

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36
37
38
39
40
41
42
43
44
45
46
47
48
49
50
51

**DEPARTMENT OF HEALTH
MEDICAL QUALITY ASSURANCE
BOARD OF CHIROPRACTIC MEDICINE**

**MINUTES
GENERAL BUSINESS MEETING**

**Renaissance Orlando at Seaworld
6677 Sea Harbor Drive
Orlando, FL 32821**

January 3, 2014

Agenda items are subject to being taken up at any time during the meeting. 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.

General Board Business started: 8:30 a.m.

CALL TO ORDER:

Dr. Kevin Fogarty, as Chair, called the meeting to order at 8:30 a.m. Those present for all or part of the meeting included the following:

BOARD MEMBERS PRESENT:

Kevin Fogarty, D.C., FICA (hon.), Chair
Ms. Linda Reynolds, B.S., Vice-Chair
Ron Wellikoff, B.S., D.C., FICC (hon.), FACC (hon.)
Christopher Fox, D.C.
Danita Heagy, D.C.
Julie Hunt, D.C., DICCP
Ms. Ruth Pelaez

BOARD STAFF:

William Miller, Board Director
Jose A. Montalvan, Regulatory Supervisor/Consultant

BOARD COUNSEL:

Deborah Loucks, Assistant Attorney General
Office of Attorney General

PROSECUTING ATTORNEY:

Tari Rossitto-Van Winkle, Assistant General Counsel
Monique Bryan, Assistant General Counsel
Sharmin Hibbert, Assistant General Counsel
Department of Health

COURT REPORTER:

Official Court Reporting
(954) 467-8204

1 **APPROVAL OF MINUTES:**

2
3 **November 1, 2013 – Full Board Meeting**

4
5 **Ms. Reynolds moved to approve. The motion was seconded and carried 7/0.**

6
7 **General Board Business ended: 8:40 a.m.**

8 **Discipline started: 8:40 a.m.**

9
10 **FINAL ORDER ACTIONS:**

11
12 **Motion for Final Order by Settlement Agreements:**

13
14 **Marie N. Dorcely, D.C. – Case Number 11-07690**

15 **PCP: Jenkins/Reynolds**

16
17 Dr. Dorcely was present, sworn and was represented by Ms. Kimberly Simoes, Esq.

18
19 Ms. Rossitto-Van Winkle informed the board that the respondent had violated:

- 20
 - Sections 460.413(1)(u), F.S.
 - Section 460.413(1)(m) and (ff), F.S., and/or Rule 64B2-17.0065, F.A.C.

21
22
23 Ms. Rossitto-Van Winkle advised the board that the settlement agreement contained the
24 following provisions:

- 25
 - letter of concern
 - administrative fine of \$2,500.00
 - administrative costs of \$5019.36 due in 12 months
 - completion of six (6) continuing education hours in the areas of recordkeeping,
29 documentation and coding
 - probation for a period of one (1) year
 - imposed monitoring
 - monitor shall submit reports
 - monitor and respondent shall appear before the board at such time as directed by the
34 board
 - tolling provision applies

35
36
37 Ms. Simoes addressed the board on behalf of her client. The respondent also addressed the board.

38
39 Discussion ensued.

40
41 **Dr. Wellikoff moved to accept the settlement agreement. The motion was seconded and**
42 **carried 5/1 with Dr. Heagy opposed.**

43
44 **Eileen M. Dvorkin, D.C. – Case Number 11-04460**

45 **PCP: Jenkins/Reynolds**

46
47 Dr. Dvorkin was present, sworn and was represented by Mr. Richard Baron, Esq.

48
49 Ms. Rossitto-Van Winkle informed the board that the respondent had violated:

- 1 • Sections 460.413(1)(l), F.S., and/or Section 460.413(1)(ff), F.S.

2
3 Ms. Rossitto-Van Winkle advised the board that the settlement agreement contained the
4 following provisions:

- 5 • reprimand
6 • administrative fine of \$10,000.00
7 • administrative costs of \$5,623.26 due in 24 months.
8 • completion of six (6) continuing education hours in the areas of recordkeeping,
9 documentation and coding
10 • probation for a period of four (4) years
11 • attend two (2) chiropractic board meetings within one (1) year
12 • imposed monitoring
13 • monitor shall submit reports
14 • monitor shall review 10 files in one (1) year and five (5) files in two (2) years
15 • monitor and respondent shall appear before the board at such time as directed by the
16 board
17 • after the first two years of probation, respondent may request for early termination from
18 probation with the advice of the monitor
19 • tolling provision applies

20
21 Mr. Baron addressed the board on behalf of his client. The respondent also addressed the board.

