

FLORIDA | Board of Osteopathic Medicine

May 20, 2022



DRAFT MEETING MINUTES
Board of Osteopathic Medicine
Embassy Suites Lake Buena Vista
4955 Kyngs Heath Road
Kissimmee, FL 34746
May 20, 2022
9 a.m.

The meeting was called to order by Dr. Sandra Schwemmer, Chair, at approximately 9:02 a.m.

Roll Call was conducted by Paul Vazquez, JD, Executive Director for the Board of Medicine.
Those present for all, or part of the meeting included the following:

MEMBERS PRESENT:

Sandra Schwemmer, DO, Chair
Michelle R. Mendez, DO, Vice-Chair
Tiffany Sizemore Di Pietro, DO
Jorge Gadea, DO
William Kirsh, DO
Valerie Jackson, Consumer Member

BOARD STAFF PRESENT:

Paul Vazquez, JD, Executive Director
of the Board of Medicine
Carol Taylor, Program Administrator
Derek Nieves, RSIII

MEMBERS ABSENT

NONE

BOARD COUNSEL

David Flynn, Board Counsel

PROSECUTION SERVICES ATTORNEYS:

Sarah Corrigan, Assistant General Counsel
Collie Nolen, Assistant General Counsel

COURT REPORTER:

Magnolia Court Reporting
(407) 896-1813

OTHERS PRESENT:

None

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

Dr. Schwemmer took a moment to recognize Jennifer Wenhold, Division Director for Department of Health Medical Quality Assurance, John Wilson, General Counsel for the Department of Health, Mr. Matt Knispel, Chief of the Bureau of Investigation for the Department of Health and several investigators from field offices.

Dr. Schwemmer introduced State Surgeon General, Dr. Ladapo. Dr. Ladapo began by thanking the Board of Osteopathic Medicine and Department of Health staff for the important work they provide for the State of Florida. Dr. Ladapo further thanked all the Board of Osteopathic Medicine and the Department of Health for their handling of the pandemic in a professional manner.

**DISCIPLINARY CASES:
RECOMMENDED ORDER**

TAB 1: RO-01 Eric L. Lang, D.O., 2019-38358 (KS)
PCP: Moran & Rose

Respondent was not present. Respondent was represented by Chanel A. Mosley, Esq.

Collie Nolen represented the Department and presented the case to the Board. Allegation of Administrative Complaint, violation of Section 459.015(1)(l), Florida Statutes, 2019, for exercising influence within a patient-physician relationship for purposes of engaging a patient in sexual activity. Respondent disputed the allegations of the Administrative Complaint and requested a formal hearing before an Administrative Law Judge (ALJ). The case was referred to the Division of Administrative Hearings, a final hearing was held, and a Recommended Order was issued.

Ms. Mosley provided a statement regarding the case and noted the exceptions filed.

Board counsel David Flynn addressed board members and confirmed all members received the complete records. Mr. Flynn further provided board members with directions regarding their role in the proceeding, including standards of review.

Exception 1

After discussion,

Motion: by Dr. Mendez, seconded by Ms. Jackson to deny exception one based on the arguments provided by the Department. Dr. Kirsh voted nay. Motion carried.

Exception 2

After discussion,

Motion: by Dr. Mendez, seconded by Ms Jackson, to deny exception two based on the fact that there is competent substantial evidence. Dr. Kirsh and Dr. DiPietro voted nay. Motion carried

Exception 3

After discussion,

Motion: by Dr. Gadea, seconded by Dr. Mendez, to deny exception three based on the substantial credible evidence presented. This motion does not address whether the evidence should have been admitted into the record. Dr. Kirsh voted nay. Motion carried

Exception 4

After discussion,

Motion: by Dr. Gadea, seconded by Dr. Mendez, to deny exception four based on substantial credible evidence presented. Dr. Kirsh voted nay. Motion carried.

