

1 The Florida Board of Chiropractic Medicine will hold a meeting on Friday, May 12, 2017,
2 commencing at 8:30 a.m. This meeting will be held at the Rosen Plaza, 9700 International Drive,
3 Orlando, Florida 32819, (407) 996-2315, to which all persons were invited to attend. Participants
4 in this public meeting were made aware that these proceedings were being recorded and that an
5 audio file of the meeting will be posted to the board's website.

6

7 **AGENDA**

8 **Section I began: 8:40 a.m.**

9

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

11 **Board Members Present:**

12 Kevin Fogarty, D.C., F.I.C.A. (Hon), Chair
13 Danita Heagy, D.C., Vice-Chair
14 Christopher Fox, D.C., ATC(L)
15 Julie Hunt, D.C., DICCP
16 Kenneth Dougherty, D.C.
17 David Colter
18 Ruth Pelaez

19

20 **Board Staff Present:**

21 Dr. Anthony Spivey, Board Executive Director
22 Gail Curry, CPM, Program Operations Administrator
23 Savada Knight, Regulatory Supervisor/Consultant

24

25 **Board Counsel:**

26 Lawrence Harris, Assistant Attorney General
27 Office of Attorney General

28

29 **Prosecution Counsel:**

30 Peter Delia, Assistant General Counsel
31 Jennifer Weaver, Assistant General Counsel

32

33 **COURT REPORTER:**

34 American Court Reporting

35

36 **AUDIO/VISUAL:**

37 Vanguard Audio Visual

38

39 **Section I ended: 8:42 a.m.**

40 **Section II began: 8:42 a.m.**

41

42

43 **II. APPROVAL OF MINUTES:**

44

45 a. January 27, 2017 - Board Meeting

46

47 **Action:** Motion to review the minutes was made by Dr. Fogarty. Seconded by Dr. Heagy.

48

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

50

51 a. Minutes of the January 27, 2017 General Business Meeting were reviewed.

52

53 Corrections to the minutes:

54

55 Page 3, line 16 should reflect the phrase “respondent demonstrating the ability safely practice”.

56 Page 4, line 40 should reflect “motion to deny CE hours.” Remove the phrase for life.

57 Page 4, line 42 should reflect Mr. Colter, not Dr. Colter.

58 Page 10, line 3 should reflect “Explanation of how Activator Online CE Works”.

59 Page 10, line 28 should reflect “excess” and remove “access”

60 Page 3, line 30 should reflect “Dr. Heagy”. Dr. Hunt was recused.

61 Page 7, line 19 should reflect Greely, Colorado and not Port Orange.

62

63 **Action:** Motion to approve the minutes was made by Dr. Heagy. Seconded by Dr. Dougherty.

64

65 **Vote:** 7 yeas / 0 opposed; motion carried.

66

67 **Section II concluded: 8:44 a.m.**

68 **Section III began: 8:44 a.m.**

69

70 **III. FINAL ORDER ACTION:**

71

72 **a. Settlement Agreements:**

73

74 i. Ayhem A. Sabry, D.C.,

75

76 **Case No. 2016-19061:**

77

78 Dr. Sabry was not present. He was represented by counsel, Michael Lowe. Ms. Weaver
79 presented the case. An administrative complaint was filed against Dr. Sabry for the inability to
80 keep medical records that conform to the minimum standards. Dr. Sabry currently practices
81 overseas in Dubai.

82

83 **Action:** Motion to reject the settlement agreement made by Dr. Dougherty. Seconded by Dr.
84 Hunt.

85

86 **Vote:** 6 yeas / 0 opposed; motion carried.

87

88 Dr. Fox was recused on this case.

89 The fine was increased to \$5,000.00 and \$1,000 in costs. The payments can be made quarterly
90 over the course of two years. Dr. Sabry is to be placed on probation for two years with a monitor
91 upon his return to Florida. The SPEC exam and an ethics exam is to be taken and passed within
92 1-year; these are offered online thru national board. Also required is 6 hours of documentation on
93 record-keeping and 6 hours of risk-management that is to be taken within 1-year. A letter of
94 reprimand will be issued. There are CE credits that are available overseas. These can be put
95 before the board so Dr. Sabry can go ahead and get these approved. Mr. Lowe requested the
96 continuing education be allowed overseas with clear language in the final order. The continuing
97 education is required to be live. The counter settlement agreement will be responded to within 30
98 calendar days by Mr. Lowe after consulting with Dr. Sabry.

99
100 **Action:** Motion to accept the amended settlement agreement made by Dr. Dougherty. Seconded
101 by Dr. Hunt.

