

CHIRO NEWS

A publication of the Maryland Board of Chiropractic Examiners
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www.mdchiro.org



WINTER 2011

PRESIDENT'S MESSAGE

HAPPY NEW YEAR! *On behalf of the Board and staff, I sincerely wish all licensees a safe, healthy, happy and prosperous New Year.* This a fairly lengthy newsletter as it has been several months since the last issue. Budget constraints and our effort to transition to a fully electronic notification venue have caused delays. We had hoped to be issuing newsletter and bulletin information electronically; however, it looks like we are still a few months away from such improvements. In the interim, this newsletter should bring all licensees up-to-date and the Board sincerely appreciates the patience of all concerned as we transition into more modern electronic venues.

UPCOMING CA RENEWAL: All registered CAs must renew their registrations prior to March 31, 2011. All renewals will be online via the Board's online renewal database portal that will be accessible through the front page of the website at www.mdchiro.org. All CAs have been individually contacted both by postcard and detailed notification letter. **The renewal portal will be open from February 10th through March 31st. There is a \$200.00 late fee for late renewals and no CA may practice without a renewed registration. See more details on PAGE 3 of this newsletter.**

LEGISLATION & REGULATIONS: The 2011 Legislative Session is now in session. The Board has no new legislative initiatives and (as of the issuance of this newsletter) is not aware of any chiropractic legislative initiatives. The Board regulatory revision project is still ongoing and in the final approval stages. See page 4 (comments of Executive Director) for a summary of the project status.

DISCIPLINE: There has been a marked increase in chiropractic licensee disciplinary cases over the past calendar year. Whether it is the economy or just a "swing of the pendulum" the number of complaints, investigations, and disciplinary hearings is up by about 10%. The full list of chiropractic and massage disciplinary cases is summarized on pages 2 and 3 of this newsletter. Please remember that a formal sanction includes mandatory reporting to the National Health Practitioner Database, FCLB Chiropractic Disciplinary Databank. Additionally, it is published on the Board website and on our newsletter. The bottom line is that a formal sanction can have major impacts on finances, reputation, and the ability to retain relations with patients and insurers who frequently check these sources.

ELECTRONIC VENUE TRANSITION: The Board transitioned both its Chiropractor and Massage Therapist renewals into full electronic, on-line mode. The upcoming CA renewal in March 2011 will also be in an on-line venue. The online system has proved to substantially reduce staff costs, paperwork, tracking of documents as well as the usual lost applications in the mail. It also allows all renewal applicants to fully track, record and produce an immediate receipt of their renewal and fee processing. In the next few months, we hope to complete work on an online notification system in which the Board will make most contacts, including for bulletins and newsletters through electronic venue. This is anticipated to save over \$30,000 in annual paper, processing, collating, and postage expenses. Also, from time-to-time, you may note that all or portions of our website are down or under revisions. We appreciate your patience as we update the website venues. We will continue to keep you updated as this project moves forward.

MARCH 6th MCA BOARD JURISPRUDENCE FORUM: The Board will conduct a presentation and Q&A session at the March 6th, MCA Spring Meeting. We hope to update licensees on proposed regulatory revisions, discipline issues, and administrative changes. This is also the opportunity for licensees to freely ask the Board and staff questions regarding pertinent issues. Attendance at this event will satisfy the Board Jurisprudence biennial requirements.

Best Regards:

Kay B. O'Hara, D.C.

Board President

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CURRENT BOARD MEMBERS & expiration of terms:

Kay O'Hara, DC, President 6/30/2012

Stephanie Chaney, DC, Vice President 6/30/2011

Michael Fedorczyk, DC, Secretary, Treasurer 6/30/2011

Duane Sadula, DC, Past President 6/30/2012

Jonathan Nou, DC 6/30/2013

Daniel Kraus, DC 6/30/2011

Clyde Anderson, LMT, 6/30/2011

Karen Biagiotti, LMT, 6/30/2013

Gwenda Harrison, LMT 6/30/2013

Maryanne Frizzera-Hucek, 6/30/2012

Ernestine Jones-Jolivet, 6/30/2014

BOARD DISCIPLINARY FORMAL ORDERS

(Formal public Board Orders resulting from Hearings or Consent Orders)

