

FLORIDA | Board of Osteopathic Medicine

May 17, 2019



DRAFT MEETING MINUTES
Board of Osteopathic Medicine
General Business Meeting
May 17, 2019
9:00 a.m.

Embassy Suites by Hilton LBV
4955 Kyngs Heath Road
Orlando, Florida 34748
(407) 597-4112

The meeting was called to order by Dr. Joel Rose, Chair, at approximately 9:04 a.m.

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

MEMBERS PRESENT:

Joel B. Rose, DO, Chair
Bridget Bellingar, DO, Vice-Chair
Anna Hayden, DO
Sandra Schwemmer, DO
Michelle R. Mendez, DO
Valerie Jackson, Consumer Member

MEMBERS ABSENT

Alicja Janson, Consumer Member

COURT REPORTER:

American Court Reporting
Jane Heneghan
(407) 896-1813

OTHERS PRESENT:

Matt Witters, Prosecuting Attorney
Christopher Dierlam, Prosecuting Attorney
Allison Dudley, Prosecuting Attorney

BOARD STAFF PRESENT:

Kama Monroe, Executive Director
Carol Taylor, Program Administrator

BOARD COUNSEL

Donna McNulty, Board Counsel

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.

TAB 1 – BOARD CHAIR REPORT– Joel D. Rose, DO

This item was continued until later in the meeting.

DISCIPLINARY CASES: INFORMAL HEARING

TAB 2-IH-01- Garo Charles Avetian, D.O, case# 2017-19816 (ALP)
PCP: Andriole/Jackson

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

Ms. Jackson was recused due to participation on the probable cause panel.

Matt 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 (2017), 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. On or about November 16, 2018, Respondent was served via certified mail. An election of rights was timely received requesting an informal hearing.

Motion: by Dr. Hayden, seconded by, Dr. Bellingar, that the Respondent was properly served and is properly before the board as an informal hearing. Motion carried.

Motion: by Dr. Schwemmer, seconded by, Dr. Hayden, to accept the Investigative Report in evidence for the purposes of imposing a penalty. Motion carried.

Motion: by Dr. Hayden, seconded by, Dr. Mendez, to adopt the findings of fact as set forth in the Administrative Complaint. Motion carried.

Motion: by Dr. Hayden, seconded by, Dr. Bellingar, to adopt the conclusions of law as set forth in the Administrative Complaint. Motion carried.

PSU attorney read the proposed disciplinary guidelines.

Motion: by Dr. Bellingar, seconded by, Dr. Hayden, to impose the following discipline: Reprimand; one-month suspension followed by one-year probation or probation until such time as Respondent can demonstrate his Pennsylvania license is free and unencumbered, during probation the Respondent is restricted from prescribing medications to patients via remote prescribing in Florida, including the following:

- (1) Remote Prescribing as defined herein, which would include, but is not limited to, remote prescribing via telephone, video-link or online.

- (2) Remote Prescribing is defined as prescribing, dispensing or furnishing a prescription medication or a prescription-only device to a person without conducting a physical examination of that person or without having a previously established physician-patient relationship. A proper physician-patient relationship means that before the issuance of a prescription, a physician performs a history and in-person physical examination of the patient adequate to establish a diagnosis and to identify underlying conditions or contraindications to the treatment recommended.

Motion carried.

Motion: by Dr. Hayden, seconded by, Dr. Bellingar, to impose costs in the amount of two hundred nineteen dollars and seventy-one cents (\$219.71) to be paid within one year of the Final Order in this matter.

SETTLEMENT AGREEMENTS

TAB 3-SA-01- Jimmy Steve Hankins, D.O., case#2018-17337 (ALP)

PCP: Moran/Janson

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

Ms. Janson was recused due to participation on the probable cause panel.

Allison Dudley represented the Department and presented the case to the Board. Allegations of the Administrative Complaint: violation of Section 459.015(1)(b), Florida Statutes (2016), 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, letter of concern; fine of two thousand dollars (\$2,000.00) to be paid within thirty (30) days of the filing of the Final Order in this matter, any change in terms must be approved in advance by the Probation Committee of the board; reimbursement of costs for the investigation and prosecution of this case are capped at the amount of one thousand two hundred eighty-eight dollars and sixty-one (\$1288.61) cents, actual costs are four hundred thirty dollars and thirty-three (\$430.33) cents to be paid within thirty (30) days of the filing of the Final Order in this matter; Respondent's license will have a practice restriction consistent with the Alabama discipline. There was a verbal agreement to remove the term to allow the Respondent ninety days to come into compliance.

After discussion:

An oral agreement was reached to remove the provision referencing Probation Committee in both the fine and cost requirements of the agreement.

