

1 **DRAFT MINUTES**  
2 **BOARD OF OSTEOPATHIC MEDICINE**  
3 **February 18-19, 2011**

4  
5 **The Florida Hotel and Conference Center**  
6 **1500 Sand Lake Road**  
7 **Orlando, FL 32809**  
8 **(407) 859-1500**  
9

10 **Friday, February 18, 2011**

11  
12 The meeting was called to order by Dr. Rose, Chair, at 4:00 pm. Those present for all or part of the  
13 meeting included the following:  
14

**MEMBERS PRESENT:**

Joel Rose, D.O., Chair  
Ronald Burns, D.O.  
Allan Escher, D.O.  
Anna Hayden, D.O., Vice Chair  
James St. Louis, D.O. (Saturday only)  
Rina A. Malan - Consumer Member

**STAFF PRESENT:**

Anthony Jusevitch, Executive Director  
Christy Robinson, Program Operations Administrator  
Donna McNulty, Esq. – Board Counsel  
Tobey Schultz, Esq. – DOH Prosecutor  
Tari Rossitto-Van Winkle, Esq. – DOH Prosecutor

**COURT REPORTER:**

American Court Reporting  
407-896-1813

**OTHERS PRESENT:**

Jason Winn, Esq., FOMA  
Martha Brown, MD, PRN

15  
16 **Please note that the meeting minutes reflect the actual order that agenda items were discussed**  
17 **during the meeting and may differ from the agenda outline.**  
18

19 **REVIEW AND APPROVAL OF MINUTES**

20  
21 **Tab 1 - September 13, 2010 Conference Call Meeting Minutes**

22 **Action Taken:** Dr. Hayden moved to approve the minutes as presented. Dr. Burns seconded the  
23 motion, which passed unanimously.  
24

25 **Tab 2 - November 5-6, 2010 Meeting Minutes**

26 Ms. Robinson advised Dr. Hayden previously pointed out 2 typographical errors in the minutes that  
27 would be corrected.  
28

29 **Action Taken:** Dr. Hayden moved to approve the minutes with the corrections as mentioned. Dr.  
30 Burns seconded the motion, which passed unanimously.  
31

32 **Tab 3 - December 15, 2010 Conference Call Meeting Minutes**

33 **Action Taken:** Ms. Malan moved to approve the minutes as presented. Dr. Hayden seconded the  
34 motion, which passed unanimously.  
35

36 **Tab 4 - January 24, 2011 Conference Call Meeting Minutes**

37 **Action Taken:** Dr. Burns moved to approve the minutes as presented. Dr. Hayden seconded the  
38 motion, which passed unanimously.  
39

40 **2011 LEGISLATIVE UPDATE**

41  
42 **Tab 5 - 2011 Legislation Update- To Date**  
43

1 SB 100- Autism – Dr. Burns moved to **support** this bill. Ms. Malan seconded the motion, which passed  
2 unanimously.

3  
4 SB 310- Public Meetings – Dr. Rose moved to remain **neutral** on this bill until additional information  
5 could be obtained on its effect. Dr. Hayden seconded the motion, which passed unanimously.

6  
7 SB 334- Controlled Substances – The Board took **no action** on this bill but voiced the below concerns:

- 8 • How would this bill interface with the impaired practitioner program (PRN) in instances where  
9 patient care is not involved?

10  
11 SB 356- Practice of Optometry – Dr. Burns moved to **oppose** this bill. Dr. Hayden seconded the  
12 motion, which passed unanimously.

- 13 • Concern with prescribing oral medications without appropriate training
- 14 • Concern with patient safety

15  
16 SB 454- Health Care – Dr. Burns moved to **support** this bill in **concept**. Dr. Hayden seconded the  
17 motion, which passed unanimously.

- 18 • Concern with over regulation of hospitals (bill doesn't allow LPNs to perform certain functions  
19 in the ER)
- 20 • Supported the concept of having a ratio of practitioners to patients
- 21 • Concern that the ratios listed in the bill may be over regulation
- 22 • Concern with a nurse being allowed to refuse a doctors orders (would like to know the catalyst  
23 behind this idea)

24  
25 HB 83- Autism – Dr. Burns moved to remain **neutral** on this bill. Dr. Hayden seconded the motion,  
26 which passed unanimously.

