualifications for initial issuance of the license because of error brought to the attention of the department; or
- (e) a licensee fails to comply with the terms of a final order imposed pursuant to 37-1-312.

Dr. VJ Maddio seconded. Motion carried.

c. NON-ROUTINE APPLICATIONS: (00:36:35)

**BY EXAM:
Forrest Lumpry, DC**

Adjourn to Executive Session (00:40:00)

Presiding Officer, Dr. Cathleen Fellows, adjourned the open session meeting at 2:00 p.m. to convene in closed session. A decision on whether to hold a meeting in executive session is in the discretion of the Presiding Chair pursuant to Section 2-3-203 MCA. The Presiding Chair has determined that the individuals under discussion of the Non-Routine Applications and Unlicensed Practice Complaints have a right to privacy which outweighs the public's right to know. Therefore, the Board meeting will be conducted in closed session unless the individuals who enjoy the right of privacy waive that right and request that the matter be discussed in open session. Following the closed session, the Chair will summarize the Board's disposition of the matters in open session.

d. UNLICENSED PRACTICE (Closed Session): (00:36:35)

2015-CHI-UNLIC-491

Reconvene Open Session (00:41:49)

Presiding Officer, Dr. Cathleen Fellows, reconvened the meeting in open session at 2:45 p.m.

Executive Session Report (00:41:52)

Presiding Officer, Dr. Cathleen Fellows, reported that the Full Board considered and determined to approve one non-routine application and dismiss, without prejudice, one unlicensed practice complaint.

e. RULE REVIEW: (00:42:02)

Discuss possible amendments to

[24.126.2103](#) CONTINUING EDUCATION REQUIREMENTS (00:44:08)

Motion (00:59:00): Dr. Cathleen Fellows moved to amend ARM 24.126.2103 (2) CONTINUING EDUCATION REQUIREMENTS, to read: "(2) New licensees to the state of Montana have from the date of their original licensure in Montana until the end of their first full renewal period to complete their first 13 hours of continuing education, and shall affirm on their second renewal application that they have attended and successfully completed a minimum of 13 hours of board-approved continuing education during that period". Dr. Lee Hudson seconded. Motion carried.

Motion (01:01:26): Dr. V.J. Maddio moved to propose the following new rule under ARM 24.126.2103: "The Department will conduct a random audit of licensees every renewal period. The audit shall include ten percent of active chiropractors". Dr. Amy Pezo seconded. Motion carried.

[24.126.2105](#) APPROVED CONTINUING EDUCATION (01:02:09)

Motion (01:03:19): Dr. Amy Pezo moved to amend ARM 24.126.2105 (2) APPROVED CONTINUING EDUCATION to read: "(2) From the date of their original licensure in Montana until the end of the first full renewal period, new licensees can fulfill the continuing education requirement by attending one session of the "new doc seminar"

in lieu of the 13-hour continuing education requirement". Dr. Lee Hudson seconded. Motion carried.

Motion (01:09:15): Dr. Catherine Fellows moved to strike ARM 24.126.2105 (6) in its entirety. Dr. Lee Hudson seconded. Motion carried.

[24.126.2301 UNPROFESSIONAL CONDUCT](#) (01:10:02)

[24.126.411 PATIENT RECORDS RETENTION](#) (01:19:46)

[NEW RULE I SEXUAL RELATIONS WITH A PATIENT AND SEXUAL MISCONDUCT](#)
(01:24:42)

Mr. Kevin Maki, Department Counsel, was present during the deliberations.

Motion (02:05:40): Dr. Lee Hudson moved to approve the recommended amendments of ARM 24.126.411 Patient Records Retention, ARM 24.126.2301 Unprofessional Conduct and New Rule I Sexual Relations with a Patient and Sexual Misconduct as presented by Department Counsel, Kevin Maki. Dr. Catherine Fellows seconded. Motion carried.

Small Business Impact determination for above rules and already approved repeals of: (02:08:47)

[24.126.405 BOARD MEETINGS](#)

[24.126.406 RECORD OF MINUTES AND HEARINGS](#)

[24.126.2101 RENEWALS](#)

Motion (02:17:45): Dr. Amy Pezo moved that the Board has determined that the rule repeals (24.126.405, 24.126.406, 24.126.2101), proposed rule amendments (24.126.411, 24.126.2103, 24.126.2105, 24.126.2301) and proposed (New Rule I) will not cause a significant and direct impact on small businesses in Montana. Dr. Cathleen Fellows seconded. Motion carried.

