

FLORIDA | Board of Chiropractic Medicine

MINUTES
October 31, 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

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 **I. Call to Order**
7

8 **MEMBERS PRESENT:**

9 Kevin Fogarty, D.C., F.I.C.A.(hon.), Chair
10 Ken Dougherty, D.C.
11 Christopher Fox, D.C., A.T.C.
12 Danita Heagy, D.C., Vice Chair
13 Julie Hunt, D.C.
14 David Colter, Consumer Member
15 Ruth Pelaez, Consumer Member
16

STAFF PRESENT:

Adrienne Rodgers, Executive Director
Michele Jackson, Regulatory Supervisor/Consultant
Towanda Burnett, Compliance Officer

17 **BOARD COUNSEL:**

18 Deborah Bartholow Loucks, Assistant Attorney General
19 Office of Attorney General
20

21 **PROSECUTION COUNSEL:**

22 Tari Rossitto-Van Winkle, Assistant General Counsel
23 Octavio Simones-Ponce, Assistant General Counsel
24 Department of Health, Office of the General Counsel
25

26 **COURT REPORTER:**

27 American Court Reporting
28 (407) 896-1813
29

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

32 <http://floridaschiropracticmedicine.gov/meeting-information/>
33
34

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

36 **Section I started at 8:33 a.m.**
37

38 **II. APPROVAL OF MINUTES**
39

40 Minutes of the August 22, 2014 General Business Meeting were reviewed.
41

42 Dr. Heagy and Dr. Dougherty noted the following corrections to the minutes:

43 Page 1: Dr. Heagy should be listed as Vice Chair

44 Dr. Fogarty noted the following correction to the minutes:

45 Page 15, line 5: Peter A. Martin, D.C. was not present and did not make a presentation
46

47 Motion made to accept the minutes as amended.

48 Vote: unanimous; motion carried
49

50 **Section II concluded at 8:36 a.m.**

51 **Section IV commenced at 8:36 a.m.**
52
53

54 **IV. SETTLEMENT AGREEMENT FOR ATTORNEY FEES**
55

56 **Paul K. Christian, D.C.**

57 **DOH Case No. 2007-37566**

58 **DOAH Case No. 11-0722PL**

1 Petitioner was not present and was represented by counsel.

2
3 Petitioner incurred attorney fees challenging and successfully defending against disciplinary action initiated by the Board
4 and the Department of Health. On August 7, 2014, Petitioner made demand for attorney fees and costs under FEAJA and
5 filed an action at the Division of Administrative Hearings (DOAH). The Department and Petitioner entered into a
6 Settlement Agreement in which Petitioner agreed to accept \$50,000 in exchange for dismissing the litigation at DOAH.

7
8 Motion made to accept the Settlement Agreement.
9 Vote: unanimous; motion carried

10
11 **Section IV concluded at 8:36 a.m.**

12 **Section V commenced at 8:36 a.m.**

13
14 **V. FINAL ORDER ACTIONS**

15
16 **1. Final Orders by Settlement Agreement**

17 **#1 Tanya R. Kahl, D.C. - Case Numbers 2011-15248, 2011-15255, 2011-15256, 2011-15257, 2011-15258,**
18 **2011-15322, 2011-15323, 2011-15356, 2011-15357, 2011-15358**

19
20 Dr. Heagy was recused due to participation on the Probable Cause Panel
21 Respondent was present and was represented by counsel, Karen Barnett-Backer.

22
23 An Administrative Complaint filed by the Department charged Respondent with violation of various sections of s.
24 460.413(1), and 456.072(1), Fla. Stat., by engaging in financial exploitation, upcoding PIP claims, submitting claims for
25 services not rendered, intentionally submitting claims for services not rendered, breach of standard of care and failing to
26 keep adequate patient records.

27
28 Ms. Rossitto-Van Winkle advised the board that the settlement agreement contained the following provisions:

- 29
- 30 • Reprimand
 - 31 • Administrative fine of \$10,000.00 payable in 84 equal monthly installments of \$119.05
 - 32 • Reimbursement of actual costs in the amount of \$32,256.03 payable in 84 equal monthly payments
 - 33 • Continuing education: 6 hours of record keeping, documentation and coding, 1 hour risk management, 2 hours laws and
34 rules, within 18 months after the filing of the Final Order
 - 35 • Probation with Monitor for 2 years: Every month for the first 6 months, the monitor will review 10 files; then for the
36 remainder of probation, the Monitor shall make quarterly reviews of 5 files. Respondent has the right to appear and request
37 early termination after 1-1/2 years, contingent on the advice and consent of the Monitor

38 Discussion:

39 Dr. Dougherty expressed concern that the violations appeared to demonstrate an intentional pattern of fiscal exploitation; he
40 suggested adding community service or ethical boundaries.

41 Dr. Fogarty expressed outrage that the patient records appeared to reflect maximizing billing and not benefit to the patient.
42 He suggested an ethics and boundaries course and community service in addition to terms of the settlement agreement.
43 Respondent objected to the added expenses of taking an ethics and boundaries course and adding community service.

44
45 Motion made to reject the settlement agreement.
46 Vote: unanimous; motion carried

47
48 Motion made of counter offer to add 25 hours community service and an ethics and boundaries course to be taken within 18
49 months to the settlement agreement.

