

1 The Florida Board of Chiropractic Medicine held a meeting on Friday, May 12, 2017,
2 commencing at 8:30 a.m. This meeting was held at the Rosen Plaza, 9700 International Drive,
3 Orlando, Florida 32819, (407) 996-2315, to which all persons were invited to attend. Participants
4 in this public meeting were aware that these proceedings are being recorded and that an audio
5 file of the meeting will be posted to the board's website.

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7 **AGENDA**

8 **Section I began: 8:40 a.m.**

9

10 **I. CALL TO ORDER (Roll Call):**

11 **Board Members Present:**

12 Kevin Fogarty, D.C., F.I.C.A. (Hon), Chair
13 Danita Heagy, D.C., Vice-Chair
14 Christopher Fox, D.C., ATC(L)
15 Julie Hunt, D.C., DICCP
16 Kenneth Dougherty, D.C.
17 David Colter
18 Ruth Pelaez

19

20 **Board Staff Present:**

21 Dr. Anthony Spivey, Board Executive Director
22 Gail Curry, CPM, Program Operations Administrator
23 Savada Knight, Regulatory Supervisor/Consultant

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25 **Board Counsel:**

26 Lawrence Harris, Assistant Attorney General
27 Office of Attorney General

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29 **Prosecution Counsel:**

30 Peter Delia, Assistant General Counsel
31 Jennifer Weaver, Assistant General Counsel

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33 **COURT REPORTER:**

34 American Court Reporting

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36 **AUDIO/VISUAL:**

37 Vanguard Audio Visual

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39 **Section I ended: 8:42 a.m.**

40 **Section II began: 8:42 a.m.**

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II. APPROVAL OF MINUTES:

a. January 27, 2017 - Board Meeting

Action: Motion to review the minutes was made by Dr. Fogarty. Seconded by Dr. Heagy.

Vote: 7 yeas / 0 opposed; motion carried

a. Minutes of the January 27, 2017 General Business Meeting were reviewed.

Corrections to the minutes:

Page 3, line 16 should reflect the phrase “respondent demonstrating the ability safely practice”.

Page 4, line 40 should reflect “motion to deny CE hours.” Remove the phrase for life.

Page 4, line 42 should reflect Mr. Colter, not Dr. Colter.

Page 10, line 3 should reflect “Explanation of how Activator Online CE Works”.

Page 10, line 28 should reflect “excess” and remove “access”

Page 3, line 30 should reflect “Dr. Heagy”. Dr. Hunt was recused.

Page 7, line 19 should reflect Greely, Colorado and not Port Orange.

Action: Motion to approve the minutes was made by Dr. Heagy. Seconded by Dr. Dougherty.

Vote: 7 yeas / 0 opposed; motion carried.

Section II concluded: 8:44 a.m.

Section III began: 8:44 a.m.

III. FINAL ORDER ACTION:

a. Settlement Agreements:

i. Ayhem A. Sabry, D.C.,

Case No. 2016-19061:

Dr. Sabry was not present. He was represented by counsel, Michael Lowe. Ms. Weaver presented the case. An administrative complaint was filed against Dr. Sabry for the inability to keep medical records that conform to the minimum standards. Dr. Sabry currently practices overseas in Dubai. Dr. Fox is recused. The fine was increased to \$5,000.00 and \$1,000 in costs. The payments can be made quarterly over the course of two years. Dr. Sabry is to be placed on probation for two years with a monitor upon his return to Florida. The SPEC exam and an ethics exam is to be taken and passed within 1-year; these are offered online thru national board. Also required is 6 hours of documentation on record-keeping and 6 hours of risk-management that is to be taken within 1-year. A letter of reprimand will be issued. There are CE credits that are

88 available overseas. These can be put before the board so Dr. Sabry can go ahead and get these
89 approved. Mr. Lowe requested the continuing education be allowed overseas with clear language
90 in the final order. The continuing education is required to be live. The counter settlement
91 agreement will be responded to within 30 calendar days by Mr. Lowe after consulting with Dr.
92 Sabry.

93

94 **Action:** Motion to reject the settlement agreement made by Dr. Dougherty. Seconded by Dr.
95 Hunt.

96

97 Vote: 7 yeas / 0 opposed; motion carried.

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99 **b. Informal Hearings:**

100

101 i. Olivio Blanco, Jr., D.C.

