

FLORIDA | Board of Chiropractic Medicine

MINUTES

May 8, 2020

Department of Health
4042 Bald Cypress Way
Tallahassee, Florida 32399



Danita Heagy, D.C., *Chair*
Chris Fox, D.C., *Vice-Chair*
Anthony Spivey, DBA, *Executive Director*

The Florida Board of Chiropractic Medicine held a meeting on Friday, May 8, 2020, commencing at 8:30 a.m. This meeting was held at the Department of Health, 4042 Bald Cypress Way, Tallahassee, Florida at <https://global.gotomeeting.com/join/550398573>, 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: 8:31 a.m.

1 **I. CALL TO ORDER (Roll Call):**
2

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

10 **Board Staff Present:**
11

12 Dr. Anthony Spivey, DBA, Executive Director
13 Kelly Woodard, Regulatory Supervisor
14

15 **Board Counsel**
16

17 Lawrence Harris, Assistant Attorney General
18

19 **Prosecution Services:**
20

21 Rose Garrison, Assistant General Counsel
22 Dannie Hart, Assistant General Counsel
23 Alexander Ciupalo, Assistant General Counsel
24

25 **Court Reporter:**
26

27 For the Record
28 850-222-5491
29

30 Numerous licensees presented on the conference call to request credit for their first year
31 meeting attendance. The board concluded that credit would not be given for attendance during
32 the meeting.
33

34 **Action:** Motion to allow licensees two additional meetings to satisfy their first year
35 attendance made by Dr. Fogarty. Second made by Dr. Weingarten.
36

37 **Vote:** 6 yeas/0 opposed. Motion Carried.
38

39 **Section II began: 8:41 a.m.**
40

41 **II. APPROVAL OF MINUTES:**
42

43 **March 19, 2020**

44
45 **Action:** Motion to approve the meeting minutes made by Dr. Fogarty. Second made by Dr. Fox.

46
47 **Vote:** 6 yeas/0 opposed. Motion Carried.

48
49 **February 14, 2020**

50
51 Dr. Fogarty and Dr. Heagy addressed corrections to the minutes.

52
53 **Action:** Motion to approve the meeting minutes with corrections made by Dr. Fogarty. Second made
54 by Dr. Hunt.

55
56 **Vote:** 6 yeas/0 opposed. Motion Carried.

57
58 **Section III began: 8:47 a.m.**

59
60 **III. FINAL ORDER ACTION**

61
62 **SETTLEMENT AGREEMENTS:**

63
64 **Steven L. Rhodes, D.C., Case #:2014-05471**

65
66 Dr. Rhodes was present with counsel, Kevin Mercer, Esq. Dannie Hart presented the
67 case details.

68
69 **Action:** Motion to reject settlement agreement made by Dr. Fogarty. Second made by Dr. Hunt.

70
71 **Vote:** 3 yeas/0 opposed. Motion Carried. Dr. Heagy and Dr. Weingarten recused.

72
73 **Action:** Motion to impose penalty of five (5) years of probation; \$5,000 fine to be paid within five (5)
74 Years; \$10,000 costs to be paid within five (5) years; Six (6) hours of Recordkeeping/Documentation
75 and three (3) hours of Ethics and Boundaries continuing education; Ethics and Boundaries Examination
76 (EBAS); monitor for three (3) years to include quarterly reports; Fifty (50) community service hours
77 made by Dr. Fogarty. Second made by Dr. Hunt.

78
79 **INFORMAL HEARING**

80
81 **Paul L. Guadagno, D.C., Case #:2019-08294**

82
83 Dr. Guadagno was present with counsel Richard Baron, Esq. Rose Garrison presented case details.

84
85 **Action:** Motion to find that respondent was properly served and has requested an informal hearing; and
86 to accept the materials into evidence for the proceeding; and to adopt the findings of fact as set forth in
87 the administrative complaint made by Dr. Fogarty. Second made by Dr. Fox

88
89 **Vote:** 5 yeas/0 opposed. Motion Carried. Dr. Weingarten recused.

90
91 **Action:** Motion to adopt conclusions of law set forth in the administrative complaint and find that it
92 constitutes a violation of Florida Statute made by Dr. Fogarty. Second made by Dr. Hunt.

