

**FLORIDA** | Board of Chiropractic Medicine

**DRAFT MINUTES**

October 19, 2018

Omni Orlando  
1500 Master Boulevard  
Championsgate, Florida 33896



Kevin Fogarty D.C., F.I.C.A. *Chair*  
Danita Heagy, D.C., *Vice-Chair*  
Anthony Spivey, DBA, *Executive Director*

The Florida Board of Chiropractic Medicine held a meeting on Friday, October 19, 2018, commencing at 8:30 a.m. This meeting was held at the Omni Orlando, 1500 Master Boulevard, Championsgate, Florida 33896, (407) 238-6551, to which all persons were invited to attend. Participants in this public meeting were made aware that these proceedings were being recorded and that an audio file of the meeting will be posted to the board’s website.

**AGENDA**

**Section I began: 8:30 a.m.**

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

- 2
- 3 Kevin Fogarty, D.C., F.I.C.A. (Hon), Chair
- 4 Danita Heagy, D.C., Vice-Chair
- 5 Christopher Fox, D.C., ATC (L) (Absence Excused)
- 6 Mindy Weingarten, D.C.
- 7 Julie Hunt, D.C.
- 8 David Colter
- 9 Paul Licata

10

11 **Board Staff Present:**

- 12
- 13 Anthony Spivey, DBA, Executive Director
- 14 Gail Curry, Program Operations Administrator
- 15 Kelly Woodard, Regulatory Supervisor

16

17 **Board Counsel:**

- 18
- 19 Lawrence Harris, Assistant Attorney General

20

21 **Prosecution Services**

- 22
- 23 John Wilson, Assistant General Counsel
- 24 Rose Garrison, Assistant General Counsel

25

26 **Court Reporter:**

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

30

31 **Section I ended: 8:35 a.m.**

32 **Section II began: 8:35 a.m.**

33

34 **II. APPROVAL OF MINUTES:**

35

36 **a. August 24, 2018**

37  
38 Dr. Heagy requested the addition of Dr. Warner's public comment.

39  
40 **Action:** Motion to approve the minutes made by Dr. Weingarten. Second made by Dr.  
41 Heagy.

42  
43 **Vote:** 6 yeas/0 opposed. Motion Carried.

44  
45 **Section II ended: 8:37 a.m.**

46 **Section III began: 8:37 a.m.**

47  
48 **III. FINAL ORDER ACTION:**

49  
50 Mr. Harris explained the process for disciplinary proceedings.

51  
52 **a. SETTLEMENT AGREEMENT:**

53  
54 **i. Olga Spivak, D.C., Case No. 2017-18013**

55  
56 Not present. Represented by counsel, Abe Spivak, Esq.

57  
58 Assistant General Counsel, John Wilson presented the facts related to the case as well as  
59 the proposed settlement agreement. Mr. Colter was opposed to revoking the license.

60  
61 **Action:** Motion to reject the settlement agreement and permanently revoke Dr. Spivak's  
62 license made by Dr. Fogarty. Second made by Dr. Heagy.

63  
64 **Vote:** 5 yeas/1 opposed. Motion Carried.

65  
66 **ii. Linda D. Varisco, D.C. Case No. 2017-18004**

67  
68 Not present, nor represented by counsel.

69  
70 Assistant General Counsel, Rose Garrison presented the facts related to the case as well as  
71 the proposed settlement agreement.

72  
73 **Action:** Motion to reject the settlement agreement and permanently revoke Dr. Varisco's  
74 license made by Dr. Weingarten. Second made by Mr. Licata.

75  
76 **Vote:** 4 yeas/0 opposed. Dr. Weingarten and Mr. Colter recused. Motion Carried.