22
23 Discussion ensued.

24
25 **Dr. Wellikoff moved to accept the settlement agreement. The motion was seconded and**
26 **carried 6/0.**

27
28 **Bowman H. McLaughlin, D.C. – Case Number 12-13680**
29 **PCP: Fogarty/Wolfson**

30
31 Dr. McLaughlin was present, sworn and was represented by Ms. Jeanette Kerr, Esq.

32
33 Ms. Bryan informed the board that the respondent had violated:

- 34 • Sections 460.413(1)(l), F.S., and/or Section 460.413(1)(ff), F.S.

35
36 Ms. Bryan advised the board that the settlement agreement contained the following provisions:

- 37 • letter of concern
38 • administrative fine of \$1,000.00
39 • administrative costs of \$4711.48 due in 12 months after final order
40 • completion of three (3) continuing education hours in the areas of Severe Medical
41 Complications
42 • affidavit that respondent has read Chapter 456 and 460, F.S., and Rules 64B2, F.A.C.
43 • attend one (1) chiropractic board meeting within two (2) years
44 • successfully passing the SPEC examination administered by the NBCE
45 • successfully complete the two (2) day course at Palmer College in January 2014

46
47 Ms. Kerr addressed the board on behalf of her client. The respondent also addressed the board.

48
49 Discussion ensued.

1
2 **Dr. Heagy moved to accept the settlement agreement. The motion was seconded and carried**
3 **6/0.**

4
5 **Motion to Modify the Fine and Amend the Final Order to Comply with Appellate**
6 **Court Directive:**

7
8 **Carlos M. Gonzalez, D.C. – Case Number 08-23417**
9 **PCP: Dougherty/Hoffman**

10
11 Dr. Gonzalez was not present and was not represented by counsel.

12 Discussion ensued.

13
14
15 **Dr. Fogarty moved to accept the imposed fine by the appellate court of \$32,500.00.**
16 **The motion was seconded and carried 6/0.**

17
18 **Motion for Determination of Waiver and For Final Order by Hearing Not Involving**
19 **Disputed Issues of Material Fact:**

20
21 **Scott A. Stoltz, D.C. – Case Number 12-17683**
22 **PCP: Fogarty/Wolfson**

23
24 Dr. Stoltz was neither present nor represented by counsel.

25
26 Ms. Bryan informed the board that the respondent had violated:

- 27
 - Section 460.413(1)(q), F.S.

28
29 **Dr. Wellikoff moved to accept the investigative report and all case materials**
30 **including all confidential and addendum materials, if any, into evidence in these**
31 **proceedings. The motion was seconded and carried 6/0.**

32
33 **Dr. Wellikoff moved that the respondent was properly served by certification and**
34 **failed to respond. The motion was seconded and carried 6/0.**

35
36 **Dr. Wellikoff moved to adopt the findings of fact into evidence as alleged in the**
37 **administrative complaint and conclusions of law and find that the respondent was in**
38 **violation as alleged in the administrative complaint. The motion was seconded and**
39 **carried 6/0.**

40
41 **Dr. Wellikoff moved that the violation constitutes a violation of the Practice Act.**
42 **The motion was seconded and carried 6/0.**

43
44 Ms. Bryan recommended the following penalty:

- 45
 - reprimand
 - administrative fine of \$2,500.00 in 24 month installments
 - suspension until cleared by PRN to return to practice

1
2 Discussion ensued.

3
4 **Ms. Reynolds moved to accept the department’s recommendation. The motion was**
5 **seconded and carried 6/0.**

6
7 Discussion ensued.

8
9 **Dr. Wellikoff moved to assess costs in the amount of \$3,998.26, payable within 24**
10 **months, with the first payment due six months after the suspension has been lifted.**
11 **The motion was seconded and carried 6/0.**

12
13 **Sean P. Trujillo, D.C. – Case Number 13-12482**
14 **PCP: Fogarty/Wolfson**

15
16 Dr. Trujillo was not present but was represented by Mr. Edwin Bayo, Esq.

17
18 Dr. Trujillo was present at the hotel but was too ill to attend the meeting but he had
19 agreed to voluntarily withdraw from practice. Therefore, Mr. Bayo requested a
20 continuance on Dr. Trujillo’s behalf.

