

MINUTES

INDIANA BOARD OF CHIROPRACTIC EXAMINERS

JULY 8, 2010

I. CALL TO ORDER AND ESTABLISHMENT OF QUORUM

Dr. Dyer called the meeting to order at 9:00 a.m. in Conference Center - Room 5 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:

David Dyer, D.C., Chairman
John Bernzott, D.C.
Marian Klaes-Lanham, D.C.
David Davis, D.C.
David Frischman, D.C.

Board Members Absent:

Charles Cochran, D.C., Vice Chairman

State Officials Present:

Cindy Vaught, Board Director, Professional Licensing Agency
Heather Hollcraft, Assistant Board Director, Professional Licensing Agency
Heather Young, Case Manager, Professional Licensing Agency
Liz Brown, Deputy Attorney General, Office of the Attorney General

II. ADOPTION OF AGENDA

A motion was made and seconded to adopt the agenda.

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

III. ADOPTION OF THE MINUTES FROM THE APRIL 8, 2010 MEETING

A motion was made and seconded to adopt the minutes from the April 8, 2010 meeting of the Board.

BERNZOTT/DAVIS
Motion carried 5-0-0

IV. APPEARANCES

A. PROBATIONARY

There were no probationary appearances before the Board.

B. RENEWAL

1. Christopher Wayne Galloway, D.C., License No. 08002347A

Dr. Galloway appeared before the Board, as requested, regarding a positive response on his license renewal application. Dr. Galloway answered yes to the question that asks "Since you last renewed, have you been convicted of or pled guilty to a violation of a federal or state law or are criminal charges pending?" Dr. Galloway explained that in November of 2008 he was charged with driving under the influence. Dr. Galloway was required to complete one (1) year of probation, have monthly meetings with his probation officer, complete weekend alcohol classes for one (1) month and submit to random drug/alcohol screenings. He was released from probation in December of 2009. Dr. Galloway presented proof of completion of twenty-four (24) hours of continuing education.

Board Action: A motion was made and seconded to grant Dr. Galloway's chiropractic license renewal.

FRISCHMAN/DAVIS
Motion carried 5-0-0

2. Brian Lee Green, D.C., License No. 08001136A

Dr. Green appeared before the Board, with counsel, Mark Sullivan, as requested, regarding a positive response on his license renewal application. Dr. Green answered yes to the questions that ask "Since you last renewed, have you been convicted of or pled guilty to a violation of a federal or state law or are criminal charges pending?" and "Have you been denied staff membership or privileges in any hospital or health care facility or have staff membership or privileges been revoked, suspended or subject to any restriction, probation, or other type of discipline?" He explained that in January 2010, he was charged with driving while intoxicated and domestic battery. Dr. Green pled guilty to the DUI on March 22, 2010. He is required to complete one (1) year of probation, attend alcohol classes, and enroll in a rehabilitation program. The domestic battery charge is still pending and is scheduled for a hearing on July 28, 2010 in which he stated the charges will be dismissed. Dr. Green has had previous action on his Indiana chiropractic license. In December 2000, Dr. Green was placed on probation by the Board because he was convicted of possession of marijuana, a crime that had a direct

bearing on his ability to practice competently. The previous probation was withdrawn by the Board on July 19, 2001.

Board Action: A motion was made and seconded to grant the renewal of Dr. Green's chiropractic license on indefinite probation with terms and conditions as follows:

1. The Applicant's license to practice chiropractic is placed on **INDEFINITE PROBATION**. He may request a hearing to withdraw the probation after his criminal probation has ended.
2. The Applicant shall remain on probation until such time as the Board withdraws the probation.
3. The Applicant's license to practice chiropractic is subject to the following terms and conditions of probation:
 - a. Applicant shall keep the Board apprised of his home address, mailing address, and telephone number.
 - b. Applicant shall keep the Board apprised of his place of employment, employment telephone number, and name of supervisor.
 - c. Applicant shall keep the Board apprised of his occupation title and work schedule, including the number of hours worked per week.
 - d. Applicant shall cause his counselor at Life Recovery Center to submit written reports to the Board on a quarterly basis advising the Board of his participation in counseling and his progress.
 - e. Applicant shall immediately notify the Board in writing of any relapse or positive drug screen.
 - f. Applicant shall appear before the Board when requested.
 - g. Applicant shall provide the Board with copies of all dispositional court documents concerning the domestic battery and DUI charges.
 - h. Applicant shall comply with all laws and rules regulating the practice of chiropractic as well as the general statutory provisions which apply to all the health professions.
4. The failure of the Applicant to comply with the requirements of probation may subject him to a show cause hearing before the Board and the imposition of further sanctions.