Exception 5

After discussion,

Motion: by Dr. Mendez, seconded by Ms. Jackson, to deny exception five based on the fact that there was competent substantial evidence in the record. Dr. Kirsh voted nay. Motion carried.

Exception 6

After discussion,

Motion: by Dr. DiPietro, seconded by Dr. Kirsh, to accept the exception as stated.

The motion and the second was subsequently withdrawn to allow board members to proceed with exceptions seven and eight so that consideration of exceptions six, seven, and eight could be completed together.

Exception 7 and Exception 8 were presented.

Board members take the time to review the boards responsibilities when considering Recommended Orders, specifically what the statute requires.

After discussion,

Motion: by Dr. DiPietro, seconded by Dr. Kirsh, to accept exceptions six, seven, and eight based on the conclusions of law. Dr. Schwemmer, Ms. Jackson, Dr. Mendez, and Dr. Gadea voted nay. Motion failed

Motion: by Dr. Gadea, seconded by Dr. Mendez, to deny exceptions six, seven, and eight based on the fact members are not authorized to relitigate and their responsibility is to follow guidelines. Dr. DiPietro and Dr. Kirsh voted nay. Motion carried.

Motion and second was clarified to incorporate all of the arguments presented by the state.

Motion: by Dr. Mendez to accept the findings of fact and conclusions of law as presented by the ALJ. Dr. DiPietro and Dr. Kirsh voted nay. Motion carried.

The Department provided a proposed penalty recommendation to the Board.

After discussion,

Motion: by Dr. Schwemmer, seconded by Ms. Jackson, to impose a ten thousand dollar (\$10,000.00) fine to be paid within one year of the filing of the Final Order.

Motion and second was modified to reduce the fine from ten thousand dollars (\$10,000.00) to seven thousand five hundred dollar (\$7500.00) fine to be paid within one year of the filing of the Final Order. Dr. Kirsh voted nay. Motion carried. Justification for the reduction of the fine amount was based on overall findings that the combined fines and costs would be a financial burden to the Respondent.

Motion: by Dr. Schwemmer, seconded by Dr. Gadea, to place Respondent's license on probation for a period of two years, with credit for eighteen months having been served, with six months remaining during which time Respondent must have a female chaperone in the treatment room when providing treatment to female patients. Respondent's probation shall include appearance at the next board meeting to confirm that he served the eighteen months he was credited and appearance before the board at the closest board meeting prior to the end of probation. Motion carried.

John Wilson, General Counsel for the Department of Health made a statement to the board regarding the penalty.

Dr. Kirsh amended motion to allow Respondent's attorney to confirm his serving the eighteen months he was credited.

Motion: by Dr. Schwemmer, seconded by Dr. Kirsh, to require Respondent to complete and provide proof of completion of continuing medical education consisting of a two (2) hour course in sexual boundaries. Course must be approved by the board chair and is to be taken within six months of the filing of the Final Order in this matter. Motion carried.

Motion: by Dr. Schwemmer, seconded by Dr. Mendez and Dr. Gadea simultaneously, to impose costs for the investigation and prosecution of this matter in the amount of twenty-three thousand nine hundred seventy-eight dollars and fifty-two cents (23,978.52). Motion carried.

Motion: by Dr. Mendez, seconded by Dr. Gadea to allow the Respondent eighteen months from the filing of the Final Order in this matter to pay the costs imposed. Motion carried.

INFORMAL HEARING

TAB 2: I-01 Ayokunle Fatade, D.O., 2021-31847 (KS)

PCP Kirsh & Hayden

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

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

Sarah Corrigan represented the Department and presented the case to the Board. Allegations of Administrative Complaint, violation of Section 459.015(1)(b), Florida Statutes, 2020; by having his Virginia osteopathic license acted against; and violation of Section 459.015(1)(w), Florida Statutes, 2020, by failing to update his Florida practitioner profile within 15 days.

