

## **POLICY MEMO & RISK ANALYSIS**

### **North Carolina State Board of Chiropractic Examiners**

### **Involvement with NBCE/FCLB Merger. Conflicts of Interest, Ethics Violations, and Ultra Vires Risk**

**Prepared by: Chiropractic Freedom Coalition | Date: April 21, 2026**

#### **I. Executive Summary**

This memorandum analyzes the legal exposure of the North Carolina State Board of Chiropractic Examiners (the “Board”) arising from its entanglement with the proposed merger of the National Board of Chiropractic Examiners (“NBCE”) and the Federation of Chiropractic Licensing Boards (“FCLB”), and from the related dual roles held by its leadership. The analysis identifies four distinct and overlapping areas of legal risk: (1) ultra vires action under the Board’s enabling statute; (2) violations of the North Carolina State Government Ethics Act, G.S. Chapter 138A; (3) structural conflicts of interest by Board President Stuart Kordonowy DC, who simultaneously serves as the NC NBCE delegate; and (4) open meetings law violations in connection with the April 24, 2026 Board meeting.

The cumulative legal exposure is significant and, if not addressed, could subject individual Board members to sanctions, expose Board actions to nullification, and generate substantial reputational and regulatory risk.

The on-record evidence from the Board’s own published minutes and delegate lists is sufficient to support a formal ethics complaint to the NC State Ethics Commission, a referral to the NC Attorney General’s Open Government Unit, and potential legal challenge to any merger-related action taken at the April 24, 2026 meeting.

#### **II. Factual Predicate**

##### **A. The Board’s Organizational Structure and Statutory Mandate**

The North Carolina State Board of Chiropractic Examiners was established by the General Assembly under G.S. Chapter 90, Article 8. Its statutory mandate is to “properly regulate doctors of chiropractic for the benefit and protection of the people of North Carolina.” The Board is a public body exercising quasi-judicial and administrative functions of the State of North Carolina. Its members are appointed public servants subject in full to the State Government Ethics Act, G.S. Chapter 138A.

##### **B. Key Personnel and Their Dual Roles: The Core Conflict**

The following dual roles are confirmed by the Board’s own published minutes and the NBCE’s official 2026–2027 Delegate and Alternates List:

**Stuart Kordonowy DC:** President, NC State Board of Chiropractic Examiners (elected July 2025, confirmed in audited financial statements as of September 1, 2025) AND NBCE Delegate for North Carolina (2026–2027 cycle).

**Rod Brown DC:** Vice President, NC State Board of Chiropractic Examiners (elected July 2025) AND Alternate NBCE Delegate for North Carolina (2026–2027 cycle).

Both the primary and alternate delegate positions for NC at the NBCE are held by the top two officers of the state board. This structural alignment is not coincidental, it means the individuals with the greatest institutional authority over the NC Board are the same individuals who will vote on the NBCE/FCLB merger in Atlanta.

### **C. On-Record Evidence of Board Engagement with the Merger**

The Board's own minutes establish a documented record of engagement with the NBCE/FCLB merger:

Executive Director Siragusa "reported on his attendance at the FCLB District Mtg, re FCLB/NBCE merger, trend toward deregulation, lower renewal fees." This is the most direct on-record acknowledgment that the Board's leadership is engaged with and tracking the merger.

October 24, 2025 Minutes, Item 8a: Dr. Kordonowy himself presented a "Report from FCLB Meeting", while simultaneously serving as the NBCE delegate who will vote on the merger. October 2024 Minutes, Education Committee:

FCLB District V Meeting in Asheville (September 2024) attended by board leadership. July 2024 Minutes: Board formally appointed FCLB delegate and alternate; FTC non-compete ruling was specifically designated for the FCLB meeting agenda. January 2023 Minutes:

### **D. The April 24, 2026 Meeting**

The Board's April 24, 2026 meeting was announced with no agenda. The meeting falls just days before the Atlanta Annual Meeting and merger vote deadline, making the timing and secrecy of this meeting highly relevant to the present analysis.

## **III. Legal Risk Area 1: Ultra Vires Action**

### **A. The Applicable Doctrine**

A public body acts "ultra vires", beyond its powers, when it takes action not authorized by its enabling statute. Ultra vires actions by state boards are void and unenforceable. The NC Board's authority is strictly defined by G.S. Chapter 90, Article 8, which limits the Board to licensing, monitoring, disciplining, and educating chiropractic practitioners for the protection of the public.

## **B. Application to the Merger Vote**

The NBCE/FCLB merger is a transaction between two private nonprofit corporations. Neither the NBCE nor the FCLB is a governmental entity. No provision of G.S. Chapter 90, Article 8 authorizes the NC Board to:

Vote on the dissolution or merger of a private corporation; Instruct a delegate to vote on behalf of the State on matters of private corporate governance; Commit the Board's institutional resources or imprimatur to a private merger transaction; Use Board meeting time and public resources to deliberate on private corporate affairs.

