



**STATE OF WISCONSIN**  
 Department of Safety and Professional Services  
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**Governor Scott Walker      Secretary Dave Ross**

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**Chiropractic Examining Board**  
**Room 121A, 1400 E. Washington Avenue, Madison**  
**Contact: Mojgan Hall - 608-266-2112**  
**August 23, 2012**

*The following agenda describes the issues that the Board plans to consider at the meeting. At the time of the meeting, items may be removed from the agenda. Please consult the meeting minutes for a description of the actions and deliberations of the Board.*

**FULL BOARD MEETING**  
**8:30 A.M.**

OPEN SESSION – CALL TO ORDER – ROLL CALL

- A. Adoption of Agenda (1-4)**
- B. Approval of Minutes – May 24, 2012 (5-8)**
- C. Secretary Matters
- D. **Executive Director Matters**
  - 1) Elections
- E. Presentation of Proposed Stipulations, Final Decisions and Orders by the Division of Enforcement including any received after printing of the agenda (31-38)**
  - 1) 11 CHI 038 – Russell M. Sherbondy, D.C.
    - a) Attorney: Susan Gu
    - b) Case Advisor: Jodi Griffith, D.C.

**F. Preceptor Approvals (9-10)**

	<u>Chiropractor</u>	<u>Lic. Granted</u>
<u>Northwestern</u>	Kevin Donnelly	07/24/2001
	Katherine Gress-Volpentesta	12/17/1998
	Carl Miller	07/13/1989
<u>Palmer</u>	Scott Fenwick	11/10/2005
	Bryan Gerondale	12/01/1982
	Steve Mickelson	07/08/1975
	Andrew Paull	04/16/2004
	Kevin Schultz	04/10/2001
	Kurt Stein	02/22/2002
	Terry Wepner	07/16/1983
	Darren Werner	04/14/2005
	Jeffrey Wild	10/26/1985
	Ronald Ziolkowski	06/03/1982

- G. Board Discussion Items including any received after printing of agenda**
- 1) **Discussion and Action related to authority delegated to Board liaisons** (11-12)
  - 2) **Division of Enforcement Matters**
    - a. Discussion of DOE policy regarding screening (13-14)
  - 3) **Education and Examination Matters**
    - a. Discussion and Action Related to Cost to Administer the State Practical Examination (15-16)
    - b. Discussion Related to Continuing Education Approvals (17-18)
  - 4) Credentialing Matters
  - 5) **Practice Question Matters**
    - a. Discussion Related to Giving Nutrition Advice to Patients (19-20)
  - 6) **Legislation/Administrative Rule Matters**
    - a. Discussion Related to the Board's Authority Under CHIR 5 (21-22)
  - 7) Liaison/Committee Reports
  - 8) Speaking Engagement, Travel, Public Relation Requests

- H. Informational Items**
- 1) Journal Sentinel Online Article – Chiropractors, Massage Therapists Practice Despite Allegations (23-30)

I. New Business

J. Public Comments

**CONVENE TO CLOSED SESSION to deliberate on cases following hearing (s. 19.85(1) (a), Stats.; consider closing disciplinary investigation with administrative warning (s. 19.85(1)(b), Stats. and 440.205, Stats., to consider individual histories or disciplinary data (s. 19.85 (1)(f), Stats.; and, to confer with legal counsel (s. 19.85(1)(g), Stats.)**

**K. Deliberation of Proposed Stipulations, Final Decisions and Orders including any received after printing of the agenda**

- 1) 11 CHI 038 – Russell M. Sherbondy, D.C. (31-38)
  - a) Attorney: Susan Gu
  - b) Case Advisor: Jodi Griffith, D.C.

**L. Deliberation of other items including any received after printing of agenda**

- 1) Case Closings
- 2) Case Status Report
- 3) Proposed Decisions
- 4) Summary Suspensions
- 5) Objections and Responses to Objections
- 6) Complaints
- 7) Administrative Warnings
- 8) Matters Relating to Costs
- 9) **Monitoring Cases** (39-40)
  - a. James J. Fink, D.C. (41-54)
  - b. Richard J. Ranicke, D.C. (55-68)
- 10) Appearances from Requests Received or Renewed
- 11) Examination Matters
- 12) **Application Matters**
  - a) Chiropractic Technician – D.B. (69-80)

- b) Preceptor – J.S. (81-96)
- c) Endorsement – N.C. (97-112)
- d) Endorsement – C.L. (113-124)
- 13) Professional Assistance Program Cases
- 14) Motions
- 15) **Continuing Education**
  - a. C.R. – On-line (125-128)
  - b. S.T. –Waiver (129-132)

M. Consulting with Legal Counsel

**RECONVENE TO OPEN SESSION IMMEDIATELY FOLLOWING CLOSED SESSION**

N. Vote on Items Considered or Deliberated Upon in Closed Session, if Voting is Appropriate

O. Other Board Business

P. Next Meeting Date: October 4, 2012

**ADJOURNMENT**

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**CHIROPRACTIC EXAMINING BOARD  
MEETING MINUTES  
May 24, 2012**

Present: Kathleen Schneider, Jodi Griffith, John Church and Wendy Henrichs

Present by Teleconference: Mania Moore

Not Present: James Koshick

Staff: Mojgan Hall, Executive Director; Yolanda McGowan, Legal Counsel;  
Michelle Solem, Bureau Assistant; and other Department staff

Wendy Henrichs, Board Chair, called the meeting to order at 8:32 a.m. A quorum of 5 members was confirmed.

