

**DRAFT MINUTES**  
**BOARD OF OSTEOPATHIC MEDICINE**  
**August 23-24, 2013**

**Double Tree by Hilton**  
**100 Fairway Drive**  
**Deerfield Beach, FL 33441**  
**(954) 427-7700**

**FRIDAY, August 23, 2013**

The meeting was called to order by Dr. Burns, Chair, at 3:00 pm. Those present for all or part of the meeting included the following:

**MEMBERS PRESENT:**

Ronald Burns, DO, Chair  
Joel Rose, DO, Vice Chair  
Bridget Bellingar, DO  
Anna Hayden, DO  
Valerie Jackson, Consumer Member

**STAFF PRESENT:**

Anthony Jusevitch, Executive Director  
Christy Robinson, Program Operations Administrator  
Donna McNulty, Esq. – Board Counsel  
Michael Lawrence, Esq. – DOH Prosecutor  
Yolonda Green, Esq. – DOH Prosecutor  
Daniel Hernandez, Esq., DOH Prosecution Services

**MEMBERS ABSENT:**

James St. Louis, DO- excused  
Rina Malan, Consumer Member- excused

**OTHERS PRESENT:**

Judy Rivenbark, MD, PRN

**COURT REPORTER:**

Official Reporting Services  
(954) 467-8204

**Please note that the meeting minutes reflect the actual order that agenda items were discussed during the meeting and may differ from the agenda outline.**

**PLEDGE OF ALLEGIANCE AND PLEDGE OF OSTEOPATHIC COMMITMENT**

**DISCIPLINARY CASES**

**Tab 1 - Daniel P. McIntire, DO - Motion for Determination of Waiver - Case #2012-02702**

Allegations of Complaint: 459.015(1)(x)1- malpractice; 459.015(1)(t)- inappropriate prescribing; 459.015(1)(m)- fraudulent misrepresentation; 459.015(1)(o)- medical records violation; 459.015(1)(pp)- violate a law or rule of the board

Dr. McIntire was present and represented by Monica Rodriguez, Esq. Dr. Rose was recused due to participation on the probable cause panel. Mr. Lawrence represented the Department and presented the case to the Board.

Ms. Rodriguez advised she only very recently became Dr. McIntire's legal counsel and asked the Board to consider continuing the case until the next meeting.

**Action Taken:** Dr. Burns moved to continue the case until the next meeting of the Board. Dr. Hayden seconded the motion, which passed unanimously.

**Tab 2 - Jack aka Jacalyn Danton, DO - Motion for Determination of Waiver - Case #2010-12858**

Allegations of Complaint: 456.072(1)(j)- aiding in unlicensed practice of medicine

The respondent was not present or represented by counsel. Mr. Lawrence represented the Department and presented the case to the Board.

Dr. Burns moved to accept the agenda materials and investigative report as presented into the record as evidence. Dr. Hayden seconded the motion, which passed unanimously. Dr. Burns moved to find that the respondent was properly served and waived their right to a formal hearing. Dr. Hayden seconded the motion, which passed unanimously. Dr. Burns then moved to adopt the findings of fact as presented in the administrative complaint. Dr. Hayden seconded the motion, which passed unanimously. Dr. Hayden moved to adopt the conclusions of law as presented in the administrative complaint and find that this constitutes a violation of the practice act. Dr. Burns seconded the motion, which passed unanimously.

**Action Taken:** Dr. Rose moved to impose the following penalty:

- Reprimand
- \$5000.00 fine
- FMA laws and rules course within 18 months of the Final Order
- Probation for 1 year; must submit a practice plan to be approved by the chair; indirect supervision, 25% chart review; quarterly reports; appearance at first and last meeting of probation with monitor

Dr. Burns seconded the motion, which passed unanimously.

**Additional Action Taken:** Dr. Burns moved to assess costs in the amount of \$900.67 to be paid within 30 days of the Final Order. Ms. Jackson seconded the motion, which passed unanimously.

**Tab 3 - Susan F. Nelson, DO - Motion for Determination of Waiver - Case #2012-15898**

Allegations of Complaint: 459.015(1)(bb)- violating a lawful order of the board

Dr. Nelson was present without counsel. Dr. Bellingar was recused due to participation on the probable cause panel. Ms. Green represented the Department and presented the case to the Board.

