

FLORIDA | Board of Chiropractic Medicine

MINUTES
August 22, 2014

Orlando, Florida



Kevin Fogarty, D.C., F.I.C.A.(hon)
Chair

Danita Heagy, D.C.
Vice-Chair

Adrienne Rodgers, BSN, JD
Executive Director

Sharon Guilford, CPM
Program Operations Administrator

1 The meeting was called to order by Dr. Fogarty, Chair, at approximately 8:33 a.m. Those present for all or part of the meeting
2 included the following:
3

4 **General Board Business started: 8:33 a.m.**

5
6 **MEMBERS PRESENT:**

7 Kevin Fogarty, D.C., F.I.C.A.(hon), Chair
8 Ken Dougherty, D.C.
9 Christopher Fox, D.C.
10 Danita Heagy, D.C., Vice Chair
11 Julie Hunt, D.C.
12 David Colter, Consumer member
13 Ruth Pelaez, Consumer member
14

6 **STAFF PRESENT:**

Adrienne Rodgers, Executive Director
Sharon Guilford, Program Operations Administrator
Michele Jackson, Regulatory Supervisor/Consultant
Towanda Burrett, Compliance Officer

15
16 **BOARD COUNSEL:**

17 Deborah Bartholow Loucks, Assistant Attorney General
18 Office of Attorney General
19

20 **PROSECUTION COUNSEL:**

21 Tari Rossitto-Van Winkle, Assistant General Counsel
22 Department of Health, Office of the General Counsel
23

24 **COURT REPORTER:**

25 Official Court Reporting
26 (954) 467-8204
27

28 *Please note the minutes reflect the actual order agenda items were discussed and may differ from the agenda outline. AUDIO from
29 this meeting can be found online:*

30 <http://floridaschiropracticmedicine.gov/meeting-information/>
31
32

33 **General Board Business started at 8:34 a.m.**

34 **Section I: General Board Business**

35 **APPROVAL OF PREVIOUS MEETING'S MINUTES OF THE BOARD OF CHIROPRACTIC MEDICINE**

36
37 Minutes of the April 4, 2014 General Business Meeting were reviewed.
38 Motion to accept the minutes was made by Dr. Hunt and seconded by Dr. Heagy.
39

40 Vote 7 ayes/ 0 opposed; motion carried
41

42 **Section I General Board Business ended at 8:36 a.m.**

43
44 **Section I Discipline Actions started at 8:37 a.m.**

45
46 **I. FINAL ORDER ACTIONS**

47 **1. Motion to Assess Costs**

48 **a. John P. Christensen, D.C. – Case number 2011-12320**

49 Respondent was not present and was represented by counsel, Jonathan Kaplan.
50

51 A three Count Administrative Complaint was filed by the Department, was heard at the Division of Administrative Hearings
52 where the Administrative Law Judge determined that Respondent violated the practice act, and finally was affirmed on
53 appeal. The Department asked to have fees bifurcated from the underlying disciplinary action, which resulted in this matter
54 being brought before the board on the Motion to Assess Costs. The Department recommended the board impose costs in the
55 amount of \$40,638.13 based on supporting affidavits.
56

57 Mr. Kaplan informed the Board that Dr. Christensen is on house arrest and cannot leave his premises. Mr. Kaplan
58 asked that Dr. Christensen be allowed a payment plan of \$1,000/ month commencing 6 months after his return to practice.

1
2 Motion to assess costs in the amount of \$40,638.13 made by Dr. Heagy second by Dr. Fox.
3

4 Vote: 7 yeas / 0 opposed; motion carried
5

6 **2. Final Orders by Settlement Agreement**

7 **a. Donald N. Anglin, D.C. – Case Number 2013-19483**

8 No board member was recused due to participation on the Probable Cause Panel
9 Respondent was not present and was not represented by counsel.

10
11 An Administrative Complaint filed by the Department charged Respondent with violation of s. 460.413(1)(v), Fla. Stat., by
12 violating a lawful order of the board in case number 2007-38862.
13

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

- 15 • reprimand
- 16 • administrative fine of \$1.00 payable within 30 days of the filing of the Final Order
- 17 • reimbursement of actual costs in the amount of \$1,175.09 payable within 12 months of suspension being lifted.
- 18 • Suspension until fines and costs related to case number 2007-38862 are paid in full
- 19 • should suspension last more than four years:
 - 20 * Respondent pass a SPEC examination
 - 21 * Respondent pass Florida Laws and Rules examination
 - 22 * Respondent provide proof of compliance with continuing education requirements during the period of suspension
- 23 • board retain jurisdiction to impose additional terms and conditions of reinstatement
- 24 • 3 hours risk management continuing education within 12 months after the filing of the Final Order lifting suspension of
25 Respondent's license.

26
27 Motion to waive Dr. Anglin's appearance made by Dr. Dougherty, seconded by Dr. Heagy.

28
29 Vote: 7 yeas / 0 opposed; motion carried
30

31 Motion to adopt settlement agreement made by Mr. Colter, second by Dr. Dougherty.

32
33 Vote: 7 yeas / 0 opposed; motion carried
34

35 **b. Clifford A. Goldstein, D.C. – case number 2012-17983**

36 Dr. Fox was recused due to participation on the Probable Cause Panel
37 Respondent was present and was represented by counsel Paul Nugent.
38

39 An Administrative Complaint stemming from events that occurred in 2008 filed by the Department charged Respondent
40 with violation of s. 460.413(1)(m), Fla. Stat., by failing to keep appropriate records that justified the patient care provided
41 and billed for.
42

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

- 44 • letter of concern
- 45 • administrative fine of \$1,000.00 payable within 30 days of the filing of the Final Order
- 46 • reimbursement of costs in the amount of \$2,801.18 payable within 12 months of the filing of the Final Order
- 47 • Probation of one year with monitor
- 48 • 6 hours continuing education in recordkeeping, documentation and coding; 2 hours of Laws and Rules within 12
49 months after the filing of the Final Order lifting suspension of Respondent's license.

