

**MINUTES**

**INDIANA BOARD OF CHIROPRACTIC EXAMINERS**

**MARCH 1, 2007**

**I. CALL TO ORDER AND ESTABLISHMENT OF QUORUM**

Dr. Cochran called the meeting to order at 9:00 a.m. in Conference Center Room 1 of the Indiana Government Center South, 302 West Washington Street, Indianapolis, Indiana, and declared a quorum in accordance with Indiana Code § 25-10-1-1.5(d).

**Board Members Present:**

Charles Cochran, D.C., Vice Chair  
Marian Klaes-Lanham, D.C.  
John Bernzott, D.C.  
David Frischman, D.C.  
David Davis, D.C.

**Board Members Absent:**

David Dyer, D.C., Chairman  
Michael Riley, Consumer Member

**State Officials Present:**

Cindy Vaught, Board Director, Professional Licensing Agency  
Kristine Yarde, Assistant Director, Professional Licensing Agency  
Jason Thompson, Deputy Attorney General, Office of the Attorney General

**II. ADOPTION OF AGENDA**

A motion was made and seconded to adopt the agenda, as amended.

FRISCHMAN/KLAES-LANHAM  
Motion carried 5-0-0

**III. ADOPTION OF THE MINUTES FROM THE JANUARY 11, 2007 MEETING OF THE BOARD**

A motion was made and seconded to adopt the minutes, as presented, from the January 11, 2007 meeting of the Board.

KLAES-LANHAM/DAVIS  
Motion carried 5-0-0

**IV. APPEARANCES**

**A. RENEWAL**

**1. Edward Springhorn, D.C., License No. 08000917A**

Dr. Springhorn appeared before the Board, represented by his attorney Kevin King. Mr. King made a presentation to the Board whereby he established a connection showing the Joint Commission International (JCI) as a division of Joint Commission Resources (JCR) and the JCR is a controlled affiliate of the Joint Commission on Accreditation of Health Care Organizations (JACHO) which

is an approved sponsor of continuing education programs under IC 25-1-4-0.2. A transcript of courses taken by Dr. Springhorn in Saudi Arabia through JCI was given to the Board. There was some questions as to which classes pertain to the practice of chiropractic. Mr. King argued that the Board can do three things: agree the continuing education he has taken was given by an approved organization, accept he has completed the requisite hours approved by the Board, or grant a hardship waiver. Mr. King argued the hardship waiver could be granted due to the fact Dr. Springhorn could not leave Saudi Arabia to return to the United States to obtain continuing education. Dr. Springhorn stated his passport was taken from him when he arrived in Saudi Arabia and that he took all of the courses he could get while he was there. The Board deliberated over their choices and determined that they will grant a hardship waiver and excuse Dr. Springhorn's continuing education requirement but first he must present paperwork confirming his inability to leave the country. This documentation must be received within seven (7) days by Cindy Vaught who will immediately forward it to Dr. Davis for his approval.

**Board Action:** A motion was made and seconded to renew Dr. Springhorn's license pending receipt of proof of the travel restrictions within the next seven (7) days. The documentation will be reviewed by Dr. Davis, who was appointed by Dr. Cochran, to determine whether it meets the approval of the Board in order to renew Dr. Springhorn's license.

BERNZOTT/DAVIS  
Motion carried 5-0-0

## **B. PROBATIONARY**

1. **State of Indiana v. Milton T. Kellum, D.C., License No. 08000419A**  
Administrative Cause No. 2002 IBCE 0003

Dr. Kellum appeared before the Board, as requested, regarding his ongoing probationary status. He advised he has still not completed the twelve (12) hours in boundary issues but advised he will take care of that some time this year. He does not intend to practice chiropractic. Dr. Kellum's next probation appearance will be July 12, 2007.

2. **State of Indiana v. E. Michael Schaefer, D.C., License No. 08001047A**  
Administrative Cause No. 2005 IBCE 0007

Dr. Schaefer failed to appear before the Board, as requested, regarding his ongoing probationary status. Ms. Vaught will contact him to see why he did not attend. His next probation appearance will be scheduled for May 3, 2007.