102

103 **Case No. 2016-08757**

104

105 Present. Not represented by counsel. The case was presented by Mr. Delia. The department
106 alleges the respondent violated Section 460.413(1) (v) by violating a lawful order of the board.
107 The case numbers are: 2011-15047, 2011-15123, 2011-15199, and 2011-15200. The final order
108 required the respondent pay an administrative fine of \$4,000 in 36 months of equal payments of
109 \$112.00. The respondent failed to do this. The respondent was required to pay administrative
110 costs in the amount of \$18,640.13 in sixty equal payments of \$310.67 per month. The respondent
111 failed to do this. A new administrative complaint was filed on August 2, 2016 after which, he
112 filed an election of rights requesting a hearing not involving issues disputed in material fact.

113

114 **Action:** Motion to allow evidence made by Dr. Hunt. Seconded by Dr. Fox.

115

116 Vote: 7 yeas / 0 opposed; motion carried.

117

118 The department asked the chair to find the allegations in the administrative complaint as the
119 allegations of fact by the board.

120

121 **Action:** Motion to find allegations of fact made by Dr. Heagy. Seconded by Ms. Peleaz.

122

123 Vote: 7 yeas / 0 opposed; motion carried.

124

125 The board moved Dr. Blanco was properly served and requested a 120.57(2) hearing.

126

127 **Action:** Motion to find Dr. Blanco was properly served made by Dr. Heagy. Seconded by Dr.
128 Hunt.

129

130 Vote: 7 yeas / 0 opposed; motion carried.

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132

133 The department asked the chair to find the respondent in violation of the administrative
134 complaint.

135
136 **Action:** Motion to find violation of the administrative complaint made by Dr. Hunt. Second by
137 Dr. Fox.

138
139 Vote: 7 yeas / 0 opposed; motion carried.

140
141 The license was recommended for suspension until the respondent is fully compliant of board
142 order 14-1976-S-MQA. The respondent is to receive a reprimand, a fine of \$1,000 and
143 administrative costs in the amount of \$297.11. When Dr. Blanco is in full compliance, his license
144 could be reinstated. The payment is due within 90-days of reinstatement of his license. The
145 respondent will be suspended until the ethics and boundaries exam is taken.

146
147 **Action:** Motion to accept the settlement agreement by Dr. Heagy. Seconded by Dr. Fox.

148
149 Vote: 7 yeas / 0 opposed; motion carried.

150
151 ii. Tanya Kahl, D.C.

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153 **Case No. 2016-18424**

154
155 Dr. Kahl is present. She is not represented by counsel. The respondent is being charged with
156 violating Section 460.413(1)(v), F.S. by violating a lawful order of the board. The respondent
157 failed to comply with order DOH-14-1977-S-MQA. The order required Dr. Kahl to take and pass
158 the ethics and boundaries examination within 18 months of the filing date of the final order. She
159 failed to this. The respondent was to also to pay the fine of \$32,256.03 in 84 equal monthly
160 payments. The respondent has failed to make payments since last November 2016. The
161 respondent was also required to pay an administrative fine of \$10,000 in 84 equal monthly
162 payments. The respondent paid this only up until October 2016 and then quit making payments
163 in November/December 2016.

164
165 **Action:** Motion to accept the respondent was served a copy of the administrative complaint after
166 which she was served an election of rights requesting a hearing not involving disputed issues of
167 material fact under Chapter 120 made by Dr. Heagy. Seconded by Dr. Hunt.

168
169 Vote: 7 yeas / 0 opposed; motion carried.

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171 The department offers the investigative report with exhibits to establish a prima facie case and
172 requests this be admitted into evidence.

173
174 **Action:** Motion to accept this as evidence by Dr. Fox. Seconded by Ms. Pelaez.

175
176 Vote: 7 yeas / 0 opposed; motion carried.

177

178 The department asked the chair obtain a motion adopting the allegations in the administrative
179 complaint as the findings of fact by the board.

180
181 **Action:** Motion to accept by Ms. Pelaez. Seconded by Dr. Fox.

182
183 Vote: 7 yeas / 0 opposed; motion carried.

184
185 Dr. Spivey explained Dr. Kahl still owes the department \$30,586.98 as of January 12, 2017. The
186 fines/costs are paid for the year 2016. Dr. Kahl requests her monthly payments restructured. The
187 respondent will be required to retake and pass the ethics examination within 6 months.