BERNZOTT/KLAES-LANHAM

Motion carried 5-0-0

3. Casey Whitney Runnels, D.C., License No. 08002496A

Dr. Runnels appeared before the Board, as requested, regarding a positive response on her license renewal application. Dr. Runnels answered yes to the question that asks "Since you last renewed, have you been convicted of or pled guilty to a violation of a federal or state law or are criminal charges pending?" She explained that in January 2010 she was charged with driving under the influence of alcohol. Dr. Runnels served five (5) days in jail and was sentenced to 180 days in jail with 170 days suspended and given five (5) days for good behavior and she must attend two (2) alcohol classes on August 11

and 14, 2010 with criminal probation ending on September 12, 2010. Dr. Runnels was licensed on January 7, 2010.

Board action: A motion was made and seconded to grant the renewal of Dr. Runnel's chiropractic license on indefinite probation with the following terms and conditions:

1. The Applicant's license to practice chiropractic is placed on **INDEFINITE PROBATION**. She may request a hearing to withdraw the probation after her criminal probation has ended.
2. The Applicant shall remain on probation until such time as the Board withdraws the probation.
3. The Applicant's license to practice chiropractic is subject to the following terms and conditions of probation:
 - a. Applicant shall keep the Board apprised of her home address, mailing address, and telephone number.
 - b. Applicant shall keep the Board apprised of her place of employment, employment telephone number, and name of supervisor.
 - c. Applicant shall keep the Board apprised of her occupation title and work schedule, including the number of hours worked per week.
 - d. Applicant shall immediately notify the Board in writing of any relapse or positive drug screen.
 - e. Applicant shall appear before the Board when requested.
 - f. Applicant shall comply with all laws and rules regulating the practice of chiropractic as well as the general statutory provisions which apply to all the health professions.
4. The failure of the Applicant to comply with the requirements of probation may subject her to a show cause hearing before the Board and the imposition of further sanctions.

FRISCHMAN/DAVIS
Motion carried 5-0-0

C. APPLICATION

1. Mitchel Harris Bershader, D.C.

Dr. Bershader appeared before the Board, as requested, regarding his application for chiropractic licensure. Dr. Bersahader is 1983 graduate of Life Chiropractic College and has passed Part I, II, III and Physiotherapy of the National Board of Chiropractic Examiners. He is current licensed in the state of Illinois and New York where he completed a state constructed examination. Dr. Bershader answered yes to question 2 that ask "Has disciplinary action ever been taken regarding any health license, certificate, registration or permit

you hold or have held?" He explained that in 1990 the State of New York disciplined his chiropractic license for a minor/technical professional misconduct violation relating to advertising and imposed a civil penalty of \$250.00. He had purchased an ad in a "Penny Saver" advertisement that had "P.C." after his name, offered a free digital sport watch and claimed unsubstantiated superiority over other professionals. Dr. Bershader stated he has not advertised since that time. Dr. Bershader also holds a physical therapy license in the State of Indiana. It was also noted that Dr. Bershader had previously been denied a chiropractic license in the State of Indiana for not completing the application process in 1998.

Board Action: A motion was made and seconded to grant Dr. Bershader a chiropractic license upon successful completion of the Indiana jurisprudence examination.

DAVIS/FRISCHMAN
Motion carried 5-0-0

2. Robert C. Gordon, D.C.

Dr. Gordon did not appear before the Board, as requested, regarding his application for chiropractic licensure. Dr. Gordon is a 1975 graduate of the National University of Health Science and has taken Part I, II and Physiotherapy of the National Boards of Chiropractic Examiners. He is currently licensed in the state of New York, New Jersey and Florida where he has taken and passed a state constructed examination. The Board reviewed his application and determined they would like Dr. Gordon to make a personal appearance prior to making a decision on his application for licensure.

V. ADMINISTRATIVE HEARING

1. Wei Chen Yang, D.C., License No. 08001810A

Administrative Cause No. 2007 IBCE 0001

Re: Petition to Remove Probationary Status

Parties and Counsel Present:

Petitioner was present with counsel, Bruce Morford
Morgan Burton, Deputy Attorney General for the State of Indiana
Carrie Roemer, Court Reporter

Participating Board Members:

Dr. Cochran, D.C., Chair (Hearing Officer)
Dr. Klaes-Lanham, D.C.
Dr. Bernzott, D.C.
Dr. Davis, D.C.

Dr. Frischman, D.C.

Case Summary: Petitioner is requesting withdrawal of probation from her chiropractic license. The Practitioner filed a petition with the Board on May 10, 2010, requesting that her probation be withdrawn. The State objected to the Board holding the hearing and argued that the hearing was premature because the minimum three (3) year probation period does not expire until November 2010. The Practitioner's counsel argued that the previous orders issued by the Board were ambiguous and could be interpreted to mean that the three (3) year time period began to run with the order dated July 19, 2007. The Board decided to proceed with the hearing on the Practitioner's petition for withdrawal of probation. The minimum three (3) year term of probation will end on November 13, 2010. The Practitioner was discharged from her federal criminal probation on March 26, 2010, and successfully complied with all terms and conditions of the federal probation. The Practitioner has complied with all terms and conditions of her license probation. The State maintains their objection to the early withdrawal of probation on procedural grounds, but indicates the Board can modify her probation, just not at this hearing since this hearing was set for withdrawal of probation, not modification.

