

## Minutes of the February 8, 2023 Board of Chiropractic Meeting

### **1. ROLL CALL**

Dr. Scott Misek, Chairperson, called the meeting of the Board of Chiropractic to order at 9:13a.m. on Wednesday, February 8, 2023, in Conference Room 3K at the Nebraska State Office Building located at 301 Centennial Mall South, Lincoln, Nebraska. In accordance with Neb. Rev. Stat. § 84-1411 of the Nebraska Open Meetings Act, copies of the agenda were e-mailed to the Board members and other interested parties, posted on the DHHS website at <https://dhhs.ne.gov/licensure/Pages/Agendas-and-Minutes.aspx>, and posted in the Licensure Unit on February 1, 2023.

Misek announced that this is an open meeting, and the Open Meetings Act is posted.

**Members Present:** The following members answered roll call:

Dr. Scott Misek, Chair  
Dr. Heather Henrichs, Vice-Chair  
Dr. Brian Stevens, Secretary  
David Henske, Public Member

**Staff Present:**

T.J. O'Neill, Assistant Attorney General  
Teresa Hampton, DHHS Legal Counsel  
Danielle Sund, DHHS Legal Counsel  
Shanerika Flemings, DHHS Contract Attorney  
Claire Covert-ByBee, Program Manager  
Amy Blinston, Health Licensing Coordinator  
Jeff Newman, DHHS Investigations  
Larry Wiehn, DHHS Investigations  
Anna Harrison, Compliance Monitor

**Guests Present:**

Dr. Nick Payne, NCPA  
Dr. Brad Stauffer, NCPA

### **2. ADOPTION OF AGENDA**

**MOTION:** Henrichs moved, seconded by Henske, to adopt the agenda and move closed session towards the end of the meeting. Voting aye: Henske, Misek, Henrichs, and Stevens. Voting nay: none. Motion carried.

### **3. REAFFIRMATION OF MAIL BALLOT**

The Board reaffirmed the mail ballot approving the October 19, 2022, Meeting Minutes on October 24, 2022. Members Henrichs, Stevens, Henske, and Misek, voted to approve the minutes as written. The minutes were approved.

The Board reaffirmed the mail ballot approving the December 1, 2022, Meeting Minutes on December 5, 2022. Members Henske, Henrichs, Stevens, and Misek, voted to approve the minutes as written. The minutes were approved.

### **4. INVESTIGATIONAL & CONFIDENTIAL INFORMATION/REPORTS – CLOSED SESSION**

**MOTION:** Henrichs moved, seconded by Henske, to move into closed session at 10:09 a.m. to hear discussions regarding confidential information and to protect the reputation of individuals named or referenced in such discussions. Voting aye: Henske, Stevens, Henrichs, and Misek. Voting nay: none. Motion carried.

### **5. BOARD RECOMMENDATIONS ON APPLICATIONS – OPEN SESSION**

The Board returned from closed session at 11:10 a.m.

**Motion:** Henrichs moved, seconded by Stevens, to recommend approval of the application of Dr. Brian Chapp. Voting aye: Henske, Stevens, Henrichs, and Misek. Voting nay: none. Motion carried.

**Motion:** Henrichs moved, seconded by Misek to table making a recommendation on the application for reinstatement of Dr. James Dickey. Voting aye: Henske, Stevens, Henrichs, and Misek. Voting nay: none. Motion carried.

### **6. UPDATE ON LICENSURE DATABASE**

Covert-ByBee advised that the Department of Health and Human Services is in the process of finalizing a contract with the same entity that created the current system, LIS, to upgrade the database and use a newer product, My License Office.

### **7. REGULATION DRAFTING**

**Motion:** After discussion, Henske moved, seconded by Henrichs, to table regulation drafting until the next meeting. Voting aye: Henske, Stevens, Henrichs, and Misek. Voting nay: none. Motion carried.

**Motion:** Henske moved, seconded by Stevens, to create the Continuing Education Regulation Drafting Sub-committee to review and draft language regarding CE hours. Voting aye: Henske, Stevens, Henrichs, and Misek. Voting nay: none. Motion carried.