50
51 Respondent advised the board he had settled the underlying civil matter; had taken recordkeeping course; and was going to
52 computerized patient records.
53

54 Motion to adopt settlement agreement made by Dr. Heagy, second by Dr. Dougherty.

55
56 Vote: 6 yeas / 0 opposed; motion carried
57

58 [Board Chair recognized and introduced distinguished members of the audience.](#)

1
2 **c. Michael Joseph Morreale, D.C. – case numbers 2013-16471 and 2014-06799**

3 No board member was recused due to participation on the Probable Cause Panel
4 Respondent was not present and was represented by counsel, Greg Chonillo.
5

6 In case number 2013-16471, an Administrative Complaint was filed by the Department that charged Respondent with
7 violation of s. 460.413(1)(v), Fla. Stat., by violating a lawful order of the board in case number 2009-11637. In case number
8 2014-06799, an Administrative Complaint was filed by the Department that charged Respondent with violation of s.
9 460.413(1)(v), Fla. Stat., by violating a lawful order of the board in case number 2013-16471, and also with violation of s.
10 460.413(1)(q), Fla. Stat., for being unable to practice with skill and safety. Respondent executed a Voluntary Withdrawal
11 from practice, which was filed with the Department on July 9, 2014.
12

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

- 14 • reprimand
- 15 • administrative fine of \$1.00 payable within 30 days of the filing of the Final Order
- 16 • payment of fines and costs in the amount of \$15,182.02 as ordered in Final Order DOH-10-2209-S-MQA
- 17 • suspension until Respondent (1) appears before the board with a recommendation from Professionals Resources Network
18 that he can practice with reasonable skill and safety, (2) has a monitor in place, and (3) is in compliance with the terms and
19 conditions set out in Final Order DOH-10-2209-S-MQA
- 20 • reimbursement of costs in the amount of \$3,201.86 payable in 36 equal monthly installment beginning 30 days from the
21 date the suspension is lifted
- 22 • probation upon return to active practice
- 23 • attendance at 4 board meetings in the next 2 years
- 24 • present a Laws and Rules Affidavit within 30 days of the filing of the Final Order.
25

26 Mr. Chonillo presented mitigating circumstances in support of the Settlement Agreement.
27

28 Motion to waive Dr. Morreale's appearance made by Dr. Dougherty, seconded by Dr. Heagy.
29

30 Vote: 7 yeas / 0 opposed; motion carried
31

32 Motion to adopt settlement agreement made by Dr. Dougherty, second by Dr. Heagy.
33

34 Vote: 7 yeas / 0 opposed; motion carried
35

36 **2. Petitioner's Motion for Final Order After a Hearing Not Involving Disputed Issues of Material Facts**

37 **a. Esmael Samalizad, D.C. – Case Number 2014-01487**

38 Dr. Fox was recused due to participation on the probable cause panel.

39 Respondent was present and was not represented by counsel. Respondent stated his counsel was not available and he wished
40 to proceed without counsel.
41

42 An Emergency Order of Suspension of License was filed on April 11, 2014, and an administrative complaint was filed on
43 May 5, 2014, which alleged violation of ss. 456.072(1)(II), F.S., by being found guilty of a third degree felony violation of
44 s. 817.234(1)(a)2, F.S. and a second degree felony violation of s. 817.034(4)(a)3, F.S., both of which are crimes related to
45 health care fraud; and violation of s. 456.072(1)(x), F.S., by failing to timely report the convictions.
46

47 Ms. Rossitto-Van Winkle made an *ore tenus* motion to strike paragraphs 7 and 16 of the Administrative Complaint, and
48 stated that these allegations were not relevant to the violations alleged.
49

50 Motion to strike paragraphs 7 and 16 of the Administrative Complaint was made by Dr. Dougherty, second by Dr. Hunt.
51

52 Vote: 6 yeas / 0 opposed; motion carried
53

54 Respondent concurred that with these struck there were no issues of material fact in dispute. Respondent advised the board
55 that his conviction was on appeal in the Second District Court of Appeal and asked the board to stay its decision on
56 discipline until the appeal was decided. The board discussed which counts of the criminal case were on appeal and
57 expressed concern that Respondent did not appear to recognize what was illegal in the scheme he participated in.
58

1
2 Motion that there were no issues of material fact in dispute was made by Dr. Heagy, second by Dr. Hunt.

3
4 Vote: 6 yeas / 0 opposed; motion carried

5
6 Motion that the Board accept into evidence the investigative file for purposes of determining penalty and the opportunity to
7 make a penalty recommendation made by Dr. Dougherty, second by Dr. Heagy.

8
9 Vote: 6 yeas / 0 opposed; motion carried

10
11 Motion to accept the findings of fact as stated in the Administrative Complaint was made by Dr. Dougherty, second by Dr.
12 Heagy.

13
14 Vote: 6 yeas / 0 opposed; motion carried

15
16 Motion to find Respondent in violation of Florida Statutes as charged in the administrative complaint made by Dr.
17 Dougherty, second by Dr. Heagy.