- 27 • What outcomes would be achieved if passed?
- 28 • What are the benchmarks, etc.?
- 29 • What is the ultimate goal of the bill?

30  
31 HB 115- Creation of the Department of Health and Human Services – Dr. Hayden moved to remain  
32 **neutral** on this bill. Dr. Burns seconded the motion, which passed unanimously.

- 33 • Concern with decentralization of MQA and its services
- 34 • MQA's staff and investigators have specific expertise
- 35 • Concern with duplication of services

36  
37 HB 187- Streamlining the Issuance of Licenses, Certifications and Registrations Issued by State  
38 Agencies - Dr. Hayden moved to remain **neutral** on this bill. Ms. Malan seconded the motion, which  
39 passed unanimously.

40  
41 HB 321- Relating to Abortion - Dr. Hayden moved to remain **neutral** on this bill. Ms. Malan seconded  
42 the motion, which passed with Dr. Escher opposed.

43  
44 HB 479- Medical Malpractice – Dr. Burns moved to support the concept of the regulation of expert  
45 witnesses but provide no comments on the remainder of the bill. Dr. Hayden seconded the motion,  
46 which passed unanimously.

- 47 • Agree that experts testifying in trials should have some sort of regulatory oversight, in the  
48 event they provide false testimony.
- 49 • Concern with the requirement that the expert application be reviewed within 5 days of receipt,  
50 as this is logistically not feasible.
- 51 • Concern with the ability to discipline the experts.
- 52 • Concern with practitioners in other countries qualifying for the expert registration. For  
53 example, in some other countries osteopaths have a different scope of practice.

- 1           • In favor of the Boards being able to issue the expert certificates.  
2

3 HB 4039- Hypnosis – No action (bill was withdrawn).  
4

5 HB 25 / SB 96 – Mammogram Reports – Dr. Rose moved to **support** the bill in **concept** with  
6 amendments to the language. Dr. Burns seconded the motion, which passed unanimously.

- 7           • “Aunt” should be included in list of immediate family for medical history purposes  
8           • Concern that the bill differs from federal guidelines  
9           • Concern with requiring MRI if the breast tissue is dense (language shouldn’t be that specific)  
10          • Concern with the additional screening requirements and intervals  
11

12 HB 155 / SB 432 – Privacy of Firearms Owners – Dr. Burns moved to **oppose** this bill. Dr. Hayden  
13 seconded the motion, which passed with Dr. Escher recused from the vote.

- 14          • Concern with patient safety if not allowed to ask these types of questions.  
15          • Physicians need to be able to assess home environments in some instances to appropriately  
16          evaluate the patient.  
17          • Concerns with the amount of the fines should a physician violate the provision  
18

19 SB 742 – Surgical First Assistants – Dr. Hayden moved to remain **neutral** on the bill. Dr. Burns  
20 seconded the motion, which passed unanimously.  
21

22 HB 321 – Abortion – The Board took **no action** on this bill.  
23

24 HB 4103 – Medical Practice - Dr. Hayden moved to **oppose** the bill. Dr. Burns seconded the motion,  
25 which passed unanimously.

- 26          • Concern with changes to the supervision of physician assistants  
27          • Concern with the bills effect on Medicare billing  
28          • Concern with access/balance of care versus quality/appropriate care  
29          • Concern with patient safety as the physician would have no oversight  
30          • Concern that the physician would still have responsibility of the physician assistant’s action  
31          (but no oversight)  
32          • Not enough information on the impact of this bill or its effects  
33

34 HB 471 – Cord Blood Banking – Ms. Malan moved to remain **neutral** on the bill. Dr. Escher seconded  
35 the motion, which passed unanimously.  
36

37 SB 810 – Pain-management Clinics – Dr. Burns moved to **support** the bill in **concept**, with the rule  
38 making authority kept in place. Ms. Malan seconded the motion, which passed unanimously.  
39

40 HB 615 – Sovereign Immunity - Ms. Malan moved to **support** the bill. Dr. Escher seconded the motion,  
41 which passed unanimously.  
42

43 HB 549 / SB 868– Eye Care Professionals – Dr. Hayden moved to support the bill in part and remain  
44 neutral in part. Ms. Malan seconded the motion, which passed unanimously.