188
189 The department asked the chair to obtain a motion the respondent violated the statute as charged
190 in the administrative complaint. The department proceeded with the recommended penalty.

191
192 **Action:** Motion to accept by Dr. Hunt. Seconded by Dr. Heagy.

193
194 Vote: 7 yeas / 0 opposed; motion carried.

195
196 The fine of \$1,000 and costs of \$150.28 will be folded into the current balance owed. Dr. Kahl's
197 license will remain active. The monthly payments will be restructured to \$305.00 for 12 months
198 and then \$505.00 a month thereafter. The payments will start in June 2017. The ethics
199 examination must be taken and passed thru the national board within 6 months.

200
201 **Action:** Motion to accept by Ms. Pelaez. Seconded by Dr. Fox.

202
203 Vote: 7 yeas / 0 opposed; motion carried.

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205 **c. Voluntary Relinquishments:**

206
207 i. Judith C. McKenzie, D.C.

208
209 **Case No. 2012-01747**

210
211 Not present. Not represented by counsel. The respondent previously owned a healthcare clinic
212 that was not properly licensed.

213
214 **Action:** Motion to accept the voluntarily relinquishment by Ms. Pelaez. Seconded by Dr.
215 Dougherty.

216
217 Vote: 7 yeas / 0 opposed; motion carried.

218
219 **Action:** Motion to waive the costs in this case by Dr. Dougherty. Second by Dr. Heagy.

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224 **Section III concluded: 10:33 a.m.**

225 **Section IV began: 10:33 a.m.**

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227 **IV. COMPLIANCE:**

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229 a. David J. Kidd, D.C.

230

231 **Case No. 2013-13871**

232

233 Present. Not represented by counsel. Dr. Kidd is currently suspended. Dr. Kidd came before the
234 board today to request an extension of the ethics and boundaries examination as required by the
235 final order. Dr. Kidd's extension was approved until January 1, 2018 with successful passage of
236 the ethics and boundaries exam before his suspension is lifted.

237

238 Action: Motion to accept by Dr. Dougherty. Seconded by Dr. Fox.

239

240 Vote: 7 yeas / 0 opposed; motion carried.

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242 **Section IV concluded: 10:39 a.m.**

243 **Section V began: 10:39 a.m.**

244

245 **Taken out of order**

246

247 **VI. PROSECUTION REPORT:**

248

249 Open Cases: **69**

250

251 Emergency Action Unit: **0**

252

253 Cases under Legal Review: **36**

254

255 Cases with Probable Cause Recommendations: **11**

256

257 Cases with Probable Cause Found: **14**

258

259 Cases in Criminal Hold Status: **0**

260

261 Cases before the Division of Administrative Hearings: **1**

262

263 Cases on Appeal: **0**

264

265 Cases over 1 year old: **41**

266

267 The next probable cause panel is scheduled for July 16, 2017.

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269 **Section VI ended: 10:40 a.m.**

270 **Section V began: 10:40 a.m.**

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V. PETITION FOR WAIVER AND VARIANCE:

a. Crystal Nix Dayton, D.C.

Present. Not represented by counsel. The respondent is requesting a variance from the 1-year licensure requirement to attend a live board meeting and is requesting an extension.

Action: Motion to grant the extension for petition and waiver made by Dr. Fogarty. Seconded by Dr. Fox.

Vote: 7 yeas / 0 opposed; motion carried.

b. Joel Dayton, D.C.

Present. Not represented by counsel. The respondent is requesting a variance from the 1-year licensure requirement to attend a live board meeting and is requesting an extension.

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

Vote: 7 yeas / 0 opposed; motion carried.

c. Elia Jessica D’Auria, D.C.

Not present. Not represented by counsel. This is a petition for variance and waiver requesting a three month extension to attend a live board meeting within 12 months of licensure.

Action: Motion to accept made by Dr. Fox. Seconded by Dr. Heagy.

Vote: 7 yeas / 0 opposed; motion carried.

Section V concluded: 11:01 a.m.

Section VII began: 11:01 a.m.

VII. APPLICATIONS PRESENTED FOR BOARD REVIEW:

a. Jamie H. Lambert, D.C.

Not present. Not represented by counsel. After reading the case, Dr. Fox felt this physician was capable of practicing in his profession.