ANDREW CHOI, D.C., Jan 13, 2011: Using unregistered assistants, improper advertising, violation of regulations: **\$2500 fine; take/pass Disciplinary Jurisprudence Exam & Supervising Chiropractor Exam, register trade name with Board.**

ALI AHADPOUR, D.C. OCT 14, 2010: Continuation of license suspension based on previous summary suspension issued on April 2, 2003. **Show Cause Hearing determined that suspension continued until formal hearing is held and the board renders final determination.**

AESON SCHICK, RMP, NOV 10, 2010: Violation of H.O. Code 3-5A-11: Convicted of a crime involving moral turpitude/mistreatment of patient/client under her care. **\$500.00 fine, take/pass ethics course, take/pass anger management course, take/pass disciplinary jurisprudence exam.**

DANIELE CHEN, MST APPLICANT, NOV 8, 2010: **Application denied based on criminal conduct involving moral turpitude.**

NINA SHOWAN, D.C., NOV 3, 2010: Using unregistered assistants; committing acts of unprofessional conduct: **2 Year Probation, \$2,000. fine, Reimbursement of \$1,294. hearing costs, take/pass disciplinary jurisprudence exam, take/pass supervising chiropractor exam.**

WILLIAM OSBORNE, D.C., OCT. 20, 2010: **Voluntary surrender of license; reinstatement only upon passing 1 year period and: take/pass course in business management; submit documentation of continuing education; submit verification from State Comptroller of satisfaction of tax liability; successfully pass an evaluation by a board approved physician evaluation to attest to physical and mental capacity to practice**

MEGAN WATERS, MST APPLICANT OCT 27, 2010: Practicing without registration: **\$500. fine, 1 year probation, take/pass ethics course, 1 year, suspension for 8 months (4 MONTHS STAYED & does not take effect until registration is issued).**

IRINA LE CHEMINANT, LMT, OCT 25, 2010: Condoning employment of unlicensed/unregistered practitioners/violation, unprofessional conduct, violation of regulations, fraudulent use of license: **LICENSE REVOKED**

BRIAN SEYMORE, D.C., OCT 13, 2010: Using unlicensed individual to practice chiropractic, using unregistered individual as a CA, failure to comply with trade name requirements, various violations of regulations: **formal reprimand, take/pass disciplinary jurisprudence and supervising chiropractor exams, \$5,000 fine, take/pass ethics course.**

DEBORAH SMITH, LMT, OCT 14, 2010: Using unregistered individuals as massage therapist: **\$1,000 fine, take/pass ethics and jurisprudence examinations.**

JOYCE WANG, RMP, SEPT 23, 2010: Engaging in illicit vice activities under cover of her registration: **REGISTRATION REVOKED.**

JEFFREY COHEN, D.C., SEPT 15, 2010: Practicing without renewed license: **\$5,000 fine, 2 years probation.**

DAVID ALLEN MST APPLICANT: SEPT 13, 2010: False responses on application: **APPLICATION DENIED.**

AL TIN WIN, RMP: SEPT 10, 2010: Practicing outside of massage scope, therapeutic deception, boundary violations, inappropriate conduct: **REGISTRATION REVOKED, \$5,000 fine.**

CHRISTINA ASHENFELTER, CA APPLICANT AUG 18, 2010: False statements on application: **APPLICATION DENIED.**

SETH GRAY, DC APPLICANT, AUG 8, 2010: Practicing in MD (with Dr Brian Seymore) without a MD license: **APPLICATION DENIED; Respondent appeals final Order of Denial, requesting a Formal Hearing.**

FORMAL DISCIPLINARY ACTIONS

(continued from page 2)

KAYLYN BARNES, CA, AUG 3, 2010: Drug use while practicing as a CA: **REGISTRATION SUMMARILY SUSPENDED; SUBSEQUENTLY REVOKED FOR VIOLATING BOARD ISSUED PROBATION.**

CHRISTOPHER COLE, MST APPLICANT, JAN 21, 2011: Failure to disclose criminal conduct on application: **APPLICATION DENIED.**