77  
78 **b. INFORMAL HEARING:**

79  
80 **i. Howard R. Van Nostrand, D.C., Case No. 2017-10587**

81 Present. Represented by counsel, Edwin Bayo, Esq. Mr. Wilson presented case details.  
82 Mr. Bayo presented the undisputed facts. Dr. Van Nostrand explained the circumstances  
83 surrounding his case. Dr. Heagy requested additional information of Dr. Van Nostrand's  
84 Alaska application. Discussion occurred amongst board members and counsel.  
85

86 Mr. Wilson requested that the board grant a few motions on behalf of the  
87 Department of Health.  
88

89 **Action:** Motion to find that the respondent was properly served and has requested an  
90 informal hearing made by Mr. Colter. Second made by Dr. Heagy.  
91

92 **Vote:** 6 yeas/0 opposed. Motion Carried.  
93

94 **Action:** Motion to convene an informal hearing and adopt the materials into evidence in  
95 this proceeding made by Dr. Hunt. Second made by Mr. Licata.  
96

97 **Vote:** 6 yeas/0 opposed. Motion Carried.  
98

99 **Action:** Motion to adopt the findings of fact as set forth in the administrative  
100 complaint made by Mr. Licata. Second made by Dr. Hunt.  
101

102 **Vote:** 6 yeas/0 opposed. Motion Carried.  
103

104 **Action:** Motion to adopt the conclusions of law set forth in the administrative complaint  
105 and allow the respondent to address the board made by Mr. Colter. Second by Dr. Heagy.  
106

107 **Vote:** 6 yeas/0 opposed. Motion Carried.  
108

109 **Action:** Motion to dismiss the case made by Mr. Colter. Second made by Dr. Weingarten.  
110

111 **Vote:** 6 yeas/0 opposed. Motion Carried.  
112

113 **ii. Mark W. Ashley, D.C. Case No.: 2016-09428**  
114

115 Present. Represented by counsel, Edwin Bayo, Esq. Ms. Garrison presented case details.  
116 Mr. Bayo presented the undisputed facts. Dr. Ashley explained the circumstances  
117 surrounding his case.  
118

119 Ms. Garrison requested that the board grant a few motions on behalf of the  
120 Department of Health.  
121

122 **Action:** Motion to find that the respondent was properly served and has requested an  
123 informal hearing made by Dr. Hunt. Second made by Mr. Colter.  
124

125 **Vote:** 6 yeas/0 opposed. Motion Carried.  
126

127 **Action:** Motion to adopt the materials into evidence in this proceeding made by Dr. Hunt.  
128 Second made by Mr. Colter.

129  
130 **Vote:** 6 yeas/0 opposed. Motion Carried.

131  
132 **Action:** Motion to adopt the findings of fact as set forth in the administrative complaint  
133 made by Mr. Colter. Second made by Mr. Licata.

134  
135 **Vote:** 6 yeas/0 opposed. Motion Carried.

136  
137 **Case tabled until after break from 9:55 a.m. to 10:12 a.m.**  
138 **Section III (Cont) at 10:12 a.m.**

139  
140 **Action:** Motion to adopt the conclusions of law set forth in the administrative complaint  
141 for both counts and find that it constitutes violation of Florida statute made by Dr. Hunt.  
142 Second made by Dr. Weingarten.

143  
144 **Vote:** 6 yeas/0 opposed. Motion Carried.

145  
146 Ms. Garrison presented the proposed settlement agreement. Mr. Bayo suggested a lesser  
147 penalty and revisions to the settlement agreement.

148  
149 **Action:** Motion to require two years of supervised probation by an approved monitor with  
150 stipulations and completion of six hours of continuing education in the area of  
151 documentation and record keeping within one year of final order made by Dr. Weingarten.  
152 Second made by Dr. Heagy.

153  
154 **Vote:** 6 yeas/0 opposed. Motion Carried.

155  
156 **Action:** Motion to impose \$2,000 administrative fine and costs of \$2,144.39 associated  
157 with department investigation to be paid within one year of final order made by Dr.  
158 Weingarten. Second made by Mr. Licata.