18
19 Vote: 6 yeas / 0 opposed; motion carried

20
21 Motion that findings of fact support the violation of the Practice Act as charged in the administrative complaint made by
22 Dr. Heagy, second by Dr. Dougherty.

23
24 Vote: 6 yeas / 0 opposed; motion carried

25
26 Department recommendation for discipline: Under the disciplinary guideline rule 64B2-16.003(1)(bbb), F.A.C., the
27 minimum discipline is revocation of Respondent's license to practice Chiropractic Medicine.

28
29 Motion to impose discipline as recommended by the Department made by Dr. Hunt, second by Mr. Colter.

30
31 Vote: 6 yeas / 0 opposed; motion carried

32
33 Department withdrew its recommendation for costs.

34
35 **Board recessed at 10:00 a.m.**

36 **Board reconvened 10:18 a.m.**

37
38 **b. Lawrence E. Schechtman, D.C. – case number 2013-19889**

39 Dr. Heagy was recused due to participation on the probable cause panel.
40 Respondent was not present and was not represented by counsel.

41
42 An Administrative Complaint was filed on February 7, 2014, which alleged violation of ss. 460.413(1)(c), F.S., by being
43 found guilty of a violation of 18 U.S.C. ss. 1341 and 1342, both of which involve mail fraud; and violation of s.
44 456.072(1)(ii), F.S., by entering a guilty plea to a crime under 18 U.S.C. ss. 1341; s. 460.413(1)(k), F.S., by employing a
45 trick or scheme related to the practice of chiropractic medicine; and s. 456.072(1)(x), F.S., by failing to timely report the
46 convictions. Respondent had not yet been sentenced at the time of the meeting.

47
48 Motion that there were no issues of material fact in dispute was made by Mr. Colter, second by Dr. Dougherty.

49
50 Vote: 6 yeas / 0 opposed; motion carried

51
52 Motion that the Board accept into evidence the investigative file for purposes of determining penalty and the opportunity to
53 make a penalty recommendation made by Dr. Dougherty, second by Dr. Hunt.

54
55 Vote: 6 yeas / 0 opposed; motion carried

1 Motion to accept the findings of fact as stated in the Administrative Complaint and that the findings of fact support the
2 violation of the Practice Act as charged in the Administrative Complaint was made by Dr. Fox, second by Dr. Dougherty.
3

4 Vote: 6 yeas / 0 opposed; motion carried
5

6 Motion to find the Respondent in violation of Florida Statutes as charged in the administrative complaint made by Dr.
7 Dougherty, second by Dr. Fox.
8

9 Vote: 6 yeas / 0 opposed; motion carried
10

11 Department recommendation for discipline: Under the disciplinary guideline rule 64B2-16.003(1)(yy), F.A.C., the minimum
12 discipline is revocation of Respondent's license to practice Chiropractic Medicine.
13

14 Motion to impose discipline as recommended by the Department made by Dr. Dougherty, second by Dr. Fox.
15

16 Vote: 6 yeas / 0 opposed; motion carried
17

18 Department withdrew its recommendation for costs.
19

20 **Time: 10:28 a.m.**
21

22 **c. Harry K. Voyages, D.C. – case number 2010-24023**

23 Dr. Fox was recused due to participation on the probable cause panel.

24 Respondent was present and was represented by counsel, Edwin Bayó.
25

26 An Administrative Complaint was filed on December 9, 2013, which alleged violation of ss. violation of s. 456.072(1)(w)
27 and (x), F.S., by being adjudicated guilty of driving while under the influence with property damage and injury, failing to
28 update profiling and credentialing information, and by failing to timely report the conviction.
29

30 Ms. Rossitto-Van Winkle advised the board that the parties had arrived at a settlement and the Department was withdrawing
31 its Motion for Final Order After a Hearing Not Involving Disputed Issues of Material Facts. Ms. Rossitto-Van Winkle made
32 an *ore tenus* motion to have the settlement agreement terms accepted by the board
33

34 Department recommendation for discipline: Under the disciplinary guideline rule 64B2-16.003(1), F.A.C.:

- 35 • Letter of Concern
- 36 • Fine in the amount of \$2,000 payable monthly in the amount of \$166.67 with final payment due 12 months from the
37 date of the entry of the Final Order
- 38 • 3 hours risk management within 12 months from the date of the entry of the Final Order
- 39 • 2 hours Laws and Rules within 12 months from the date of the entry of the Final Order
- 40 • Update profile to reflect DUI conviction
- 41 • Notify DOH of new address of record
- 42 • Costs in the amount of \$2,344.53 payable within 12 months from the date of the entry of the Final Order

43 Department to prepare Settlement Agreement for incorporation into the Final Order of the Board.
44

45 Motion to impose discipline as recommended by the Department made by Dr. Heagy, second by Dr. Dougherty.
46

47 Vote: 6 yeas / 0 opposed; motion carried
48

49 **Time: 10:36 a.m.**
50

51 **3. Motion for Determination of Waiver and for Final Order by Hearing Not Involving Disputed Issues of Material**
52 **Fact.**
53

54 **a. David Greydinger, D.C. – Case Number 2013-07879**

55 Dr. Heagy was recused due to participation on the probable cause panel.

56 Respondent was present and was not represented by counsel.
57

1 Emergency Suspension Order was entered against the respondent on May 20, 2014, and an administrative complaint was
2 filed on June 4, 2014, which alleged violation of ss. 460.413(1)(c), (ff), and 456.072(1)(x), F.S., by being convicted of
3 violation of s. 817.234(11)(a), F.S., a crime related to practice, pleading guilty to healthcare fraud, and failing to report the
4 conviction.
5

