

Ohio State Chiropractic Board
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ANNUAL REPORT

FY 2012

July 1, 2011 - June 30, 2012

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ABOUT THE BOARD

About the Board

MISSION OF THE BOARD

As servants of the public, our purpose is to protect public health, safety and welfare. Our mission is to proactively protect the health and welfare of Ohio's citizens and to regulate the chiropractic profession with vision by setting high standards for licensure and by fairly and consistently enforcing those standards through examination of new doctors, biennial license renewal, clinic inspections, and timely investigation and disciplinary action when indicated.

HISTORY OF THE BOARD

The State Board of Chiropractic Examiners was created by the legislature with the enactment of Amended Senate Bill 75 which passed on July 15, 1975 and became effective on November 3, 1975. This legislation enacted Sections 4734.01 to 4734.19 of the Ohio Revised Code and established a five member Chiropractic Examining Board composed of four doctors of chiropractic and one member of the public. Prior to 1975, the Medical Board regulated chiropractors as limited medical practitioners.

On January 8, 2001, the Patient Protection and Professional Standards Act of 2000, was signed by Governor Taft and enacted into law on April 10, 2001. This new law was the first comprehensive revision of the Chiropractic Practice Act since 1975. This law modernized the Board's practice act and revised the name of the Board from Ohio State Board of Chiropractic Examiners to Ohio State Chiropractic Board.

DUTIES OF THE BOARD

The Board fulfills numerous duties to make certain that the citizens of the state of Ohio are afforded care from competent and qualified chiropractic physicians. Those duties include licensing chiropractic physicians, licensing chiropractic physicians to perform acupuncture, biennial chiropractic and acupuncture license renewal, approving continuing education, issuing temporary licenses, investigating complaints, compliance initiatives and discipline and monitoring. The Board performs numerous other activities and services such as developing and maintaining the jurisprudence exam, license verifications, clarifying and interpreting the laws and rules, administrative rules filings and development, filling public records requests, legislative activities, and administrative functions such as fiscal, human resources, payroll processing, records retention, inventory management and website management.

BOARD MEMBERS & MEETINGS

Board Members & Meetings

The Board is comprised of four chiropractic physicians and one public member. The Governor, with the advice and consent of the Senate, appoints members to four-year terms. Members are eligible to be re-appointed once. Board members are compensated hourly for actual time devoted to the Board's affairs and are reimbursed for their travel expenses. During Fiscal Year 2012 the Board consisted of the following members:

Mark A. Korchok, D.C., President¹

Cincinnati, OH

Appointed: 01/08/2004

Reappointed: 02/20/2008

Term Expired: 11/02/2011

Ronald J. Farabaugh, D.C., President²

Westerville, OH

Appointed: 12/30/2009

Term Expires: 11/01/2013

Gregory P. Palkowski, D.C., Vice-President

Beavercreek, OH

Appointed: 11/26/2010

Term Expires: 11/01/2014

Norman J. Gloekler, D.C.

Ashtabula, OH

Appointed: 11/17/2010

Term Expires: 11/01/2014

John P. Kennedy, Esq., Public Member

Columbus, OH

Appointed: 10/18/2007

Re-appointed: 12/31/2009

Term Expires: 11/01/2013

Board Meetings

The Board conducted 6 meetings during Fiscal Year 2012 on the following dates: July 26, October 20 and December 8, 2011 and February 9, April 12 and June 14, 2012. All meetings of the Board are open to the public. All scheduled meetings are posted on the Board's website. Upon request, any person may obtain advance notification of the time, place and purpose of all meetings of the Board.

¹ Dr. Korchok served as Board President from October 22, 2009 to October 20, 2011.

² Dr. Farabaugh was elected Board President on October 20, 2011.

Board Staff

The Board currently employs five full time employees to carry out its duties and responsibilities.

Kelly Caudill, Executive Director

Kelly serves as the chief enforcement officer for the Board, enforcing the laws and rules governing the practice of chiropractic in the state of Ohio. Kelly also directs and manages all activities and programs of the Board office, carries out the Board Members' directives, and oversees all legal and legislative activities.

