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FLORIDA | Board of Chiropractic Medicine

MEETING MINUTES
August 12, 2016
The Florida Hotel and Conference Center
1500 Sand Lake Road
Orlando FL 32809

Kevin Fogarty, D.C., F.I.C.A.
Chair

Danita Heagy, D.C.
Vice-Chair

Anthony B. Spivey, D.B.A.
Executive Director

1 The Florida Board of Chiropractic Medicine held a meeting on Friday, August 12, 2016, commencing at
2 8:30 a.m., or shortly thereafter. This meeting was held at the Florida Hotel and Conference Center, 1500
3 Sand Lake Road, Orlando, FL 32809, 407 641-3450. Participants in this public meeting should be aware
4 that these proceedings are being recorded and that an audio file of the meeting will be posted to the
5 board's website. <http://floridaschiropracticmedicine.gov/>

6
7 **AGENDA**

8
9 **General Board Business started: 8:53 a.m.**

10 **I. CALL TO ORDER (Roll Call):**

11 The meeting was called to order by Dr. Fogarty, chair. Those present for all or part of the meeting included the following:

12
13 **BOARD MEMBERS:**

14 Kevin Fogarty, D.C., F.I.C.A., Chair
15 Danita Heagy, D.C., Vice-Chair
16 Christopher Fox, D.C., ATC
17 Julie Hunt, D.C., DICCP
18 Kenneth Dougherty, D.C.
19 David Colter
20 Ruth Pelaez

21
22 **STAFF PRESENT:**

23 Anthony Spivey, D.B.A., Board Executive Director
24 Gail Curry, Program Operations Administrator
25 Karen Miller, Administrative Assistant II
26 Towanda Burnett, Compliance Office

27
28 **BOARD COUNSEL:**

29 Deborah Loucks, Esq., Assistant Attorney General
30 Office of Attorney General

31
32 **PROSECUTION COUNSEL:**

33 Christopher Dierlam, Assistant General Counsel

34 **AUDIO/VISUAL:**

35 Vanguard Audio Visual

36 **COURT REPORTER:**

37 American Court Reporting
38 Diana Brundage
39 (407) 896-1813

40
41 **II. APPROVAL OF MINUTES:**

42
43 **Action:** Motion to review the June 3, 2016 minutes was made by Dr. Dougherty. Seconded by Dr. Fox.
44 Vote: 7 yeas / 0 opposed; motion carried

45
46 a. Minutes of the June 3, 2016 General Business Meeting were reviewed.
47 The following corrections were made to the minutes:
48 Page 4, should reflect - List the Board counter offer.
49 Page 4, should reflect - Should list that Board offered a counter and Dr. Belletto accepted the settlement
50 offer.

1 Page 4, should reflect – Belletto the word cited is misspelled.
2 Page 4, Under Kidd, DISCUSSION: should reflect LLaudy not Lludy
3 Page 5, Under 1st ACTION should be for informal hearing not license.
4 Page 5, Motion to approve RESPONDENT needs to be added.
5 Page 10, under new Business. Wants to have his statement to reflect more details.
6 Page 10, on future dates list place of meeting.

7
8 **Action:** Motion to approve the minutes [with the noted corrections] was made by Dr. Heagy.
9 Seconded by Dr. Dougherty.
10 Vote: 7 yeas / 0 opposed; motion carried

11
12 **III. FINAL ORDER ACTION:**

13
14 **a. Settlement Agreement –**

15
16 **i. Mark A. Silverman, D.C.**
17 Case #: 2013-06969
18 PCP: LaRusso/Fox
19 Present and represented by E. Bayo

20
21 Christopher Dierlam presented to case.
22 Section 460.13(1) (m), Florida Statutes (2010-2012), and/or Rules 64B2-17.0064, Florida
23 Administrative Code (2010-2012) by failing to keep adequate medical records for patients.

24
25 Mr. Bayo addressed the board on behalf of his client. The respondent also addressed the board.

26
27 **Discussion:** Agreement of inadequate record keeping. He has taken action for improvement.

28
29 **Action:** Motion to approve the settlement agreement as is was made by Dr. Dougherty.
30 Seconded by Dr. Heagy.
31 Vote: 6 yeas / 0 opposed; motion carried
32 Dr. Fox is recused.

33
34 **b. Determination of Waiver –**

35
36 **i. Tanya Hlinka, D.C.**
37 Case #: 2015-25876
38 PCP: Hunt/Jenkins
39 Present and represented by E. Bayo

40
41 Christopher Dierlam presented case.
42 Failing to attend a Board meeting within two years from the first Final Order. Failing to make
43 her monthly payments towards fines and costs as required by the first and second Final Orders.

