

Board of Chiropractic Medicine

August 2020 Conference Call Draft Meeting Minutes

August 7, 2020 at 8:30 A.M. ET

<https://global.gotomeeting.com/join/883825845>



Danita Heagy, D.C.
Chair

Christopher Fox, D.C.
Vice Chair

Anthony B. Spivey, DrBA
Executive Director

**Florida Board of Chiropractic Medicine Meeting Draft Minutes
August 7, 2020**

The meeting was held at the Department of Health, 4042 Bald Cypress Way, Tallahassee, Florida at <https://global.gotomeeting.com/join/914418549> 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.

Board Members:

Danita Heagy, D.C. - Chair
Christopher Fox, D.C., ATC(L) - Vice Chair
Julie Hunt, D.C., FCCJP, DICCP
Kevin Fogarty, D.C., F.I.C.A.
Mindy Weingarten, D.C.
Gretchen Saunders, CFO, Consumer
Ellen Ostman, Esquire, Consumer

Board Staff:

Anthony B. Spivey, DrBA - Executive Director
Gail Curry, CPM, Program Operations Administrator
Kelly Woodard, Regulatory Supervisor Consultant

Attorneys:

Lawrence Harris, Assistant Attorney General
Rose Garrison, Assistant General Counsel
Chad Dunn, Assistant General Counsel
Zachary Bell, Assistant General Counsel

Court Reporter:

For the Record - 850-222-5491

Call to Order

The meeting was called to order by the Executive Director at 8:30 am.

Roll Call

Board Members Present:

Danita Heagy, D.C. - Chair
Christopher Fox, D.C., ATC(L) - Vice Chair
Julie Hunt, D.C., FCCJP, DICCP
Kevin Fogarty, D.C., F.I.C.A.
Mindy Weingarten, D.C.
Gretchen Saunders, CFO, Consumer
Ellen Ostman, Esquire, Consumer

Board Staff Present:

Anthony B. Spivey, DrBA - Executive Director
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Attorneys:

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

Dr. Hunt gave an invocation and Dr. Fox led the Board in the Pledge of Allegiance. Dr. Heagy welcomed the two new Board members: Gretchen Saunders and Ellen Ostman. Both Board members introduced themselves and told the Board what made them want to join the Board of Chiropractic Medicine.

Approval of Minutes

May 8, 2020- Dr. Weingarten made a motion to approve the minutes. Dr. Fogarty seconded the motion. Dr. Heagy had corrections on page 4, lines 137 and 139 are duplicates of 141 and 149. Motion to approve the minutes passed unanimously.

June 30, 2020- Dr. Fogarty made a motion to approve the June 30, 2020 minutes. The motion was seconded by Dr. Weingarten. Motion passed unanimously.

Dr. Heagy made an announcement that this Board meeting will not count for the first-year graduates. She indicated that this information is on the Board's website.

Motion to Vacate

Recused Member: Christopher Fox

Tige Buchanan, D.C. – Present with attorney Michael Lowe. Mr. Lowe started presenting his Motion to Vacate.

Mr. Chad Dunn made an objection on the record. He questioned the Board's authority to hear the case indicating that the case previously came before the Board as a settlement agreement, that the Board rejected and offered a counteroffer. The respondent was present at that meeting and was given seven days to review the offer, which he approved.

Mr. Lowe responded to Mr. Dunn's objection. He stated that he and his client came back before the Board in May, where the Board made changes to the previous order and that he has not received the updated Board order.

Dr. Heagy asked Mr. Harris why Mr. Lowe would not have received an order by now. Mr. Harris said that he did not know and that is something for him to research. Discussion ensued.

Dr. Fogarty made a motion to deny the motion to vacate based on due process being served. The motion was seconded by Dr. Hunt. The motion passed with Ms. Saunders in opposition.

Mr. Lowe let the Board know that he and his client still need the amended final order. He also let the Board know that they are going to appeal.

Mr. Harris explained that the order was drafted on May 22, 2020, and he sent it to the Board office to be executed and issued. He stated that he will investigate the issue, that this was the first time he was hearing about the issue, and that it will be taken care of. Mr. Harris indicated that there will be a denial order issued for today's decision.

Final Order Action

Settlement Agreements:

Recused Member: Mindy Weingarten

Andrew J. Charni, D.C., Case #:2017-20452- Present with counsel Catherine Hedglon, Esq.