21
22 The board agreed to the continuance.

23
24 **PROSECUTION REPORT:**

25
26 Ms. Rossitto-Van Winkle provided an overview of the prosecution report.
27 Ms. Bryan provided an overview of the prosecution report.

28
29 **Dr. Wellikoff moved to continue putting special emphasis on prosecuting the older cases**
30 **(one year and over) and to accept the prosecution report. The motion was seconded and**
31 **carried 7/0.**

32
33 **Disciplinary ended: 9:45 a.m.**

34 **General Business started: 10:02 a.m.**

35
36 **PETITION FOR DECLARATORY STATEMENT:**

37
38 **Florida Chiropractic Association, Inc. and Robert Watkins, D.C. – Does**
39 **Groupon, Inc., violate the Florida “kick back” and “Patient Brokering”**
40 **statutes?**

41
42 Mr. Paul W. Lambert was present and addressed the board.

43
44 Mr. Wallness representing Groupon, Inc., was also present to address the board.

45
46 Ms. Loucks provided an overview of the Petition for Declaratory Statement that was filed
47 by the Florida Chiropractic Association, Inc. and Robert Watkins, D.C., regarding

1 whether advertising on Groupon, Inc. was a violation of the Florida “kick back” and
2 “Patient Brokering” statutes.

3
4 Discussion ensued.

5
6 The board members indicated and discussed that advertising with Groupon, Inc was not
7 considered a “kick back”.

8
9 **Dr. Wellikoff moved to approve the Petition for Declaratory Statement. The motion**
10 **was seconded and carried 7/0.**

11
12 **PETITIONS FOR VARIANCE/WAIVER:**

13
14 **O’Dane Brady, D.C. – Rule 64B2-13.007, Florida Administrative Code –**
15 **Continuing education during initial licensure period**

16
17 Dr. Brady was present, sworn and addressed the board.

18
19 Discussion ensued.

20
21 **Dr. Wellikoff moved to accept Dr. Brady’s request to Petition for Variance/Waiver of Rule**
22 **64B2-13.007, F.A.C. The motion was seconded and carried 7/0.**

23
24 **Catherine A. George-Parisi, D.C. – Rule 64B2-13.004, Florida**
25 **Administrative Code – Continuing education**

26
27 Dr. George-Parisi was neither present nor represented by counsel.

28
29 Discussion ensued.

30
31 **Dr. Wellikoff moved to accept Dr. George-Parisi’s request to Petition for Variance/Waiver**
32 **of Rule 64B2-13.004, F.A.C., as long as the 13 hours of continuing education completed in**
33 **Ohio meets the requirements for Florida. The motion was seconded and carried 7/0.**

34
35 **Bruce Levy, D.C. – Rule 64B2-13.004, Florida Administrative Code –**
36 **Continuing education**

37
38 Dr. Levy was neither present nor represented by counsel.

39
40 Discussion ensued.

41
42 **Dr. Wellikoff moved to accept Dr. Levy’s request to Petition for Variance/Waiver of Rule**
43 **64B2-13.004, F.A.C. The motion was seconded and carried 7/0.**

44
45 **Dr. Wellikoff moved to approve a six (6) month extension to complete the required**
46 **continuing education hours by September 30, 2014. The motion was second and carried 7/0.**
47

1 **Donald J. Wolf, D.C. – Rule 64B2-13.004, Florida Administrative Code –**
2 **Continuing education**

3
4 Dr. Wolf was neither present nor represented by counsel.

5
6 Discussion ensued.

7
8 **Ms. Reynolds moved to accept Dr. Wolf’s request to Petition for Variance/Waiver of Rule**
9 **64B2-13.004, F.A.C. The motion was seconded and carried 7/0.**

10
11 **Ms. Reynolds move to approve the Petition for Variance/Waiver of Rule 64B2-**
12 **13.004, F.A.C., allowing the license to be on an “Inactive” status without providing**
13 **evidence of the continuing education hours for the biennium 2012-2014. However,**
14 **Dr. Wolf will be required to appear before the board upon requesting to reactivate**
15 **his license. The motion was seconded and carried 7/0.**

16
17 **James J. Schofield, D.C. – Rule 64B2-13.004, Florida Administrative Code –**
18 **Continuing education**

19
20 Dr. Schofield was neither present nor represented by counsel.

21
22 Discussion ensued.