Elizabeth (Liz) Moore, Administrative Assistant

Liz serves as liaison to the Board members for their administrative support needs. Liz functions as the Board's office manager and is responsible for personnel, public information, fleet management, fiscal, travel, payroll, records retention and inventory. Liz also manages the administrative rule making process and is responsible for updating the Board's website, applications, newsletter, publications, annual reports and forms.

Mari Walker, Certification/Licensure Examiner

Mari handles initial chiropractic and acupuncture licensing, preceptorship, license verifications, license renewal and continuing education audits. Mari also registers continuing education programs approved by the Board and updates the continuing education list on the Board's website.

M. Kate Borloglou, Paralegal

Kate is responsible for gathering preliminary case information and researching data to support the legal and enforcement staff, processing public records request, conducting basic investigations and monitoring doctors subject to discipline and Quality Intervention participation. Kate is also responsible for reporting the Board's disciplinary actions to the appropriate databanks.

Mark Brooks, Enforcement Investigator³

Rex Waldenmyer, Enforcement Investigator

Rex and Mark conduct investigations relative to complaints involving the practice of chiropractic. These investigations may be highly specialized, complex and long-term. Investigations of persons rendering chiropractic services are conducted to determine the facts in each case, ascertain the exact basis of the complaint, and confirm allegations for administrative, civil, and criminal actions.

³ Mr. Brooks resigned from his position with the Board on May 14, 2012.

MEMBERSHIPS, MEETINGS & CONFERENCES

Memberships, Meetings & Conferences

BOARD MEMBERSHIPS

The Board is an active member of the following organization(s):

Federation of Chiropractic Licensing Boards

The Federation of Chiropractic Licensing Boards is a non-profit organization established in 1926 as the professional association for governmental regulatory boards responsible for chiropractic licensure. Membership is comprised of chiropractic licensing boards from the United States and Territories, Canada, Australia, Mexico, United Kingdom and New Zealand.

As a member of the FCLB the Board receives free online searches and reporting to the Chiropractic Information Network/Board Action Databank (CIN-BAD) an on-line computer database that tracks the disciplinary actions taken against chiropractic physicians in all jurisdictions, PowerPoll surveys regarding interpretative scope of practice issues, and educational conference communication.

EDUCATIONAL MEETINGS & CONFERENCES

October 14-16, 2011: Dr. Korchok attended the Federation of Chiropractic Licensing Boards' District II Conference in Fort Walton Beach, FL.

November 11-12, 2011: Dr. Gloekler participated in the National Board of Chiropractic Examiners' Part IV Exam in Chesterfield, MO.

May 1, 2012: Director Caudill attended the Association of Chiropractic Board Administrators meeting in San Antonio, TX.

May 2-6, 2012: Vice-President Dr. Palkowski and Director Caudill attended the Federation of Chiropractic Licensing Boards' Annual Congress in San Antonio, TX.

June 8-9, 2012: Dr. Gloekler participated in the National Board of Chiropractic Examiners' Part IV Test Committee Meeting in Greely, CO.

NOTE: Participation in the National Board of Chiropractic Examiners' Part IV Exam and Part IV Test Committee is at no cost to the Board. The NBCE invites two board members to participate in these activities and pays for all related travel expenses.

BUDGETARY MATTERS

Budgetary Matters

The Board is self-supported primarily through revenue generated from application and renewal fees. The Board does not receive any funds from the State's General Revenue Fund. As required by ORC 4734.54, all receipts of the Board are deposited into the Occupational and Professional Licensing Fund (4K9). This is a joint fund in which the revenue from various other licensing boards are deposited.

FISCAL SUMMARY

The following table illustrates the Board's revenues and expenditures for FY 2012.

