

Board of Chiropractic Medicine

May 21, 2021 Draft Meeting Minutes

May 21, 2021 at 8:30 A.M. ET



Christopher Fox, D.C.
Chair

Mindy Weingarten, D.C.
Vice Chair

Christina McGinnis, MPH
Executive Director

Board Members:

Christopher Fox, D.C. - Chair
Mindy Weingarten, D.C. - Vice Chair
Danita Heagy, D.C.
Julie Mayer Hunt, DC, FCCJP, DICCP
Kevin Fogarty, D.C.
Gretchen Saunders, Consumer
Ellen Ostman, Esquire, Consumer

Board Staff:

Christina McGinnis, MPH, Executive Director
Dontavia Wilson, Program Operations Administrator

Board Counsel:

Lawrence Harris, Assistant Attorney General

Court Reporter:

For the Record – (850) 222-5491

Participants in this public meeting should be aware that these proceedings are being recorded. An audio file of the meeting will be posted on the Florida Board of Optometry website.

Please mute your telephone upon entering the meeting site to remove background noises. You will be recognized by the Chair when it is your turn to speak. Thank you in advance for following these instructions to ensure a smooth meeting process.

CALL TO ORDER

Dr. Fox called the meeting to order at 8:30am.

Roll Call

Board Members Present:

Christopher Fox, D.C. - Chair
Mindy Weingarten, D.C. - Vice Chair
Danita Heagy, D.C.
Julie Mayer Hunt, DC, FCCJP, DICCP

Board Staff Present:

Christina McGinnis, MPH, Executive Director
Dontavia Wilson, Program Operations Administrator
Jacqueline Clahar-Anderson, Regulatory Supervisor

Board Counsel Present:

Christopher Dierlam, Senior Assistant Attorney General

Welcome

Dr. Fox requested board members, board office staff, and board counsel to introduce themselves. First year board meeting attendance and CEs were not available as discipline was not discussed during this meeting. Mr. Dierlam was asked to explain the board's processes and procedures.

FIFTY (50) YEAR SERVICE AWARDS

Dr. Heagy presented the 50-year service awards to licensed Florida Chiropractors.

OUTSTANDING SERVICE AWARD (2019)

Dr. Fox announced Dr. Woody Brown as the 2019 Outstanding Service Award recipient.

APPROVAL OF MINUTES

February 26, 2021- A motion was made by Dr. Heagy to approve with corrections. Dr. Weingarten seconded the motion and it passed unanimously.

March 12, 2021 -A motion was made by Dr. Heagy to approve the minutes with corrections. Dr. Weingarten seconded the motion and it passed unanimously.

APPLICATION FOR RECONSIDERATION

Reconsideration: *Aleksandr Mostovoy, D.C. (Present)*

Sara Bazzigaluppi represented Dr. Mostovoy and provided a summary of facts.

Action Taken:

Dr. Weingarten made a motion to vacate the previous order. Dr. Hunt seconded the motion. Motion passed 3/1 with Dr. Heagy in opposition.

Dr. Heagy made a motion to amend the previous motion. The motion was to accept the application with the provision of requiring 10 additional continuing education courses in documentation and coding. These courses must be taken within the first 6 months of practicing in Florida. The previously entered Notice of Intent to Deny the application for Florida licensure has been vacated. Dr. Mostovoy has been approved for licensure with the following conditions: Complete 10 hours of board approved Continuing Education in the area of Documentation and Coding within six (6) months. These hours shall be in addition to the hours required for biennial licensure renewal. Dr. Mostovoy will be placed on probation for a period of six (6) months. During probation he will practice under the indirect supervision of a Board-approved chiropractic physician, referred to as "Monitor. The monitor shall review, monthly, a minimum of ten (10) files or ten (10) percent, whichever is greater, of the doctor's active patient files for the purpose of ascertaining whether proper documentation and forms are maintained. Dr. Hunt seconded the motion and it passed unanimously.

FINAL ORDER ACTION

Voluntary Relinquishment: *Richard M. Davidson, D.C. Case Number 2020-33850 (Not Present)*

Action Taken:

Dr. Heagy made a motion to accept the request for a voluntary relinquishment. Dr. Hunt seconded the motion and it passed unanimously.

Determination of Disciplinary Compliance Status: *John Lenihan, D.C. 501/14808 (Present)*

Dr. Michael Petrie, the supervising Chiropractor for Dr. Lenihan provided an overview of his supervision for Dr. Lenihan. Discussion ensued.

Dr. Heagy had concerns about the supervision and stated the purpose of the final order was to supervise Dr. Lenihan daily practice, and this should have been specified. Discussion ensued.

Action Taken:

None. Mr. Dierlam stated a motion was not necessary.

PROSECUTOR REPORT

Mr. Dierlam presented the prosecution report. Dr. Hunt made a motion to allow the department to continue to prosecute cases that are a year old or older. Dr. Heagy seconded the motion which passed unanimously.

