FLORIDA | Board of Chiropractic Medicine

OFFICIAL MINUTES
November 8, 2019

Rosen Plaza
9700 International Drive
Orlando, Florida 32819

Danita Heagy, D.C., Chair
Julie Hunt, D.C., Vice-Chair
Anthony Spivey, DBA, Executive Director
The Florida Board of Chiropractic Medicine held a meeting on Friday, November 8, 2019, commencing at 8:30 a.m. This meeting was held at the Rosen Plaza, 9700 International Drive, Orlando, Florida 32819, (407) 996-9700, 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.

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

Danita Heagy, D.C., Chair
Julie Hunt, D.C., Vice Chair
Christopher Fox, D.C., ATC(L)
Kevin Fogarty, D.C., F.I.C.A.
Mindy Weingarten, D.C.
Paul Licata

**Board Staff Present:**

Dr. Anthony Spivey, DBA, Executive Director
Gail Curry, Program Operations Administrator
Kelly Woodard, Regulatory Supervisor

**Board Counsel**

Lawrence Harris, Assistant Attorney General

**Prosecution Services:**

Chad Dunn, Assistant General Counsel
Rose Garrison, Assistant General Counsel

**Court Reporter:**

Magnolia Court Reporter
407-896-1813

Section I ended: 8:34 a.m.

Section II began: 8:34 a.m.

II. **APPROVAL OF MINUTES:**

a. August 23, 2019
36  Action: Motion to approve the meeting minutes made by Dr. Fogarty. Second made by
37  Dr. Fox.
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39  Vote: 6 yeas / 0 opposed. Motion carried.
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41  Section III tabled
42  Section III began at 10:28 a.m.
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45  III. VOLUNTEER PRESENTATION AWARD:
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47  i. Scott Paton, D.C., ATC(L)
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49  Dr. Fox described Dr. Paton’s dedication to the community, volunteer history
50  and conduct; and presented an award to Dr. Paton.
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52  Section III ended:
53  Section IV taken out of order: 8:35 a.m.
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56  IV. FINAL ORDER ACTION:
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58  a. HEARING NO DISPUTED MATERIAL FACTS:
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60  i. Donald G. Brown, D.C., Case Number: 2018-22754
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62  Present and represented by counsel, Edwin Bayo, Esq. Rose Garrison presented case
63  details and proposed penalty.
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65  Action: Motion to find that the respondent was properly served made by Dr. Fogarty.
66  Second made by Dr. Hunt.
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68  Vote: 5 yeas / 0 opposed. Motion carried. Dr. Weingarten recused.
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70  Action: Motion to find that the respondent has requested an informal hearing made by
71  Dr. Hunt. Second made by Dr. Fogarty.
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73  Vote: 5 yeas / 0 opposed. Motion carried. Dr. Weingarten recused.
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75  Action: Motion to adopt the findings of fact as set forth in the administrative complaint
76  made by Dr. Fox. Second made by Dr. Hunt.
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78  Vote: 5 yeas / 0 opposed. Motion carried. Dr. Weingarten recused.
Action: Motion to adopt the materials and any addendum materials into evidence for this proceeding made by Dr. Hunt. Second made by Dr. Fox.

Vote: 5 yeas / 0 opposed. Motion carried. Dr. Weingarten recused.

Action: Motion to adopt conclusions of law set forth in the administrative complaint and find that it constitutes a violation of the board’s practice act made by Dr. Fox. Second made by Dr. Hunt.

Vote: 5 yeas / 0 opposed. Motion carried. Dr. Weingarten recused.

Action: Motion to impose the penalty of a reprimand; fine of $1,000 to be paid within one (1) year; administrative costs in the amount of $933.60 to be paid within one (1) year; two (2) years of probation and monitoring with early termination possible after one year; three (3) hours of continuing education in risk management and six (6) hours of continuing education in record keeping and documentation (in addition to renewal requirement) by Dr. Fogarty. Second made by Dr. Fox.