**ADOPTION OF AGENDA**

**Amendments**

- Add to Open Session
  - Printed public comments included in the red folder to open session
  - Comments received from Dr. Koshick relative to the practical exam
- Add to Closed Session
  - Summary Suspension Discussion and Action
    - Ida Bergman
    - Jerod Bergman
    - Brian Hansen
  - License Reinstatement Discussion and Action
    - Tina Peterson

**MOTION:** Kathleen Schneider moved, seconded by John Church, to adopt the agenda as amended. Motion carried unanimously.

**APPROVAL OF MINUTES**

**MOTION:** Jodi Griffith moved, seconded by John Church, to approve the minutes of March 29, 2012, as published. Motion carried unanimously.

**PRESENTATION OF PROPOSED STIPULATIONS, FINAL DECISIONS AND ORDERS  
BY THE DIVISION OF ENFORCEMENT**

Attorneys from the Division of Enforcement provided presentations related to the following Stipulations, Final Decisions and Orders:

1. 08 CHI 061 – Richard J. Ranike
2. 10 CHI 051 – Brian E. Palevac
3. 11 CHI 032 – James J. Fink

**PRECEPTOR APPROVALS**

**MOTION:** John Church moved, seconded by Kathleen Schneider, to approve preceptors as submitted. Motion carried unanimously.

## BOARD DISCUSSION

### 1. EDUCATION AND EXAMINATION MATTERS

#### a. **Post Practical Exam Discussion**

The Board discussed general comments relative to the exam process.

#### b. **Practical Exam Retake Policy**

The board discussed the retake policy.

**MOTION:** John Church moved, seconded by Jodi Griffith, to clarify that an applicant that fails 1 section of the practical exam demonstrating clinical competence has not failed the exam per CHIR 2.11(2) and to further clarify that said applicant may not be licensed unless and until the failed section has been successfully completed in compliance with all other applicable rules.

**MOTION:** Jodi Griffith moved, seconded by John Church, to clarify that an applicant that has failed 2 or more sections of the practical exam demonstrating clinical competence has failed the exam for purposes of CHIR 2.07(3) and will be required to retake the entire exam per CHIR 2.11(2).

#### c. **Practical Exam Policy – Withdrawal and Endorsement**

The Board will continue to review on a case by case basis.

#### d. **Discussion relative to approved Shoulder and Hip Seminar**

This topic will be discussed as part of the CE Approval Process.

#### e. **CE Approval Process**

Dr. Church indicated that he has been reviewing the CE. He outlined the concerns that he has with some of the programs that have been submitted. There was a great deal of discussion surrounding the interpretation of the “letter of the law” and the “spirit of the law.” Yolanda McGowan indicated that the rule is clear - one credit hour is granted for each 50 minute instruction period.

#### f. **Discussion relative to CT/CRT Minimum Course of Study Requirements**

This item is tabled until the August meeting. Board members will submit comments to Yolanda McGowan.

## INFORMATIONAL ITEMS

Yolanda McGowan told the Board that she had received an e-mail from a Chiropractor asking that acupuncture be added to the scope of practice. The chair indicated that the rules will be reviewed in light of the recent legislation.

## PUBLIC COMMENTS

Gail Meye addressed the Board relative to the practical exam. She indicated that she is struggling with the practical exam requirement in Wisconsin. She noted that if one has completed the education requirements at an accredited academic facility and has passed the national exam, they have proven their dedication and competence.

Elizabeth McLean, Moraine Park Technical College, noted that approval numbers for continuing education for CT and CRT courses are not being issued.

Dean Shephard indicated that he shares the concerns expressed by Gail Meye. He noted that it is harder for chiropractors to sell their practice due to the low number of applicants for the practical exam given that there have been no applicants that have passed the new practical exam.

Yolanda McGowan told the gallery that the practical exam is a requirement by statute and not a requirement of the Board.

### **CLOSED SESSION**

**MOTION:** Mania Moore moved, seconded by Kathleen Schneider, to convene to closed session to deliberate on cases following hearing (s. 19.85(1) (a), Stats.; consider closing disciplinary investigation with administrative warning (s. 19.85(1)(b), Stats. and 440.205, Stats., to consider individual histories or disciplinary data (s. 19.85 (1)(f), Stats.; and, to confer with legal counsel (s. 19.85(1)(g), Stats.). Roll Call Vote: John Church - yes; Jodi Griffith - yes; Wendy Henrichs - yes; Mania Moore - yes; and Kathleen Schneider - yes. Motion carried unanimously. Open session recessed at 10:26 a.m.

