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**FLORIDA | Board of Chiropractic Medicine**

**DRAFT MINUTES**

**April 8, 2016**

**Rosen Plaza Hotel  
9700 International Drive  
Orlando, Florida 32819**

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

**Danita Heagy, D.C.  
Vice-Chair**

**Anthony B. Spivey, DBA, M.S.  
Executive Director**



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1 **I. Call to Order (Started at 8:00AM and concluded at 8:05AM)**

2 The board meeting came to order at 8:00AM and the following members were present:

3 **MEMBERS PRESENT:**

- 4 Kevin Fogarty, D.C. F.I.C.A. (Hon.), Chair
- 5 Danita Heagy, D.C., Vice-Chair
- 6 Christopher Fox, D.C. ATC(L)
- 7 Julie Hunt, D.C., DICCP
- 8 Kenneth Dougherty, D.C.
- 9 David Colter

**STAFF PRESENT:**

- Dr. Anthony B. Spivey, Executive Director
- Michele Jackson, Regulatory Supervisor Consultant
- Kiana Redding, Regulatory Supervisor Consultant
- Towanda Burnett, Compliance Officer

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11 **MEMBERS ABSENT:**

- 12 Ruth Pelaez – excused

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14 **BOARD COUNSEL:**

- 15 Deborah Loucks, Assistant Attorney General
- 16 Office of the Attorney General

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18 **PROSECUTION COUNSEL:**

- 19 Christopher Dierlam
- 20 Assistant General Counsel

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22 **COURT REPORTER:**

23  
24 Dr. Fogarty and Dr. Spivey made remarks to the audience in recognition of Ms. Jackson’s upcoming  
25 retirement and her 35 years of service to the state of Florida and congratulated her for her service to  
26 the board.

27 **II. APPROVAL OF MINUTES (Started at 8:05AM and concluded at 8:12AM)**

28 The draft December 3, 2015 probable cause minutes were motioned for approval by Dr. Heagy and  
29 seconded by Dr. Hunt. There were no other corrections to the minutes.

30 Action: The board approved the minutes with no corrections noted.

31 Vote: 6 yeas/ 0 opposed

32 The draft February 5, 2016 full board minutes were motioned for approval by Dr. Heagy and seconded  
33 by Mr. Coulter. Mr. Coulter made note of a needed correction on page 15, line 54; the word  
34 “legislature” should be “legislator.” There were no additional corrections to the minutes.

35 Action: The board approved the minutes with no corrections noted. Motion passes with 6 yeas/ 0  
36 opposed.

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1 **III. FINAL ORDER ACTION (Started at 8:12AM and concluded at 9:04AM)**

2 **a. Settlement agreements**

- 3 i. Henry Joseph Battagliola – present with counsel (Mr. Franklin)  
4 Case# 2013-04520

5 The board wanted to make sure the monitor assigned to Dr. Battagliola is able to adequately  
6 review the records of the office. Dr. Fogarty recommended rejecting the current agreement and  
7 increase the number of monitoring records above 25%. Motion to reject made by Dr. Hunt and  
8 seconded by Dr. Fox, with full board approval. A new motion was made, which included the  
9 fines and costs from the original agreement and to have a minimum of 10 charts reviewed and  
10 the motion was made by Dr. Hunt and seconded by Dr. Fox along with two years’ probation. Dr.  
11 Weinstein will be the monitor. Dr. Weinstein requested clarification of his monitoring  
12 responsibilities and board counsel provided instructions to Dr. Weinstein of his monitoring  
13 duties.

14 Action: 6 yeas/ 0 opposed. Motion passes  
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- 16 ii. Dr. Brian Mutto – present with counsel (Mr. Dulougo)  
17 Case# 2015-22722  
18

19 Dr. Mutto noted that his business has gone down drastically because of his suspended license  
20 and apologized to the board. After reviewing the information Dr. Hunt moved to reject the  
21 current settlement agreement and it was seconded by Dr. Dougherty. A new settlement  
22 agreement was offered, which the fines and costs from the original agreement and having Dr.  
23 Mutto take additional ethics classes within 12 months. Dr. Mutto agreed to the new settlement  
24 agreement.