Vote: 5 yeas / 0 opposed. Motion carried. Dr. Weingarten recused.

i. **Jordan H. Lambert, D.C., Case Number: 2015-21617**

Present and represented by counsel, Sara Bazzigaluppi, Esq. Chad Dunn presented case details and proposed penalty.

Action: Motion to find that the respondent was properly served and has requested an informal hearing made by Dr. Fogarty. Second made by Dr. Hunt.

Vote: 5 yeas / 0 opposed. Motion carried. Dr. Weingarten recused.

Action: Motion to adopt the findings of fact as set forth in the administrative complaint made by Dr. Fox. Second made by Dr. Hunt.

Vote: 5 yeas / 0 opposed. Motion carried. Dr. Weingarten recused.

Action: Motion to adopt the materials and any addendum materials into evidence for this proceeding made by Dr. Fogarty. Second made by Dr. Fox.

Vote: 5 yeas / 0 opposed. Motion carried. Dr. Weingarten recused.

Action: Motion to adopt conclusions of law set forth in the administrative complaint and find that it constitutes a violation of the board’s practice act made by Dr. Fox. Second made by Dr. Hunt.
Vote: 5 yeas / 0 opposed. Motion carried. Dr. Weingarten recused.

Action: Motion to impose the penalty of reprimand; PRN evaluation within 30 days; $3,000 fine to be paid within one (1) year; two (2) hours of continuing education in laws/rules within one (1) year; ethics and boundaries exam within one (1) year of final order made by Dr. Fogarty. Second made by Dr. Hunt.

Vote: 5 yeas / 0 opposed. Motion carried. Dr. Weingarten recused.

Action: Motion to impose the penalty of administrative costs of $5,500 to be paid within five (5) years made by Dr. Hunt. Second made by Dr. Fox.

b. SETTLEMENT AGREEMENTS:

i. Brandon S. Wood, D.C., Case Number: 2016-26767

Not present, nor represented by counsel. Rose Garrison presented case details and proposed settlement agreement. The board waived Dr. Wood’s appearance.

Action: Motion to reject settlement agreement and counteroffer to voluntary relinquish or revoke Dr. Wood’s license made by Dr. Fogarty. Second made by Dr. Weingarten.

Vote: 6 yeas / 0 opposed. Motion carried.


Present. Not represented by counsel. Chad Dunn presented case details and proposed settlement agreement. Ms. Teufel accepted the counteroffer to the settlement agreement.

Action: Motion to reject settlement agreement and counteroffer with a reprimand; $500 fine; $1,000 administrative costs; three (3) hours of continuing education in ethics made by Dr. Fogarty. Second made by Mr. Licata.

Vote: 4 yeas / 1 opposed. Motion carried. Dr. Weingarten recused.

Break from 9:39 a.m. to 9:52 a.m.

iii. Chet A. Barton, D.C., Case Number: 2017-08004

Present and represented by counsel, Edwin Bayo, Esq. Rose Garrison presented case details and proposed settlement agreement. Dr. Barton accepted the counteroffer to the settlement agreement.

Action: Motion to reject settlement agreement and counteroffer with original penalty and
the addition of an ethics and boundaries exam within one (1) year made by Dr. Fox. Second made by Dr. Fogarty.

**Vote:** 5 yeas / 0 opposed. Motion carried. Dr. Weingarten recused.

**iv. Tige R. Buchanan, D.C., Case Number: 2019-03381**

Present and represented by counsel, Michele Champion, Esq. Chad Dunn presented case details and proposed settlement agreement. Acceptance or rejection of the settlement agreement was tabled. At 11:00 a.m., Dr. Buchanan accepted the counteroffer to the settlement agreement. The board determined that the monitoring shall begin within 30 days of final order.

**Action:** Motion to reject settlement agreement and counteroffer with original penalty and the addition of two (2) year monitoring made by Dr. Fogarty. Second made by Dr. Hunt.

