

# FLORIDA | Board of Osteopathic Medicine

February 22, 2018 Meeting



**DRAFT MEETING MINUTES**  
Board of Osteopathic Medicine  
General Business Meeting  
February 22, 2018  
9:00 a.m.

**Doubletree by Hilton Sunrise  
Sawgrass Mills**  
13400 West Sunrise Blvd.  
Sunrise, Florida  
(954) 851-1020

The meeting was called to order by Dr. Sandra Schwemmer, Chair, at approximately 9:00 a.m.

Those present for all or part of the meeting included the following:

**MEMBERS PRESENT:**

Sandra Schwemmer, DO, Chair  
Joel B. Rose, DO, Vice-Chair  
Anna Hayden, DO  
Bridget Bellinger, DO  
Valerie Jackson, Consumer Member  
Alicja Janson, Consumer Member

**BOARD STAFF PRESENT:**

Kama Monroe, Executive Director  
Carol Taylor, Program Administrator

**MEMBERS ABSENT:**

Michelle R. Mendez, DO

**BOARD COUNSEL**

Donna McNulty, Board Counsel

**COURT REPORTER:**

Veritext Legal Solutions  
305-376-8800

**OTHERS PRESENT:**

Matthew Witters, Prosecuting Attorney  
Ann Prescott, Prosecuting Attorney

*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 & PLEDGE OF OSTEOPATHIC COMMITMENT:**

*I pledge to: Provide compassionate, quality care to my patients; Partner with them to promote health; Display integrity and professionalism throughout my career; Advance the philosophy, practice and science of osteopathic medicine; Continue life-long learning; Support my profession with loyalty in action, word and deed; and Live each day as an example of what an osteopathic physician should be.*

## **DISCIPLINARY CASES:**

### **Settlement Agreements**

**TAB 1 – SA 1 – Brett Bolton, D.O. – Settlement Agreement Case No. 2016-28185**

*PCP: Moran/Mendez*

Respondent was present. Respondent was represented by counsel, John Fumero, Esq. Dr. Martha Brown also appeared with Respondent on behalf of the Professionals Resource Network (PRN).

Dr. Mendez was not in attendance at the meeting; however, for purposes of the record, Dr. Mendez was recused due to participation on the probable cause panel.

Matthew Witters represented the Department and presented the case to the Board. Allegations of the Administrative Complaint: violation of Section 459.015(1)(b), Florida Statutes, by having a license or the authority to practice osteopathic medicine revoked, suspended, or otherwise acted against, including the denial of licensure, by the licensing authority of any jurisdiction, including its agencies or subdivisions.

The terms of the settlement agreement are: appearance; reprimand; fine in the amount of one thousand (\$1,000.00) dollars payable within thirty (30) days from the filing of the final order, reimbursement of costs for the investigation and prosecution of this case, payable within thirty (30) days of filing of final order (current costs are two thousand seven hundred seventeen dollars and sixty-nine cents [\$2,717.69]); Respondent's practice is restricted in that Respondent may only practice osteopathic medicine while in compliance with the terms of the Respondent's Professionals Resource Network (PRN) contract.

After discussion:

Motion: by Dr. Hayden, seconded by Dr. Rose, to accept the settlement agreement.  
Motion carried.

**TAB 2 – SA 2 – Dana P. Richard, D.O. – Settlement Agreement Case No. 2014-18179**

*PCP: Andriole/Bellingar*

**TAB 3 – SA 3 – Dana P. Richard, D.O. – Settlement Agreement Case No. 2014-01449**

*PCP: Andriole/Bellingar*

Respondent was present. Respondent was represented by counsel, Monica Felder Rodriguez, Esq.

Dr. Bellingar was recused due to participation on the probable cause panel.

Matthew Witters represented the Department and presented a single combined settlement agreement for case number 2014-18179 and case number 2014-01449 to the Board. The facts and allegations of each case were presented to the board individually prior to the presentation of the combined settlement agreement.

Allegations of the Administrative Complaint in case number 2014-18179: violation of Section 459.015(1)(x), Florida Statutes (2013-2014), for committing medical malpractice; violation of Section 459.015(1)(t), Florida Statutes (2013-2014), for prescribing, dispensing, administering, mixing, or otherwise preparing a legend drug, including any controlled substance, other than in the course of the osteopathic physician's professional practice; and violation of Section 459.015(1)(o), Florida Statutes (2013-2014), by failing to maintain legible treatment records for patients, as defined by board rule.