Dr. Burns moved to proceed with the hearing not involving disputed issues of material fact. Dr. Hayden seconded the motion, which passed unanimously. Dr. Burns moved to accept the agenda materials and investigative report as presented into the record as evidence. Dr. Hayden seconded the motion, which passed unanimously. Dr. Burns moved to adopt the allegations of fact as set forth in the administrative complaint as the findings of fact of the Board. Dr. Hayden seconded the motion, which passed unanimously.

The Respondent provided testimony.

Dr. Burns moved to find that the adopted findings of fact support a violation of the Florida Statutes and find that there is clear and convincing evidence that this constitutes a violation of the osteopathic medicine practice act. Dr. Hayden seconded the motion, which passed unanimously.

**Action Taken:** Dr. Burns moved to impose the following penalty:

- Reprimand
- \$1000.00 fine
- Must comply with the previous Final Order within 1 year

Dr. Hayden seconded the motion, which passed unanimously.

**Additional Action Taken:** Dr. Burns moved to assess costs in the amount of \$123.23. Dr. Rose seconded the motion, which passed unanimously.

**Tab 4 - Richard L. Lieberman, DO - Motion for Determination of Waiver - Case #2011-01034**

Allegations of Complaint: 459.015(1)(pp)- violating a law or rule of the board

The respondent was not present or represented by counsel. Dr. Bellinger was recused due to participation on the probable cause panel. Ms. Green represented the Department and presented the case to the Board.

Dr. Burns moved to proceed with the hearing not involving disputed issues of material fact. Dr. Hayden seconded the motion, which passed unanimously. Dr. Burns moved to accept the agenda materials and investigative report as presented into the record as evidence. Dr. Hayden seconded the motion, which passed unanimously. Dr. Burns moved to adopt the allegations of fact as set forth in the administrative complaint as the findings of fact of the Board. Dr. Hayden seconded the motion, which passed unanimously. Dr. Burns moved to find that the adopted findings of fact support a violation of the Florida Statutes and find that there is clear and convincing evidence that this constitutes a violation of the osteopathic medicine practice act. Dr. Rose seconded the motion, which passed unanimously.

**Action Taken:** Dr. Rose moved to impose the following penalty:

- Letter of Concern
- \$2500.00 fine within 30 days
- Must complete all deficient CME hours within 1 year of the Final Order

Dr. Burns seconded the motion, which passed unanimously.

**Additional Action Taken:** Dr. Burns moved to assess costs in the amount of \$206.01 within 30 days. Dr. Rose seconded the motion, which passed unanimously.

**Tab 5 - Marvin Werlinsky, DO - Voluntary Relinquishment - Case #2012-06983**

Allegations of Complaint: 459.015(1)(g)- fail to perform a legal obligation; 459.015(1)(t)- inappropriate prescribing;

The respondent was not present or represented by counsel. Ms. Green represented the Department and presented the case to the Board. The Board heard testimony from the complainant in the case.

**Action Taken:** Dr. Burns moved to accept the voluntary relinquishment of licensure. Dr. Hayden seconded the motion, which passed unanimously.

**PROSECUTION SERVICES REPORT**

**Tab 30 - August 23-24, 2013 Prosecution Services Report**

Ms. Green introduced herself to the Board and provided an overview of the current caseload statistics.

**PRESENTATION BY PROSECUTION SERVICES**

**Tab 6 - Presentation by PSU Re: Charging of Malpractice Cases Pursuant to 456.50, F.S.**

Daniel Hernandez, Deputy General Counsel, provided an overview of the malpractice law, 456.50, F.S., as well as the Department's method for charging these cases.

**REQUEST FOR EXEMPTION FROM DISQUALIFICATION**

**Tab 31 - Mark Pamer, DO**

Dr. Pamer was present without counsel. He asked the Board to table the case until later in the meeting to allow his attorney, Edwin Bayo, Esq., to arrive to the meeting.

**Action Taken:** Dr. Rose moved to table the item until later in the meeting. Dr. Burns seconded the motion, which passed unanimously.

