

ASBCE NEWSLETTER

AR State Board of Chiropractic Examiners

September 2001



ARKANSAS STATE BOARD OF CHIROPRACTIC EXAMINERS

BOARD MEMBERS

Larry L. Grinder, D.C., President

Michael Courtney, D.C., Secretary/Examination
Officer

Margaret Thompson, Treasurer

Robert L. Shackelford, D.C., Investigation Officer

Beverly Foster, D.C., Member

Harold "Hal" Gunter, Consumer Member

Mark S. Bradley, D.C., Member

PROFESSIONAL STAFF

Carol Ann Gates, Executive Director

Sandy Kita, Administrative Assistant

PRESIDENT'S MESSAGE

It is with great honor that I serve as President of the Board of Chiropractic Examiners.

There have been many changes that have taken place within the chiropractic profession since I received my license almost twenty years ago, but in my opinion none of those changes has meant as much to our profession as the passage of Senate Bill 229 (Act 197) in the 83rd General Assembly.

This new law is designed to protect the consumer from being manipulated by anyone not qualified by licensure to practice chiropractic. The Board of Examiners now has the authority to impose penalties on individuals practicing chiropractic without a license.

This authority will allow us to more fully carry out the responsibility we have to protect the citizens of Arkansas and to preserve and develop the chiropractic profession.

It is the responsibility of each individual chiropractor to serve the public with professionalism within our own scope of practice. Let's work together to serve our state and our profession with the highest integrity!

Dr. Larry L. Grinder, President

BOARD MEMBER REAPPOINTED

Governor Mike Huckabee has recently reappointed Dr. Beverly Foster to the Board of Examiners. Dr. Foster's term will expire June 2006. Congratulations to Dr. Foster.

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CALENDAR OF EVENTS

BUSINESS MEETING

PLACE: **MAIN STREET MALL**

TIME: 10:00 A.M.
SEPT. 19, 2001

CREDENTIALS MEETING

PLACE: MAIN STREET MALL

TIME: 10:00 A.M. DEC. 20, 2001

EXAMINATION & CREDENTIALS MEETING

PLACE: Main St. Mall, Conf. Room C

Date: January 24, 2002

The Board of Examiners would like to extend their appreciation to, Dr. Beverly Foster for her expertise and dedication as the President of the Chiropractic Board for the past year during her tenure as President. Dr. Foster's leadership and commitment to public protection has made a major impact on this Board. We appreciate Dr. Foster's efforts to develop a strong chiropractic regulatory board. We look forward to the next five years with Dr. Foster serving as a board member, serving the chiropractic profession and the public at large.

Congratulations and THANK YOU Dr. Foster.

OUR MISSION

THE STATE BOARD OF CHIROPRACTIC EXAMINERS WAS CREATED BY ACT 126 OF 1915, AS A REGULATORY BOARD TO

1) PROVIDE FOR THE LICENSING AND EXAMINATION OF CHIROPRACTORS; 2) ENSURE THAT ANY PERSON PRACTICING OR OFFERING TO PRACTICE CHIROPRACTIC IN THE STATE FOR COMPENSATION IS QUALIFIED AND LICENSED. 3) SAFEGUARD THE PUBLIC HEALTH AND WELFARE OF THE CITIZENS OF ARKANSAS.

THE CHIROPRACTIC BOARD IS A CASH FUND AGENCY, WHICH MEANS WE GENERATE BOARD FUNDS MAINLY THROUGH LICENSURE RENEWAL, AND EXAMINATION – ORIENTATION FEES

THE FOLLOWING CANDIDATES PASSED THE JANUARY 2001 EXAMINATION

Randolph Gibson, DC
Shad McClain, DC

CANDIDATES WITH NATIONAL BOARD PART IV

Todd Blan, DC, DC
Brad Chambers, DC
Joseph Cornell, DC
Leslie McClellan, DC
Christopher Dodson, DC

STATISTICS OF AR LICENSED CHIROPRACTORS
As of September 2001

Licenses: 423 Active
32 Inactive
3 Suspended
101 Out-State

Registration:
Acupuncture - 115



BREAKDOWN OF COMPLAINTS/INVESTIGATION

Case #159-01-24-01: PENDING
Case #160-01-31-01: Resolved
Case #162-04-13-01 Pending
Case #163-05-17-01: Letter mailed to the doctor.
Case #164-06-05-01: Resolved
Case #165-06-21-01: Letter mailed to the doctors.
Case #166-06-21-01: Under investigation
Case #167-07-02-01: Letter mailed to the doctor.
Case #168-07-16-01: Case under review
Case #169-07-16-01: No violation
Case #170-07-16-01: Under investigation
Case #171-07-12-01: Under investigation
Case #172-07-24-01: Under investigation
Case #173-08-17-01: Under investigation

ADJUDICATORY HEARING

Case #154-07-14-00: Dr. Carolyn Taylor
The Board of Examiners convened for the purpose of conducting an adjudicatory hearing, in the matter of, Dr. Carolyn Taylor.

ORDER:

Based on the Findings of Fact and Conclusions of Law the Board ordered:

- 1.) Fined \$3000 for each 12 violations, total \$36,000
 - 2.) Probation for 24 months.
 - 3.) 24 continuing education hours in addition to the required 24 annual hrs. Mandated hours to be in risk management, office procedures, and standard of care. Twelve of the additional hrs. are to be completed within 90 days and reported to the board.
- Dr. Carolyn Taylor is appealing the Board's decision.