Allegations of the Administrative Complaint in case number 2014-01449: violation of Section 459.015(1)(x), Florida Statutes (2013-2014), by committing medical malpractice; violation of Section 459.015(1)(t), FS

(2013-2014), by prescribing, dispensing, administering, mixing, or otherwise preparing a legend drug, including any controlled substances, other than in the course of the osteopathic physician's professional practice; violation of Section 459.015(1)(pp), FS (2013-2014), by violating Rule 64B15-14.005(3), Florida Administrative Code, by failing to follow the guidelines for the use of controlled substances in the use for pain; and violation of Section 459.015(1)(o), FS (2013-2014), by failing to maintain legible treatment records for patients, as defined by board rule.

The terms of the Settlement Agreement are: appearance; reprimand; fine in the amount of fifteen thousand (\$15,000.00) dollars payable within twenty-four (24) months from the filing of final order; reimbursement of costs for the investigation and prosecution of this case, payable within thirty-six (36) months of filing of final order (current costs are eight thousand four hundred thirty-four dollars and ninety-four cents [\$8,434.94]); Respondent's license to be suspended for a period of six (6) months; Prior to suspension being lifted Respondent shall complete five (5) hours of CME in Chapter 456, 459, Florida Statutes and Rule 64B15, Florida Administrative Code, or a Board approved equivalent; Respondent shall complete the following CMEs: the "Quality Medical Record Keeping for Health Care Professionals" and "Legal and Ethical Implications in the Practice of Medicine - A Physician's Survival Guide", administered by the Florida Medical Association, or a board approved equivalent and "Prescribing Controlled Drugs: Critical Issues and Common Pitfalls of Prescribing" sponsored by the University of Florida, or a board approved equivalent, within twelve (12) months of the filing of the final order and shall submit documentation of completion of course within thirteen (13) months of the filing of the final order; Permanent practice restriction from prescribing, ordering, and/or delegating the prescribing or ordering of any substances listed in schedules I and II, as defined by Section 893.03, Florida Statutes (2016), and may from time to time be redefined in the Florida Statutes and/or Florida Administrative Code; Respondent shall be permanently restricted from prescribing, ordering, and/or delegating the prescribing or ordering to a Physician Assistant or having any collaborative agreements with advanced registered nurse practitioners of any substances from treating of patients for chronic non-malignant pain and/or pain management patients; Permanent practice restriction from working, owning, or practicing in a pain management clinic, as defined by Section 459.0137, Florida Statutes (2016); and Respondent's license shall be on probation with restrictions and monitoring for a period of two years effective the day of the filing of the final order in this matter.

After Discussion:

Motion: by Dr. Hayden; seconded by Dr. Rose, to accept the settlement agreement as orally amended.  
Motion carried.

**TAB 4 – SA 4 – Dana P. Richard, D.O. – Settlement Agreement Case No 2013-13469**  
*PCP: Moran/ Mendez*

Respondent was present. Respondent was represented by counsel, Monica Felder Rodriguez, Esq.

Dr. Mendez was not in attendance at the meeting; however, for purposes of the record, Dr. Mendez was recused due to participation on the probable cause panel.

Matthew Witters represented the Department and presented the case to the Board. Allegations of the Administrative Complaint: violation of Section 459.015(1)(x), FS (2013), by committing medical malpractice; violation of Section 459.015(1)(t), FS (2013-2014), by prescribing, dispensing, administering, mixing, or otherwise preparing a legend drug, including any controlled substances, other than in the course of the osteopathic physician's professional practice; and violation of Section 459.015(1)(o), FS (2013-2014), by failing to maintain legible treatment records for patients, as defined by board rule.