44
45
46 **Action:** Motion to approve the respondent was properly served the Administrative Complaint
47 made by Dr. Dougherty. Seconded by Dr. Heagy.
48 Vote: 6 yeas / 0 opposed; motion carried
49 Dr. Hunt is recused.

50
51 Mr. Bayo had no objections.

52

1 **Action:** Motion to approve the respondent was properly served the Administrative Complaint made by Dr.
2 Dougherty. Seconded by Dr.Heagy.
3 Vote: 6 yeas / 0 opposed; motion carried
4 Dr. Hunt is recused.
5
6 Mr. Bayo had no argument.
7
8 **Action:** Motion to approve the respondent failed to file an Election of Rights made by Dr. Heagy.
9 Seconded by Dr. Dougherty.
10 Vote: 6 yeas / 0 opposed; motion carried
11 Dr. Hunt is recused.
12
13 Mr. Bayo had no argument.
14
15 **Action:** Motion to approve the Finding of Facts as set forth by the Administrative Complaint was made by
16 Dr. Dougherty.
17 Seconded by Dr. Fox.
18 Vote: 6 yeas / 0 opposed; motion carried
19 Dr. Hunt is recused.
20
21 **Action:** Motion to adopt the Conclusion of Law as set forth by the Administrative Complaint to find that is
22 a violation of the Practice Act was made by Dr. Fox. Seconded by Ms. Pelaez.
23 Vote: 6 yeas / 0 opposed; motion carried
24 Dr. Hunt is recused.
25
26 Mr. Bayo addressed the board on behalf of his client. The respondent also addressed the board.
27
28 **Discussion:** Discussion ensued.
29
30 **Action:** Motion to accept the Investigative Report into evidence for imposing penalty made by Dr. Heagy.
31 Seconded by Mr.Colter.
32 Vote: 6 yeas / 0 opposed; motion carried
33 Dr. Hunt is recused.
34
35 Recommendation was made by the board that respondent be suspended until she becomes compliant
36 with the Final Order.
37
38 **Action:** Motion to open discussion made by Dr. Dougherty. Seconded by Mr.Colter.
39 Vote: 6 yeas / 0 opposed; motion carried
40 Dr. Hunt is recused.
41
42 **Discussion:** Options were discussed. Suspension to be lifted and a Final Order will be drafted.
43
44 **Action:** Motion to withdraw the Suspension made by Dr. Dougherty. Seconded by Mr. Colter.
45 Vote: 6 yeas / 0 opposed; motion carried
46 Dr. Hunt is recused.
47
48 **Action:** Motion to stay her suspension. If payments are not made within 2 weeks from the due date, with
49 the minimum payment of \$300 monthly, the stay is lifted and a new Administrative Complaint will be filed
50 and she will come back before the Board for further action was made by Dr. Dougherty. Seconded by Mr.
51 Colter.
52 Vote: 6 yeas / 0 opposed; motion carried

1 Dr. Hunt is recused.

2

3 **Action:** Motion to have CE's added. Three hours of Risk Management and 2 hours of another CE and
4 50 Community service hours to be completed in 1 year was made by Dr. Dougherty.

5 Seconded by Mr. Colter.

6 Vote: 6 yeas / 0 opposed; motion carried

7 Dr. Hunt is recused.

8

9 **Action:** Motion to pay costs of \$43.73 was made by Dr. Dougherty. Seconded by Dr. Fox.

10 Vote: 6 yeas / 0 opposed; motion carried

11 Dr. Hunt is recused.

12

13 **c. Voluntary Relinquishment**

14

15 **i. Dadesky Ivory Saintil**

16 Case # 2014-07243

17 PCP: Fox/Heagy

18 Not present.

19

20 **Discussion:** Discussion was held on the acceptance of the Voluntary Relinquishment.

21

22 **Action:** Motion to accept the Voluntary Relinquishment was made by Dr. Dougherty.

23 Seconded by Mr. Colter.

24 Vote: 7 yeas / 0 opposed; motion carried

25

26 ****TAKEN OUT OF ORDER**

27

28 **IV. COMPLIANCE –**

29

30 **a. Petition for Termination of Probation (Last Appearance) –**

31

32 **i. Ronald Gold, D.C.**

33 Case #: 2008-05773 & 2008-06554

34 Present

35

36 **Discussion:** Dr. Gold gave a brief statement.

37

38 **Action:** Motion to accept Termination of Probation was made by Dr. Heagy.