- 45          • In the event that the bill passes, thus allowing optometrists to prescribe oral medications, the  
46          board would support having a DO/MD on the Board of Optometry  
47          • The board will remain neutral on the remainder of the bill  
48

49 # Not Assigned – Access to Care Act – Dr. Burns moved to **oppose** the bill. Dr. Hayden seconded the  
50 motion, which passed unanimously.

- 51          • Concern with patient safety  
52          • Concern with physicians only completing one year of residency, which is specialized, and  
53          applying for licensure without appropriate knowledge

- There are mechanisms currently in place to obtain licensure when an individual doesn't complete the AOA internship
- The bill doesn't indicate who the residency should be approved by

**HB 505 – Health Care Coverage** - Dr. Burns moved to **support** the bill. Dr. Hayden seconded the motion, which passed unanimously.

- Concern with the bill interfering with the current telemedicine rule

**HB 585 – Pharmacy** – Dr. Burns moved to remain **neutral** on the bill. Dr. Hayden seconded the motion, which passed unanimously.

- Concern with allowing a pharmacy intern (student) to provide injections
- Concern with pharmacists diagnosing
- When there is a drug/vaccine shortage, it would only be appropriate for physicians to determine which patients are the medical priority

**HB 393 – Treatment Programs for Impaired Practitioners** - Dr. Burns moved to **support** the bill. Dr. Hayden seconded the motion, which passed unanimously.

**SB 818 – Controlled Substances** - Dr. Burns moved to **support** the bill in **concept**. Dr. Hayden seconded the motion, which passed unanimously.

- Would recommend that the continuing education requirement in the area of the PDMP be reduced to 1 hour

## **GENERAL BUSINESS / CORRESPONDENCE**

### **Tab 6 - Correspondence from NSU Re: Medical Records Course Update**

Informational item.

### **Tab 7 - Continuing Education Audit Overview**

Informational item.

### **Tab 31 - AAOE Annual Meeting Overview – Anna Hayden, DO**

Dr. Hayden provided an overview of the annual meeting.

### **Tab 32 - Annual Delegation of Authority**

**Action Taken:** After discussion, Dr. Escher moved to approve the annual delegation of authority as presented, with the following correction:

- Authority should be granted to the Board Chair to grant extensions of time to complete CME hours imposed as discipline or pay fines/costs as a result of disciplinary action.

Dr. Hayden seconded the motion, which passed unanimously.

## **BOARD CHAIRMAN'S REPORT – Joel B. Rose, DO**

Dr. Rose thanked the members and staff for their dedication and hard work for the past year. He noted that in the coming year he would like the Board to look at mediating certain cases as a cost savings and efficiency measure.

## **EXECUTIVE DIRECTOR'S REPORT – Anthony Jusevitch**

No report.

## **BOARD COUNSEL'S REPORT AND RULES DISCUSSION – Donna McNulty, Esq.**

1 **Tab 33 - General Discussion Regarding the Status of Rulemaking**

2 **Tab 34 - Rules Report**

3 Ms. McNulty advised the members that the Governor suspended all rulemaking and all rules would  
4 have to go through GOFARR as another step in the rulemaking process. She also advised that the  
5 Board's rule defining the maximum number of prescriptions in a 24-hour period would not be ratified by  
6 the legislature. This was due to the House indicating they would only consider for ratification those  
7 rules that had already gone through the adoption process.

8  
9 Ms. McNulty explained the Governor's Executive Order also directed agencies to complete a review of  
10 all current rules. She explained this was an electronic process that the AG's Office was taking lead on,  
11 but she would have to enlist the assistance of Board members to complete the review. Mr. Jusevitch  
12 read a preliminary list of rule assignments for each Board member. Ms. McNulty suggested that the  
13 review be placed on the May meeting agenda for ratification of the full Board.

14  
15 **COUNCIL ON PHYSICIAN ASSISTANTS REPORT - Ronald Burns, DO**

16  
17 **Tab 8 - Minutes from December 2, 2010 PA Council Meeting**

18 Dr. Burns provided an overview of the meeting. This item was voted on later in the meeting, which can  
19 be found after Tab 13 in the minutes.