50 Vote: unanimous; motion carried
51 Respondent accepted counter offer.

52
53
54 **#2 Olivio O. Blanco, D.C. – Case Numbers 2011-15047, 2011-15123, 2011-15199, 2011-15200**

55 No Board member was recused due to participation on the Probable Cause Panel
56 Respondent was present and was represented by counsel, Karen Barnett-Backer.

1 An Administrative Complaint filed by the Department charged Respondent with violation of various sections of 460.413(1),
2 and 456.072(1), Fla. Stat., by engaging in financial exploitation, violating the standard of care, and failing to keep adequate
3 patient records.
4

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

- 6 • Reprimand
- 7 • Administrative fine of \$4,000.00 payable in 36 equal monthly installments of \$112.00
- 8 • Reimbursement of costs in the amount of \$18,640.13 payable in 60 equal monthly installments
- 9 • Continuing education: 6 hours of record keeping, documentation and coding, 1 hour risk management, 2 hours laws
10 and rules, 3 hours Medical Errors and Recognition of Serious Complications within 18 months after the filing of the Final
11 Order
- 12 • Probation with Monitor for 2 years: Every month for the first 6 months, the monitor will review 10 files; then for the
13 remainder of probation, the Monitor shall make quarterly reviews of 5 files. Respondent has the right to appear and request
14 early termination after 1-1/2 years, contingent on the advice and consent of the Monitor
15

16 Discussion:

17 Dr. Dougherty stated the violations are basically the same as the last case.

18 Dr. Heagy agreed and stated she felt there are likely more patient cases given the pattern seen in the cases now before the
19 Board. She believes the Respondent's practice was exploitive and she asked that community service be added to rehabilitate
20 the "black-eye" given the profession.

21 Respondent testified he reduced the number of modalities billed, now documents interpretation of the examination results
22 and progress of the patient, and overall has better documentation.

23 Dr. Hunt suggested ethics and boundaries and community service be added.

24 Dr. Fogarty stated that maximizing the fiscal return was good but the practitioner still must consider the patient needs.
25

26 Motion made to reject the settlement agreement.

27 Vote: 6 yeas / 1 opposed; motion carried
28

29 Motion made of counter offer made to add the ethics and boundaries examination, and 25 hours community service in the
30 chiropractic field over 18 months, in addition to terms of settlement agreement

31 Vote: 6 yeas / 1 opposed; motion carried

32 Respondent accepted the counter offer
33

34 **#3 Ronald Woodley, D.C. – case numbers 2013-17273 and 2013-17435**

35 Dr. Heagy was recused due to participation on the Probable Cause Panel

36 Respondent was present and was not represented by counsel.
37
38

39 An Administrative Complaint filed by the Department charged Respondent with violation of sections 456.072(1)(c) and
40 456.072(1)(x), Fla. Stat., by being convicted of and failing to report a crime related to practice, *i.e.* operating an unlicensed
41 healthcare clinic.
42

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

- 44 • Reprimand
- 45 • Administrative fine of \$8,500.00 payable in 48 equal monthly installments of \$177.09 beginning 6 months after the
46 filing of the Final Order
- 47 • Reimbursement of costs in the amount of \$3,331.32 payable in 48 equal monthly installments beginning 6 months
48 after the filing of the Final Order
- 49 • Practice restriction as stated in the Settlement Agreement
- 50 • Florida laws and rules examination within one year of the filing of the Final Order
- 51 • Attendance at two Board meetings within two years of the filing of the Final Order
52

53 Discussion:

54 Respondent testified that he failed to audit files of other employees, and failed to audit outsourced "bookkeeping/billing."
55 Respondent stated he was paid his correct percentage according to what he actually submitted for billing and never
56 considered that additional charges were billed. Respondent stated he recognized he was responsible even though he had
57 hired out the billing. Respondent stated he hired persons who spoke the local languages and hired out billing; the billing
58 clerk was contracted to be paid 10% of Respondent's submitted billing.

1
2 Motion made to reject the settlement agreement.

3 Vote: unanimous; motion carried
4

5 Motion made of counter offer to reduce the fine to \$3,000, remove the practice restriction; add ethics and boundaries
6 examination within one year; continuing education as in the settlement agreement, attend one board meeting within one
7 year.

8 Vote: unanimous; motion carried
9

10 Respondent accepted the counter offer.
11

12
13 **#4 Kristy M. Kottwitz, D.C.**

14 Dr. Heagy was recused due to participation on the Probable Cause Panel

15 Respondent was present and was represented by counsel, Benjamin Newman.
16

17 An Administrative Complaint filed by the Department charged Respondent with violation of sections 460.413(1)(m), (ff)
18 and (r), Fla. Stat., by engaging in gross malpractice and failure to keep adequate patient records.
19

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

- 21 • Reprimand
- 22 • Administrative fine of \$2,000.00 payable in 24 equal monthly installments of \$84.00
- 23 • Reimbursement of costs in the amount of \$2,639.00 payable in 24 equal monthly installments
- 24 • Continuing education: 12 hours in diagnostic radiology and radiological pathology within one year of the date of the
25 Final Order
- 26 • A one year radiographic studies review period. Respondent has the right to appear and request early termination after 6
27 months, contingent on the advice and consent of the Monitor
28

29 Discussion:

30 Dr. Fox reminded the audience that it is the responsibility of the practitioner to determine whether every report needs to be
31 read before a routine visit.