159  
160 **Vote:** 6 yeas/0 opposed. Motion Carried.

161  
162 **Section III ended: 10:53 a.m.**  
163 **Section IV began: 10:53 a.m.**

164  
165 **IV. PROSECUTION REPORT:**

166  
167 **i. Prosecution Report**

168  
169 Assistant General Counsel, Mr. Wilson presented the statistics regarding prosecution cases  
170 currently open in the department.

171  
172 Cases older than 1 year continued for prosecution: 42

173 **Action:** Motion to continue prosecution on cases older than one year made by Dr. Heagy.  
174 Second made by Mr. Colter.

175  
176 **Vote:** 6 yeas/0 opposed. Motion Carried.

177  
178 **Section IV ended: 10:58 a.m.**  
179 **Section V began: 10:58 a.m.**

180  
181 **V. PETITION FOR VARIANCE OR WAIVER**

182  
183 **i. Lyle W. Grenz, D.C.**

184  
185 Not present, not represented by counsel.

186  
187 **Action:** Motion to deny the petition due to lack of information made by Dr. Hunt. Second  
188 made by Dr. Weingarten.

189  
190 **Vote:** 6 yeas/0 opposed. Motion Carried.

191  
192 **Section V ended: 11:08 a.m.**  
193 **Section VI began: 11:08 a.m.**

194  
195 **VI. APPLICATIONS PRESENTED FOR BOARD REVIEW:**

196  
197 **a. Joshua Widjaja**

198  
199 Not present, nor represented by counsel.

200  
201 **Action:** Motion to deny applicant's request for withdrawal of application made by Dr. Hunt.  
202 Second made by Dr. Heagy.

203  
204 **Vote:** 5 yeas/1 opposed. Motion Carried.

205  
206 **b. David J. Fleck**

207  
208 Present. Not represented by counsel.

209  
210 **Action:** Motion to approve application with the condition that Dr. Fleck passes the SPEC  
211 examination within one year of final order made by Mr. Colter. Second made by Dr. Hunt.

212  
213 **Vote:** 6 yeas/0 opposed. Motion Carried.

214  
215 **c. Christian A. Knechtel**

216  
217 Present. Represented by Thomas Sommerville, Esq.

218 **Action:** Motion to approve the application made by Dr. Heagy. Second made by Dr.  
219 Hunt.

220  
221 **Vote:** 6 yeas/0 opposed. Motion Carried.

222  
223 **Section VI ended: 11:29 a.m.**  
224 **Section VII and VIII began: 11:29 a.m.**  
225

226 **VII. COMPLIANCE**

227  
228 **a. Jeremiah Joseph Appearance Memorandum**

229 **b. Jeremiah Joseph Final Order**

230  
231 Present. Not represented by counsel. In attendance with Dr. Joseph was Dr. Jason Harre. Dr.  
232 Harre explained his experience. Dr. Joseph requested that the board consider approving Dr.  
233 Harre to be a monitor. The request was in lieu of a previously board ordered settlement  
234 agreement.

235  
236 **Action:** Motion to approve Dr. Harre as a monitor made by Mr. Colter. Second made  
237 by Mr. Licata.

238  
239 **Vote:** 5 yeas/1 opposed. Motion Carried.

240  
241 **c. David Kidd, D.C.**

242  
243 Present. Not represented by counsel. In attendance with Dr. Kidd was his monitor, Dr. Brett  
244 Weinstein. Dr. Kidd was advised by prior final order to appear before the board to determine  
245 approval of his monitor of choice.

246  
247 **Action:** Motion to approve Dr. Weinstein as a monitor made by Dr. Fogarty. Second made  
248 by Dr. Hunt.

249  
250 **Vote:** 6 yeas/0 opposed. Motion Carried.

251  
252 **VIII. RATIFICATIONS:**

253  
254 **a. Licensure**

255  
256 **i. Chiropractic Physician**

257  
258 **Action:** Motion to ratify the approval of licensees made by Dr. Hunt. Second made by Dr.  
259 Heagy.