## **REVIEW AND APPROVAL OF MINUTES**

### **Tab 7 - Review and Approval of May 17, 2013 Board Meeting Minutes**

**Action Taken:** A motion was made and seconded to approve the minutes as presented. The motion passed unanimously.

## **GENERAL BUSINESS AND CORRESPONDENCE**

### **Tab 8 - Introduction of New PRN Medical Director**

Dr. Rivenbark introduced the new director of PRN, Dr. Zeigler.

### **Tab 32 - Discussion Regarding Office Surgery Rule 64B15-14.007, F.A.C. and Joint Committee Meeting with the Board of Medicine**

Informational item.

### **Tab 33 - Discussion Regarding Telemedicine Rule 64B15-14.008, F.A.C. and Joint Committee Meeting with the Board of Medicine**

Informational item.

Mr. Jusevitch noted the legislature created committee that would be looking at healthcare shortages and telemedicine, among other things, during this upcoming session.

## **BOARD CHAIR REPORT – Ronald Burns, DO**

Dr. Burns reported that Dr. Hayden was recently elected as the Vice President of the American Association of Osteopathic Examiners.

He also reported on several other committee activities.

## **BOARD COUNSEL REPORT AND RULES DISCUSSION – Donna McNulty, Esq.**

### **Tab 9 - Rules Report**

Informational item.

### **Tab 10 - Discussion Regarding Public Comments Rule**

Ms. McNulty explained the new law and provided an overview of the proposed rule.

**Action Taken:** After discussion, Dr. Burns moved to approve the language as presented with a 3 minute speaking limit and 5 person group limit. Dr. Bellingar seconded the motion, which passed unanimously.

**Action on SERC Questions:** Dr. Burns moved the proposed changes would not directly or indirectly increase regulatory costs to any entity in excess of \$200,000 in the aggregate within one year after implementation, no SERC was needed and legislative ratification was not required. Dr. Bellingar seconded the motion, which passed unanimously.

### **Tab 11 - Review and Approval of the Limited License Application and Rule 64B15-12.005, F.A.C. (in response to HB 1093)**

Mr. Jusevitch provided an overview of the proposed changes to the application as a result of the new law.

**Action Taken:** Dr. Burns moved to approve the application with the correction of any formatting errors. Dr. Bellinger seconded the motion, which passed unanimously.

**Action on SERC Questions:** Dr. Burns moved the proposed changes would not directly or indirectly increase regulatory costs to any entity in excess of \$200,000 in the aggregate within one year after implementation, no SERC was needed and legislative ratification was not required. Dr. Rose seconded the motion, which passed unanimously.

## **EXECUTIVE DIRECTOR REPORT**

### **Tab 12 - Interstate Medical Licensure Compact- Update #1**

Mr. Jusevitch provided an overview of the FSMB committee that was created to look at expediting state to state licensure. He indicated the workgroup would be developing language for an interstate licensure compact in the near future.

### **Tab 13 - Unlicensed Activity Report**

Informational item.

### **Tab 14 - SB 248 Review and Discussion**

Mr. Jusevitch and Ms. McNulty explained the new law to the Board.

**Action Taken:** After discussion, Dr. Rose moved to delegate authority to the Chair to require an applicant to undergo a PRN evaluation. Dr. Burns seconded the motion, which passed unanimously.

### **Tab 34 - HB 7095 Toolbox Report Card**

## **COUNCIL ON PHYSICIAN ASSISTANTS REPORT – Ronald Burns, DO**

### **Tab 35 - June 6, 2013 PA Council Meeting Minutes Informational item.**

Informational item.

## **ANESTHESIOLOGY ASSISTANTS COMMITTEE REPORT – Ronald Burns, DO**

No report.

## **BUDGET LIAISON REPORT – Rina Malan**

### **Tab 15 - Expenditures by Function for Period Ending March 31, 2013**

Informational item.

## **PHARMACISTS FORMULARY REPORT - Joel Rose, DO**

No report.

## **UNLICENSED ACTIVITY REPORT**

No report.

