

Minutes
BOARD OF OSTEOPATHIC MEDICINE
February 22-23, 2008

NOVA Southeastern University
Morris Auditorium
3301 College Avenue
Ft. Lauderdale, FL 33314
954-262-1639

Friday, February 22, 2008

The meeting was called to order by Dr. Rodriguez, Chairperson, at 4:15pm. Those present for all or part of the meeting included the following:

MEMBERS PRESENT:

Richard Rodriguez, DO, Chair
Robert Fedor, DO, Vice Chair
Ronald Burns, DO
Robert McCann, DO
Joel Rose, DO

MEMBERS EXCUSED:

Nadine Swan – Consumer Member
Tom Najjar- Consumer Member

COURT REPORTER:

Official Reporting Services, LLC
Edith Sapaugh
954-467-8204

BOARD STAFF PRESENT:

Pamela King, Executive Director
Christy Robinson, Program Administrator

BOARD COUNSEL:

Michael Flury, Esquire

DEPARTMENT OF HEALTH:

Blake Hunter, Esquire

OTHERS PRESENT:

Judy Rivenbark, MD – PRN

Please note that the below minutes reflect the actual order that items were discussed during the meeting and may differ than the order on the agenda.

SPECIAL RECOGNITION

No Tab – Presentation of the Board of Osteopathic Medicine Chair Recognition Award to Ronald Kaufman, DO

Dr. Rodriguez presented the annual Board Chairman's Recognition Award to Ronald Kaufman, DO for his many years of dedication and service as a member of the Board and probable cause panel.

APPROVAL OF MINUTES

Tab 1 - Minutes from November 16-17, 2007 Board Meeting

Action Taken: Dr. Burns moved to APPROVE the minutes with the noted correction to page 2. Dr. Rose seconded the motion, which passed unanimously.

DISCIPLINARY CASES

Tab 2 - Jack Cohen, DO – Settlement Agreement – Case #2007-22695

The respondent was present with Richard Ramsey, Esquire. Mr. Hunter represented the department and presented the case to the Board. Probable cause was waived in this case.

Action Taken: After much discussion, Dr. Fedor moved to REJECT the settlement agreement as presented. The motion was seconded by Dr. Rose and carried unanimously. After further discussion, Dr. Fedor moved to offer the following COUNTER SETTLEMENT AGREEMENT:

- Letter of Concern
- \$7500.00 fine
- \$1940.22 in costs
- Completion of a 5 hour course in sexual boundaries
- Practice Restriction- must have a licensed female chaperone present during treatment of all female patients for a period of 5 years
- Must obtain a PRN evaluation within 6 months of the final order, comply with any PRN recommendation and reappear after the evaluation if a contract is recommended
- 100 hours of community service
- Must reappear at the end of 5 year restriction period, where the Board may impose any additional terms or restrictions as deemed necessary

The motion was seconded by Dr. Rose and carried unanimously.

Both parties agreed to the amended terms for the record.

PROBATION REVIEW

Tab 16 – Alex Wargo, DO – Request for Reinstatement

The probationer was present and represented by Monica Rodriguez, Esquire and Dr. Rivenbark from PRN. During discussion, it was noted that Dr. Wargo had not practiced in approximately 8 years.

Action Taken: After much discussion, Dr. Rose moved to reinstate the license with the following restriction:

- Dr. Wargo must only practice within the University of Florida Addiction Medicine program, if accepted, with an appearance at the end of the program; or
- Must pass the COMVEX exam and have a monitor for one year, to include quarterly reports and an appearance after the exam

The motion was seconded by Dr. Burns and carried unanimously.

BOARD CHAIRMAN'S REPORT

Tab 35 – 2007 Board Report

Dr. Rodriguez briefly went over the Board's activities for the 2007 calendar year. He thanked Mr. Hunter for his hard work on all of the disciplinary cases that have been presented to the Board.

No Tab- Ronald Kaufman, DO updated the members on the activities of the FSMB's Practice Professionalism Committee.

BOARD COUNSEL'S REPORT AND RULES DISCUSSION

Tab 3 – February 2008 Rules Report

Mr. Flury updated the Board on the status of the following rules and requested action where appropriate.