REVENUES	
DESCRIPTION	REVENUE
Licenses & Renewal Fees	\$1,220,610
Rosters & Records	\$38.67
Fines & Penalties	\$21,400
TOTAL	\$1,242,048.67

EXPENDITURES	
DESCRIPTION	EXPENSE
500 & 510 Account (e.g.: payroll, hearing examiner, experts, court reporters, membership dues)	\$459,382.98
520 Account (e.g.: state maintenance fees, rent, supplies, travel, credit card processing, printing)	\$89,432.89
530 Account (e.g.: computers, equipment)	\$988
TOTAL	\$549,803.87

APPROPRIATIONS	
FISCAL YEAR	APPROPRIATION
2010	\$541,455
2011	\$541,455
2012	\$584,925

NOTE: The Board requested an increase in funding for FY 2012 to fill one position that had been vacant for two years.

ADMINISTRATIVE RULES

Administrative Rules

The Board formulates rules to govern its actions and adopts rules governing the practice of chiropractic in accordance with ORC § 4734.10. Rules adopted under Chapter 4734 must be according to the procedures of ORC § 119. All rules are filed electronically with the Joint Committee on Agency Rule Review, the Legislative Service Commission and the Secretary of State's Office pursuant to ORC § 103.0511. Public hearings regarding rule changes are held in accordance with ORC § 119.

- The Board did not file any rules to be adopted, amended or rescinded in FY 2012.

COMMON SENSE INITIATIVE

On January 10, 2011, Governor John Kasich signed Executive Order 2011-01K establishing the Common Sense Initiative (CSI) Office. The Common Sense Initiative is a process for independently evaluating the economic impact of state agency regulations on Ohio business. With this new process, stakeholders must be notified and provided the opportunity to make comments whenever the Board proposes to adopt, amend or rescind a rule that could have an adverse impact on business in Ohio. The proposed rules must also be filed with the CSI office and a Business Impact Analysis form must be completed by the Board. The CSI office compiles and reviews all interested party comments and provides recommendations to the Board for which the Board must provide a formal response. Once the CSI process is completed, the Board can then proceed to formally filing rules amendments.

During FY 2012 the Board notified stakeholders and initiated the CSI process for the following rules that it proposes to amend:

- 4734-7-01 Chiropractic license renewal requirements
- 4734-7-02 Standards for board-approved continuing education sponsors; CE held within the state of Ohio
- 4734-7-03 Continuing education offered outside the state of Ohio via supervised self-instruction
- 4734-7-04 Inactive chiropractic license; restoration of chiropractic license
- 4734-7-05 Forfeiture of chiropractic license; restoration of chiropractic license
- 4734-10-04 Acupuncture certificate renewal requirements

NOTE: The above rules were still in the CSI process at the conclusion of FY 2012 and had not been formally filed with the Joint Committee on Agency Rule Review.

FIVE YEAR RULE REVIEW

In accordance with ORC § 119.032, the Board reviews each of its rules every five years to determine whether to continue without change, amend, or rescind a rule. Prior to the scheduled review date of a rule, the Board reviews the rule to determine whether the rule should be continued without amendment, be amended or be rescinded, taking into consideration the purpose, scope, and intent of the statute under which the rule was adopted.

- During FY 2012 there were no rules up for five year rule review.

CONTINUING EDUCATION

Continuing Education

Chiropractic licenses and acupuncture certificates must be renewed by April 1 of every even numbered year. The continuing education requirement for a chiropractic license is 36 hours per biennium and 12 hours per biennium for acupuncture certificates. It is the responsibility of the Board to review and approve continuing education sponsors and programs held within the state of Ohio. All programs registered and approved by the Board are posted on the Board's website.

In accordance with ORC § 4734-7-02, a program offered within the state of Ohio for continuing education credit must be sponsored by a Board-approved CE Sponsor. All Board-approved chiropractic colleges are automatically deemed Board-approved CE Sponsors. The following CE Sponsors were approved during FY 2012: International Chiropractic Pediatric Association and Adena Health Systems.

