

INDIANA BOARD OF CHIROPRACTIC EXAMINERS
Indiana Government Center South
302 West Washington St.
Conference Center, Room C
Indianapolis IN 46204

MINUTES OF MAY 9, 2024

Diane Vuotto, D.C., Chair, called the meeting to order at 9:01 a.m. and declared a quorum in accordance with IC 25-10-1-1.5(f), pursuant to public notice posted at the principal office for the Board, online at the board's website and on the state calendar at least forty-eight (48) hours before the time of the meeting.

Members Present: Diane Vuotto, D.C., Chair
Derek Dyer, D.C., Vice Chair
Richard Mason, D.C., Member
Emily Shoemaker, Consumer Member
John Bernzott, D.C., Member

Staff Present: Jody Edens, Board Director
Professional Licensing Agency
James Green, Assistant Board Director
Professional Licensing Agency
Donald Hannah, J.D., Deputy Attorney
General, Office of the Attorney General

The Board voted to APPROVE the Amended Agenda.

Bernzott/Mason, 5/0/0
Motion carries

The following board members voted aye:
Derek Dyer, Diane Vuotto, Richard Mason, Emily Shoemaker, John Bernzott
The following board members objected: none
The following board members abstained: none

The Board voted to APPROVE the FEBRUARY 22, 2023 minutes as written.

Dyer/Bernzott, 5/0/0
Motion carries

The following board members voted aye:

Derek Dyer, Diane Vuotto, Richard Mason, Emily Shoemaker, John Bernzott
The following board members objected: none
The following board members abstained: none

PERSONAL APPEARANCES

Det James, D.C., License No. 08001191A, Cause No. 2020 IBCE 0002 – Probation Appearance:

Dr. James appeared in person without counsel regarding his probationary appearance scheduled before the Board.

He indicated to the Board that there is nothing new to report. He is still working with his brother as he has for the past thirty-five (35) years.

The Board thanked him for his appearance.

Kyle Wellington, D.C., Initial Application – Positive Response:

Dr. Wellington appeared virtually without counsel regarding a positive response on his initial application.

Dr. Wellington neglected to report the following action on his initial application with the Indiana Board.

- Kentucky action – 2007 was fined
- Kentucky action – 2012 was fined \$500 for neglecting to update his address
- Kentucky action – 2015 was fined \$500 and was required to take ethics and boundaries continuing education courses in an agreement with KY Board.

He said because they were so long ago he forgot about them.

After discussion, the Board moved to APPROVE Dr. Wellington's initial application.

Dyer/Bernzott, 5/0/0
Motion carries

The following board members voted aye:
Derek Dyer, Diane Vuotto, Richard Mason, Emily Shoemaker, John Bernzott
The following board members objected: none
The following board members abstained: none

ADMINISTRATIVE HEARINGS

Derek Jordan, D.C., License No. 08002750A, Cause No. 2023 IBCE 0004

Respondent did not appear in person and was not represented by counsel regarding a Summary Suspension Extension scheduled before the Board. The State of Indiana was represented by Carah Rochester, Deputy Attorney General and the court reporter sworn in for this matter was Margie Addington with Accurate Reporting Services.

Ms. Rochester informed the Board that the respondent was still in jail in Florida and his charges are still pending in Florida. His criminal charges in Johnson County are still pending currently.

After having considered the evidence presented, and taking official, judicial notice of the pleadings, evidence, and orders in this matter the Board moved to EXTEND the SUMMARY SUSPENSION for ninety (90) days.

Bernzott/Dyer, 5/0/0
Motion carries

The following board members voted aye:
Derek Dyer, Diane Vuotto, Richard Mason, Emily Shoemaker, John Bernzott
The following board members objected: none
The following board members abstained: none

Susan Todd, Unlicensed, Cause No. 2023 IBCE 0006

Respondent did not appear in person and was not represented by counsel regarding a Motion for Cease and Desist scheduled before the Board. The State of Indiana was represented by Carah Rochester, Deputy Attorney General and the court reporter sworn in for this matter was Margie Addington with Accurate Reporting Services.

Ms. Rochester informed the Board that Ms. Todd is currently in the hospital with stage four (4) cancer.

Due to Ms. Todd's health issues, Ms. Rochester requested this matter be dismissed.