32 Dr. Fogarty stated that while Respondent didn't read the first x-ray, when she saw the second, she took immediate action.

33 He stated he thought Respondent did everything proper even though she didn't read the x-ray, only the report.

34 Respondent stated if dismissed, would waive fees and costs
35

36 Motion made to reject the settlement agreement.

37 Vote: unanimous; motion carried
38

39 Motion made to dismiss.

40 Vote: unanimous; motion carried
41

42 Dr. Heagy stated she has seen radiologists miss pathology. She suggested to the audience that chiropractors should read their own
43 radiographs and not just rely on the radiologist report.
44
45

46 **#5 Monica Kim, D.C. - case number 2013-13102**

47 Dr. Heagy was recused due to participation on the Probable Cause Panel

48 Respondent was present and was represented by counsel, Phillip Crowley.
49

50 An Administrative Complaint filed by the Department charged Respondent with violation of sections 460.413(1)(m), (r)
51 and(ff), Fla. Stat., by failing to keep adequate patient records and engaging in gross malpractice.
52

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

- 54 • Reprimand
- 55 • Administrative fine of \$2,000.00 payable in 24 equal monthly installments of \$84.00
- 56 • Reimbursement of costs in the amount of \$2,901.32 payable in 24 equal monthly installments
- 57 • Continuing education: 12 hours in diagnostic radiology and radiological pathology within one year of the date of the
58 Final Order

- 1 • A one year radiographic studies review period. Respondent has the right to appear and request early termination after 6
2 months, contingent on the advice and consent of the Monitor
3

4 Discussion:

5 Dr. Dougherty stated he was satisfied with settlement agreement. Respondent exposed the radiograph and therefore she
6 should have read it. It is fortunate that there was no harm to the patient.

7 Mr. Colter clarified that the distinction between this case and the previous one is who took the radiograph.
8

9 Motion made to adopt the settlement agreement.

10 Vote: unanimous; motion carried
11

12 **9:59 a.m. break; recalled to order 10:21 am**
13

14 **#6 Gustavo Acosta, D.C. – case numbers 2014-07132 and 2010-05983**

15 Dr. Heagy was recused due to participation on the Probable Cause Panel

16 Respondent was present and was represented by counsel, Louis V. Martinez.
17

18 An Administrative Complaint filed by the Department charged Respondent with violation of sections 456.072(1)(q) and
19 460.413(1)(i) and(ff), Fla. Stat., by engaging in chiropractic medicine in a clinic not owned by a licensed chiropractor and
20 failure to comply with Final Orders entered in prior discipline.
21

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

- 23 • Reprimand
24 • Administrative fine of \$1.00 due in 30 days after the filing of the Final Order
25 • Reimbursement of costs in the amount of \$4,996.43 payable in 60 equal monthly installments of \$83.28 beginning 6
26 months after the filing of the Final Order
27 • Payment of fines and/or costs imposed in Final Order DOH-12-1451-S-MQ
28 • Suspension until monitoring reports due February and May 2014, which is moot since Respondent was not practicing
29 • Upon the conclusion of the period of suspension, Respondent shall complete the suspension imposed in Final Order
30 DOH-12-1451-S-MQ. Respondent has the right to appear and request early termination after 6 months, contingent on the
31 advice and consent of the Monitor
32 • Attendance at four consecutive Board meetings beginning immediately after the filing of the Final Order
33

34 Discussion:

35 Dr. Fogarty asked whether Respondent had notified the Compliance Officer that he was not practicing, and asked if
36 notification would have stopped the clock on compliance.

37 Ms. Burnett stated that compliance is tolled when the Respondent is not practicing. However, Respondent failed to notify
38 his Compliance Officer that he was not working.

39 Dr. Fogarty expressed concern that Respondent did not attempt to attend board meetings timely. However, it appears that
40 the time was tolled due to this complaint being filed.
41

42 Motion made to adopt the settlement agreement.

43 Vote: unanimous; motion carried
44
45

46 **#7 Maritza P. Fernandez, D.C. – case number 2011-18229**

47 No Board member was recused due to participation on the Probable Cause Panel

48 Respondent was present and stated she was no longer represented by counsel, Robert Pelier.
49

50 An Administrative Complaint filed by the Department charged Respondent with violation of sections 460.413(1)(i) and (ff),
51 Fla. Stat., by being employed by a corporation not wholly owned by a licensed chiropractic physician and not exempt under
52 Chapter 400, F.S.
53

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

- 55 • Reprimand
56 • Administrative fine of \$5,000.00 payable in 24 equal monthly installments of \$209.00
57 • Reimbursement of costs in the amount of \$2,281.36 payable in 24 equal monthly installments

- 1 • Continuing education: 1 hour in risk management, 2 hours in laws and rules within one year of the date of the Final
2 Order
3

4 Discussion:

5 Respondent presented mitigating factors and emphasized the financial burden of compliance with the terms of the settlement
6 agreement.