INFORMAL SANCTIONS

(Respondent names in Informal Sanctions are not authorized for disclosure)

Dr "W" NOV 19, 2010: Unprofessional conduct maintaining patient records: **Letter of Admonishment & Letter of Education.**

Dr "X" OCT 28, 2010: Failure to follow record keeping regulations: **Letter of Admonishment.**

Dr "Y" DEC 15, 2010: Inappropriate advertising, using unapproved name: **Cease & Desist Letter & Letter of Education.**

Dr "Z" JAN 5, 2011: Improper recordkeeping: **Letter of Education.**

UPCOMING CA RENEWAL

In mid-December, the Board sent out an initial reminder postcard to all CAs regarding the upcoming March 2011 registration renewal. In January, the Board sent out a detailed letter to all CAs explaining with specificity the processes to renew their registrations online. All renewals will be done online and with credit or debit cards. The letter also advised when the online renewal link opens. It is accessible through our website at www.mdchiro.org. ALL CAs must have satisfactorily completed at least ten (10) CEUs of Board approved courses and hold a current provider level CPR certification from the American Red Cross or American Heart Association. **ALL APPLICANTS MUST RENEW BY MIDNIGHT OF MARCH 31, 2011. ANY APPLICANTS AFTER THAT DEADLINE ARE LATE. NO CA MAY PRACTICE WITH AN EXPIRED REGISTRATION.**

CA renewals candidates must insure that they have completed Board approved 10 CEUs and hold a Provider Level CPR Card from the American Red Cross or American Heart Association. There is a mandatory/automatic late fee of \$200.00 for renewing after March 31st.

Any questions regarding CEUs or the general questions about the renewal process should be addressed to the Director, Mr. J. J. Vallone at 410-764-5985. Technical questions regarding problems with accessing or processing the online renewal should be addressed to the Deputy Director, Ms. Adrienne Congo, at 410-764-2965.

SOME INSIGHTS ON DISCIPLINARY CASES

UNLICENSED PRACTITIONERS: 2010 has been a busy disciplinary year for both chiropractors and massage therapists. We have seen a marked rise in disciplinary cases, particularly cases involving the use of unlicensed and unregistered practitioners. This is troubling, particularly when it is a tenured doctor with several years of practice. It is troublesome when any licensee flaunts or disregards well-know laws and regulations that have been in place for many years.

RISE IN CASES: It is also noteworthy that in these tough economic times, we have seen a dramatic increase in the number of calls and complaints from patients regarding billing, record keeping, communication, and insurance claims. Patients appear to be more diligent than ever in examining treatment codes and statements, comparing them closely with charges and insurance claims. Disputes with patients over billing can lead to an open investigation that can be costly in time, money, and reputation. It is incumbent on every licensee to remember that he/she is ultimately responsible for billing and insurance issues regardless of office personnel or 3rd party billing agency participation.

COMMUNICATION: It is worthwhile to remember that many times patient complaints can be avoided or prevented through tactful, personable communication. The Board frequently gets complaints that a chiropractic practice's staff fails to sufficiently provide advice, responses, etc to questions regarding billing, invoices, and insurance. These are "hot-button" subjects that can readily result in a patient complaint if handled in an unprofessional, tactless, or impersonal manner by the licensee. The Board certainly cannot regulate common sense, good manners, and etiquette; however, these attributes go a long way to maintaining a licensee's reputation and his/her ability to reduce the chance of a patient complaint.

As always, please call me with any concerns or questions. I usually return calls the same day. Best regards and Happy New Year! J. J. Vallone, JD, CFE, Executive Director

FROM THE DESK OF THE EXECUTIVE DIRECTOR



REGULATION PROJECT UPDATE:

Following a several month review and study encompassing all regulations in COMAR 10.43 et seq., DHMH published the initial draft proposed rule-making on December 17, 2010 in the MD Register (Vol 37, Issue 26, Pg 1802). The draft was the culmination of substantial sub-committee work and a General Session vote held in public in February 2010. Representatives of the MCA (Drs. Sokoloff and Hirsh) attended relevant sessions and provided cogent input which was very helpful to the Board. Representatives of the massage profession and the general public also attended and provided helpful input. Currently the Board is reviewing comments and opinions that have been formally submitted during the open comment period of December 17, 2010 —January 18, 2011. At this stage in the process, the Board reviews comments and determines if and how to further revise or redact the draft rulemaking. We will endeavor to keep all licensees posted regarding progress on this project. With the legislative session now in full swing, regulatory proposals are usually on a slower pace than at other times of the year.