### **RECONVENE TO OPEN SESSION**

**MOTION:** Jodi Griffith moved, seconded by Kathleen Schneider, to reconvene in open session at 1:10 p.m. Motion carried unanimously.

### **VOTING ON ITEMS CONSIDERED/DELIBERATED IN CLOSED SESSION**

#### **PROPOSED STIPULATIONS, FINAL DECISIONS AND ORDERS**

**MOTION:** Mania Moore moved, seconded by Kathleen Schneider, to adopt the Findings of Fact, Conclusions of Law, Stipulation and Order, in the matters of:

- a. 08 CHI 061 – Richard J. Ranicke
- b. 10 CHI 051 – Brian E. Palevac
- c. 11 CHI 032 – James J. Fink

Motion carried unanimously.

### **CASE CLOSINGS**

**MOTION:** Mania Moore moved, seconded by Kathleen Schneider, to close the following cases according to the recommendations by the Division of Enforcement:

- a. 11 CHI 011 No Violation
- b. 11 CHI 030 Prosecutorial Discretion (P2)

Motion carried unanimously.

### **SUMMARY SUSPENSIONS**

Attorney Polewski withdrew the petitions for summary suspension related to Ida, Jerod and Brian. Wendy Henrichs recused herself from all deliberations related to the petitions for summary suspension.

### **ADMINISTRATIVE WARNINGS**

**MOTION:** Kathleen Schneider moved, seconded by Jodi Griffith, to issue the Administrative Warning in the matter of 12 CHI 002. Motion carried unanimously.

### **MONITORING**

**MOTION:** Kathleen Schneider moved, seconded by John Church, to affirm the previous decision to deny A.A. admittance to the Professional Assistance Procedure. Motion carried unanimously.

#### **APPLICATION MATTERS**

**MOTION:** John Church moved, seconded by Kathleen Schneider, to approve preceptorship to Leo Bronston. Motion carried unanimously.

**MOTION:** Mania Moore moved, seconded by Kathleen Schneider, to approve reinstatement of licensure to Tina Peterson. Motion carried unanimously.

The matter of J.B. was delegated to the Liaison to act upon on behalf of the Board.

No action was taken on the continuing education matter as additional information that was requested was not submitted.

#### **ADJOURNMENT**

**MOTION:** Kathleen Schneider moved, seconded by Mania Moore, to adjourn the meeting at 1:12 p.m. Motion carried unanimously.





State of Wisconsin

DEPARTMENT OF SAFETY AND PROFESSIONAL  
SERVICES

C O R R E S P O N D E N C E / M E M O R A N D U M

**DATE:** August 23, 2012  
**TO:** CHIROPRACTIC EXAMINING BOARD  
**FROM:** JUSTIN TOMER  
**SUBJECT:** PRECEPTOR APPROVAL

The following requests for approval of preceptors have been submitted to the DRL 45 days in advance of the beginning of the school's next trimester:

	<u>Chiropractor</u>	<u>Lic. Granted</u>
<u>Northwestern</u>	Kevin Donnelly	07/24/2001
	Katherine Gress-Volpentesta	12/17/1998
	Carl Miller	07/13/1989
<u>Palmer</u>	Scott Fenwick	11/10/2005
	Bryan Gerondale	12/01/1982
	Steve Mickelson	07/08/1975
	Andrew Paull	04/16/2004
	Kevin Schultz	04/10/2001
	Kurt Stein	02/22/2002
	Terry Wepner	07/16/1983
	Darren Werner	04/14/2005
	Jeffrey Wild	10/26/1985
	Ronald Ziolkowski	06/03/1982

All of the above have current licenses in good standing.

**State of Wisconsin  
Department of Safety and Professional Services**

**AGENDA REQUEST FORM**

Name and Title of Person Submitting the Request: <i>Yolanda McGowan, Legal Counsel</i>		Date When Request Submitted:
		Items will be considered late if submitted after 5 p.m. and less than: <ul style="list-style-type: none"> <li>▪ 10 work days before the meeting for Medical Board</li> <li>▪ 14 work days before meeting for all other boards</li> </ul>
Name of Board, Committee, Council: <i>All Boards</i>		
Board Meeting Date:	Attachments: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	How should the item be titled on the agenda page? Board Discussion Items: Discussion and Action related to Delegating Authority to Board/Department Liaisons
Place Item in: <input checked="" type="checkbox"/> Open Session <input type="checkbox"/> Closed Session <input type="checkbox"/> Both	Is an appearance before the Board being scheduled? If yes, by whom and what time? <input type="checkbox"/> Yes by _____ for _____ (name) (time) <input checked="" type="checkbox"/> No	Name of Case Advisor(s), if required:  Not Applicable
Describe the Issue the Board Should Address:  The Board should clarify what legal authority is being delegated to liaison(s) that represent and act on the Board's behalf. The Board should further consider what processes, if any, it will use to ensure that the Board liaison does not exceed the authority granted, and under what circumstances the delegated authority should/could be rescinded.		
Describe the Action Required by the Board to Address This Request:  <i>Take any action deemed appropriate following board review and consideration.</i>		
<u>Directions for including supporting documents:</u>  1. This form should be attached to any documents submitted to the agenda. 2. Documents submitted to the agenda must be single-sided. 3. Only copies of the original document will be accepted. 4. Provide original documents needing Board Chairperson signature to the Bureau Director or Program Assistant prior to start of meeting.		
<b>Authorization:</b>		
Signature of person making this request		Date
Supervisor signature (if required) and Division Administrator (if a late item)		Date
Bureau Director signature (indicates approval to add late items to agenda)		Date

