

AGENDA

CONNECTICUT STATE BOARD OF CHIROPRACTIC EXAMINERS

Thursday, June 17, 2021, at 9:00 A.M.

Department of Public Health
410 Capitol Avenue, Hartford CT

CALL TO ORDER

MINUTES

Review of the minutes from April 22, 2021.

NEW BUSINESS

- A. Declaratory Ruling regarding the use of the Emsculpt Neo medical device
- Review Requests for Status

ADJOURN

Board of Chiropractic Examiners via Microsoft Teams

Join on your computer or mobile app

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The following minutes are draft minutes which are subject to revision and which have not yet been adopted by the Board.

The **Connecticut State Board of Chiropractic Examiners** held a on April 22, 2021.

BOARD MEMBERS PRESENT: Candito Carroccia, DC – *via telephone*
Gina Carucci, DC – *via telephone*
Karlos Boghosian, DC – *via telephone*
Sean Robotham, DC – *via telephone*

BOARD MEMBERS ABSENT: Pamela Sawyer (Public Member)

ALSO PRESENT: Jeffrey Kardys, Board Liaison
Stacy Schulman, Hearing Officer
Kerry Colson, Assistant Attorney General

Dr. Carroccia called the meeting to order at 9:02 a.m. All participants were present via Microsoft TEAMS.

I. MINUTES

Dr. Carucci made a motion, seconded by Dr. Boghosian, to approve the minutes from the November 9, 2017 meeting as edited. The motion passed unanimously.

OFFICE OF LEGAL COMPLIANCE

A. Robert Barnett, D.C. – Petition No.2018-1238

Brittany Petano, Staff Attorney, DPH presented a Consent Order in the matter of Robert Barnett, DC. Attorney Rachael Pearson was present on behalf of respondent.

Dr. Carucci made a motion, seconded by Dr. Boghosian to approve the Consent Order which imposes a reprimand. The motion passed unanimously.

II. NEW BUSINESS

A. Request for Declaratory Ruling regarding use of a Class II medical device.

Assistant Attorney General Kerry Colson was present to provide counsel to the Board. The Board reviewed a request from Alan H. Siegel, DC asking for an opinion as to whether the use of a class II medical device “Emsculpt Neo” is within the scope of practice in Connecticut.

Dr. Robotham made a motion, seconded by Dr. Carucci, to hold a declaratory ruling proceeding for determining if the use of the Emsculpt Neo medical device is within the scope of practice for a licensed chiropractor in the State of Connecticut. The motion passed unanimously.

Notice of the declaratory ruling proceeding will be posted the Connecticut Law Journal and sent to the Connecticut Medical Examining Board, the Connecticut State Medical Society, the Connecticut Chiropractic Association and the Connecticut Chiropractic Counsel. The Board will hold a meeting on June 17, 2021 to review any requests for status to participate in the proceeding, and a hearing will be scheduled for August 19, 2021. The Board indicated that Dr. Siegel will be designated a party in this proceeding.

Dr. Siegel who was present for this discussion, indicated he will waive the 180-day requirement for the Declaratory Ruling to be issued.

III. ADJOURN

Dr. Boghosian made a motion, seconded by Dr. Carucci, to adjourn. The meeting was adjourned at 9:38 a.m.

Respectfully submitted
Candito Carroccia, DC
Connecticut State Board of Chiropractic Examiners

**CONNECTICUT CHIROPRACTIC
ASSOCIATION, INC.**

**STATE OF CONNECTICUT
BOARD OF CHIROPRACTIC
EXAMINERS**

JUNE 1, 2021

PETITION FOR PARTY STATUS IN DECLARATORY RULING PROCEEDING

The Connecticut Board of Chiropractic Examiners (hereinafter "the Board") issued a . Notice of Declaratory Ruling Proceeding on May 5, 2021 whereby the Board announced its intention to issue a declaratory ruling pursuant to Connecticut General Statutes ("Conn. Gen. Stat.") § 4-176 on the following issue:

Whether the use of the Emsculpt Neo medical device is within the scope of practice for a licensed chiropractor in the State of Connecticut.

The Connecticut Chiropractic Association, Inc. (hereinafter "CCA") hereby requests that the Board designate CCA as a party in the declaratory ruling proceeding as the Board is authorized to do by Conn. Gen. Stat. §§ 4-176(d), 4-177a, and Section 19a-9-26 of the Regulations of Connecticut State Agencies. The petitioner's participation is in the interests of justice and will not impair the orderly conduct of the proceedings.

A. The Name, Address and Telephone Number of the Person Filing the Request and That of the Person's Authorized Legal Representative, if Any.

CCA is a not-for-profit corporation, organized, existing, and doing business under and by virtue of the laws of the State of Connecticut, with its office and principal address at PO Box 785, Portland, CT 06480, and which can be reached by telephone at (860) 257-0404.

CCA's General Counsel is Attorney Mary Alice Moore Leonhardt, of Moore Leonhardt & Associates LLC, located at 67 Russ Street, 2nd Floor, Hartford, CT 06106, She can be reached by telephone at (860) 216-6337 and (860)614-0272 and e-mail at ma@mooreleonhardt.com.

