

FLORIDA | Board of Osteopathic Medicine

August 23, 2019



DRAFT MEETING MINUTES
Board of Osteopathic Medicine
General Business Meeting
August 23, 2019
9:00 a.m.

Hyatt Regency
1000 Blvd of the Arts
Sarasota, Florida 34236
(941) 953-1234

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

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

MEMBERS PRESENT:

Joel B. Rose, DO, Chair
Anna Hayden, DO
Sandra Schwemmer, DO
Alicja Janson, Consumer Member

MEMBERS ABSENT

Michelle R. Mendez, DO
Bridget Bellingar, DO, Vice-Chair
Valerie Jackson, Consumer Member

COURT REPORTER:

Integra Reporting Group
Melinda McKenna
(813) 868-5130

OTHERS PRESENT:

Christopher Dierlam, 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 53 – BOARD CHAIR REPORT– Joel D. Rose, DO

Dr. Rose presented Dr. Thomas Quinn the Board Chair's Recognition of Extraordinary Accomplishments recognition and appreciation of his extraordinary accomplishment in the publication of his book, "The Feminine Touch." Dr. Rose noted that the book benefitted the Florida Osteopathic profession with historical knowledge and vastly encouraged women who desire to become osteopathic physicians. Dr. Quinn presented board members with a copy of the book and the PBS documentary made about the book. Dr. Quinn provided a short statement to the board.

DISCIPLINARY CASES: INFORMAL HEARING

TAB 1: IH-01 Charles Samuel Fillingane, D.O., 2018-19429 (GC)

PCP: Moran/Bellingar

Respondent was present. Respondent was not represented by counsel. Dr. Polles, with Professions Resource Network (PRN) appeared with the Respondent.

Dr. Bellingar was not present but would have been recused due to participation on the probable cause panel.

Chris 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 (2017-2018), 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 April 26, 2019. Respondent was served via certified mail. An election of rights was timely received requesting an informal hearing.

Motion: by Dr. Hayden, seconded by, Dr. Schwemmer, to accept the Investigative Report into evidence to establish a prima facie case for the alleged violations of the Administrative Case.

Motion carried.

Motion: by Dr. Hayden, seconded by, Dr. Schwemmer, to adopt the allegations of fact in the Administrative Complaint as the findings of the board. Motion carried.

Respondent addressed the board.

PSU attorney made final comments.

Respondent verbally waived fees and costs associated with the case on the record.

Motion: by Dr. Schwemmer seconded by, Dr. Hayden, to dismiss the complaint.

Motion carried.

INTRODUCTION OF DR. JACOBS

Dr. Polles from the Professions Resource Network (PRN), introduced Dr. William Jacobs. Dr. Jacobs will be serving as a PRN liaison for the board. Dr. Jacobs provided a brief statement including his background to the board. The board conveyed a welcome to Dr. Jacobs.

TAB 2: IH-02 Christopher Michael Quinn, D.O., 2019-05529 (JBG)
PCP: Moran/Jackson

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

Ms. Jackson was not present but would have been recused due to participation on the probable cause panel.

Chris 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 (2018), 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 June 27, 2019. Respondent was served via certified mail. An election of rights was timely received requesting an informal hearing.

Motion: by Dr. Hayden, seconded by, Dr. Schwemmer, to accept the Investigative Report into evidence to establish a prima facie case for the alleged violations of the Administrative Case.
Motion carried.

Motion: by Dr. Hayden, seconded by, Dr. Schwemmer, to adopt the allegations of fact in the Administrative Complaint as the findings of the board. Motion carried.

Motion: by Dr. Hayden, seconded by, Dr. Schwemmer, that the board's findings of fact support a finding of a violation of Florida Statutes as charged in the Administrative Complaint and find the Respondent in violation of Florida Statutes. Motion carried.

PSU attorney requested the Board to entertain a motion regarding the imposition of penalty and made a recommendation of; a Letter of Concern, five thousand dollars (\$5000.00 fine), five-hour Laws and Rules course and a five-hour drug prescribing course to be completed within one year of the Final Order.