20  
21 **Tab 35 - Minutes from February 3, 2011 PA Council Meeting**

22 Dr. Burns provided an overview of the meeting. This item was voted on later in the meeting, which can  
23 be found after Tab 13 in the minutes.

24  
25 **BUDGET LIAISON REPORT - Rina Malan**

26 No report.

27  
28 **PHARMACISTS FORMULARY REPORT - Joel Rose, DO**

29 No report.

30  
31 **UNLICENSED ACTIVITY REPORT - James St. Louis, DO**

32 No report.

33  
34 **REVIEW OF EXPERT WITNESS APPLICATIONS**

35  
36 Ms. Rossitto-Van Winkle advised the members that the Department was in need of experts in several  
37 specialty fields, including pain management, surgery and OBGYN. There was also discussion  
38 regarding the order of and duplication of materials presented to experts.

39  
40 Dr. Rose suggested the Department create an expert witness training course.

41  
42 **Dr. Escher left the meeting at 6:45pm.**

43  
44 **Tab 9 - Wayne Bizer, DO**

45 **Tab 10 - John Petersen, DO**

46 **Tab 11 - Bao Pham, DO**

47 **Tab 12 - John Fetchero, Jr., DO**

48 **Tab 13 - Frederic Porcase, DO**

49 Tabs 9-13 were discussed and voted on as a whole.

50  
51 **Action Taken:** Dr. Burns moved to approve the expert witness applications. Ms. Malan seconded the  
52 motion, which passed unanimously.

53  
54 **COUNCIL ON PHYSICIAN ASSISTANTS REPORT - Revisit**

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**Tab 8 - Minutes from December 2, 2010 PA Council Meeting**

**Tab 35 - Minutes from February 3, 2011 PA Council Meeting**

Tabs 8 and 35 were voted on as a whole.

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

**RATIFICATION OF LICENSURE**

**Tab 14 - Ratification of Licenses Issued 10/11/2010 - 1/25/2011**

This item was tabled due to the list being incomplete.

**ELECTION OF 2011 OFFICERS**

Dr. Burns nominated Dr. Hayden for Chair. Ms. Malan seconded the nomination, which passed unanimously.

Ms. Malan nominated Ms. Malan for Vice Chair. Dr. Hayden seconded the nomination, which passed unanimously.

**OLD BUSINESS**

**NEW BUSINESS**

**No Tab – Discussion Regarding the Voting Delegate for the FSMB Annual Meeting**

It was the consensus of the Board to send the current Chair as the voting delegate unless the Chair was unable to attend.

**No Tab – Presentation of Awards**

Dr. Rose presented Chair Recognition Awards to Robert Fedor, DO, Kenneth Webster, EdD and Marcelino Oliva, DO.

**Morton Morris, DO, JD Award Discussion**

Dr. Rose read the criteria of the award and read Senator Fasano's bio for the Board's consideration.

**Action Taken:** Dr. Rose nominated Senator Mike Fasano as the recipient of the Morton Morris, DO, JD Award. Dr. Burns seconded the nomination, which passed unanimously.

Dr. Hayden indicated that she wished to recognize Dr. Rose, Ms. McNulty and Dr. Andriole for their service and dedication.

**The meeting recessed at 7:30 pm.**

1 **SATURDAY, February 19, 2011**

2 **9:00 am**

3  
4 **PROBATION AND COMPLIANCE REVIEW**

5  
6 **Tab 15 - Jennifer M. Sanchez, DO**

7 Dr. Sanchez was not present but was represented by Jon Pellett, Esquire.

8  
9 **Action Taken:** Dr. Burns moved to approve the lecture. Dr. Hayden seconded the motion, which  
10 passed unanimously.

11  
12 **NEW DISCIPLINARY CASES**

13  
14 Ms. McNulty explained the process for handling cases presented as informal hearings.

15  
16 **Tab 16 - Joe W. Morgan, D.O. - Informal Hearing- DOH Case # 2009-24011**

17 Allegations of Complaint: 459.015(1)(pp)- violate a statute or rule of the board; 459.015(1)(t)-  
18 inappropriate prescribing; 459.015(1)(o)- fail to keep appropriate medical records; 459.015(1)(x)- gross  
19 malpractice

20  
21 Dr. Morgan was present and represented by Chris Lyon, Esquire. Dr. Escher served on the probable  
22 cause panel. Ms. Rossitto-Van Winkle represented the Department and presented the case to the  
23 Board.