Board of Osteopathic Medicine
February 22-23, 2008 Meeting Minutes
Prepared by Christy Robinson

No Tab – JAPC Letter Concerning the Licensure Application’s Affidavit

Mr. Flury addressed the concerns with the signature page.

Action Taken: After discussion, Dr. Rose moved to APPROVE the updated language and application. Dr. Burns seconded the motion, which passed unanimously.

Tab 36 - Discussion Re: 64B15-64B5-14.0055 – Standards for Pain Management Specialists and Pain Management Centers

Mr. Flury provided the proposed language that he worked on with Dr. Rodriguez. The Board discussed several amendments to the proposed language.

Action Taken: After much discussion, it was the consensus of the Board to appoint a committee including, Dr. Rodriguez, Dr. Rose and Dr. Burns, and hold a telephone conference call before the May meeting to further discuss this language.

Tab 5 - Discussion Re: 64B15-19.008 – Mediation

Mr. Hunter requested that the Board consider a rule that would allow the department to mediate cases that involved failing to update the practitioner profile.

Action Taken: After much discussion, Dr. Fedor moved to approve the proposed language and notice the rule for development. Dr. Rose seconded the motion, which passed unanimously.

EXECUTIVE DIRECTOR’S REPORT

NICA Meeting - Ms. King indicated that there was a NICA Meeting scheduled to be held 3/6/2008 in Tallahassee. She noted the importance of Board representation if possible. Dr. Rodriguez requested that Dr. Andriole attend the meeting on behalf of the Board.

Open Government Commission- Ms. King provided an overview of the commission.

Trust Fund Sweep- Ms. King explained the Governor’s budgetary proposal to include a cash sweep of all trust funds and its impact on the Board.

AOA Internship Update- Ms. King indicated that the AOA was considering the elimination of the requirement for a showing of “good cause” for not completing an AOA approved internship. She also noted that West Virginia was proposing legislation to eliminate the requirement for completion of an AOA internship.

Tab 37 – Budget Overview

Informational only.

COUNCIL ON PHYSICIAN ASSISTANTS

Tab 6 - November 29, 2007 Meeting Minutes

Dr. Burns provided an overview of the meeting minutes.

Tab 7 - January 31, 2008 Meeting Minutes

Dr. Burns provided an overview of the meeting minutes and noted required action of the Board.

Action Taken: After discussion, Dr. Burns moved to approve the supervision data form. Dr. McCann seconded the motion, which passed unanimously.

Tab 4 - 64B15-6.0035- Physician Assistant Licensure and Reactivation

Board of Osteopathic Medicine
February 22-23, 2008 Meeting Minutes
Prepared by Christy Robinson

Action Taken: After discussion, Dr. Burns moved to approve the language as presented. Dr. McCann seconded the motion, which passed unanimously.

REVIEW OF EXPERT WITNESS APPLICATIONS

Tab 38 - Nicholas Capone, DO

Action Taken: Dr. Burns moved to approve the licensee as an expert witness. The motion was seconded by Dr. McCann and carried unanimously.

GENERAL BUSINESS / CORRESPONDENCE

Tab 8 - Article Re: Increase for Copies of Medical Records

Dr. Rose indicated the growing concerns with the costs associated with producing medical records for patients and attorneys.

Action Taken: After much discussion, Dr. Rose moved to notice the rule for development. Dr. Fedor seconded the motion, which passed unanimously.

Tab 9 - FSMB's Survey on Professionalism in Medicine

Informational only.

Tab 10 - Pharmacy's Professional Practice Committee Meeting Update (Pharmacy Prescribing Rule)

Dr. Rose updated the members on the recent conference call.

Tab 11 - AAOE Meeting Update – Ronald Burns, DO

Dr. Burns provided an overview of the meeting.

Tab 39 - Correspondence from Ryan Herbert, DO Re: providing hair restoration treatments

Action Taken: After much discussion, Dr. McCann moved to take no action and recommend that a petition for declaratory statement be submitted. Dr. Rose seconded the motion, which passed unanimously. The Board directed Mr. Flury to contact Mr. Herbert with this information and address their concerns with the tasks described in the correspondence.

Tab 40 - Supervision of Physician Extenders

After discussion, it was the consensus of the Board to discuss this matter at the retreat.