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

TAB 4 SA-02- Stephen Lee Moore, D.O. case #2016-23979 (ALP)

PCP: Moran/Mendez

Respondent was present. Respondent was represented by counsel, Bill Dillon, Esquire.

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

Christopher Dierlam represented the Department and presented the case to the Board. Allegations of the Administrative Complaint: violation of Section 459.015(1)(b), Florida Statutes (2016), 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; and Section 456.072(1)(k), Florida Statutes (2016), for failing to perform any statutory or legal obligation upon the licensee.

The terms of the settlement agreement are: Appearance, letter of concern; reimbursement of costs for the investigation and prosecution of this case in the amount of one thousand six hundred forty-five dollars and seventy-six (\$1645.76) cents to be paid within thirty (30) days of the filing of the Final Order in this matter; There was a verbal agreement to remove the reference to Probation Committee on pages three and four of the agreement.

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

TAB 5 - PROSECUTION SERVICES REPORT

Mr. Witters presented the prosecution services report. Mr. Witters asked the Board to consider allowing PSU to continue to prosecute cases that are a year and older.

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

TAB 6 – REVIEW AND APPROVAL OF MINUTES

April 8, 2019, Conference Call Meeting Minutes

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

PROBATION AND COMPLIANCE REVIEW

REQUEST FOR MODIFICATION OF FINAL ORDER

TAB 7- Vincent Joseph Scolaro, D.O., File number 4817

Licensee was present. Licensee was represented by attorney Allan Grossman, Esquire. Licensee's monitor Scott Ravede appeared with licensee.

Motion: by Dr. Hayden, seconded by Dr. Bellingar, to accept the appearance as meeting the requirement for appearance before direct monitoring ends in June. Motion carried.

Motion: by Dr. Hayden, seconded by Dr. Bellingar, to lift the prescribing restrictions for schedules 3 & 4. Motion carried.

TAB 8 - Andrew Martin Guidry, D.O. File number 5807

Licensee was present. Licensee was represented by Allan Grossman. Licensee's monitor, Darin Miller, appeared with him. Dr. Polles, with PRN, also appeared with the licensee.

Motion: by Dr. Hayden, seconded by Dr. Schwemmer, to accept the appearance prior to termination of probation. Motion carried.

REQUIRED APPEARANCE

TAB 9 - John Paul Salerno, D.O. File number 7515

Licensee was present. Licensee was represented by counsel, Ed Bayo, Esquire.

Licensee provided a statement regarding what he has learned as a result of this case.

Mr. Bayo withdrew the motion.

APPLICANTS

APPLICANTS FOR FULL LICENSURE

TABs 11, 12, 16, 17, 18, and 19 were reviewed as a group by consent agreement.

TAB 11 - Peter Stueve, D.O., File #15766

TAB 12 - Shawn Iverson, D.O., File #15708

TAB 16 - Tristan Brooks, D.O., File #16005

TAB 17 - Stephen Rohl, D.O., File #15716

TAB 18 - Andrew Lubbert, D.O., File #15773

TAB 19 - Robert Lofgren, D.O., File #15886

The applicants were not required to appear and were not present except for Dr. Shawn Iverson.

Action Taken: After discussion, Dr. Schwemmer moved to accept good cause shown for Tabs 11, 12, 16, 17, 18, & 19 and accept the applications. Dr. Bellinger seconded the motion. Motion carried.

TAB 10 - Ikkei Hiram, D.O., File #15318

Applicant was not present. Applicant was not represented by counsel.

Action Taken: After discussion, Dr. Schwemmer moved to require his appearance at the next board meeting. Dr. Hayden seconded the motion. Motion carried.

TAB 13 - Sheila Natbony, D.O., File #15861

Applicant was present. Applicant was not represented by counsel.

Action Taken: After discussion, Dr. Hayden moved to allow the applicant fourteen days to withdraw her application or to grant the license, if the applicant takes and passes the COMVEX within one year. Dr. Mendez seconded the motion. Motion carried.

TAB 14 - Holly Healey, D.O., File #15964

Applicant was present. Applicant was not represented by counsel.

Action Taken: After discussion, Dr. Hayden moved to approve the license with the condition that the applicant pass the COMVEX within twelve months or allowing her to withdraw within fourteen days. Dr. Bellinger seconded the motion. Motion carried.

TAB 15 - Shari Glynn, D.O., File #15941

Applicant was present. Applicant was not represented by counsel.

Action Taken: After discussion, Dr. Hayden moved to approve the license with the condition that the applicant pass the COMVEX within twelve months or allowing her to withdraw within fourteen days. Dr. Schwemmer seconded the motion. Motion carried.