LEGISLATIVE UPDATE:

The Maryland Legislature is now in session until early April 2011. Currently the Board has no legislation pending before the Legislature and (as of the writing of this newsletter) is not aware of any legislative relevant to licensees or registrants. Hopefully, the Board can provide an update of both the regulations project and any relevant legislative initiatives at its presentation before the MCA on March 6th.

REMINDER ABOUT COOPERATING WITH THE BOARD COMPLIANCE STAFF:

COMAR 10.43.14.03 C(8) requires that all licensees fully cooperate with any lawful investigation conducted by the Board. This includes: Furnishing information; complying with subpoenas; responding to a request of the Board regarding a complaint; providing meaningful and timely access to relevant practice records. Our compliance staff endeavors to be cordial and professional; the Board appreciates reciprocal conduct on the part of every licensee and registrant. If any licensee has any question about the complaint, discipline, and investigation process, please feel free to contact the Executive Director at any time.



ADMINISTRATIVE & STAFFING NEWS

NEW BOARD MEMBERS: In July, the Board was privileged with the arrival of two new members: Ms. Ernestine Jones-Jolivet and Dr. Michael Fedorczyk. They respectively replaced former members: Ms. Issie Shelton-Jenkins, Esq., and Dr. Marc Gamerman, each having served the Board with 8-year terms. Ms. Jones-Jolivet is a consumer member and was a tenured consumer member of the Board of Podiatry. Dr. Fedorczyk is a licensed chiropractor, practicing in Dunkirk, MD. He has served in various positions with the Maryland Chiropractic Assn. We welcome both of these distinguished individuals to our Board and sincerely look forward to the knowledge and experience they will share.

EXECUTIVE DIRECTOR ACHIEVES CERTIFIED FRAUD EXAMINER STATUS: Board Executive Director, Mr. J. J. Vallone, J.D., CFE, successfully passed the national Certified Fraud Examiner program and examination in November. The program is a rigorous study of all aspects of fraud investigation and prosecution in private, business and government venues. Certification is only granted upon passing a multi-part examination after completing the course of study. Board Investigator, Mr. David Ford, CFE is also a Certified Fraud Examiner.

DATA ANALYST/INVESTIGATOR, DANIELLE GONNELLI, B.S., DEPARTS FOR DENTAL BOARD: Investigator, Ms. Danielle Gonnelli, B.S., recently accepted a full time Health Occupations Investigator position with the MD Board Of Dental Examiners. Ms. Gonnelli worked as a consultant, part-time and full-time contractual data analyst and investigator for this Board for the past 3 years. Ms Gonnelli also served as the lead loss prevention investigator for Lord & Taylor, Annapolis, MD., and holds a B.S., Cum Laude in Criminal Justice from the University of Baltimore. *Congratulations Danielle!*

RECENT MASSAGE THERAPIST RENEWAL: In October, the Board successfully completed the electronic renewal of approximately 3,500 massage applicants with a 92% renewal rate. The electronic renewal system worked very well, with very few technical problems. The same system will be used for the CA renewal in March and the Chiropractor renewal in September. Any glitches revealed during the massage therapist renewal will be corrected to insure that the CA renewal goes even smoother.

UPCOMING BOARD MEETINGS: The following are the remaining Board Meeting dates for 2011 (note that these dates and times are subject to change in the event of disciplinary hearings or inclement weather): February 10th (2 pm); March 10th; April 14th; May 12th; June 9th; July 14th; August 11th; September 8th; October 13th; November 10th; December 8th. All General Session Meetings commence at 10 am, unless otherwise indicated.