## **REQUEST FOR EXEMPTION FROM DISQUALIFICATION - continued**

### **Tab 31 - Mark Pamer, DO (revisit)**

Additional discussion of this item can be found earlier in the minutes.

Dr. Pamer was present without counsel, as Mr. Bayo had not yet arrived. Dr. Rivenbark from PRN was present. Mr. Jusevitch and Ms. McNulty explained the exemption from disqualification process.

**Action Taken:** After discussion, Dr. Burns moved to grant the exemption from disqualification. Dr. Bellingar seconded the motion, which passed unanimously.

**The meeting recessed for the day at 5:15 pm.**

**SATURDAY, August 24, 2013**

The meeting was called back to order by Dr. Burns, Chair, at 8:30 am.

#### **DISCIPLINARY CASES – continued**

##### **Tab 22 - David Berndt, DO - Settlement Agreement - Case #2011-03344**

Allegations of Complaint: 459.015(1)(x)- malpractice; 459.015(1)(o)- medical records violation

Dr. Berndt was present and represented by Richard Woulfe, Esq. Dr. Hayden was recused due to participation on the probable cause panel. Ms. Green represented the Department and presented the case to the Board. The complainant was present and provided testimony to the Board.

**Action Taken:** After discussion, Dr. Rose moved to reject the settlement agreement as presented. Dr. Burns seconded the motion, which passed unanimously. Dr. Rose then moved to offer the following counter settlement agreement:

- Reprimand
- \$5,000.00 fine
- \$5,000.00 in costs
- Completion of the FMA “Quality Medical Record Keeping for Health Care Professionals” course
- Must undergo a risk management evaluation (to be completed by a licensed healthcare risk manager); must comply with all terms and recommendations of the review within 6 months; the chair has delegated authority to review the evaluation; if deficiencies are found a complaint is to be filed

Dr. Burns seconded the motion, which passed unanimously.

Both parties agreed to the terms of the counter offer.

#### **PROBATION AND COMPLIANCE REVIEW**

##### **Tab 16 - Joe Morgan, DO - Petition for Modification of Final Order**

Dr. Morgan was present without counsel. Dr. Morgan requested relief from the Final Order, including that his fine be eliminated in its entirety, that the costs be reduced to one thousand dollars, and that he has a one year extension to pay the reduced costs.

**Action Taken:** Dr. Burns moved to approve a payment plan of \$200.00 a month and that Dr. Morgan reappear in two years to further evaluate the financial situation. Dr. Hayden seconded the motion, which passed unanimously.

##### **Tab 17 - Christopher Wayne, DO - Petition for Modification of Final Order**

Dr. Wayne was present and represented by David Baghdassarian, Esq. Dr. Wayne was requesting that the Board terminate probation, reduce the administrative fine to ten thousand dollars, and to lift all licensure restrictions.

**Action Taken:** Dr. Burns moved to lift the Schedule 3-5 prescribing restriction. Dr. Hayden seconded the motion, which passed unanimously. Dr. Burns moved to require that Dr. Wayne and his monitor must appear prior to the lifting of probation. Dr. Rose seconded the motion, which passed unanimously. Dr. Burns moved to deny the lifting of the Schedule 2 Controlled Substance prescribing restriction. Dr. Hayden seconded the motion, which passed unanimously. Dr. Burns moved to grant an

extension of 5 years to pay the fines and costs (due 11/21/2018), with \$10,000.00 due by 11/21/2013. Dr. Hayden seconded the motion, which passed unanimously.

## **DISCIPLINARY CASES – continued**

### **Tab 18 - Gary Pynckel, DO - Settlement Agreement - Case #2010-23093**

Allegations of Complaint: 456.072(1)(x)(2008)- failing to report a conviction

Dr. Pynckel was present and represented by Bruce Lamb, Esq. Dr. Bellingar was recused due to participation on the probable cause panel. Mr. Lawrence represented the Department and presented the case to the Board.

**Action Taken:** After discussion, Dr. Burns moved to approve the settlement agreement as presented:

- Letter of Concern
- \$3000.00 fine
- \$2190.25 in costs
- FMA Laws and Rules Course

Dr. Hayden seconded the motion, which passed unanimously.