Motion: by Dr. Rose, seconded by, Dr. Hayden, to impose the following discipline: Letter of Concern and a one thousand dollar fine.

Motion carried.

Motion: by Dr. Hayden, seconded by, Dr. Schwemmer, to assess costs in the amount of seventy-three dollars and twenty-four cents (\$73.24) to be paid within one year of the Final Order in this matter.

SETTLEMENT AGREEMENTS

TAB 3: SA-01 Richard M. Brown, D.O., 2016-30176 (JB)
PCP: Moran/Jansen

This item was moved to the November board agenda due to lack of quorum.

TAB 4:SA-02 Stephen John Augustine, D.O., 2018-21100 (KRB)
PCP: Andriole/Jackson

Respondent was present. Respondent was represented by counsel, Richard E. Ramsey, Esquire.

Ms. Jackson was not present but would have been 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 456.072(1)(f), Florida Statutes (2018), 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 for a violation that would constitute a violation under Florida law.

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 eight hundred six dollars and twenty-seven (\$806.27) cents to be paid within thirty (30) days of the filing of the Final Order in this matter; restriction of Respondent's practice in that he can only practice while in compliance with the terms of his Professionals Resource Network (PRN) contract; Respondent's license shall be placed on probation for a period of two years and Respondent shall comply with the probation terms set forth in the agreement; There was a verbal agreement to correct the reference to Section 458 to Section 459 on page one of the agreement and to remove the reference to Probation Committee on page five of the agreement.

Motion: by Dr. Hayden, seconded by Dr. Schwemmer to reject the settlement agreement, with the following amendments: two thousand four hundred seventeen dollars and eighteen (\$2417.18). Motion carried.

Motion: by Dr. Hayden, seconded by Dr. Schwemmer, to offer a counter settlement agreement with the same language of the proposed settlement agreement, including the verbal modifications, and the following revisions: Removal of paragraphs (3) and (4).

The Respondent accepted the counter-offer at the meeting.

TAB 5 - PROSECUTION SERVICES REPORT

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

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

TAB 6 – REVIEW AND APPROVAL OF MINUTES

June 26, 2019, General Business Meeting Conference Call Minutes
May 17, 2019, General Business Meeting Minutes

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

PROBATION AND COMPLIANCE REVIEW

REQUIRED APPEARANCE FOR TERMINATION OF PROBATION

TAB 7: David L. Hicks, D.O., Case #2011-17074

Licensee was present. Licensee's monitor Michael Cromer, M.D., appeared with licensee.

Motion: by Dr. Rose, seconded by Dr. Schwemmer, to accept the appearance as satisfaction of the requirement for appearance before termination of probation. Motion carried.

REQUEST OF PAYMENT EXTENSION AND REQUESTED APPEARANCE TO DISCUSS REPORTS AND CIRCUMSTANCE

TAB 8: Trevor Levere Bailey, D.O. Case #2013-18803

Licensee was present. Licensee was not represented by counsel. Licensee's monitor, Amarilis Gonzalez, M.D., appeared with him.

Motion: by Dr. Hayden, seconded by Dr. Schwemmer, to grant a payment extension to make payments in the amount of three hundred fifty dollars monthly for one year, at which time, Licensee shall petition the board to appear again with a new request, if needed. Motion carried.

APPLICANTS

APPLICANTS FOR FULL LICENSURE

TABs 10 through 29, 31, and Addendum item A under Applicants for Full Licensure were reviewed as a group by consent agreement.