102
103 **Vote:** 6 yeas / 0 opposed; motion carried.

104
105 **b. Informal Hearings:**

106
107 i. Olivio Blanco, Jr., D.C.

108
109 **Case No. 2016-08757**

110
111 Present. Not represented by counsel. The case was presented by Mr. Delia. The department
112 alleges the respondent violated Section 460.413(1) (v) by violating a lawful order of the board.
113 The case numbers are: 2011-15047, 2011-15123, 2011-15199, and 2011-15200. The final order
114 required the respondent pay an administrative fine of \$4,000 in 36 months of equal payments of
115 \$112.00. The respondent failed to do this. The respondent was required to pay administrative
116 costs in the amount of \$18,640.13 in sixty equal payments of \$310.67 per month. The respondent
117 failed to do this. A new administrative complaint was filed on August 2, 2016 after which, he
118 filed an election of rights requesting a hearing not involving issues disputed in material fact.

119
120 **Action:** Motion to allow evidence made by Dr. Hunt. Seconded by Dr. Fox.

121
122 **Vote:** 7 yeas / 0 opposed; motion carried.

123
124 The department asked the chair to find the allegations in the administrative complaint as the
125 allegations of fact by the board.

126
127 **Action:** Motion to find allegations of fact made by Dr. Heagy. Seconded by Ms. Peleaz.

128
129 **Vote:** 7 yeas / 0 opposed; motion carried.

130
131 The board moved Dr. Blanco was properly served and requested a 120.57(2) hearing.

132
133 **Action:** Motion to find Dr. Blanco was properly served made by Dr. Heagy. Seconded by Dr.
134 Hunt.

135 **Vote:** 7 yeas / 0 opposed; motion carried.

136

137 The department asked the chair to find the respondent in violation of the administrative
138 complaint.

139

140 **Action:** Motion to find violation of the administrative complaint made by Dr. Hunt. Second by
141 Dr. Fox.

142

143 **Vote:** 7 yeas / 0 opposed; motion carried.

144

145 The license was recommended for suspension until the respondent is fully compliant of board
146 order 14-1976-S-MQA. The respondent is to receive a reprimand, a fine of \$1,000 and
147 administrative costs in the amount of \$297.11. When Dr. Blanco is in full compliance, his license
148 could be reinstated. The payment is due within 90-days of reinstatement of his license. The
149 respondent will be suspended until the ethics and boundaries exam is taken.

150

151 **Action:** Motion to accept the settlement agreement by Dr. Heagy. Seconded by Dr. Fox.

152

153 **Vote:** 7 yeas / 0 opposed; motion carried.

154

155 ii. Tanya Kahl, D.C.

156

157 **Case No. 2016-18424**

158

159 Dr. Kahl is present. She is not represented by counsel. The respondent is being charged with
160 violating Section 460.413(1)(v) by violating a lawful order of the board. The respondent failed to
161 comply with order DOH-14-1977-S-MQA. The order required Dr. Kahl to take and pass the
162 ethics and boundaries examination within 18 months of the filing date of the final order. She
163 failed to this. The respondent was to also to pay the fine of \$32,256.03 in 84 equal monthly
164 payments. The respondent has failed to make payments since last November 2016. The
165 respondent was also required to pay an administrative fine of \$10,000 in 84 equal monthly
166 payments. The respondent paid this only up until October 2016 and then quit making payments
167 in November/December 2016.

168

169 **Action:** Motion to accept the respondent was served a copy of the administrative complaint after
170 which she was served an election of rights requesting a hearing not involving disputed issues of
171 material fact under Chapter 120 made by Dr. Heagy. Seconded by Dr. Hunt.

172

173 **Vote:** 7 yeas / 0 opposed; motion carried.

174

175 The department offers the investigative report with exhibits to establish a prima facie case and
176 requests this be admitted into evidence.

177

178 **Action:** Motion to accept this as evidence by Dr. Fox. Seconded by Ms. Pelaez.

179

180 **Vote:** 7 yeas / 0 opposed; motion carried.

181

182 The department asked the chair obtain a motion adopting the allegations in the administrative
183 complaint as the findings of fact by the board.

184

185 **Action:** Motion to accept by Ms. Pelaez. Seconded by Dr. Fox.

186

187 **Vote:** 7 yeas / 0 opposed; motion carried.

188

189 Dr. Spivey explained Dr. Kahl still owes the department \$30,586.98 as of January 12, 2017. The
190 fines/costs are paid for the year 2016. Dr. Kahl requests her monthly payments restructured. The
191 respondent will be required to retake and pass the ethics examination within 6 months.