BOARD-APPROVED CE SPONSORS

Cleveland Clinic Educational Foundation	Adena Health Systems
Chiropractic Association of Ohio	Life University
Miami Valley Chiropractic Society	Life Chiropractic College West
Motion Palpation Institute	Logan College of Chiropractic
New Albany Surgical Hospital Foundation	Southern California University of Health Sciences
North Central Academy of Chiropractic	National University of Health Sciences
Northeast Ohio Academy of Chiropractic	New York Chiropractic College
Northwest Ohio Chiropractic Association	Northwestern Health Sciences University
Ohio State Chiropractic Association	Palmer College of Chiropractic
Ohio Public Health Partnership	Parker University
The MetroHealth System	Sherman College of Chiropractic
Canadian Memorial Chiropractic College	Texas Chiropractic College
Cleveland Chiropractic College	University of Bridgeport
D'Youville College	University of Western States
International Chiropractic Pediatric Assoc.	

EXAMINATION & LICENSE ACTIVITY

Examination & License Activity

The Board requires all applicants for licensure to successfully take and pass a Jurisprudence examination. The Jurisprudence examination is an online exam and students are permitted to take the exam once they have met all of the Board's filing requirements and their application is approved. Prior to the implementation of the online Jurisprudence examination in January 2012, applicants were required to travel to Columbus to take the Jurisprudence examination which was held 5 times per year.

JURISPRUDENCE EXAM

EXAMINATION DATE	APPLICATIONS DENIED	LICENSES ISSUED
July 14, 2011	0	16
August 25, 2011	1	12
November 17, 2011	0	14
January 2012	0	17
February 2012	0	6
March 2012	0	1
April 2012	0	19
May 2012	0	8
June 2012	0	6
TOTAL	1	99

LICENSE ACTIVITY AS OF JUNE 30, 2012

TYPE OF LICENSE	ISSUED DURING FY 12	TOTAL ACTIVE
Chiropractic	100	2376
Acupuncture Certificates	14	126
Preceptorship	21	21

ADDITIONAL CHIROPRACTIC LICENSE DATA: Inactive 95; Forfeited 38; Retired 11; Deceased 8

ENFORCEMENT STATISTICS & DISCIPLINE

Enforcement Statistics & Discipline

The Executive Director serves as the Chief Enforcement Officer and enforces the laws and rules governing the practice of chiropractic. All complaints are reviewed to determine preliminary disposition: closure, referral to another agency, full field investigation, or hold open pending further information. Voluntary compliance inspections are conducted by Board investigators to ensure compliance with the Board's laws and rules. The Board regularly works with law enforcement agencies statewide to investigate misconduct by chiropractic physicians and prosecute the unlicensed practice of chiropractic.

INVESTIGATIONS

Investigations opened: 70

Investigations completed: 110

FY 2012 investigations completed during FY 2012: 28

FY 2011 investigations completed during FY 2012: 48

FY 2010 investigations completed during FY 2012: 21

FY 2009 investigations completed during FY 2012: 7

FY 2008 investigations completed during FY 2012: 3

FY 2007 investigations completed during FY 2012: 1

FY 2006 investigations completed during FY 2012: 1

FY 2005 investigations completed during FY 2012: 1

NUMBER OF INVESTIGATIONS BY CATEGORY IN FY 2012

Advertising:	2	Miscellaneous:	9
Aiding & Abetting:	0	Professional Misconduct:	0
Billing:	14	Records:	2
Child Support:	0	Scope:	0
Conviction/Criminal:	4	Sexual Misconduct:	4
Ethics:	0	Solicitation:	16
Impairment:	2	Treatment:	14
License Denial:	2	Unlicensed Practice:	1

MISCELLANEOUS ACTIONS

Minor Violation Letters Issued:	60	Cease & Desist Letters Issued:	1
Compliance Inspections/Site Visits:	180	Warning Letters Issued:	43
Investigative Subpoenas Issued:	61	Consent Agreement Modifications:	2
Notice of Opportunity for Hearing Dismissals:	1		

ENFORCEMENT STATISTICS & DISCIPLINE

FORMAL ACTIONS

Adjudication Orders:	3	Letters of Admonition:	2
Consent Agreements:	5	License Revocations:	0
Disciplinary Hearings Held:	2	Mental & Physical Exams:	0
Formal Charges (Citations):	4	Order of Suspension:	1
Goldman Hearings Held:	1	Voluntary Surrenders:	0

QUALITY INTERVENTION PROGRAM

The QIP is a confidential alternative to formal disciplinary proceedings. The mission of the QIP is to effectively address licensees with quality of care and communication issues that may have developed due to poor practice patterns or failure to keep up with current standards of practice. The QIP is under the umbrella of the Board's investigatory process and for this reason participation in the QIP is confidential and not subject to discovery in any civil proceeding.