## **C. The Risk**

If the NC Board takes any formal action at the April 24 meeting, whether a resolution supporting the merger, a vote authorizing Kordonowy's delegate vote, or any official instruction to the delegate, that action is vulnerable to challenge as ultra vires. Any such action could be challenged in NC Superior Court and declared void. More significantly, if Kordonowy casts NC's delegate vote at the Atlanta Annual Meeting pursuant to an ultra vires Board authorization, NC's vote itself may be legally compromised.

## **IV. Legal Risk Area 2: North Carolina State Government Ethics Act Violations**

### **A. Coverage — G.S. Chapter 138A**

Members of the NC State Board of Chiropractic Examiners are "covered persons" under the State Government Ethics Act, G.S. Chapter 138A. As appointed public servants exercising state authority, they are subject to the Act's full conflict of interest framework, disclosure requirements, and recusal obligations. The Act's stated purpose is to ensure that "elected and appointed State agency officials exercise their authority honestly and fairly, free from impropriety, threats, favoritism, and undue influence."

### **B. Conflict of Interest Standard 1: Financial Benefit — G.S. § 138A-36(a)**

The Ethics Act prohibits a public servant from taking an official action if that action may result in a reasonably foreseeable financial benefit to: (1) the public servant; (2) a business or nonprofit organization for which the public servant serves in a leadership role; or (3) any entity in which the public servant holds a qualifying financial interest.

Dr. Kordonowy serves in a leadership role with the NBCE as a District Director and delegate. The merger, if approved, would directly affect the NBCE's financial structure, operations, and institutional future. Any Board action that supports or facilitates that merger, or any vote cast by Kordonowy as NBCE delegate, constitutes official action that may provide a reasonably foreseeable financial benefit to an organization in which he holds a leadership role.

This is a direct trigger under G.S. § 138A-36(a). Neither the “class exception” nor the “ministerial action” safe harbor applies here. The class exception applies only where an action impacts a large group of similarly situated individuals; a specific private corporate merger does not qualify. The action is discretionary, not ministerial.

### **C. Conflict of Interest Standard 2: Special Proceedings / Quasi-Judicial Standard — G.S. § 138A-36(c)**

A broader conflict standard applies when a public servant is called upon to take official action in quasi-legislative or quasi-judicial proceedings, including rulemaking. In such proceedings, a public servant is restricted from taking official action if the public servant’s impartiality “could reasonably be questioned” due to a personal, financial, or leadership relationship with a participant.

The NC Ethics Commission’s official guidance states explicitly that this standard “can extend to individuals and entities with whom the public servant has a ‘personal’ relationship, which includes membership on a board of directors or leadership position with any organization, regardless of whether the public servant is being compensated for that service.”

Under this standard, Kordonowy’s impartiality in any Board action touching on the NBCE/FCLB merger “could reasonably be questioned” given his simultaneous role as NBCE delegate and District Director. This is not a marginal or speculative conflict, he is the very person who will cast NC’s vote on the merger at the NBCE’s annual meeting.

### **D. Mandatory Recusal Obligations — G.S. § 138A-36 and Ethics Commission Guidelines**

Once a conflict of interest is identified, the Ethics Act requires that the public servant:

Abstain from taking any verbal or written action in furtherance of the official action; Decline to vote on the matter; Decline to participate in discussions of the matter; Submit written reasons for abstention to the board; and Ensure the abstention is recorded in the board’s minutes.

In addition, G.S. § 138A-15(c) requires that when an actual or potential conflict of interest is identified, “the conflict shall be recorded in the minutes of the applicable board and duly brought to the attention of the membership by the board’s chair as often as necessary.”

Critically, Kordonowy is the chair. He has an affirmative duty to bring his own conflict of interest to the attention of the board’s membership. There is no evidence in any minutes reviewed that this has been done. The October 2025 minutes list “Ethics Statement Read” and “no conflicts reported”, despite the fact that the FCLB/NBCE merger was discussed at that very meeting, and Kordonowy had been appointed NBCE delegate.

### **E. Statement of Economic Interest (SEI) Obligations — G.S. § 138A-22**

All covered persons must file Statements of Economic Interest (SEIs) disclosing financial relationships and leadership roles. The Ethics Commission evaluates these SEIs for conflicts of interest. Under G.S. § 138A-22(a), most members of state boards must file SEIs and be evaluated for conflicts prior to their appointment.

The question is whether Kordonowy's SEI discloses his NBCE delegate role and related NBCE/FCLB engagements. If his SEI omits the NBCE delegate position or related leadership roles, that omission is itself a potential violation of the Act's mandatory disclosure requirements. The minutes show the board tracks SEI compliance ("SEI, all current" appears in each meeting's opening) but there is no indication the NBCE delegate role was disclosed or flagged.