93

94
95
96
97
98
99
100
101
102
103
104
105
106
107
108
109
110
111
112
113
114
115
116
117
118
119
120
121
122
123
124
125
126
127
128
129
130
131
132
133
134
135
136
137
138
139
140
141
142
143
144

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

Ms. Garrison recommended revocation of Dr. Guadagno’s license and to impose costs of \$3,362.

Action: Motion to accept prosecution’s recommendation by revoking Dr. Guadagno’s license and imposing costs of \$3,362 made by Dr. Fogarty. Second made by Dr. Hunt.

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

Dr. Fox directed the board’s attention to the licensees in attendance for the purposes of credit. Dr. Fox recommended that the board grant credit to those on the conference call.

Action: Motion to allow credit for those who registered for the meeting and remain in attendance; and to allow two additional meetings for those who disconnected the call made by Mr. Licata. Second made by Dr. Weingarten.

Vote: 3 yeas/3 opposed. Motion Failed.

DETERMINATION OF WAIVER

Bahram K. Habibi, D.C., Case #:2018-21077

Dr. Habibi was not present, nor represented by counsel. Alexander Ciupalo presented case details.

Action: Motion to find that respondent was properly served and has waived the right to an informal hearing; and to accept the materials into evidence for the proceeding; and to adopt the findings of fact as set forth in the administrative complaint made by Dr. Fogarty. Second made by Dr. Heagy.

Vote: 6 yeas/0 opposed. Motion Carried.

Action: Motion to adopt conclusions of law set forth in the administrative complaint and find that it constitutes a violation of Florida Statute made by Dr. Weingarten. Second made by Dr. Fogarty.

Vote: 6 yeas/0 opposed. Motion Carried.

Action: Motion to revoke Dr. Habibi’s license made by Dr. Weingarten. Second made by Mr. Licata.

Vote: 6 yeas/0 opposed. Motion Carried.

Vicki L. Dempsey, D.C., Case #:2018-08903

Dr. Dempsey was not present, nor represented by counsel. Dannie Hart presented case details.

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

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. Fogarty. Second made by Mr. Licata.

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

146

147 **Action:** Motion to adopt conclusions of law set forth in the administrative complaint and find that it
148 constitutes a violation of Florida Statute made by Dr. Fogarty. Second made by Mr. Licata.

149

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

151

152 **Action:** Motion to revoke Dr. Dempsey's license made by Dr. Hunt. Second made by Dr. Fox.

153

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

155

156 **VOLUNTARY RELINQUISHMENT**

157

158 **Susan A. Windland, D.C., Case # 2019-41924**

159

160 Dr. Windland was not present, nor represented by counsel. Alexander Ciupalo presented case details.

161

162 **Action:** Motion to accept relinquishment made by Dr. Fogarty. Second made by Mr. Licata.

163

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

165

166 **Section IV began: 10:16 a.m.**

167

168 **IV. PROSECUTION REPORT**

169

170 **Prosecution Report**

171

172 **Action:** Motion to continue prosecuting cases older than one year made by Dr. Fogarty. Second made
173 by Dr. Weingarten.

174

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

176

177 **Section V began: 10:18 a.m.**

178

179 **V. HARDSHIP EXEMPTION**

180

181 **Timothy Flynn, D.C.**

182

183 Dr. Flynn was not present, nor represented by counsel. Lawrence Harris provided the details of the
184 request.

185

186 **Action:** Motion to remind Dr. Flynn of the board's current extension on continuing education and revisit
187 request later as needed made by Dr. Fogarty. Second made by Dr. Fox.