## **C. APPLICATION**

1. **Nathan Frasier, D.C.**

Dr. Frasier appeared before the Board, as requested, regarding his application for chiropractic licensure. Dr. Frasier has successfully completed the law examination. Dr. Frasier is a 2007 graduate of Palmer College of Chiropractic and has taken and passed National Boards Parts I, II, III, IV, and physiotherapy. Dr. Frasier does not hold a license at this time.

**Board Action:** A motion was made and seconded to grant Dr. Frasier chiropractic licensure.

FRISCHMAN/DAVIS  
Motion carried 5-0-0

**2 Jack Lawrence Ginther, D.C.**

Dr. Ginther appeared before the Board, as requested, regarding his application for chiropractic licensure. Dr. Ginther has successfully completed the law examination. Dr. Ginther is a 2007 graduate of Palmer College of Chiropractic and has taken and passed National Boards Parts I, II, III, IV, and physiotherapy. Dr. Ginther does not hold a license at this time.

**Board Action:** A motion was made and seconded to grant Dr. Ginther chiropractic licensure.

DAVIS/FRISCHMAN  
Motion carried 5-0-0

**3. Jennifer Elizabeth Nunnally, D.C.**

Dr. Nunnally appeared before the Board, as requested, regarding her application for chiropractic licensure. Dr. Nunnally has successfully completed the law examination. Dr. Nunnally is a 2006 graduate of Parker College of Chiropractic and has taken and passed National Boards Parts I, II, III, IV, and Physiotherapy. Dr. Nunnally does not hold a license at this time.

**Board Action:** A motion was made and seconded to grant Dr. Nunnally chiropractic licensure.

KLAES-LANHAM/FRSICHMAN  
Motion carried 5-0-0

**4. Jennifer Robin Owings, D.C.**

Dr. Owings was unable to appear for the law examination and Board appearance. She will reschedule for a later meeting.

**5. Danielle E. Toner, D.C.**

Dr. Toner appeared before the Board, as requested, regarding her application for chiropractic licensure. Dr. Toner has successfully completed the law examination. Dr. Toner is a 1988 graduate of National University of Health Sciences and has taken and passed National Boards Parts I, II, III, IV, and physiotherapy. Dr. Toner holds a license in Illinois.

**Board Action:** A motion was made and seconded to grant Dr. Toner chiropractic licensure.

BERNZOTT/KLAES-LANHAM  
Motion carried 5-0-0

**V. ADMINISTRATIVE HEARING**

**A. State of Indiana v. Horng Yuan Shao, D.C., License No. 08001807A**  
Administrative Cause No. 2007 IBCE 0002

Re: Amended Petition for Summary Suspension and Agreement for Voluntary Suspension

**Parties and Counsel Present:**

Respondent was not present and was not represented by counsel Shelley Johnson, Deputy Attorney General for the State of Indiana Felicia Warren, Court Reporter

**Participating Board Members:**

Dr. Cochran (Hearing Officer)  
Dr. Klaes-Lanham  
Dr. Bernzott  
Dr. Davis  
Dr. Frischman

**Case Summary:** The State presented to the Board an agreement for a voluntary ninety (90) day suspension of the Respondent's chiropractic license. The state believes the Respondent represents a clear and immediate danger to the public health and safety for the following reasons: On or about January 16, 2007 Respondent was charged in United States District Court, Southern District of Indiana, Indianapolis, Division for Health Care Fraud, in violation of 185 U.S.C. § 1347. Respondent pled guilty to a violation of health care fraud, in violation of 18 U.S.C. § 1347 and entered into a plea agreement. Respondent provided acupuncture services to patients, but billed health care benefit programs for chiropractic services in the approximate amount of \$187,000.00 because he knew that acupuncture services were not covered or paid for by the health care benefit programs. Respondent has voluntarily agreed to this ninety (90) day suspension of his license to practice as a chiropractor.