Board action: A motion was made and seconded to withdraw the probation of Dr. Yang's chiropractic license effective as of November 13, 2010. Dr. Yang is not required to make any further personal appearances before the Board but all other terms and conditions of probation remain in effect until November 13, 2010.

BERNZOTT/FRISCHMAN
Motion carried 5-0-0

2. **Todd J. Posar, D.C., License No. 08000789A**
Administrative Cause No. 2009 IBCE 0001
Re: Petition to Withdraw Probation

Parties and Counsel Present:

Petitioner was present with counsel,
Morgan Burton, Deputy Attorney General for the State of Indiana
Carrie Roemer, Court Reporter

Participating Board Members:

Dr. Cochran, D.C., Chair (Hearing Officer)
Dr. Klaes-Lanham, D.C.
Dr. Bernzott, D.C.
Dr. Davis, D.C.
Dr. Frischman, D.C.

Case Summary: Petitioner is requesting withdrawal of probation from his chiropractic license. Petitioner's license has been on indefinite probation with the

Indiana Board of Chiropractic Examiners since April 15, 2009. According to the terms of probation, Petitioner can petition for withdraw of probation after one (1) year. The Petitioner states he has been clean for over three (3) years and still attends counseling. He also stated he is gainfully employed with Dr. Warren at Warren Chiropractic. The State outlined the terms and conditions of Petitioner's probationary order and reminded the Board the burden of proof lies with the Petitioner. Petitioner states he has not been arrested or convicted of any crimes and that he has not used any illegal or prescription drugs other than the ones prescribed by his physician for Paxil and Remirion as well as his diabetes and cholesterol medications. He informed the Board the courts are now garnishing his wages regarding back child support. Ms. Vaught told the Board she had not received the July reports from his employer, psychiatrist, and NA meetings and that she has not received any reports since April. Ms. Vaught also stated that his reports are never timely and they must always be requested. The Board stated they have no concerns with his current employer.

Board action: A motion was made and seconded to withdraw the probation from Dr. Posar's chiropractic license on the condition that prior to his release from probation that his July 2010 reports from his employer, psychiatrist and NA meetings be submitted and reviewed.

DAVIS/KLAES-LANHAM
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

There was no old/new business discussed by the Board.

IX. DISCUSSION

A. Thomas S. Brodar, D.C., L.C.P.
Re: Continuing Education

Dr. Brodar was present for the Board's discussion of his correspondence of granting continuing education for philosophy based programs. Dr. Brodar was advised that philosophy is acceptable for continuing education as long as it is given by an approved sponsor.

X. APPLICATION REVIEW

A. Endorsement Applications

There were no endorsement applications to review.

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 to review.

XII. CONTINUING EDUCATION

There was no continuing education to review.

XIII. REPORTS

A. Indiana State Chiropractic Association

Patrick from the ISCA spoke to the Board. He indicated he will be leaving the ISCA as he accepted a position at the Friedman Foundation. Patrick stated the Association had the following concerns/announcements:

- Concerns over a speaker of a continuing education programs that is being sponsored by a college but the speaker is not a teacher or professor on campus at least 16 hours per week.

- The current language within the administrative rules that only twelve (12) hours of continuing education may be completed per year.
- Patrick also stated the ISCA has teamed up with the School of Limited Radiology. ARRT has adopted a new policy that all applications must have an associate of science degree or higher to obtain radiology certification by taking the ARRT. The ISCA feels this is catastrophic to chiropractic assistants. The Indiana State Department of Health is asking if they can take the CATS exam instead since they do not require an AS to take the exam.
- ISCA golf outing scheduled for September 23, 2010 with the ISCA Fall Conference being held September 22-24, 2010.

B. International Chiropractic Association of Indiana

There was no report given by the ICA.

C. Consumer Complaints – Dr. Bernzott

Dr. Bernzott stated he had nothing to report at this time but will have a couple of complaints in the near future.

D. Continuing Education – Dr. Klaes-Lanham, Dr. Frischman & Dr. Davis

There was not report given regarding continuing education.

XIV. ADJOURNMENT

There being no further business, and having completed its duties, the meeting of the Indiana Board of Chiropractic Examiners adjourned at 12:00 p.m.

Board action: A motion was made and seconded to adjourn the Chiropractic Board meeting at 12:00 p.m.

FRISCHMAN/DAVIS
Motion carried 5-0-0

David Dyer, D.C.

David Dyer, D.C. - Chairman

10-7-10

Date