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**State of Wisconsin  
Department of Regulation and Licensing**

**AGENDA REQUEST FORM**

Name and Title of Person Submitting the Request:  Jeanette Lytle		Date When Request Submitted: June 1, 2012
Items will be considered late if submitted after 5 p.m. and less than: <ul style="list-style-type: none"> <li>▪ 10 work days before the meeting for Medical Board</li> <li>▪ 14 work days before meeting for all other boards</li> </ul>		
Name of Board, Committee, Council: Chiropractic Examining Board		
Board Meeting Date:  August 9, 2012	Attachments: Yes <input checked="" type="checkbox"/> No	How should the item be titled on the agenda page?  Discussion of DOE policy regarding screening.
Place Item in: <input checked="" type="checkbox"/> Open Session <input type="checkbox"/> Closed Session <input type="checkbox"/> Both	Is an appearance before the Board being scheduled? If yes, by whom? <input checked="" type="checkbox"/> Yes by Jeanette Lytle <input type="checkbox"/> No	Name of Case Advisor(s), if required:
Describe the issue and action the Board should address:  DOE will discuss screening policy and answer any questions the board may have regarding screening protocols.		
If this is a "Late Add" provide a justification utilizing the Agenda Request Policy:		
<b>Directions for including supporting documents:</b> <ol style="list-style-type: none"> <li>1. This form should be attached to any documents submitted to the agenda.</li> <li>2. Documents submitted to the agenda must be single-sided.</li> <li>3. Only copies of the original document will be accepted.</li> <li>4. Provide original documents needing Board Chairperson signature to the Bureau Director or Program Assistant prior to the start of a meeting.</li> </ol>		
<b>Authorization:</b>		
 Signature of person making this request		 Date
Supervisor signature (if required)		Date
Bureau Director signature (indicates approval to add late items to agenda)		Date

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**State of Wisconsin  
Department of Safety and Professional Services**

**AGENDA REQUEST FORM**

<b>Name and Title of Person Submitting the Request:</b>  Mojgan Hall		<b>Date When Request Submitted:</b>  8/8/2012	
		Items will be considered late if submitted after 5 p.m. and less than: <ul style="list-style-type: none"> <li>▪ 10 work days before the meeting for Medical Board</li> <li>▪ 14 work days before meeting for all other boards</li> </ul>	
<b>Name of Board, Committee, Council:</b> Chiropractic Examining Board			
<b>Board Meeting Date:</b> 8/23/2012	<b>Attachments:</b> <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	<b>How should the item be titled on the agenda page?</b>  Discuss Costs Related to Administration of the State Practical Examination.	
<b>Place Item in:</b> <input checked="" type="checkbox"/> Open Session <input type="checkbox"/> Closed Session <input type="checkbox"/> Both	<b>Is an appearance before the Board being scheduled? If yes, by whom?</b>  <input type="checkbox"/> Yes by _____ (name)  <input checked="" type="checkbox"/> No	<b>Name of Case Advisor(s), if required:</b>	
<b>Describe the issue and action the Board should address:</b>  <b>REVIEW, DISCUSS AND TAKE ANY ACTION DEEMED NECESSARY REGARDING:</b>  A request for the Board to discuss what the estimated or proposed costs associated with (and will be charged to) new applicants to take the Board's Practical Exam in 2013 and what actions will the Board take should the costs exceed the current \$1,500.00 charge.			
If this is a "Late Add" provide a justification utilizing the Agenda Request Policy:			
<b>Directions for including supporting documents:</b> 1. This form should be attached to any documents submitted to the agenda. 2. Late Adds must be authorized by a Supervisor, DOE Division Administrator, and Bureau Director. 3. Provide original documents needing Board Chairperson signature to the Bureau Director or Program Assistant prior to the start of a meeting.			
<b>Authorization:</b>			
Signature of person making this request		Date	
Supervisor (if required)		Date	
Division Administrator (if required)		Date	
Bureau Director signature (indicates approval to add late items to agenda)		Date	

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**State of Wisconsin  
Department of Safety and Professional Services**

