

**Arkansas State Board of Chiropractic Examiners  
Board Meeting- In Person & Video/Teleconference  
Tuesday, July 20, 2021**

**CALL TO ORDER**

The board meeting in person and via Zoom video/teleconference was called to order by Tanya Holt, D.C., President, at 10:00 a.m.

**ROLL CALL**

Board Members present:

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

Board Members absent:

None

Staff present:

Laurie Mayhan, Executive Director  
Brad Nye, Assistant Attorney General

Guests present:

Rachel Hoard  
Bonnie Hicks  
Chris Cathey, DC

## NEW LICENSEE ORIENTATION

The new licensee orientation was held today via video conference for new licensees due to current social distancing guidelines. However, licenses will still be issued this day for those that were scheduled to receive a license today and are in attendance. All applications were reviewed and approved by Dr. Michael Courtney prior to today's meeting.

Dr. Chris Cathey spoke on behalf of the Arkansas Chiropractic Society and Mrs. Bonnie Hicks spoke on behalf of the Arkansas Chiropractic Physicians association. Each board member was given a turn to speak to the new licensees. Then the board's director went over some new licensee orientation materials.

Congratulations to the following applicants who received their license this day with their attendance at today's orientation.

License #	First Name	MI	Last Name
16281	Bao		Xiong
16282	Stephen		Offenburger
16283	Tanner	L	Underdahl
16285	Timothy	L	Haynes
16286	Alice	M	Cardona-Otero
16287	Shelby	J	Wilson
16288	James	R	Neil
16289	Brice	A	Rogers
16290	Derek	J	Gililand
16291	Richard	S	Parsons
16292	Celeste	A	Clarke
16293	Blake	A	Butler
16294	Luke	P	Audirsch
16295	Larry	S	Manley
16296	Samuel	D	Cates
16297	Christopher	M	Tonymon
16298	Korbin	R	Duffy

**Garrett Goodlett** attended the April Orientation, however, since he was a late graduate, his license was not issued until 4/26/2021.

16284	Garrett	M	Goodlett
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**Board recessed at 10:53 am for a break and resumed at 11:00 am.**

## MINUTES

Mr. McCoy motioned to accept the April 6, 2021 board minutes. Motion seconded by Dr. Courtney. Motion passed.

Dr. Courtney motioned to accept the June 24, 2021 special meeting minutes. Mr. McCoy seconded the motion. Motion passed.

## DIRECTOR'S REPORTS

### Budget Report

An itemized cash flow statement for FY2021 (July 1, 2020 – June 30, 2021) was presented to the Board along with accounting reports through June. The allotted budget for FY21 was **\$187,370.00**. Total amount expended for FY2021 was **\$129,467.21**. Total revenue received for FY21 was **\$200,061.01**, which includes monies receipted, interest distribution, and rebates or transfers received. A list of all agency expenditures for April - June was also provided. An update for our new database with Thentia is in the works and we will hopefully have a go live date for the end of this year. An excerpt of the ASBCE budget from SB108 regarding ADH's budget bill was provided showing the ASBCE budget for FY22 was approved for \$189,987. At this time the director is not sure what the agency's allotment from this budget will be.

#### (July 1, 2020– June 30, 2021) FY2021

CE Status	# of Applications	# of Hours	Fee Due	Fee Paid
Approved	649	5182	\$ 25,910.00	\$ 25,910.00
Approved w/exception	2	70	\$ 350.00	\$ 350.00
Not Approved	1	16	\$ 80.00	\$ 80.00
Pending	0	0	\$ 0.00	\$ 0.00
Cancelled	2	87	\$ 435.00	\$ 435.00
Incomplete	0	0	\$ 0.00	\$ 0.00
Void	0	0	\$ 0.00	\$ 0.00
<b>Total:</b>	<b>654</b>	<b>5355</b>	<b>\$ 26,775.00</b>	<b>\$ 26,775</b>

**AR7967:** TX Chiro. Assoc., exception was to disallow breaks to count as CE hours.

**AR8556:** TN Chiro. Assoc., exception was to disallow 6 hrs of TN law and 4 hrs specifically for CA's.

**AR8259:** UCA of OK, not approved due submitting additional info late and having a speaker who is known for teaching non-scientific content not related to the practice of Chiropractic. Geoffrey Riccio, DC courses will not be approved in the future.

**Cancelled** courses were due to the sponsor's cancellation because of Covid.

### 2021 Licenses Stats (as of 04/06/21)

581 Active Licensees

47 Active Out of State Licensees

35 Inactive Licensees

4 Externs

21 Licenses Forfeited for failure to renew within 60 days after 12/31/2020 license expiration or communication by ASBCE. All licensees that let their license expire have been contacted to see if they are currently practicing or not, and that they will have to reapply for licensure. Most licensees noted in April meeting reside and/or practice outside of Arkansas. Those who voluntarily let their license expire and notified the board were not contacted.