Mr. Bell presented the Settlement Agreement. Mr. Harris asked about the costs. He was advised that they are above the capped amount of \$3,500.00 in the settlement agreement. Discussion ensued.

Dr. Fogarty made a motion to dismiss the case. The motion was seconded by Dr. Fox.

Ms. Garrison asked that the record reflect that this case did make it through probable cause. She also stated that there is an agreement where Dr. Charni agreed to the disciplinary terms and that Dr. Charni and his attorney were not disputing the facts.

Mr. Harris explained to the board members that before the motion is made, they needed to ask the respondent if he was willing waive attorney fees and costs. Attorney, Catherine Hedglon, informed the Board that they will waive attorney costs and fees if the case was dismissed, on behalf of Dr. Charni. Voting was completed via roll call. The motion passed with Ms. Ostman in opposition.

Recused Member: Mindy Weingarten

Kim M. Johnston, D.C., Case #: 2018-28412- Not Present. Attorney Edwin Bayò was present to represent Ms. Johnston. Rose Garrison presented the case. Mr. Bayò stated that Dr. Johnston was currently incarcerated but that she would like to have to opportunity to address the board at some point.

Dr. Hunt made a motion to accept the settlement agreement with costs in the amount of \$720.96. Dr. Fox seconded the motion. Discussion ensued.

Dr. Fogarty explained this was a tragic case and had concerns that after 15 years of incarceration what would Ms. Johnston's mental status be and what skills she would possess. Dr. Fogarty spoke out against the settlement agreement indicating that he would like to revoke this license.

Mr. Bayò gave a comparison to another case he represented, the Board of Dentistry against Matthew Moyer-Case # 18-0659PL with the Division of Administrative Hearings.

Voting was completed via roll call. The motion failed with Dr. Heagy, Dr. Fogarty, and Ms. Saunders in opposition.

Dr. Fogarty would like to see that the SPEC examination be taken and passed. Mr. Bayò pointed out that the settlement agreement would allow the board to set additional requirements once Dr. Johnston appears before the board, as required by the settlement agreement. Mr. Harris agreed with Mr. Bayò's interpretation of the settlement agreement.

Dr. Hunt made a motion to reconsider the vote for the motion. The motion was seconded by Ms. Ostman. The motion passed unanimously.

Hearings - No Disputed Material Facts

Brandon S. Wood, D.C., Case # 2016-26767- Not present. Ms. Garrison presented the case. Dr. Fogarty made a motion that the respondent was properly served and to adopt the administrative law judge's decision. Dr. Hunt seconded the motion and it passed unanimously.

Dr. Weingarten made a motion to accept the materials in this tab into evidence for today's proceedings. Dr. Hunt seconded the motion and it passed unanimously.

Dr. Fogarty made a motion to adopt the findings of facts as set forth in the administrative complaint. Dr. Weingarten seconded the motion and it passed unanimously.

Dr. Fogarty made a motion to adopt the conclusion of law set forth in the administrative complaint

and that this constitutes a violation of Florida statute. Dr. Weingarten seconded the motion and it passed unanimously.

Dr. Fogarty made a motion to revoke the license and impose costs of \$17,090.00 to be paid within 30 days. Dr. Weingarten seconded the motion and it passed unanimously.

Prosecution Report

Ms. Garrison presented the prosecution report. Dr. Fogarty made a motion to accept the prosecution's report and to allow the Department to continue prosecuting cases that are a year old or older. Dr. Fox seconded the motion and it passed unanimously.

Application Review

Danielle Dietrich, D.C.- Present with attorney Marshall Horton (Attorney in South Carolina). Dr. Dietrich addressed the board and answered questions. Dr. Weingarten made a motion to approve the application. Dr. Hunt seconded the motion and it passed unanimously.

Christopher Johnson, D.C.- Present. Mr. Harris instructed the Board that Dr. Johnson was convicted of a crime under section 893.13, F.S., and based on section 456.0635, F.S., he is barred from licensure. Mr. Harris' indicated that Dr. Johnson will not be eligible for a Florida license until July of 2023.

Dr. Johnson indicated he will wait a few years and reapply. The board gave him guidance on what he can do over the next couple of years to put himself in the best position to meet the requirements for licensure. Dr. Johnson requested to withdraw his application. The board accepted the withdrawal.