188

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

190

191 **Section VI began: 10:21 a.m.**

192

193 **VI. PETITION OF MODIFICATION OF DISCIPLINARY ACTION**

194

195 **Michael Norman, D.C., Case #: 2008-24991**

196
197 Dr. Norman was present with counsel, Edwin Bayo, Esq.
198
199 **Action:** Motion to deny request for modification made by Dr. Weingarten. Second made by Mr. Licata.
200
201 **Vote:** 6 yeas/0 opposed. Motion Carried.
202
203 **Tige Robert Buchanan, D.C.**
204
205 Dr. Buchanan was present with counsel Michael Lowe, Esq.
206
207 **Action:** Motion to add an additional 30 days to obtain monitor and keep all other terms made by Dr.
208 Fogarty. Second made by Dr. Hunt.
209
210 **Vote:** 6 yeas/0 opposed. Motion Carried.
211
212 **Break 11:13 a.m. to 11:24 a.m.**
213 **Section VII began: 11:24 a.m.**
214
215 **VII. PETITION TO TERMINATE PROBATION**
216
217 **Jeremiah Joseph, D.C., Case #:2017-10029**
218
219 Dr. Joseph was present with counsel, Edwin Bayo, Esq.
220
221 **Action:** Motion to terminate probation made by Dr. Fogarty. Second made by Dr. Hunt.
222
223 **Vote:** 6 yeas/0 opposed. Motion Carried.
224
225 **Section VIII began: 11:27 a.m.**
226
227 **VIII. APPLICATIONS PRESENTED FOR BOARD REVIEW**
228
229 **Garland D. Glenn, II, D.C.**
230
231 Dr. Glenn was present and not represented by counsel.
232
233 **Action:** Motion to approve the application for licensure made by Dr. Fox. Second made by Dr. Hunt.
234
235 **Vote:** 6 yeas/0 opposed. Motion Carried.
236
237 **Steven D. Poser, D.C.**
238
239 Dr. Poser was present and not represented by counsel.
240
241 **Action:** Motion to approve the application for licensure made by Dr. Hunt. Second made by Dr.
242 Weingarten.
243
244 **Vote:** 5 yeas/1 opposed. Motion Carried.
245
246 **Nicholas A. Brockman, D.C.**

247
248 Dr. Brockman was present and not represented by counsel.
249
250 **Action:** Motion to approve the application for licensure made by Dr. Fogarty. Second made by Dr.
251 Weingarten.

252
253 **Vote:** 6 yeas/0 opposed. Motion Carried.

254
255 **William P. Webb, D.C**

256
257 Dr. Webb was present and not represented by counsel.

258
259 **Action:** Motion to approve the application for licensure made by Dr. Fox. Second made by Dr. Hunt.

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

262
263 **Matthew A. Bush, RCA**

264
265 Mr. Bush was not present, nor represented by counsel.

266
267 **Action:** Motion to deny the application for licensure made by Dr. Fogarty. Second made by Dr. Fox.

268
269 **Vote:** 6 yeas/0 opposed. Motion Carried.

270
271 **Section IX began: 12:07 p.m.**

272
273 **IX. RATIFICATIONS**

274
275 **a. Licensure**

276
277 **Chiropractic Physician**

278
279 **Action:** Motion to ratify the approval of licensees made by Dr. Weingarten. Second made by Mr.
280 Licata.

281
282 **Vote:** 6 yeas/0 opposed. Motion Carried.

283
284 **Registered Chiropractic Assistant**

285
286 **Action:** Motion to ratify the approval of licensees made by Dr. Weingarten. Second made by Dr. Fox.

287
288 **Vote:** 6 yeas/0 opposed. Motion Carried.

289
290 **Certified Chiropractic Physician Assistant**

291
292 **Action:** Motion to ratify the approval of licensees made by Dr. Weingarten. Second made by Mr.
293 Licata.

294
295 **Vote:** 6 yeas/0 opposed. Motion Carried.

296
297 **b. Continuing Education**

298
299 **Continuing Education Providers & Courses approved by CE Committee Chair**
300
301 **Action:** Motion to ratify the approval of providers and courses made by Dr. Weingarten. Second made
302 by Dr. Hunt.
303
304 **Vote:** 6 yeas/0 opposed. Motion Carried.
305
306 **Section X began: 12:09 p.m.**
307
308 **X. CHAIR/VICE CHAIR REPORT**
309
310 Nothing to report
311
312 **Section XI began: 12:09 p.m.**
313
314 **XI. EXECUTIVE DIRECTOR'S REPORT**
315
316 **PRN/IPN COVID-19**
317 **HB 1183**
318
319 Dr. Spivey addressed House Bill 1183 and exemptions that fall under Chapter 468.505, Florida
320 Statutes.
321
322 Mr. Harris discussed House Bill 713 related to the repeal of Registered Chiropractic Assistants
323 (RCA). Mr. Harris requested that the board rules for RCA's be placed on the next meeting agenda if
324 Governor DeSantis should sign the bill.
325
326 **Section XII began: 12:13 p.m.**
327
328 **XII. BOARD COUNSEL'S REPORT**
329
330 **April Rules Report**
331
332 Mr. Harris presented the rules report.
333
334 **16.003**
335 **16.003 board approved amendments**
336 **JAPC letter dated January 9, 2020**
337 **JAPC letter dated February 17, 2020**
338 **JAPC letter dated March 5, 2020**
339
340 Mr. Harris asked the board to review the proposed disciplinary guidelines within rule 64B2
341 16.003, Florida Administrative Code (FAC) and make a final determination.
342
343 **Action:** Motion to proceed with adoption of the rules made by Dr. Hunt. Second made by Dr. Fox.
344
345 **Vote:** 6 yeas/0 opposed. Motion Carried.
346
347 **Extension of Incomplete Application**
348