### FY2021

A total of 5 Freedom of Information Act requests have been received from April 6, 2021 to July 16, 2021. The requests were provided for the board to review.

### END OF FISCAL YEAR 2021 REPORTS

**FISCAL YEAR 2022**  
(July 1, 2021– June 30, 2022) FY2022

<b>CE Status</b>	<b># of Applications</b>	<b># of Hours</b>	<b>Fee Due</b>	<b>Fee Paid</b>
Approved	12	219	\$ 1,095.00	\$ 1,095.00
Approved w/exception	0	0	\$ 0.00	\$ 0.00
Not Approved	0	0	\$ 0.00	\$ 0.00
Pending	0	0	\$ 0.00	\$ 0.00
Cancelled	0	0	\$ 0.00	\$ 0.00
Incomplete	0	0	\$ 0.00	\$ 0.00
Void	0	0	\$ 0.00	\$ 0.00
<b>Total:</b>	<b>12</b>	<b>219</b>	<b>\$ 1,095.00</b>	<b>\$ 1,095.00</b>

The director also provided the agency’s FY2019 Fiscal Audit report showing that there were no instances of noncompliance considered reportable.

The director also informed the board that we are currently working on the closing books for FY21, but if we cannot finish them before she leaves, the books will be turned over to Matt Gilmore and ADH staff to complete with the agency’s CAFR representative.

Dr. Moore motioned to accept the director’s reports. Motion seconded by Dr. Ungerank. Motion passed.

## **OLD BUSINESS**

### **AR BlueCross BlueShield – Dr. Raker**

Dr. Raker, over the past several months has submitted documentation and/or his concerns about ARBCBS denying or reducing insurance payments compared to other providers, and concerns about ARBCBS defining or determining what is within the ASBCE scope of practice. The Board took this matter up with their attorney on June 24<sup>th</sup> where Dr. Courtney motioned that the board request an AG opinion regarding “Can an insurance company determine a physician’s scope of practice and base that as a reason for non-payment in light of 23-79-114.” With that, counsel research previous and current opinions to help the board draft a request for an AG opinion. The drafted language was reviewed by the board, today, and a motion was made by Dr. Courtney to approve it and send it for an AG opinion. Motion seconded by Dr. Hays. Motion passed.

### **Texas Supreme Court Ruling**

This item is informational as it touches on similar billing issues as the previous agenda item. No action needed by the board.

### **Telehealth/Telemedicine - Chiropractic**

This item was tabled at a previous meeting as legislation was still pending. With recent passage of updated telehealth laws, the board agrees according to Act 829 of 2021, that an in person visit must take place to establish the patient/doctor relationship for chiropractic in Arkansas. However, the use of telemedicine after the initial patient/doctor relationship has been established would have limited use in chiropractic care. A motion was made by Dr. Courtney to post the laws that govern telehealth on the website for direct reference. Motion seconded by Mr. Gunter. Motion amended to add that 17-80-402 definitions be added also. Amendment seconded by Mr. Gunter. Motion with amendment passed.

Further discussion about the two emails provided from Ms. Prather and Dr. Moll about telemedicine in Arkansas. Dr. Moore motioned to hold the previous motion until the board can clarify the new laws have been updated according to the acts discussed. Motion seconded by Mr. McCoy. Motion passed.

## **NEW BUSINESS**

### **Election of Officers – FY21**

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

Dr. Holt opened the floor for nominations for Secretary. Mr. Gunter nominated Dr. Courtney. Dr. Hays seconded. No other nominations were made. Motion passed.

Dr. Holt opened the floor for nominations for Treasurer. Dr. Courtney nominated Mr. Gunter. Dr. Ungerank seconded. No other nominations were made. Motion passed.

Dr. Holt appointed Dr. Ungerank to continue as the Board Investigator.

Dr. Courtney motioned that Ms. Lisa Cross serve on the complaint committee in the interim while the current director is out. Motion seconded by Dr. Ungerank. Motion passed.

### **Meeting Dates for FY22**

The Board agreed on the following dates for their FY22 board meetings/new licensee orientations:

November 4, 2021	Thursday	9:00 am
January 20, 2022	Thursday	9:00 am
April 14, 2022	Thursday	9:00 am
July 21, 2022	Thursday	9:00 am

Director reminded the board of the upcoming District meeting being held in Jersey City, NJ 10/7/21-10/10/21 and Annual conference in Denver, CO 5/4/22-5/8/22. No one was interested in attending the district meeting this year, but Dr. Holt and the director are potentially available to attend the Annual conference.

### **93<sup>rd</sup> General Assembly Health Related Acts review**

The board discussed a listing of Acts that were recently passed during the 93<sup>rd</sup> General Assembly. The majority of the Acts did not affect this board however, the following Acts do and the board will be reviewing for potential rule changes.