25 Action: 6 yeas/ 0 opposed. Motion passes  
26

27 **b. Hearng – No Disputed Material Facts Case**

- 28 i. Dr. Sha’ Meka Vince Mixon – present without counsel  
29 Case#2015-06673  
30

31 Dr. Mixon provided testimony as to her compliance, which is not in agreement with the terms of  
32 her requirements. Her fines are \$63,000, which are due over a nine-year period, which has not  
33 been paid as noted by Ms. Burnett. After review of the information and testimony from Dr.  
34 Mixon, Dr. Fox motioned to suspend her license until she comes into compliance and Dr.  
35 Dougherty seconded the motion.

36 Action: 6 yeas/ 0 opposed. Motion passes  
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1 **IV. Petition for Termination of Probation (Last Appearance) (Started at 0905 and paused for break at**  
2 **0923)**

3 i. Dr. Eileen Dvorkin - present without counsel

4 Dr. Dvorkin was seeking early release of probation from board. Dr. Dvorkin provided  
5 testimony to the board on her current status and upon hearing the information, Dr.  
6 Dougherty motioned to approve early termination based on her testimony of the issue.  
7 Dr. Fox seconded the motion. However, after further questioning of the Dr. Dvorkin of  
8 her status by the board, the motion was withdrawn. Dr. Hunt motioned to deny the  
9 petition for early termination of probation and Dr. Hunt seconded the motion.

10 Action: 6 yeas/0 opposed. Motion passes.

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12 ii. Marc Rachbind – present without counsel

13 Dr. Rachbind is requesting early termination of probation because of not being able to  
14 find a CE course in x-rays on MRI's earlier. He then testified he was able to find a course  
15 a day before the board meeting and enrolled in the course. Dr. Hunt questioned Dr.  
16 Rachbind on technical issues he learned from the information in the course he had  
17 attended and he responded in the positive to her questions. Based on testimony of Dr.  
18 Rachbind, Dr. Heagy motion to approve the petition for early termination of probation,  
19 and Mr. Coulter seconded the motion contingent upon Dr. Rachbind submitting proof of  
20 completion of the CE course.

21 Action: 6 yease/ 0 opposed

22 **V. PROSECUTION REPORT: (started at 12:02 and concluded at 12:04)**

23 Mr. Dierlam provided an updated report to the board and asked that he be allowed to continue  
24 pursuit of cases older than one year. Dr. Heagy motioned to accept the report and Dr. Dogherty  
25 seconded.

26 Action: 6 yeas/ 0 opposed. Motion passes.

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28 **VI. PETITIONS: (Session restarted at 9:48 and concluded at 10:50)**

29 a. Variance/Waiver

30 i. Paul Kalloghlian – present without counsel

31 Dr. Kalloghlian is requesting approval to have 12-month requirement approved  
32 because of missing his initial board meeting requirement after licensure. Based  
33 upon Dr. Kalloghlian's testimony, Dr. Dougherty motioned to approve the  
34 petition and Dr. Fox seconded the motion and approved today's meeting as the  
35 first initial meeting and required him to attend an additional meeting with the  
36 next two board meetings.

1 Action: 6 yeas/ 0 opposed. Motion passes.

2 10:08

3 ii. Dr. Greg Trotta – present with counsel Sandy Tompkin requesting reinstatement  
4 of his license by waiving a statute requirement.

5 Dr. Trotta was previously licensed when part IV of the examination was not  
6 required. Dr. Trotta chose not to pay his renewal fees which eventually  
7 rendered his license null and void. Based on his request for licensure, part IV is  
8 now a part of the examination process. Based on this evidence, board counsel  
9 recommended to the board to not approve the petition because he has only  
10 taken parts 1-3. Defendant’s counsel argued that his prior license should be  
11 considered under the old statute. However, board counsel reminded the board  
12 that since the license has gone null and void, the license application is now  
13 under current statutory requirements. Based on the information provided, Dr.  
14 Hunt motioned to reject the petition request and Dr. Dougherty seconded the  
15 motion.