### **Tab 19 - Cristobal Cortes, DO - Settlement Agreement - Case #2012-09242**

Allegations of Complaint: 459.015(1)(g)- fail to perform a legal obligation

Dr. Cortes was present and represented by Gabriel Osborne, Esq. Dr. Bellingar was recused due to participation on the probable cause panel. Mr. Lawrence represented the Department and presented the case to the Board.

**Action Taken:** After discussion, Dr. Rose moved to approve the settlement agreement as presented:

- \$2000.00 fine
- \$1640.78 in costs
- FMA Laws and Rules Course

Dr. Hayden seconded the motion, which passed unanimously.

### **Tab 20 - Robert Luber, DO - Settlement Agreement - Case #2012-08870**

Allegations of Complaint: 459.015(1)(pp)- violate a law or rule of the board (2 counts);

Dr. Luber was present and represented by Steven Ballinger, Esq. Dr. Hayden was recused due to participation on the probable cause panel. Mr. Lawrence represented the Department and presented the case to the Board.

**Action Taken:** After discussion, Dr. Burns moved to approve the settlement agreement as presented:

- Letter of Concern
- \$5000.00 fine
- \$902.17 in costs
- FMA Laws and Rules Course

Dr. Rose seconded the motion, which passed unanimously.

### **Tab 21 - James O. Hill, DO - Settlement Agreement - Case #2011-17818**

Allegations of Complaint: Dismissed

Dr. Hill was present and represented by Joanne Kenna, Esq. Dr. Hayden was recused due to participation on the probable cause panel. Mr. Lawrence represented the Department and presented the case to the Board.

**Action Taken:** After discussion, Dr. Burns moved to reject the proposed settlement agreement. Dr. Bellingar seconded the motion, which passed unanimously. Dr. Rose then moved to dismiss the case. Dr. Burns seconded the motion, which passed unanimously.

The respondent agreed to waive attorney's costs for the record.

### **15 Minute Break**

#### **Tab 23 - Celestino Santi, DO - Settlement Agreement - Case #2012-10822**

Allegations of Complaint: 459.015(1)(pp)- violate a law or rule of the board by violating 459.0141 (sexual misconduct)

Dr. Santi was present and represented by Edwin Bayo, Esq. Dr. Bellingar was recused due to participation on the probable cause panel. Ms. Green represented the Department and presented the case to the Board.

**Action Taken:** After discussion, Dr. Burns moved to reject the proposed settlement agreement. Dr. Hayden seconded the motion, which passed unanimously. Dr. Rose then moved to offer the following counter settlement agreement:

- Reprimand
- \$10,000.00 fine
- \$2488.06 in costs
- 24 hours of CME in professional boundaries
- Must obtain an evaluation by the Professionals Resource Network and comply with all recommendations in 60 days; must appear at the next meeting of the Board with PRN
- The Board reserves jurisdiction to impose terms of probation after completion of the PRN evaluation; the distance of the monitor was changed to be within 50 miles

Dr. Burns seconded the motion, which passed unanimously.

The respondent was given 14 days to accept or reject the counter offer.

#### **Tab 24 - Sameh Wanis, DO - Settlement Agreement - Case #2011-17179**

Allegations of Compliant: 459.015(10)(g)- fail to perform a legal obligation; 459.015(1)(t)- inappropriate prescribing; 459.015(1)(x)- malpractice

Dr. Wanis was present and represented by Bernard Cassidy, Esq. Dr. Bellingar was recused due to participation on the probable cause panel. Ms. Green represented the Department and presented the case to the Board.

**Action Taken:** Dr. Hayden moved to reject the proposed settlement agreement. Dr. Burns seconded the motion, which passed unanimously. Dr. Hayden then moved to offer the following counter settlement agreement:

- Reprimand
- \$10,000.00 fine
- \$10,292.55 in costs
- CME- must complete 4 hours in the prevention of medical errors and 10 hours in medical ethics
- Probation for 2 years to include: appearances at the first and last meeting once probation commences; indirect supervision, reports, etc.
- Practice restriction- shall not use any non-FDA drugs or devices
- Lecture or article- must do a one hour lecture pedigree papers and internet ordering- the lecture must be approved by the Chair prior to the presentation and a list of attendees must be submitted; or, draft an article on the same topic suitable for publication in a medical journal- article must also be approved by the Chair



Dr. Rose seconded the motion, which passed unanimously.