B. The CCA Interest Affected by this Proceeding

CCA is a voluntary trade association whose membership consists of 334 chiropractors who are licensed to practice chiropractic in the State of Connecticut. The CCA was established in 1918 for purposes of promoting the science of chiropractic and the practice thereof, to encourage the enactment and enforcement of laws relating to health and disease and to serve the interests of the members of the corporation by associating them into a practical business organization. CCA's mission is "to advance chiropractic, promote the highest standards of ethics and patient care for the profession, and serve the needs of the membership, thereby contributing to the health and welfare of the people throughout the entire State of Connecticut." As such, the CCA represents the practitioners of chiropractic care and promotes the highest standards of ethics and patient care for the profession.

The members of CCA hold constitutionally protected legal rights, duties and privileges in their chiropractic physician licenses which could be specifically and directly affected by the Board's decision on the issue under consideration in the proceeding. That is to say, any ruling by the Board will become binding upon the CCA and its members as well as all other licensed chiropractors in the State of Connecticut and may also be utilized by the Board on a case-by-case basis, in future proceedings before the Board, concerning the scope of practice for diagnostic procedures performed by chiropractors. Thus, it will directly and materially affect the standards of care binding and obligating chiropractors licensed to practice in the State of Connecticut.

The interests the CCA seeks to protect are germane to the purpose of its organization, including the declaratory ruling which will further interpret the: scope and standards governing chiropractic practice under each CCA member's license. CCA works to promote the science of chiropractic and the practice thereof, to encourage the enactment and enforcement of laws relating to health and disease, and to serve the interests of its members by associating them within a practical business organization.

CCA seeks to serve its organizational mission and its members as a part in this proceeding by furnishing detailed information demonstrating relevant information about the use of the Emsculpt Neo medical device by licensed chiropractors in the clinical setting.

C. The Manner and Extent to Which CCA Proposes to Participate in the Proceeding

CCA, in seeking party status, seeks the right to be served with copies of all motions, petitions, evidence, documents and pleadings, through Mary Alice Moore Leonhardt, Esq., and to make and submit a formal written statement to the Board with supporting evidence, to be included in the admissible evidence before it, regarding its position on the issue at-hand. *See* Conn. Gen. Stat. § 4-177a.

D. CCA Has Standing to Participate as a Party in the Proceeding

An association "has standing to bring suit on behalf of its members when: (a) its" members would otherwise have standing to sue in their own right; (b) the interests it seeks to protect are germane to the organization's purpose; and (c) neither the claim asserted, nor the relief requested requires the participation of individual members in the lawsuit" *Connecticut Ass'n of Health Care Facilities, Inc. v. Worrell*, 199 Conn. 609, 616, 508 A.2d 743 (1986). "Associational standing is particularly appropriate ... where the relief sought is . . . a declaratory judgment...." *Id.* (citing *Peick v. Pension Benefit Guaranty Corporation*; 724 F.2d 1247; 1259 (7th Cir. 1983)).

Participation of the individual member-chiropractors which comprise CCA in this proceeding is not required in order for the Board to issue its ruling regarding § 20-65 because money damages are not sought for alleged injuries to the individual members. *See Connecticut State Med. Soc. v. Connecticut Bd. of Examiners in Podiatry*, 203 Conn. 295, 303, 524 A.2d 636 (1987).

E. The Manner in Which CCA's Participation will Furnish Assistance to the Board in Resolving the Issue at Hand

Designation of CCA as a party in this proceeding will furnish invaluable assistance to the Board, in that the CCA is in a unique position to provide relevant and necessary information, analysis, and argument to the Board with regard to the issue before it.

F. Summary of Evidence Which CCA Proposes to Offer •

CCA proposes to offer a formal written statement along with supporting documentation which demonstrates that Connecticut licensed chiropractors are qualified to utilize the Emsculpt Neo medical device with patients.

Wherefore, for the foregoing reasons, the Connecticut Board of Chiropractic Examiners ought to admit the Connecticut Chiropractic Association, Inc. as a party in the afore-mentioned Declaratory Ruling Proceeding, pursuant to Conn. Gen. Stat. §§ 4-176(d), 4-177a, and Conn. Agencies Regs. § 19a-9-26. CCA meets all statutory conditions required for attainment of party status in a Connecticut administrative agency proceeding, its participation will serve the interests of justice and its participation will not impair the orderly conduct of the proceedings.

Dated this 1st day of June, 2021

BY:



Mary Alice Moore Leonhardt
Daniel J. Csuka
Moore Leonhardt & Associates LLC
67 Russ Street, 2nd Floor
Hartford, CT 06106
Tel: 860- 216-6337
Fax: 860-261-6605
Juris# 303506
Federal id: ct02966
ma@mooreleonhardt.com
Its Attorneys

CERTIFICATION

I hereby certify that on February 20, 2014 an original and two copies of the foregoing petition were served via in-hand delivery to the following: •

Jeffrey A. Kardys
Administrative Hearings Specialist
Department of Public Health
410 Capitol Avenue, MS #13PHO
Hartford, CT 06106

I further certify that on June 1, 2021, a copy of the foregoing petition was served to the following parties and intervenors of record as of this date:

Deirdre S. Gifford, MD, MPH
Commissioner
State of Connecticut
Department of Public Health
410 Capitol Avenue, MS #13COM
Hartford, CT 06106

Connecticut State Board of Chiropractic Examiners
Department of Public Health
410 Capitol Avenue, MS #13PHO
Hartford, CT 06106

Claire Frisbie
Chief Executive Officer
Connecticut Chiropractic Association
PO Box 785, Portland, CT 06480



Mary Alice Moore Leonhardt