FAQs (Frequently Asked Questions)

QUESTION:

Can a licensed chiropractor have a non-licensed practitioner such as a physical trainer, holistic healer, herbalist, aroma therapist, etc., rent space and serve clients within his/her chiropractic practice suite,

ANSWER:

"No" - Unlicensed practitioners may not work under the license or advertising of a licensed chiropractor if the space in question is inside the practice suite and a client must enter through the chiropractor's entrance. An individual not licensed as a healthcare practitioner may not practice within the contiguous space of a licensee's chiropractic practice. A non-contiguous space that is accessible by a separate entrance could be rented to a non-healthcare practitioner. Only *bona fide* healthcare practitioners may work in a licensee's healthcare practice.

QUESTION:

When destroying patient files, should a record of the destruction be maintained?

ANSWER:

"Yes" - It is advisable to keep a record of the name of the patient record and the date, time, place and method of destruction (shredding, incineration, private company, etc)...and remember, patient records must be kept for 6 years under HIPAA and 5 years under State Law.

QUESTION:

If a chiropractic licensee applicant is pending graduation or waiting to take his test, may he work as a CA applicant/trainee?

ANSWER:

"No" - The CA Training Program is exclusively to train and prepare candidates to become registered CAs. It may not be used as a stop gap or subterfuge to employ chiropractors while they are waiting to complete their educational and examination qualifications.

QUESTION:

May a licensed chiropractor with a PT endorsement perform physical therapy part-time at a physical therapy practice?

ANSWER:

If the licensee is also separately licensed by the PT Board as a Physical Therapist, he/she may work at a physical therapy practice conducting non-chiropractic/physical therapy. A chiropractor with PT privileges (not holding a separate PT License) may only conduct physical therapy within the scope and duties of his/her chiropractic practice. Similarly, a chiropractor with PT privileges may advertise that he/she performs both chiropractic and physical therapy; however, her/she may not advertise their services as a "Physical Therapist" (unless separately licensed as a Physical therapist).

QUESTION:

May a licensee use more than one trade name within a single practice location. For example: Can a licensee use "Acme Chiropractic" for the general trade name while also using "Acme Decompression Services" for his/her adjunct decompression practice at the same location?

ANSWER:

"No" - A licensee gets one approved trade name per practice location. No adjunct or complimentary trade names are allowed. Pursuant to Health Occupations Article 3-407, the trade name must be pre-approved by the Board. The Board requires every trade name to define the practice as chiropractic by using the terms: "Chiropractic", "Chiropractor", and/or "D.C." The bottom line is that the singular trade name must be sufficient to insure that the general public is not confused, deceived, or misled. Licensees frequently run afoul of this requirement when they post print media and internet advertising.

BOARD PASSES SUNSET REVIEW EXAMINATION

This past Fall, the Board and its staff underwent a Sunset Review to determine if the Board is efficiently serving the public in accordance with its statutory mandate. The Review was conducted by the Office of Legislative Services and reviewed budget, disciplinary actions, administrative and licensing procedures, and staffing. The auditors closely scrutinized the expenditure of funds and the time taken to bring disciplinary cases to closure. The Board Review Report was complimentary to the Board and staff regarding its preparation, efficiency and cooperation. The Office of Legislative Services waived a full audit. As a result of this review, the Board is statutorily authorized to continue operation for the next 12 years.

DHMH: UNIT 83
Board of Chiropractic Examiners
4201 Patterson Ave
Baltimore, MD 21215-2299

ADDRESS LABEL
HERE

CHANGE OF ADDRESS FORM

(To be submitted every time a licensee changes mailing address)

The Board regulations require all licensees to maintain a current address with the Board. **There is a \$200. penalty for failure to maintain a current address with the Board.** If you have recently moved or are planning a move, please complete and mail the following:

I, _____, submit that my current official mailing address is

_____.

The change was/is effective on _____. New phone is _____,

E-mail address is: _____.

Chiropractor signature _____ Date _____.

Mail to: MD Board of Chiropractic Examiners, 4201 Patterson Ave., Balto, MD 21215-2299

Attn Ms. Berger