If QIP intervention is successful, the licensee will benefit by improving his or her practice patterns, thus providing valuable chiropractic care to his or her patients; the patients and community will benefit by having a better practitioner available to address their needs; the Board will have protected the public without having an adverse impact on the availability of chiropractic care.

- During FY 2012 there were no licensees invited to participate in the QIP however, two licensees who were invited to participate in the QIP in prior years successfully completed their participation in FY 2012.

NOTICE OF OPPORTUNITY FOR HEARINGS ISSUED

The following information is current as of June 30, 2012. Specific details of disciplinary action are listed in the formal discipline section. The present status of a case may be obtained by contacting the Board office.

John A. Esarco, D.C.

License No. 596

Case No. 2012 CHR 014

Notice of Opportunity for Hearing issued October 21, 2011 for an alleged violation of Ohio Revised Code § 4734.31 (C)(5).

Bruce E. Holaday, D.C.

License No. 1698

Case No. 2011 CHR 048

Notice of Opportunity for Hearing issued October 21, 2011 for an alleged violation of Ohio Revised Code § 4734.31 (C)(1).

ENFORCEMENT STATISTICS & DISCIPLINE

Boris Kamkha, D.C.

License No. 3518

Case No. 2012 CHR 045

Notice of Opportunity for Hearing issued April 13, 2012 for an alleged violation of Ohio Revised Code § 4734.31 (C)(1).

Debra A. Parker, D.C.

License No. 3946

Case No. 2011 CHR 035

Notice of Automatic Suspension and Opportunity for Hearing issued April 17, 2012 for failure to comply with the Consent Agreement she entered into with the Board on December 9, 2010.

LICENSURE APPLICATION DENIAL

Charles W. Theisler, D.C.

Date of Action: October 20, 2011

Case No. 2011 CHR 001

Dr. Theisler did not establish by clear and convincing evidence that he possessed the necessary moral character and fitness to be licensed as a doctor of chiropractic in the state of Ohio. Further, Dr. Theisler made false, fraudulent or deceitful statements to the Board in his June 2010 Application for License to Practice Chiropractic in the State of Ohio.

Disciplinary Action: Application for licensure refused.

FORMAL DISCIPLINARY ACTIONS

Donald Allamong, D.C.

License No. 1545

Date of Action: October 20, 2011

Case No. 2004 CHR 086

On or about June 1, 2011, Dr. Allamong applied for restoration of his revoked license. In a Consent Agreement with the Board, the Board agreed to stay the enforcement of the remaining months of Dr. Allamong's 5 year revocation in return for his full compliance with the Consent Agreement. Dr. Allamong must take and pass the Special Purposes Examination for Chiropractic offered by the National Board of Chiropractic Examiners in order for his license to be restored. Having met the reinstatement conditions outlined in the agreement, Dr. Allamong's license was restored and indefinitely suspended effective May 16, 2012. Said indefinite suspension is stayed by the Board and Dr. Allamong's license is subject to probation for a term of 5 years.

Disciplinary Action: Indefinite Suspension upon Restoration of License – Stayed; 5 year Probation; other probationary terms and conditions as outlined in the Consent Agreement with the Board.

J. Andrew Berthinee, D.C.

License No. 2888

Date of Action: October 20, 2011

Case No. 2010 CHR 062

On or about June 16, 2010 in the Stark County Common Pleas Court, Case No. 2010CR0376A, Dr.