After having considered the evidence presented, and taking official, judicial notice of the pleadings, evidence, and orders in this matter, the Board moved to DISMISS the Cease-and-Desist Motion.

Bernzott/Shoemaker, 5/0/0
Motion carries

The following board members voted aye:
Derek Dyer, Diane Vuotto, Richard Mason, Emily Shoemaker, John Bernzott
The following board members objected: none

Paul Hollern, D.C., License No. 08001101A, Cause No. 2011 IBCE 0015

Respondent appeared in person and was not represented by counsel regarding a Petition to Reinstate Suspended License scheduled before the Board. The State of Indiana was represented by Ryan Eldridge, Deputy Attorney General and the court reporter sworn in for this matter was Margie Addington with Accurate Reporting Services.

In a preliminary matter, Mr. Eldridge requested that the Notice of Proposed Dismissal be set aside.

After discussion, the Board made a Motion to Set Aside the Proposed Dismissal.

Dyer/Bernzott, 5/0/0
Motion carries

The following board members voted aye:
Derek Dyer, Diane Vuotto, Richard Mason, Emily Shoemaker, John Bernzott
The following board members objected: none
The following board members abstained: none

On August 2, 1991, Dr. Hollern voluntarily entered into an Agreed Order with the Kentucky Board of Chiropractic Examiners admitting that he failed twice to include notice of the seventy-two (72) hours right of rescission in his advertisements and solicitations. He received a \$1,000.00 fine for the violations and was required to send letters regarding the 72-hour right of rescission to each consumer that responded to the advertisement in question.

On January 25, 2005, he voluntarily entered an Agreed Order with the Kentucky Board admitting that he advertised free or discounted services in the Bullitt County User Friendly telephone directory without giving adequate notice of the seventy-two (72) right of rescission as required by Kentucky laws. Dr. Hollern also failed to send a copy of the written advertisement to the Kentucky Board when it was published as required. He was issued a reprimand, and a \$100 fine, and was required to notify all consumers who responded to the advertisement about the rescission provision.

Dr. Hollern explained that he was charged with electronic interference and was found guilty of the same. About February 5, 2007, a grand jury indicted him for charges related to his use of audiovisual recording devices as part of a chiropractic training program he managed. The counts included but were not limited to health care fraud (18 U.S.C. § 1347), intentional interception of oral communications (18 U.S.C. § 2511(1)(a)), HIPAA violations (42 U.S.C. § 1320d-6), and retaliation against a witness (18 U.S.C. § 1513(e)). Respondent was convicted of intentional interception of oral communication. He was sentenced to one (1) year of probation with home confinement for the first six (6) months.

He indicated he had moved from Kentucky to Florida. He wants to teach in a Chiropractic College but must have an active license to do so. He has applied for a FL license. He stated he does consultations in states that do not require a license weekly.

The last time he had an active license was in 2007.

After having considered the evidence presented, and taking official, judicial notice of the pleadings, evidence, and orders in this matter the Board moved to APPROVE REINSTATEMENT upon receipt, review, and approval of the following:

- Renewal application with \$200 fee.
- Payment of the \$2,000 FINE issued previously by the Board.
- Retake the Indiana Law exam.
- Proof of 240 hours of Continuing Education.
- Copy of email regarding correct address.
- Proof he has completed his house arrest and criminal probation and any requirements that came with it.
- Proof of taking and passing Part 4 national exam through the Florida Board.
- Copy of Florida requirements for licensure.

Bernzott/Dyer, 5/0/0
Motion carries

The following board members voted aye:
Derek Dyer, Diane Vuotto, Richard Mason, Emily Shoemaker, John Bernzott
The following board members objected: none
The following board members abstained: none

DISCUSSION

The Board discussed and set their next meeting on August 1, 2024 for the summary suspension extension hearing that will expire August 6, 2024 if not renewed.

Hesch Institute – CE Program Approval request:

The Board reviewed the documentation that the Hesch Institute submitted and approved it as presented.

Dyer/Bernzott, 5/0/0
Motion carries

The following board members voted aye:
Derek Dyer, Diane Vuotto, Richard Mason, Emily Shoemaker, John Bernzott
The following board members objected: none
The following board members abstained: none

There being no further business, the Board ADJOURNED at 11:15 a.m.

Diane Vuotto, D.C., Chair