260  
261 **Vote:** 6 yeas/0 opposed. Motion Carried.

262  
263 **ii. Registered Chiropractic Assistant**

264 **Action:** Motion to ratify the approval of licensees made by Dr. Hunt. Second made by Dr.  
265 Heagy.

266  
267 **Vote:** 6 yeas/0 opposed. Motion Carried.

268  
269 **iii. Certified Chiropractic Physician Assistant**

270  
271 **Action:** Motion to ratify the approval of licensees made by Dr. Heagy. Second made by  
272 Dr. Hunt.

273  
274 **Vote:** 6 yeas/0 opposed. Motion Carried.

275  
276 **b. Continuing Education**

277  
278 **i. CE Providers and Courses approved by CE Committee Chairs**

279  
280 **Action:** Motion to ratify the approval of continuing education courses made by Dr. Heagy.  
281 Second made by Dr. Hunt.

282  
283 **Vote:** 6 yeas/0 opposed. Motion Carried.

284  
285 **Section VII and VIII ended: 11:50 a.m.**  
286 **Break 11:50 a.m. to 12:09 p.m.**  
287 **Section XI addressed out of order at 12:09 p.m.**  
288 **Section IX began: 1:03 p.m.**

289  
290 **IX. UNLICENSED ACTIVITY BRIEFING**

291  
292 Department Liaison for Unlicensed Activity, Mr. Sidronio Casas informed the audience of  
293 the statistics of unlicensed activity followed by a PowerPoint presentation.

294  
295 **Section IX ended: 1:18 p.m.**  
296 **Section X began: 1:18 p.m.**

297  
298 **X. CHAIR/VICE-CHAIR REPORT:**

299  
300 None

301  
302 **Section X ended: 1:18 p.m.**  
303 **Section XI began: 12:09 p.m.**

304  
305 **XI. EXECUTIVE DIRECTOR'S REPORT:**

306  
307 **a. PACE (Providers of Approved Continuing Education)**

308



309 Executive Director of the Federation of Chiropractic Licensing Boards, Dr. Jon  
310 Schwartzbauer presented information about the continuing education resources, audits,  
311 tracking and reviews provided by PACE. Dr. Schwartzbauer explained that the purpose of  
312 their services is to prevent the board members and board staff from carrying the extra  
313 workload of reviewing continuing education for approval and allow professionals in the  
314 field to make determination. Mr. Harris explained that the board would need to determine  
315 that PACE is compliant with Florida Statutes and form an understanding of their criteria  
316 and standards for approval. Mr. Harris also explained that it would create a reduction in the  
317 amount of courses submitted for Florida approval. Dr. Fogarty requested that only online  
318 courses (10 hours) be reviewed by PACE. Mr. Harris advised that by law, the board  
319 requires oversight of continuing education. Dr. Heagy presented a rubric for the approval of  
320 continuing education.

321  
322 **Action:** Motion to move forward with incorporating discussion at the next meeting related  
323 to proposed rule change made by Dr. Hunt. Second made by Dr. Heagy.

324  
325 **Vote:** 6 yeas/0 opposed. Motion Carried.

326  
327 **b. Annual Delegation of Authority**

328  
329 **Action:** Motion to approve the annual delegation of authority made by Dr. Heagy. Second  
330 made by Dr. Hunt.

331  
332 **Vote:** 6 yeas/0 opposed. Motion Carried.

333  
334 **c. Spotlight on ULA**

335  
336 Dr. Spivey advised of the quarterly publications made by the department to combat  
337 unlicensed activity.

338  
339 **d. Unlicensed Activity Briefing (Chilo Casas)**

340  
341 Department Liaison for Unlicensed Activity, Mr. Sidronio Casas informed the audience of  
342 the statistics of unlicensed activity followed by a PowerPoint presentation.