349 Mr. Harris presented correspondence from a few individuals who expressed concerns of not
350 being able to complete their Part IV NBCE examination due to COVID-19. Mr. Harris
351 suggested that the board allow the licensure applications to be tolled until they
352 can resume testing; and have staff advise applicants to wait to apply if possible.
353

354 **Action:** Motion to accept counsel’s suggestion and toll affected applications made by Dr. Hunt.
355 Second made by Dr. Fox.
356

357 **Vote:** 6 yeas/0 opposed. Motion Carried.
358

359 **Michael Lowe’s email**
360

361 Mr. Harris presented correspondence from Mr. Lowe regarding temporary changes of location
362 or supervision for Certified Chiropractic Physician Assistants (CCPA) and Registered
363 Chiropractic Assistants (RCA).
364

365 Dr. Hunt suggested that allowances be made considering the circumstances of COVID-19 and
366 that requests may be emailed. Dr. Weingarten concurred and asked that those who make these
367 types of requests notify the board upon reverting to original location and/or supervisor.
368

369 **Section XIII began: 12:35 p.m.**
370

371 **XIII. COMMITTEE REPORTS**
372

373 **Budget – Mr. Licata**
374

375 Mr. Licata asked about sweeps.
376

377 **CCPA – Dr. Hunt**
378

379 Nothing to report.
380

381 **Continuing Education – Dr. Fox**
382

383 Dr. Fox reported that he was up to date in reviewing files and had difficulty understanding the
384 sponsors/adjunct procedures.
385

386 **Disciplinary Compliance – Dr. Fogarty**
387

388 Dr. Fogarty reported change in the department’s compliance officer.
389

390 **Examination – Dr. Fox**
391

392 Dr. Fox announced the possibility of Part IV (NBCE) being given in July 2020.
393

394 **Legislation – Dr. Heagy**
395

396 Nothing to report.
397

398 **Probable Cause – Drs. Weingarten/Hunt**
399

400 Nothing to report.

401

402 **Rules – Dr. Weingarten**

403

404 Nothing to report

405

406 **Unlicensed Activity – Mr. Licata**

407

408 Nothing to report

409

410 **Outstanding Service Award – Dr. Fox**

411

412 Dr. Fox announced that a candidate has been selected.

413

414 **Section XIX began: 12:45 p.m.**

415

416 **XIX. OLD BUSINESS**

417

418 None

419

420 **Section XX began: 12:45 p.m.**

421

422 **XX. NEW BUSINESS**

423

424 The board discussed the potential for increasing the amount of continuing education that may
425 be taken online due to COVID-19. The board concluded that there was too much uncertainty and that
426 they would require additional statistics and data. Dr. Heagy asked that this topic be placed on the next
427 in-person meeting agenda. Dr. Fogarty requested Ms. Kilgore’s (board staff) presence during the
428 meeting.

429

430 **Section XXI began: 1:03 p.m.**

431

432 **XXI. NEXT MEETING DATE:**

433

434 **August 7, 2020**

435

436 **Section XXII began: 1:03 p.m.**

437

438 **XXII. PUBLIC COMMENT**

439

- 440 • **Dr. Rick Warner, GoLearn Network**
- 441 • **Aracelly Martinez, Executive Director from Florida Chiropractic Society**

442

443 **Section XXIII began: 1:41 p.m.**

444

445 **XXIII. ADJOURNMENT**

446

447 **Action:** Motion to adjourn at 1:41 p.m. made by Dr. Fogarty. Second made by Mr. Licata.

448

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