16 Action: 6 yeas/ 0 opposed. Motion passes.

17 iii. Dr. Kristy Harvell – present without counsel

18 Dr. Harvell noted she overlooked the dates for meeting her initial meeting  
19 requirements for CE. Dr. Fox motioned to grant her petition and use today’s  
20 meeting as the first meeting with the stipulation she attend an additional  
21 meeting within the next two board meetings. Dr. Dougherty seconded the  
22 motion.

23 Action: 6 yeas/ 0 opposed. Motion passes.

24 iv. Dr. Kerry Kagan – present without counsel

25 Dr. Kagan is requesting to extend her initial 12-month meeting requirement to  
26 for CE credit. Dr. Kagan was practicing in Florida but not living in Florida. Dr.  
27 Dougherty motioned to accept the request and have her attend the meeting  
28 today and attend one additional meeting within the next 1 to 2 meetings. Dr.  
29 Fox seconded the motion.

30 Action: 6 yeas/ 0 opposed. Motion passes.

31 v. Dr. Peter Maschal – not present

32 Requesting approval of credit for a CE course not approved by the board. Dr.  
33 Dougherty motion to deny the request because the requirements have not been  
34 met. Dr. Fox seconded the motion.

35 Action: 6 yeas/ 0 opposed.

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vi. Dr. Jay Littlefield – not present  
Dr. Littlefield is requesting approval of his petition because he is in medical school. Dr. Dougherty motioned to approve the petition for this biennium but the laws and rules must be taken. Dr. Fox seconded the motion.

Action: 6 yeas/ 0 opposed. Motion passes.

vii. Dr. Adam Francis – present without counsel

Dr. Francis is requesting approval of his petition because he missed the initial meeting within 12 months for CE credit and also needs to complete his CE hours. After hearing Dr. Francis' information for not renewing Dr. Dougherty motioned to approve the petition with the stipulation he attend today's meeting and one additional meeting within the next 1-2 board meetings. Additionally, he was given an extension until May 3, 2016 to complete his continuing education hours. Dr. Heagy seconded the motion.

Action: 6 yeas/ 0 opposed. Motion passes.

viii. Dr. Jeffery Pittenger – present without counsel

Dr. Pittenger is requesting extension of requirement to complete the 40 hours of CE. He showed proof of a medical condition, which prevented him completing the CE within the time period. Based on the testimony and documentation provided, Dr. Dougherty motioned to grant the petition and Dr. Fox seconded the motion. The request was approved through May 3, 2016.

Action: 6 yeas/ 0 opposed. Motion passes.

ix. Dr. David Iadeluca – Not present at meeting and not represented

Dr. Iadeluca is requesting approval of an extension because he has not taken the HIV/AIDS course. Based on the documentation provided Dr. Julie Hunt motioned to approve the petition and Dr. Fox seconded the motion with the extension granted until May 5, 2016.

Action: 6 yeas/ 0 opposed. Motion passes.

x. Dr. James Spencer – Present, Not on agenda CH 10999 and not represented

Dr. Spencer is missing one hour of general CE, and is requesting the board to approve his appearance at meeting to meet the requirement. Dr. Danita Heagy motioned to approve the request and Dr. Dougherty seconded the motion.

Action: 6 yeas/ 0 Opposed

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xi. Dr. George Roteke CH8772 – Present, Not on agenda and not represented

Dr. Roteke testified to the board he is short on 2 hours of laws and rules, and also advised the board he is still practicing now on a delinquent license. After deliberation Dr. Dougherty motioned to have Dr. Roteke take and pass the laws and rules examination, and to also take an additional course in person by May 5, 2016. Dr. Heagy seconded the motion.

Action: 6 yeas/ 0 opposed

xii. Dr. Lauren Ellis – Present, Not on agenda and not represented CH11811 not represented.

Dr. Ellis is requesting approval of attendance at the meeting to meet her 12 month requirement within initial licensing. Dr. Ellis reported to the meeting late arriving at 8:45am but an accident on the highway caused her delay. After deliberation, Dr. Heagy motioned to approve Dr. Ellis’ attendance and for her to also provide a written report to the board office for the portion of the meeting she missed. Dr. Hunt seconded the motion.

Action: 6 yeas/ 0 opposed. Motion passes.

xiii. Dr. James Gregg – not present but represented by Ed Bayo and Paul Drake – not on the agenda.