The terms of the Settlement Agreement are: appearance; reprimand; reimbursement of costs for the investigation and prosecution of this case, payable within thirty-six (36) months of filing of final order

(current costs are four thousand five hundred thirteen dollars and fifty-nine cents [\$4,513.59]); Respondent's license shall be suspended for a period of six (6) months after which he may petition the Board to lift the suspension; Prior to suspension being lifted Respondent shall complete five (5) hours of CME in Chapter 456, 459, Florida Statutes and Rule 64B15, Florida Administrative Code, or a Board approved equivalent; and "Prescribing Controlled Drugs: Critical Issues and Common Pitfalls of Prescribing," or a board approved equivalent; Respondent shall be permanently restricted from prescribing, ordering, and/or delegating the prescribing or ordering to physician assistants or having collaborative agreements with advanced registered nurse practitioners of any substances listed in Schedules I and II, as defined by Section 89.03, Florida Statutes (2016); Respondent shall be permanently restricted from prescribing, ordering, and/or delegating the prescribing or ordering of any substances from treating of patients for chronic non-malignant pain and/or pain management patients; Respondent's practice shall be permanently restricted from working, owning, or practicing in a Pain Management Clinic, as defined by Section 459.0137, Florida Statutes (2016); Respondent's license to practice osteopathic medicine will be placed on probation for a period of two years immediately following the lifting of the suspension; Respondent's probation includes obligations; this agreement is to run concurrently with the settlement agreement encompassing case numbers 2014-18179 and 2014-01449.

After Discussion:

Additional oral amendment to replace the course specific to Chapter 456, 459 and Rule 64B15, Florida Administrative Code referenced in paragraph three of the settlement agreement to a five-hour course specific to record keeping. Respondent must obtain prior course approval from the board chair. The requirement to submit documentation to the board office within thirteen months of Final Order will be deleted.

Motion: by Dr. Hayden; seconded by Dr. Rose, to accept the settlement agreement as orally amended.  
Motion carried.

**TAB 5 – SA 5 – Andrew Michael Basiie, D.O. – Settlement Agreement Case No 2013-03200**  
*PCP: Moran/ Hayden*

**TAB 6 – SA 6 – Andrew Michael Basiie, D.O. – Settlement Agreement Case No 2012-16916**  
*PCP: Moran/ Hayden*

**TAB 7 – SA 7 – Andrew Michael Basiie, D.O. – Settlement Agreement Case No 2012-03761**  
*PCP: Moran/ Hayden*

Respondent was present. Respondent was represented by counsel, Monica Felder Rodriguez, Esq.

Dr. Hayden was recused due to participation on the probable cause panel.

Matthew Witters represented the Department and presented a single combined settlement agreement for case number 2014-03200, case number 2012-16916, and case number 2012-03761 to the Board. The facts and allegations of each case were presented to the board individually prior to the presentation of the combined settlement agreement.

Allegations of the Administrative Complaint in case number 2013-03200: violation of Section 459.015(1)(x), Florida Statutes (2011-2012), for committing medical malpractice; and violation of Section 459.015(1)(t), Florida Statutes (2011-2012), by prescribing, dispensing, administering, mixing, or otherwise preparing a legend drug, including any controlled substances, for patient M.S., other than in the course of the osteopathic physician's professional practice.

Allegations of the Administrative Complaint in case number 2012-16916: violation of Section 459.015(1)(x), Florida Statutes (2012), for committing medical malpractice; violation of Section 459.015(1)(t), Florida Statutes (2012), by prescribing, dispensing, administering, mixing, or otherwise preparing a legend drug, including any controlled substance, for patient V.S., other than in the course of the osteopathic physician's professional practice; and Section 459.015(1)(o), Florida Statutes (2012), by failing to keep legible, as defined by department rule in consultation with the board, medical records that identify the licensed osteopathic physician (who is) responsible for rendering, ordering, supervising, or billing for each diagnostic or treatment procedure and that justify the course of treatment of the patient.

Allegations of the Administrative Complaint in case number 2012-03761: violation of Section 459.015(1)(x), Florida Statutes (2010-2011), by failing to practice medicine in accordance with the level of care, skill and treatment recognized in general law related to health care licensure; violation of Section 459.015(1)(t), Florida Statutes (2010-2011), by prescribing, dispensing, administering, mixing, or otherwise preparing a legend drug, including any controlled substance, for patient S.H., other than in the course of the osteopathic physician's professional practice; and violation of Section 459.015(1)(o), Florida Statutes, (2010-2011), by failing to keep legible, as defined by department rule in consultation with the board, medical records that identify the licensed osteopathic physician (who is) responsible for rendering, ordering, supervising, or billing for each diagnostic or treatment procedure and that justify the course of treatment of the patient.