APPLICATION PRESENTED FOR REVIEW

Lisa Lupo, D.C. 501/15284- Present. Dr. Lupo agreed to waive the deemer provision. The applicant agreed to return to the August 27, 2021 board meeting. The board voted to delegate the Board Chair to approve the application if PRN provides adequate information that Dr. Lupo is safe to practice.

Action Taken: A motion was made by Dr. Heagy to a conditional approval if PRN states Dr. Lupo is safe to practice. Dr. Weingarten seconded the motion and it passed unanimously.

Stephen Offenburger, D.C. 501/15148- Not present.

Action Taken:

A motion was made by Dr. Weingarten to accept the application. Dr. Hunt seconded the motion and it passed unanimously.

Richard Peterson, D.C. 501/15272- Present. Dr. Peterson gave a self-explanation of his history.

Action Taken:

A motion was made by Dr. Weingarten to accept the application. Dr. Heagy seconded the motion and it passed unanimously.

John Rotondi III, D.C. 501/9543- Not present.

Action Taken:

A motion was made by Dr. Heagy requesting the applicant to appear at one of the next two board meetings. Dr. Weingarten seconded the motion and it passed unanimously.

Stephen Nothnagle, D.C. 501/13560- Present. Dr. Nothnagle gave a self-explanation of his history.

Action Taken:

A motion was made by Dr. Heagy to accept the application. Dr. Weingarten seconded the motion and it passed unanimously.

Recess: 10:30am-10:45am

PETITION FOR VARIANCE AND WAIVER: 64B2-13.004

Casey Rogers, D.C.: *Present.* Dr. Rogers gave a self-explanation of his history. Discussion ensued.

Action Taken:

Dr. Rogers agreed to waive the deemer provision for the petition to be continued and reviewed at the next board meeting in August with additional details and information.

RATIFICATIONS

Chiropractic Physician

Action Taken:

A motion was made by Dr. Heagy to ratify the list of 90 applicants provided in the agenda materials. Dr. Hunt seconded the motion and it passed unanimously.

Certified Chiropractic Assistant

Action Taken:

A motion was made by Dr. Heagy to ratify the list of 13 applicants provided in the agenda materials. Dr. Weingarten seconded the motion and it passed unanimously.

Continuing Education: Dr. Heagy provided information to board members regarding a Dry Needling continuing education course requested for approval. Discussion ensued.

Action Taken:

A motion was made by Dr. Weingarten to approve all CEs, except course #20-771847. This course will be delayed until the next meeting for the full board to discuss if it meets the appropriate statutory requirement. Dr. Heagy seconded the motion and it passed unanimously.

CONTINUING EDUCATION

New York Chiropractic College Name Change: No discussion or motions needed; this was only for the board's information.

Michael C. Chanatry, D.C.: Review and Approval of CE Course "Dry Needling": Dr. Chanatry withdrew his application for CE.

BOARD COUNSEL REPORT

A. May Rules Report: Reviewed by Board Counsel.

B. Application Rules

1. **64B2-18.002: Application for Certification as a Chiropractic Physician's Assistant-** A motion was made by Dr. Hunt to approve draft language provided by Mr. Harris. Dr. Weingarten seconded the motion and it passed unanimously. A motion was made by Dr. Heagy to approve the new application. Dr. Weingarten seconded the motion and it passed unanimously.
2. **64B2-18.005: Certification of Supervising Physicians-** A motion was made by Dr. Hunt to approve the draft JAPC language provided by Mr. Harris. Dr. Weingarten seconded the motion and it passed unanimously.
3. **64B2-12.022: Application for Medical Faculty Certificate-** (Modification to the title of the rule) A motion was made by Dr. Heagy to change the name on the application to "Chiropractic Faculty Certificate". Dr. Hunt seconded the motion and it passed unanimously.
4. **64B2-11.001: Application for Licensure Examination-** A motion was made by Dr. Hunt to approve the drafted response to JAPC provided by board counsel. Dr. Weingarten seconded the motion and it passed unanimously. A motion was made by Dr. Hunt to approve the new adopted application. Dr. Weingarten seconded the motion and it passed unanimously.

C. Rule Amendments

1. **64B2-13.004: Continuing Education-** A motion was made by Dr. Heagy to approve the drafted response. Dr. Hunt seconded the motion and it passed unanimously.
2. **64B2-16.003: Guidelines for Disposition of Disciplinary Cases-** A motion was made by Dr. Hunt to approve the drafted language, Dr. Heagy seconded the motion and it passed unanimously.
3. **64B2-12.002: Application for Chiropractic Acupuncture Certification-** A motion was made by Dr. Hunt to approve the new application. Dr. Weingarten seconded the motion and it passed unanimously.
4. **64B2-16.005: Application for Chiropractic Physician's Assistant:** A motion was made by Dr. Hunt to approve the new application. Dr. Weingarten seconded the motion and it passed unanimously.
5. **64B2-16.002: Certification of Supervising Physician:** A motion was made by Dr. Hunt to approve the new application. Dr. Weingarten seconded the motion and it passed unanimously.

PUBLIC COMMENT

None.