## **F. Sanctions**

Willful failure to comply with the Ethics Act's conflict of interest standards may result in: Removal from the Board or State position; Investigation by the NC State Ethics Commission; Voiding of Board actions tainted by the conflict under constitutional due process principles; Referral to the applicable appointing authority (the Governor, Speaker of the House, or President Pro Tem of the Senate, depending on the appointment) for disciplinary action.

## **V. Legal Risk Area 3: Regulatory Capture and Structural Dependency**

### **A. The NACIQI "Virtual Cartel" Designation**

The National Advisory Committee on Institutional Quality and Integrity (NACIQI) designated the CCE-NBCE-FCLB structure as a "virtual cartel" in both 2006 and 2013. This designation by a federal advisory body establishes authoritative third-party support for the claim that state boards like NC's are operating within a captured regulatory ecosystem, not as independent public protectors.

### **B. FCLB Financial Dependency**

The FCLB receives approximately 60% of its operating budget from the NBCE, confirmed in NBCE's 2022 audited annual report, which also classifies FCLB as a "related entity." NC board leadership's regular attendance at FCLB District Meetings, and their on-record reporting to the board about FCLB matters, demonstrates that the NC Board is operationally integrated into this financially dependent structure.

### **C. NC Board's Reliance on NBCE Products**

The NC Board's minutes reflect ongoing reliance on NBCE examination infrastructure, including the SPEC (Special Purposes Examination for Chiropractic) exam for license reinstatement, and deference to NBCE positions on examination policy (January 2023: "NBCE may feel that repeat SPEC exams are not appropriate"). This dependency means that any action by the Board's

leadership that benefits the NBCE is not a disinterested regulatory judgment, it is a decision made by officials whose board depends on the NBCE's continued operation in its current form.

#### **D. Sherman Act § 1 Exposure, NC State Action Doctrine**

Under the NC State Board of Dental Examiners v. FTC (2015), state professional licensing boards composed primarily of active market participants are not immune from federal antitrust scrutiny unless their actions are actively supervised by the state. If the NC Board facilitates the NBCE/FCLB merger, either by voting to support it, instructing its delegate, or otherwise using its public authority to advance the interests of these private organizations, the Board risks losing state action immunity and becoming exposed to antitrust liability under Sherman Act § 1.

The key question under Dental Examiners is whether the Board is acting as a state regulatory authority or as an instrument of private market participants. The dual roles of Kordonowy and Brown, sitting simultaneously on the state board and as NBCE delegates, make it difficult to argue the Board is acting independently of NBCE's private interests.

#### **VI. Conclusion and Call to Action**

The North Carolina State Board of Chiropractic Examiners stands at a consequential crossroads. The evidence assembled in this memorandum, drawn entirely from the Board's own published records, minutes, and official delegate lists, establishes a pattern of institutional entanglement with the NBCE and FCLB that goes well beyond routine regulatory engagement. That entanglement has now produced a structural conflict of interest at the highest levels of the Board's leadership, at precisely the moment when those leaders are positioned to cast North Carolina's vote on one of the most significant governance transactions in the profession's modern history.

The legal risks are not theoretical. They are grounded in specific, enforceable statutes — the State Government Ethics Act, the Open Meetings Law, and the Board's own enabling legislation, with documented, on-record facts sufficient to support formal complaints, public records requests, and legal challenge. The window to act is narrow. The Atlanta Annual Meeting vote is imminent. The April 24, 2026 Board meeting, noticed without an agenda or accessible location, suggests that critical decisions may be made without the transparency the law demands and the public deserves.

The Chiropractic Freedom Coalition calls on the Board to take the following steps immediately:

First, publish a complete agenda for the April 24, 2026 meeting in compliance with G.S. § 143-318.12 no later than April 22, 2026.

Second, Dr. Stuart Kordonowy DC must formally disclose his conflict of interest arising from his simultaneous roles as Board President and NBCE Delegate, record that conflict in the Board's minutes as required by G.S. § 138A-15(c), and recuse himself from any Board deliberation, vote, or action relating to the NBCE/FCLB merger or his delegate authority.

Third, the Board must refrain from taking any ultra vires action purporting to authorize, instruct, ratify, or support any vote on the NBCE/FCLB merger, a transaction entirely outside the Board's statutory mandate under G.S. Chapter 90, Article 8.

Failure to act on any of these points may leave individual Board members personally exposed to ethics sanctions, leave Board actions vulnerable to legal nullification, and leave North Carolina's delegate vote subject to challenge.

If the Board believes its actions are within the law then members should request a written opinion from board counsel, preferably the Attorney General, in order to ensure they are acting under state supervision on these issues.

The Board was created to protect the people of North Carolina, not to serve the institutional interests of private national organizations. The people's business must be conducted openly, lawfully, and free from undisclosed conflicts. The time to act is now.

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