Motion for percentage of licensees for the 2016 CE audit (02:21:53)

Motion (02:22:33): Dr. Lee Hudson moved that the Board annually review 10% of the active licensees for the 2015 CE audit. Dr. Cathleen Fellows seconded. Motion carried.

f. LEGISLATIVE: (02:24:30)

SB 79, Clarify fees charged in relation to licensing boards (02:24:40)

SB 390, Economic Affairs Interim Committee (EAIC) to conduct study of fees assessed by licensing boards at the December 1-2, 2015 meeting (02:29:20)

Discuss possible legislation for the 2017 session (02:24:40)

Informational item.

g. DRY NEEDLING: (02:31:00)

Montana Board of Physical Therapy – Dry Needling update

Dry needling rule notice

Economic Affairs Interim Committee (EAIC) request to delay adoption of the Board of Physical Therapy dry needling rule
 Outcome of EAIC dry needling review of August 31, 2015 tabled to December 1-2, 2015 meeting.

Informational item.

h. CE COURSES FOR APPROVAL: (02:43:36)

ICD-10-CM coding workshop, for 13 hours, submitted by Dr. Steven Stanchuk

Motion (02:45:40): Dr. Amy Pezo moved to deny based on the workshop being clerical and not clinical in nature. Dr. Lee Hudson seconded. Motion carried.

6. EXECUTIVE OFFICER REPORT: (02:47:08)

Fiscal Year End 2015
 Appropriation for Fiscal year 2016
 Current financial report
 Licensing statistics

7. FEDERATION OF CHIROPRACTIC LICENSING BOARDS (FCLB): (03:04:30)

Report on the FCLB regional meeting in Coeur D'Alene, Idaho, October 1-4, 2015.
 Select member(s) to attend the national FCLB conference in Phoenix, AZ. April 27th- May 1, 2016.

Motion (03:09:22): Dr. Cathleen Fellows moved to approve sending Drs. Lee Hudson and Amy Pezo to attend the National FCLB Conference in Phoenix, Arizona, on April 27 to May 1, 2016. Dr. Amy Pezo seconded. Motion carried.

Motion (03:14:35): Dr. Cathleen Fellows moved to approve expenses for Executive Officer, Dennis Clark if he is selected for scholarship. Dr. Lee Hudson seconded. Motion carried.

8. NATIONAL BOARD OF CHIROPRACTIC EXAMINERS (NBCE): (03:15:00)

Appoint a member to participate in the November 2015 Part IV Exam in Greeley CO. CO., November 13th -15th.
 Appoint a member to participate in the May 2016 Part IV Exam in Greeley CO., May 15th – 17th.

Motion (03:18:17): Dr. Cathleen Fellows moved to appoint Dr. Amy Pezo to participate as primary in the NBCE Part IV Examination in Greeley Colorado, May 15 through 17, 2016, as well as, appoint Dr. V.J. Maddio as alternate. Dr. Amy Pezo seconded. Motion carried.

9. FEDERATION OF ASSOCIATIONS OF REGULATORY BOARDS (FARB): (03:19:55)

FTC vs North Carolina Board of Dentistry Supreme Court Decision
 FARB Regulatory Policy Summit
 Competition in the Context of Professional Self-Regulation, Charles M Key ESQ.
 FTC vs North Carolina Board of Dentistry article from *Modern Healthcare*

Board Counsel, Darcee Moe will be presenting further information as it comes in.

10. NOMINATION FOR PRESIDENT, VICE PRESIDENT AND SECRETARY/TREASURER: (03:21:40)

Motion (03:21:52): Dr. V.J. Maddio nominated Dr. Lee Hudson as President. Dr. Cathleen Fellows seconded. Motion carried.

Motion (03:22:25): Dr. V.J. Maddio nominated Dr. Amy Pezo as Vice President. Dr. Cathleen Fellows seconded. Motion carried.

Motion (03:22:42): Dr. Lee Hudson nominated Dr. V.J. Maddio as Secretary-Treasurer. Dr. Amy Pezo seconded. Motion carried.

11. NEXT MEETING: (03:23:00)

Set spring and fall 2016 dates
Interim meeting date

Motion (03:27:15): Dr. Lee Hudson moved to approve April 1, 2016 as the spring meeting date for 2016. Dr. V.J. Maddio seconded. Motion carried.

Motion (03:29:09): Dr. Lee Hudson moved to approve October 14, 2016 as the fall meeting date for 2016. Dr. V.J. Maddio seconded. Motion carried.

Motion (03:30:20): Dr. Lee Hudson moved to schedule interim meetings if three or more non-routine applications are received prior to the next scheduled meetings. The interim meetings to be carried out by teleconference at a date to be determined. Dr. Amy Pezo seconded. Motion carried.

12. ADJOURN (03:32:45)

Motion (03:32:45): Dr. Lee Hudson moved to adjourn the Board of Chiropractors Full Board open session meeting at 5:30 p.m. Dr. Catherine Fellows seconded. Motion carried.