

## State of Arizona Board of Chiropractic Examiners

5060 North 19<sup>th</sup> Avenue Suite 416  
Phoenix, Arizona 85015  
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8/06/2012

### NOTICE OF MEETING AND HEARINGS OF THE ARIZONA STATE BOARD OF CHIROPRACTIC EXAMINERS

Janice K. Brewer  
Governor

•••  
Susan Wenberg, D.C.  
Chairperson

James J. Badge, D.C.  
Vice-Chairperson

Norris Nordvold  
Member

Richard A. Guarino, D.C.  
Member

•••  
Patrice A. Pritzl  
Executive Director

Pursuant to A.R.S. § 38-431.02, NOTICE IS HEREBY GIVEN to the members of the Arizona State Board of Chiropractic Examiners and to the general public that the Board of Chiropractic Examiners will hold a scheduled meeting. The meeting will be open to the public, on **Thursday, September 13, 2012** at 5060 North 19th Avenue, **Suite 416**, conference room Phoenix, Arizona. The meeting will begin at **8:00 a.m.** When necessary, the Board may go into Executive Session intermittently throughout the meeting for discussion and consultation for legal advice regarding any of the agenda items. (A.R.S. § 38-431.03(A)(3). The Board may also go into Executive Session to discuss personnel matters A.R.S. § 38-431.03(A)(1), records exempt by law from public inspection A.R.S. § 38-431.03 (A)(2) or for legal advice and consultation regarding pending or contemplated litigation A.R.S. § 38-431.03 (A)(4). The Board reserves the right to change the order of items on the Agenda and to call cases in random order.


A copy of the agenda for the meeting will be available at 5060 North 19th Avenue, Suite 416, Phoenix, Arizona at least 24 hours prior to the meeting.

Persons with a disability may request a reasonable accommodation, such as a sign language interpreter, by contacting Ruby Kelley, Administrative Assistant at (602) 864-5088, ext. 214. Requests should be made as early as possible to allow time to arrange the accommodation.

**DATED this 6<sup>th</sup> day of August 2012.**

BOARD OF CHIROPRACTIC EXAMINERS

By

  
\_\_\_\_\_  
Patrice A. Pritzl, Executive Director

### CERTIFICATION OF POSTING OF NOTICE

The undersigned hereby certifies that a copy of this notice will be duly posted at 5060 North 19th Avenue, Suite 416, Phoenix, Arizona on, **September 10th, 2012 at 5:00 p.m.** in accordance with the statement filed by the Arizona State Board of Chiropractic Examiners with the Arizona Secretary of State.

**DATED this 6<sup>th</sup> day of August 2012**

By

  
\_\_\_\_\_  
Patrice A. Pritzl, Executive Director

**ARIZONA STATE BOARD OF CHIROPRACTIC EXAMINERS**  
**5060 N. 19 Ave. #416**  
**Phoenix, AZ 85015**

**\*\*FINAL\*\***  
**BOARD MEETING AGENDA**  
**Thursday**  
**September 13, 2012**  
**8:00 am**

When necessary, the Board may go into Executive Session intermittently throughout the meeting for discussion and consultation for legal advice regarding any of the agenda items. A.R.S. § 38-431.03 (A)(3). The Board may also go into Executive Session, on agenda items C through M to discuss records exempt by law from public inspection, including the receipt and discussion of information or testimony that is specifically required to be maintained as confidential by state or federal law. A.R.S. § 38-431.03 (A)(2).

The Board reserves the right to change the order of items on the Agenda or to take action on any item and call cases in random order. The Board may discuss, consider or take action on any item on the agenda.

In accordance with Title II of the Americans with Disabilities Act (ADA), this Board does not discriminate on the basis of disability in its public meetings. Persons with a disability may request a reasonable accommodation, such as sign language interpreter, by contacting Ruby Kelley at 602.864.5088 ext. 214. Requests should be made as early as possible to allow time to accommodate the request.

