LA BOARD OF CHIROPRACTIC EXAMINERS

SUMMARY OF MINUTES

**BOARD MEETING – OCTOBER 15, 2020**

Members Present: Dr. Ned J. Martello, President; Dr. Mark B. Kruse, Vice-President; Dr. R. Buckley VanBreemen, Secretary-Treasurer; Dr. Michael Cavanaugh; Dr. Denise D. Rollette; Dr. Jon E. Zeagler.

Members Absent: None.

Staff Present: Patricia A. Oliver, Executive Director

 Shellie Hebert-Schmidt, Administrative Assistant

Legal Counsel: None.

Audience: Tim Chittom, CAL, Baton Rouge, LA.

 Celia R. Cangelosi, Attorney, Baton Rouge, LA

Meeting called to order at 8:39 a.m., Dr. Ned Martello, President, presiding.

The **minutes** of the 07/16/2020 meeting were mailed to all Board members. Motion made by Dr. Cavanaugh, seconded by Dr. Kruse, to approve the minutes as prepared. With no objections, motion carries unanimously.

Ms. Oliver notes the scheduled 04/09/2020 meeting was cancelled due to COVID-19 outbreak in the US.

**PUBLIC COMMENT:**

#### None.

**INTEGRITY CHECK:**

* Dr. Cavanaugh stated he received several calls about the Board’s position on COVID guidelines, and **“distance learning**” for CE requirements due to current pandemic and social distancing requirements.

Motion made by Dr. Zeagler, seconded by Dr. Cavanaugh, to amend the order of the posted agenda to handle the Executive Session to discuss Docket 2020-01 with Ms. Cangelosi. Roll call vote: Kruse – Yes; Cavanaugh – Yes; Rollette – Yes; Zeagler – Yes; VanBreemen – Yes; Martello – Yes. With 5 yeas, 0 nays, agenda order is amended.

 Motion made by Dr. Martello, seconded by Dr. Cavanaugh to hold an “executive session” to discuss Docket 2020-01 with Ms. Cangelosi. Roll call vote: Kruse – Yes; Cavanaugh – Yes; Rollette – Yes; Zeagler – Yes; VanBreemen – Yes; Martello – Yes. With 5 yeas, 0 nay, motion carries.

(----------------------------Executive Session--------------------)

Motion made by Dr. Zeagler, seconded by Dr. Martello, to accept the interim consent agreement in the matter of Docket 2020-01. With no objections, motion carries unanimously.

 **STANDING COMMITTEE REPORTS**

1. **FINANCE COMMITTEE REPORT** **by Ms. Oliver:**

**Financial statements** for July, August, September, 2020 were prepared by Ms. Oliver and provided to the Board. Motion made by Dr. Cavanaugh, seconded by Dr. Zeagler, to accept the **financial statements** as prepared. With no objections, motion carried unanimously.

The **Financial Activity Log of Expense and Expenditures** was presented to and reviewed by the Board as well as all bank statements since the last meeting. All members signed the cover sheet for the log. Motion made by Dr. Cavanaugh, seconded by Dr. Zeagler, to accept the log as presented. With no objections, motion carries unanimously.

Ms. Oliver notes, relative to **deposit trends,** report is being continuously updated and will be presented, as requested, at future January and July meetings. The report is reviewed and accepted. Next review is January 2021 unless requested otherwise. Future agenda item will be labeled “**Financial Planning**”. Dr. Kruse requests the agenda item, “Budget Review” to be removed from the agenda.

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1. **FINANCE COMMITTEE REPORT** **by Ms. Oliver (Cont’d):**

**CD report:**  Dr. VanBreemen is continuing to monitor the rates and renewal dates of the CD’s.

**Act 687 –AFR annual report** for close of 06/30/2020 fiscal yearwas due by 09/30/2020 and submitted**.**

Ms. Oliver notes the Board’s **annual audit** was conducted, prepared and submitted by Mr. Michael Glover, CPA to the Legislative Auditor’s office as required by law**.**

* **PEER REVIEW COMMITTEE REPORT by Dr. Martello** :

 No new requests received. Board will be seeking a replacement for Dr. Carol Beutler’s position on the committee due to her retirement.

