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**FLORIDA** | Board of Chiropractic Medicine  
Probable Cause Panel

MINUTES  
December 3, 2015

Conference Call  
Department of Health  
4042 Bald Cypress Way  
Tallahassee, FL 32399



Kevin Fogarty, D.C.  
**Chair**

Joseph Lesho  
**Program Operations Administrator**

Michele L. Jackson  
**Regulatory Supervisor/Consultant**

1 **Conference call started: 1:06 p.m.**

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

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5 **MEMBERS PRESENT:**

6 Sal LaRusso, D.C. - Chairperson  
7 Christopher Fox, D.C.

8  
9 **STAFF PRESENT:**

Anthony Spivey, DBA, Board Executive Director  
Michele L. Jackson, Regulatory Supervisor/Consultant  
Savada Knight, Regulatory Supervisor/Consultant

10 **BOARD COUNSEL:**

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

13  
14 **PROSECUTION COUNSEL:**

15 Jenifer Fortenberry., Esq., Assistant General Counsel  
16 Octavio Simoes-Ponce; Esq., Assistant General Counsel  
17 Christopher Dierlam, Esq., Assistant General Counsel  
18 Francis Carbone, Esq., Assistant General Counsel  
19 Department of Health, Office of the General Counsel  
20

21 **COURT REPORTER:**

22 Court Reporter: For the Record Reporting  
23 Phone: (850) 222-5491  
24 Contact: Kay Fitchner  
25

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

28  
29 Before the Reconsideration portion began, Ms. Loucks asked the panel members if they received all of the required materials in  
30 advance of the meeting. Dr. LaRusso and Dr. Fox stated yes.

31 Ms. Loucks asked the panel members if they had sufficient time to review the materials. Dr. LaRusso and Dr. Fox stated yes.

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33 Ms. Loucks asked the panel members if they experienced any problems while trying to review the materials. Dr. LaRusso and Dr. Fox  
34 stated no.

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36 Ms. Loucks asked the panel members if they felt that there were any circumstances that would disqualify or otherwise make it  
37 improper for them to hear and deliberate on any cases on the agenda. Dr. LaRusso and Dr. Fox stated no.

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40 **Reconsideration started at 1:11 p.m.**

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42 I. R-01 Richard W. Merritt, D.C.

43  
44 Richard W. Merritt, D.C. was not present on the conference call, and was not represented by Counsel.

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46 Mr. Dierlam presented case number 2011-12719 as a reconsideration of the original Administrative Complaint. At a  
47 previous meeting of the Probable Cause Panel, the Panel dismissed 1 count of the original Administrative Complaint,  
48 leaving only the count pertaining to recordkeeping. The department then requested that the remaining count be dismissed as  
49 well.

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51 Dr. LaRusso was not in favor of dismissal, stating that he believed a Letter of Guidance would be more appropriate. Dr. Fox  
52 agreed.

53  
54 Mr. Dierlam stated that a Letter of Guidance was no longer an option. Ms. Loucks stated that the case has already been  
55 reviewed by all 3 Probable Cause Panels; therefore, there may be issues with quorum should the case be presented to the  
56 Full Board for action.

57  
58 **Board action:** Motion to dismiss was made by Dr. Fox and seconded by Dr. LaRusso.

1                   Vote : 2 yeas / 0 opposed, motion carried.

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**The meeting was adjourned at 1:28 p.m**