Dr. Gregg is missing continuing education hours and wants to get board approval to approve courses that are not board approved courses. Dr. Gregg resides in Michigan and has been licensed since 1982 but was not able to give a reason as to why this year he could not meet his CE requirements. Dr. Gregg did attend courses with the Michigan Association of Chiropractors convention. After reviewing the courses taken by Dr. Gregg, Dr. Heagy motioned to accept the courses taken in Michigan and Dr. Hunt seconded the motion.

Action: 6 yeas/ 0 opposed.

iv. Dr. Meet Patel CH11356 Present, Not on the agenda and not represented

Dr. Patel is requesting approval from board for attendance at this meeting for not meeting 12-month meeting requirement because of life issues. The board required him to stay at the full meeting and attend one meeting within next 1 to 2 meetings. Dr. Dougherty made the motion and Mr. Coulter seconded it.

Action: 6 yeas/ 0 opposed. Motion passes.

- 1                   xv.       Dr. George Pangopoulos CH11482 Present, Not on agenda and not represented  
2                                    Did not meet 12-month requirement for meeting the notice. He indicated he  
3                                    had extenuating circumstances and recently moved from Michigan to Tampa.  
4                                    Dr. Dougherty motioned to approve the request and Dr. Fox seconded the  
5                                    motion.  
6                                    Action: 6 yeas/ 0 opposed. Motion passes.
- 7                   xvi.       Dr. Kevin Poulston CH11291 Present, Not on agenda and not represented  
8                                    Dr. Poulston did is requesting approval of attendance at today’s meeting for not  
9                                    meeting the board within 12-months of initial licensing. He indicated he could  
10                                   not meet the requirements because he did not have the funds to make the  
11                                   national boards. Dr. Fox indicated there are too many requests of this nature.  
12                                   The board noted that Dr. Poulston has gone eight months beyond his  
13                                   requirement. Dr. Heagy motioned to have Dr. Poulston to submit a petition to  
14                                   Ms. Loucks and be required to attend this meeting and, an additional meeting  
15                                   with the next 1 to 2 scheduled meetings. Mr. Coulter seconded the motion.  
16                                   Action: 6 yeas/ 0 opposed. Motion passes.
- 17                   xvii.     Dr. James Marshall CH11481 Present, Not on agenda and not represented  
18                                   Dr. Marshall submitted a variance/waiver request to attend the February 5  
19                                   meeting and through a mistake on his part missed the meeting and is asking for  
20                                   today’s meeting to count as his first attendance at a board meeting within 12-  
21                                   months of initial licensure. Mr. Coulter motioned to approve the request and  
22                                   added the attendance of one additional meeting within the next 1-2 meetings.  
23                                   Dr. Heagy seconded the motion.  
24                                   Action: 6 yeas/ 0 opposed. Motion passes.
- 25                   xiii.     Dr. Fiorre presented a variance/waiver request because of earlier suffering a  
26                                   stroke and is requesting extension of his CE renewal to complete his CE hours.  
27                                   The board after hearing the situation the board approve the extension to six  
28                                   months to complete his requirements.
- 29                   ix.       Dr. Carmine Esposito submitted a request for variance/waiver for an extension  
30                                   of CE because of circumstances. After contacting the board office Dr. Spivey  
31                                   was able to ascertain that Dr. Esposito chose to put his license on an inactive  
32                                   status. There eight additional licensees that were approved extensions in the  
33                                   office and Dr. Heagy motioned to ratify those and Dr. Dougherty seconded the  
34                                   motion.  
35                                   Action: 6 yeas/ 0 opposed.

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37                   b. Initiate Rulemaking Hearing – Rule 64B2-13.004 (Started at 1:05 and concluded at 1:30)



1 i. Albert Warner, D.C.

2 Dr. Warner presented a petition to the board to request approval of online  
3 continuing education courses. Board counsel noted that statute calls for  
4 contact hours, which the board currently interprets as in the classroom. The  
5 board suggested this may an item to submit in the legislative package for  
6 consideration. Mr. Paul Lambert provided comments to the board that online  
7 education is a subject for the legislature to decide on. Dr. Fox motioned to deny  
8 the petition request but move forward with researching the issue and Dr.  
9 Dougherty seconded the motion. The board appointed Dr. Dougherty as the  
10 lead for a task force on working with various organizations related to online  
11 continuing education courses.