1. **TESTING** **Committee Report** **by Ms. Oliver:**

Ms. Oliver reviews **testing procedures** utilized as result of pandemic requirements and restrictions for meetings and testing offerings, as crafted by Ms. Oliver and Dr. Kruse to coincide with statutory requirements are continuing to be utilized until further notice.

Ms. Oliver notes **NBCE Part IV** testing will be on schedule for November, 2020. Ms. Oliver asked to investigate costs of the Part IV exam to candidates.

Dr. Zeagler attended the Part IV test writing committee meeting in Greeley, CO as LA Board representative.

* **ADMINISTRATIVE OVERSIGHT:** Current leave records of **Ms. Hebert-Schmidt** and **Ms. Oliver** since last board meeting were reviewed and approved by Dr. VanBreemen**,** the full Board present reviewed and approved the leave records of both employees as well as payroll info for all 3 employees. Dr. VanBreemen notes all paperwork and records are in order.
* **PERFORMANCE INDICATOR REPORT:**

Board office activity/work product from 07/11/2020 – 10/12/2020:

* Phone calls received: 310
* Licensure Application packets requested & mailed: 15
* New Licenses Issued: 2
* Complaints Filed & Opened: 3
* Complaints closed: 14
* DC license renewals received & processed: 1 ($200.00)
* DC license renewals returned as “incomplete” or “missing CE”: 0
* Delinquent license renewal fees paid: 1 (~$250.00)
* License verifications processed: 498 (~$24,900.00)
* New X-ray certificates issued: 35 ($2625.00)
* X-ray certs renewed: 100 ($2500.00)
* Public records requests: 0
* Subpoenas received: 1
* Seminars reviewed: 39 (~$3000.00)
* CE locate requests received: 30
* List requests received and processed: 8 (~$2000.00)
* National licensee alerts received and logged: 7
* Peer Review Requests: -0-
* Dry Needling certificates issued: 0
* Duplicate Licenses Issued: 1 ($20.00)
* Travel to Treat temporary license: -0-
* License Renewal Cards Purchased: 2 ($40.00)
* Seminars posted to webpage: 39

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* **SEMINAR REVIEW by Dr. VanBreemen:**

Ms. Oliver reports Dr. VanBreemen had reviewed **39** seminars since the last meeting.

 Request received from Louisiana Chiropractic Society (LCS) for seminar to be accepted for 15 hours – as instructor is not on postgraduate faculty. Motion made by Dr. VanBreemen, seconded by Dr. Kruse, to accept the program for CE. With no objections, motion carries unanimously.

 Request received from Texas Chiropractic Association (TCA) for seminar to be accepted entitled “2020 West Seminars”, as instructor is not on postgraduate faculty. Motion made by Dr. VanBreemen, seconded by Dr. Kruse, to accept the program for CE. With no objections, motion carries unanimously.

Request received from AAM for a “dry needling course” part 1 for 27 hours and a “dry needling” course part 2 for 27 hours. Motion made by Dr. VanBreemen, seconded by Dr. Zeagler to approve the programs for CE. With no objections, motion carries unanimously.

Request received from Chiropractic Association of LA (CAL) for seminar to be accepted for 25 hours. Motion made by Dr. VanBreemen, seconded by Dr. Zeagler, to accept the program for 25 hours CE. With no objections, motion carries unanimously

* **COMPLAINT COMMITTEE REPORT by Dr. Cavanaugh**:

Dr. Cavanaugh reports an agreed settlement totaling $350.00 offered for **Complaint #1415** for delinquent renewal issue. Motion made by Dr. Cavanaugh, seconded by Dr. Zeagler, to accept the agreed settlement of $350.00. With no objections, motion carries unanimously.

Dr. Cavanaugh reports an agreed settlement totaling $350.00 offered for **Complaint #1418** for delinquent renewal issue. Motion made by Dr. Cavanaugh, seconded by Dr. Zeagler, to accept the agreed settlement of $350.00. With no objections, motion carries unanimously.

Dr. Cavanaugh notes an agreed settlement relative to failure to supply address change info, offered in **Complaint # 1378.** Motion made by Dr. Cavanaugh, seconded by Dr. Zeagler, to accept the agreed settlement of $350.00. With 4 yeas, 0 nays and 1 abstention, motion carries.