TAB 10: Gwyn Mahony, D.O., File #16135

TAB 11: James Ebot, D.O., File #15783

TAB 12: Jared Ryan Nelson, D.O., File #16015

TAB 13: Kacie Bhushan, D.O., File #16243

TAB 14: Kolawole Akinduro, D.O., File #15978

TAB 15: Kristen Ann Newcomer, D.O., File #16157

TAB 16: Leah Persad, D.O., File #16123

TAB 17: Jason Hardwick, D.O., File #16269

TAB 18: Robert Hunter, D.O., File #16051

TAB 19: Brianna Rene' Best, D.O., File #16064

TAB 20: Kurtis Bradley, D.O., File #16253

TAB 21: Mahad Mohammed, D.O., File #16187

TAB 22: Swetapadma Pattanaik, D.O., File #15607

TAB 23: Jeffrey Klempen, D.O., File #16113

TAB 24: Brian James Martens, D.O., File #16255

TAB 25: David Bryant, D.O., File #16090

TAB 26: Hong Liang, D.O., File #16026

TAB 27: Christian Prisinski, D.O., File #16057

TAB 28: Miriam Belen Garcia Morrell, D.O., File #16272

TAB 29: Krystin Cheung Granger, D.O., File #16271

TAB 31: Jayce Porter, D.O., File #16149

A) Derek Calkins, D.O., File #16183

Action Taken: After discussion, Dr. Hayden moved to accept good cause shown for Tabs 10 through 29, 31, and Addendum item A under Applicants for Full Licensure and approve the applications. Dr. Schwemmer seconded the motion. Motion carried.

TAB 9: Ahmed El-Farrak, D.O., File #15746

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

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

TAB 30: Jonathan Quinonez, D.O., File #16118

Applicant was present. Applicant was not represented by counsel.

Action Taken: After discussion, Dr. Hayden moved to approve the application and noted that having a less than satisfactory evaluation does not adversely affect the applicant's ability to practice. Dr.

Schwemmer seconded the motion. Motion carried.

TAB 32: Ikkei Hirama, D.O., File #15318

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

Applicant was required to appear. Applicant was not present. Applicant was out of country. The board decided to review the matter in the applicant's absence.

Action Taken: After discussion, Dr. Schwemmer moved to waive the applicant's required appearance and grant the applicant's request to withdraw his application. Dr. Hayden seconded the motion. Motion carried.

TAB 33: Julio Scardini, D.O., File #16038

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

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

TAB 34: Joby Kolsun, D.O., File#14703

Applicant was present. Applicant was not represented by counsel.

Action Taken: After discussion, Dr. Schwemmer moved to approve the application. Dr. Hayden seconded the motion. Ms. Jackson opposed. Motion carried.

TAB 35: Janet Pragit, D.O., File #15965

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

Applicant was required to appear. Applicant was not present. The board decided to review the matter in the applicant's absence.

Action Taken: After discussion, Dr. Hayden moved to waive the required appearance and grant the applicant's request to withdraw her application. Dr. Schwemmer seconded the motion. Motion carried.

TAB 36: Ather Malik, D.O., File #16046

Applicant was present. Applicant was not represented by counsel.

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

TAB 37: Adolfo Grieg, D.O., File #16311

Applicant was present. Applicant was not represented by counsel.

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

APPLICANTS FOR OSTEOPATHIC MEDICINE RESIDENT REGISTRATIONS

TAB 38: Gene Wiggs, D.O., File #7148

Applicant was present. Applicant was not represented by counsel.

PRN representative Dr. Polles, was available for inquiries.

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

PETITION OF VARIANCE OR WAIVER

Request for Petition of Variance or Waiver of Rule 64B15-13.001, F.A.C

TAB 39: Stacy Lynn Greenspan, D.O., File #15416

Petitioner was not present.

Action Taken: After discussion, Dr. Rose moved to deny the petition, as it does not meet the two required prongs; demonstration of substantial hardship and it serves the purpose of the underlying statute. Ms. Jackson seconded the motion. Motion carried.

AHCA EXEMPTION APPLICATION

A) Frank Waxman, D.O., File #4288

Applicant was present. Applicant was not represented by counsel.

Action Taken: After discussion, Dr. Hayden moved to approve the AHCA exemption application. Dr. Schwemmer seconded the motion. Motion carried

PETITION FOR EXPUNGEMENT

TAB 40: Mark Harsh, D.O. Case #2010-22062

Petitioner was not present.

Action Taken: After discussion, Dr. Schwemmer moved to deny the petition for expungement. Dr. Hayden seconded the motion. Motion carried.