**Vote:** 5 yeas / 0 opposed. Motion carried. Fox recused.

**Referred back to Section III at 10:28 a.m.**

**Section IV continued at 10:33 a.m.**

**c. VOLUNTARY RELINQUISHMENT:**

**i. Barry W. Sutphin, D.C., Case Number: 2015-23119**

Not present, nor represented by counsel. Rose Garrison presented case details and request for relinquishment.

**Action:** Motion to accept the voluntary relinquishment made by Dr. Fox. Second made by Dr. Fogarty.

**Vote:** 6 yeas / 0 opposed. Motion carried.

**d. DETERMINATION OF WAIVER:**

**i. Trevor J. Strahan, D.C., Case Number: 2016-25966**

Not present, nor represented by counsel. Chad Dunn presented case details and recommendations.

**Action:** Motion to find that the respondent was properly served and has waived the right to a formal hearing made by Dr. Fogarty. Second made by Mr. Licata.
Vote: 5 yeas / 0 opposed. Motion carried. Dr. Weingarten recused.

Action: Motion to accept the investigative report into evidence for purposes of imposing penalty made by Mr. Licata. Second made by Dr. Hunt

Vote: 5 yeas / 0 opposed. Motion carried. Dr. Weingarten recused.

Action: Motion to adopt the findings of fact as set forth in the administrative complaint made by Dr. Fox. Second made by Dr. Hunt.

Vote: 5 yeas / 0 opposed. Motion carried. Dr. Weingarten recused.

Action: Motion to adopt conclusions of law set forth in the administrative complaint and find that it constitutes a violation of the board’s practice act made by Mr. Licata. Second made by Dr. Hunt.

Vote: 5 yeas / 0 opposed. Motion carried. Dr. Weingarten recused.

Action: Motion to accept recommended penalty with amendment to suspend license until licensee has sought PRN evaluation made by Dr. Fogarty. Second made by Dr. Fox.

Vote: 5 yeas / 0 opposed. Motion carried. Dr. Weingarten recused.

e. RECOMMENDED ORDER

i. Edward J. Leonard, D.C., Case Number: 2015-07662

Not present, nor represented by counsel. Rose Garrison presented case details and recommendations.

Action: Motion to adopt the administrative law judge’s (ALJ) recommended findings of fact as stated in the recommended order made by Dr. Weingarten. Second made by Dr. Fox.

Vote: 6 yeas / 0 opposed. Motion carried.

Action: Motion to adopt the administrative law judge’s (ALJ) recommended conclusions of law as stated in the recommended order made by Dr. Fox. Second made by Dr. Weingarten.

Vote: 6 yeas / 0 opposed. Motion carried.

Action: Motion to accept the ALJ’s recommended penalty made by Dr. Weingarten. Second made by Mr. Licata.
Vote: 6 yeas / 0 opposed. Motion carried.

Action: Motion to impose costs of $59,819.54 made by Dr. Hunt. Second made by Dr. Fox.

Vote: 6 yeas / 0 opposed. Motion carried.

Referred back to subsection b. (iv) Tige Buchanan at 11:00 a.m.
Section V began: 11:05 a.m.

V. PROSECUTION REPORT:

i. Prosecution Report

Assistant General Counsel, Ms. Garrison presented the statistics regarding prosecution cases currently open in the department.

Cases older than 1 year continued for prosecution: 33

Action: Motion to continue prosecution of cases older than one year made by Dr. Fogarty. Second made by Dr. Fox.

Vote: 6 yeas / 0 opposed. Motion carried.

Section V ended: 11:07 a.m.
Section VI began: 11:07 a.m.

VI. COMPLIANCE:

i. Eileen Dvorkin, D.C.

Present with monitor, Michael Petre, D.C.

Action: Motion to terminate probation made by Dr. Fox. Second made by Dr. Hunt.