343  
344 **e. Workgroup Controlled Substances (Means)**

345  
346 Dr. Spivey presented a report received by Mr. Means from the controlled substance and  
347 opioid workgroup meeting held in November 2017.

348  
349 **f. Health History Questions**

350  
351 Dr. Spivey explained that the department determined that some of the health history  
352 questions appear to be too invasive and will be replaced with additional questions to allow  
353 applicants to answer accurately. In addition, Dr. Spivey advised that the applications

354 request completion of 2 hours of medical errors which is no longer required for licensure  
355 and should be removed.

356  
357 **Action:** Motion to remove the 2 hour medical errors requirement from the application and  
358 allow Mr. Harris to revise the licensure applications by creating a notice of rule change  
359 made by Dr. Heagy. Second made by Dr. Hunt.

360  
361 **Vote:** 6 yeas/0 opposed. Motion Carried.

362  
363 Dr. Spivey advised that he does not foresee any board appointments in the near future due  
364 to transitioning to a new governor.

365  
366 **g. Region V FCLB meeting**

367  
368 **Action:** Motion to approve Dr. Spivey and two board members to attend the FCLB meeting  
369 in May 2019 made by Dr. Fogarty. Second made by Dr. Hunt.

370  
371 **Vote:** 6 yeas/0 opposed. Motion Carried.

372  
373 Dr. Spivey provided information of the upcoming annual meeting and advised that the  
374 meeting will be more interactive for Chairs and Vice Chair participation.

375  
376 **h. Florida Laws & Rules Exam**

377  
378 Dr. Heagy advised that Dr. Michael Schreeve and Dr. Kenneth Dougherty will be assisting  
379 her in the creation of new questions.

380  
381 **Action:** Motion to approve the increase of the number of questions in the Laws & Rules  
382 examination made by Dr. Hunt. Second made by Dr. Weingarten.

383  
384 **Vote:** 6 yeas/0 opposed. Motion Carried.

385  
386 **Section XI ended: 1:03 p.m.**  
387 **Section XII began: 1:31 p.m.**

388  
389 **XII. BOARD COUNSEL'S REPORT:**

- 390  
391 **a. September Rules Report**  
392 **b. October Rules Report**  
393 **c. Consideration of Fee Reduction Rule Language**

394 Mr. Harris presented drafted language related to a onetime renewal fee reduction of \$100.  
395 Mr. Harris advised that under Chapter 456, Florida Statutes states that an inactive and  
396 delinquency status fees may be set by rule of the board, but cannot exceed the active status

397 fee. In addition, if the board decided to reduce the active status fee, it would require  
398 reduction of the inactive and delinquency status fee.

399 **Action:** Motion to approve drafted language for Rule Chapter 64B2-12.005 and 64B2-  
400 12.008 made by Dr. Heagy. Second made by Dr. Hunt

401 **Vote:** 6 yeas/0 opposed. Motion Carried.

402 Mr. Harris asked whether the proposed rules would have adverse impacts on small business  
403 and whether regulatory costs would exceed two hundred thousand dollars within one year of  
404 implementation. The board agreed there would be no adverse impact or increase of costs.

405  
406 Mr. Harris asked whether the proposed rules would have adverse impacts on small business  
407 and whether regulatory costs would exceed one million dollars within five years of  
408 implementation. The board agreed there would be no adverse impact or increase of costs.

409  
410 Mr. Harris asked whether the proposed rules would be subject to a minor violation. Minor  
411 violation means that it will not directly affect the public health, safety, or welfare and is able  
412 to be resolved with citation or notice of non-compliance. The board agreed there would be  
413 no minor violations.

414  
415 **Vote:** 6 yeas/0 opposed. Motion Carried.

416 **d. Proposed Rule 64B2-18.002**

417 Mr. Harris advised that Rule 64B2-18.002 needs discussion and presented drafted language  
418 to be placed on the Certified Chiropractic Assistant application. The new language would  
419 incorporate a sworn statement relating to felony convictions and revocation or denial of a  
420 license follow by a notarized signature.