**AGENDA REQUEST FORM**

Name and Title of Person Submitting the Request:  <b>Mojgan Hall on behalf of Board Chair, Wendy Henrichs</b>		Date When Request Submitted:  <b>8/6/2012</b>	
		Items will be considered late if submitted after 5 p.m. and less than: <ul style="list-style-type: none"> <li>▪ 10 work days before the meeting for Medical Board</li> <li>▪ 14 work days before meeting for all other boards</li> </ul>	
Name of Board, Committee, Council: <b>Chiropractic Examining Board</b>			
Board Meeting Date: <b>8/23/2012</b>	Attachments: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	How should the item be titled on the agenda page? <b>Discussion Related to Continuing Education Provider Approvals.</b>	
Place Item in: <input checked="" type="checkbox"/> Open Session <input type="checkbox"/> Closed Session <input type="checkbox"/> Both	Is an appearance before the Board being scheduled? If yes, by whom?  <input type="checkbox"/> Yes by _____ (name)  <input checked="" type="checkbox"/> No	Name of Case Advisor(s), if required:	
Describe the issue and action the Board should address: <b>The board is being asked to consider making the requirements of Chiro 5 (related to approval of continuing education program providers) more stringent.</b>			
If this is a "Late Add" provide a justification utilizing the Agenda Request Policy:			
<b>Directions for including supporting documents:</b> 1. This form should be attached to any documents submitted to the agenda. 2. Late Adds must be authorized by a Supervisor, DOE Division Administrator, and Bureau Director. 3. Provide original documents needing Board Chairperson signature to the Bureau Director or Program Assistant prior to the start of a meeting.			
<b>Authorization:</b>			
Signature of person making this request		Date	
Supervisor (if required)		Date	
Division Administrator (if required)		Date	
Bureau Director signature (indicates approval to add late items to agenda)		Date	

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**State of Wisconsin  
Department of Safety and Professional Services**

**AGENDA REQUEST FORM**

<b>Name and Title of Person Submitting the Request:</b>  Mojgan Hall		<b>Date When Request Submitted:</b>  8/9/2012	
		Items will be considered late if submitted after 5 p.m. and less than: <ul style="list-style-type: none"> <li>▪ 10 work days before the meeting for Medical Board</li> <li>▪ 14 work days before meeting for all other boards</li> </ul>	
<b>Name of Board, Committee, Council:</b> Chiropractic Examining Board			
<b>Board Meeting Date:</b> 8/23/2012	<b>Attachments:</b> <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	<b>How should the item be titled on the agenda page?</b> Practice Question concerning giving nutrition advice to patients.	
<b>Place Item in:</b> <input checked="" type="checkbox"/> Open Session <input type="checkbox"/> Closed Session <input type="checkbox"/> Both	<b>Is an appearance before the Board being scheduled? If yes, by whom?</b>  <input type="checkbox"/> Yes by _____ (name)  <input checked="" type="checkbox"/> No	<b>Name of Case Advisor(s), if required:</b>	
<b>Describe the issue and action the Board should address:</b> Regarding giving nutrition advice to patients. I do not have my nutritional certification by the state yet and probably won't have it in the near future, but would like to start giving recommendations like eat more vegetables and here's why and what to eat. Can I give basic tips on wellness in a welcome to chiropractic care at our office info handout with new patients?  Possibly ask questions about it at re-examinations?  I am not recommending doses of vitamins or selling them, but will inform them of why you should take a multi vitamin or fish oil for example.  Can I legally do this or do I have to have my nutritional certificate?			
If this is a "Late Add" provide a justification utilizing the Agenda Request Policy:			
<b>Directions for including supporting documents:</b> 1. This form should be attached to any documents submitted to the agenda. 2. Late Adds must be authorized by a Supervisor, DOE Division Administrator, and Bureau Director. 3. Provide original documents needing Board Chairperson signature to the Bureau Director or Program Assistant prior to the start of a meeting.			
<b>Authorization:</b>			
Signature of person making this request		Date	
Supervisor (if required)		Date	
Division Administrator (if required)		Date	

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**State of Wisconsin  
Department of Safety and Professional Services**