7 Dr. Heagy stated Respondent did her due diligence prior to signing on with the clinic.

8 Dr. Dougherty also sees due diligence, no intent, she made a mistake; he suggested reducing the fine to \$1,000 payable over
9 24 months.

10
11 Motion made to reject the settlement agreement.

12 Vote: unanimous; motion carried
13

14 Motion made of counter offer to include all terms of the settlement agreement except reduce the fine to \$1,000.

15 Vote: unanimous; motion carried
16
17

18 **#8 Norlan A. Torres, D.C. – case number 2013-06052**

19 No Board member was recused due to participation on the Probable Cause Panel

20 Respondent was present and was represented by counsel, Edwin A. Bayo.
21

22 An Administrative Complaint filed by the Department charged Respondent with violation of sections 460.413(1)(k), (m)
23 and (n), Fla. Stat., by failing to keep adequate patient records, exploitation for financial gain, and making misleading,
24 deceptive, untrue or fraudulent representations. After negotiations and evaluation of the case, the Department agreed to
25 dismiss the counts related to exploitation for financial gain, and making misleading, deceptive, untrue or fraudulent
26 representations.
27

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

- 29 • Letter of Concern
30 • Administrative fine of \$3,000.00 payable in within one year of the filing of the Final Order
31 • Reimbursement of costs in the amount of \$3,234.19 within one year of the filing of the Final Order
32 • Continuing education: 6 hours in recordkeeping, documentation and coding within one year of the date of the Final
33 Order
34 • Probation for one year with Monitor reviewing 5 patient files in the first month, then quarterly thereafter for a total of
35 4 reviews
36

37 Discussion:

38 Mr. Bayo stated the expert opinion of Respondent's expert was not provided to the Board.

39 Dr. Heagy stated she believed the changes Respondent made to his practice adequately protected the public.
40

41 Motion made to adopt the settlement agreement.

42 Vote: unanimous; motion carried
43
44

45 **11:06 AM concluded settlement agreements**
46

47 **2. Petitioner's Motion for Determination of Waiver and Hearing Not Involving Disputed Issues of Material Facts**
48

49 **a. Tanya Maria Hlinka, D.C. – Case Number 2013-20158**

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

51 Respondent was present and was represented by counsel, Edwin A. Bayo.
52

53 An Administrative Complaint filed by the Department charged Respondent with violation of sections 460.413(1)(v), Fla.
54 Stat., by failing to comply with Final Order DOH-13-1792-S-MQA. Respondent was served with the Administrative
55 Complaint on August 19, 2014, and failed to file an Election of Rights within 21 days of receipt as required by law.
56

57 Motion made to accept all the investigative report and all case materials under Agenda Book 2, Item V.2.a., including all
58 confidential and addendum materials, if any, into evidence in this proceeding.

1 Vote: unanimous; motion carried

2
3 Motion made to find Respondent was properly served the Administrative Complaint and waived her right to a hearing.

4 Vote: unanimous; motion carried

5
6 Motion made that the facts as alleged in the Administrative Complaint are not in dispute and the Board adopts the
7 allegations of fact set out in the Administrative Complaint as the Board's findings of fact for this proceeding.

8 Vote: unanimous; motion carried

9
10 Discussion: Mr. Bayo gave the board factors that suggest the facts are not in violation of the Final Order.

11 All continuing education requirements completed immediately after the Final Order was filed. Respondent started making
12 payments in October and November 2013 and February and June 2014. Had financial challenges and lost home to
13 foreclosure, but still made payments to the board. Delayed getting a monitor because she did not know if she would be
14 working or not. She actually did stop working for health reasons. Still not working full time and still has health issues.

15
16 Dr. Fogarty stated that not contacting the Compliance Officer when issues arise makes it seem as though the Respondent
17 believes the terms of a Final Order does not apply to them.

18
19 Motion made to adopt the conclusions of law as set forth in the Administrative Complaint as the conclusions of law of the
20 Board.

21 Vote: unanimous; motion carried

22
23 Motion made to find that the facts in this case as set out in the Administrative Complaint constitute a violation of the
24 Chiropractic Practice Act, as set forth in the Florida Administrative Code.

25 Vote: unanimous; motion carried

26
27 Department recommendation for discipline: Under the disciplinary guideline rule 64B2-16.003(1)(bb), F.A.C., reprimand;
28 immediate suspension; until fines and costs as imposed under Final Order DOH-13-1792-S-MQA are paid; and probation is
29 completed as imposed under Final Order DOH-13-1792-S-MQA.

30
31 Dr. Dougherty suggested staying the suspension until all fines and costs are paid but suspend Respondent if he misses a
32 payment; give Respondent 30 days to get monitor in place.

33 Dr. Fogarty suggested a fine be imposed because of the time the Board members spent on this matter.

34
35 Motion made to impose the following discipline: Reprimand; Suspension stayed for 30 days and if Respondent obtains a
36 monitor then the suspension remains stayed, but if not, then the suspension is enforced; the Board Chair can approve the
37 monitor; all previous outstanding fines and costs in the amount of \$5,142.66, are to be paid over the next 24 months; fine in
38 case number 2013-20158 is \$250.00; Continuing Education courses taken in satisfaction of the last final order must be
39 reported to the Compliance Officer; monitoring as set out in final order DOH-13-1792-S-MQA.