RATIFICATION OF LICENSURE

1901 - Osteopathic Physician licenses issued 5.1.2019 through 7.31.2019

Motion: by Dr. Hayden, seconded by Dr. Schwemmer, to ratify the 237 full license numbers 16051 through 16287, issued 5.1.2019 through 7.31.2019. Motion carried.

1902 - Osteopathic Resident Initial Registrations issued 5.1.2019 through 7.31.2019

Motion: by Dr. Hayden, seconded by Dr. Schwemmer, to ratify the 537 resident registration numbers 6372 through 6911, issued 5.1.2019 through 7.31.2019. Motion carried.

GENERAL DISCUSSION

RESIDENT REGISTRATION RENEWALS

From 5.1.2019, through 7.31.19 a total of 505 resident renewal registration were issued.

TAB 42: 1902-Osteopathic Physician in Training Renewal Registrations issued 5.1.2019 through 7.31.2019-paper applications

445 Resident Renewals were processed via paper application during this timeframe.

Motion: by Dr. Schwemmer, seconded by Dr. Hayden, to ratify the 445 resident registration renewals, issued 5.1.2019 through 7.31.2019. Motion carried.

- A)** 1902-Osteopathic Physician in Training Renewal Registrations -2021 issued 5.1.2019 through 7.31.2019-online

60 Resident Renewals were processed via online application during this timeframe.

Motion: by Dr. Schwemmer, seconded by Dr. Hayden, to ratify the 60 resident registration renewals, issued 5.1.2019 through 7.31.2019. Motion carried.

Dr. Hayden noted that Florida is fourth in the nation in graduating osteopathic residents with two osteopathic medical schools. There are now three osteopathic medical schools.

- TAB 43:** 1917 – Osteopathic Physician Expert Witness certificate issued 5.1.2019 through 7.31.2019 (*information purposes only*)

One Expert Witness certificate was issued during this timeframe. The information is provided for informational purposes only. No action by the board required.

- TAB 44:** Approved CE Providers issued 5.1.2019 through 7.31.2019 (*informational purposes only*)

- TAB 45:** Criminal History Matrix
This item was moved to the November board agenda.

BOARD COUNSEL REPORT - Donna McNulty, Esq.

TAB 46: RULES REPORT

August 2019 Rules Report

July 2019 Rules Report

June 2019 Rules Report

The rules reports were included on the agenda for the board's information. Board counsel, Donna McNulty noted for the board, that the regular rule for office surgery timeline, is for it to go into effect sometime in September; therefore, it will go into effect before the emergency rule disappears. The board had no questions.

RULE DISCUSSION

- TAB 47:** 64B15-14.0081: Standards for Telemedicine Practice

Due to recent legislation, House Bill 23, board counsel recommended the board repeal the existing telemedicine rule as it is no longer needed.

Motion: by Dr. Schwemmer, seconded by Dr. Hayden to repeal Rule 64B15-14.0081, Florida Administrative Code. Motion carried.

Motion: by Dr. Hayden, seconded by Dr. Schwemmer, 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.

- TAB 48:** 64B15-19.002: Violations and Penalties

Board counsel, Donna McNulty, recommended two proposed modifications to the rule. The proposed changes are to subsection (7)(5), which is a modification to the disciplinary guidelines to address the electronic prescribing bill (House Bill 831) and to add a guideline for performing liposuction in an unregistered office as set forth in House Bill 732. Both changes would take effect on January 1, 2020.

Board counsel then requested the board leave the language, "other methods of prescribing" in subsection (7)(5).

Discussion ensued.

Motion: by Dr. Schwemmer, seconded by Dr. Hayden to approve the changes to Rule 64B15-19.002, which are intended to conform to changes made by House Bills 831 and 732, and as orally amended. Motion carried.

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

TAB 49: 64B15-19.0065: Notices of Noncompliance; Minor Violations and 64B15-19.007 – Citations

The proposed changes were to address House Bill 451, regarding the pamphlet for opioid alternatives. Discussion ensued.

Motion: by Dr. Hayden, seconded by Dr. Schwemmer, to approve the proposed change of adding paragraph (8) to Rule 64B15-19.0065. Motion carried.

