

**Arkansas State Board of Chiropractic Examiners
Special Meeting Teleconference
Thursday, March 28, 2022**

CALL TO ORDER

The special meeting was called to order by Tanya Holt, D.C., President, at 12:03 p.m.

ROLL CALL

Board Members present:

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

Board Members absent:

Joseph Long, D.C.

Staff present:

Laurie Mayhan, Executive Director
Joe West, Assistant Attorney General

Guests present:

Christopher Blackmon, DC
Steven Bennett, DC
James Raker, DC
Matt Gilmore

Business Items

Reactivation Request

Dr. Jeffrey Fergusson submitted a license reactivation request along with his late renewal which was received on March 2, 2022, a day before the reactivation deadline of March 3, 2022. He has submitted his fees and proof of 24 hours of CE, which was not obtained or completed until January 1, 2022. The board was asked to accept the preapproved hours for this renewal along with license reactivation. Dr. Ungerank motioned to approve the request. Motion seconded by Dr. Courtney. Motion passed.

Consent Agreement – Complaint 767-03-02-22

Dr. Jeffrey Fergusson, due to submitting a late renewal and admitting to practicing on an expired license, was issued a board generated complaint on March 2, 2022. This resulted in the issuance of today's consent agreement for violating Board laws and rules. The respondent signed the agreement prior to today's meeting and it is up to the board to approve or deny the consent agreement. Dr. Courtney motioned to approve the consent agreement. Motion seconded by Mr. McCoy. Dr. Courtney asked for clarification if the respondent has been made aware that he cannot file insurance claims during the time of his license being expired. The director informed the board that the respondent has been notified in writing and will be reminded, in writing, when sending him the executed consent agreement. Motion passed.

BCBS update/Ambetter info update

The board president gave Dr. Blackmon the floor to update the entire board on the information received from BlueCross BlueShield. It was explained that he reached out to the Medical Director for BCBS and their legal team about items being denied as not being within the Arkansas Chiropractic scope of practice. He informed the board that BCBS wanted it to be clear that they do not determine scope of practice in any way, shape, or form, however, they wanted to clarify that they administer many plans that may or may not cover chiropractic. With that said, he has an email from BCBS regarding extremity xrays which they do in fact cover many extremity xrays for chiropractic. However, sometimes a code is submitted that is not covered, but a similar one would be. As an example, an xray of the elbow with the code for 3 views would not be covered vs. the code for 2 views. BCBS did provide a list of covered extremities to him that he has forwarded to the board. Dr. Raker and/or Dr. Bennett informed Dr. Blackmon of other issues they were having and Dr. Blackmon stated he would look into it and have BCBS reach out to them directly. No action was taken by the board on this subject.

Dr. Blackmon also discussed an issue that several people are having with Ambetter and a letter they sent to providers. The issue being that Ambetter is changing their fee schedule as they have not updated their fee schedule in the past seven years, but this does not mean they are going to the Medicare fee schedule, they are basing their rates off of that fee schedule. No action was taken by the board on this subject.

Additional Items Before the Board: The President requested that the following items be added for discussion and/or clarification. The board agreed to discuss.

License Exemption Rule 17-81-302

Dr. Holt requested additional clarification on statute 17-81-302 as a licensee had reached out to her for clarification or had requested her interpretation. It was discussed that the entire section (2) was to be read, not just part (2)A and B of that section. Part (2)C calls for licensure when a chiropractor, licensed in another state, is provided an office or other place to meet persons for such chiropractic services to be rendered and is performed on a regular basis. The board upheld their interpretation from their December 9, 2021 meeting.

Applicants/Orientation/Licensure

Dr. Holt requested clarification as to why full licensure could not be issued to applicants who miss the application deadline because National Boards were delayed due to Covid. It was explained that the board's application deadline, which requires National Board Parts I-III and Physiological Therapeutics to be submitted to this board forty-five days prior to orientation and Part IV seven days prior to orientation, is in law and rule and the board would have to go through the legislature to change it. The Board cannot violate its own statute, its job is to defend the statute. Dr. Courtney stated that the purpose for the board of examiners is to license people who are qualified, but they have to meet those qualifications. They have to have all the parts of National Boards and all the other things the statute requires. Some of this is beyond our control as a licensing board. We don't have control of the National Board and so until the applicants get all their boards there isn't anything we can do if they don't have their scores by the deadline. The Director explained that two of the applicants in question currently hold a supervised temporary license that was approved at the January meeting, upon their graduation and receipt of their final transcript and copy of diploma. Since they missed the application deadline for the January orientation, this was the option given to them so that they could practice prior to orientation. Dr. Holt gave Dr. Blackmon the floor and he presented the issue that his employee could not file his paperwork for an NPI number or the like with his temporary license, which is an inconvenience. In addition, he cannot file claims or the like under his NPI as that would be violating the law as locum tenens does not come into play in this situation. Mr. Gunter suggested that, due to the circumstances, heads could be put together to find some resolve so this wouldn't happen. Dr. Hays asked if there was a Covid emergency policy that we can have to expire to help these individuals. Mr. West stated that there is no current emergency declaration from the Governor in that regard. Dr. Holt gave Mr. Glimore the floor and he confirmed that there is no state of emergency to implement or waive rules. He asked counsel if there are any alternatives or flexibility in the rule or law to help in this situation. Mr. West confirmed that the law is controlling and does mention the 45-day deadline. Ultimately, the board agreed that they could not issue an original license to these temporary license holders. They should look at what other states are doing and maybe work toward updating our statute and rules regarding the application process. No action was taken by the board on this subject.

ADJOURN

Dr. Ungerank moved to adjourn. The Board adjourned at 1:19 p.m.

Board minutes approved: April 14, 2022