The Respondent was served an Administrative Complaint. Respondent subsequently filed an election of rights requesting an informal hearing. In accordance with the election of rights and pursuant to Section 120.57(2)(a)(2), Florida Statutes (2020), the Department referred the matter to the Board for an entry of a final order setting forth appropriate action on Respondent's license.

The department offered the investigative file, a copy of which was previously furnished to the Board, into evidence to establish a prima facie case for the violation alleged in the administrative complaint and asked that it be admitted into evidence.

Motion: by Dr. Mendez, seconded by Ms. Jackson, to accept the investigative file into evidence. Motion carried.

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

Following discussion:

Motion: by Dr. Schwemmer, that the Respondent violated Florida Statutes as charged in the Administrative Complaint, seconded by Dr. Mendez. Motion passed unanimously.

The Department provided a proposed penalty recommendation to the Board consisting of: a letter of concern; an administrative fine in the amount of one thousand (\$1000) dollars to be paid within thirty (30) days from the date of the Final Order; five hours continuing medical education in the areas of FMA laws and rules and Ethics to be approved by board chair and completed within one year of the filing of the Final Order in this matter. Continuing Medical Education can be completed virtually.

Motion: by Dr. DiPietro, seconded by Dr. Gadea, to impose the Department's recommended penalty. Motion carried.

Motion: by Dr. Mendez, seconded by Dr. Gadea to approve Petitioner's Motion for Costs and to impose costs in the amount of one hundred three dollars and seventy-six cents (\$103.76). Motion carried.

TAB 3: I-02 Paul J. Arnold, D.O., 2021-18673 (MW)
PCP Kirsh & Hayden

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

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

Sarah Corrigan represented the Department and presented the case to the Board. Allegations of Administrative Complaint, violation of Section 456.072(1)(kk), Florida Statutes, 2020; by being terminated from the Florida Medicaid program, pursuant to section 409.913, Florida Statutes.

The Respondent was served an Administrative Complaint. On December 27, 2021, the Department received Respondent's executed election of rights. The Department determined that the election of rights was not in compliance according to rule and statute. The Department emailed Respondent and Respondent's representative a request that he amend the election of rights and bring it into compliance. No amended election of rights was received. The Department filed a motion requesting the board determine the Respondent waived his rights to dispute the facts and issue a Final Order in this matter.

Motion: by Dr. Schwemmer, seconded by Dr. Gadea, that Respondent was properly served.

The department offered the investigative file, a copy of which was previously furnished to the Board, into evidence to establish a prima facie case for the violation alleged in the administrative complaint and asked that it be admitted into evidence.

Motion: by Dr. Gadea, seconded by Dr. Mendez, to accept the investigative file into evidence. Motion carried.

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

Following discussion:

Motion: by Dr. Gadea, seconded by Ms. Jackson, that the Respondent violated Florida Statutes as charged in the Administrative Complaint. Motion passed unanimously.

The Department provided a proposed penalty recommendation to the Board.

Motion: by Dr. Schwemmer, seconded by Dr. Gadea, to impose discipline consisting of: a letter of concern; a one thousand dollar (\$1000.00) fine; and suspension of 5 years until in good standing with Medicaid. Motion carried.

After discussion,
The previous motion and second were withdrawn.

Motion: by Dr. DiPietro, seconded by Dr. Mendez, to revoke the Respondent's license. Motion carried.

Motion: by Dr. Mendez, seconded by DiPietro, that the board will not assess costs in this matter. Motion carried.

TAB 4: I-03 Varesh Ramesh Patel, D.O., 2019-52098 (CN)
PCP Kirsh & Hayden

The Respondent was present and was represented by counsel.

Respondent's counsel requested to continue this matter. The Board denied the request to continue.

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

Sarah Corrigan represented the Department and presented the case to the Board. Allegations of Administrative Complaint, violation of Section 459.015(1)(x), Florida Statutes, 2016-2017; by committing medical malpractice as defined in section 456.50.