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

Vote: 7 yeas / 0 opposed; motion carried.

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b. Timothy R. Price, D.C.

Not present. Not represented by counsel. The applicant had a yes answer to being disciplined in another state.

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

Vote: 7 yeas / 0 opposed; motion carried.

c. David Norris, D.C.

Not present. Not represented by counsel. The board previously denied Dr. Norris' licensure. The respondent has had several arrests. Discussion ensued.

Action: Motion to deny reconsideration made by Dr. Fogarty. Seconded by Dr. Heagy.

Vote: 7 yeas / 0 opposed; motion carried.

d. Greg T. Trotta, D.C.

Present. Not represented by counsel. The respondent was previously before the board for a criminal issue. The previous conviction was satisfied and the state of New York vacated the criminal effects.

Action: Motion to grant licensure made by Dr. Fox. Seconded by Dr. Dougherty.

Vote: 7 yeas / 0 opposed; motion carried.

e. Michael E. Burr, D.C.

Present. Not represented by counsel. Dr. Burr held a previous license in Florida. Dr. Burr has reapplied to the state of Florida. Dr. Burr was disciplined in the state of Arizona. The background check revealed an arrest from 1983.

Action: Motion to grant licensure made by Dr. Dougherty. Seconded by Dr. Hunt.

Vote: 7 yeas / 0 opposed; motion carried.

f. Dipti Ramesh Patel, D.C.

Not present. Not represented by counsel. Dr. Patel was discipline in the state of Massachusetts for inaccurate record keeping. The state of New York did a discipline based on the state of Massachusetts.

361 **Action:** Motion to approve licensure made by Dr. Dougherty. Seconded by Dr. Fox.

362

363 Vote: 7 yeas / 0 opposed; motion carried.

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365 g. Daniel M. Jarvis, D.C.

366

367 Present. Not represented by counsel. The applicant checked no on the application for discipline
368 but indeed had previous discipline in the state of Virginia for criminal acts that took place in the
369 state of Georgia. There is a PRN representative, Dr. Polles in the audience. The board feels the
370 respondent can go ahead and get set up for an evaluation today.

371

372 **Action:** Motion to grant that license only if he takes and passes a PRN evaluation made by Dr.
373 Fogarty. Seconded by Dr. Heagy.

374

375 Vote: 7 yeas / 0 opposed; motion carried.

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377 h. Bryan H. Ehrlich, D.C.

378

379 Present. Represented by the counsel Edwin Bayo. Dr. Erlich graduated from The Pennsylvania
380 College of Chiropractic which Florida does not recognize as an accredited institution.

381

382 **Action:** Motion to approve licensure made by Dr. Fox. Seconded by Dr. Heagy.

383

384 Vote: 7 yeas / 0 opposed; motion carried.

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386 **Section VII concluded: 11:42 a.m.**

387 **Section VIII began: 11:42 a.m.**

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389 **VIII. RATIFICATIONS:**

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391 **a. Licensure**

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393 **i. Chiropractic Physician**

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395 License numbers 12057 – 12165, total of 109

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397 **Action:** Move to ratify made by Dr. Heagy. Second by Fox.

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399 Vote: 7 yeas / 0 opposed; motion carried.

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401 **ii. Registered Chiropractic Assistant**

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403 License numbers 16167 – 16589, total of 423

404

405 **Action:** Move to ratify made by Dr. Fox. Second by Ms. Pelaez.

406

407 Vote: 7 yeas / 0 opposed; motion carried.

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409 iii. Certified Chiropractic Physician Assistant

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411 License numbers 833 – 849, total of 17

412

413 **Action:** Move to ratify made by Dr. Fox. Second by Dr. Dougherty.

414

415 Vote: 7 yeas / 0 opposed; motion carried.

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417 **b. CE Providers and Courses approved by Committee Chair**

418

419 There are no questions.

420

421 **Action:** Move to ratify made by Dr. Heagy. Second by Dr. Dougherty.

422

423 Vote: 7 yeas / 0 opposed; motion carried.

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425 [Section VIII ended: 11:46 a.m.](#)

426 [Section IX began: 11:46 a.m.](#)

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428 **IX. CHAIR/VICE-CHAIR REPORT:**

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430 Nothing to report.