Dr. Martello asked Ms. Oliver to change the order of the agenda for future postings by placing “**Complaints**” first of the Standing Committee Reports.

* **STANDARDS & PRACTICES by Dr. Zeagler:**

 No activity to report at this time.

* **LAW & LEGISLATION:**
* Ms. Oliver asked to check on the status of reporting for all board members “Ethics Tier 2.1 Reporting”.
* Ms Oliver notes the **Act 12** report and the **Act 655** report have been filed timely as required by law. Next reports are for the 3rd quarter.
* Ms. Oliver *reminds* all board members and staff of annual requirement to take the state **Ethics** course by 12/31 annually and to submit proof of completion to the Board.
* Ms. Oliver *reminds* all board members and staff of annual requirement to take the state **Sexual Misconduct** course by 12/31 annually and to submit proof of completion to the Board.
* Dr. Zeagler would like to discuss “**testimonial**” advertising language currently in place. Dr. Zeagler suggests the language should be modernized and updated and therefore, is assigned to craft new language regarding “testimonials” and the definition of “testimonials” and present that material at the next meeting.
* Dr. Rollette presents information on **pregnancy and birth** as related to chiropractic care. She notes the ICPA and ICA websites have information on this topic and how chiropractic manipulation affects pregnancy and birth.

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* **GENERAL CORRESPONDENCE**:

 None at this time.

**OLD BUSINESS:**

**FCLB**’s annual conference was cancelled due to COVID-19 pandemic issues. The 2021 conference is scheduled for West Palm Beach, FL. More info to follow as it is released by FCLB.

Lengthy discussion initiated by Ms. Oliver on other state boards’ procedures instituted due to the **COVID-19 pandemic** in regards to CE, license renewal, board meetings, office schedules, office closures, mask mandates, social distancing, etc. Motion made by Dr. Cavanaugh, seconded by Dr. Zeagler, to give licensees the option to attend either online or in person CE classes only for the 2021 renewal. With 3 yeas, 3 nays, motion ties and fails. Motion made by Dr. Zeagler, seconded by Dr. Cavanaugh, to make exceptions to the CE policy through 12/31/2020 and allow “distance learning”. With 3 yeas, 3 nays, motion ties and fails. Motion made by Dr. Kruse seconded by Dr. Rollette, to grant waivers or extensions if requested by individual licensees based on COVID-19 risks. Board members and audience share comments, discussion, concerns, opinions regarding skewed statistics, ineffectiveness of masks, concerns about CE attendance validation, protection of the public, etc. No consensus reached on possibility of temporary CE format change. Motion was withdrawn by Dr. Kruse. Dr. Kruse notes individuals with concerns can petition the Board for extensions or waivers.

Continued discussion of request received from **Jillian Farrell, Sherman College**, regarding a course already approved by LA and if it will still be accepted for CE since the format changed to “online”/”distance learning” due to COVID-19 pandemic and gatherings’ restrictions and social distancing. Suggestions offered by Ms. Oliver to temporarily allow “distance learning” for this license renewal only due to concerns she has received from licensees regarding being “in class” for CE requirements. Motion made by Dr. Zeagler, seconded by Dr. Cavanaugh, to accept the courses with prior approval even though format changed. Staff provides information from colleges on online attendance verification procedures already in place. With 3 yeas, 3 nays motion ties and fails.

Request received from **Christi Zambuto, NYCC**, to allow online distance learning for CE. Ms. Oliver directed to provide same response that no change made to CE format policy.

Request received from **Zalika Kampel,** **National College**, to allow online distance learning for CE. Ms. Oliver directed to provide same response that no change made to CE format policy.

Request received from **Rhonda Benoit, TCC**, to accept online distance learning for CE. Same request to be provided regarding CE format not changed.

Motion made by Dr. Cavanaugh, seconded by Dr. Zeagler, to allow approved **CE courses** to be in any format for the 2021 license renewal for 15 hours due to the COVID-19 pandemic and gathering issues. Roll call vote: Cavanaugh – Yes; Kruse – No; Rollette – No; Zeagler – Yes; VanBreemen – No; Martello – Yes. With 3 yeas, 3 nays, motion ties and fails.