64B2-16.003: Guidelines for The Disposition of Disciplinary Cases- A motion was made by Dr. Heagy to continue with the language Mr. Harris has drafted. Dr. Hunt seconded the motion and it passed unanimously.

D. Rule Development

6. **Pelvic Exams (House Bill 361 and Senate Bill 716)-** Dr. Heagy states this rule isn't clear and to move forward with rule making for clarification. Dr. Fox requested to remove "buttocks" from the drafted language.
7. **Senate Bill 1934: Health Care Practitioner Discipline Rule Updates-** (In reference to 64B2-16.003) A motion was made by Dr. Heagy to continue with the language contingent upon the governor's signature. Dr. Hunt seconded the motion and it passed unanimously.
8. **House Bill 241: Parents Bill of Rights Rule Updates-** (In reference to 64B2-16.003) A motion was made by Dr. Heagy to continue with the language contingent upon the governor's signature. Dr. Hunt seconded the motion and it passed unanimously.
9. **64B2-16.XXX: Standard Terms for Orders- Draft Probation Compliance Rule Language (456.072):** Dr. Heagy asked the board to consider the stipulations when Ethics and Boundaries Assessment Services (EBAS) is required when requesting certain test to be completed. Dr. Heagy suggests we can get way too prescriptive and adding a form to the rule it's to specific. As a matter of policy, she would be comfortable providing the form to Monitors. If given a general outline/rubric, monitors should be able to follow.

Action Taken:

Motion to have Mr. Harris amend the rule to make it clearer.

CHAIR/VICE CHAIR REPORT

None.

EXECUTIVE DIRECTOR REPORT

- A. **Executive Director Approval-** A motion was made by Dr. Hunt to approve Mrs. McGinnis as the new Executive Director. Dr. Heagy seconded the motion and it passed unanimously.
- B. **Licensure Fee Scenarios –** Mrs. McGinnis reviewed information on licensure fee scenarios. Discussion ensued and updated information was requested. Mrs. McGinnis will add this information with end of year fiscal data to the November board meeting once available.
- C. **Legislative Updates-**The Department of Health bill mentioned some minor updates to nomenclature related to Chiropractors as it relates to the national Department of Education which did not pass.
- D. **Update: Chiropractors Not Meeting First Year Licensee Board Meeting Requirement-** Mrs. McGinnis provided data from a Department report. Dr. Weingarten made a request to provide data and details regarding human trafficking and continuing education at the August meeting.

OLD BUSINESS

None

NEW BUSINESS

None.

COMMITTEE REPORT

- **Budget:** none
- **CCPA:(Dr. Hunt)-** All is going well.

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- **Continuing Education:** (*Dr. Heagy*)- Dr. Heagy is reviewing information from May 2021. Dr. Weingarten volunteered to be delegated to review continuing education while Dr. Heagy is out for the month of July.
 - **Disciplinary Compliance:** (*Dr. Fogarty*)- Nothing to report.
 - **Examination:** (*Dr. Fox*)- Nothing to report. Part IV will be given this coming weekend.
 - **Legislation:** (*Dr. Heagy*)- Nothing to report as Ms. McGinnis provided this information earlier.
 - **Probable Cause:** (*Dr. Hunt/Dr. Weingarten*)- Nothing to report.
 - **Rules:** Mr. Dierlam discussed previously.
 - **Outstanding Service Award:** (*Dr. Fox*)- Dr. Fox is looking for a licensee for this award.

New Committee Assignments

Budget: *Ms. Saunders*

CCPA: *Dr. Hunt*

Continuing Education: *Dr. Heagy*

Disciplinary Compliance: *Dr. Fogarty*

Examination: *Dr. Fox*

Legislation: *Dr. Weingarten*

Probable Cause: *Ms. Ostman/Ms. Saunders; Former Board Members: Dr. Jenkins or Vogel*

Rules: *Dr. Weingarten*

Unlicensed Activity: *Dr. Hunt*

Outstanding Service Award: *Dr. Fox*

PUBLIC COMMENT

Dr. Dominick John Ranieri III, a first-year licensee, stated the verbiage on the website and in email wasn't clear as there was no mention that the first-year attendance being void, only that the CE credit would be void. He would like to request that the board consider acknowledging his fellow colleagues in attendance and himself.

Mr. Dierlam stated Mr. Ranieri could submit a petition for variance or waiver for an extension of time to attend the next board meeting to receive CE credit for a first-year licensee.

Mr. Ranieri asked questions regarding the new cannabis legislation: THCD8 and THCD10 which are supplements that help treat chronic pain. Where does the board stand with this?

Mr. Dierlam stated Mr. Ranieri needs to investigate chapter 120 and the form of a declaratory statement. He can make a comment, but this isn't the proper form to ask the board.

Dr. Fox advised to go through his association if he belongs to one. The association will lobby the statement, if needed. Dr. Heagy also suggested association legal counsel involvement.

ADJOURNMENT

A motion was made by Dr. Heagy to adjourn at 12:25. pm. Dr. Hunt seconded the motion and it passed unanimously.