The Respondent was served an Administrative Complaint. Respondent subsequently filed an election of rights requesting an informal hearing. In accordance with the election of rights and pursuant to Section 120.57(2)(a)(2), Florida Statutes (2020), the Department referred the matter to the Board for an entry of a final order setting forth appropriate action on Respondent's license.

The department offered the investigative file, a copy of which was previously furnished to the Board, into evidence to establish a prima facie case for the violation alleged in the administrative complaint and asked that it be admitted into evidence.

Motion: by Dr. Mendez, seconded by Dr. Gadea, to accept the investigative file into evidence. Motion carried.

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

Respondent's attorney provided a statement.

Dr. Patel provided a statement and then entertained questions from the board.

Following discussion:

Motion: by Dr. Schwemmer, seconded by Ms. Jackson, that the Respondent violated Florida Statutes as charged in the Administrative Complaint. Motion carried.

The Department provided a proposed penalty recommendation to the Board.

Discussion ensued, following which:

Imposition of penalty and Motion for Costs were considered together.

Motion: by Dr. Mendez, seconded by Dr. Gadea, to impose a penalty of; a Reprimand; an administrative fine in the amount of seven thousand five hundred (\$7500) dollars to be paid within one (1) year from the date of the filing of the Final Order in this matter; completion of five hours continuing medical education in the area of risk management which must include instruction on the supervision of non-physician clinicians to be completed within one year of the filing of the Final Order in this matter; and attendance at two Osteopathic Medicine board meetings to be completed within one year of the Final Order in this matter; and to approve Petitioner's Motion for Costs to impose costs in the amount of two thousand seventy-eight dollars and sixty-seven cents (\$2078.67) as presented to be paid within one year of the filing of the Final Order in this matter. Motion carried.

SETTLEMENT AGREEMENT

TAB 5: SA-01 Robert Guirguis, D.O., 2016-09047 (SC)

PCP: Moran & Hayden

The Respondent was present. The Respondent was represented by attorney Mark R. Messerschmidt, Esq.

Dr. Gadea was recused.

Sarah Corrigan represented the Department and presented the case to the Board. Allegations of Administrative Complaint, violation of Section 459.015(1)(x), Florida Statutes, 2014; by committing medical malpractice as defined in section 456.50; and Section 459.015(1)(o), Florida Statutes, 2014, as defined by Rule 64B15-15.004(1), Florida Administrative Code, by failing to keep legible medical records.

Settlement Agreement: Letter of concern; two thousand five hundred (\$2,500.00) dollar administrative fine to be paid within thirty (30) days of the filing of the Final Order; reimbursement of costs not to exceed the amount of eight thousand thirty-three dollars and twenty-eight cents (\$8033.28) to be paid within thirty (30) days of the filing of the Final Order; Respondent shall complete the following continuing medical education (CME): five (5) hours CME in the area of risk management; and amendment of the Administrative Complaint to drop count II upon acceptance of the settlement agreement.

The Department noted mitigating circumstances for deviation from the disciplinary guidelines consisting of: the following: Respondent has been licensed for 17 years without discipline and the required continuing medical education (CME) course will sharpen the Respondent's skills and ensure that incidents like this one will not happen in the future.

After discussion:

Motion by Dr. Kirsh, seconded by Ms. Jackson to accept the settlement agreement with count two dropped. Motion carried.

Current costs are six thousand seven hundred fifty-seven dollars and forty cents (\$6757.40) to be paid within 30 days of the filing of the Final Order.

TAB 6: SA-02 Vernon Reynolds, D.O., 2021-09183 (RW)

PCP Kirsh & Hayden

The Respondent was not present. The Respondent was represented by attorney Nathan Hill, Esq. Respondent's attorney requested a continuance. The board determined to proceed and waived the Respondent's appearance.

