

FLORIDA | Board of Chiropractic Medicine

MEETING MINUTES

June 3, 2016

Rosen Plaza
9700 International Drive
Orlando, FL 32819

Kevin Fogarty, D.C., F.I.C.A.

Chair

Danita Heagy, D.C.

Vice-Chair

Anthony B. Spivey, D.B.A.

Executive Director

The Florida Board of Chiropractic Medicine will hold a meeting on Friday, June 3, 2016, commencing at 8:00 a.m., or shortly thereafter. This meeting will be held at the Rosen Plaza Hotel, 9700 International Drive, Orlando, FL 32819, (407) 996-9700, to which all persons are invited to attend. Participants in this public meeting should be aware that these proceedings are being recorded and that an audio file of the meeting will be posted to the board's website. <http://floridaschiropracticmedicine.gov/>

AGENDA

General Board Business started: 8:00 a.m.

I. CALL TO ORDER (Roll Call):

The meeting was called to order by Dr. Fogarty, chair. Those present for all or part of the meeting included the following:

BOARD MEMBERS:

Kevin Fogarty, D.C., F.I.C.A. , Chair
Christopher Fox, D.C., ATC
Julie Hunt, D.C., DICCP
Kenneth Dougherty, D.C.
David Colter
Ruth Pelaez

ABSENT:

Danita Heagy, D.C., Vice-Chair
(Excused)

STAFF PRESENT:

Anthony Spivey, Board Executive Director
Gail Curry, CPM, Program Operations Administrator
Karen Miller, Administrative Assistant II

BOARD COUNSEL:

Deborah Loucks, Esq., Assistant Attorney General
Office of Attorney General

PROSECUTION COUNSEL:

Christopher Dierlam, Assistant General Counsel

AUDIO/VISUAL:

Vanguard Audio Visual

COURT REPORTER:

American Court Reporting
Diana Brundage
(407) 896-1813

Please note the minutes reflect the actual order agenda items were discussed and may differ from the agenda outline. AUDIO from this meeting can be found online: <http://floridaschiropracticmedicine.gov/meeting-information/past-meetings/>

Section I concluded: 8:05 a.m.

Section II began: 8:05 a.m.

II. APPROVAL OF MINUTES:

Action: Motion to review the minutes was made by Dr. Dougherty. Seconded by Dr. Fox.
Vote: 6 yeas / 0 opposed; motion carried

a. Minutes of the April 8, 2016 General Business Meeting were reviewed.
Note the following corrections to the minutes:

Page 2, line 11 should reflect only 1 M on members
Page 3, line 22 should reflect with instead of which
Page 3, line 28 should reflect Vince not Vance
Page 4, line 8 & 9 should reflect Vote was made by Dr Hunt 2nd by Dr. Heagy
Page 4, line 21 should reflect yeas (misspelled)
Page 4, line 31 should reflect extended instead of approved
Page 8, line 10 should reflect didn't have the funds to take
Page 8, line 28 should reflect there was no ACTION put under number 8
Page 8, line 32 should reflect be a separate paragraph
Page 8, line 32 should reflect were
Page 9, line 5 should reflect "an" should add a "be"
Page 9, line 14-16 floating in space research to see what goes here
Page 10, line 7 should reflect application for new license not reinstated

Action: Motion to approve the minutes [with the noted corrections] was made by Dr. Dougherty. Seconded by Dr. Fox.
Vote: 6 yeas / 0 opposed; motion carried

Section II concluded: 8:21 a.m.

Section III began: 8:21 a.m.

III. FINAL ORDER ACTION:

a. Settlement Agreement –

i. Bahram Kam Habibi, D.C. Case# 2013-19185

PCP: Dougherty/Hoffman

Respondent was not present and was represented by counsel, Kevin Mason, Esq.

Discussion: Deborah Loucks gave options to the board to allow them direction on proceeding with the settlement Dr. Habibi is paying all fines and completing all requirements in the settlement agreement. Dr. Habibi is not practicing at this time.

Action: Motion made to require appearance made by Dr. Hunt. Seconded by Dr. Fox.
4 yeas/1 opposed; (Mr. Colter) motion carried
Dr. Dougherty recused due to participation on the Probable Case Panel.