The terms of the Settlement Agreement are: appearance; reprimand; fine in the amount of fifteen thousand (\$15,000.00) dollars payable within twenty-four (24) months from the filing of final order; reimbursement of costs for the investigation and prosecution of this case, payable within two (2) years of filing of final order (current costs are fourteen thousand one hundred ninety-eight dollars and ninety-six cents [\$14,198.96]); Respondent shall complete "Quality Medical Record Keeping for Health Care Professionals," sponsored by the Florida Medical Association, or a Board approved equivalent, "Legal and Ethical Implications in the Practice of Medicine- A Physician's Survival Guide," sponsored by the Florida Medical Association, or a Board Approved equivalent, and "Prescribing Controlled Drugs: Critical Issues and Common Pitfalls of Prescribing," sponsored by the University of Florida, or a Board-approved equivalent within twelve (12) months of the filing of the Final Order; Respondent shall be permanently restricted from owning, working and or practicing in a Pain Management Clinic, as defined by Section 459.0137, Florida Statutes; Respondent shall be permanently restricted from prescribing or ordering and/or delegate the prescribing or ordering to physician assistants or having collaborative agreements with advanced registered nurse practitioners of any controlled substances as set forth in Schedules I – IV for chronic non-malignant pain and/or pain management patients; Respondent's practice shall be restricted from ordering or prescribing controlled substances listed in Schedules I through III of Chapter 893, Florida Statutes, unless or until he has documented to the Board chairman completion of the CME course "Prescribing Controlled Drugs: Critical Issues and Common Pitfalls of Prescribing," sponsored by the University of Florida, or a board approved equivalent; Respondent's license shall be on probation for a period of eighteen (18) months effective the date of the filing of the Final Order; Respondent's probation contains obligations.

After Discussion:

Motion: by Dr. Rose; seconded by Dr. Bellinger, to accept the settlement agreement as orally amended.  
Motion carried.

Following approval of the settlement agreement Respondent's attorney provided a CE certificate for Respondent to Matt Wittters. Respondent's attorney requested the board approve Respondent's proposed monitor, Lawrence Eastburn. She provided the proposed monitor's curriculum vitae for board review. The board agreed to consider Dr. Eastburn's appearance as the required first appearance should he be approved as Respondent's temporary monitor.

Motion: by Dr. Rose; seconded by Dr. Hayden, to accept present appearance as the required appearance should Dr. Eastburn be temporarily approved. Dr. Eastburn is subject to recall at the next meeting, at the discretion of the chair. This appearance does not indicate that he has been approved as a monitor. Item would appear on agenda with minutes of this meeting to reflect approval of appearance.

Motion carried.

**TAB 12 – SA 12 – Steven James Svabek, D.O. – Settlement Agreement Case No 2014-08404**  
*PCP: Moran/ Hayden*

Respondent was present at the November 17, 2017, Board of Osteopathic Medicine meeting; therefore, his appearance was waived for the current meeting. Respondent's attorney Bruce Lamb, Esq. was present.

Dr. Hayden was recused due to participation on the probable cause panel.

Matthew Witters represented the Department and presented the case to the Board Allegations of the Administrative Complaint: violation of Section 456.072(1)(bb), FS (2013), by performing or attempting to perform health care services on the wrong patient, a wrong site procedure, a wrong procedure or an unauthorized procedure or a procedure that is medically unnecessary or otherwise unrelated to the patient diagnosis, or medical condition, by performing surgery on Patient W.C.'s C5-C6 vertebrae when he should have performed surgery on Patient W.C.'s C4-C5 vertebrae.

Mr. Witters informed the board that the case was previously presented at the November 17, 2017, meeting as a settlement agreement. The board was reminded that the settlement agreement was rejected and a counter-offer was proposed. The Respondent accepted the board's counter-offer. Mr. Witters informed the board that the current settlement agreement reflects the terms of the counter-offer.