Request received from **GiGi Martinez, TCC**, to accept online distance learning for CE. Same response to be provided regarding CE format, however, individual requests will be considered.

Request received from **Scott Abramson, D.C**, PACE Provider, to accept online distance learning for CE. Same response will be provided regarding no changes to CE format.

Request received from **Asghar Mortaji, D.C.,** Houston, TX, for the Board to consider accepting online distance learning for CE. Same response to be provided regarding CE format not changed, however individual requests will be considered.

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Request received from **Scott Fournier, D.C**, Lafayette, LA, for the Board to consider accepting online distance learning for CE. Same response to be provided regarding no change to CE format, however individual requests will be considered.

Request received from **Steven Kloster, D.C**., The Netherlands, for the Board to allow his online course taken with Dr. David Collum which was already approved. Motion made by Dr. Zeagler, seconded by Dr. Kruse, to accept Dr. Collum’s online course hours. With 3 yeas, and 3 nays, motion is tied and fails. Motion made by Dr. Kruse, seconded by Dr. VanBreemen, to waive the CE requirement for Dr. Kloster. With 3 yeas, 2 nays, 1 abstention, motion carries.

Request received from **Susan Hooper, D.C.,** Gretna, LA, to allow the DOTD training for her certificate to be accepted in the virtual format. Board notes the virtual training can be utilized for the certificate however not for CE/license renewal.

Request received from **Arthur McClelland, D.C**., Lake Charles, LA, for a CE extension. Motion made by Dr. VanBreemen, seconded by Dr. Zeagler, to grant a 90 day extension, hours due March 30, 2021. With no objections, motion carries unanimously.

Request received from **David Bodoff, D.C**., Philadelphia, PA, to waive the CE requirements for 2021 due to health concerns and COVID-19. Motion made by Dr. Kruse, seconded by Dr. Zeagler, to waive the CE requirements for 2021. With no objections, motion carries unanimously.

Request received from **Richard Duplantis, D.C**., Lafayette, LA, to waive the CE requirements for 2021 due to health concerns and COVID-19. Motion made by Dr. Kruse, seconded by Dr. Cavanaugh, to waive the CE requirements for 2021. With no objections, motion carries unanimously.

Request received from **Beau LeJeune, D.C**., Opelousas, LA, to waive the CE requirements for 2021 due to health concerns and COVID-19. Motion made by Dr. Zeagler, seconded by Dr. Kruse, to waive the CE requirements for 2021. With no objections, motion carries unanimously

Request received from **Daniel Goodman, D.C**, New Orleans, LA, for a CE extension. Motion made by Dr. Zeagler, seconded by Dr. Kruse, to grant a 90 day extension, hours due March 30, 2021. With no objections, motion carries unanimously.

Request received from **Damian Pratt, D.C**, San Diego, CA, if on line CE would be allowed for 2021 license renewal. Response will be provided that no online courses are allowed.

Request received from **Jennifer Irwin, D.C**., Slidell, LA, to waive the CE requirements for 2021 due to health concerns and COVID-19. Motion made by Dr. Zeagler, seconded by Dr. Kruse, to waive the CE requirements for 2021. With no objections, motion carries unanimously.

Request received from Tina Romero, Lafayette, LA and **Tracy Richardson, D.C**, Lafayette, LA, if there are any **office closure guidelines** or protocol published by the Board. Response to be provided there are no published guidelines, but patient records should be protected and maintained as outlined in rules and regulations. Ms. Oliver asked to inquire to FCLB for a “power poll” on office closure guidelines. Also, Dr. Zeagler will prepare draft of guidelines to present to the Board.

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**NEW BUSINESS:**

Record to reflect the formal hearing, **Docket 2020-01,** which was to be held today has been continued to 12/17/2020.

Request from **Leif Lensgraf, D.C**., Portland, OR, if there are “patient discharge” guidelines in relation to patient making verbal or physical sexual advances or harassment to physician or staff. Relative to his specific questions, there is no mandatory amount of time required to provide the patient to find another physician; there is no requirement to inform the Board of patient discharge; it is suggested written certified letters utilized and 3 referrals provided, and individual circumstances would determine whether or not other agencies or law enforcement should be notified. It is also suggested that personal legal counsel be notified.