**Board Action:** A motion was made and seconded to accept the Emergency Suspension agreement for a period of ninety (90) days.

BERNZOTT/FRISCHMAN  
Motion carried 5-0-0

- B. State of Indiana v. Wei Chen Yang, D.C., License No. 08001810A**  
Administrative Cause No. 2007 IBCE 0001  
Re: Petition for Summary Suspension

**Parties and Counsel Present:**

Respondent was not present and was not represented by counsel Shelley Johnson, Deputy Attorney General for the State of Indiana Felicia Warren, Court Reporter

**Participating Board Members:**

Dr. Cochran (Hearing Officer)  
Dr. Klaes-Lahnam  
Dr. Bernzott  
Dr. Davis  
Dr. Frischman

**Case Summary:** The State presented the Board with an agreement for summary suspension of the Respondent's chiropractic license for ninety (90) days. The State feels the Respondent represents a clear and immediate danger to the public health and safety for the following reasons: On or about January 16, 2007, Respondent was charged in United States District Court, Southern District of Indiana, Indianapolis Division with Health Care Fraud, in violation of 18 U.S.C. § 1347. Respondent provided acupuncture

services in the approximate amount of \$187,000.00 because she knew that acupuncture services were not covered or paid for by the health care benefit programs. On or about January 16, 2007 Respondent entered into a plea agreement with the United State Attorney's Office for a violation of 18 U.S.C. § 1347.

**Board Action:** A motion was made and seconded to accept the Emergency Suspension agreement for ninety (90) days.

DAVIS/KLAES-LANHAM  
Motion carried 5-0-0

**C. State of Indiana v. James Michael Hollern, D.C., License No. 08002024A**  
Administrative Cause No. 2006 IBCE 0002  
Re: Complaint

**Parties and Counsel Present:**

Respondent was present and was not represented by counsel  
Shelley Johnson, Deputy Attorney General for the State of Indiana  
Felicia Warren, Court Reporter

**Participating Board Members:**

Dr. Cochran (Hearing Officer)  
Dr. Klaes-Lahnam  
Dr. Bernzott  
Dr. Davis  
Dr. Frischman

**Case Summary:** On or about November 10, 2004 Respondent was sent a letter advising him he had been chosen in a random audit of continuing education fro the period of July 1, 2002 through July 1, 2004. He was asked to provide proof of completion of twenty-four (24) hours of continuing education with eight (8) hours in the area of risk management or public health. Respondent provided proof of 24.5 hours approved by the Indiana Board of Chiropractic Examiners but of those only 1.5 hours were in the area of risk management or public health. The Respondent is deficient 6.5 hours of risk management or public health. The State entered into evidence exhibit #1 which was the audit letter and copies of continuing education the Respondent had submitted. The State also entered into evidence exhibit #2 which was a fax from the Respondent's office to Logan Harrison with the Attorney General's Office after receiving a third and final notice to comply with the audit. Respondent testified that he does not work in Indiana he works in Louisville, Kentucky and perhaps should have placed his Indiana license on inactive status. He explained he did complete a four hour risk management videotape after learning he was deficient but never submitted evidence of that to the Board.

**Board Action:** A motion was made and seconded to agree that the State has proved its case against the Respondent.

DAVIS/FRISCHMAN  
Motion carried 5-0-0

**Board Action:** A motion was made and seconded to FINE the Respondent \$325.00 to be paid within ninety (90) days of the Final Order and to make up the 6.5 hours of risk management and/or public health continuing education hours within one hundred eighty (180) days of the Final Order.

BERNZOTT/COCHRAN  
Motion carried 5-0-0

## **VI. SETTLEMENT AGREEMENTS**

There were no settlement agreements before the Board.

## **VII. NOTICE OF PROPOSED DEFAULT**

There was no notice of proposed defaults before the Board.