The terms of the settlement agreement are: reprimand; fine in the amount of ten thousand (\$10,000.00) dollars payable within thirty (30) days from the filing of the final order, reimbursement of costs for the investigation and prosecution of this case, payable within thirty (30) days of filing of final order (current costs are two thousand six hundred twenty-one dollars and ten cents [\$2,621.10]); Respondent shall complete the eight (8) hour course "Quality Medical Record Keeping for Health Care Professionals," sponsored by the Florida Medical Association, or a board approved equivalent, within twelve (12) months of the filing of the final order; Respondent shall complete ten (10) hours of Continuing Osteopathic Medical Education in "Risk Management", sponsored by the Florida Medical Association within twelve (12) months of the filing of the final order, Respondent shall obtain approval from the board chair prior to completion of hours; During the next six (6) months following the filing of the Final Order Respondent shall present a one (1) hour lecture/seminar on Quality Record Keeping and Risk Management, the lecture shall be presented to medical staff at an approved medical facility, prior to presenting the lecture, Respondent shall submit a written plan to the board chair for approval; Respondent's current practice shall be reviewed by an independent certified/licensed risk manager within sixty (60) days of the filing of the Final Order in this matter; Quality Assurance Consultation/Risk Management Assessment of Respondent's Indiana practice with Respondent to make a follow up appearance before the board one year following the Final Order to provide changes made to his practice as a result of the risk management; and sixty (60) days from approval of risk manager, Respondent shall submit the credentials of the proposed risk manager for approval by the board chair along with the Indiana Risk Manger requirements for the state of Indiana, being sure there is not an omission of Florida Requirements.

Mr. Witters noted that Florida and Texas are the only states that certifies risk managers. There are no Indiana certified risk managers to comply with the original counter-offer. Respondent's attorney was able to locate a Florida certified risk manager in Illinois who is willing to travel to Respondent's Indiana practice

and perform the risk management assessment. A request was made to the board to accept the Illinois risk manager.

After Discussion:

Motion: by Dr. Bellingar; seconded by Dr. Rose, to accept the settlement agreement. Motion carried.

### **DETERMINATION OF WAIVERS**

**TAB 8 – DOW 1** - Raymond Failer, D.O. – Determination of Waiver Case No. 2015-31734

*PCP: Moran/Hayden*

Respondent was present. Respondent was not represented by counsel.

Dr. Hayden was recused due to participation on the probable cause panel.

Matthew Witters represented the Department and presented the case to the Board. Allegations of the Administrative Complaint: violation of Section 456.072(1)(q), Florida Statutes, for violating a lawful order of the department or the board, by failing to comply with the Final Orders in case numbers 2007-10091 and 2013-02191, filed on June 16, 2015, when Respondent failed to submit quarterly reports as required by the Final Orders as part of the probation of his license.

Motion: by Dr. Rose, seconded by Dr. Bellingar, that the Respondent was properly served and waived his right to a formal hearing.

Motion carried.

Motion: by Dr. Bellingar, seconded by Dr. Rose, to accept the investigative report into evidence for the purpose of imposing penalty.

Motion carried.

Motion: by Dr. Rose, seconded by Dr. Bellingar, to accept the findings of fact as set forth in the Administrative Complaint.

Motion carried.

Dr. Failer presented his statement.

Motion: by Dr. Rose, seconded by Dr. Bellingar, to adopt the conclusions of law set forth in the Administrative Complaint and find this constitutes a violation of the practice act.

Motion carried.

After Discussion:

PSU attorney provided recommended discipline with justification for going below the recommended disciplinary guidelines.

Motion: by Dr. Rose, seconded by Dr. Bellingar, to impose a Reprimand on Respondent's license.

Motion carried.

Motion: by Dr. Rose, seconded by Dr. Bellingar, to impose costs for the prosecution and investigation of

this case in the amount of eighty-one dollars and ninety-eight cents (\$81.98).

**TAB 9 – DOW 2 – Lucille Maria Frial-Carrasco, D.O. – Determination of Waiver**  
Case No. 2015-27975  
PCP: Moran/Hayden

Respondent was not present. Respondent was not represented by counsel.

Dr. Hayden was recused due to participation on the probable cause panel.

Ann Prescott represented the Department and presented the case to the Board. Allegations of the Administrative Complaint: violation of Section 456.072(1)(c), Florida Statutes, for being convicted or found guilty of, or offering a plea of guilty or nolo contendere to, regardless of adjudication, a crime in any jurisdiction which relates to the practice of, or the ability to practice, the licensee's profession.

Motion: by Dr. Bellingar, seconded by Dr. Rose, that the Respondent was properly served and waived her right to a formal hearing.

Motion carried.

Motion: by Dr. Rose, seconded by Dr. Bellingar, to accept the investigative report into evidence for the purpose of imposing penalty.