Vote: 6 yeas / 0 opposed. Motion carried.

ii. Anthony Filardo, D.C.

Not present and represented by counsel Michael Lowe, Esq.

Action: Motion to accept early termination of probation made by Dr. Weingarten. Second made by Dr. Fox.
Vote: 6 yeas / 0 opposed. Motion carried.

Section VI ended: 11:11 a.m.
Section VII began: 11:11 a.m.

VII. DECLARATORY STATEMENT:

i. Diane Johnson, D.C.

Not present, nor represented by counsel.

Action: Motion to decline to answer and refer petitioner to the board’s rules made by Dr. Hunt. Second made by Dr. Fox.

Vote: 6 yeas / 0 opposed. Motion carried.

Section VII ended: 11:20 a.m.
Section VIII began: 11:20 a.m.

VIII. APPLICATIONS PRESENTED FOR BOARD REVIEW:

a. George R. Blackman, D.C.

Present. Not represented by counsel.

Action: Motion to approve the application made by Dr. Fogarty. Second made by Dr. Hunt.

Vote: 6 yeas / 0 opposed. Motion carried.

b. Joan Housley, D.C.

Not present, nor represented by counsel.

Action: Motion to accept the withdrawal of the application made by Dr. Hunt. Second made by Dr. Fox.

Vote: 6 yeas / 0 opposed. Motion carried.

c. Steve D. Poser, D.C.

Not present, nor represented by counsel.

Action: Motion to require Dr. Poser’s appearance at one of the next two board
meetings made by Dr. Fogarty. Second made by Dr. Hunt.

**Vote:** 6 yeas / 0 opposed. Motion carried.

d. **Michael S. Manno, D.C.**

Present and represented by counsel, Edwin Bayo, Esq.

**Action:** Motion to approve the application made by Dr. Fogarty. Second made by Mr. Licata.

**Vote:** 6 yeas / 0 opposed. Motion carried.

e. **Daniel L. Noffsinger, D.C.**

Not present, nor represented by counsel.

**Action:** Motion to deny the extension of the application made by Mr. Licata. Second made by Dr. Weingarten.

**Vote:** 6 yeas / 0 opposed. Motion carried.

f. **Michaelene Callahan, D.C.**

Present. Not represented by counsel.

**Action:** Motion to approve the application made by Dr. Fox. Second made by Dr. Weingarten.

**Vote:** 6 yeas / 0 opposed. Motion carried.

**Break from 12:01 p.m. to 12:12 p.m.**

Upon return from break, board elections for the year 2020 were addressed. Dr. Fogarty nominated Dr. Heagy for Chair and Dr. Fox for Vice-Chair. Both members accepted the nomination. Dr. Heagy was elected as Chair and Dr. Fox was elected as Vice-Chair.

Section VIII ended: 12:14 p.m.
Section IX began: 12:14 p.m.

IX. **RATIFICATIONS:**

a. **Licensure**
i. **Chiropractic Physician**

**Action:** Motion to ratify the approval of licensees made by Mr. Licata. Second made by Dr. Fox.

**Vote:** 6 yeas / 0 opposed. Motion carried.

ii. **Registered Chiropractic Assistant**

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

**Vote:** 6 yeas / 0 opposed. Motion carried.

iii. **Certified Chiropractic Physician Assistant**

**Action:** Motion to ratify the approval of licensees made by Mr. Licata. Second made by Dr. Hunt.

**Vote:** 6 yeas / 0 opposed. Motion carried.

b. **Continuing Education**

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

**Action:** Motion to ratify the approval of providers and courses made by Dr. Hunt. Second made by Mr. Licata.

**Vote:** 6 yeas / 0 opposed. Motion carried.

Section IX ended: 12:16 p.m.

Section X began: 12:16 p.m.

X. **CONTINUING EDUCATION:**

The board agreed that they would accept online CE for the required Human Trafficking course.