24  
25 Dr. Hayden moved to adopt the agenda materials, including the investigative report into evidence. Dr.  
26 Burns seconded the motion, which passed unanimously. Dr. Hayden moved to find that the respondent  
27 was properly served and requested an informal hearing before the Board. Dr. St. Louis seconded the  
28 motion, which passed unanimously. Dr. Burns moved to adopt the findings of fact as presented in the  
29 administrative complaint. Dr. Hayden seconded the motion, which passed unanimously.

30  
31 The Board heard testimony from the respondent.

32  
33 Dr. Burns moved to adopt the conclusions of law as presented in the administrative complaint. Dr.  
34 Hayden seconded the motion, which passed unanimously.

35  
36 The respondent presented mitigating factors for the Board's consideration when imposing penalties.

37  
38 **Action Taken:** After much discussion, several motions were made, seconded and passed imposing  
39 various penalties. Below reflects the final penalty imposed:

- 40
- 41 • Reprimand
  - 42 • Fine of \$18,500 to be paid within 36 months of the Final Order
  - 43 • Permanent practice restriction- cannot own or practice in a pain clinic as defined in 459.0137,  
44 F.S.
  - 45 • Other practice restrictions-
    - 46 ○ cannot practice in a specialty other than ophthalmology until he petitions the Board to do  
47 so and can demonstrate the ability to practice in that area with skill and safety - the  
48 board reserves the right to impose additional terms at the time of the petition
    - 49 ○ cannot prescribe schedule II or III controlled substances until he petitions the board and  
50 can demonstrate the ability to do so with skill and safety; cannot petition the board to lift  
51 this restriction until after the probationary period has ended; the board reserves the right  
52 to impose additional terms at the time of the petition
  - 53 • Probation for 4 years to include:
    - indirect monitor (must be within a 100 mile radius and have monthly contact);

- appearances with the monitor at the first and last meeting upon commencement of probation;
  - quarterly reports (respondent and monitor); 25% chart review of active patient files to determine if controlled substances are prescribed, proper care is rendered and appropriate medical records are present;
  - cannot practice until the monitor receives temporary approval;
  - standard tolling provision.
- Completion of the UF drug course and the medical record keeping course within 2 years of the Final Order.

**Additional Action Taken:** Dr. Burns moved to assess costs in the amount of \$7003.95 to be paid within 36 months of the Final Order. Dr. Hayden seconded the motion, which passed unanimously.

**Tab 17 - Alma Rosa Sanjur, D.O. - Informal Hearing – DOH Case # 2009-15728**

This item was temporarily tabled for lack of a quorum and discussion can be found following Tab 19 in the minutes.

**Tab 18 - Gary Stuart Brandwein, D.O. - Settlement Agreement – DOH Case # 2007-07795**

This item was temporarily tabled for lack of a quorum and discussion can be found following Tab 17 in the minutes.

**Tab 19 - Concetta Giuliano, D.O. - Settlement Agreement – DOH Case # 2006-23663**

Allegations of Complaint: 459.015(1)(x)- practicing below the standard of care

Dr. Giuliano was present and represented by Michael D'Lugo, Esquire. Ms. Malan served on the probable cause panel. Ms. Rossitto-Van Winkle represented the Department and presented the case to the Board.

**Action Taken:** After discussion, Dr. Burns moved to adopt the settlement agreement as presented:

- Letter of Concern
- \$5000.00 fine to be paid within 30 days of the Final Order
- \$2888.45 in costs to be paid within 30 days of the Final Order
- 12 hours of continuing education in the area of neurological imaging or risk management pertaining to neurological imaging

Dr. Hayden seconded the motion, which passed with Dr. Escher opposed.

**Tab 17 - Alma Rosa Sanjur, D.O. - Informal Hearing – DOH Case # 2009-15728**

Allegations of Complaint: 459.015(1)(g)- fail to perform a statutory or legal obligation

Dr. Sanjur was present and represented by Marie Abate, Esquire. Ms. Malan served on the probable cause panel. Dr. Hayden recused herself from the proceedings for personal reasons. Ms. Rossitto-Van Winkle represented the Department and presented the case to the Board.