39 Seconded by Dr. Fox.

40 Vote: 7 yeas / 0 opposed; motion carried

41

42 ****TAKEN OUT OF ORDER**

43

44 **VII. PROSECUTION REPORT:**

45

46 Christopher Dierlam gave the Case inventory.

47

48 **Action:** Motion to accept Prosecution Report and continue to prosecute cases over a year old was made
49 by Ms. Pelaez. Seconded by Dr. Fox.

50 Vote: 7 yeas / 0 opposed; motion carried

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52 **VI. COMPLIANCE –**

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Termination of Probation

Gustavo Acosta, D.C.
2006-30571; 2006-32322; 2007-10151
Not in attendance

Discussion: Requesting early termination of probation. Not tolled. CE's are complete. Making monthly payments.

Action: Motion to deny early termination of probation was made by Dr. Hunt.
Seconded by Dr. Dougherty.
Vote: 7 yeas / 0 opposed; motion carried

IV. PETITION FOR WAIVER AND VARIANCE:

Wallace C. Wade, D.C.

Not in attendance

Discussion: Dr. Wallace took 26 CE hours in 2016 and wants them to be approved for the 2016-2018 renewal.

Action: Motion to accept the CE was made by Mr. Colter. Seconded by Dr. Dougherty.
Vote: 7 yeas / 0 opposed; motion carried

V. DECLARATORY STATEMENT:

Sports and Spine, Inc.

Discussion: Deborah Loucks explained that the Declaratory Statement was not in compliance with the Statutory and Rule requirements.

Action: Motion to decline to answer the Declaratory Statement was made by Dr. Hunt.
Seconded by Dr. Heagy.
Vote: 7 yeas / 0 opposed; motion carried

VIII. ONLINE CONTINUING EDUCATION DISCUSSION:

Action: Defer to the workshop to be held right after Board Meeting.

IX. APPLICATIONS PRESENTED FOR BOARD REVIEW:

a. Licensure –

i. Chiropractic Physicians –

1. Philip Gregory Rodger

Present

Discussion: Dr. Rodger explained his answers to the health/conviction questions.

Action: After discussion, motion to approve the application was made by Dr. Fox.
Seconded by Dr. Hunt.
Vote: 7 yeas / 0 opposed; motion carried

1
2 ii. Registered Chiropractic Assistant –
3

4 **1. Victoria Lake**

5 Not in attendance
6

7 **Discussion:** Paperwork was reviewed for her CCPA application. Dr. Dougherty had
8 interviewed Ms. Lake paperwork previously. Ms. Lake has taken appropriate actions to
9 correct her issues.

10
11 **Action:** Motion to approve application for CCPA was made by Dr. Dougherty.
12 Seconded by Dr. Fox.
13 Vote: 7 yeas / 0 opposed; motion carried
14

15 **X. RATIFICATION:**

16
17 a. Licensure –
18

19 i. Chiropractic Faculty Certification
20

21 License number
22 25
23

24 **Action:** Motion to approve was made by Dr. Heagy. Seconded by Dr. Fox.
25 Vote: 7 yeas / 0 opposed; motion carried
26

27 ii. Registered Chiropractic Assistant
28

29 License numbers
30 15191 - 15533
31

32 **Action:** Motion to approve was made by Ms. Peleaz. Seconded by Dr. Heagy.
33 Vote: 7 yeas / 0 opposed; motion carried
34

35 iii. Chiropractic Physician
36

37 License numbers
38 11849 – 11901
39

40 **Action:** Motion to approve was made by Dr. Fox. Seconded by Dr. Dougherty.
41 Vote: 7 yeas / 0 opposed; motion carried
42

43 iv. Certified Chiropractic Physician
44

45 License numbers
46 813 - 818
47

48 **Action:** Motion to approve was made by Dr. Fox. Seconded by Dr. Dougherty.
49 Vote: 7 yeas / 0 opposed; motion carried
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51 b. CE Providers and Courses Approved by Committee Chair

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Action: Motion to accept the CE as listed was made by Dr. Heagy. Seconded by Dr. Dougherty.
Vote: 7yeas / 0 opposed; motion carried

c. CE for National University of Health Sciences

Action: Motion to approve the CE as listed was made by Mr. Colter. Seconded by Dr. Dougherty.
Vote: 6 yeas / 0 opposed; motion carried
Dr. Fogarty recused himself.

XI. CHAIR/VICE-CHAIR REPORT:

a. Future Agenda Items

Dr. Heagy has concerns about the use of the term “Chiropractic Medicine” as a degree.
This needs more clarity.

Dr. Fogarty asked about FCLB meeting in September in Nashville. Chair and Vice Chair will be attending.