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

Sarah Corrigan represented the Department and presented the case to the Board. Allegation of Administrative Complaint, violation of Section 459.015(1)(b), Florida Statutes, 2021; 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 another jurisdiction.

Settlement Agreement: Letter of concern; one (\$1,000.00) dollar administrative fine to be paid within thirty (30) days of the filing of the Final Order; reimbursement of costs not to exceed the amount of two thousand seven hundred sixty-one dollars and twenty-eight cents (\$2761.28) to be paid within thirty (30) days of the filing of the Final Order; Respondent shall complete the following continuing medical education (CME): a laws and rules course.

The Department noted mitigating circumstances for deviation from the disciplinary guidelines consisting of: the following: as a result of this incident Respondent completed an education seminar in prescribing regulation; Respondent has no prior discipline; and the required CME course will sharpen the Respondent's skills and ensure that incidents like this one will not happen in the future and will make him aware of his legal and ethical obligations while practicing.

Motion: by Dr. DiPietro, seconded by Dr. Gadea, to accept as proposed. Motion carried.

Motion: by Dr. DiPietro, seconded by Dr. Gadea, to impose costs for the investigation and prosecution of this matter in the amount of one thousand five hundred sixty dollars and sixty-seven cents (\$1516.67). Motion carried.

Motion: by Dr. Gadea, seconded by Ms Jackson, to approve the costs as clarified by the Department in the amount of one thousand five hundred sixty dollars and sixty-seven cents (\$1516.67). Motion carried.

DETERMINATION OF WAIVER

TAB 7: DW-01 William C. Wilson, D.O., 2020-02399 (LK)

PCP: Moran & Hayden

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

Sarah Corrigan represented the Department and presented the case to the Board. Allegations of Administrative Complaint, Section 459.015(1)(o), Florida Statutes, 2016-2917. as defined by Rule 64B15-15.004(1), Florida Administrative Code, by failing to keep legible medical records; and Section 459.015(1)(x), Florida Statutes, 2016-2917. by committing medical malpractice as defined in section 456.50.

The Department unsuccessfully attempted to effectuate service on the Respondent via certified mail and personal service. The Department then published a Notice of Legal Action for three consecutive weeks. Respondent failed to submit an election of rights or other responsive pleading within the required twenty-one-day period to dispute the allegations contained within the Administrative Complaint.

Motion: by Dr. Schwemmer, seconded by Dr. Mendez, that Respondent was properly served and waived his right to a formal hearing. Motion approved.

The department offered the investigative file, a copy of which was previously furnished to the Board, into evidence to establish a prima facie case for the violation alleged in the administrative complaint and asked that it be admitted into evidence.

Motion: by Dr. Gadea, seconded by Ms. Jackson, to accept the investigative file into evidence. Motion carried.

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

Motion: by Dr. Kirsh, seconded Dr. Mendez, that the Respondent violated Florida Statutes as charged in the Administrative Complaint. Motion carried.

The Department provided a proposed penalty recommendation to the Board consisting of the following: a Reprimand; an administrative fine in the amount of twenty thousand (\$20,000.00) to be paid within one year of the filing of the Final Order; completion of an FMA medical record keeping course; completion of a FMA drugs course; a CME in risk management; suspension for one year; and a restriction upon reinstatement that would restrict Respondent from prescribing controlled substances.

Motion: by Dr. Kirsh, seconded Ms. Jackson, to impose the penalty recommended by the Board.

Motion: by Dr. Mendez, seconded by Dr. Gadea, to revoke the Respondent's license. Motion carried.

Motion: by Dr. Mendez, seconded by Dr. Gadea to waive the costs in this matter. Motion carried.

VOLUNTARY RELINQUISHMENT

TAB 5: DW-02 Lorenz C. Spengler, III, D.O., 2019-32791

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

Motion by Dr. Gadea, seconded by Ms. Jackson, to accept the Voluntary Relinquishment. Motion carried.