23
24 **Dr. Wellikoff moved to deny Dr. Schofield’s request to Petition for Variance/Waiver of Rule**
25 **64B2-13.004, F.A.C., for failure to provide evidence of a financial hardship according to**
26 **Chapter 456.036, F.S. The motion was seconded and carried 7/0.**

27
28 **RULES WORKSHOP – Rule 64B2-17.0025, Florida Administrative Code –**
29 **Standard of Practice for Phlebotomy, Physiotherapy, and the Administration of**
30 **Items for which a Prescription is not required; prohibition of prescribing or**
31 **administering legend drugs**

32
33 Ms. Loucks provided an overview of the Rules Workshop on Rule 64B2-17.0025, F.A.C.

34
35 **General Business ended: 11:35 a.m.**

36 **Applications started: 12:01 p.m.**

37
38 **APPLICANTS PRESENTED FOR BOARD REVIEW:**

39
40 **Sherry M. Langford, R.C.A.**

41
42 Ms. Langford was not present.

43
44 Ms. Loucks stated that Ms. Langford’s application was before the board due to answering
45 “Yes” to the criminal history question and had provided supporting documentation.

46
47 Discussion ensued.

1
2 **Dr. Heagy moved to approve the application. The motion was seconded and carried**
3 **7/0.**

4
5 **Cristin A. Murphy, R.C.A.**
6

7 Ms. Murphy was not present.
8

9 Ms. Loucks stated that Ms. Murphy's application was before the board due to answering
10 "Yes" to question #12 of the application and had provided supporting documentation.
11

12 Discussion ensued.
13

14 **Dr. Wellikoff moved to approve the application. The motion was seconded and**
15 **carried 7/0.**

16
17 **Hermann M. Ritchie, C.C.P.A.**
18

19 Dr. Ritchie was not present.
20

21 Ms. Loucks stated that Dr. Ritchie's application was before the board due to actions taken
22 against his chiropractic physician's license in South Carolina. He had failed to satisfy the
23 continuing education requirements for licensure renewal. Therefore, he was required to
24 pay a fine in the amount of \$500.00.
25

26 Discussion ensued.
27

28 **Dr. Wellikoff moved to approve the application. The motion was seconded and**
29 **carried 7/0.**

30
31 The board requested staff to contact Mr. Ritchie to correct question #7 on the application
32 prior to issuing the license.
33

34 **RATIFICATION OF APPLICANTS:**
35

36 **Chiropractic Physicians**
37 **(Kieron St Aubyn Parchment, CH 11018 – Lindsey Michelle Ashburn, CH 11061)**
38

39 **Dr. Wellikoff moved to approve. The motion was seconded and carried 7/0.**
40

41 **Certified Chiropractic Physician Assistants**
42 **(Kristin Diane Terry, CI 739 – Jonathan Torres, CI 741)**
43

44 **Dr. Fox moved to approve. The motion was seconded and carried 7/0.**
45

46 **Registered Chiropractic Assistants**
47 **(Megan Kathleen Marsden, RCA 12043 – Judith Ann Dorman, RCA 12261)**
48

1 Ms. Reynolds moved to approve. The motion was seconded and carried 7/0.

2
3 **Faculty Certificates**
4 **(Roy Settergren CFC 17)**
5

6 Dr. Hunt moved to approve. The motion was seconded and carried 7/0.

7
8 **Application ended: 12:24 p.m.**
9 **General Business started: 12:59 p.m.**

10
11 **DISCUSSION OF HYPERBARIC CHAMBER (The type of training needed to**
12 **perform procedure)**
13

14 Dr. Fogarty stated that he had requested to have the discussion on the type of training
15 required to perform services using the hyperbaric chamber.

16
17 The board requested to add the discussion at the next scheduled meeting.

18
19 **APPROVAL OF CERTIFIED CHIROPRACTIC PHYSICIAN’S ASSISTANT and**
20 **REGISTERED CHIROPRACTIC ASSISTANT PROGRAMS**
21

22 Dr. Thomas R. Ventimiglia, with the Department of Postgraduate Education, New York
23 Chiropractic College provided the board information regarding the following:

- 24
25
 - RCA Category Introduction and Learning Objectives
 - RCA/C.C.P.A. Instructors Curriculum Vitae
 - C.C.P.A. Category Introduction and Learning Objectives
 - C.C.P.A. Instructors Curriculum Vita

28
29

30 Dr. Wellikoff recused himself from participating in the discussion and action since he
31 was directly involved in creating the curriculum.