12 Action: 6 yeas/ 0 opposed.

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14 Requesting approval because he is medically incapacitated. Deb read his information into the record  
15 explaining his hardship. Board approved six-months extension to complete CE credit because of his  
16 medical condition.

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18 **VII. APPLICATIONS PRESENTED FOR BOARD REVIEW: (Started at 1:30 and concluded at 2:15)**

19 a. Licensure

20 i. Chiropractic Physicians

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22 1. Dr. Keith Pyne – not present and not represented. The board wanted confirmation that  
23 a school loan had been paid before approving Dr. Pyne for licensure. Documentation  
24 was received by the board to that effect. Dr. Fox motioned to approve Dr. Pyne  
25 licensure request and Dr. Heagy seconded the motion.

26 Action: 6 yeas/ 0 opposed. Motion passes.

27 2. Dr. Louis Zwirble - present without counsel review audio to see what was the issue

28 Dr. Zwirble submitted a request for re-licensure after he previously voluntarily  
29 relinquished his license for not meeting the 12-month board meeting requirement  
30 within the first year of licensing. After hearing Dr. Zwirble’s testimony Dr. Heagy  
31 motioned to approve the request and Dr. Fox seconded the motion.

32 Action: 6 yeas/ 0 opposed. Motion passes.

33 3. Dr. Juliet Marvenko – present without counsel

34 Dr. Marvenko was before the board for making documentation errors in her practice  
35 and made testimony to the board apologized for the errors made on documentation

1 and discussed how she has learned from the mistake. After deliberation Dr. Fox  
2 motioned to approve her application and Dr. Heagy seconded the motion.

3 Action: 6 yeas/ 0 opposed.

4 4. Dr. Michael Miller – present and represented by Counsel Ed Bayo

5 Dr. Miller was accused of submitting claims to Medicare for experimental procedures  
6 that were approved for other chiropractors as stated by his counsel and his license was  
7 relinquished for such action. Dr. Miller is now requesting his license be re-instated.  
8 Based on the testimony heard by the board and presentation by counsel, Dr. Dougherty  
9 motioned to approve the application and Dr. Fox seconded it.

10 Action: 6 yeas/ 0 opposed. Motion passes.

11  
12 ii. Registered Chiropractic Assistants

13 1. Mr. Carlos Granela – not present and not represented

14 Mr. Granela answered yes to a criminal history question on his application for licensure.  
15 He previously work in a massage establishment that was cited for not having a facility  
16 license along with 17 other individuals employed in the business. Information was later  
17 divulged that the facility was charged and not any of the individuals working there.  
18 After hearing information from board counsel Dr. Fox motioned to approve the  
19 application and Dr. Heagy seconded it.

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21 **VIII. RATIFICATION (Started at 2:15 and concluded at 2:18)**

22 a. Licensure

23 i. Chiropractic Physicians

24 Motioned to approve by Dr. Heagy, seconded by Dr. Hunt

25 Action: 6 yeas/ 0 opposed. Motion passes.

26  
27 ii. Registered Chiropractic Assistants

28 Motioned to approve by Dr. Dougherty, seconded by Dr. Heagy

29 Action: 6 yeas/ 0 opposed. Motion passes.

1                   iii. Certified Chiropractic Physician Assistants  
2                   Motioned to approve by Dr. Dougherty, seconded by Dr. Hunt  
3                   Action: 6 yeas/ 0 opposed. Motion passes.

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5                   iv. Chiropractic Faculty Certification  
6                   None listed

7                   **b. CE Providers and Courses Approved by Committee Chair**

8                   Motioned to approve by Dr. Hunt, seconded by Dr. Dougherty  
9                   Action: 6 yeas/ 0 opposed. Motion passes.