192

193 The department asked the chair to obtain a motion the respondent violated the statute as charged
194 in the administrative complaint. The department proceeded with the recommended penalty.

195

196 **Action:** Motion to accept by Dr. Hunt. Seconded by Dr. Heagy.

197

198 **Vote:** 7 yeas / 0 opposed; motion carried.

199

200 The fine of \$1,000 and costs of \$150.28 will be folded into the current balance owed. Dr. Kahl's
201 license will remain active. The monthly payments will be restructured to \$305.00 for 12 months
202 and then \$505.00 a month thereafter. The payments will start in June 2017. The ethics
203 examination must be taken and passed thru the national board within 6 months.

204

205 **Action:** Motion to accept by Ms. Pelaez. Seconded by Dr. Fox.

206

207 **Vote:** 7 yeas / 0 opposed; motion carried.

208

209 **c. Voluntary Relinquishments:**

210

211 i. Judith C. McKenzie, D.C.

212

213 **Case No. 2012-01747**

214

215 Not present. Not represented by counsel. The respondent previously owned a healthcare clinic
216 that was not properly licensed.

217

218 **Action:** Motion to accept the voluntarily relinquishment by Ms. Pelaez. Seconded by Dr.
219 Dougherty.

220

221 **Vote:** 7 yeas / 0 opposed; motion carried.

222

223 **Action:** Motion to waive the costs in this case by Dr. Dougherty. Second by Dr. Heagy.

224

225

226 **Section III concluded: 10:33 a.m.**

227 **Section IV began: 10:33 a.m.**

228

229 **IV. COMPLIANCE:**

230

231 a. David J. Kidd, D.C.

232

233 **Case No. 2013-13871**

234

235 Present. Not represented by counsel. Dr. Kidd is currently suspended. Dr. Kidd came before the
236 board today to request an extension of the ethics and boundaries examination as required by the
237 final order. Dr. Kidd's extension was approved until January 1, 2018 with successful passage of
238 the ethics and boundaries exam before his suspension is lifted.

239

240 **Action:** Motion to accept by Dr. Dougherty. Seconded by Dr. Fox.

241

242 **Vote:** 7 yeas / 0 opposed; motion carried.

243

244 **Section IV concluded: 10:39 a.m.**

245 **Section V began: 10:39 a.m.**

246

247 **Taken out of order**

248

249 **VI. PROSECUTION REPORT:**

250

251 Open Cases: **69**

252

253 Emergency Action Unit: **0**

254

255 Cases under Legal Review: **36**

256

257 Cases with Probable Cause Recommendations: **11**

258

259 Cases with Probable Cause Found: **14**

260

261 Cases in Criminal Hold Status: **0**

262

263 Cases before the Division of Administrative Hearings: **1**

264

265 Cases on Appeal: **0**

266

267 Cases over 1 year old: **41**

268

269 The next probable cause panel is scheduled for July 16, 2017.

270

271 **Section VI ended: 10:40 a.m.**

272 **Section V began: 10:40 a.m.**

273

274 **V. PETITION FOR WAIVER AND VARIANCE:**

275

276 a. Crystal Nix Dayton, D.C.

277

278 Present. Not represented by counsel. The respondent is requesting a variance from the 1-year
279 licensure requirement to attend a live board meeting and is requesting an extension.

280

281 **Action:** Motion to grant the extension for petition and waiver made by Dr. Fogarty. Seconded by
282 Dr. Fox.

283

284 **Vote:** 7 yeas / 0 opposed; motion carried.

285

286 b. Joel Dayton, D.C.

287

288 Present. Not represented by counsel. The respondent is requesting a variance from the 1-year
289 licensure requirement to attend a live board meeting and is requesting an extension.

290

291 **Action:** Motion to approve made by Dr. Fox. Seconded by Dr. Dougherty

292

293 **Vote:** 7 yeas / 0 opposed; motion carried.

294

295

296 c. Elia Jessica D’Auria, D.C.

297

298 Not present. Not represented by counsel. This is a petition for variance and waiver requesting a
299 three month extension to attend a live board meeting within 12 months of licensure.

300

301 **Action:** Motion to accept made by Dr. Fox. Seconded by Dr. Heagy.

302

303 **Vote:** 7 yeas / 0 opposed; motion carried.

304

305 **Section V concluded: 11:01 a.m.**

306 **Section VII began: 11:01 a.m.**

307

308 **VII. APPLICATIONS PRESENTED FOR BOARD REVIEW:**

309

310 a. Jamie H. Lambert, D.C.

311

312 Not present. Not represented by counsel. After reading the case, Dr. Fox felt this physician was
313 capable of practicing in his profession.