40 Vote: unanimous; motion carried

41
42 Department recommendation for costs: Costs in case number 2013-20158 in the amount of \$224.25 to be paid by
43 Respondent.

44
45 Motion made to assess costs in the amount of \$224.25.

46 Vote: unanimous; motion carried

47
48
49 **3. Motion for Hearing Not Involving Disputed Issues of Material Fact.**

50
51 **a. Edward Tanza, D.C. – Case Number 2014-07239**

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

53 Respondent was present and was represented by counsel, Edwin A. Bayo.

54
55 An Administrative Complaint filed by the Department charged Respondent with violation of section 460.413(1)(b), (c) and
56 (ff), Fla. Stat., by being convicted of healthcare fraud under 18 U.S.C. 1347, having his license to practice chiropractic
57 medicine revoked by the state of New York, and failing to timely report these actions to the Florida Board of Chiropractic
58 Medicine.

1
2 Motion made to accept all the investigative report and all case materials under Agenda Book 2, Item V.3.a., including all
3 confidential and addendum materials, if any, into evidence in this proceeding.

4 Vote: unanimous; motion carried
5

6 Motion made to find Respondent initially filed a timely election of rights form and requested an informal hearing not
7 involving disputed issues of material facts before the Board.

8 Vote: unanimous; motion carried
9

10 Motion made that the facts as alleged in the Administrative Complaint are not in dispute and the Board adopts the
11 allegations of fact set out in the Administrative Complaint as the Board's findings of fact for this proceeding.

12 Vote: unanimous; motion carried
13

14 Discussion: Mr. Bayo provided information that sentence was not imposed until 2010; Respondent lacked competent
15 representation; the imposition of a \$100 assessment and no restitution is indicative that no healthcare fraud actually
16 happened. Record of the conviction was released in 2010, prior to that the records were sealed.

17
18 Dr. Fogarty stated that not contacting the Compliance Officer when issues arise makes it seem as though the Respondent
19 believes the terms of a Final Order does not apply to them.
20

21 Motion made to adopt the conclusions of law as set forth in the Administrative Complaint as the conclusions of law of the
22 Board.

23 Vote: unanimous; motion carried
24

25 Motion made to find that the facts in this case as set out in the Administrative Complaint constitute a violation of the
26 Chiropractic Practice Act, as set forth in the Florida Administrative Code.

27 Vote: unanimous; motion carried
28

29 Department recommendation for discipline: Revocation of license.
30

31 Motion made to impose a letter of concern; suspend Respondent's license to June 1, 2015; complete 50 hours of community
32 service in unspecified service; complete 6 hours in recordkeeping, documentation and coding prior to lifting the suspension;
33 impose a fine of \$7,500.00.

34 Vote: unanimous; motion carried
35

36 **12:20 a.m. break; recalled to order 12:43 p.m.**

37 **Section III commenced at 12:43 p.m.**
38

39 **III. PETITION FOR REINSTATEMENT**

40 **Eric A. Wiegandt, D.C. - Case Numbers 2013-07012 and 2013-14073**

41 Respondent was present and was represented by counsel, Edwin A. Bayo.
42

43
44 By Final Order dated April 22, 2014, in case numbers 2013-0712 and 2013-14073, Respondent was suspended until such
45 time as he satisfied all continuing education orders and had paid all fines and costs imposed in prior disciplinary cases.
46 Respondent completed all of the terms of the order and requested that the suspension be lifted.
47

48 Discussion:

49 Mr. Bayo informed the board that 4 more Administrative Complaint have been filed recently. Respondent intends to "get a
50 handle" on his discipline. Asked to lift suspension to the next meeting of this board and he will make \$15,000
51

52 Ms. Burnett read the outstanding requirements, including fines and costs from prior final orders, and gave the board the
53 balances owed. Dr. Hunt stated that not completing the CE requirements leads her to think the suspension should not be
54 lifted.
55

56 Respondent stated that his accountant stole money from him and filed false returns; he terminated his business lease; just
57 trying to survive. Respondent testified he did nothing to help himself by contacting the Department or the Board for
58 assistance with his issues.

1 The Board expressed concern that Respondent failed to take Board's directions seriously. The Board wanted Respondent to
2 make some commitment to compliance before agreeing to lift the suspension, such as taking the SPEC examination and
3 paying the fine.
4

5 Motion made to deny the petition to lift the suspension.
6 Vote: unanimous; motion carried
7

8 **Section III concluded at 1:10 p.m.**

9 **Section V resumed at 1:10 p.m.**

10
11 **4. Motions for Final Order Accepting Voluntary Relinquishment of License**

12 **a. Robert Merritt, D.C. – case number 2013-19196**

13 Dr. Heagy was recused due to participation on the probable cause panel.
14 Respondent was not present and was not represented by counsel.
15

16 Motion made to accept investigative file.
17 Vote: unanimous; motion carried
18

19 Motion made to accept Voluntary Relinquishment of License.
20 Vote: unanimous; motion carried
21

22 **b. Paul D. Demske, D.C. – case number 2014-11738**

23 No Board member was recused due to participation on the probable cause panel.
24

25 Respondent was not present and was not represented by counsel.
26

27 Motion made to accept investigative report.
28 Vote: unanimous; motion carried
29

30 Motion made to accept Voluntary Relinquishment of License.
31 Vote: unanimous; motion carried
32

33
34 **5. PROSECUTION REPORT**

35
36 Motion made to allow continuing prosecution of cases older than one year.
37 Vote: unanimous; motion carried
38