TAB 9: PROSECUTION SERVICES REPORT- Sarah Corrigan, Esq.

Sarah Corrigan presented the prosecution services report (PSU). Ms. Corrigan requested the board consider allowing PSU to continue to prosecute cases that are a year and older. The report reflects a reduction of 25 cases, three of which are over a year old. PSU is moving forward with their goal of reducing the cases over one year.

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

REVIEW AND APPROVAL OF MINUTES

TAB 10: February 25, 2022, Board of Osteopathic Medicine Meeting Minutes

Motion: by Dr. Gadea, seconded by Dr. Kirsh, to accept the February 25, 2022, meeting minutes.

Motion carried.

PROBATION AND COMPLIANCE

Petition to Modify Disciplinary Order

TAB 11: Marshall Bruce Silk, D.O., Case No. 2009-06064

Appearance for Formal Approval of Payment Extension, Modification of Final Order and Termination of Probation

Licensee was present. Licensee was represented by Brian Albritton, Esq.

Respondent's atty made a statement.

It was determined that the request is a request for reconsideration and not a modification request. The board did not retain jurisdiction in this matter and does not have authority to reconsider a Final Order unless there are extraordinary circumstances. There are none in this case.

Motion: by Dr. Mendez, seconded by Ms. Jackson, to deny the petition to modify the disciplinary final order without prejudice. Motion carried.

Appearance for Formal Approval of Payment Extension, Modification of Final Order and Termination of Probation

TAB 12: Joe Morgan, D.O., Case No. 2009-24011

Licensee was present. Licensee was not represented by counsel.

Licensee currently has a payment plan of two hundred (\$200) dollars a month.

Motion: by Dr. Kirsh, seconded by Dr. Mendez, to approve the payment extension for the next two years. Motion carried.

Motion: by Dr. Mendez, seconded by Dr. DiPietro, to deny the Request for Modification of Final Order and Termination of Probation. Motion carried.

Petition for Formal Approval of Monitor

TAB 13: Jennifer Louise Graybill, Case No. 2019-47341

Licensee was present. Licensee was not represented by counsel. Licensee's monitor was not present.

Continue temporary approval until the August meeting. Appear at the August meeting with monitor.

APPLICANTS

APPLICANTS FOR FULL LICENSURE

TAB 17: David Zweiback, D.O., File #18729

Applicant was present. Applicant was not represented by counsel.

After discussion,

Motion: by Dr. Mendez, to approve the application, seconded by Dr. Kirsh. Motion carried.

TAB 19: Charles William Raudat, D.O., File #19178

Applicant was present. Applicant was not represented by counsel.

After discussion,

Motion: by Dr. Mendez, to approve the application, seconded by Dr. Kirsh. Motion carried.

TAB 15: Ariel Fernandez, D.O., File #18510

Applicant was present. Applicant was represented by counsel. Dr. Jacobs with PRN appeared on behalf of the licensee.

After discussion,

Motion: by Dr. Kirsh to approve the application based on his compliance with the terms and conditions of his Final Order, seconded by Ms. Jackson. Motion carried.

PROBATION AND COMPLIANCE

Motion to Lift Suspension of License

TAB 14: Ariel Fernandez, D.O., Case No. 2017-01439

Licensee was present. Licensee was represented by counsel.

Attorney withdrew petition.

APPLICANTS

APPLICANTS FOR FULL LICENSURE

TAB 16: Donald Thomas Schleicher, D.O., File #18877

Applicant was present. Applicant was not represented by counsel.

After discussion,

Motion: by Dr. Gadea, to approve the application, seconded by Ms. Jackson. Motion carried.

TAB 18: Alex Snodgress, D.O., File #18726

Applicant was present. Applicant was not represented by counsel. Dr. Jacobs with PRN appeared on behalf of applicant.