**AGENDA REQUEST FORM**

Name and Title of Person Submitting the Request:  <b>Mojgan Hall, Executive Director</b>		Date When Request Submitted:  <b>8/8/2012</b>	
		Items will be considered late if submitted after 5 p.m. and less than: <ul style="list-style-type: none"> <li>▪ 10 work days before the meeting for Medical Board</li> <li>▪ 14 work days before meeting for all other boards</li> </ul>	
Name of Board, Committee, Council: <b>Chiropractic Examining Board</b>			
Board Meeting Date: <b>8/23/2012</b>	Attachments: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	How should the item be titled on the agenda page? <b>Discussion Related to Board's Authority under Chiro 5</b>	
Place Item in: <input checked="" type="checkbox"/> Open Session <input type="checkbox"/> Closed Session <input type="checkbox"/> Both	Is an appearance before the Board being scheduled? If yes, by whom?  <input type="checkbox"/> Yes by _____ (name)  <input checked="" type="checkbox"/> No	Name of Case Advisor(s), if required:	
Describe the issue and action the Board should address: <b>The Board is being asked to discuss and clarify its authority under Chiro 5, generally and as it pertains to the following specific questions:</b>  <b>What rule gives the board authority to retroactively deny approval of continuing education program provider approvals?</b>  <b>What is the proper application of Chiro 5.02(4)(a)4 (the 75 day rule) where the Board takes no action on the application until the 75 day timeline has passed and then denies the application on the basis of the application being incomplete?</b>  <b>What is the proper application and interpretation of Chiro 5.02(1)(d) related to delegated responsibilities available to sponsors?</b>  <b>What process does the board have in place to ensure that the authority it delegates to board liaisons is properly executed?</b>  <b>Does the board have an appeal process to ensure fairness and consistency in the actions taken on its behalf by board designated liaisons?</b>			
If this is a "Late Add" provide a justification utilizing the Agenda Request Policy:			
<u>Directions for including supporting documents:</u> 1. This form should be attached to any documents submitted to the agenda. 2. Late Adds must be authorized by a Supervisor, DOE Division Administrator, and Bureau Director. 3. Provide original documents needing Board Chairperson signature to the Bureau Director or Program Assistant prior to the start of a meeting.			

**Authorization:**

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Signature of person making this request

Date

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Supervisor (if required)

Date

---

Division Administrator (if required)

Date

---

Bureau Director signature (indicates approval to add late items to agenda)

Date

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Revised Form 04/01/2011 Division of Board Services/DRL

**State of Wisconsin  
Department of Safety and Professional Services**

**AGENDA REQUEST FORM**

<b>Name and Title of Person Submitting the Request:</b>  Mojgan Hall		<b>Date When Request Submitted:</b>  8/2/2012	
		Items will be considered late if submitted after 5 p.m. and less than: <ul style="list-style-type: none"> <li>▪ 10 work days before the meeting for Medical Board</li> <li>▪ 14 work days before meeting for all other boards</li> </ul>	
<b>Name of Board, Committee, Council:</b> Chiropractic Examining Board			
<b>Board Meeting Date:</b> 8/23/2012	<b>Attachments:</b> <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	<b>How should the item be titled on the agenda page?</b> <b>Journal Sentinel Online Article:</b>  Chiropractors, Massage Therapists Practice Despite Allegations	
<b>Place Item in:</b> <input checked="" type="checkbox"/> Open Session <input type="checkbox"/> Closed Session <input type="checkbox"/> Both	<b>Is an appearance before the Board being scheduled? If yes, by whom?</b>  <input type="checkbox"/> Yes by _____ (name)  <input checked="" type="checkbox"/> No	<b>Name of Case Advisor(s), if required:</b>	
<b>Describe the issue and action the Board should address:</b> Please see the attached Journal Sentinel article dated July 8, 2012 and written by Amy Karon.			
<b>If this is a "Late Add" provide a justification utilizing the Agenda Request Policy:</b>			
<b>Directions for including supporting documents:</b> 1. This form should be attached to any documents submitted to the agenda. 2. Late Adds must be authorized by a Supervisor, DOE Division Administrator, and Bureau Director. 3. Provide original documents needing Board Chairperson signature to the Bureau Director or Program Assistant prior to the start of a meeting.			
<b>Authorization:</b>			
Signature of person making this request		Date	
Supervisor (if required)		Date	
Division Administrator (if required)		Date	
Bureau Director signature (indicates approval to add late items to agenda)		Date	

## A JOURNAL SENTINEL WATCHDOG REPORT

### Chiropractors, massage therapists practice despite allegations

By Amy Karon, Special to the Journal Sentinel  
July 8, 2012

Retrieved July 26, 2012 from

<http://www.jsonline.com/watchdog/watchdogreports/chiropractors-massage-therapists-practice-despite-allegations-7l61b3s-161700605.html>

In 2006, chiropractor Peter Baehr confessed to touching three patients' bare breasts without their consent. When sexual assault charges against him hit the news, 16 more women came forward, alleging he'd treated them the same way.

Police notified state regulators at the Department of Safety and Professional Services and at least six patients filed complaints about Baehr, department records show. He was convicted of disorderly conduct and spent 40 days in jail, according to court records.

But regulators didn't stop him from practicing for even a day.

Four years earlier, in 2002, Madison-area massage therapist Larry Palmer repeatedly left a client's breasts exposed instead of draping her with a sheet as state law requires. [Department records](#) also indicate he asked to see her naked when she was nine months pregnant.

The client filed a formal complaint. But regulators didn't discipline Palmer for more than four years - and only after he kept massaging another client's bare breasts even when she asked him to stop. Like Baehr, Palmer kept his license.

The cases show how potentially dangerous professionals have received delayed or minimal discipline from state regulators despite allegations of nonconsensual sexual contact with patients.

Since 1999, at least four professionals in Wisconsin have had criminal convictions related to such misconduct, department and police records show. Baehr, who is among them, is still licensed to practice, while the others' licenses have been suspended but not permanently revoked.