Motion by Dr. Hayden to accept good cause shown, seconded by Dr. Mendez. Motion carried.

APPLICANTS FOR OSTEOPATHIC MEDICINE RESIDENT REGISTRATIONS

TAB 20 - Ryan Moorhouse, D.O., File #4859

Applicant was present. Applicant was not represented by counsel. PRN representative Dr. Polles, also appeared with the applicant.

Action Taken: After discussion, Dr. Hayden moved to accept good cause shown and accept the application. Dr. Bellinger seconded the motion. Motion carried.

REQUIRED APPEARANCE PRIOR TO MOVING TO INDIRECT SUPERVISION

TAB 21: Ty Anderson, D.O., file #14603-appearance required
Licensee was present. Licensee was not represented by counsel. Licensee's monitor, Aron Schlau, appeared with him.

Motion: by Dr. Hayden, seconded by Dr. Schwemmer, to accept the appearance as the required appearance prior to moving to indirect supervision. Motion carried.

REQUEST FOR APPROVAL OF OPIOID CONTINUING EDUCATION COURSES

TAB 22 The Doctors Company, 50-16088

Action Taken: After discussion, Dr. Bellingar moved to approve. Dr. Hayden seconded the motion. Motion carried.

RATIFICATION OF LICENSURE

TAB 23 - 1901 - Osteopathic Physician licenses issued 2.1.2019 through 4.30.2019

Motion: by Dr. Hayden, seconded by Dr. Schwemmer, to ratify the 209 full license numbers 15841 through 16050, issued 2.1.2019 through 4.30.2019. Motion carried.

TAB 24 - 1902 - Osteopathic Resident Initial Registrations issued 2.1.2019 through 4.30.2019

Motion: by Dr. Hayden, seconded by Dr. Bellingar, to ratify the sixteen resident registration numbers 6356 through 6371, issued 2.1.2019 through 4.30.2019. Motion carried.

GENERAL DISCUSSION

TAB 25: 1902-Osteopathic Physician in Training Renewal Registrations issued 1.1.19 through 5.7.19 (For Informational Purposes Only)

400 Resident Renewals were processed during this timeframe. The information is provided for informational purposes only. No action by the board required.

TAB 26: 1917 – Osteopathic Physician Expert Witness certificate issued 2.1.2019 through 4.30.2019 (For Informational Purposes Only)

Three Expert Witness certificates were issued during this timeframe. The information is provided for informational purposes only. No action by the board required.

TAB 27: Approved CE Providers issued 2.1.2019 through 4.30.2019 (For Informational Purposes Only)

BOARD COUNSEL REPORT - Donna McNulty, Esq.

TAB 28: RULES REPORT

May 2019 Rules Report

April 2019 Rules Report

March 2019 Rules Report

The rules reports were included on the agenda for the board's information. The board had no questions.

RULE DISCUSSION

TAB 29: 64B15-13.001 Continuing Education for Biennial Renewal

The purpose of the rule is to modify the rule to add the two continuing education providers, The Florida Psychiatric Society and NetCE Professional Physician Society, which were approved at the February meeting, and the Doctor's Company, approved at this meeting.

Motion: by Dr. Schwemmer, seconded by Dr. Hayden to approve the proposed language and proceed with rulemaking as appropriate. Motion carried.

Motion: by Dr. Schwemmer, seconded by Dr. Bellingar 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 the 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. Schwemmer, 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 30: 64B15-12.007 Inactive Status License

TAB 31: 64B15-12.0075 Requirements for Reactivation of Retired Status License

TAB 32: 64B15-13.002 Continuing Education Requirements for Reactivation

Tabs 30, 31, and 32 were reviewed as a group. Due to the recent modifications to the general continuing medical education rules, all three rules included in tabs 30, 31, and 32 need to be clarified.

Motion: by Dr. Schwemmer, seconded by Dr. Hayden to approve the proposed language for Rules 64B15-12.007, 64B15-12.0075, and 64B15-13.002. Motion carried.

Motion: by Dr. Schwemmer, seconded by Dr. Bellingar 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 the 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. Schwemmer, 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 33: 64B15-14.0075 Adverse Incident Report
Adverse Incident Form-revised 5-19 (clean copy)

The rule is outdated and requires updating.

Motion: by Dr. Schwemmer, seconded by Dr. Hayden to approve the proposed language for Rule 64B15-14.0075. Motion carried.

Motion: by Dr. Schwemmer, seconded by Dr. Hayden to accept the adverse incident form as revised on 5/19. Motion carried.

Motion: by Dr. Schwemmer, seconded by Dr. Bellingar 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 the 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. Schwemmer, 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.