6 Motion that the Respondent was properly served and that Respondent failed to make an election of rights made by Dr.
7 Dougherty, second by Dr. Fox.
8

9 Vote: 6 yeas / 0 opposed; motion carried
10

11 Motion that the Board accept into evidence the investigative file for purposes of determining penalty and the opportunity to
12 make a penalty recommendation made by Dr. Dougherty, second by Dr. Fox.
13

14 Vote: 6 yeas / 0 opposed; motion carried
15

16 Motion to accept the findings of fact as stated in the Administrative Complaint was made by Dr. Dougherty, second by Dr.
17 Fox.
18

19 Vote: 6 yeas / 0 opposed; motion carried
20

21 Motion that findings of fact support the violation of the Practice Act as charged in the administrative complaint made by Dr.
22 Dougherty, second by Dr. Fox.
23

24 Vote: 6 yeas / 0 opposed; motion carried
25

26 Motion to find the Respondent in violation of Florida Statutes as charged in the administrative complaint made by Dr.
27 Dougherty, second by Dr. Fox.
28

29 Vote: 6 yeas / 0 opposed; motion carried
30

31 Respondent testified that he made a plea of convenience and will be appealing the decision. Respondent stated his has
32 placed his license in inactive status.
33

34 Department recommendation for discipline: Revocation of license.
35

36 Motion to impose discipline as recommended by the Department made by Dr. Fox, second by Dr. Dougherty.
37

38 Vote: 6 yeas / 0 opposed; motion carried
39

40 Department recommendation: Waive costs.
41

42 Department withdrew its recommendation for costs.
43

44 The Board Chair made a presentation of a plaque to **Dr. Michael Mathesie** for his past service on the Board.
45

46 **Time: 10:55 a.m.**
47

48 **b. Alejandro O. Nalda – case number 2013-15051**

49 Dr. Heagy was recused due to participation on the probable cause panel.
50 Respondent was not present and was not represented by counsel.
51

52 An administrative complaint was filed on February 7, 2014, which alleged violation of s. 460.413(1)(v), F.S., by failing to
53 comply with a Final Order of the Board in case number 2010-21221. Respondent was served by personal service.
54

55 Motion that the Respondent was properly served and failed to make an election of rights made by Dr. Dougherty, second by
56 Dr. Fox.
57

58 Vote: 6 yeas / 0 opposed; motion carried

1
2 Motion to accept the findings of fact as stated in the Administrative Complaint was made by Dr. Dougherty, second by Dr.
3 Hunt.

4
5 Vote: 6 yeas / 0 opposed; motion carried

6
7 Motion that the Board accept into evidence the investigative file for purposes of determining penalty and the opportunity to
8 make a penalty recommendation made by Dr. Hunt, second by Dr. Fox.

9
10 Vote: 6 yeas / 0 opposed; motion carried

11
12 Motion to adopt the conclusions of law in the Administrative Complaint as the Board's conclusions of law and to find the
13 Respondent in violation of Florida Statutes as charged in the administrative complaint made by Dr. Fox, second by Dr.
14 Hunt.

15
16 Vote: 6 yeas / 0 opposed; motion carried

17
18 Motion to find that the violation charged in the Administrative Complaint constitutes a violation of the Practice Act made by
19 Dr. Dougherty, second by Dr. Hunt.

20
21 Vote: 6 yeas / 0 opposed; motion carried

22
23 Department recommendation for discipline: reprimand, fine in the amount of \$1.00, suspension until fines and costs of all
24 final orders are paid in full.

25
26 Motion to impose discipline as recommended by the Department made by Ms Pelaez second by Dr. Dougherty.

27
28 Vote: 6 yeas / 0 opposed; motion carried

29
30 Department recommendation on costs: \$902.63

31
32 Motion to assess costs in the amount of \$902.63 made by Dr. Dougherty, second by Dr. Fox.

33
34 Vote: 6 yeas / 0 opposed; motion carried

35
36 **Time: 10:58 a.m.**

37
38 **c. Stephen J. Sonenblum – case number 2013-19485**

39 Dr. Heagy is recused due to participation on the probable cause panel.
40 Respondent was not present and was not represented by counsel.

41
42 Emergency Suspension Order was entered against the respondent on May 20, 2014, and an administrative complaint was
43 filed on June 4, 2014, which alleged violation of ss. 460.413(1)(c), (ff), and 456.072(1)(x), F.S., by being convicted of
44 violation of s. 817.234(11)(a), F.S., a crime related to practice, pleading guilty to healthcare fraud, and failing to report the
45 conviction. Respondent's license is currently suspended and delinquent.

46
47 Motion that the Respondent was properly served and failed to make an election of rights made by Dr. Hunt, second by Ms.
48 Pelaez.

49
50 Vote: 6 yeas / 0 opposed; motion carried

51
52 Motion that the Board accept into evidence the investigative file for purposes of determining penalty and the opportunity to
53 make a penalty recommendation made by Ms. Pelaez, second by Dr. Dougherty.

54
55 Vote: 6 yeas / 0 opposed; motion carried

56
57 Motion to accept the findings of fact and conclusions of law as stated in the Administrative Complaint was made by Dr.
58 Dougherty, second by Dr. Fox.

1
2 Vote: 6 yeas / 0 opposed; motion carried

3
4 Motion that findings of fact support the violation of the Practice Act as charged in the administrative complaint made by Dr.
5 Heagy, second by Dr. Hunt.

6
7 Vote: 6 yeas / 0 opposed; motion carried

8
9 Department recommendation for discipline: Revocation of license.