After discussion,

Motion: by Dr. Kirsh, to approve the application, seconded by Dr. Gadea. Motion carried.

RATIFICATION OF LICENSURE

TAB 20: 1901 – Osteopathic Physician Licenses Issued 1/18/2022 – 4/17/2022

Motion: by Dr. Schwemmer, seconded by Dr. Kirsh, to ratify the full licenses issued 1/18/2022 – 4/17/2022; license numbers 18478-18765 inclusive totaling 288 licenses.

TAB 21: 1902 – Osteopathic Resident Initial Registrations Issued 1/18/2022 – 4/17/2022

Motion: by Dr. Schwemmer, seconded by Dr. Kirsh to ratify the resident registrations issued 1/18/2022 – 4/17/2022; numbers 8103 through 8135 inclusive totaling 33 registrations. Motion carried.

GENERAL DISCUSSION

TAB 22: 1917 – Osteopathic Physician Expert Witness Certificates Issued 1/18/2022 – 4/18/2022

This information was provided for informational purposes only.

TAB 23: NBOME This information was provided for informational purposes only.

BOARD COUNSEL REPORT – David Flynn, Esq.

TAB 24: RULE REPORTS

April 2022 Rules Report

March 2022 Rules Report

Board counsel informed the board that the information was included in the board materials for informational purposes only. No action taken.

TAB 25: U.S. Dept. of Justice, Letter re: Indiana State Board of Nursing

This agenda item was included for informational purposes. It was noted the letter related to an Indiana Board of Nursing opiate use disorder case.

RULE DISCUSSION

TAB 26: Rule 64B15-14.004, F.A.C. – Standards for the Prescription of Obesity Drugs

Following discussion,

Motion: by Dr. Schwemmer, seconded by Dr. Gadea, to approve the draft rule language changes as presented by board counsel with the exception of leaving the BMI at 25. Dr. DiPietro and Dr. Kirsh voted nay. Motion carried.

There was no public comment.

Motion: by Dr. Mendez, seconded by Dr. Gadea, 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. Motion carried.

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

Motion: by Dr. Schwemmer, seconded by Dr. Kirsh, to not add a sunset provision to this rule as the rule is required by statute to protect the health, safety, and welfare of the citizens of Florida. Motion carried.

TAB 27: 64B15-14.0076, F.A.C. – Requirement for Osteopathic Physician Office Surgery Registration; Inspection or Accreditation; and 64B15-14.0077, F.A.C. – Approval of Osteopathic Physician Office Accrediting Organizations.

Background information was provided including the fact the board approved the AACI for accreditation at the February meeting contingent upon correction of deficiencies. The deficiencies have been corrected.

Following discussion,

Motion: by Dr. Schwemmer, seconded by Dr. Kirsh, to approve the draft rule language for Rules 64B15-14.0076 and 64B15-14.0077, F.A.C., as presented by board counsel. Motion carried.

There were no public comments.

Motion: by Dr. Schwemmer, seconded by Dr. Mendez, 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 Rules 64B15-14.0076 and 64B15-14.0077, F.A.C. Motion carried.

Motion: by Dr. Schwemmer, seconded by Dr. Kirsh, to find that a violation of Rule 64B15-14.0076, F.A.C., or Rule 64B15-14.0077, F.A.C., or any part of Rule 64B15-14.0076, F.A.C., or Rule 64B15-14.0077, F.A.C., would not be considered a minor violation. Motion carried.

Motion: by Dr. Schwemmer, seconded by Dr. Mendez, to not add a sunset provision to Rule 64B15-14.0076, F.A.C., as the rule is required by statute to protect the health, safety, and welfare of the citizens of Florida.

Motion: by Dr. Schwemmer, seconded by Dr. Gadea, that no later than ninety days prior to December 31, 2027, the board shall review and amend, modify or sunset this rule (Rule 64B15-14.0077, F.A.C.) if it determines the rule creates barriers to entry for private business competition, is duplicative, outdated, obsolete, overly burdensome or imposes excessive cost; failure by the board to act in accordance to this provision shall result in the expiration of this rule on December 31, 2027.