Christopher Melchizedek, D.C.- Present. Dr. Melchizedek spoke about his charges. The board asked some questions that Dr. Melchizedek answered. He also took responsibility for his actions and gave a description of his goals to open his own office. Dr. Weingarten made a motion to approve the application. Dr. Fox seconded the motion and it passed with Ms. Saunders in opposition.

Louis Saucedo, Jr., D.C.- Not Present. Dr. Weingarten made a motion to approve the application. Dr. Hunt seconded the motion. Board members discussed the Texas Boards discipline. The motion passed unanimously.

Mark Schroering, D.C.- Present. Mr. Harris instructed the Board that Dr. Schroering had discipline for record taking. Dr. Fogarty asked if a monitor had reviewed his records and if they were legible. Dr. Schroering gave a detailed response to the affirmative. He also asked about his unlicensed activity. Dr. Schroering again gave a detailed response. Dr. Fogarty made a motion to approve the application. Dr. Fox seconded the motion and it passed unanimously.

Oleg Gozenpud, D.C.- Present. Dr. Gozenpud gave a description of the events that lead to the malpractice claim. Dr. Fogarty had concerns that Dr. Gozenpud didn't show any remorse or admittance of any wrongdoing. Discussion ensued. Dr. Fogarty made a motion to deny the application. Dr. Weingarten seconded the motion and it passed unanimously.

Dr. Heagy wanted to know if there should be an option for the doctor to withdraw his application. Mr. Harris provided legal advice and several options to the Board. Dr. Gozenpud requested that he be able to withdraw his application or receive a conditional license to take the SPEC exam. Dr. Fogarty indicated that he stood with his previous motion and vote. Dr. Weingarten made a motion to vacate the previous motion. There was no second and the motion failed.

Debora Logan, D.C.- Not present. Mr. Harris advised the Board that Dr. Logan has not met current licensing standards, she is missing part IV of the national exam. Dr. Fogarty made a motion to deny the application for not meeting licensing standards. Dr. Hunt seconded the motion. Discussion ensued that the Board could deny

but give Dr. Logan ten days to withdraw her application. Dr. Fogarty amended the motion to include giving Dr. Logan ten days to withdraw her application. Dr. Hunt amended her second. The motion passed unanimously.

Cherrellyn Seegers, D.C.- Present. Mr. Harris advised the Board that Dr. Seegers has not met current licensing standards, she is missing part IV of the national exam. Dr. Seegers addressed the Board and requested that Board work with the legislature to amend the law. Dr. Fox and Dr. Fogarty stated that the Board has tried for several years to get the legislature to allow for endorsement to help many doctors, but the Board can't do anything more than what the legislature allows. Dr. Seegers acknowledged that she understood that, but that we have never been in a national pandemic before and asked that they bring the issue to the legislature at this time. Dr. Fogarty explained that the exam is scheduled in September and that special sessions are being scheduled. Dr. Seeger's application will be tolled pending part IV of the exam.

Application for Change of Status from Inactive to Active

Christa Flaherty- Not present. Mr. Harris explained that if a license is inactive for two renewal cycles the licensee shall appear before the board. Dr. Fogarty made a motion to deny the application with ten days to withdraw the application, based on the doctor not practicing in her state of Texas, that the Board cannot ensure that doctor is not a risk to public safety, and that her license is currently in delinquent status. Dr. Weingarten seconded the motion and it passed unanimously.

Aaron Alford- Not present. Mr. Harris explained that Dr. Alford is in the same situation as Dr. Flaherty. Dr. Hunt made a motion to deny the application with the opportunity to withdraw the application within ten days. Dr. Fox seconded the motion and it passed unanimously.

Board Counsel Report

Department of Education (DOE) State Authorization Letter- Mr. Harris advised the Board that the United States DOE is no longer using the term regional accreditation. He stated that going forward institutional accreditation and programmatic accreditation will be used. He indicated that more schools are going to a national accreditation. He suggested that the Board ask the Department to get the practice act updated to take the term "regional accreditation" out of statute. Dr. Spivey advised the Board that the Department is already working on that proposal.

2020-2021 Annual Regulatory Plan- Mr. Harris advised the Board what an Annual Regulatory Plan is, gave details of what the Regulatory Plan consists of, and what is expected of the Board. Dr. Hunt made a motion to approve the 2020-2021 Annual Regulatory Plan. Dr. Fogarty seconded the motion and it passed unanimously.