**Action:** Motion to clarify the rule language allows approval of online Human Trafficking courses made by Dr. Hunt. Second made by Dr. Weingarten.

**Vote:** 6 yeas / 0 opposed. Motion carried.
i. Course #20-665401 – Human Trafficking GLN

**Action:** Motion to approve the course and allow hours to be applied to the required general hours made by Dr. Fox. Second made by Dr. Hunt.

**Vote:** 6 yeas / 0 opposed. Motion carried.

ii. Course #20-735648 – Human Trafficking 203

**Action:** Motion to approve the course and allow hours to be applied to the required general hours made by Dr. Weingarten. Second made by Mr. Licata.

**Vote:** 6 yeas / 0 opposed. Motion carried.

Dr. Fogarty departed the meeting at 12:27 p.m.

**Section X ended:** 12:30 p.m.
**Section XI began:** 12:30 p.m.

XI. RECONSIDERATION OF COURSES:

i. Anthony S. Thorpe and Rudy N. Heiser

**Action:** Motion to authorize the approval of credit for the courses made by Dr. Hunt.
Second made by Dr. Fox.

**Vote:** 2 yeas / 3 opposed. Motion failed.

Discussion ensued regarding the documentation required. Dr. Hunt advised that the licensees previously needed to submit course topics and instructor information. Dr. Heagy asked the board office to refer the licensees back to the requested information and to the requirements in the continuing education rubric.

**Section XI ended:** 12:40 p.m.
**Section XII began:** 12:41 p.m.

XII. CHAIR/VICE-CHAIR REPORT:

Nothing to report.

**Section XII ended:** 12:41 p.m.
**Section XIII began:** 12:41 p.m.
i. Annual Delegation of Authority

Dr. Spivey provided an overview of the Chair/Vice Chair meeting that was held in October. During the meeting, State Surgeon General, Dr. Rivkees addressed department goals and Ms. Simmons provided an overview of the budget and cash sweeps.

Dr. Spivey announced the changes in leadership of MQA and addressed the board regarding outstanding licensee compliance with 1st year attendance requirements. In regard to the 1st year licensees not in compliance, Board staff drafted a recommendation letter for the board’s review. Mr. Harris provided an example of what boards have done in the past in regard to the potential penalties.

Mr. Dunn suggested that the board provide licensees the opportunity to cure the defect as there is a large amount of licensees who have not complied. Mr. Harris referred the board to the penalty in Rule 64B2-16.0075 (4) (c), of the Florida Administrative Code. Dr. Heagy requested to send the recommended letter to all licensees which are not in compliance requesting that they submit proof of their attendance. If the licensee is unable to submit proof, they shall be referred to Consumer Services for possible citation. Dr. Heagy requested that staff remove the word “or” in the first paragraph of the recommended letter.

Section XIII ended: 12:57 p.m.

XIV. BOARD COUNSEL’S REPORT:

a. 64B2-16.003

Mr. Harris explained that the board voted in January 2017 to approve language, but the drafted language never moved forward. Mr. Harris asked the board to consider amending the disciplinary guidelines in Rule 64B2-16.003 and the citation guidelines in Rule 64B2-16.0075 to delete continuing education as a citation offense.

Action: Motion to open rules 64B2-16.0075 and 64B2-16.003 for development made by Dr. Hunt. Second made by Mr. Licata

Vote: 5 yeas/0 opposed. Motion Carried.

Mr. Harris asked whether the proposed rules would have adverse impacts on small business and whether regulatory costs would exceed two hundred thousand dollars within one year of implementation.

Mr. Harris asked whether the proposed rules would have adverse impacts on small
business and whether regulatory costs would exceed one million dollars within five years of implementation.

Mr. Harris asked whether the proposed rules would be subject to a minor violation. Minor violation means that it will not directly affect the public health, safety, or welfare and is able to be resolved with citation or notice of non-compliance.

Dr. Heagy responded ‘No’ to the first two questions and responded, ‘Not applicable’ to the third question.