Scope inquiry request received from Isabel Bonilla, attorney, Phelps & Dunbar law firm, can DC’s administer **non medicinal IV’s.** Response to be provided this is currently not within the scope.

Request received from **Ron McMorris, D.C**, Walker, LA, can a technician be trained to perform manual therapy. Response to be sent that the question is too vague in that specifics needed on the request before the Board can respond.

Discussion initiated by Dr. Martello regarding **MS Chiropractic Board’s renewal policy**. NBCE Part IV participation is allowed to be utilized for CE in MS. MS Board is very strict about license renewal and grants no exceptions. Dr. Martello will contact the MS Board to inquire about computer equipment and software utilized.

Request received from **CE Moran, D.C**., Purvis, MS, to waive the CE requirements for 2021 due to health concerns and COVID-19. Motion made by Dr. Kruse, seconded by Dr. Zeagler, to waive the CE requirements for 2021. With no objections, motion carries unanimously

Request received from **Paul Powers, D.C, Chiro Credit,** , if there has been any change to CE rules on format. Response to be sent that no changes have been made- no distance learning allowed.

Request received from **Katie Carpenter, D.C,** Mandeville, LA**,** if there are any online courses approved. Response to be sent that no distance learning courses are allowed.

Request received from **Eileen Herlily, ACCO,** , if course previously approved would be accepted if the format changed. Response to be sent that no changes have been made - no distance learning allowed.

Request received from **Laurie Isenberg, Life West College** , if course previously approved would be accepted if the format changed. Response to be sent that no changes have been made- no distance learning allowed, however if a licensee previously took the course, then individual consideration could be given if requested.

Request received from **Logan College and Cell Core,** if course previously approved would be accepted if the format changed. Response to be sent that no changes have been made- no distance learning allowed, however if a licensee previously took the course, then individual consideration could be given if requested.

Request received from **Rhonda Williams, D.C.,** Life College, to allow online distance learning for CE. Ms. Oliver directed to respond that no change made to CE format policy and no distance learning is allowed.

Information received from **Paul Roger, D.C**., Lafayette, LA, regarding the denial of utilizing online CE for renewal, the Board’s lack of concern for his health, his right to protect himself, as well as information about recent classroom CE program he attended with regard to masks not being utilized by the majority of attendees, social distancing not observed, etc. Response to be provided that consideration will be given to each individual licensee’s request when submitted to the Board.

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Request received from **Susan Aurich, D.C**, Hickory Creek, TX, attends Parker College program usually and its format has changed to “virtual”, will LA accept it for CE license renewal. Response will be provided that distance learning is not allowed.

Request received from **Amy Arton, D.C**., Pasadena, TX, to waive the CE requirements for 2021 due to health concerns and COVID-19. Motion made by Dr. Kruse, seconded by Dr. Zeagler, to waive the CE requirements for 2021. With no objections, motion carries unanimously

Request received from **Kenneth Bull, D.C**., Gulfport, MS, if LA is offering or allowing online CE courses for license renewal. Response to be sent that no online hours are being allowed; however, check the LA Board’s website for approved programs. Motion made by Dr. Zeagler, seconded by Dr. Kruse, to grant a 90 day extension to obtain approved CE. With no objections, motion carries unanimously.

Request received from **Nicole Halkovic, D.C**., Zachary, LA, if LA is allowing online CE hours. Response to be provided that no online distance learning is allowed.

Request received from **Richard Churra, D.C**., Lansing MI, if virtual/online hours are allowed due to concerns with COVID-19 and health issues. Motion made by Dr. Kruse, seconded by Dr. Zeagler, to waive the CE requirements for 2021. With no objections, motion carries unanimously

Request from **Greg Smith, D.C**., Ruston, LA, whether or not LA is allowing online CE hours. Motion made by Dr. Zeagler, seconded by Dr. VanBreemen, to grant a 90 day extension to obtain approved CE. With no objections, motion carries unanimously.

Request received from **Latresia Broussard Bell, D.C**., Baton Rouge, LA, if her attendance at FCA’s virtual CE program will be accepted for CE. Motion made by Dr. Kruse, seconded by Dr. Cavanaugh, to waive the CE requirement. With 5 yeas, 1 nay, motion carries.