64B2-16.003 letter to JAPC- Mr. Harris spoke about the letter from JAPC. He advised the Board that the letter stated that the Rule should be meaningful and layout aggravating and mitigating factors. He also stated that the JAPC attorney thinks the ranges are too broad and would like to have the penalties tightened up. Mr. Harris wanted the Board to see his responses to the JAPC attorney as they are the Board's responses. The Board made a determination to have the Rules Committee review the guidelines and see if they can tighten them up. Dr. Heagy asked that Mr. Harris reach out to the individual members (Dr. Weingarten, Dr. Fox, and Ms. Saunders) to get their input. She asked that they have it ready for the November meeting.

2020 Comprehensive Rule Review Discussion and Approval- Mr. Harris explained that the Governor directs a comprehensive review of all agencies in the state to go through every rule, review them, and essentially approve or disapprove those rules. Mr. Harris explained that he conducted the initial rule review, sent it to the Chair for comment, and now that it was before the Board for their review. He explained that the review is due by September 1, 2020 and that he will have to enter everything into a database. A motion was made by Dr. Hunt to approve the 2020 Comprehensive Rule Review, allowing Mr. Harris to enter it into the database, and certify the rules review had been accomplished by the Governor's deadline. Dr. Fogarty seconded the motion and it passed unanimously.

Board Meeting Motions- Mr. Harris talked about the possible motions that the Board members could use on licensure and discipline cases. He also discussed the yellow sheet questions, that are a set of questions that

the Board must answer whenever they are doing rulemaking. Mr. Harris indicated that anytime the Board is voting to amend or propose rule language, they must answer these questions.

Ratifications

Chiropractic Physician- Dr. Fogarty made a motion to approve the ratification of license numbers 13129-13186. Dr. Fox seconded the motion and it passed unanimously.

Registered Chiropractic Assistant- Dr. Weingarten made a motion to approve the ratification of license numbers 20563-20716. Dr. Fox seconded the motion and it passed unanimously.

Certified Chiropractic Physician Assistant- Dr. Fogarty made a motion to approve the ratification of license numbers 1005-1009. Dr. Weingarten seconded the motion and it passed unanimously.

Continuing Education- Dr. Weingarten made a motion to approve the continuing education. Dr. Fox seconded the motion and it passed unanimously.

Palmer Course Review- Dr. Fox requested that other Board members review the course for clarification. Dr. Fox made a motion to deny the course, based on the course not meeting the guidelines of continuing education. Dr. Fogarty seconded the motion and it passed unanimously.

Online Continuing Education

PACE Guideline for Online Distance Learning- Mr. Harris explained that a lot of states take PACE approval as if it's approved by PACE, it is approved for our state. He indicated that PACE approval was brought up in previous meetings and would include an approval process that would be called the PACE pre-check. He informed the Board that Chapter 456 says that continuing education must be approved by the board and this is pursuant to something called non-delegation doctrine. He advised the Board that they would have to be very careful how the rule was written, he also advised that the Rule would have to be updated regularly. There was discussion between the Board members concerning parameters for live streaming, asynchronous, and online. The discussion was tabled for now.

Dr. Weingarten presented her Rules Committee report. She worked with Mr. Harris to change language for online versions and shared those options with the Board. Board members gave ideas and suggestions. Ms. Saunders made a motion to accept the option of embedded questions into the course. Dr. Weingarten seconded the motion. Dr. Fogarty recused himself. The motion passed unanimously.

Live Streaming Options

Dr. Heagy spoke about her concerns about this process becoming permanent and her desire for people to have to do continuing education in person when the pandemic is over.

Mr. Harris spoke about the differences between "Live" and "Live Stream". He explained the differences and how they are presented. Mr. Harris explained that other Boards are considering live stream as a live course. He explained that "Live Stream" is not on demand, that participants can raise their hand and ask questions. Discussion ensued.

Dr. Fogarty wanted to ensure that all the Board members had the same understanding of the nomenclature. "Synchronous" meaning real time with people having the ability to interact. Ms. Ostman had concerns about making the parameters too rigid. Dr. Heagy and Dr. Weingarten both said that due to the hands-on approach of Chiropractic Medicine that it is important to have personal contact for training on techniques. Dr. Hunt thinks there needs to be parameters in place, that some things can be taught adequately online, but others need to be hands-on. Dr. Fox stated that he believes that adjustment techniques need to be in person but with the situation right now the doctor's need options to get CE.