32
33 The board stated that they can approve the CCPA program but did not have the statutory
34 authority to approve the RCA program.

35
36 **Dr. Hunt move to approve the CCPA program. The motion was second and carried**
37 **6/0.**
38

39 **CORRESPONDENCE – R. Scott Jerger and Jonathan C. Smale – Dry needling and**
40 **violations of the U.S. Food, Drug and Cosmetic Act (FDCA) and Food and Drug**
41 **Administration Rules**
42

43 Informational purposes only
44

45 **POWER POLL – FCLB – “Are Chiropractors legally authorized to provide**
46 **concussion-related medical clearance?”**
47

1 Informational purposes only

2
3 **CHAIR/VICE CHAIR REPORT:**

4
5 **Future Agenda Items**

6
7 No future agenda item.

8
9 **EXECUTIVE DIRECTOR'S REPORT:**

10
11 **Board Letter to University of Bridgeport – CE**

12
13 Mr. Miller provided an overview of the letter sent to the University of Bridgeport.

14
15 The board warned the University of Bridgeport of their CE practice.

16
17 Mr. Miller informed the board that he has accepted a new position in Tennessee and no
18 longer will be the Executive Director effective February 7, 2014.

19
20 **BOARD COUNSEL'S REPORT:**

21
22 **Rules Status**

23
24 Ms. Loucks provided an overview of the Rules Status Report.

25
26 **COMMITTEE REPORTS:**

27
28 **Budget – Ms. Reynolds**

29
30 No report.

31
32 **CCPA – Ms. Reynolds**

33
34 No report.

35
36 **Continuing Education – Dr. Wellikoff/Hunt**

37
38 **CE Providers and Courses approved by CE Committee**

39
40 **Dr. Wellikoff moved to approve. The motion was seconded and carried 7/0.**

41
42 **Credentials – Dr. Wellikoff**

43
44 No report.

45
46 **General Business ended: 1:45 p.m.**

47 **Other Discipline started: 1:45 p.m.**

1
2 **Disciplinary Compliance – Dr. Fogarty**

3
4 **Gustavo Acosta, D.C. – Case Number 06-30571 –**
5 **Extension/Modification of payment of fine and costs**
6

7 Dr. Acosta was neither present nor represented by counsel.

8
9 Dr. Wellikoff provided a brief overview of Dr. Acosta’s progress.

10
11 **Discussion ensued.**

12
13 **Dr. Wellikoff moved to approve the extension/modification of payment to \$1,630.00**
14 **monthly for the administrative fine and costs beginning February 3, 2014. The**
15 **motion was seconded and carried 7/0.**

16
17 **Stephen W. Forbess, D.C. – Case Number 10-05495 – Termination**
18 **of Probation**
19

20 Dr. Forbess was present, but was not represented by counsel.

21
22 Dr. Wellikoff provided a brief overview of Dr. Forbess’s progress.

23
24 Discussion ensued.

25
26 **Ms. Reynolds moved to approve the request for termination of probation. The**
27 **motion was seconded and carried 7/0.**

28
29 **Eric H. Lampinstein, D.C. – Case Number 10-18982 –**
30 **Termination of Probation**
31

32 Dr. Lampinstein was present, but was not represented by counsel.

33
34 Dr. Wellikoff provided a brief overview of Dr. Lampinstein’s progress.

35
36 Discussion ensued.

37
38 **Dr. Wellikoff moved to approve the request for termination of probation. The**
39 **motion was seconded and carried 7/0.**

40
41 **Eduardo R. Ramirez, D.C. – Case Number 06-44070 –**
42 **Termination of Probation**
43

44 Dr. Fogarty requested a continuance.

45
46 **Other Discipline ended: 2:00 p.m.**

47 **General board business started: 2:00 p.m.**

1
2 **Examination – Dr. Heagy**
3
4 No report.
5
6 **Health Weight – Dr. Hunt**
7
8 No report.
9
10 **Probable Cause – Drs. Heagy/Fox and Ms. Reynolds**
11
12 **Stats**
13
14 Information only.
15
16 **Rules – Dr. Hunt**
17
18 No report.
19
20 **Unlicensed Activity – Ms. Pelaez**
21
22 No report.
23
24 **NEXT MEETING DATE – April 4th – Orlando**
25
26 **General Business ended: 2:28 p.m.**
27
28 **ADJOURNMENT:**
29
30 The meeting was adjourned at 2:28 p.m.