Motion carried.

Motion: by Dr. Rose, seconded by Dr. Bellingar, to accept the findings of fact as set forth in the Administrative Complaint.

Motion carried.

Motion: by Dr. Rose, seconded by Dr. Bellingar, to adopt the conclusions of law set forth in the Administrative Complaint and find this constitutes a violation of the practice act.

Motion carried.

PSU attorney recommended revocation of the Respondent's license which falls within the disciplinary guidelines.

Motion: by Dr. Rose, seconded by Dr. Bellingar, to revoke the Respondent's license.

Motion carried.

The Department withdrew the Motion for Costs.

**VOLUNTARY RELINQUISHMENTS**

**TAB 10 – VR 1 – Pokmang Daren Yu, O.R.R. – Voluntary Relinquishment Case No. 2017-08998**  
PCP: Moran/Mendez

Respondent was not present.



Dr. Mendez was not in attendance at the meeting; however, for purposes of the record, Dr. Mendez was recused due to participation on the probable cause panel.

The Department noted that an amended voluntary relinquishment was provided and requested that the Board entertain a Motion Accepting the Voluntary Relinquishment executed by Respondent in resolution of this case.

Motion: by Dr. Rose; seconded by Dr. Bellingar, to accept the Voluntary Relinquishment. Motion carried.

**TAB 11 – VR 1 – Gary Lee Marder, D.O. – Voluntary Relinquishment Case No. 2016-28008**  
*PCP: waived*

Respondent was not present.

PCP was waived; therefore, there were no recused members of the board.

The Department noted for the record that Mr. Witters contacted Respondent's attorney to ensure he was notified and aware of the case on the agenda. The Department requested that the Board entertain a Motion Accepting the Voluntary Relinquishment executed by Respondent in resolution of this case.

Motion: by Dr. Hayden; seconded by Dr. Bellingar, to accept the Voluntary Relinquishment. Motion carried.

**PROSECUTION SERVICES REPORT**

**Tab 13 – January 2018 Report**

Mr. Witters presented the prosecution services report.

Mr. Witters asked the Board to consider allowing PSU to continue to prosecute those cases.

Motion: by Dr. Hayden, seconded by Dr. Bellingar, to allow PSU to continue prosecuting cases one year and older. Motion carried

Mr. Witters additionally provided an update on outstanding counter offers and noted there are no cases on appeal.

**REVIEW AND APPROVAL OF MINUTES**

**Tab 14 – November 17, 2017 General Business Meeting Minutes**

Motion: by Dr. Hayden, seconded by Dr. Bellingar, to accept the minutes. Motion carried.

**PROBATION AND COMPLIANCE**

**REQUEST FOR FORMAL APPROVAL OF MONITOR**

**TAB 15 – David Hicks, DO – File #3645**

Dr. Hicks was present and was sworn in. Dr. Hickers was not represented by counsel. Dr. Hick's proposed monitor Michael Cromer, D.O. was present and was sworn in.

After discussion:

Motion: by Dr. Hayden, seconded by Dr. Bellingar, to approve monitor, Michael Cromer, D.O. Motion

carried.

### **REQUEST FOR TERMINATION OF PROBATION**

**TAB 16** – Erik Michael Schabert, DO – File #8896

Dr. Schabert was present and was sworn in. Dr. Schabert was not represented by counsel.

Motion: by Dr. Hayden, seconded by Jackson, to accept Dr. Schabert's appearance as his final appearance for termination of probation.

Motion carried.

### **REQUEST FOR REINSTATEMENT and TO LIFT PROBATION**

**TAB 17** – Raymond Failer, DO – File #932

Raymond Failer was present and was sworn in. Dr. Failer was not represented by counsel.

Dr. Failer presented his statement.

After discussion:

Motion: by Dr. Rose, seconded by Dr. Bellingar, to lift suspension with no additional terms or conditions.

Motion carried.

Dr. Failer presented his statement regarding his request to lift his probation.

After discussion:

Motion: by Dr. Rose, seconded by Ms. Jackson, to deny request to lift probation.

Motion carried.

### **APPLICANTS**

#### **APPLICANTS FOR FULL LICENSURE**

**TAB 18** – Michael Boriss, D.O., File #14829

Applicant was present and sworn in.

**Action Taken:** After discussion, Dr. Hayden moved to grant the license unencumbered. Dr. Rose, seconded the motion. Motion carried.