TAB 28: Rules 64B15-12.003, 64B15-12.005, 64B15-12.009, 64B15-12.010, 64B15-12.011, 64B15-22.004, F.A.C. – Applications for Licensure

The board was informed that the primary purpose was to clarify the financial responsibility for the forms and general clean up.

Following discussion,

Motion: by Dr. Schwemmer, seconded by Ms. Jackson, to approve the draft rule language for Rules 64B15-12.003, 64B15-12.005, 64B15-12.009, 64B15-12.010, 64B15-12.011, 64B15-22.004, F.A.C., as presented by board counsel,. Motion carried.

There was no public comment.

Motion: by Dr. Schwemmer, seconded by Dr. Gadea, 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 Rules 64B15-12.003, 64B15-12.005, 64B15-12.009, 64B15-12.010, 64B15-12.011, 64B15-22.004, F.A.C. Motion carried.

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

Motion: by Dr. Schwemmer, seconded by Dr. Kirsh, to not add a sunset provision to this rule as the rule is required by statute to protect the health, safety, and welfare of the citizens of Florida. Motion carried.

TAB 29: EXECUTIVE DIRECTOR REPORT – Paul Vazquez, J.D., Executive Director of the Florida Board of Medicine

Mr. Vazquez requested the board schedule an additional board meeting for the purpose of considering training applications that require board review. Board staff will send out a poll to determine the best date and time. Board members will be informed once the meeting is set.

TAB 30: BOARD CHAIR REPORT – Sandra Schwemmer, D.O.

Board chair, Sandra Schwemmer informed the board that she continues to review non-routine applications and quarterly reports.

JOINT COMMITTEE MEETING UPDATES

TAB 31: Joint Rules Committee

Board counsel provided an update on the Board of Pharmacy, Medicine, and Osteopathic Medicine committee meeting regarding test and treat applications. No ratification of the minutes was necessary.

TAB 32: Council on Physician Assistants

Dr. Mendez provided an update on the last Council on Physician Assistants meeting. Motion: by Dr. Gadea, seconded by Ms. Jackson, to ratify the report.

TAB 33: Rules/Legislative Committee

The information on the agenda was informational to support Tab 26 which was discussed earlier in the meeting. Dr. Mendez had nothing to report.

Motion: by Dr. Kirsh, seconded by Ms. Jackson to ratify the minutes. Motion carried.

LIAISON REPORTS

TAB 34: BUDGET LIAISON REPORT – William Kirsh, D.O.

Dr. Kirsh indicated there were no substantial issues on the report.

TAB 35: LEGISLATIVE REPORT – Michelle Mendez, D.O.

There was no report.

TAB 36: UNLICENSED ACTIVITY LIAISON REPORT – Sandra Schwemmer, D.O.

There was no report.

OLD BUSINESS

TAB 37: Morton Morris Award

Motion: by Dr. Schwemmer, seconded by Dr. Mendez, to present the Morton Morris Award for 2021 to Dr. Joel Rose. Motion carried.

TAB 38: 2023 Proposed Meeting Locations

Motion: by Dr. Gadea, seconded by Dr. Kirsh, to approve the 2023 proposed meeting dates and locations. Motion carried.

The approved dates and locations are:

February 17, 2023	Orlando, Winter Park, Altamonte Springs
May 19, 2023	Tampa, Clearwater, St. Pete
August 11, 2023	Orlando, Kissimmee, Tampa
November 17, 2023	Tampa, Key West, Clearwater

ADJOURN:

Motion: by Dr. Kirsh, to adjourn, seconded by Dr. Gadea.

Meeting adjourned at 3:23 p.m.

Next Meeting: TBA

Following Meeting: August 12, 2022

DRAFT