10
11 Motion to impose discipline as recommended by the Department made by Dr. Heagy, second by Dr. Dougherty.

12
13 Vote: 6 yeas / 0 opposed; motion carried

14
15 Department recommendation: Waive costs.

16
17 **Time: 11:04 a.m.**

18
19 **4. Motions for Final Order Accepting Voluntary Relinquishment of License**

20 **a. Caroline L. Carpenter, D.C. – case number 2013- 18781**

21 No board member was recused due to participation on the probable cause panel.
22 Respondent was not present and was not represented by counsel.

23
24 Motion to accept Voluntary Relinquishment of License made by Dr. Dougherty, second by Dr. Hunt.

25
26 Vote: 7 yeas / 0 opposed; motion carried

27
28 **Time: 11:05 a.m.**

29
30 **b. Louis Ignatious Zwirble, D.C. – case number 2013-07905**

31 Dr. Fox was recused due to participation on the probable cause panel.
32 Respondent was not present and was not represented by counsel.

33
34 Motion to accept Voluntary Relinquishment of License made by Dr. Dougherty, second by Dr. Heagy.

35
36 Vote: 6 yeas / 0 opposed; motion carried

37
38 **Time: 11:15 a.m.**

39
40 The Board Chair made a presentation of a plaque to **Ms. Linda Reynolds** for her past service on the Board.

41
42 **CONTINUATION OF SECTION I: FINAL ORDER ACTIONS**

43 **1. Motion for Final Order by Settlement Agreement**

44 **c. Christian P. Grause – case number 2012-08337**

45 No board member was recused due to participation on the probable cause panel.
46 Respondent was present and was represented by counsel, Michael D'Lugo.

47
48 An Administrative Complaint filed by the Department charged Respondent with violation of ss. 460.413(1)(m) and (ff), Fla.
49 Stat., by failing to comply with the minimum recording standards of the practice.

50
51 Ms. Rossitto-Van Winkle advised the board that the settlement agreement contained the following provisions:

- 52
53
54
55
56
- Letter of Concern
 - Administrative fine of \$1,000.00
 - Reimbursement of actual costs in the amount of \$2,585.29
 - 6 hours continuing education in the area of recordkeeping, documentation and coding

57
58 Mr. D'Lugo and Respondent addressed the Board to explain current treatment and modifications made to the chiropractic office since the incident. The Board cautioned Respondent of the need to vary treatment based on the age of the patient.

1
2 Motion to adopt the settlement agreement made by Dr. Hunt, second by Dr. Dougherty.

3
4 Vote: 7 yeas / 0 opposed; motion carried

5
6 **Time: 11:36 a.m.**

7
8 The Board Chair made a presentation of a plaque to **Dr. Orland Kay Armstrong, III** in recognition of outstanding volunteer service
9 to his community.

10
11 **CONTINUATION OF SECTION I: FINAL ORDER ACTIONS:**

12 **3. Motion for Determination of Waiver and for Final Order by Hearing Not Involving Disputed Issues of Material**
13 **Fact.**

14 **c. Richard T. Pfaff, D.C. – Case Number 2013-10836**

15 Dr. Fox is recused due to participation on the probable cause panel.

16 Respondent was present and was represented by counsel, Kenneth J. Metzger.

17
18 Mr. Metzger addressed the Board regarding his filing of an Election of Rights on August 20, 2014, which requested a formal
19 hearing on disputed facts. Mr. Metzger stated that the Respondent's preference was to proceed with both this matter and
20 another pending at the Department. Dr Hunt expressed concern that Mr. Metzger could not provide a timeframe in which
21 both cases would be resolved and set before the Board. Mr. Metzger presented mitigating facts and stated he had no
22 objection to continuing with this matter.

23
24 An administrative complaint was filed on December 9, 2013, which alleged violation of ss. 460.413(1)(j), and (k), F.S., by
25 filing a false report with AHCA; and by making misleading, deceptive, untrue or fraudulent representations in the practice
26 of chiropractic medicine. Personal service was attempted but no one was at the home. A second residence was found on the
27 same property which was occupied by a relative of the Respondent, and that individual was served with the Administrative
28 Complaint.

29
30 Motion that the Respondent was properly served and failed to make an election of rights made by Dr. Dougherty, second by
31 Dr. Heagy.

32
33 Vote: 6 yeas / 0 opposed; motion carried

34
35 Motion that the Board accept into evidence the investigative file for purposes of determining penalty and the opportunity to
36 make a penalty recommendation made by Dr. Dougherty, second by Dr. Heagy.

37
38 Mr. Metzger raised an objection to certain hearsay and irrelevant information contained in the investigative file that related
39 to criminal action not yet before the Board. Ms. Loucks suggested a friendly amendment to the motion to accept only the
40 public material of the investigative file.

41
42 Dr. Dougherty, with second by Dr. Heagy, amended his motion that the Board accept into evidence the public portions of
43 the investigative file for purposes of determining penalty and the opportunity to make a penalty recommendation.

44
45 Vote: 6 yeas / 0 opposed; motion carried

46
47 Motion to accept the findings of fact as stated in the Administrative Complaint was made by Dr. Hunt, second by Dr.
48 Dougherty.

49
50 Vote: 6 yeas / 0 opposed; motion carried

51
52 Motion that findings of fact and conclusions of law support the violation of the Practice Act as charged in the administrative
53 complaint made by Dr. Heagy, second by Dr. Dougherty.