ADJUDICATORY HEARING

Case #156-12-12-00; Dr. Roland Brim
On June 19, 2001 the Board of Examiners convened in a hearing in the matter of, Dr. Roland Brim.

CONCLUSIONS OF LAW

- 1.) no violation of Regulation 4(g).
- 2.) no violation of Regulation 1(b)
- 3.) no violation of Regulation of 4(g) or 1(b) has been found, no grounds exist for the Board to levy a fine or take disciplinary action.

The Chiropractic Board is mandated to deal with practitioners who are accused of misconduct, incompetence or incapacity. Board members serve on hearings, which have the mandate to make decisions, which may affect a practitioner's ability to make a living. Their decisions may also affect the care the public expects to receive from the profession. The seriousness of these matters makes it prudent for board members to delay making judgements until adequate evidence is in and has been fully discussed. The Board of Examiners are aware that authority is granted by the law to the governing body of the regulatory entity as a whole, not to any member individually. Consequently, they respect the vote of the majority of the members.

Professional board members exemplify their pride by their constant hard work – within the framework of a limited Act – to ensure that their profession remains worthy of self-regulation.

**DR. MICHAEL COURTNEY, SECRETARY/
EXAMINATION OFFICER**

CLARIFICATION ON NEW RULE/REGULATION CHANGE

Regarding the new rule and regulation change pertaining to C. Professional Conduct and 2. Unprofessional Acts (q.)

Direct mail is permitted. Similar to attorneys having the right to use direct mail, so are we. However, there is qualification for this noted later in the rule. Direct contact with prospective patients by in-person or live telephone communication (telemarketing) is definitely prohibited for 30 days after an accident. There is no prohibition if the prospective patient is a family member, a past patient or where prior professional relationship had existed or exists or where there is no pecuniary gain by the licensee. The licensee, agent and/or representative of the licensee may 30 days after an accident, contact a prospective patient who has been involved in the accident, provided that at the time of contact

a. a statement is made describing how the licensee obtained the information prompting the communication,

b. the communication complies with all other applicable rules, including those governing licensee advertising.

Furthermore, a licensee, agent and/or representative shall not solicit professional employment from a prospective patient by written or recorded communication or by in-person or telephone contact even when not otherwise prohibited if:

1. The prospective patient has made know to the chiropractic physician a desire not to be solicited by the licensee.
2. The solicitation involves coercion, duress or harassment, fraud, overreaching, intimidation, or undue influence, or
3. the prospective patient is known to the licensee to be treated by another licensee, except where the prospective patient has initiated the contact.

I hope this helps to clarify the new rule/regulation.

Michael D. Courtney, D.C., Secretary/Examination Officer

ADVERTISING

Testimonial Advertising: The use of testimonials isn't prohibited under the Rules, Regulations and Statutes. Doctors using testimonials in their advertising are encouraged to make sure they have written permission from the patient & that they preview the advertisements that use the patient's statements, likeness, or case summaries before the advertisements are released for production.

Rules & Regulations; Advertising

D. Advertising by Chiropractic Physicians

3. Misleading the public by advertising or otherwise publicizing a list of various diseases as being universally curable is prohibited.

4. Limitations to advertising free or reduced charges. The offering by doctors of chiropractic in advertisements or other solicitations to the public of initial services at no charge or at reduced charges shall be considered misleading or untruthful if, at the time of such advertised no-charge or reduced-charge visits.

(a) Charges are made to the patient for services not specified in such advertisement or solicitation and which are provided on the same visit or same day and are hidden to the patient **or not explained in advance to the patient.**

When offering "Free Services" make sure you present a clarification waiver to patients for their signature stating which procedures would accrue charges (when the free stops and charges would apply).

Example only: "I understand all services to this point have been free of charge. Any subsequent services will be provided for at the fee rate explained to me prior to treatment."

NEW RULES AND REGULATIONS

C. Professional Conduct 2. Unprofessional Acts(q)

(q) Direct contact with prospective patients by in-person or live telephone communication, either by the licensee, agent and/or representative of the licensee, the purpose of which being to solicit professional employment from a prospective patient with whom the chiropractor physician has no family or prior professional relationship when a significant communication and/or contact is the chiropractic pecuniary gain.

1.) Notwithstanding the foregoing prohibition, a licensee, agent and/or representative of the licensee may, thirty (30) days after an accident, contact a prospective patient who has been involved in the accident, provided that at the time of contact (a) statement is made describing how the licensee obtained the information prompting the communication, and (b) the communication complies with all other applicable rules, including licensee advertising.

2. A licensee, agent and/or representative shall not solicit professional employment from a prospective patient by written or recorded communication or by in-person or telephone contact even when not otherwise prohibited in this rule if: (1) the prospective patient has made known to the chiropractic physician a desire not to be solicited by the licensee or (2) the solicitation involves coercion, duress or harassment, fraud, overreaching, intimidation, or undue influence, or (3) the prospective patient is known to the licensee to be treated by another licensee, except where the prospective patient has initiated the contact.

Comments: This regulation is designed to protect the public from undue influence as well as protecting the tranquility and privacy of the home and of personal injury victims and their families against intrusive, unsolicited contacts by licensees or their agents.