Mr. Harris pointed out that there are a lot of people asking if they can get their first-year board meeting requirement via synchronous attendance. Dr. Heagy asked about the Department's ability to verify that the person is actually there and paying attention. Discussion ensued.

Dr. Hunt made a motion to allow Live Synchronous CE to be the same as Live through the renewal biennium of 2022, including the first years. Dr. Weingarten seconded the motion. The motion was tabled for discussion about the Letters from the Senate and the House and for Public comment.

Letters from the Senate and House

Dr. Heagy said that the letters from Senator Galvano and Representative Oliva state you will do 40 hours online. Dr. Spivey explained that these letters are to move the board in the direction of allowing individuals to start taking classes online to keep everyone safe. Dr. Spivey said that he thinks the longer we wait the worse it will get. Mr. Harris recapped Dr. Fogarty's proposed policy to allow them to be taken online and split them into two parts: synchronous and asynchronous. He indicated that the Board has dealt with the synchronous portion. Dr. Hunt stated that she believes asynchronous online should also be allowed through this biennium.

Public Comment

Dr. Rick Warner stated that there is a world of difference between synchronous and asynchronous. He said that there would have to be a closed circuit and that providers don't have that. He said that the ten hours has worked fine and asked the Board to simply change the ten hours to 40 hours.

Dr. Salvatore LaRusso stated he had served under three governors on this Board and that the Board's primary charge is public protection. He said in experience, especially with experience of dealing with cases of standard of care, risk management, violation of Florida laws and rules that he currently works with that there is no way that you can replicate online the amount of education a doctor gets in an in person classroom environment, they sit next to colleagues, and they have discussions on breaks. Dr. LaRusso stated would he hate to see the Board go to all 40 hours online. He said he can see doing it during the COVIDPandemic, but he just does not see where, since the primary charge is to protect the public, it is service bthe public and doing this same class online. He said that a lot of things taught are difficult to perform. Dr. LaRusso said that until we can do it online with safeguards and where it can be monitored appropriately, he would hate to see the entire amount be online.

Dr. Mary Jane Ward- Not present.

Michelle Champion- This issue pertains to the petition that she filed and is on the agenda. When reading the Appropriation Act, in her opinion, it states that no funds are provided for the Board to adopt any rules that limit or restrict prescribing the number of contact classroom hours, which may be obtained through online attendance and continuing education courses. She said, enacting any rule which limits or restricts the number of hours which licensee can obtain in an online format would place the Board in direct violation of the statute.

Dr. Todd Cielo- Dr. Cielo said that he believes the nine-month extension that was given at the last meeting isn't the solution. He said that doctors have missed 10 to 15 live seminars since the lockdown. He said that he has spoken to this board five times in the last two and a half years, requesting the Board allow all 40 hours be online as an option for chiropractors. Dr. Cielo said that students from kindergarten to college students and many professions have been allowed to obtain their hours online. He said yet during this pandemic of death, no protection has been put in place for chiropractor's when getting CE's. Dr. Cielo said that he has been attending live seminars for over twenty years and no one gives quizzes during live courses and that it is medically necessary to allow online CE.

Dr. Robert Arsenault - Not present.

Dr. Jason Finch- Not present.

Dr. Deborah Arnetta- Not present.

Dr. Jeff Hershner- Not present.

Dr. Nicole Townsley- Not present.

Dr. Peter Martin, President of Palmer College, Florida Chiropractic Campus- He said that online isn't ideal or the same. Dr. Martin spoke of the difficulties and that now they have a blended curriculum. He said you can't train without hands on experience. He gave the example of saying the point of tension, that the students don't know what you are talking about without someone being able to show them. He said that he understands that options need to be in place for now but hopefully we will be back to normal soon. Dr. Martin indicated that the school was betting on being back to normal in about a year and that they were building a new classroom. He said that there is just no substitute for in person training. Dr. Martin said that he had been a Chiropractor for 52 years.

Dr. Deborah Hoffman (former Board Chair)- Dr. Hoffman said that classroom hours are important. She said that temporary online is okay, but that the change should not be permanent change. She asked the Board that they not make a permanent change for a temporary problem. Dr. Hoffman said that she is reaching out to associations for help, and that states that have gone to complete online have lost their collective bargaining power within their state associations. She said that Chiropractors are hands on and don't have medical oversight.