39 **Section V ended at 1:16 p.m.**

40 **Section VII started at 1:16 p.m.**

41
42 **VII. APPLICANTS PRESENTED FOR BOARD REVIEW**

43
44 **1. Chiropractic Physician Applicants:**

45
46 **a. Nicholas Simon Reynolds, D.C.**

47 Applicant was not present and was not represented by counsel.
48

49 Ms. Loucks stated that the application was before the Board since Mr. Reynolds' chiropractic education was from the Faculty
50 of Health and Medical Sciences at the University of Surrey, a part of the United Kingdom. Mr. Reynolds attended the
51 University from January 29, 2001 - February 5, 2004 and was awarded a Master of Science degree in Chiropractic. Mr.
52 Reynolds has not submitted proof satisfactory to the department that he earned a Doctor of Chiropractic degree from a
53 university accredited through the Council of Chiropractic Education, or its predecessor agency, as outlined in Chapter
54 460.406, Florida Statutes.
55

56 Discussion:

57 Mr. Colter provided handouts about CCEI and asked the Board to look at other countries and their degrees. He asked if
58 CCEI accrediting requirements could be extrapolated to include the statutorily required CCE. He stated that he spoke to CCE

1 regarding a 1995 bilateral agreement amongst the 4 agencies, which was rescinded some years later. Mr. Colter asked Board
2 Counsel if “or” can be read as alternative to “predecessor agency.”
3

4 Ms. Loucks stated the law is clear that the status must be equivalent. She stated the Board does not have authority to license
5 foreign graduates.
6

7 Dr. Fogarty informed the Board that CCEI is not the European accrediting body, ECCE is the accrediting body. He asked if
8 the Board could talk with the national boards to determine whether there is an interest for development of a test for
9 equivalency as the first step to licensure. He suggested that Dr. LaRusso may be the best contact.
10

11 Mr. Lambert of FCA stated “status” in the statute meant, prior to CCE being formed, accreditation was achieved and the
12 interim period between filing for accreditation and full accreditation. The term was kept in the statute because CCE replaced
13 the prior accrediting agency. The FCA is very open to foreign graduates with equivalent education becoming licensed in
14 Florida. Statutory change is simple compared to the issue of equivalency.
15

16 Motion made to deny the application for licensure as a chiropractic physician and to allow applicant to withdraw his
17 application within 30 days to avoid having a denial on record.

18 Vote: unanimous; motion carried.
19

20 2. **Certified Chiropractic Physician Assistant Applicants:**

21 a. **Myrleine Paul**

22 Applicant was not present and was not represented by counsel.
23
24

25 Ms. Loucks stated that the application was before the Board to approve the CCPA moving to the supervision of a new
26 chiropractor and due to Dr. Dougherty’s recommendation for denial based on her involvement of a doctor arrested for fraud.
27 Ms. Loucks stated that the chiropractor’s case has not been adjudicated. Dr. Dougherty passed out a better copy of his report.
28 He stated applicant was evasive on the phone as to who signed the paychecks, and finally admitted she ran the practice and
29 signed her checks. Dr. Dougherty believed this was one of the clinics “busted for fraud” in Dr. McKenzie’s case. Dr.
30 Harrison was also on the phone during the interview.
31

32 Discussion:

33 Denial would leave her under supervision of the current chiropractor.
34

35 Motion made to deny the application for licensure as a certified chiropractic physician assistant based on her connection with
36 the chiropractor arrested for fraud and her association with one of the clinics that was part of the fraud, her interview was
37 unsatisfactory in that she was elusive.

38 Vote: 6 yeas / 1 opposed; motion carried
39

40 3. **Registered Chiropractic Assistant Applicants:**

41 a. **Juan Castaneda**

42 Applicant was not present and was not represented by counsel.
43
44

45 Ms. Loucks stated that the application was before the Board due to prior order requiring his appearance. Applicant has one
46 more chance to appear in January 2015.
47

48 Discussion: Table to next meeting.
49

50 b. **Brigitte E. Cordoba**

51 Applicant was present and was not represented by counsel.
52

53 Ms. Loucks stated that the application was before the Board due to criminal violation of Chapter 893, Fla. Stat. and by statute
54 there must be 5 years between end of probation and licensure. Therefore April 2015 would be the first chance for licensure.
55 Applicant could withdraw her application; or the Board could approve conditionally allowing registration when the 5 years
56 pass.
57
58

1 Discussion:

2 Ms. Loucks determined that the probation was related to violation of a restraining order, and not related to a criminal
3 violation listed in s. 893, F.S. Therefore the prohibition would not preclude the board from issuing a registration today.
4

5 Motion made to approve the application for licensure as a registered chiropractic assistant.

6 Vote: unanimous; motion carried
7

8 **c. Claudine Dorvil**

9 Applicant was not present and was not represented by counsel.
10

11 Ms. Loucks stated that the application was before the Board due to an affirmative answer to personal history regarding
12 admission to a mental health facility.
13