54
55 Vote: 6 yeas / 0 opposed; motion carried

56
57 Department recommendation for discipline: reprimand, two years suspension followed by two years of probation with a
58 monitor, fine of \$10,000 due prior to lifting the suspension. In the alternative, revocation.

1
2 Motion to impose discipline as follows: reprimand, fine in the amount of \$10,000, probation for 2 years with monitor to
3 review 10 files in the first 6 months then quarterly thereafter, 3 hours ethics and 2 hours laws and rules continuing
4 education, made by Dr. Dougherty, second by Dr. Heagy.

5
6 Vote: 6 yeas / 0 opposed; motion carried

7
8 Department recommendation on costs: Costs in the amount of \$1,622.17

9
10 Motion to assess costs in the amount of \$1,131.99 payable within made by Dr. Dougherty, second by Dr. Hunt.

11
12 Vote: 6 yeas / 0 opposed; motion carried

13
14 **Section I Discipline Actions ended at 12:36 p.m.**

15
16 The Board Chair made a presentation of a plaque to **Dr. Debra Hoffman** for her past service on the Board.

17
18 **Board recessed 12:36 p.m.**

19 **Board reconvened at 1:45 p.m.**

20
21 **Section X General Business began at 1:45 p.m.**

22
23 **SECTION X– COMMITTEE REPORTS**

- 24 a. National Board of Chiropractic Examiners (NBCE) - Salvatore LaRusso, D.C. Discussion regarding the Special Purpose
25 Examination for Chiropractic (SPEC) and the Ethics and Boundaries Examination (E&BE)

26
27 **Section X General Business ended at 1:47 p.m.**

28 **Section II Discipline Actions started at 1:47 p.m.**

29
30 **II. PROSECUTION REPORT**

31
32 Motion to continue prosecution of discipline cases more than one year old made by Dr. Hunt, second by Dr. Fox.

33
34 Vote: 7 yeas / 0 opposed; motion carried

35
36 **Section I Discipline Actions ended at 1:48 p.m.**

37 **Section II General Board Business began at 1:48 p.m.**

38
39 **II. PETITION FOR VARIANCE/WAIVER**

- 40 1. Alan R. Leavitt, D.C. - Rule 64B2-13.004, F.A.C.

41 Petitioner Leavitt was not present and was not represented by counsel.

42 Petitioner requested a variance and waiver from Rule 64B2-13.004, F.A.C., as he is in need of an extension of time to
43 complete his 20 hour continuing education for the current biennium.

44
45 Motion made by Dr. Hunt to grant the Petition for Variance/Waiver of Rule 64B2-13.004, F.A.C., provided that Petitioner
46 completes 60 hours by the end of the next biennium, based upon Petitioner's personal needs and finds that Petitioner has
47 demonstrated that the purpose of the underlying statute has been achieved by other means and application of a rule would
48 create a substantial hardship or would violate principles of fairness, seconded by Ms. Pelaez.

49
50 Vote: 7 yeas / 0 opposed. Motion carried

51
52 **Section II General Board Business ended at 1:51 p.m.**

53 **Section III General Board Business began at 1:51 p.m.**

54
55 **III. PETITION FOR REINSTATEMENT OF LICENSE**

- 56 1. Earl Dietrich Dragton, D.C.

57 Petitioner Dragton was present and was represented by counsel, Edwin Bayo.

1 Petitioner sought reinstatement of his chiropractic medicine license that had gone Null and Void.

2
3 Petitioner asserted that he had sent the renewal check to the Department, but was not aware that his license went Null and
4 Void until he tried to update his continuing education credits. Ms. Loucks informed the Board that it had no jurisdiction to
5 hear the matter since the license no longer existed; she stated Petitioner would have to reapply and request to have the
6 examination requirement waived at that time.

7
8 Petitioner withdrew his petition.

9
10 **Section III General Board Business ended at 2:00 p.m.**

11 **Section IV General Board Business began at 2:00 p.m.**

12
13 **IV. APPLICANTS PRESENTED FOR BOARD REVIEW**

14 1. Chiropractic Physician Applicants:

15 a. Travis James France, D.C.

16 Applicant was present and was not represented by counsel.

17
18 Ms. Loucks stated that the application was before the Board due to disclosure that his massage therapist license had been
19 disciplined in Florida.

20
21 Motion to approve the application for licensure as a chiropractic physician made by Dr. Dougherty, second by Dr. Hunt.

22
23 Vote: 7 yeas / 0 opposed; motion carried

24
25 **Time: 2:03 p.m.**

26
27 b. Marlene Nelma Mahipat, D.C.

28 Applicant was present and was represented by counsel, Edwin Bayo.

29
30 Ms. Loucks stated that applicant was before the board due to Applicant having action taken against her Maryland
31 Chiropractic license in 2013.

32
33 Mr. Bayo and Applicant described the circumstances surrounding the disciplinary action, the Applicant's current work as a
34 volunteer in her community and lesson she learned from the situation in Maryland.

35
36 Motion to approve the application for licensure as a chiropractic physician made by Dr. Dougherty, second by Mr. Colter.

37
38 Vote: 7 yeas / 0 opposed; motion carried

39
40 **Time: 2:13 p.m.**

41
42 c. Chris Pellow, D.C.

43 Applicant was not present and was not represented by counsel.

44
45 Ms. Loucks stated that the application was before the Board due to Applicant receiving an admonishment from the Colorado
46 Board of Chiropractic as a result of inadequate recordkeeping while he covered for another vacationing Chiropractor.

47
48 Motion to approve the application for licensure as a chiropractic physician made by Dr. Fox, second by Dr. Hunt.