Action: Motion to reject the settlement agreement was made by Dr. Hunt. Seconded by Ms. Pelaez.
Vote: 4 yeas / 1 opposed; (Mr. Colter) motion carried
Dr. Dougherty recused due to participation on the Probable Case Panel.

Upon further discussion the Board offered a counter offer.

Action: Motion to offer the counter offer was made by Dr. Fogarty. Seconded by Ms. Pelaez.
Vote: 5 yeas / 0 opposed; motion carried
Dr. Dougherty recused due to participation on the Probable Case Panel.

ii. David James Kidd, D.C. Case# 2013-13871

PCP: Hoffman/Reynolds

Respondent was present and was represented by counsel, Dagmar Llaudy, Esq

Dr. Kidd is before the Board for inappropriate billing.

Discussion: conversations between the Board and Ms. Llaudy showed the settlement agreement to be acceptable.

Action: Motion to approve the settlement agreement was made by Dr. Fox. Seconded by Dr. Hunt.
Vote: 6 yeas / 0 opposed; motion carried

iii. Nicholas Walter Belletto, D.C. Case# 2014-01708

PCP: Heagy/Jenkins

Respondent was present and was represented by counsel, Andrew Brown, Esq.

Dr. Belletto is before the Board for failure to keep adequate medical records. Case management of patients.

Discussion: Sited concerns of patient care. The Board expressed concerns of patient care to Dr. Belletto.

Action: Motion to reject settlement agreement was made by Dr. Dougherty. Seconded by Dr. Fox.
Vote: 6 yeas / 0 opposed; motion carried

Discussion: Change fine to \$1,000 and have 6 months to pay. Dr. Fogarty wants to have a complaint filed against the Dr. that filed the complaint. This would go through the Board of Medicine.

Action: Motion to change settlement agreement was made by Dr. Dougherty. Seconded by Dr. Fox.
Vote: 6 yeas / 0 opposed: motion carried

b. Voluntary Relinquishment –

- i. Roger Toby Hughes-Bell, D.C.
Case# 2014-18361
PCP: None
Respondent was not present and was not represented by counsel.

Discussion: After discussion of the information by the Board, the Voluntary Relinquishment was accepted.

Action: Motion to approve the Voluntary Relinquishment was made by Dr. Paleaz.
Seconded by Dr. Hunt.
Vote: 6 yeas / 0 opposed; motion carried

c. Hearing – No Disputed Material Facts –

- i. Marlon Lee Moritz, D.C.
Case# 2015-10003
PCP: Fox/La Russo
Respondent was not present and was not represented by counsel.

Discussion: Unable to practice at this time.

Action: Motion to approve was properly served and requested an Informal hearing for Chiropractic Physician licensure was made by Dr. Dougherty.
Seconded by Dr. Hunt.
Vote: 5 yeas / 0 opposed; motion carried
Dr. Fox recused due to participation on the Probable Case Panel.

Action: Motion to adopt the finding of fact set forth in the Administrative Complaint was made by Dr. Dougherty. Seconded by Dr. Hunt.
Vote: 5 yeas / 0 opposed; motion carried
Dr. Fox recused due to participation on the Probable Case Panel.

Action: Motion to adopt the Conclusion of Law as set forth in the Administrative Complaint and constitutes a violation of the Practice Act.
Moted by Dr. Dougherty. Seconded by Ms. Pelaez.
Vote: 5 yeas / 0 opposed; motion carried
Dr. Fox recused due to participation on the Probable Case Panel.

Action: Motion to accept the investigative report into evidence for the purpose of imposing a penalty.
Moted by Dr. Dougherty. Seconded by Dr. Hunt.
Vote: 5 yeas / 0 opposed; motion carried
Dr. Fox recused due to participation on the Probable Case Panel.

Action: Motion to have no fines was made by Dr. Dougherty.
Seconded by Dr. Hunt.
Vote: 5 yeas / 0 opposed; motion carried
Dr. Fox recused due to participation on the Probable Case Panel.

Action: Motion to give him 3 years to pay the legal cost was made by Dr. Dougherty.
Seconded by Dr. Hunt.

Vote: 5 yeas / 0 opposed; motion carried
Dr. Fox recused due to participation on the Probable Case Panel.

Section III concluded: 9:29 a.m.

Section IV began: 9:29 a.m.

