

DRAFT MINUTES
BOARD OF OSTEOPATHIC MEDICINE
November 15, 2013

Tampa Airport Marriott
4200 George J. Bean Parkway
Tampa, FL 33607
(813) 879-5151

FRIDAY, November 15, 2013

The meeting was called to order by Dr. Burns, Chair, at 9:00 am. 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
James St. Louis, DO
Valerie Jackson, Consumer Member (in at 10:37)
Rina Malan, Consumer Member

STAFF PRESENT:

Anthony Jusevitch, Executive Director
Christy Robinson, Program Operations Administrator
Donna McNulty, Esq. – Board Counsel
Yolonda Green, Esq. – DOH Prosecutor
Jodi-Ann Johnson, Esq., DOH Prosecutor
Sheri Hutchinson, DOH Communications Office

OTHERS PRESENT:

Penny Ziegler, MD, PRN

MEMBERS ABSENT:

None

COURT REPORTER:

Dempster Berryhill
813-229-8225

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

RULE HEARING

Tab 1 - Request for Rule Hearing on 64B15-13.002, F.A.C. from Joe McGurrin, InforMed

The petitioner was not present or represented by counsel. There was no one present that wished to speak on this issue.

Action Taken: Dr. Burns moved to close the hearing and notice it again for the March 2014 meeting. Dr. Rose seconded the motion, which passed unanimously.

PRESENTATION

Tab 2 - Tobacco Education in the Medical Profession- Amy Cober, RD, LD, MPH, CTTS

Ms. Cober made her presentation to the Board. She noted that her program was interested in encouraging licensure boards to require continuing education on tobacco education and encouraging examination entities to include tobacco related questions on their licensure exams.

PROBATION AND COMPLIANCE REVIEW

Tab 3 - Andrew Guidry, DO - Petition for Reinstatement

Dr. Guidry was present and represented by Allen Grossman, Esq. Dr. Ziegler with PRN was also present. During the discussion, Dr. Ziegler indicated that PRN could not advocate for practice at this time.

Action Taken: Dr. Rose moved to deny the request for reinstatement. Dr. St. Louis seconded the motion, which passed unanimously.

Tab 4 - Robert Reppy, DO- Request for Extension

Dr. Reppy was present without counsel. Dr. Reppy was requesting an extension of time to repay the fines and costs associated with his case.

Action Taken: Dr. Rose moved to grant an extension and allow payment of \$300.00 a month. Dr. St. Louis seconded the motion, which passed unanimously.

DISCIPLINARY CASES

Tab 5 - Daniel P. McIntire, DO - Motion for Determination of Waiver - Case #2012-02702

This case was pulled from the agenda.

Tab 6 - Glenn Charles, DO- Settlement Agreement- DOH Case #'s 2010-18446, 2010-22474 & 2013-01279

Allegations of Complaint: 456.072(1)(j)- aiding unlicensed activity; 456.072(1)(c)- convicted of a crime related to the practice

Dr. Charles was present and represented by Gregory Chaires, 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. Kenneth Woliner, MD, the complainant was present and offered testimony to the Board.

Action Taken: After much discussion, Dr. Hayden moved to reject the settlement agreement as presented. Dr. Rose seconded the motion, which passed unanimously. There was a motion to offer the following counter settlement agreement:

- Letter of Concern
- \$10,000.00 Fine
- \$9855.04 in Costs
- FMA Laws and Rules course
- UF Drug course
- Restitution to the patient in the amount of \$11,800.00
- Probation for 3 years to include: indirect monitor; quarterly reports; 25% chart review or active patients and 100% chart review of cases involving HGH or HGC; annual appearances; appearance with monitor during the first and last meeting prior to termination of probation

The motion was seconded and passed unanimously.

The Respondent was given 7 days to accept or reject the counter settlement agreement.

15 minute break

Tab 7 - David Simon, DO- Settlement Agreement- DOH Case #2012-00680

Allegations of Complaint: 459.015(1)(pp)- violating a law or rule of the board by violating 459.0141 (sexual misconduct); 459.015(1)(l)- exercising influence for the purpose of engaging in sexual misconduct

Dr. Simon was present and represented by David Spicer, Esq. Ms. Malan 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 much discussion, Dr. Rose moved to reject the settlement agreement as presented. Dr. Bellingar seconded the motion, which passed unanimously. Dr. Rose then moved to offer the following counter settlement agreement: revocation. Dr. Burns seconded the motion, which passed with Dr. Hayden opposed.

Additional Action Taken: Dr. Rose moved to assess costs in the amount of \$4085.54 as part of the counter settlement agreement. Dr. St. Louis seconded the motion, which passed unanimously.

Tab 8 - Ralph Birzon, DO- Voluntary Relinquishment- DOH Case #2013-04499

Allegations of Complaint: 456.072(1)(q)- violating an order of the board

The respondent was not present or represented by counsel. Ms. Malan 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. Burns moved to accept the voluntary relinquishment of licensure. Dr. Rose seconded the motion, which passed unanimously.

Tab 9 - Eldon Dale Brandt, DO- Voluntary Relinquishment- DOH Case #2011-16980

Allegations of Complaint: 456.072(1)(c)- convicted of a crime related to the practice

The respondent was not present or represented by 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.

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

APPLICATIONS FOR LICENSURE

Tab 10 - John F. Caruso, DO

Dr. Caruso was present and represented by Raymond Iryami, Esq. Dr. Caruso was required to appear before the Board to discuss his application, training evaluations and criminal history. During discussion, it was suggested that Dr. Caruso attempt to satisfactorily complete a residency program prior to obtaining full licensure. Dr. Caruso indicated for the record that he wished to withdraw his application.