Dr. Peter J. Brockman- Not present.

Dr. Bree Gindele- Not present.

Dr. Wayne Wolfson (former Board member)- Dr. Wolfson said that he has been a chiropractor since 1978, that he had served on the Board from 1994 to 2005. He said that he was a former president of the Federation of Chiropractic Licensing Boards and that he also served as the Director on the National Board of Chiropractic Examiners. Dr. Wolfson said he is currently the President of NCMIC. He said that he applauds the Board for allowing modification on how chiropractor obtain CE hours. He said that the world has changed since he was initially licensed. He said that continuing education has changed since then, including the requirement for courses on new subjects such as human trafficking. He said he believes that there is great value in traditional classroom learning: allowing discussion from colleagues. He said that he believes that there is a value to Doctor's having options to obtain a portion of CE online.

Paul Lambert, Attorney for Florida Chiropractic Association is present to represent the doctors who are speaking on behalf of the Florida Chiropractic Association. He said that he will only speak if there is a legal point to be made.

Dr. Spivey read a letter from Dr. Todd Narson into the record, a letter received in opposition to the 40 hours online continuing education.

Dear Members of the Florida Board of Chiropractic Medicine,

My name is Doctor Todd Narson, Florida Chiropractic License CH 6376. I have been a licensed practicing Chiropractic Physician in good standing since 1991. I did my Florida Chiropractic internship with Former FBOCM Chairman, Doctor Stanley Kaplan, and during my internship built a foundation of good record keeping, ethics, and risk management. A base of knowledge I continue to build on ever since. Over the years I have improved and refined my practice. I have encountered many of our colleagues' records through simple patient records requests as well as my eventual work through reviewing files for attorneys and insurance companies. I have also had the opportunity to defend, be a defense expert witness on a federal insurance fraud case involving multiple chiropractors. Through my experiences, I can tell you I have seen a multitude of files with poor and substandard record keeping, improper and fraudulent CPT coding, as well as poor risk management practices, and questionable ethics. Based on my experience I feel allowing a portion of online continuing education, the general education topics, is appropriate, however; when it comes to subjects of Record

Keeping, CPT coding, Florida Laws and Rules, Risk Management, and Ethics I urge the Board to require these continuing education classes to remain in person attendance until we as a profession can improve our ability to self-police. It seems as if our professions is plagued by doctors getting into trouble for violations of record keeping short falls, improper and fraudulent use of CPT codes, poor risk management, and unethical practices. If this weren't the case, I could understand the argument. As physicians we should require more of ourselves, especially when the public's health and safety is entrusted to us. The Florida Board of Chiropractic Medicine was legislatively established to ensure that every Chiropractic Physician practicing in the state of Florida meet minimum requirements for safe practice. This was and is for one specific reason – protect the public. Let's also not forget that chiropractic is a hands-on profession and if we remove that line component it opens us up to ridicule and attacks. I urge the Board of Chiropractic Medicine to at minimum keep the status quo when it comes to in person live continuing education for record keeping, CPT coding, Florida laws and rules, risk management, and ethics.

Sincerely, Todd Narson, D.C.

Dr. Narson spoke and provided additional comments. He said that during this time he can understand a temporary change, but that he urges that these topics remain required in person long term.

Dr. Fox asked Dr. Narson about the fact that all Chiropractors are educated live, and how CE makes a difference not being live.

Dr. Narson said that he teaches some of these subjects online and in person. He said that he has had the opportunity talk to the doctor in the federal case and that he pled ignorance. He said he cannot tell you how many times in in person courses he has had to deviate from the PowerPoint presentation to engage in sidebar conversations, and that the attendees have really raise good points. He talked about the technical issues you have with online class. He says that students are much better engaged when they are in person.

He was asked by Ms. Ostman, if he believed that if given the choice, doctors would make the wrong choice. He said that he trusted some of his colleagues and did not trust others.

Dr. Eddie Martinez, President of Florida Chiropractic Society- He said he had two points to discuss. He said that he thinks that it is a good idea that the Board is discussing synchronous classes, because right now all the schools of all levels are doing this and successfully using the technology available. He said that he thinks it is a good idea to adapt during this current situation, especially for those who are afraid to leave their homes. His second comment was that live conferences are still being given. He said that he just attended an FCS conference last weekend in Orlando and that conferences can be held following CDC guidelines.