14 Motion made to approve the application for licensure as a registered chiropractic assistant.

15 Vote: unanimous; motion carried
16

17 **d. Elizabeth M. Weiss**

18 Applicant was not present and was not represented by counsel.
19

20 Ms. Loucks stated that the application was before the Board due to an affirmative answer to personal history and criminal
21 history questions.
22

23 Discussion:

24 Dr. Dougherty expressed concern that the arrest for cocaine was only 2 years ago and there was a DUI arrest one year ago.
25

26 Motion made to deny the application for licensure as a registered chiropractic assistant based on the criminal and drug issues.
27

28 Vote: 6 yeas / 1 opposed; motion carried
29

30 **e. Rishard Williams**

31 Applicant was not present and was not represented by counsel.
32

33 Ms. Loucks stated that the application was before the Board due to a final order taking disciplinary action against his
34 massage therapist license.
35

36 Motion made to deny the application for licensure as a registered chiropractic assistant due to misrepresentation on the
37 application and discipline by another board.
38

39 Vote: unanimous; motion carried
40

41 **f. Sarah E. Young**

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

44 Ms. Loucks stated that the application was before the Board due to an affirmative answer to criminal history for DUI and
45 having her driver's license suspended.
46

47 Motion made to deny the application for licensure as a registered chiropractic assistant based criminal history.

48 Vote: unanimous; motion carried
49

50 **Section VII ended at 2:03 p.m.**

51 **Section VIII began at 2:03 p.m.**
52

53 **VIII. RATIFICATION OF LICENSURE**

54 1. Chiropractic Physicians – CH 11261 through CH 11322

55 Motion made to ratify issuance of Chiropractic Physicians license numbers CH 11261 through CH 11322.

56 Vote: unanimous; motion carried
57
58

- 1 2. Certified Chiropractic Physician Assistants – CI 13170 through CI 13401
2 Motion made to ratify issuance of Certified Chiropractic Physician Assistants license numbers CI 13170 through CI 13401.
3 Vote: unanimous; motion carried
4
5 3. Registered Chiropractic Assistants – RCA 766 through RCA 774
6 Motion made to ratify issuance of Registered Chiropractic Assistants RCA 766 through RCA 774.
7 Vote: unanimous; motion carried
8

9 **Section VIII ended at 2:04 p.m.**

10 **Section IX began at 2:04 p.m.**

11
12
13 **IX. CHAIR/VICE CHAIR REPORT**

- 14
15 1. FCLB District III and V Meeting – All licensed Board members attended. FCLB is looking at Project
16 Passport regarding licensing of foreign trained chiropractors. Motion made to authorize two Board members to
17 attend the next meeting in New Orleans. Motion made to approve Dr. Fogarty and Dr. Heagy to attend that
18 meeting.
19

20 **Section IX ended at 2:05 p.m.**

21 **Section X began at 2:05 p.m.**

22
23 **X. EXECUTIVE DIRECTOR'S REPORT – not presented**

24
25 **Break 2:05 p.m.; Meeting resumed at 3:02 p.m.**

26 **Section XII began at 3:02 p.m.**

27
28 **XII. Committee Reports**

29
30 **5. Disciplinary Compliance**
31 **Last Appearance:**

32
33 **Marie Nadine Dorcelly, D.C.**

34 Dr. Dorsey was present and appeared with her monitor, James Antos, D.C.

35 Ms. Loucks stated this is Dr. Dorcelly's last required Board appearance and she asked to terminate her probation. Ms. Burnett
36 stated that Dr. Dorsey was in compliance and everything is completed. The Monitor stated Dr. Dorsey has done very well
37 under probation. Dr. Dorsey complemented the Monitor and stated she had helped put in place many safeguards, and the
38 practice had benefitted.
39

40 Motion made to terminate probation

41 Vote: unanimous; motion carried
42

43
44 **Section XII ended 3:03 p.m.**

45 **Section VI began 3:03 p.m.**

46
47
48 **VI. PETITION FOR VARIANCE/WAIVER:**

- 49
50 a. **Robert Michael Manestar, D.C.** - Petition for variance/waiver of rules 64B2-11.013, FAC and 64B2-17.003, FAC
51 Petitioner was present but not represented.
52 Petitioner gave a summary of the law in 1994 regarding acupuncture certification. He believed the Board licensed him under
53 the rule of restrictive practice, which was not in force when he was licensed. He has been certified in acupuncture in
54 Missouri for many years.
55

56 Ms. Loucks read the 1995 statute regarding licensure under section 460.406, F.S., which provides that acupuncture
57 certification was required when he was licensed. Ms. Loucks suggested Petitioner had not met the requirements because he

1 had not taken the exam. Ms. Loucks then advised the Board that it could grant his petition based on an exemption in 1995
2 allowing him to not take the exam, which she is not sure exists. The problem is that the law in effect today must be applied.
3

4 Dr. Fogarty described tiered licensure, which included acupuncture, which was later repealed. He asked Petitioner if he
5 could not take the test in Florida. Petitioner stated that he had taken the Missouri test and that test was the basis for the test
6 administered in Florida; he did not want to take another test. He stated he kept up his continuing education since Missouri
7 requires it.
8