Dr. Escher moved to adopt the agenda materials, including the investigative report into evidence. Dr. Burns seconded the motion, which passed unanimously. Dr. Burns moved to find that the respondent was properly served and requested an informal hearing before the Board. Dr. Escher seconded the motion, which passed unanimously. Dr. Burns moved to adopt the findings of fact as presented in the administrative complaint. Dr. Escher seconded the motion, which passed unanimously.

The Board heard testimony from the respondent.

Dr. Escher moved to adopt the conclusions of law as presented in the administrative complaint. Dr. Burns seconded the motion, which passed unanimously.

1 **Action taken:** After discussion, Dr. Burns moved to impose the following penalty:

- 2 • Letter of Concern
- 3 • \$1000.00 fine to be paid within 90 days of the Final Order

4 Dr. Rose seconded the motion, which passed unanimously.

5  
6 **Additional Action Taken:** Dr. Burns moved to assess costs in the amount of \$830.08 to be paid within  
7 90 days of the Final Order. Dr. Escher seconded the motion, which passed unanimously.

8  
9 The respondent agreed to withdraw her objection to the Department's Motion to Assess Costs for the  
10 record.

11  
12 **Tab 18 - Gary Stuart Brandwein, D.O. - Settlement Agreement – DOH Case # 2007-07795**

13 Allegations of Complaint: 459.015(1)(o)- fail to keep appropriate medical records; 459.015(1)(x)-  
14 practicing below the standard of care; 459.015(1)(ii)- prescribing violation

15  
16 Dr. Brandwein was present and represented by David Spicer, Esquire. Ms. Malan served on the  
17 probable cause panel. Dr. Hayden recused herself from the proceedings for personal reasons. Ms.  
18 Rossitto-Van Winkle represented the Department and presented the case to the Board.

19  
20 **Action Taken:** After discussion, Dr. Burns moved to adopt the settlement agreement as presented:

- 21 • Letter of Concern
- 22 • \$5000.00 fine to be paid within 30 days of the Final Order
- 23 • \$6990.34 in costs to be paid within 30 days of the Final Order

24 Dr. Escher seconded the motion, which passed with Dr. Escher opposed.

25  
26 **Tab 20 - David Glickman, D.O. - Settlement Agreement – DOH Case # 2010-08124**

27 Allegations of Complaint: 459.015(1)(x)- gross malpractice; 459.015(1)(t)- inappropriate prescribing;  
28 459.015(1)(pp)- violate a statute or rule of the board; 459.015(1)(o)- fail to keep appropriate medical  
29 records

30  
31 Dr. Glickman was present and represented by Ariel Sofro, Esquire. Dr. Rose served on the probable  
32 cause panel. Dr. Hayden chaired the meeting due to Dr. Rose's recusal. Ms. Rossitto-Van Winkle  
33 represented the Department and presented the case to the Board.

34  
35 Ms. McNulty pointed out several items in the proposed settlement agreement that needed clarification  
36 or correction.

37  
38 **Action Taken:** After discussion, Dr. Burns moved to reject the settlement agreement as presented.  
39 Dr. St. Louis seconded the motion, which passed with Dr. Escher opposed. Dr. Burns then moved to  
40 propose the following counter settlement agreement:

- 41 • Reprimand
- 42 • \$15,000.00 fine to be paid within 30 days of the Final Order
- 43 • \$4890.85 in costs to be paid within 30 days of the Final Order
- 44 • Medical records course within 1 year of the Final Order
- 45 • UF Drug course within 1 year of the Final Order
- 46 • Permanent practice restrictions- cannot own or practice in a pain clinic as defined by 459.0137,  
47 F.S. and cannot prescribe schedule II controlled substances
- 48 • Probation for 4 years to include: indirect monitor (within 30 miles), quarterly reports,  
49 appearances at the first and last meeting upon commencement of probation
- 50 • Additional restriction during probation – cannot prescribe any controlled substances until  
51 respondent completes the UF drug course and medical records course, can demonstrate skill  
52 and safety and petitions the board to have this restriction lifted
- 53 • Standard tolling provisions

1 Ms. Malan seconded the motion, which passed with Dr. Escher opposed.

2  
3 Both parties agreed to the terms of the counter settlement agreement for the record.