ENFORCEMENT STATISTICS & DISCIPLINE

Berthinee pled guilty to and was convicted of Aggravated Trafficking in Drugs, in violation of ORC Section 2925.03 (A)(1)(C)(1)(c), a felony of the third degree; Trafficking in Cocaine, in violation of ORC Section 2925.03 (A)(1)(C)(4)(c), a felony of the fourth degree, Aggravated Trafficking in Drugs, in violation of ORC Section 2925.03 (A)(1)(C)(1)(a), a felony of the fourth degree; and Trafficking in Cocaine, in violation of ORC Section 2925.03 (A)(1)(C)(4)(a), a felony of the fifth degree.

Disciplinary Action: 3 Year Suspension; 7 Year Probation upon Restoration; Other probationary terms and conditions as outlined in the Consent Agreement with the Board.

Patrick J. Mulcahy, D.C.

License No. 1856

Date of Action: October 20, 2011

Case No. 2012 CHR 015

On or about June 16, 2010 in the Parma Municipal Court, Parma, Ohio, Case No. 10CRB01175, Dr. Mulcahy pled No Contest to and was convicted of Possession of Drug Paraphernalia, in violation of Ordinance 620.04, a misdemeanor of the fourth degree; Disorderly Conduct, in violation of Ordinance 648.04, a misdemeanor of the fourth degree; and Drug Abuse, in violation of Ordinance 620.03 a minor misdemeanor.

Disciplinary Action: 2 Year Probation and other probationary terms and conditions as outlined in the Consent Agreement with the Board.

Gary T. Berner, D.C.

License No. 1348

Date of Action: October 20, 2011

Case No. 2011 CHR 008

On or about February 24, 2011 in the Court of Common Pleas, Franklin County, Ohio, Case No. 10CR-07-4134, Dr. Berner pled guilty to Workers' Compensation Fraud, a felony of the third degree, in violation of Ohio Revised Code Section 2913.48.

Disciplinary Action: Indefinite Suspension – Stayed; 9 Month Probation; Other terms and conditions as outlined in the Consent Agreement with the Board.

M. Stephen Mills, D.C.

License No. 1920

Date of Action: October 20, 2011

Case No. 2011 CHR 079

Dr. Mills employed fraud or deception in renewing his license on or about April 1, 2010; failed to earn 12 hours of category 1/2 continuing education hours; made a false, fraudulent or deceitful statement to the Board on his renewal application and failed to submit documentation of earning the required continuing education hours for 2010 within thirty days from the date of the Board's notification of audit.

Disciplinary Action: 60 Day Suspension – Stayed; 12 CE hours; 3 CE hours on the topic of Ethics; Proof of attendance for all CE submitted with application for renewal for three renewal periods.

ENFORCEMENT STATISTICS & DISCIPLINE

John P. Musser, D.C.

License No. 3138

Date of Action: February 16, 2012

Case No. 2010 CHR 024

On or about May 6, 2010, Dr. Musser pled guilty to and was convicted of Receiving Stolen Property (\$5000 or more), in violation of Section 2913.51 (A) of the Ohio Revised Code, a felony of the fourth degree and Attempted engaging in a Pattern of Corrupt Activity, in violation of Section 2923.02 (A) and 2923.32 (A)(1), a felony of the third degree in the Warren County Common Pleas Court, Case No. 09CR26176.

Disciplinary Action: Indefinite Suspension retroactive to February 28, 2010 for not less than 3 years; 1 Year of Suspension – Stayed; 2 Year Probation; Other stipulations as outlined in the Board’s Adjudication Order.

Jay M. Plotkin, D.C.

License No. 2907

Date of Action: April 12, 2012

Case No. 2006 CHR 036

On or about September 29, 2006, Dr. Plotkin pled guilty to one felony count of Healthcare Fraud, in violation of Title 18 United States Code Section 1035, in the United States District Court for the Northern District of Ohio Eastern Division, Case No. 1:06 CR 196.

Disciplinary Action: 3 Year Suspension (Retroactive); 30 Month Probation upon Reinstatement under a Practice Monitor; other terms and conditions as outlined in the Consent Agreement with the Board.



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