**Act 135:** *Arkansas Occupational Licensing of Uniformed Service Members, Veterans, and Spouses Act of 2021. Amends military licensure section again. Will require updated Rules reflecting updated definitions. **EMERGENCY CLAUSE***

Table and review for possible rule change and/or AG model language.

**Act 390:** *Clarifies the exemption to the Licensure by the veterinary medical examining board for chiropractors performing chiropractic upon animals.*

Board will update current rule according to the recent change in law.

**Act 589:** *Regulates the use of procurers by Chiropractic Physicians. Board of Chiropractic*

*Examiners may adopt rules to implement.*

Dr. Moore motioned to add the updated statute to the agency's law and rule booklet and review the updated law and current rules for possible rule updates. Motion seconded by Dr. Courtney. Motion passed.

**Act 748:** *Provides potential for waiver for what were permanent prohibiting offenses in criminal background checks under Act 990 of 2019.*

Table and review for possible rule change and/or AG model language.

**Act 762:** *"Grandfathers in" those potential licensees in school at that time Act 990 was enacted regarding prohibiting offenses.*

Table and review for possible rule change and/or AG model language.

**Act 826:** *Adds other occupational licensure permanently prohibiting offenses to 17-3-102.*

Table and review for possible rule change and/or AG model language.

### **Surface EEG**

Dr. Raker submitted a request to the board regarding whether or not a non-invasive surface electrode EEG diagnostic test is within the Arkansas Chiropractic scope of practice. Dr. Courtney stated that surface EEG has been in chiropractic practice for a long time, BJ Palmer used EEG, in Iowa, in the 30's or 40's, so there is a historical bases for using surface EEG in chiropractic. Dr. Courtney motioned that Surface EEG is within the Arkansas Chiropractic scope of practice. Motion seconded by Mr. McCoy. Motion passed.

### **Manipulation Under Anesthesia**

Kevin Kaldy, DC, with the Veterans Affairs Palo Alto Health Care System, submitted a request to the ASBCE regarding the current state of scope for "Manipulation Under Anesthesia performed by a Chiropractor". He asked if it was within the Arkansas Chiropractic scope of practice. The board gave a directive to the director to respond to his email informing him it is not within Arkansas Chiropractic scope of practice.

### **Temporary License Requests**

**Carol A. Carson** submitted a unsupervised temporary license request. Dr. Ungerank motioned to approve the unsupervised temporary license request. Motion seconded by Dr. Moore. Motion passed.

**Joseph T. Gustafson** submitted a unsupervised temporary license request. His application is pending the receipt of his CBC II. Dr. Courtney motioned to approve the unsupervised temporary license request pending the receipt of eligible CBC II results. Motion seconded by Dr. Ungerank. Motion passed.

**Tanner Hebert** submitted a supervised temporary license request. Dr. Moore motioned to approve the supervised temporary license request. Motion seconded by Dr. Courtney. Motion passed.

**Christopher A. Lewis** submitted a supervised temporary license request pending graduation and receipt of final chiropractic transcript and copy of diploma. Dr. Moore motioned to approve the supervised temporary license request pending graduation and receipt of final transcript and copy of diploma. Motion seconded by Dr. Ungerank. Motion passed.

### **Letter from Dr. Winkler with FCLB**

This item is an update from the FCLB President, Dr. Winkler. No action for the board to take.

### **FCLB 2021 Annual Meeting Highlights**

The FCLB annual meeting was held virtually this year due to the pandemic. The FCLB district V director forwarded highlights to all district V boards. This is just to update the board as to new elected members and appointments that were made at the meeting plus resolutions and hot topics that were discussed.

### **FCLB District III & V Meeting**

The district meeting will be held in Jersey City, NJ on October 8, 2021 – October 9, 2021. No members volunteered to attend this year, no further action by the board on this item.

### **ASBCE COVID-19 Guidance drafted updates**

Director drafted an updated guidance notice for the board to have as the agency continues to get calls regarding the mask mandate ending as well as the reestablishment of the Public Health Emergency. Directive given to the director to post the updated document to the website.

### **Investigative Committee Report**

The complaint committee presented the complaint report with their recommendations. The committee gave a brief explanation of two complaints and their recommendations.

750-12-16-20 regarding soliciting patients of other physicians and offering financial incentives to induce patients for treatment: recommendation, dismiss for lack violation by the respondent.

Dr. Moore motioned to accept the committee's recommendation. Motion seconded by Dr. Courtney. Motion passed.

752-01-04-21 regarding billing fraud: recommendation, dismiss for lack of evidence to prove a violation.

Dr. Moore motioned to accept the committee's recommendation. Motion seconded by Mr. Gunter. Motion passed.

### **ADJOURN**

Mr. Gunter moved to adjourn. Seconded by Dr. Courtney. The Board adjourned at 1:12 p.m.

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*Board minutes approved: November 4, 2021*