Request received from **Harold Ehrenberg, D.C**., Covington, LA, to waive the CE requirements for 2021 due to health concerns and COVID-19. Motion made by Dr. Kruse, seconded by Dr. Cavanaugh, to waive the CE requirements for 2021. With no objections, motion carries unanimously

Request received from **Joseph Salande, D.C**., Meraux, LA, if LA will consider other CE options due to health concerns and COVID-19 issues. Motion made by Dr. Zeagler, seconded by Dr. VanBreemen, to waive the CE requirements for 2021. With no objections, motion carries unanimously.

Request received from **Marc Deodata, D.C**., Philadelphia, PA, that the Life College program he registered for is now virtual format and will it be accepted. Motion made by Dr. VanBreemen, seconded by Dr. Cavanaugh, to waive the CE requirements for 2021. With no objections, motion carries unanimously.

Request from **Trevor Jolie, D.C**., Lake Charles, LA, CAL District 4 Director, will CE be excused or postponed. Response to be given that if a person has been negatively impacted by COVID-19 or Hurricane Laura, please submit a written request to the Board for consideration.

Request from **Sylvi Beaumont, D.C**., New Orleans, LA, to accept extra hours she obtained in 2019 for her 2021 renewal. Motion made by Dr. Zeagler, seconded by Dr. Cavanaugh, to waive the CE requirements for 2021. With no objections, motion carries unanimously.

Correspondence received from **Michael Wainwright**, Attorney for CAL, if the language utilized in complaint letters sent to licensees can be changed to be less harsh and severe as it shocks and scares the licensees. Ms. Oliver provides the historical information on the complaint letters utilized by our past and present Board attorneys since the Board’s inception. Dr. Cavanaugh, as complaints chairman, notes that the letters contain the word, “allegation”, “possible violation” and that the severity of the allegation should be realized by the licensee. Ms. Oliver requested to ask legal counsel to review the language.

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Motion made by Dr. Martello, seconded by Dr. Cavanaugh, to amend the agenda to address items received after the agenda was created and posted. Roll call vote: Cavanaugh – Yes; Kruse – Yes; Rollette – Yes; Zeagler – Yes; VanBreemen – Yes; Martello – Yes. With 6 yeas, 0 nays, motion carries and agenda is amended.

 Request received from **Clayton Burnett, D.C**., Lake Charles, LA, asking for a CE waiver or postponement due to damage and hardship from recent hurricanes in Lake Charles, LA. Motion made by Dr. Kruse, seconded by Dr. Zeagler, to waive the CE requirements for 2021 for Dr. Burnett.

 Request received from **Jason Neatherlin, D.C.,** Opelousas, LA, informing the Board about virtual CE. Response will be sent thanking Dr. Neatherlin for his input.

 Correspondence sent from **James Raker, D.C**., Texarkana, AR, relative to DOT Certified Medical Examiners and discussion with the LA Drug & Device Distributors Board requesting the Board make a position statement that DC’s can purchase urinalysis machines and supplies. Response to be provided it is within the scope to utilize urinalysis and supplies for diagnostic purposes, however, there is no law states a person can or cannot purchase the equipment.

 Request received from **Scott McCarty, D.C**, Gretna, LA, if virtual CE will be allowed as he attended the FCA’s program. Response to be sent that in person classroom CE is only allowed at this time.

 Request received from **Michael Taylor, D.C**., Shreveport, LA, if he can hire an MD and/or a Nurse Practitioner and what legal steps are needed. Response to be sent that Dr. Taylor should contact the appropriate state licensing boards for each profession involved and further, he should consult with a private attorney.

Mr. Tim Chittom, CAL, Baton Rouge, LA, notes he has a request from **Dallas Humble, D.C**., West Monroe, LA, for issuance of a declaratory statement relative to “**treatment of concussions**” . Ms. Oliver notes topic was handled by the Board in the past. She will provide info to Dr. Humble and Mr. Chittom.

**Upcoming Events:**

* Annual license renewal deadline, 12/31/2020.
* Biannual licensure exam, 01/21/2021, time to be announced.

Motion made by Dr. Cavanagh, seconded by Dr. Rollette, to adjourn. With no objections, meeting is adjourned at approximately 1:20 p.m.