49
50 Vote: 7 yeas / 0 opposed; motion carried

51
52 **Time: 2:14 p.m.**

53
54 2. Registered Chiropractic Assistant Applicants:

55 a. Arnaldo Sisky Gonzalez

56 Applicant was not present and was not represented by counsel.

1 Ms. Loucks stated that the application was before the Board due to disclosure that his massage therapist license had been
2 disciplined in Florida. Applicant was still on probation.

3
4 Dr. Dougherty found that Applicant failed to disclose material negative information in two applications.

5
6 Motion to deny the application for licensure as a registered chiropractic assistant made by Dr. Dougherty, second by Dr.
7 Hunt.

8
9 Vote: 7 yeas / 0 opposed; motion carried

10
11 **Section IV ended at 2:17 p.m.**

12 **Section V began at 2:17 p.m.**

13
14 **V. RATIFICATION OF LICENSURE**

15 1. Chiropractic Physicians – CH 11185 through CH 11260

16 Motion to ratify issuance of Chiropractic Physicians license numbers CH 11185 through CH 11260 made by Dr. Heagy,
17 second by Dr. Dougherty.

18
19 Vote: 7 yeas / 0 opposed; motion carried

20
21 2. Certified Chiropractic Physician Assistants – CI 756 through CI 765

22 Motion to ratify issuance of Certified Chiropractic Physician Assistants license numbers CI 756 through CI 765
23 made by Dr. Heagy, second by Dr. Dougherty.

24
25 Vote: 7 yeas / 0 opposed; motion carried

26
27 3. Registered Chiropractic Assistants – RCA 12750 through RCA 13169

28 Motion to ratify issuance of Registered Chiropractic Assistants RCA 12750 through RCA 13169 made by Dr. Dougherty,
29 second by Dr. Fox.

30
31 Vote: 7 yeas / 0 opposed; motion carried

32
33 **Section V ended at 2:18 p.m.**

34 **Section VI began at 2:18 p.m.**

35
36 **VI. CHAIR/VICE CHAIR REPORT**

37
38 1. No reports

39
40 **Section VI ended at 2:19 p.m.**

41 **Section VII began at 2:19 p.m.**

42
43 **VII. EXECUTIVE DIRECTOR'S REPORT**

44
45 1. Update on Renewal Reports – Ms. Guilford updated the Board on the reports presented at the last meeting.

46
47 **Section VII ended at 2:20 p.m.**

48 **Section VIII began at 2:20 p.m.**

49
50 **VIII. BOARD COUNSEL'S REPORT – Deferred to Committee Reports section**

51
52 **Section VIII ended at 2:20 p.m.**

53 **Section IX began at 2:20 p.m.**

54
55 **IX. DISCUSSION ON LASERS IN CHIROPRACTIC MEDICINE** – Phil Harrington, D.C. offered to answer questions
56 about laser use in chiropractic medicine.

57
58 **Section IX ended at 2:21 p.m.**

1 **Section X began at 2:21 p.m.**
2
3

4 **X. COMMITTEE REPORTS**
5

- 6 1. Budget – Mr. Colter presented an overall view of the current balances
7
8 2. CCPA – Dr. Dougherty stated the applicants were keeping appointments made with him.
9
10 3. Continuing Education – Dr. Dougherty

- 11 a. CE Provider New York Chiropractic College -Nervous System Health: New Advances in Herbal Therapy
12 (Recommended Board Review)

13 The Board expressed concern that the instructor lacked qualifications to teach the course. Mr. Paul Lambert, attorney for the
14 FCA, addressed the Board stating that the FCA was not in support of this course being offered for continuing education credit
15 as it appeared to be a course that promoted a product.
16
17

18 Motion to deny course made by Dr. Dougherty, seconded by Dr. Hunt.

19 Vote: 7 yeas / 0 opposed . Motion carried
20
21

- 22 b. University of Bridgeport -Arkansas Chiropractic Society 2014 Seminar re: course identified as (i) Role of the
23 Chiropractor in Cancer Treatment, and (ii) Pharmacology (Recommended Board Review)
24

25 James Layman and Guy Martino were present in support of the courses. After extensive discussion, the Board determined that
26 the courses were outside the scope of practice for chiropractors in Florida.
27

28 Motion to deny the courses made by Dr. Heagy, seconded by Ms. Pelaez.
29

30 Vote: 2 yeas / 5 opposed. Motion failed.
31

32 Motion to approve Role of the Chiropractor in Cancer Treatment made by Dr. Fox, seconded by Dr. Hunt.
33

34 Vote: 5 yeas / 2 opposed. Motion carried.
35

36 **The Board Chair made a presentation of a plaque to Dr. Ronald Wellikoff for his past service on the Board.**
37

38 Motion to deny the Pharmacology course based on the scope of practice for a Florida chiropractor made by Dr. Heagy,
39 seconded by Mr.Colter.
40