**Motion:** Henske moved, seconded by Misek, to appoint Stevens and Henrichs as members of the Continuing Education Regulation Drafting Sub-committee. Voting aye: Henske, Stevens, Henrichs, and Misek. Voting nay: none. Motion carried.

## **8. FCLB REPORT**

The FCLB Report was tabled from the October 2022 meeting. Henrichs attended the FCLB District 1 meeting and reported there is on-going litigation involving the removal of a member. The topic of member representation was discussed in relation to the litigation. Henrichs also reported there was a lot of information regarding continuing education requirements, and many Boards from other jurisdictions are seeing the same issues, however do not have mandatory content topics. Henrichs further advised she has joined the FCLB By-laws and Policy Committee, and new officers will be voted on at the FCLB Annual Educational Congress in April.

## **9. NBCE REPORT**

Henrichs reported that the NBCE has been assessing and revising Part IV of the national exam content, and it is now a one-day examination. Henrichs was involved in the assessment and analysis of scores.

## **10. ELECTION OF OFFICERS**

**MOTION:** After discussion, Stevens moved, seconded by Henrichs to keep the same slate of officers with Misek as Chairperson, Henrichs as Vice-Chairperson, and Stevens as Secretary. Voting aye: Henske, Stevens, Henrichs, and Misek. Voting nay: none. Motion carried.

**MOTION:** Henske moved, seconded by Henrichs, to have Misek serve as Investigative Consultant. Voting aye: Henske, Stevens, Henrichs, and Misek. Voting nay: none. Motion carried.

## **11. VOTING FOR DELEGATES FOR NATIONAL BOARDS/ MEETINGS**

**MOTION:** Stevens moved, seconded by Henrichs, to elect Henrichs as the delegate for national boards and meetings, with Stevens as the alternate delegate. Voting aye: Henske, Stevens, Henrichs, and Misek. Voting nay: none. Motion carried.

## **12. CONVICTION REVIEW GUIDELINES**

**MOTION:** Henske moved, seconded by Henrichs to keep the conviction review guidelines as currently written. Voting aye: Henske, Stevens, Henrichs, and Misek. Voting nay: none. Motion carried.

## **13. PER DIEM DISCUSSION**

**MOTION:** Henske moved, seconded by Misek to keep the current per diem of \$50 a day with one additional day for meeting preparation. Voting aye: Henske, Stevens, Henrichs, and Misek. Voting nay: none. Motion carried.

#### **14. NOTICE OF MEETING PUBLICATION**

Covert-ByBee advised that currently, meeting agendas are posted at the Nebraska State Office Building- Licensure Unit bulletin board, emailed to interested parties and stakeholders who have requested notification, and posted on the Department's website.

**MOTION:** Stevens moved, seconded by Henske to keep the current meeting notification process. Voting aye: Henske, Stevens, Henrichs, and Misek. Voting nay: none. Motion carried.

#### **15. LEGISLATIVE UPDATE**

Covert-ByBee presented the Board with information regarding the following legislative bills: LB16, LB78, LB280, LB256, LB271, LB299, LB422, LB513, LB521, LB795, LB588, LB637, and LB810. These bills may be viewed on the Nebraska Legislature website: <https://nebraskalegislature.gov>.

#### **16. LICENSURE AND EXECUTIVE ORDER 22-08**

Covert-ByBee advised Executive Order 22-08 does not impact CE requirements for renewal or reinstatement. The home study limitations for CE remain in effect, however moving forward, licensee's will have the option to select a CE waiver for circumstances beyond their control that lasted 30 continuous days or longer. EO 22-08 addresses issuing provisional licenses pending exam results, however most chiropractic licensure applicants have already taken the exams. The Order also temporarily allows for remote supervision in lieu of onsite supervision, should the individual providing supervision determine it would be appropriate.

#### **17. APPLICATION PROCESSING REPORT**

Blinston stated the report is for informational purposes only.

#### **18. TOPICS FOR NEXT MEETING**

Topics identified for the next meeting include: Regulation Drafting, APR, Executive Orders, LIS Database, and Legislative Update.

#### **19. ADJOURNMENT**

There being no further business, the meeting adjourned at 11:56 a.m.

Respectfully submitted,

Dr. Brian Stevens, Secretary