IV. PROSECUTION REPORT:

69 open cases in PSU
6 open cases in Emergency Action
42 under legal review
6 probable cause
2 cases that were resolved today were older than a year.

Action: Motion to approve Prosecution Report as stated was made by Dr. Dougherty.
Seconded by Dr. Hunt.
Vote: 6 yeas / 0 opposed; motion carried

Action: Motion to continue working cases 1 year old or older was made by Dr. Dougherty. Seconded by Mr. Fox.
Vote: 6 yeas / 0 opposed; motion carried

Section IV concluded: 9:30 p.m.

BREAK

Section V began: 9:52 p.m.

V. PETITIONS:

- a. Variance/Waiver –
 - i. Gregory Roman Dady, D.C.

Asking for a continuance to do CE.

Discussion: Mr. Dady hasn't done any CE at this time. Wants to get a continuance to do his CE.

Action: Motion to reject continuance was made by Dr. Hunt. Seconded by Dr. Dougherty.
Vote: 6 yeas / 0 opposed; motion carried

Action: Motion to deny Variance/Waiver was made by Dr. Dougherty. Seconded by Dr. Hunt.
Vote: 6 yeas / 0 opposed; motion carried

Section V concluded: 9:55 a.m.

Section VI began: 9:55 a.m.

VI. APPLICATIONS PRESENTED FOR BOARD REVIEW:

- a. Licensure -

i. Registered Chiropractic Assistants –

1. Kimberly Danielle Flowers

Respondent was present and was not represented by counsel.

Discussion: Ms. Flowers must wait the full 5 years to pass before she can apply for her license.

Action: Motion to accept the withdrawal of Ms. Flowers application was made by Dr. Pelaez. Seconded by Dr. Fox.

Vote: 6 yeas / 0 opposed; Motion carried

2. Dianne Green

Respondent was present and was not represented by counsel

Discussion: N/A

Action: Motion to approve the application for Registered Chiropractic Assistant licensure was made by Dr. Pelaez. Seconded by Dr. Dougherty.

Vote: 6 yeas / 0 opposed; motion carried

3. Eleanor C. Goodfellow

Respondent was present and was not represented by counsel.

Discussion: N/A

Action: Motion to approve the application for Registered Chiropractic Assistant licensure was made by Dr. Dougherty. Seconded by Dr. Fox.

Vote: 6 yeas / 0 opposed; motion carried

Section VI concluded: 10:09 a.m.

Section V began: 10:09 a.m.

ADDENDUM

V. PETITIONS:

a. Variance/Waiver –

ii. Jade S. Bessette, D.C.

Respondent was present and was not represented by counsel

Discussion: Board staff will release CE with CE Broker and renew license. Make up CE hours within 2 years and renew license.

Action: Motion to approve the variance was made by Dr. Dougherty. Seconded by Dr. Fox.

Vote: 6 yeas / 0 opposed; motion carried

iii. Edward S. Bender, D.C.

Discussion: Dr. Fogarty asked Dr. Bender how long he has been practicing. Dr. Bender answered “33 years.” Dr. Bender is in the process of getting his CE now.

Action: Motion to approve the variance was made by Dr. Dougherty.
Seconded by Dr. Hunt.
Vote: 6 yeas / 0 opposed; motion carried

Section V concluded: 10:25 a.m.

Section VII began began: 10:25 a.m.

VII. RATIFICATION:

a. Licensure –

i. Chiropractic Physicians

Action: Motion to approve ratification was made by Dr. Dougherty.
Seconded by Dr. Hunt.
Vote: 6 yeas / 0 opposed; motion carried

ii. Registered Chiropractic Assistants

Action: Motion to approve ratification was made by Dr. Fox.
Seconded by Dr. Dougherty.
Vote: 6 yeas / 0 opposed; motion carried

iii. Certified Chiropractic Physician Assistants

Action: Motion to approve ratification was made by Dr. Dougherty.
Seconded by Dr. Fox.
Vote: 6 yeas / 0 opposed; motion carried

iv. Chiropractic Faculty Certification

Action: None at this time.

b. CE Providers and Courses Approved by Committee Chair

Action: Motion to approve was made by Dr. Pelaez.
Seconded by Dr. Hunt.
Vote: 6 yeas / 0 opposed; motion carried

Section VII concluded: 10:29 a.m.