Regulators also took months to years to discipline some providers accused of sexual misconduct that did not lead to criminal charges. At least three professionals who the department concluded had sexually harassed clients are licensed to practice in Wisconsin. And in at least one case, a department attorney ignored the disciplinary recommendations of its own expert adviser in favor of a lighter penalty.

Spokesman Greg Gasper defended the department, writing in an email that since 2011 the department has worked to eliminate its case backlog by developing "accountability techniques (and) metric standards to ensure consistent productivity."

But Dane County Rape Crisis Center executive director Kelly Anderson called the agency's lapses "a breach of trust and a huge issue of concern." Anderson said that in the last few years, several women told her chiropractors or massage therapists touched intimate parts of their bodies without their consent. She would not say whether the women reported these cases to the department or police, citing confidentiality reasons.

### **Licenses seldom revoked**

Wisconsin's regulatory boards have the power to revoke health care providers' licenses if their behavior threatens the health or safety of patients or the public. But in the past 14 years, the chiropractic and massage therapy boards have used that authority only a few times, but never for providers found guilty of criminal sexual misconduct.

For example, the chiropractic board [revoked](#) a provider's license after she treated patients while her license was expired. But Baehr was allowed to keep practicing even though state regulators had evidence suggesting he'd repeatedly touched patients in ways prohibited by state law.

"I went under her shirt," Baehr said in a written statement to Fond du Lac police in 2006. "I ran my hand around her breast and touched her nipple for a second. I immediately withdrew. I thought she needed more attention and I also found it kind of a challenge."

Baehr, who declined interview requests, wrote of another patient: "There were two occasions that I intentionally touched her breast under her bra cup."

Baehr later denied his behavior was sexually motivated, according to police reports obtained from state regulators. But an accuser told police Baehr had breathed hard and pushed his pelvis into the treatment table while touching her.

Charged with four counts of sexual assault, Baehr was convicted of disorderly conduct as part of a plea deal and sentenced to 40 days in jail, 30 months' probation and 100 hours of community service. Instead of revoking or suspending his license, the chiropractic board had him sign a [voluntary agreement](#) not to touch patients' breasts, not to treat women without an observer in the room, and to notify female patients of the discipline.

When police learned Baehr's license wasn't being suspended, they asked the department why.

Investigator Dan Williams' written record of the conversation states he responded: "Because of the elements we would have to prove in order to obtain such a suspension, it (is) going to be quicker and easier to get a voluntary order . . . we have no proof that he is an imminent danger to the public and continuing to practice in an inappropriate manner."

That explanation mirrors spokesman Gasper's. He told the Journal Sentinel the department sometimes pursues voluntary agreements if there is a risk the case would be dismissed if it went to trial.

But Baehr's department case file contained copies of police reports confirming his misconduct. Just days before he confessed, an accuser had agreed to see him again while wearing a body wire and hidden camera. Police officers watched him put a vibrator on her inner thigh, then heard her tell him his hand was too close to her breast.

Baehr may also have violated the terms of his voluntary order, department records suggest. In September 2010 investigators reviewed a sample of his files and found none from that year contained the required statements from female patients saying they knew about the order. And less than half included statements from observers saying they'd been in the room when he treated women.

Even then the board didn't suspend Baehr's license. Department spokeswoman Katherine Koschnick wrote in an email: "Decisions are made on a case by case basis within the discretion of the attorneys and other individuals involved."

The Journal Sentinel's investigation found other cases in which the department and the chiropractic board did not revoke provider's licenses even when they had detailed evidence from police of assaults against patients.

In 2009, for example, the board gave Appleton chiropractor Keith Oudenhoven a suspension after he left the room in the middle of massaging a patient with multiple sclerosis, came back wearing only shorts and flip-flops, and then touched the woman's breasts and vulva even after she told him not to, according to a formal complaint to the department filed by the Appleton police department.

The complaint showed that Oudenhoven admitted he had an erection and that the patient alleged he asked her twice, "Can I show you how happy I am?"

According to state court records, Oudenhoven was charged with sexual assault and convicted of disorderly conduct as part of a plea bargain. Department documents show regulators first wanted him to surrender his license. But after his lawyer negotiated with a department attorney, Oudenhoven instead received an 18-month suspension and was given the option to return to practice if he sought treatment from a sex offender therapist and took continuing education classes. His license expired in 2010. Attempts to contact him were unsuccessful.

### **Advice not followed**

Unlike the previous cases, massage therapist Palmer did not have criminal charges related to sexual misconduct, state court records indicate. That left it up to the department and regulatory board to discipline him after he left one client's breasts exposed and asked to see her naked.

Department documents show its attorney ignored an expert adviser's recommendations on how to handle Palmer's case - twice. And it took the agency more than four years to discipline Palmer at all, giving him the chance to harm at least one other woman.

Wisconsin's licensing boards, which the governor appoints, include members of the public but consist mainly of industry professionals. Department investigators work with case advisers - board members who are industry professionals and consult on technical questions and recommend appropriate discipline.