Dr. Craig Newman- He said that he has been practicing for 37 years. He stated that he is a past president of the Florida Chiropractic Association, that he has served on the House of Delegates to the American Chiropractic Association for four years, and that the has served on the ACA Board of Governors, representing Florida and eight other states. He said that he spoke in opposition of the full 40 hours of online learning as a standard. Dr. Newman said that we are in some unusual circumstances right now and he can understand it for right now. He said that the experts have said that people do not learn online the same way they do in person. He said he feels that any changes should be short term.

Dr. Martin Slaughter- He said just because you offer 40 hours of online learning doesn't mean that no one will take live courses. He said that he felt that people need to have a choice. He said that he goes to these courses and sees people paying no attention in live classes. He said that good doctors will always do the right thing and that they are not children. He also said he feels that the Board should do the right thing by the CCPAs. He asked the Board to do the right thing by allowing online CE. Dr. Slaughter said that he is at a high risk for COVID and that he will not be attending any live courses until the pandemic is well under control.

Dr. Michael Chance- Not present.

Dr. Hamtaee- Not present.

Dr. Annabelle Mac Auley- Not present.

Dr. Badka- He said that 40 hours being online would help Chiropractors spend more time with their families. He said that Chiropractors spend so much time as business owners that they do not spend a lot of time with their families. He also said that having online available would save costs for Chiropractors, no more hotel rooms.

Mr. Harris explained in detail what the continuing education statute meant and how it was implemented. He spoke about the idea of changing the ten hours of online CE hours to 40 hours. He said the proviso says the Board will spend money to develop a model, including an online classroom course. Mr. Harris believes that the legislature and Senator Galvano meant for the Board to develop a model of what an online course would look like because that could be different than what Dr. Fogarty proposed, which was live streaming, and asynchronous. He said that this is for the Board to decide. He said he believes that Dr. Fogarty said we already have a live model and that we know what live contact hours are. He said that we know that WebEx and GoToMeetings are available and that the Board can do this. So, it is very easy for us to say live virtual, live streaming, synchronous. Mr. Harris said now we must do something with asynchronous because that's different from live. It's online, but it is a different law.

Dr. Hunt said that she would like to allow 40 hours of live synchronous, and 30 hours of asynchronous, in addition to the existing 10 hours. The motion passed unanimously with Dr. Fogarty recused.

Mr. Harris said that all three policy decisions will have to be implemented through rulemaking, that they cannot go into effect today. Mr. Harris suggested the following language changes to Rule:

For purposes of this rule a live synchronous online course (virtual live) shall be considered to be live in person.

Delete general hours. Include definition 64B2-13.004 (F.A.C.) and in 13.007- for purposes of this rule a live synchronous online course ("virtual live") shall be considered to be a live-in person.

64B2-13.007(3)(d) Each licensee may elect to obtain all forty hours through online continuing education courses.

Dr. Fox suggested that period of time of allowing 40 hours online be part of the study. The Board discussed the possibility of an independent study being performed. Dr. Fox suggested that the study determine that there is no abuse, that it is effective, and that it doesn't cost the associations or organizations money. Dr. Spivey stated that if the Board defines the parameters of what they are looking for the Department contract office will check into the cost of hiring someone. Dr. Heagy wanted the study to ensure public safety, that security measures are in place that verify attendance for both the synchronous and asynchronous, so there is a confidence of what they say is happening is actually happening, and she wanted to see utilization percentages for in-person, synchronous, and asynchronous. Dr. Fogarty wanted to compare any complaints that are being filed against the chiropractors and the organization putting on the course, also the number of complaints going to probable cause. Dr. Fogarty wanted to see if the online hours impact the CE violations or not.

Mr. Harris shared with the Board, via a screenshot, the language he drafted for both 64B2-13.004 and 64B2-13.007.

Define- "For purposes of this rule, through the current licensure biennium, which ends March 31, 2022, live synchronous online ("Virtual Live") courses shall be considered to be an in-person attendance courses and shall be reviewed pursuant to the criteria for in person courses."