Motion: by Dr. Hayden, seconded by Dr. Schwemmer, 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 table proposed changes to Rule 64B15-19.007, until the next meeting, to facilitate making changes consistent with the Board of Medicine. Motion carried.

TAB 50: 64B15-14.013

This item was placed on the agenda for information purposes.

TAB 51: Annual Regulatory Plan

Motion: by Dr. Hayden seconded by Dr. Schwemmer to delegate authority to the chair to work with Board counsel and review a draft annual regulatory plan, which will be brought back to the board for ratification. Motion carried.

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

TAB 52: Reports

Executive Director, Kama Monroe, provided a break-down of the statistical reports included in the agenda materials.

Dr. Schwemmer tentatively agreed to attend the chair/vice-chair meeting as Dr. Bellinger' s delegate and Dr. Hayden agreed to attend should Dr. Schwemmer be unable to attend.

TAB 53– Board Chair Report

Board Chair, Dr. Rose, reviewed the rule defining unexcused absences for board members. He reminded board members to submit their requests in writing and as quickly as possible.

He further noted that he attended the American Osteopathic Association house of delegates meeting and provided an update, including information regarding the AOA, ACGME accreditation merger.

TAB 57: Council on Physician Assistants Committee

PA counsel is doing fine. Nothing to report.

TAB 58: Anesthesiology Assistants Committee-Joel Rose, DO

Dr. Rose stated there is nothing to report. Dr. Schwemmer noted she had not contacted Dr. Rob Wagner, but she will work with board staff to secure an appearance.

Dr. Rose informed board members an invitation has been extended to have a representative of NBOME appear at one of the next two board meetings.

Mr. Winn, from the Florida Osteopathic Medical Association (FOMA), provided an update regarding the status of the Nursing Declaratory Statement, as well as, the progress of the proposed statutory language changes addressing the AOA/ACGME accreditation merger.

Board members were informed an email will be sent to schedule a teleconference meeting to address applications whose only issue is that they completed an ACGME internship in lieu of an AOA approved internship. Tentatively, we are looking at October 11, 2019.

STATEMENT FROM THE AUDIENCE

A member of the audience posed an inquiry to board members regarding what they plan to do to address the problem of medical student graduates who do not match into residency and can't find a residency program through other processes. Board chair stated this issue is not within the purview of the board.

COMMITTEE MEETING UPDATES - Joel Rose, D.O.

TAB 54: Boards of Medicine and Osteopathic Medicine's Physician Certification Pattern Review Panel

The next meeting is scheduled for August 29, 2019.

TAB 55: Boards of Medicine, Osteopathic Medicine, and Pharmacy Formulary Committee

No report at this time.

TAB 56: Joint Committee on Medical Marijuana

No report at this time.

TAB 59: Pharmacy Controlled Substances Standards Committee- Michelle Mendez, DO

No report at this time.

LIAISON REPORTS

TAB 60 BUDGET LIAISON REPORT – Anna Hayden, DO

Dr. Hayden reported that the board is fiscally sound.

TAB 61 UNLICENSED ACTIVITY LIAISON REPORT – Sandra Schwemmer, DO

Dr. Schwemmer reported there have been no meetings and she has nothing to report.

TAB 62 HEALTHY WEIGHT LIAISON REPORT – Bridget Bellingar, DO

Dr. Bellingar was not in attendance; therefore, there was no report. There were materials available at the back of the room.

TAB 63 OLD BUSINESS

There was no old business.

NEW BUSINESS

TAB 64

Dr. Hayden noted she would be attending the office surgery meeting October 2nd. Dr. Schwemmer noted she would be in attendance as well.

Dr. Hayden informed the board that the results of the workforce survey has been issued. She provided the board with highlights of interest to the board.

TAB 65: ADDENDUM MATERIALS ADDED

All items were discussed with the respective agenda item.

ADJOURN

Motion: by Ms. Jackson, seconded by Dr. Hayden, to adjourn the meeting. Meeting adjourned at 2.35 pm.

Next Meeting: November 15, 2019, Howey in the Hills, Florida