**A. Call to Order**

**B. Roll Call**

**C. Board Meeting Minutes** – Review, discussion and possible action on the following:

| TAB NO. |  |
|---------|--|
| 01      | Telephone Meeting Minutes of August 20, 2012 |

**D. Consent Agreements** – Review, discussion and possible action on proposed Consent Agreements.

| TAB NO. | CASE NO. | RESPONDENT | LIC. NO. |  |
|---------|----------|------------|----------|--|
|         |          |            |          |  |

**E. Consent Agenda** – Review, discussion and possible action on consent to Dismiss or take other action.

| TAB NO. | CASE NO. | RESPONDENT              | LIC. NO. |  |
|---------|----------|-------------------------|----------|--|
| 02      | 2011-086 | Michael J. Robb, D.C.   | 7152     |  |
| 03      | 2012-068 | Timothy J. Peruch, D.C. | 5635     |  |
| 04      | 2012-102 | Beth L. Sommers, D.C.   | 4479     |  |

**F. Formal Interview** – Review, discussion and possible action on the following cases scheduled for Formal Interview pursuant to A.R.S. § 32-924 (F):

| TAB NO. | CASE NO. | RESPONDENT | LIC. NO. |  |
|---------|----------|------------|----------|--|
|         |          |            |          |  |

**G. Formal Hearing – 9:00 AM** - Review, discussion and possible action on the following cases scheduled for Formal Hearing pursuant to A.R.S. § 32-924 (G), (H) and (I):

| TAB NO. | CASE NO. | RESPONDENT | LIC. NO. |  |
|---------|----------|------------|----------|--|
|         |          |            |          |  |

**H. MOTION FOR REHEARING OR REVIEW** – Review, discussion and possible action on the motion for rehearing or review pursuant to A.A.C. R4-7-305

| TAB NO. | CASE NO.                 | RESPONDENT           | LIC. NO. |  |
|---------|--------------------------|----------------------|----------|--|
| 05      | 2011-036 and<br>2012-018 | Richard Madrid, D.C. | 3052     |  |

**I. Initial Appearance** – Review, discussion and possible action on the following cases before the Board for the first time. The Board may consider dismissing the complaint, issuing a Non-Disciplinary Advisory Letter or forwarding the matter for further investigation.

| TAB NO. | CASE NO. | RESPONDENT                  | LIC. NO. |  |
|---------|----------|-----------------------------|----------|--|
| 06      | 2011-062 | Timothy J. Peruch, D.C.     | 5635     |  |
| 07      | 2011-063 | Bruce K. Resnick, D.C.      | 5756     |  |
| 08      | 2011-064 | Edward W. Randall, D.C.     | 4147     |  |
| 09      | 2011-069 | Willie W. Kindred, D.C.     | 807      |  |
| 10      | 2011-081 | Jeffrey D. Conner, D.C.     | 5679     |  |
| 11      | 2011-087 | Michael G. Halsam, D.C.     | 5349     |  |
| 12      | 2011-089 | Roger P. Smith, D.C.        | 7173     |  |
| 13      | 2011-092 | Clyde W. Porter, D.C.       | 3305     |  |
| 14      | 2011-093 | Timothy J. Reilly, D.C.     | 5036     |  |
| 15      | 2011-103 | Jeffery C. Cottingham, D.C. | 5530     |  |
| 16      | 2011-104 | Russell S. Dal Molin, D.C.  | 5791     |  |
| 17      | 2011-106 | John W. Pleggenkuhle, D.C.  | 7967     |  |
| 18      | 2011-107 | Bruce F. Lubitz, D.C.       | 888      |  |
| 19      | 2011-108 | Samuel O. Tarrant III, D.C. | 7995     |  |
| 20      | 2011-110 | Scott H. Carrell, D.C.      | 3676     |  |
| 21      | 2012-029 | Scott H. Carrell, D.C.      | 3676     |  |
| 22      | 2012-101 | Steven L. Levine, D.C.      | 5431     |  |
| 23      | 2012-109 | Shaun W. Hudson, D.C.       | 5652     |  |

**J. Previously Before the Board** – Review, discussion and possible action on the following items previously before the Board:

| TAB NO. | CASE NO. | RESPONDENT             | LIC. NO. |   |
|---------|----------|------------------------|----------|---|
| 24      | 2012-038 | David Stender, D.C.    | 5437     | Consider vacating vote to Formal Interview and Dismissing complaint |
| 25      | 2012-093 | Robert B. Coffey, D.C. | 7166     | Consider action on Initial Appearance previously pended             |
| 26      | 2012-105 | Nicholas K. Poff, D.C. | 8240     | Consider action on failure to comply with Interim Board Order       |