4  
5 **Tab 21 - David L. Hicks, D.O. - Settlement Agreement – DOH Case # 2008-07295 & 2009-11278**

6 Allegations of Complaint: 459.015(1)(x)- practicing below the standard of care; 459.015(1)(o)- fail to  
7 keep appropriate medical records; 459.015(1)(hh)- failing to appropriately supervise extenders

8  
9 Dr. Hicks was present and represented by Greg Chairs, Esquire. Dr. Escher and Ms. Malan served on  
10 the probable cause panel. Ms. Rossitto-Van Winkle represented the Department and presented the  
11 case to the Board.

12  
13 **Action Taken:** Dr. Burns then moved to propose the following counter settlement agreement:

- 14 • \$10,000.00 fine to be paid within 30 days of the Final Order
- 15 • \$4007.22 in costs to be paid within 30 days of the Final Order
- 16 • Completion of 4 hours of prevention of medical errors within 1 year of the Final Order

17 Dr. St. Louis seconded the motion, which passed unanimously.

18  
19 **PRESENTATIONS**

20  
21 **No Tab - Attorney General's Initiatives on Pain Management Clinics - Senator Dave Aronberg,**  
22 **Special Counsel to the Attorney General for Pain Clinics**

23 Mr. Aronberg thanked the Board for their efforts in successfully getting the pain management clinic  
24 rules in place. Mr. Aronberg gave the Board a brief presentation that provided an overview of current  
25 statistics and trends, as well as the Attorney General's current strategy for halting illegal pill mills.

26  
27 **Tab 22 - Dareld Ray Morris II, D.O. - Settlement Agreement – DOH Case # 2009-11932**

28 Allegations of Complaint: 456.072(1)(w)- practitioner profiling violation; 459.072(1)(x)- fail to report a  
29 conviction within 30 days

30  
31 Dr. Morris was present and represented by Jeff Howell, Esquire. Dr. Hayden served on the probable  
32 cause panel. Ms. Rossitto-Van Winkle represented the Department and presented the case to the  
33 Board.

34  
35 **Action Taken:** After discussion, Dr. Escher moved to adopt the settlement agreement as presented:

- 36 • Letter of Concern
- 37 • \$2500.00 fine to be paid within 30days of the Final Order
- 38 • \$625.14 in costs to be paid within 30 days of the Final Order
- 39 • Completion of the FOMA laws and rules course within 18 months of the Final Order

40 Dr. St. Louis seconded the motion, which passed unanimously.

41  
42 **Tab 23 - Robert R. Reppy, D.O. - Settlement Agreement**

43 Previously pulled from the agenda.

44  
45 **Tab 24 - Stephen Ray Wood, D.O. - Settlement Agreement – DOH Case # 2010-04309**

46 Allegations of Complaint: 456.072(1)(cc)- retained foreign object in a patient

47  
48 Dr. Wood was present and represented by Bursa, Esquire. Dr. Hayden served on the probable cause  
49 panel. Ms. Rossitto-Van Winkle represented the Department and presented the case to the Board.

50  
51 **Action Taken:** After discussion, Dr. Escher moved to adopt the settlement agreement as presented:

- 52 • Letter of Concern
- 53 • \$2500.00 fine within 30 days of the Final Order

- \$1163.46 in costs within 30 days of the Final Order
- Lecture/Seminar/Article on the prevention of retained foreign objects, due within 6 months of the Final Order

Dr. St. Louis seconded the motion, which passed unanimously.

**Tab 25 - Sally Jane Medina, P.A. - Motion for Determination of Waiver/Default – DOH Case # 2008-20983**

This case was pulled by the Department.

**Tab 26 - Marshall Bruce Silk, D.O. - Motion for Determination of Waiver/Default – DOH Case # 2009-06064**

Allegations of Complaint: 459.015(1)(ee)- pre-sign blank prescriptions; 459.015(1)(aa)- delegate to an unqualified person

Dr. Silk was present and represented by Bruce Udolf. Ms. Malan served on the probable cause panel. Mr. Schultz represented the Department and presented the case to the Board.