The respondent was given 14 days to accept or reject the counter offer.

**Tab 36 - Nancy Pyram-Bernard, DO – Settlement Agreement – Case #2012-07195**

Allegations of Complaint: 456.072(1)(c)- convicted of a crime related to the practice;  
459.015(1)(ee)(2007)- pre-signing blank prescriptions

Dr. Pyram-Bernard was present and represented by David Rothman, Esq. Dr. Bellingar was recused due to participation on the probable cause panel. Ms. Green represented the Department and presented the case to the Board.

**Action Taken:** After discussion, Dr. Burns moved to approve the settlement agreement as presented:

- Reprimand
- \$3,000.00 fine
- \$1793.18 in costs
- Completion of the FMA laws and rules course
- Completion of the UF drug course
- Probation for 6 months
- The Department orally amended the agreement to remove the community service requirement

Dr. Hayden seconded the motion, which passed unanimously.

**LICENSURE APPEARANCES**

**Tab 25 - Bruce Rubinowicz, DO - Full Licensure Applicant & Petition for Waiver of Rule 64B15-16.002, F.A.C.**

Dr. Rubinowicz was present without counsel. Dr. Rubinowicz was required to appear before the Board to discuss his application and non-AOA approved internship. During discussion, Dr. Rubinowicz withdrew his petition for waiver for the record.

**Action Taken:** After discussion, Dr. Rose moved to approve his good cause justification for not completing an AOA approved internship. Dr. Hayden seconded the motion, which passed unanimously. Dr. Burns then moved to approve the application for licensure. Dr. Rose seconded the motion, which passed unanimously.

**Tab 26 - Song Phuong Diep Le, DO - Full Licensure Applicant**

Dr. Le was present without counsel. Dr. Le was required to appear before the Board to discuss his application and training evaluations. During the interview it was determined that his last patient contact was more than 2 years ago.

**Action Taken:** After discussion, Dr. Burns moved to allow the applicant to withdraw his application. Dr. Rose seconded the motion, which passed unanimously.

**Tab 27 - Saadi Ahmad Siddiqi, DO - Full Licensure Applicant & Petition for Waiver or Variance of Rule 64B15-12.001, F.A.C.**

Dr. Siddiqi was present and represented by Bruce Lamb, Esq. Dr. Siddiqi was requested to appear before the Board to discuss his application and lack of passage of part 3 of the NBOME.

**Action Taken on Petition for Waiver or Variance of 64B15-12.001, F.A.C.:** Dr. Burns moved to deny the petition for waiver or variance. Dr. Rose seconded the motion, which passed with Dr. Hayden opposed. A motion was then made that the reason for denial of the petition was Dr. Siddiqi has not demonstrated that his other examinations are substantially similar to NBOME COMLEX Part III in appropriately assessing osteopathic components. The motion was seconded and passed with Dr. Hayden opposed.

**Action Taken on Application for Licensure:** Dr. Burns moved to approve the application for licensure with the following condition:

- Prior to licensure, and within 1 year, must pass either part 3 of the NBOME or the COMVEX exam

Dr. Bellingar seconded the motion, which passed unanimously.

**Tab 28 - Kevin Tebrugge, DO - Training License Applicant**

This item was pulled from the agenda (granted a continuance).

**10 Minute Break**

**Tab 29 - Daniel Van Riper, DO - Training License Applicant**

Dr. Van Riper was present and represented by Edie Sheeks, Esq. Dr. Van Riper was required to appear before the Board to discuss his application.

**Action Taken:** After discussion, Dr. Burns moved to approve the application. Dr. Rose seconded the motion, which passed unanimously.

**OLD BUSINESS**

**NEW BUSINESS**

Dr. Burns reminded the Board to be thinking of potential nominees for the Morton Morris, JD, DO Award. Ms. Robinson will email the nomination criteria prior to the November meeting.

**There being no further business the meeting adjourned at 1:00 pm.**