431

432 [Section IX ended: 11:46 a.m.](#)

433 [Section X began: 11:46 a.m.](#)

434

435 **X. EXECUTIVE DIRECTOR'S REPORT:**

436

437 Dr. Spivey announced the chair/vice-chair's meeting will be on September 18th in Tallahassee.

438 The Governor is requesting the board do another rules review just to make sure outdated rules

439 are not on the books anymore.

440

441 [Section X ended: 11:47 a.m.](#)

442 [Section XI began: 11:47 a.m.](#)

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444 **XI. BOARD COUNSEL'S REPORT:**

445

446 a. January Rules Report

447 b. March Rules Report

448 c. April Rules Report

449 d. Public Disclosure Notice

450
451 Larry Harris, the new board counsel, presented the report. The continuing education rule 64B2-
452 13.004, F.A.C. was filed for adoption. It will become effective around June 1. The rules 64B2-
453 11.001 F.A.C. and 64B2-18.002 F.A.C. should also become effective in June. The rule that
454 involved guidelines for disciplinary cases, board counsel will research. Current board members
455 are eligible to receive continuing education credits as well as former board members that serve
456 on the probable cause panels but not current board members that serve on the probable cause
457 panels to prevent double-dipping. The JAPC attorney is currently reviewing continuing
458 education standards to try to pull them back into statute. When a Florida licensee participates as
459 an examiner for the National Chiropractic Board of Examiners, they are eligible for 19 hours of
460 continuing education.

461
462 **Section XI concluded: 12:00 p.m.**
463 **Section XII began 12:00 p.m.**
464

465 **XII. COMMITTEE REPORTS**

466
467 a. Budget – Mr. Colter

468
469 Nothing to report.

470
471 b. Certified Chiropractic Physicians Assistants – Dr. Dougherty

472
473 Nothing to report.

474
475 c. Continuing Education – Drs. Heagy/Hunt

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477 Dr. Heagy and Dr. Hunt report things going well.

478
479 d. Disciplinary Compliance – Dr. Fogarty

480
481 Dr. Fogarty requests Towanda Burnett, compliance officer to attend these meetings.

482
483 e. Examination – Dr. Heagy

484
485 There will be an exam next weekend in Port Orange and one in November that Dr. Fox will be
486 attending on behalf of Dr. Heagy. Dr. Hunt will be doing test development in three weeks.

487
488 f. Healthiest Weight – Dr. Hunt

489
490 Nothing to report. It is combined with the chair/vice-chair meeting on September 18th.

491
492 g. Legislation – Dr. Heagy/Mr. Colter

493
494 Larry Harris discussed the anti-trust issue on behalf of the board. Dr. Heagy discussed some
495 other issues.

496
497 h. Probable Cause – Drs. Dougherty/Fox/Hunt
498
499 Nothing to report.
500
501 i. Rules – Dr. Hunt
502
503 Nothing to report.
504
505 j. Unlicensed Activity – Ms. Pelaez
506
507 There has been nothing since January.
508
509 k. Outstanding Service Award – Dr. Heagy
510
511 Every year the board acknowledges a “quiet hero” for volunteer work within the chiropractic
512 medicine field.
513
514 **Section XII concluded: 12:18 p.m.**
515 **Section XIII began: 12:18 p.m.**
516
517 **XIII. OLD BUSINESS:**
518
519 Nothing discussed.
520
521 **Section XIII concluded: 12:18 p.m.**
522 **Section XIV began: 12:18 p.m.**
523
524 **XIV. NEW BUSINESS:**
525
526 Dr. Fogarty concluded to Edwin Bayo, the board staff are to make sure a chiropractic applicant
527 has a bachelor’s degree prior to making application to the state of Florida.
528
529 **Section XIV concluded: 12:18 p.m.**
530 **Section XV began: 12:18 p.m.**
531
532 **XV. NEXT MEETING DATE**
533
534 a. August 25, 2017
535
536 The FCA will be hosting the next meeting at their national convention.
537
538 **Section XV concluded: 12:20 p.m.**
539 **Section XVI began: 12:22 p.m.**
540
541 **XVI. ADJOURNMENT:**

542

543 **Action:** Motion to adjourn made by Dr. Dougherty. Second by Dr. Heagy.

544

545 Vote: 7 yeas / 0 opposed; motion carried.

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547 **Section XVI concluded: 12:22 p.m.**

548

DRAFT