**TAB 19** – Bradley Eisenberg, D.O., File #14780

Applicant was present and sworn in.

**Action Taken:** After discussion, Dr. Hayden moved to grant the license unencumbered. Dr. Rose seconded the motion. Motion carried. Ms. Jackson opposed.

### **RATIFICATION OF LICENSURE**

**TAB 20** - Ratification of Full Licenses Issued 11/30/2017-1/31/2018

Motion: by Dr. Hayden, seconded by Dr. Rose, to ratify the full licenses issued 11/30/2017 through 1/31/2018. Motion carried.

**TAB 21** - Ratification of Osteopathic Resident Registration 11/30/2017 through 1/31/2018.

Motion: by Dr. Rose, seconded by Dr. Hayden, to accept the ratification of full licenses issued 11/30/2017 through 1/31/2018. Motion carried.

**GENERAL DISCUSSION:**

**TAB 22- 1917-** Osteopathic Physician Expert Witness Certificate 11/30/2017 through 1/31/2018  
This item was placed on the agenda for informational purposes only.

**TAB 23- REVIEW OF DEPARTMENT EXPERT WITNESS APPLICATIONS**  
This item was placed on the agenda for informational purposes only.

**TAB 24 - BOARD CHAIRMAN REPORT – Sandra Schwemmer, DO**

No report at this time.

**BOARD COUNSEL REPORT - Donna McNulty, Esq.**

**TAB 25 – FOMA Letter-** Re: proposed Joint Committee- Revision to Florida Physician Licensure Application

Ms. Monroe noted that a joint workgroup meeting is scheduled for March 2, 2018, regarding this matter.

**TAB 26 – Rule Report** October 2017

Ms. McNulty provided the January and February rules reports for informational purposes.

**RULE DISCUSSION – Donna McNulty, Esq.**

**TAB 27 – 64B15-14.007 – Draft Standard of Care for Office Surgery**

Board attorney reminded the board that this was placed on the November 17, 2017, agenda for their consideration. The board determined at the last meeting to table the matter for more discussion. Dr. Rose noted a desire for more specific language as to what is required for pre-op.

Motion: by Dr. Rose, seconded by Dr. Hayden, to approve the rule.

Motion: by Dr. Rose, seconded by Dr. Hayden, that the proposed changes will not make an adverse impact on small business and proposed changes would not directly or indirectly increase regulatory costs to any entity including government in excess of \$200,000.00 in aggregate in Florida within one year after the implementation of the rule. No SERC is needed and no legislative ratification is needed. Motion carried.

Motion: by Dr. Bellinger, seconded by Dr. Hayden, to find that a violation of this rule or any part of this rule would not be considered a minor violation. Motion carried.

**TAB 28 - Tab 64B15-13.001**

Rule 64B15-13.001(3)(f)-Five Misdiagnosed Conditions (Proposed Rule Changes)

Board counsel submitted the proposed rule changes for consideration by the board.

After discussion: Board determined to change the language of #4 to Surgical Complications/Errors and Pre-Operative Evaluations, Including Obtaining Informed Consent.

Motion: by Dr. Rose, seconded by Dr. Bellinger, to approve the proposed rule changes with the

modifications as discussed. Motion carried.

Motion: by Dr. Hayden, seconded by Dr. Rose, that the proposed changes will not make an adverse impact on small business and proposed changes would not directly or indirectly increase regulatory costs to any entity including government in excess of \$200,000.00 in aggregate in Florida within one year after the implementation of the rule. No SERC is needed and no legislative ratification is needed. Motion carried.

Motion: by Dr. Rose, seconded by Dr. Hayden, to find that a violation of this rule or any part of this rule would not be considered a minor violation. Motion carried.

**TAB 38 - 64B15-14.013 (Mandatory Standardized Informed Consent for Medical Marijuana; Required Documentation for Comparable Medical Conditions)**

Board counsel reminded the board that they have emergency rules in place and these are the proposed regular rules for informed consent for Medical Marijuana and documentation for comparable medical conditions.

Motion: by Dr. Hayden, seconded by Dr. Rose, to approve Rule 64B15-14.013, to approve the proposed rule. Motion carried.