Action Taken: After much discussion, Dr. Burns moved to allow the withdrawal of the application. Dr. Hayden seconded the motion, which passed unanimously.

Tab 11 - Bradley J. Vargo, DO

Dr. Vargo was present without counsel. Dr. Vargo was required to appear before the Board to discuss his application and lack of part 3 of the NBOME exam.

Action Taken: After discussion, Dr. Burns moved to grant the license with the following condition:

- Prior to licensure and within 12 months he must pass the COMVEX exam

Dr. Hayden seconded the motion, which passed unanimously.

Tab 12 - Carl Aagesen, DO

The applicant was granted a continuance from the meeting.

APPLICATIONS FOR TRAINING REGISTRATION

Tab 13 - Kevin Tebrugge, DO- Training License Applicant

Dr. Tebrugge was present and represented by Stephen Slepín, Esq. Dr. Tebrugge was required to appear to discuss his application, licensure revocation in another state and other issues.

Action Taken: After much discussion, Dr. Burns moved to deny the application with the option to withdraw the application. Ms. Malan seconded the motion, which passed unanimously.

REVIEW AND APPROVAL OF MINUTES

Tab 14 - Review and Approval of August 23-24, 2013 Board Meeting Minutes

Action Taken: Dr. Hayden moved to approve the minutes as presented. Ms. Malan seconded the motion, which passed unanimously.

GENERAL BUSINESS AND CORRESPONDENCE

Tab 15 - Morton Morris, DO, JD Award Nomination Discussion

Action Taken: Dr. Burns nominated Howard Neer, DO to be this year's recipient of the Morton Morris, DO, JD Award. Dr. Rose seconded the nomination, which passed unanimously.

Tab 29 - Continuous Professional Development Advisory Council Meeting Update – Anna Hayden, DO

Dr. Hayden provided an overview of the meeting.

Tab 30 - USMLE Item Writing Workshop Update- Anna Hayden, DO

Dr. Hayden provided an overview of the meeting.

Tab 31 - FSMB Committee on Ethics and Professionalism Draft Report- Request for Feedback

The Board took no action on this item.

Tab 32 - FSMB Workgroup on Innovations in State-Based Licensure- Request for Feedback

The Board took no action on this item.

RATIFICATION OF LICENSURE

Tab 16 - Ratification of Full Licenses Issued 5/1/2013-10/17/2013

Action Taken: Dr. Hayden moved to approve the list as presented. Dr. Bellingar seconded the motion, which passed unanimously.

Tab 17 - Ratification of Training Licenses Issues 5/1/2013-10/17/2013

Action Taken: Dr. Burns moved to approve the list as presented. Dr. Bellingar seconded the motion, which passed unanimously.

BOARD CHAIR REPORT – Ronald Burns, DO

Dr. Burns updated the Board on several activities including his participation on the FSMB Telemedicine Workgroup.

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

Tab 18 - Rules Report

Informational item.

Tab19 - 64B15-7.003- Applications for Licensure and Licensure Requirements for Anesthesiologist Assistants

Action Taken: Dr. Rose moved to approve the changes as presented. 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. Hayden seconded the motion, which passed unanimously.

Tab 20 - DOH Proposed Rule Change to 64B15-19.007- Citations

Ms. McNulty voiced concerns with adding failure of dispensing physicians to report information into the PDMP to the citation rule at this time.

Action Taken: Dr. Burns moved to not add the violation to the citation rule at this time. Dr. Hayden seconded the motion, which passed unanimously.

EXECUTIVE DIRECTOR REPORT – Anthony Jusevitch

Tab 21 - Interstate Medical Licensure Compact- Update

Mr. Jusevitch explained that the committee was now on the drafting phase of the process. Ms. McNulty indicated that a legislative change would be needed for the Board to consider this type of proposal.

Tab 22 - HB 7095 Toolbox Report Card

Informational item.

Tab 23 - Healthiest Weight Board Liaison

Mr. Jusevitch explained the Surgeon General's healthiest weight initiative. Dr. Burns volunteered to be the liaison for the Board.

JOINT COMMITTEE MEETING UPDATES

Tab 24 - September 9, 2013 Telemedicine Meeting Minutes

Informational item.

Tab 25 - October 3, 2013 Telemedicine Meeting Minutes

Informational item.

Tab 25a - November 14, 2013 Telemedicine Meeting

Dr. Burns, Dr. Rose and Dr. Hayden provided an overview of the meeting. It was determined that a telephone conference call should be held on December 11 at 1:00 to review the final draft language.

Tab 26 - September 9, 2013 Office Surgery Registration Meeting Minutes

Informational item.

Tab 26a - November 14, 2013 Office Surgery Registration Meeting

Dr. Burns, Dr. Rose and Dr. Hayden provided an overview of the meeting.

COUNCIL ON PHYSICIAN ASSISTANTS REPORT – Ronald Burns, DO

No report.

ANESTHESIOLOGY ASSISTANTS COMMITTEE REPORT – Ronald Burns, DO

Tab 27 - October 3, 2013 Meeting Minutes

Informational item.

BUDGET LIAISON REPORT – Rina Malan

Tab 28 - Expenditures by Function for Period Ending June 2013

Informational item.

PHARMACISTS FORMULARY REPORT - Joel Rose, DO

No report.

UNLICENSED ACTIVITY REPORT

No report.

OLD BUSINESS

None

NEW BUSINESS

Kenneth Woliner, MD addressed the Board about the handling of complaints and disciplinary cases by the Department.

There being no further business the meeting adjourned at 12:45 pm.