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11 **IX. CHAIR/VICE-CHAIR REPORT: (Started at 2:18 and concluded at 2:20)**

12                   a. None

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14 **X. EXECUTIVE DIRECTOR'S REPORT (Started at 2:20 and concluded at 2:23)**

15                   Dr. Spivey informed the board of the upcoming GoTravel program they will be required to use  
16                   for future travel vouchers. The board was informed that as information develops, they will be  
17                   apprised of the program. Additionally, the board was made aware that starting with their June  
18                   3, 2016 meeting, they will be introduced to the viewer for using the electronic agenda for all  
19                   future board meetings.

20 **XI. BOARD COUNSEL REPORT (Started at 2:23 and concluded at 2:40)**

21                   a. Rules Status Report – April 2016

22                   Ms. Loucks provided an update on Rule 64B2-11.001 Application for Licensure Examination,  
23                   which updates the web link to access the application.

24                   Ms. Loucks presented Rule 64B2-13.0045 for removing the medical errors language based on  
25                   changes in HB941. Dr. Dougherty motioned to approve the update and Dr. Heagy seconded the  
26                   motion.

27                   Action: 6 yeas/ 0 opposed.

28                   Ms. Loucks presented the initial application which includes the requirement for medical errors  
29                   course completion. HB 941 deleted the requirement for initial licensure but required it be  
30                   completed as a requirement of renewal. Doctor Heagy motioned to approve the update and Dr.  
31                   Hunt seconded the motion. No SERC required.

32                   Action: 6 yeas/ 0 opposed

1 The Certified Chiropractor Physician Assistant application has the same requirement for  
2 completion of the medical errors course upon initial licensure. Dr. Hunt motioned to approve  
3 the update and Dr. Fox seconded the motion. No SERC required.

4 Action: 6 yeas/ 0 opposed. Motion passes.

5 64B2-13.004 presented proposed language to change the general hours category of continuing  
6 education from 7 hours up to 19 hours for general examination administration participation.  
7 Motion to approve the language was made by Dr. Fox and seconded by Dr. Hunt. No SERC  
8 required.

9 Action: 6 yeas/ 0 opposed. Motion passes.

10 64B2-13.0045 CF/JH approved request No SERC required. Stopped 1;50

11 The board discussed drafting a rule for receiving continuing education services for providing pro  
12 bono services but after discussion chose not to address the issue. 1:50  
13

14 Rule 64B2-13.007 was presented by board counsel with proposed language to make it more  
15 clear to licensees they are required to attend a Board of Chiropractic board meeting within 12-  
16 months of their initial licensing. Dr. Hunt moved to approve the proposed language and Dr. Fox  
17 seconded the motion. No SERC required.

18 Action: 6 yeas/ 0 opposed. Motion passes.

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20 **XII. COMMITTEE REPORTS: (Started at 2:40 and concluded at 2:42)**

21 a. Budget – Mr. Colter

22 Mr. Coulter presented the financials for period July 1- December 31, 2015. The board wanted  
23 to know if there were any pending legislative cash sweeps and Dr. Spivey indicated he has not  
24 been apprised of any information regarding cash sweeps.

25 b. CCPA- Dr. Dougherty – none

26 c. Continuing Education – Drs. Heagy/Hunt – only the information previously addressed

27 d. Disciplinary Compliance – Dr. Fogarty

28 e. Examination – Dr. Heagy – none

29 f. Healthiest Weight – Dr. Hunt none

30 g. Legislation – Dr. Heagy/ Coulter

31 h. Probable Cause – Drs. Dougherty/Fox/Hunt

32 i. Rules – Dr. Hunt – none

33 j. Unlicensed Activity – Ms. Pelaez- None

1 k. Outstanding Service Award – Dr. Heagy – Dr. Heagy requested that presentation of the award  
2 be held off until after the June 3 meeting to allow time for additional submission of candidates  
3 for the award, and also requested Dr. Spivey to inquire of the department of placing information  
4 on the website giving information of the award.

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7 **XIII. OLD BUSINESS (Started at 2:42 and concluded at 2:42)**

8 None

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10 **XIV. NEW BUSINESS (Started at 2:43 and concluded at 2:43)**

11 None

12 **XV. NEXT MEETING DATE: (Started at 2:43 and concluded 2:43)**

13 a. June 3, 2016 – Orlando

14 **XVI. ADJOURNMENT**

15 Meeting adjourned at 2:44PM.

16