**Action:** Motion to accept the response made by Dr. Heagy. Second made by Dr. Weingarten.

**Vote:** 5 yeas/0 opposed. Motion Carried.

b. Rules Report for September 2019

c. Rules Report for October 2019

d. Rules Report for November 2019

Mr. Harris directed the board’s attention to the rules reports.

Section XIV ended: 1:11 p.m.

Section XV began: 1:11 p.m.

**XV. COMMITTEE REPORTS:**

a. Budget – Mr. Licata

Mr. Licata provided information on cash balances and sweeps.

b. CCPA – Dr. Hunt

Dr. Hunt reported all was going well. Dr. Hunt reported that one of her interviews brought forth concerns regarding a physician who assumed that CCPA’s had the ability to adjust. Dr. Hunt advised that CCPA’s cannot make adjustments.

c. Continuing Education – Drs. Heagy/Weingarten

Dr. Weingarten asked for clarification of online continuing education regarding pre-testing, challenge questions, and how the questions are embedded throughout each hour of a course. Dr. Heagy requested that Ms. Kilgore (board staff) make corrections in the courses that she submits to the committee and verify that the challenge questions are embedded throughout.
d. Disciplinary Compliance – Dr. Fogarty

Nothing to report

e. Examination – Dr. Fox

Dr. Fox reported that he will be volunteering in Port Orange, FL the week following the board meeting. Dr. Heagy asked if Dr. Weingarten would be willing to assist with this committee.

f. Legislation – Dr. Heagy

Nothing to report

g. Probable Cause – Drs. Weingarten/Fox

Dr. Heagy thanked Mr. Licata for his willingness to serve on the upcoming panel.

h. Rules – Dr. Weingarten

Nothing to report

i. Unlicensed Activity – Mr. Licata

Nothing to report

j. Outstanding Service Award – Dr. Fox

Nothing to report

Dr. Heagy addressed other agenda items:

i. Appointment of Delegates FCLB April 23-26, 2019

Dr. Heagy reported she and Dr. Fogarty would like to attend. Dr. Spivey advised of state travel restrictions. Mr. Harris reported that received an email from FCLB soliciting his attendance to serve on the legal panel; and reported that he was only able to attend if the board approves and pays the costs.

Action: Motion to approve delegates made by Mr. Licata. Second made by Dr. Hunt

Vote: 5 yeas/0 opposed. Motion Carried.

ii. Chiropractic in the News
Dr. Heagy advised that the remaining agenda items were just for the board’s review and information.

Section XV ended: 1:28 p.m.
Section XVI began: 1:28 p.m.

XVI. OLD BUSINESS:
None

Section XVI ended: 1:28 p.m.
Section XVII began: 1:28 p.m.

XVII. NEW BUSINESS:
i. CE Credit Proposal

Mr. Harris presented a letter proposing that licensees receive eight (8) hours of continuing education for serving as a Chiropractic faculty instructor.

Mr. Harris advised that he would review the statute and rule to determine authority to provide alternative methods of continuing education. The proposal was tabled to the next meeting.

Section XVII ended: 1:31 p.m.
Section XVIII began: 1:31 p.m.

XVIII. NEXT MEETING DATE:
February 14, 2020

Section XVIII ended: 1:31 p.m.
Section XIX began: 1:31 p.m.

XIX. PUBLIC COMMENT:

Michele Champion, Esq. - advised that she represents Go Learn Network. Ms. Champion provided commentary of the opposition to online courses and was concerned about the animosity between members of the board and Dr. Albert R. Warner.

Albert R. Warner, D.C. – Dr. Warner advised that he believes there may be undue
influence on the board by other Chiropractic organizations.

Section XIX ended: 1:40 p.m.
Section XX began: 1:40 p.m.

XX. **ADJOURNMENT:**

Motion to adjourn at 1:40 p.m. made by Dr. Hunt. Second made by Dr. Weingarten.