Dr. Escher moved to accept the agenda materials and investigative report as presented into the record as evidence. Dr. St. Louis seconded the motion, which passed unanimously. Dr. Escher moved to find that the respondent was properly served and waived their rights to a hearing. Dr. St. Louis seconded the motion, which passed unanimously. Dr. Burns then moved to adopt the findings of fact as presented in the administrative complaint. Dr. Hayden seconded the motion, which passed unanimously. Dr. Burns then moved to adopt the conclusions of law as presented in the administrative complaint. Dr. Escher seconded the motion, which passed unanimously.

**Action Taken:** After discussion, Dr. Burns moved to impose the following penalty:

- Letter of Concern
- \$5000.00 fine
- Completion of the UF drug course
- Permanent practice restriction- cannot prescribe schedule II controlled substances outside a hospital or emergency transport to/from a hospital

**Additional Action Taken:** Dr. Burns moved to allow the respondent 1 year from the Final Order to complete all terms of the order. Dr. Hayden seconded the motion, which passed unanimously.

**Additional Action Taken:** Dr. Burns moved to assess costs in the amount of \$2225.67 to be paid within 1 year of the Final Order. Dr. Hayden seconded the motion, which passed unanimously.

**Tab 27 - Alfred Eversley Boyce, D.O. - Voluntary Relinquishment – DOH Case # 2009-08763, 2009-12446, 2009-17026, 2009-20648 & 2009-04912**

Allegations of Complaint: 459.015(1)(x)- gross malpractice; 459.015(1)(t)- inappropriate prescribing; 459.015(1)(pp)- violate a statute or rule of the board; 459.015(1)(o)- fail to keep appropriate medical records

The respondent was not present or represented by counsel. Dr. Rose served on the probable cause panel. Dr. Hayden chaired the proceedings due to Dr. Rose's recusal. Mr. Schultz represented the Department and presented the case to the Board.

**Action Taken:** Dr. Burns moved to adopt the voluntary relinquishment of licensure. Dr. St. Louis seconded the motion, which passed unanimously.

**LICENSURE APPEARANCES**

**Tab 28 - Andrea M. Gorjaczew, DO**

1 Dr. Gorjaczew was present without counsel. Dr. Gorjaczew was required to appear before the Board to  
2 discuss her application and negative reports during training.

3  
4 **Action Taken:** After discussion, Dr. Burns moved to approve the application for licensure. Dr. St.  
5 Louis seconded the motion, which passed unanimously.

6  
7 **REQUEST TO WITHDRAW APPLICATION**

8  
9 **Tab 29 - Thomas Mendolia, DO**

10 Dr. Mendolia was not present or represented by counsel. Dr. Mendolia asked that he be allowed to  
11 withdraw his application for licensure.

12  
13 **Action Taken:** Dr. Burns moved to allow the withdrawal of the application. Dr. Hayden seconded the  
14 motion, which passed unanimously.

15  
16 **REQUEST FOR EXEMPTION FROM DISQUALIFICATION**

17  
18 Mr. Jusevitch and Ms. McNulty explained the exemption requirements and process.

19  
20 **Tab 30 - Alex Wargo, DO**

21 Dr. Wargo was present without counsel. Dr. Brown with PRN was also present.

22  
23 **Action Taken:** After discussion, Ms. Malan moved to grant the exemption for disqualification from  
24 employment. Dr. Hayden seconded the motion, which passed with Dr. Escher opposed.

25  
26 **Tab 36 - James Yezbick, DO**

27 Dr. Yezbick was present without counsel.

28  
29 **Action Taken:** After discussion, Dr. Rose moved to grant the exemption for disqualification from  
30 employment. Dr. Hayden seconded the motion, which passed unanimously.

31  
32 **No Tab – PSU Report**

33 Ms. Rossitto-Van Winkle advised the member of a pilot program the Department wished to try, which  
34 would allow probable cause to be waived in certain types of cases (CE audit, failure to pay citations or  
35 violation of a final order for failing to pay fines or complete CMEs) in an effort to expedite the  
36 disciplinary process.

37  
38 Mr. Schultz gave an overview of the current case load.

39  
40 **Action Taken:** Dr. Escher moved to allow the Department to prosecute old cases. Dr. St. Louis  
41 seconded the motion, which passed unanimously.

42  
43 **There being no further business the meeting adjourned at 1:30 pm.**