9 Dr. Heagy asked why ask now for acupuncture? Petitioner stated he has been working on getting the certification for 8 years.
10 Dr. Fox asked if Petitioner hadn't been practicing acupuncture for 13 years, how had he kept up the skills? Petitioner stated
11 that acupuncture is a philosophy and an art, combining that with pain control and spinal manipulation is the key.
12

13 Motion made to call the question.

14 Vote: unanimous; motion carried
15

16 Motion to deny the petition to waive the requirements of rules 64B2-11.013, FAC and 64B2-17.003, FAC due to did not
17 satisfy the requirements of the statute by other means, enforcing the rule as to this applicant would not create an undue
18 hardship.
19

20 Vote: unanimous; motion carried
21

22 b. **Deborah Leveen, D.C.** – petition for variance/waiver of rule requiring continuing education
23 Petitioner was not present and not represented by counsel.
24

25 Petitioner completed 12 hours continuing education presented by Team CME. The course was not listed in CEBroker for the
26 date she took the course, but was listed there for other dates.
27

28 Motion made to grant the petition for variance/waiver finding this is the same course as that given at a chiropractic meeting
29 one month later, Petitioner satisfied the requirements of the statute by other means, and enforcing the rule as to this applicant
30 would not create an undue hardship.
31

32 Vote: unanimous; motion carried
33

34 **Section VI ended at 3:24 p.m.**

35 **Section XI began at 3:24 p.m.**
36

37 **XI. BOARD COUNSEL'S REPORT**

- 38 1. Rules Status Report provided by Ms. Loucks.
- 39 2. Rule 64B2-16.006, Florida Administrative Code – Ms. Loucks presented JAPC comments. Board asked that Board
40 Counsel look into whether there is another statutory provision that would allow the change.
- 41 3. Rule 64B2-15.001, Florida Administrative Code – language added to include ICPA to give Diplomates the ability to use
42 the initials after their name. H and D
43

44 **Section XI ended at 3:27 p.m.**

45 **Section XII began at 3:27 p.m.**
46

47 **XII. COMMITTEE REPORTS**

- 48 1. Budget – Mr. Colter no report
- 49 2. CCPA – Dr. Dougherty no report
- 50 3. Continuing Education – Drs. Hunt/Heagy, asked to make sure ICPA may administer its own test.
51
52
53

54 Motion made to add ICPA to 64B2-15.001(2)(e), Florida Administrative Code
55

56 Vote: unanimous; motion carried
57
58

1 Discussion of economic impact and impact on regulatory cost.

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

3
4 Vote: unanimous; motion carried

5
6 a. PACE Coffee Break – discussed at the FCLB. No need for additional national review of courses.

7
8 b. Providers & Courses approved by the Continuing Education Committee

9
10 Motion made to ratify committee approvals.

11
12 Vote: unanimous; motion carried

13
14 4. Credentials – Dr. Fogarty no report

15
16 5. Disciplinary Compliance – Dr. Fogarty. The Board complemented Ms. Burnett on the compliance packet available to
17 attendees and Respondent. The Board agreed that monitor must be onsite and pick his/her own files except on case by case
18 basis.

19
20 **Early Termination of Probation:**

21
22 Eduardo Ramierez, D.C.

23 Dr. Ramierez was present and represented by counsel, Louis V. Martinez.

24 Ms. Burnett stated a balance of \$213.96 was due on January 16, 2015. Balance is still due even if probation is terminated

25 Dr. Ramierez completed an additional year of probation because of a complaint for which no probable cause was found.

26
27 Motion made to terminate probation.

28
29 Vote: unanimous; motion carried

30
31 6. Examinations – Dr. Heagy no report

32
33 7. Healthiest Weight – Dr. Hunt

34
35 8. Legislative – Dr. Heagy asked for direction on addressing issues with FCS and FCA. Ms. Loucks suggested getting a
36 committee together that can meet by telephone, after being advertised as a public meeting. There are several statutes that
37 could be “cleaned up.” Mr. Colter and Dr. Heagy assigned to the committee, all other Board members and the public can
38 participate. Notice for meeting to be sent by the Board office. Mr. Colter asked for “mile markers” for getting things done.

39
40 9. Probable Cause – Drs. Dougherty/Fox/Heagy no report

41
42 10. Rules – Dr. Hunt no report

43
44 11. Unlicensed Activity – Ms. Pelaez reported on current cases. Massage establishment rule changed and if therapist is
45 strictly providing establishment license, then no license. If seeing other than chiropractor’s patients, then need license.

46
47 12. New business:

48
49 a. The Board created a new continuing committee for determining the recipient of the annual outstanding chiropractor
50 award – Dr. Heagy will chair.

51 b. Election of Officers for 2015 –

52 i. Nomination of Dr. Fogarty for Chair was made. Motion made to close the nominations.

53 Vote: unanimous; motion carried

54 ii. Nomination of Dr. Heagy for Vice Chair was made. Motion made to close the nominations.

55 Vote: unanimous; motion carried

56
57 **XIII. NEXT MEETING DATE:** January 9, 2015

1 **General Board Business concluded at 3:39 p.m.**

2
3 **XIV. ADJOURNMENT**

4
5 **The meeting was adjourned at 3:39 p.m.**