421 **Action:** Motion to authorize a notice of change to be in compliance with the statutory  
422 requirements for CCPA applications made by Dr. Weingarten. Second made by Dr. Hunt.

423 **Vote:** 6 yeas/0 opposed. Motion Carried.

424 Mr. Harris asked whether the proposed rules would have adverse impacts on small business  
425 and whether regulatory costs would exceed two hundred thousand dollars within one year of  
426 implementation. The board agreed there would be no adverse impact or increase of costs.

427  
428 Mr. Harris asked whether the proposed rules would have adverse impacts on small business  
429 and whether regulatory costs would exceed one million dollars within five years of  
430 implementation. The board agreed there would be no adverse impact or increase of costs.

431  
432 Mr. Harris asked whether the proposed rules would be subject to a minor violation. Minor  
433 violation means that it will not directly affect the public health, safety, or welfare and is able

434 to be resolved with citation or notice of non-compliance. The board agreed there would be  
435 no minor violations.

436

437 **Section XII ended: 1:43 p.m.**

438 **Section XIII began: 1:43 p.m.**

439

440 **XIII. COMMITTEE REPORTS**

441

442 **a. Budget – Mr. Colter**

443

444 Nothing to report

445

446 **b. CCPA – Dr. Hunt**

447

448 Nothing to report

449

450 **c. Continuing Education – Drs. Heagy/Weingarten**

451

452 Nothing to report

453

454 **d. Disciplinary Compliance – Dr. Fogarty**

455

456 Nothing to report

457

458 **e. Examination – Dr. Heagy**

459

460 Addressed earlier in agenda

461

462 **f. Legislation – Dr. Heagy/Mr. Colter**

463

464 Nothing to report

465

466 **g. Probable Cause – Drs. Weingarten/Fox**

467

468 Nothing to report

469

470 **h. Rules – Dr. Weingarten**

471

472 Nothing to report

473

474 **i. Unlicensed Activity – Mr. Licata**

475

476 Nothing to report

477

478 **j. Outstanding Service Award – Dr. Fox**

479 Nothing to report

480

481 **Section XIII ended: 1:45 p.m.**

482 **Section XIV began: 1:45 p.m.**

483

484 **XIV. OLD BUSINESS:**

485

486 None

487

488 **Section XIV ended: 1:45 p.m.**

489 **Section XV began: 1:45 p.m.**

490

491 **XV. NEW BUSINESS:**

492

493 Dr. Heagy asked whether PRP injections were within the scope of chiropractic medicine. Dr.  
494 Fogarty advised that it is within the scope of an ARNP.

495

496 **Section XV ended: 1:45 p.m.**

497 **Section XVI began: 1:46 p.m.**

498

499 **XVI. NEXT MEETING DATE**

500

501 January 25, 2019

502

503 **Section XVI ended: 1:46 p.m.**

504 **Section XVII began: 1:46 p.m.**

505

506 **XVII. PUBLIC COMMENT**

507

508 None

509

510 **Section XVII ended: 1:46 p.m.**

511 **Section XVIII began: 1:46 p.m.**

512

513 **XVIII. ELECTION OF OFFICERS**

514

515 **Action:** Motion to nominate Dr. Heagy as board Chair made by Dr. Fogarty. Second made  
516 by Dr. Hunt.

517

518 **Action:** Motion to nominate Dr. Hunt as board Vice-Chair made by Dr. Heagy. Second  
519 made by Dr. Weingarten.

520

521 **Section XVIII ended: 1:48 p.m.**

522 **Section XIX began: 1:48 p.m.**

523

524 **XIX. ADJOURNMENT:**

525

526 Motion to adjourn at 1:48 p.m. made by Dr. Heagy/ Second made by Dr. Weingarten.

527

528

529

530

531

DRAFT