314

315 **Action:** Motion to approve made by Dr. Fox. Seconded by Dr. Dougherty

316

317 **Vote:** 7 yeas / 0 opposed; motion carried.

318

319 b. Timothy R. Price, D.C.
320
321 Not present. Not represented by counsel. The applicant had a yes answer to being disciplined in
322 another state.
323
324 **Action:** Motion to approve made by Dr. Dougherty. Seconded by Dr. Fox.
325
326 **Vote:** 7 yeas / 0 opposed; motion carried.
327
328 c. David Norris, D.C.
329
330 Not present. Not represented by counsel. The board previously denied Dr. Norris' licensure. The
331 respondent has had several arrests. Discussion ensued.
332
333 **Action:** Motion to deny reconsideration made by Dr. Fogarty. Seconded by Dr. Heagy.
334
335 **Vote:** 7 yeas / 0 opposed; motion carried.
336
337 d. Greg T. Trotta, D.C.
338
339 Present. Not represented by counsel. The respondent was previously before the board for a
340 criminal issue. The previous conviction was satisfied and the state of New York vacated the
341 criminal effects.
342
343 **Action:** Motion to grant licensure made by Dr. Fox. Seconded by Dr. Dougherty.
344
345 **Vote:** 7 yeas / 0 opposed; motion carried.
346
347 e. Michael E. Burr, D.C.
348
349 Present. Not represented by counsel. Dr. Burr held a previous license in Florida. Dr. Burr has
350 reapplied to the state of Florida. Dr. Burr was disciplined in the state of Arizona. The
351 background check revealed an arrest from 1983.
352
353 **Action:** Motion to grant licensure made by Dr. Dougherty. Seconded by Dr. Hunt.
354
355 **Vote:** 7 yeas / 0 opposed; motion carried.
356
357 f. Dipti Ramesh Patel, D.C.
358
359 Not present. Not represented by counsel. Dr. Patel was discipline in the state of Massachusetts
360 for inaccurate record keeping. The state of New York did a discipline based on the state of
361 Massachusetts.
362
363

364 **Action:** Motion to approve licensure made by Dr. Dougherty. Seconded by Dr. Fox.

365

366 **Vote:** 7 yeas / 0 opposed; motion carried.

367

368 g. Daniel M. Jarvis, D.C.

369

370 Present. Not represented by counsel. The applicant checked no on the application for discipline
371 but indeed had previous discipline in the state of Virginia for criminal acts that took place in the
372 state of Georgia. There is a PRN representative, Dr. Polles in the audience. The board feels the
373 respondent can go ahead and get set up for an evaluation today.

374

375 **Action:** Motion to grant that license only if he takes and passes a PRN evaluation made by Dr.
376 Fogarty. Seconded by Dr. Heagy.

377

378 **Vote:** 7 yeas / 0 opposed; motion carried.

379

380 h. Bryan H. Ehrlich, D.C.

381

382 Present. Represented by the counsel, Edwin Bayo, Esq. Dr. Erlich graduated from The
383 Pennsylvania College of Chiropractic which Florida does not recognize as an accredited
384 institution. Mr. Harris read aloud the statute 460.406(1) to the board. Since SCASA was the
385 CCE's predecessor, the application for licensure cannot be denied.

386

387 **Action:** Motion to approve licensure made by Dr. Fox. Seconded by Dr. Heagy.

388

389 **Vote:** 7 yeas / 0 opposed; motion carried.

390

391 **Section VII concluded: 11:42 a.m.**

392 **Section VIII began: 11:42 a.m.**

393

394 **VIII. RATIFICATIONS:**

395

396 **a. Licensure**

397

398 i. Chiropractic Physician

399

400 License numbers 12057 – 12165, total of 109

401

402 **Action:** Move to ratify made by Dr. Heagy. Second by Fox.

403

404 **Vote:** 7 yeas / 0 opposed; motion carried.

405

406 ii. Registered Chiropractic Assistant

407

408 License numbers 16167 – 16589, total of 423

409 **Action:** Move to ratify made by Dr. Fox. Second by Ms. Pelaez.

410

411 **Vote:** 7 yeas / 0 opposed; motion carried.

412

413 iii. Certified Chiropractic Physician Assistant

414

415 License numbers 833 – 849, total of 17

416

417 **Action:** Move to ratify made by Dr. Fox. Second by Dr. Dougherty.

418

419 **Vote:** 7 yeas / 0 opposed; motion carried.

420

421 **b. CE Providers and Courses approved by Committee Chair**

422

423 There are no questions.

424

425 **Action:** Move to ratify made by Dr. Heagy. Second by Dr. Dougherty.