**TAB 39 - 64B15-19.002 (Violations and Penalties)**

Board counsel noted that these are rules regarding your disciplinary guidelines. Board counsel reminded the board there is an emergency rule in place and this is the proposed language for regular rule.

Motion: by Dr. Rose, seconded by Dr. Hayden, to approve the proposed rule. Motion carried.

Motion: by Dr. Bellingar, seconded by Dr. Hayden, that the proposed changes will not make an adverse impact on small business and proposed changes would not directly or indirectly increase regulatory costs to any entity including government in excess of \$200,000.00 in aggregate in Florida within one year after the implementation of the rule. No SERC is needed and no legislative ratification is needed. Motion carried.

Motion: by Dr. Rose, seconded by Dr. Bellingar, to find that a violation of this rule or any part of this rule would not be considered a minor violation. Motion carried.

**TAB 40 – Joint Committee on Medical Marijuana meeting materials (informational purposes only)  
These materials were placed on agenda for informational and supportive purposes only.**

**EXECUTIVE DIRECTOR REPORT – Kama Monroe, J.D., Executive Director  
TAB 29 – FOMA Letter**

Ms. Monroe informed the board that Mr. Winn previously addressed this item, noting the references to marijuana being prescribed were removed from the website.

Ms. Monroe informed the board that the Department has been working on a standardized application to cover those questions which all medical boards must answer. This is where the product from the March 2, 2018, workgroup will appear. Before this can occur the board will need to open their applications for rule development. The development plan by the Department has all boards opening their rules by April 6<sup>th</sup>. The board does not have another meeting until May; therefore, there may be a special teleconference meeting to address this matter.

Dr. Rose requested a status on approval of his travel to the April Federation of State Medical Boards (FSMB) meeting.

### **TAB 30 - JOINT COMMITTEE MEETING UPDATES - Joel Rose, DO**

Dr. Rose noted that the Joint Medical Marijuana Committee had already been discussed.

### **TAB 31 - COUNCIL ON PHYSICIAN ASSISTANT'S REPORT – Joel Rose, DO**

Dr. Rose informed the board that there has not been a meeting for the past two sessions due to more vetting. He noted the discovery that many appearances were not necessary. He noted he will check on scheduling a meeting.

Additionally, he noted that he served on the FSMB finance committee in Texas.

Dr. Rose also noted the statutory language modifications regarding the 2020 merged pathway between Accreditation Council for Graduate Medical Education (ACGME) and the American Osteopathic Association (AOA) has been introduced into a bill. He is unaware if it has made it through.

### **TAB 32 - ANESTHESIOLOGY ASSISTANTS COMMITTEE REPORT-Joel Rose, DO**

There was no report.

Dr. Rose noted that he would check on scheduling an annual meeting.

### **TAB 33 - BUDGET LIAISON REPORT – Anna Hayden, DO**

Report was provided for review. Dr. Hayden noted the board has a healthy reserve.

### **TAB 34 - UNLICENSED ACTIVITY LIAISON REPORT – Sandra Schwemmer, DO**

No report at this time.

### **TAB 35 - HEALTHY WEIGHT LIAISON REPORT – Bridget Bellingar, DO**

No report at this time.

### **TAB 36 - OLD BUSINESS**

Delegation of Authority

Ms. Monroe noted a need to obtain a delegation of approval each year.

After discussion: the board determined to revise the sixth item to state: Authority to grant extension requests for 120 days for payment of fines/costs or completion of CME/lectures resulting from discipline.

Motion: by Dr. Rose, seconded by Dr. Bellingar, to approve delegation as verbally amended.

### **TAB 37 - NEW BUSINESS**

Proposed Dates and Locations

The 2019 proposed dates and locations were provided for review and approval by the board. The board approved the following dates and locations for 2019.

February 21, 2019	Weston (alternative Sunrise)
May 17, 2019	Orlando
August 23, 2019	Sarasota/Bradenton (Tampa alternative)
November 15, 2019	Orlando

Dr. Hayden provided the American Association of Osteopathic Examiners (AAOE) update.

FSMB email was placed on the agenda for informational purposes. There was no discussion.

The Morton Morris Awards are to be presented to the recipients at the FOMA board meeting on Saturday morning. The specifics of the presenter and recipients were reviewed.

**ADJOURN: 1:03 p.m.**

**Next Meeting: May 18, 2018**

**Tallahassee, Florida**

DRAFT