XII. EXECUTIVE DIRECTOR’S REPORT:

Dr. Spivey reminded the Board about Chair/Vice Chair and the Healthy Weight meetings in September 27 - 28.

Dr. Heagy will be attending both.

XIII. BOARD COUNSEL ’S REPORT:

a. Declaratory Statement – Sports and Spine, Inc.

b. JAPC Letter – Rule 64B2-11.001

No action needed by Board

c. JAPC Letter – Rule 64B2-13.004

CE question. Ms. Loucks asked for approval to write a letter to JAPC to address the CE.

Action: Board gave the Ms. Loucks the ok to respond.

d. JAPC Letter – Rule 64B2-18.002

No action needed by Board

e. Letter from Dr. Dennis Anthony, D.C.

This is for information only.

XIV. COMMITTEE REPORTS:

a. Budget – Colter

Has not heard if there was a cash sweep. None done at this time.

- 1 b. CCPA – Dr. Dougherty
2 Nothing to report.
3
4 c. Continuing Education – Drs. Heagy/Hunt
5 Check with CE Broker to see about the breakdown of the hours.
6
7 d. Disciplinary Compliance – Dr. Fogarty
8 Nothing to report.
9
10 e. Examination – Dr. Heagy
11 Nothing to report.
12
13 f. Healthiest Weight – Dr. Hunt
14 Nothing to report.
15
16 g. Legislation – Dr. Heagy/Mr. Colter
17 Nothing to report.
18
19 h. Probable Cause – Drs. Dougherty/Fox/Heagy
20 Nothing to report.
21 Dr. Heagy is no longer on this committee. Dr. Hunt will replace her.
22
23 i. Stats
24
25 i. Rules – Dr. Hunt
26 Nothing to report.
27
28 i. Unlicensed Activity – Ms. Pelaez
29 3 cases being monitored.
30
31 j. Outstanding Service Award – Dr. Heagy
32 Will be presenting this at the next meeting to the chosen recipient.
33

34 **XV. OLD BUSINESS:**

35 No old business.
36
37

38 **XVI. NEW BUSINESS:**

39 No new business.
40
41

42 **XVII. NEXT MEETING DATE:**

- 43
44 a. November 4, 2016 – Orlando needs to be changed to Ft. Lauderdale if possible.
45 Question about this meeting being in Orlando instead of Ft. Lauderdale.
46 Dr. Spivey will check on this.
47

48 **XVIII. ADJOURNMENT**

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Action: Motion to adjourn the meeting was made by Ms. Pelaez.
Seconded by Dr.Heagy.
Vote: 7 yeas / 0 opposed; motion carried

The meeting was recessed at 11:56 p.m.

RULES COMMITTEE ADDRESSING ONLINE CE CALLED TO ORDER:

The meeting was called to order by Dr. Fogarty, Chair.
Board Members and Staff introduced themselves and were present during the entire meeting.

BOARD MEMBERS:

Kevin Fogarty, D.C., F.I.C.A., Chair
Danita Heagy, D.C., Vice-Chair
Christopher Fox, D.C., ATC
Julie Hunt, D.C., DICCP
Kenneth Dougherty, D.C.
David Colter
Ruth Pelaez

STAFF PRESENT:

Anthony Spivey, Board Executive Director
Gail Curry, Program Operations Administrator

BOARD COUNSEL:

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

RULES FOR ONLINE CE

3 minutes for speakers to present. Must be sworn in if not an attorney.

Discussion: Many speakers came forward to speak on the subject of online CE.

Action: Motion to develop/change a Statute or Rule regarding online CE was made by Ms. Pelaez.
Seconded by Dr.Heagy.
Vote: 7 yeas / 0 opposed; motion carried

Action: Motion to recommend a statutory change to 20% - 8 hours online CE's was made by Dr. Dougherty. Seconded by Ms. Pelaez.
Motion was withdrawn by Ms. Pelaez. Second was withdrawn by Dr. Dougherty.

Discussion: Discussion ensued between the Board Members to construct language for a Statutory/Rule change.

BREAK (12:32)

Action: Motion to recommend this be added to the Legislative package allowing up to 50% of CE hours may be acquired online was made by Ms. Pelaez. Seconded by Dr. Hunt.

Discussion: Discussion ensued between the Board Members to decide if this should be a Statute or Rule change. This issue will be moved to the November meeting in order to hear from the public and the vendor's. Dr. Hunt will work with Dr. Spivey to invite the vendor's to the November meeting.

- 1
- 2 **Action:** Motion to adjourn the meeting was made by Dr. Dougherty. Seconded by Dr. Hunt.
- 3 Vote: 7 yeas / 0 opposed; motion carried