426

427 **Vote:** 7 yeas / 0 opposed; motion carried.

428

429 [Section VIII ended: 11:46 a.m.](#)

430 [Section IX began: 11:46 a.m.](#)

431

432 **IX. CHAIR/VICE-CHAIR REPORT:**

433

434 Nothing to report.

435

436 [Section IX ended: 11:46 a.m.](#)

437 [Section X began: 11:46 a.m.](#)

438

439 **X. EXECUTIVE DIRECTOR'S REPORT:**

440

441 Dr. Spivey announced the chair/vice-chair's meeting will be on September 18th in Tallahassee.

442 The Governor is requesting the board do another rules review just to make sure outdated rules

443 are not on the books anymore.

444

445 [Section X ended: 11:47 a.m.](#)

446 [Section XI began: 11:47 a.m.](#)

447

448 **XI. BOARD COUNSEL'S REPORT:**

449

450 a. January Rules Report

451 b. March Rules Report

452 c. April Rules Report

453 d. Public Disclosure Notice

454 Larry Harris the new board counsel. The continuing education rule 64B2-13.004 was filed for
455 adoption. It will become effective around June 1. The rules 64B2-11.001 and 64B2-18.002
456 should also become effective in June. The rule that involved guidelines for disciplinary cases,
457 board counsel will research. Current board members are eligible to receive continuing education
458 credits as well as former board members that serve on the probable cause panels but not current
459 board members that serve on the probable cause panels to prevent double-dipping. The JAPC
460 attorney is currently reviewing continuing education standards to try to pull them back into
461 statute. When a Florida licensee participates as an examiner for the National Chiropractic Board
462 of Examiners, they are eligible for 19 hours of continuing education.

463

464 **Section XI concluded: 12:00 p.m.**

465 **Section XII began 12:00 p.m.**

466

467 **XII. COMMITTEE REPORTS**

468

469 a. Budget – Mr. Colter

470

471 Nothing to report.

472

473 b. Certified Chiropractic Physicians Assistants – Dr. Dougherty

474

475 Nothing to report.

476

477 c. Continuing Education – Drs. Heagy/Hunt

478

479 Dr. Heagy and Dr. Hunt report things going well.

480

481 d. Disciplinary Compliance – Dr. Fogarty

482

483 Dr. Fogarty requests Towanda Burnett, compliance officer to attend these meetings.

484

485 e. Examination – Dr. Heagy

486

487 There will be an exam next weekend in Port Orange and one in November that Dr. Fox will be
488 attending. Dr. Hunt will be doing test development in three weeks.

489

490 f. Healthiest Weight – Dr. Hunt

491

492 Nothing to report. It is combined with the chair/vice-chair meeting on September 18th.

493

494 g. Legislation – Dr. Heagy/Mr. Colter

495

496 Larry Harris discussed the anti-trust issue on behalf of the board. Dr. Heagy discussed some
497 other issues.

498

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

500 Nothing to report.

501

502 i. Rules – Dr. Hunt

503

504 Nothing to report.

505

506 j. Unlicensed Activity – Ms. Pelaez

507

508 There has been nothing since January.

509

510 k. Outstanding Service Award – Dr. Heagy

511

512 Every year the board acknowledges a “quiet hero” for volunteer work within the chiropractic
513 medicine field.

514

515 **Section XII concluded: 12:18 p.m.**

516 **Section XIII began: 12:18 p.m.**

517

518 **XIII. OLD BUSINESS:**

519

520 Nothing discussed.

521

522 **Section XIII concluded: 12:18 p.m.**

523 **Section XIV began: 12:18 p.m.**

524

525 **XIV. NEW BUSINESS:**

526

527 Dr. Fogarty concluded to Edwin Bayo, the board staff are to make sure a chiropractic applicant
528 has a bachelor’s degree prior to making application to the state of Florida.

529

530 **Section XIV concluded: 12:18 p.m.**

531 **Section XV began: 12:18 p.m.**

532

533 **XV. NEXT MEETING DATE**

534

535 a. August 25, 2017

536

537 The FCA will be hosting the next meeting at their national convention.

538

539 **Section XV concluded: 12:20 p.m.**

540 **Section XVI began: 12:22 p.m.**

541

542 **XVI. ADJOURNMENT:**

543

544 **Action:** Motion to adjourn made by Dr. Dougherty. Second by Dr. Heagy.

545

546 **Vote:** 7 yeas / 0 opposed; motion carried.

547

548 **Section XVI concluded: 12:22 p.m.**

549

DRAFT