For 64B2-13.004(3)(d)- "online attendance allowed, during the current biennium, which ends March 31, 2022, a licensee may elect to obtain all required continuing education hours through online attendance continuing

education courses, beginning 1, April 2022, the current limitation of 10 online attendance continuing education hours is restored.”

Dr. Fogarty informed staff that currently CEBroker requires you to apply twice, with this change they would only have to apply once.

Dr. Heagy asked Mr. Harris to add language that no online attendance continuing education course may be repeated for credit within the same biennium and that this limitation does not apply to live synchronous online courses. Mr. Harris said he was not sure exactly where it would go but that it should be easy to add.

Dr. Weingarten made a motion to approve the language drafted by Mr. Harris. Dr. Hunt seconded the motion and it passed unanimously with Dr. Fogarty recused.

Dr. Weingarten wanted to know if these rule changes included the Certified Chiropractor Physician’s Assistant, CCPA’s. Mr. Harris’s answered that no it did not, because CCPA’s are in a different chapter.

Dr. Weingarten made a motion that the same amendments be made to the CCPA rules for continuing education. Dr. Hunt seconded the motion and it passed with Dr. Fogarty recused.

Mr. Harris asked, “Will the proposed rule amendments be likely to directly or indirectly increase regulatory costs to any entity including government in excess of \$200,000.00 in the aggregate in Florida within one year after implementation?” The Board answered, no.

Mr. Harris asked, “Will the proposed Rule amendments have an adverse impact on small business?” The Board answered, yes.

Mr. Harris advised the Board that Dr. Spivey will have to draft the SERC and that Dr. Spivey will have to survey CE providers to determine the estimated cost for the SERC.

Dr. Weingarten made a motion to put a 90-day emergency rule in place to allow licensees to get their CE. Dr. Hunt seconded the motion and is passed unanimously.

Mr. Harris advised the Board that the other SERC questions will be addressed once the first SERC is answered.

Petition for Rule Amendment

Petition to Initiate Rulemaking – Michelle Champion- Dr. Fogarty recused himself based on a possible conflict of interest. Ms. Champion addressed the Board. She said that she believes that the language is mandatory and that the rule changes should be permanent not temporary according to the letter submitted to the Board. Mr. Harris advised the Board to deny the petition due to the fact that the Board has already opened the rule and proposed amendments. Dr. Weingarten made a motion to deny the petition. Dr. Hunt seconded the motion and it passed with Ms. Saunders and Ms. Ostman in opposition.

Chair/Vice Chair Report

None

Executive Directors Report

Dr. Spivey informed the Board that a meeting will need to be scheduled for a special case involving sexual misconduct. He stated that the 90-day period for hearing the case ends on October 20, 2020, so a meeting will need to be scheduled before that time period. Dr. Heagy asked that Ms. Curry circulate an email checking for Board members availability. Dr. Spivey said that they would send some proposed dates out.

Old Business

None

New Business

None

Committee Reports

Budget – Dr. Heagy asked that Ms. Saunders take this position.

CCPA – Dr. Hunt reported that they are working away.

Continuing Education – Dr. Fox reported that he is completely caught up with all applications.

Disciplinary Compliance – Dr. Fogarty reported that he is completely caught up and that they had just got a new compliance officer.

Examination – Dr. Fox- No information.

Legislation – Dr. Heagy- Nothing to report.

Probable Cause – Drs. Weingarten/Hunt- Meetings have all gone well.

Rules – Dr. Weingarten - Has already given report.

Unlicensed Activity – Dr. Heagy asked that Ms. Ostman take this position.

Outstanding Service Award – Dr. Fox- Nothing to report.

Dr. Hunt stated that Dr. Walter Aiken has passed due to COVID. She said that he had such an incredible impact on Chiropractic Medicine, and she wanted to honor his 54 years of Chiropractic service.

Dr. Tyler Chapin asked if his attendance at this meet would count for his first-year requirement. Dr. Heagy explained that she had announced at the beginning of the meeting that this meeting would not count.

Dr. Paula Houser is also a first-year licensee. Dr. Heagy explained that additional time has been given for first year students to meet their first-year requirement.

Dr. Don Morris stated that he believes courses for prevention of COVID 19 should be acceptable for credit.

Next Meeting Date

November 6, 2020

Adjournment

Dr. Fogarty made a motion to adjourn. Dr. Weingarten seconded the motion and it passed unanimously.

Meeting adjourned at 5:35 p.m.