When first consulted in 2003, the adviser assigned to Palmer's case called his treatment of the client an "abuse of power," according to department documents.

The adviser recommended that Palmer be observed for a month to be sure he draped clients correctly, and that his clients be asked to sign a document on proper draping. But the department did nothing in response.

When the client asked for an update almost two years after filing her complaint, department investigator Williams told her an attorney would pursue disciplinary action "when he can get to it," according to his written notes on file. Department lawyers, she was told, were busy processing even older and lower priority cases.

After another year, the department received a second written complaint. This client said Palmer had massaged her breasts so hard they felt bruised and sore the next day. Her complaint stated that when she told him, "That is too much," and covered herself with the sheet, he told her, "I'm not done yet," pulled the sheet down to just above her nipples, and continued.

Department files show this time the case adviser recommended Palmer no longer be allowed to massage women. But the department attorney assigned to Palmer's case did not take that route, calling such discipline "excessive" because "both clients consented to what happened."

The second client later told the attorney that she didn't feel comfortable telling Palmer to stop outright, department files indicate.

Anderson, head of the Dane County Rape Crisis Center, said that's a common problem: "There is a huge cultural inhibition in our society against women saying, 'I don't like that - please stop.' And predators are good at identifying people who are less likely to resist."

Another year passed. The second woman asked the department for an update. A week later, according to department files, the attorney sent Palmer a proposed stipulation and told him if he didn't sign it, the case would go to a formal hearing and he could be assessed thousands of dollars in legal costs.

Palmer signed the agreement. It had taken the department more than four years to reprimand him - a lesser punishment than a suspension. Palmer was fined \$875 and required to take six hours of continuing education classes.

Palmer's license expired in 2009. Neither he nor the department attorney, who has since retired, could be reached for comment.

## New protocols enacted

The chiropractic board did revoke the license of one provider who had sexual intercourse with a patient without her consent. But it took 20 years to do so, and it was for an unrelated offense.

Madison chiropractor Hans Jerosch was adjusting a woman in 1991 when he lunged on top of her, stripped off her pants, and assaulted her, ignoring her cries to stop, according to a Dane County circuit court criminal complaint.

"I guess I was a little bit aggressive with her," Jerosch told police. He did not return numerous calls requesting comment.

Jerosch later pleaded no contest to one count of fourth-degree sexual assault. Wisconsin's chiropractic board suspended his license for 30 days.

Jerosch returned to practice. In 2007, the department learned he'd been treating patients for nearly a year with an expired license, a chiropractic [board order](#) indicates. He'd also allegedly broken state laws requiring health providers to give patients copies of their records when requested.

When officials contacted Jerosch, he told them he had a brain condition that was affecting his memory, a fact his medical records later confirmed. But instead of stopping him from treating patients, regulators spent five months visiting and calling his office to confirm he was still practicing. Then they ordered him to cease until he renewed his license.

Jerosch continued to see patients, department records show. Finally, in 2008, the board issued an administrative injunction against him and revoked his right to renew it.

Asked why the department seldom revokes providers' licenses even when they assault patients, Gasper wrote that suspensions enable the board to monitor wrongdoers, while revocations "essentially terminate" that authority.

But it's illegal to practice in Wisconsin with a revoked license, and the department has the power to stop providers from doing so. Under state law, the department can issue an injunction, as it did in Jerosch's case. If they don't obey, the department can fine them up to \$10,000 per day.

The department has enacted protocols in the last 18 months, under the administration of Gov. Scott Walker, to ensure staff processes cases faster. Since January 2011, Gasper wrote, the department has cut a backlog of 1,435 cases in half.

It's possible such measures helped protect clients from Madison massage therapist Joao Frasier; the department summarily suspended his license in August 2011, one month before he was formally charged with sexually assaulting two female clients. Frasier plead guilty and was sentenced to six months in jail. The massage therapy board will decide whether to revoke his license when it next meets on Aug. 21.

But officials would not answer repeated questions about why the department in the past took months to years to resolve hundreds of disciplinary cases. In an email, Gasper

wrote, "It would not be appropriate for us to reflect on why these issues were not successfully addressed previously."

Meanwhile, Fond du Lac chiropractor Baehr's license remains limited. His board order still states he's not to treat women without an observer in the room, unless the patient herself decides to waive that protection.

*Ben Poston of the Journal Sentinel staff contributed to this report.*

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### **Criminal convictions**

The Journal Sentinel's investigation identified more than 250 chiropractors and massage therapists with criminal records. Most convictions related to operating a vehicle while intoxicated, but others included drug-related convictions, disorderly conduct, battery, and child abuse.

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### **Give your provider a checkup**

Here are some things you can do to check out your health care provider:

Run their names through the state court records database:

<http://wcca.wicourts.gov/index.xsl>

Check whether they've been disciplined by their credentialing board:

<http://online.drl.wi.gov/LicenseLookup/IndividualCredentialSearch.aspx>

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