41 Vote: 4 yeas / 3 opposed. Motion carried.
42

- 43 c. Providers & Courses approved by the Continuing Education Committee
44

45 Motion to ratify committee approval made by Dr. Heagy, seconded by Dr. Fox.
46

47 Vote: 7 yeas / 0 opposed. Motion carried
48

- 49 4. Credentials – Dr. Fogarty had no report
50

- 51 5. Disciplinary Compliance – Dr. Fogarty
52

53 Paul M. Toma, D.C. - Request for Early Termination from Probation

54 Motion to approve request for early termination from probation made by Dr. Dougherty, seconded by Dr. Fox.
55

56 Vote: 7 yeas / 0 opposed; motion carried
57

- 58 6. Examination – Dr. Heagy

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- a. FCLB/EBAS Annual Conference – Drs Fogarty and Fox will represent the Board at the meeting. Other board members will be attending on their own.
 - c. Palmer College of Chiropractic – submitted by Peter A. Martin, D.C. Discussion regarding Bachelor Degree-Regionally Accredited Requirements
7. Healthiest Weight – Dr. Hunt presented information on the Healthiest Weight meeting she attended on July 14, 2014
8. Legislative – Dr. Heagy
- a. Dr. Heagy requested the Board give her suggestions for topics for presentation to Investigative Services
 - b. Update on Legislative Session ending May 2014 -
With regard to changes in the massage therapist law, a chiropractor does not need an establishment license if a doctor only uses their own patients not outside patients.
Laws on background screening have changed
9. Probable Cause – Drs. Dougherty/Fox/Heagy provided statistics.
- Dr. Fogarty asked if the CCPA protocol for missed appointments was working well, to which Dr. Dougherty gave a description of how these were handled.
10. Rules – Dr. Hunt
- a. Discussion of Rule 64B2-10.0055, Florida Administrative Code
The Board discussed allowing electronic submission of address change with electronic confirmation of receipt from the Department, and amending subparagraph (2), the notification to the Department of a change of address, to 30 days.

Motion to amend Rule 64B2-10.0055, F.A.C. made by Dr. Hunt and seconded by Dr. Fox.

Vote: 7 yeas / 0 opposed; motion carried

Motion to amend 45 days notice to 30 days notice made by Dr. Dougherty, second by Mr. Coulter.

Vote: 7 yeas / 0 opposed; motion carried

Discussion of economic impact and impact on regulatory cost.
Motion that there is no economic impact or impact on regulatory cost and no SERC is required made by Dr. Fogarty and seconded by Dr. Fox.

Vote: 7 yeas / 0 opposed; motion carried
 - b. Discussion of Rule 64B2-13.004, Florida Administrative Code
The Board discussed amending subparagraphs (11), (13) and (16) as shown in the agenda materials with the exception of correcting the word “referred”, and to eliminate subparagraph (4)(b)16.

Motion to amend Rule 64B2-13.004, subparagraphs (11), (13) and (16), F.A.C. made by Dr. Hunt and seconded by Dr. Heagy.

Vote: 7 yeas / 0 opposed; motion carried

Discussion of economic impact and impact on regulatory cost.
Motion that there is no economic impact or impact on regulatory cost and no SERC is required made by Dr. Hunt and seconded by Dr. Heagy.

Vote: 7 yeas / 0 opposed; motion carried

1 *c. Discussion of Rule 64B2-16.002, Florida Administrative Code*

2
3 Motion to amend Rule 64B2-16.002, F.A.C. as shown in the agenda materials made by Dr. Fox and seconded by Dr.
4 Heagy.

5
6 Vote: 7 yeas / 0 opposed; motion carried

7
8 Discussion of economic impact and impact on regulatory cost.

9 Motion that there is no economic impact or impact on regulatory cost and no SERC is required made by Dr. Hunt and
10 seconded by Dr. Heagy.

11
12 Vote: 7 yeas / 0 opposed; motion carried

13
14
15 *d. Discussion of Rule 64B2-16.005, Florida Administrative Code*

16 Ms. Loucks recommended repeal of this rule.

17
18 Motion to amend Rule 64B2-16.005, F.A.C., as it reiterates the statutory language made by Dr. Hunt and seconded by
19 Dr. Fox.

20
21 Vote: 7 yeas / 0 opposed; motion carried

22
23
24 *e. Discussion of Rule 64B2-17.005, Florida Administrative Code*

25 Ms. Loucks recommended repeal of this rule

26
27 Motion to amend Rule 64B2-17.005, F.A.C., as there is no statutory basis for “overutilization” made by Dr. Fox and
28 seconded by Dr. Hunt

29
30 Vote: 7 yeas / 0 opposed; motion carried

31
32
33 *f. Discussion of Rule 64B2-16.006, Florida Administrative Code*

34 Ms. Loucks recommended repeal of this rule.

35
36 Mr. Paul Lambert informed the Board of the history enacting this rule. The prosecutor suggested amending the word
37 “consultant” to “expert” and the Board asked that this be brought back to the next meeting.

38
39 *g. Discussion of Rule 64B2-15.001, Florida Administrative Code*

40 Ms Loucks asked if the Board wanted to discuss rule 64B2-15.001, FAC, which talks about specialties recognized. The
41 Board discussed addition of “or the International Chiropractic Pediatric Association” to (2)(e)1 of the rule.

42
43 Motion to amend Rule 64B2-15.001, F.A.C. to add “or the International Chiropractic Pediatric Association” to (2)(e)1 of
44 the rule made by Dr. Fogarty and seconded by Dr. Heagy.

45
46 Discussion of economic impact and impact on regulatory cost.

47 Motion that there is no economic impact or impact on regulatory cost and no SERC is required made.

48
49 Vote: 7 yeas / 0 opposed; motion carried

50
51 11. Unlicensed Activity – Ms. Pelaez reported there were three cases under investigation.

52
53 **XI. NEXT MEETING DATE:** October 31, 2014

54 Rosen Plaza

55 9700 International Drive

56 Orlando, FL 32819 (407) 996-9700

1 **General Board Business concluded at: 4:21 p.m.**

2
3 **XIII. ADJOURNMENT**

4
5 **The meeting was adjourned at 4:21 p.m.**

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