## **VIII. OLD/NEW BUSINESS**

1. **FEDERATION OF CHIROPRACTIC LICENSING BOARDS (FCLB).** The FCLB will be holding its 81<sup>st</sup> Annual Educational Conference on May 2-6, 2007 in St. Lois, Missouri. No member of the Board will be attending the conference. The Board is still required to provide a Voting Delegate and Alternate Delegate. Dr. Charles Cochran will serve as the Voting Delegate and Dr. John Bernzott will serve at the Alternate Delegate.

2. **NATIONAL BOARD OF CHIROPRACTIC EXAMINERS (NBCE).** NBCE is asking for up to two (2) board members who would be interested in assisting with the administration of Part IV of the examination in May 2007. There was no Board member able to attend at this time.

3. NBCE also inquired if a member of the Board was interested in serving on the testing committee to be held on June 15-16, 2007. There were no Board members able to attend at this time.

4. **CONTINUING EDUCATION AUDIT.** Ms. Vaught informed the Board that of the five (5) chiropractors who failed to successfully comply with the continuing education audit, three (3) of them have already paid the civil penalty and she expects one (1) to appeal. Fines are due on March 3, 2007 and proof of completion of continuing education will be due on July 9, 2007.

## **IX. DISCUSSION**

### **A. Proposed Administrative Rule Changes**

#### 1. Proposed Rules for Continuing Education

The Board reexamined the wording regarding videotape seminars. Since videotapes can be sent to individual practitioners and do not have to be viewed in an office setting. The Board has determined that individually viewed videos or DVD's will require a post test since there is not a human proctor present.

#### 2. The Board discussed the use of the SPEC examination which is administered by the National Board of Chiropractor Examiners in lieu of taking Part III & IV.

**Board Action:** A motion was made and seconded to propose rules which would include the SPEC examination within the administrative rules by endorsement.

BERNZOTT/FRISCHMAN

Motion carried 5-0-0

### **B. Clifford S. Wright**

Re: Surrender of License

Dr. Wright has asked the Board to accept the surrender of his license to practice chiropractic. Dr. Wright is leaving the state and has no expectation of returning. There are no complaints or litigation pending at this time.

**Board Action:** A motion was made and seconded to accept the surrender of Dr. Wright's chiropractic license.

BERNZOTT/KLAES-LANHAM  
Motion carried 5-0-0

## **X. APPLICATION REVIEW**

### **A. Endorsement Applications**

1. A. Brian Colquitt, D.C.

Dr. Colquitt has applied for licensure by endorse. He is a 1992 graduate from Logan College of Chiropractic and has taken and passed National Boards Parts I, II, III and physiotherapy. Dr. Colquitt is currently licensed in the state of Maryland. Dr. Colquitt submitted correspondence to the Board stating he had not taken a state constructed examination when he was licensed in Maryland. He wanted to take the SPEC examination offered by the NBCE but the Indiana law does not allow the SPEC examination to be used. The Board instructed Ms. Vaught to explain to Dr. Colquitt in a letter that he will need to take Part IV if he cannot provide scores of a state constructed examination.

### **B. Examination Applications**

There were no examination applications to review.

### **C. Temporary Permits**

There were no temporary permits to review.

### **D. Professional Corporation Applications**

There were no Professional Corporation applications to review.

## **XI. PROBATIONARY REPORT**

There were no probationary reports.

## **XII. CONTINUING EDUCATION**

### **A. Indiana State Chiropractic Association**

Camille Blunt informed the Board that the Spring Conference will be held at the Crown Plaza on March 9-11, 2007.

### **B. International Chiropractic Association of Indiana**

There was no representative present from the ICAI.

**C. Consumer Complaints**

Dr. Bernzott reported he had reviewed one (1) complaint which he is recommending to close.

**D. Continuing Education**

There were no programs that needed to be reviewed and approved by the Board. All programs submitted were given by sponsors who have automatic approval.

**XIII. ADJOURNMENT**

There being no further business, and having completed its duties, the meeting of the Indiana Board of Chiropractic Examiners adjourned at 12:30p.m.

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**David Dyer, D.C. – Chairman**

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**Date**

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**Charles Cochran, D.C. - Vice Chairman**

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**Date**