**K. Whether to Open** – Review, discussion and possible action on whether to open a complaint or take other action on the following:

| TAB NO. | LICENSEE                     | LIC NO. | ALLEGATIONS  |
|---------|------------------------------|---------|--|
| 27      | Harvey Abrams, D.C.          | 5161    | Claiming professional superiority; offering to treat by secret means; exceeding scope; claiming credentials not possessed                |
| 28      | Kevin Lees, D.C.             | 7616    | Inappropriate patient relationship   |
| 29      | Cary B. McDonald, D.C.       | 7445    | Making false statements; attempting to procure license through fraud/deception; failure to comply with continuing education requirements |
| 30      | Tanya Podolak                | Unlic   | Practicing without license; possible cease and desist/injunction   |
| 31      | Frederick A. Schofield, D.C. | 3713    | Failure to supervise; aiding and abetting unlicensed practice  |
| 32      | David Stender, D.C.          | 5437    | Failing to use the initials D.C.; filing a false/misleading document   |

**L. Probation** – Review, discussion and possible action regarding the following cases currently under Probation:

| TAB NO. | CASE NO.             | RESPONDENT               | LIC. NO. |  |
|---------|----------------------|--------------------------|----------|--|
| 33      | 2007-056             | Nicholas A. Tivoli, D.C. | 5879     | Review stay of probation   |
| 34      | 2010-056<br>2012-006 | Charles P. Spear, D.C.   | 7147     | Lift stay of suspension for failure to comply, forward to Formal Hearing |

**M. Licensure** – Review, discussion and possible action on the following applications for licensure upon payment of appropriate fees:

**Licensure by Examination:**

| TAB NO. | APPLICANTS   |  |
|---------|--|--|
| 35      | Marvin C. Faulkner, D.C.<br>Shana M. Gorman, D.C.<br>Jeremy S. Kerrigan, D.C.<br>Jennifer N. Rusch Garcia, D.C.<br>Christopher P. Sepanski, D.C. |  |

**Licensure by Reciprocity:**

| TAB NO. | APPLICANTS |  |
|---------|------------|--|
|         |            |  |

**Licensure by Examination with Disclosure:**

| TAB NO. | APPLICANTS            | DISCLOSURE               |
|---------|-----------------------|--------------------------|
| 36      | Andrew J. Gregg, D.C. | Disclosed Misdemeanor    |
| 37      | Rachelle Roeder, D.C. | Undisclosed Misdemeanors |

**Licensure by Reciprocity with Disclosure:**

| TAB NO. | APPLICANTS | DISCLOSURE |
|---------|------------|------------|
|         |            |            |

- N. Reinstatement** – Review, discussion and possible action on the following applications for reinstatement of license upon payment of appropriate fees:

| TAB NO. | APPLICANTS             |   |
|---------|------------------------|---|
| 38      | Cary B. McDonald, D.C. | From Administrative Suspension with Consideration of Whether to Open a Complaint or Take Other Action |
| 38a     | Brent S. Seifert, D.C. | From Administrative Suspension  |

- O. Certification** – Review, discussion and possible action on the following applications for certification upon payment of appropriate fees:

**Physical Medicine Modalities and Therapeutic Procedures:**

| TAB NO. | APPLICANTS  |  |
|---------|---|--|
| 39      | Marvin C. Faulkner, D.C.<br>Shana M. Gorman, D.C.<br>Jennifer N. Rusch Garcia, D.C. |  |

**Acupuncture:**

| TAB NO. | APPLICANTS                                  |  |
|---------|---|--|
| 40      | Gregory Muchnij, D.C.<br>Jea Sub Song, D.C. |  |

**P. Training Applications** – Review, discussion and possible action on the following course and training applications:

**Chiropractic Assistant:**

| TAB NO. | APPLICANTS          |  |
|---------|---------------------|--|
| 41      | Tanya Averill, D.C. |  |

**Preceptorship:**

| TAB NO. | APPLICANTS | PROGRAM DATES |
|---------|------------|---------------|
|         |            |               |

**Q. Board Business** – Review, discussion and possible action regarding the following:

| TAB NO. |  |
|---------|--|
| 42      | Newsletter   |
| 43      | Business Entity Rule Draft   |
| 44      | Arizona Association of Chiropractic Sunrise Proposal Summary Review and Comment                    |
| 45      | Board Strategic Plan Submission Approval   |
| 46      | R4-7-902(6) Application to Medical Review, Independent Medicare/Chiropractic and Similar Processes |
| 47      | Ownership of Chiropractic Facilities by Chiropractic Assistants                                    |
| 48      | Cash Flow Report   |

**R. Call to the Public**

Pursuant to A.R.S. § 38-431.01(H), Board members are not allowed to discuss or take legal action on matters raised during an open call to the public unless the matters are properly noticed for discussion and legal action. However, members may ask staff to review a matter or may ask that a matter be placed on a future agenda.

**S. Adjournment**