Section VIII began: 10:29 a.m.

VIII. CHAIR/VICE-CHAIR REPORT:

a. Future Agenda Items

ADDENDUM

b. FCLB/NBCE Phoenix 2016 – Dr. Fogarty/Heagy

Action: Motion to approve allow attendance to FCLB/NBCE was made by Dr. Dougherty. Seconded by Dr. Fox.
Vote: 6 yeas / 0 opposed; motion carried

Section VIII concluded: 10:31 a.m.

Section IX began: 10:31 a.m.

IX. EXECUTIVE DIRECTOR'S REPORT:

- a. Letter to Keiser University

Mrs. Wenhold presented the letter to the board drafted to Keiser University regarding using the term Doctor of Chiropractic Medicine for its degree.

ADDENDUM

Jennifer Wenhold

- i. E-mail Correspondence
 - ii. Letter from Michael Wiles, D
- b. Letter from FCLB

Section IX concluded: 10:33 a.m.

Section X began: 10:33 a.m.

X. BOARD COUNSEL'S REPORT:

- a. Rules Status Report
four rules that were voted on in April were noticed by OFAR on the 25th of May.

Section X concluded: 10:33 a.m.

Section XV began: 10:33 a.m.

XV. COMMITTEE REPORTS:

- a. Budget – Colter
No Report
- b. CCPA – Dr. Dougherty
No Report
- c. Continuing Education – Drs. Heagy /Hunt
No Report
- d. Disciplinary Compliance – Dr. Fogarty
No Report
- e. Examination – Dr. Heagy
No Report
- f. Healthiest Weight – Dr. Hunt
Next meeting is Sept. 27th, Dr. Hunt will be unable to attend. Would like to have a backup when she cannot attend. Dr. Fogarty will get back with Dr. Hunt about attending for her.
- g. Legislation – Dr. Heagy/Mr. Colter
Will discuss in Future Business.
- h. Probable Cause – Drs. Dougherty/Fox/Hunt

No Report. Dr. Dougherty would like to have the report by paper for the next meeting.

1. Stats

- i. Rules – Dr. Hunt
No Report
- j. Unlicensed Activity – Ms. Pelaez
No Report
- k. Outstanding Service Award – Dr. Heagy
Postponed

Section XV concluded: 10:41 a.m.

Section XII began: 10:41 a.m.

- XII. OLD BUSINESS:
None

Section VI concluded: 10:41 a.m.

Section VII began: 10:41 a.m.

XIII. NEW BUSINESS:

Online CE - Dr. Dougherty - task force was formed shortly after last meeting. Dr. Dougherty is the Chairman. 1st meeting is scheduled for Tuesday. Would rather do this as a face to face meeting. A Board workshop to be an open Meeting. There was discussion for staying an extra night during the Aug. meeting. This would be Sat., Aug.13 in the morning. FCLB website has all 50 states listed for CE requirements.

Section VI concluded: 10:43 a.m.

Section VII began: 10:43 a.m.

XIV. PROPOSED 2017 MEETING DATES:

- a. February 3, 2017 – Orlando
- b. April 7, 2017 – Orlando
- c. June 16, 2017 – Orlando
- d. August 25, 2017 – Orlando
- e. October 13, 2017 – Orlando
- f. December 1, 2017 – Orlando

Discussion ensued as to what dates would work for everyone. The following dates were chosen.

- a. January 27, 2017 - Orlando
- b. May 12, 2017 – Orlando
- c. August 25, 2017 – Orlando (FCA)
- d. November 3, 2017 – Orlando

Mr. Colter suggested that locations might be changed to accommodate people in other areas of the State. Everyone decided to keep the Orland location.

Start time for meetings will be 8:30. This will start at the August 12, 2016

XV. NEXT MEETING DATE:

- a. June 7, 2016 – Task Force Committee Teleconference Meeting
Reschedule to make this a face to face meeting at the meeting in August.
- b. August 12, 2016 – Orlando

Section VI concluded: 11:18 a.m.

Section VII began: 11:18 a.m.

XVI. ADJOURNMENT

Action: Motion to adjourn was made by Dr. Dougherty. Seconded by Dr. Fox.
Vote: 6 yeas / 0 opposed; motion carried

The meeting was adjourned at 11:18 a.m.

DRAFT