EXECUTIVE DIRECTOR REPORT - Kama Monroe, J.D., Executive Director

TAB 34: Legislative Update

Executive Director Kama Monroe provided a legislative update on bills that would affect the osteopathic profession.

The board set a teleconference meeting for June 26, 2019. Future teleconferences will be scheduled throughout the year to address applications whose only issue is that they completed an ACGME internship in lieu of an AOA approved internship.

Ms. Monroe and Ms. McNulty will work together with Dr. Hayden on application language to better clarify the NICA fee and dispensing applications. Proposed language is to be brought to the board meeting in August.

Discussion ensued regarding joint committees and committee members. After discussion, the office surgery committee members will be Dr. Rose, Dr. Schwemmer, and Dr. Hayden. The telemedicine committee will be Dr. Rose, Dr. Schwemmer, and Dr. Hayden. Dr. Hayden will be the third member for both committees.

TAB 35: Applications

After discussion: Motion: by Dr. Rose, seconded by Dr. Mendez to approve the DEA language revisions and correct the typographical error on DH-MQA 1249. Motion carried.

Motion: by Dr. Rose, seconded by Dr. Hayden to approve the DEA language revisions to DH-MQA 1029, DH-MQA 1171, DH-MQA 1193, DH5002-MQA and DH-MQA 1172. The health history questionnaire will remain the same. Motion carried.

Motion: by Dr. Hayden, seconded by Dr. Mendez to open Rule 64B15-12.003, 64B15-12.005, 64B15-12.009, 64B15-12.010, 64B15-12.011, and 64B15-22.004 for rule development.

COMMITTEE MEETING UPDATES - Joel Rose, D.O.

TAB 36: Boards of Medicine and Osteopathic Medicine's Physician Certification Pattern Review Panel

The annual report was submitted to the legislature timely.

TAB 38: Joint Committee on Medical Marijuana

The committee approved updating the form that must be submitted to the state to include smokable marijuana

TAB 37: Boards of Medicine, Osteopathic Medicine, and Pharmacy Formulary Committee

4/1/2019 Boards of Medicine, Osteopathic Medicine, and Pharmacy Formulary Committee Meeting Minutes

Narcan was added as a drug that could be prescribed by the pharmacist; given our current opioid drug situation, this would save lives.

TAB 2 – Board Chair Report

Dr. Rose provided an update to the board on the Federation of State Medical Boards annual conference meeting that he attended last month in Texas.

Dr. Hayden was also in attendance at the FSMB meeting and provided additional information.

TAB 39: Council on Physician Assistants Committee

Mr. Grossman filed a Petition for Rulemaking on behalf of the Florida Academy of Physician Assistants. The council voted to repeal the rule.

Dr. Rose will raise the rule language concerns at the next PA committee meeting and will bring back to the board at the August board meeting.

After discussion: Motion: by Dr. Hayden and seconded to repeal Rule 64B15-6.0037. Motion carried.

Motion: by Dr. Hayden, seconded by Ms. Jackson 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 the 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, remaining board members seconded in unison, 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: Anesthesiology Assistants Committee-Joel Rose, DO

Dr. Rose provided an update. He also requested Rob Wagner be invited to attend the August meeting.

TAB 41: Pharmacy Controlled Substances Standards Committee- Michelle Mendez, DO

No report at this time; however, Dr. Mendez provided concerns that have voiced.

LIAISON REPORTS

TAB 42 BUDGET LIAISON REPORT – Anna Hayden, DO

Dr. Hayden reported that the board is fiscally sound.

TAB 43 UNLICENSED ACTIVITY LIAISON REPORT – Sandra Schwemmer, DO

Dr. Schwemmer was no longer at the meeting; therefore, there was no report.

TAB 44 HEALTHY WEIGHT LIAISON REPORT – Bridget Bellingar, DO

Dr. Bellingar informed the board and the audience that there was a table display with healthy weight materials, including frisbees. She requested more portion plates.

TAB 45 OLD BUSINESS

There was no old business.

NEW BUSINESS

TAB 46

There was no new business.

TAB 47: ADDENDUM MATERIALS ADDED AFTER PUBLICATION

TAB 7: Vincent Joseph Scolaro, D.O., File #4817

TAB 20: Ryan Moorhouse, D.O., File #4859

TAB 4: SA-03 Stephen Lee Moore, D.O., 2016-23979

This item consists of additional information submitted after publication. Reviewed with the respective agenda item. No action required.

ADJOURN

Motion: by Dr. Hayden, seconded by Dr. Bellingar, to adjourn the meeting. Meeting adjourned at 2.31 pm.

Next Meeting: August 23, 2019 Sarasota, Florida

DRAFT