LEGISLATIVE UPDATE

Tab 12- Legislative Summary

Juhan Mixon provided the Board with an overview of the physician assistant language, SB 1106 and HB 989.

Action Taken: Dr. Fedor moved to support SB 1106 and HB 989. Dr. Rose seconded the motion, which passed unanimously.

Ms. King provided an overview of pending legislation and asked the Board for feedback where appropriate.

HB 285 / SB736- The Board indicated that they would remain neutral on these bills.

HB 341 – Tabled until Saturday

HB 509- The Board indicated that they were opposed to this bill.

HB 515- The Board indicated that they were opposed to this bill.

HB 607- The Board indicated that they were opposed to this bill.

SB 1016- The Board indicated that they would remain neutral on this bill.

SB 1278 - The Board indicated that they were opposed to this bill.

MQA's Responsible Party for Medical Records Bill- The Board indicated that they were in support of the intent of this bill.

RATIFICATION OF LICENSES ISSUED

Tab 41 - Ratification of Licenses Issued November through January

Action Taken: Dr. Burns moved to approve the list as presented. Dr. Rose seconded the motion, which passed unanimously.

APPROVAL OF VOLUNTARY RELINQUISHMENTS

Tab 42 - Licensees Seeking to Relinquish their License with no Pending Discipline

Action Taken: Dr. Fedor moved to approve the list as presented. Dr. McCann seconded the motion, which passed unanimously.

NEW BUSINESS

No Tab- Dr. Burns updated the Board on FOMA's ethics program.

PRESENTATION FROM NOVA SOUTHEASTERN UNIVERSITY – COMPETENCY PROGRAM

Representatives from Nova provided the Board with an overview of their pending competency program, which would be called Osteopathic Physician Education Network or "O.P.E.N.". They indicated that the program would contain several different components including medical records training, medical ethics training, communications training, stress management, etc. They indicated that they would be open for any suggestions for additions or improvements to the program.

ADJOURN at 7:50 p.m.

SATURDAY, February 23, 2007
9:00 am

PROBATION REVIEW

Tab 13 - Regan Burke, DO – Approval of Monitor

Dr. Burke was present with his proposed monitor John Burris, MD and his proposed female chaperones Betty Kiss, RN and Andrea Corden, RN. Dr. Rivenbark form PRN was also present. Dr. Rivenbark noted that Dr. Burke had not completed his required evaluation at this time. The Board interviewed the potential monitor and chaperones about their duties.

Action Taken: After discussion, Dr. Fedor moved to approve the monitor. Dr. McCann seconded the motion, which passed unanimously. Dr. Burns then moved to approve both female chaperones. Dr. McCann seconded the motion, which passed unanimously.

Additional Action Taken: After additional discussion, Dr. Burns moved to grant an extension to obtain the PRN evaluation until the May meeting of the Board. Dr. Fedor seconded the motion, which passed unanimously.

Tab 14 - William Maher, DO – Request for Voluntary Relinquishment of Licensure

Dr. Maher was not present or represented by counsel. Dr. Maher submitted a request to voluntarily relinquish his license.

Action Taken: After discussion, Dr. Fedor moved to approve the request for disciplinary voluntary relinquishment. Dr. Burns seconded the motion, which passed unanimously.

Tab 15 - Bruce Schoolcraft, DO – Request for Termination of Probation

Dr. Schoolcraft was present with Jon Pellett, Esquire and Dr. Roman, his monitor in Georgia. DR. Schoolcraft was requesting that his probation be terminated although he had not been practicing in Florida. He indicated that based on the Florida discipline, Georgia imposed very similar probationary terms, including a monitor, which he had been practicing under for the past year.

Action Taken: After discussion, Dr. Rose moved to accept the petition for termination of probation. Dr. McCann seconded the motion, which passed unanimously.

Tab 17 - Curtis Wilkinson, DO – Approval of Monitor

Dr. Wilkinson was present with his proposed monitor Nancy Pyran-Bernard, DO. The Board interviewed Dr. Pyran-Bernard about her duties as monitor.

Action Taken: After discussion, Dr. Burns moved to approve the monitor. Dr. Rose seconded the motion, which passed unanimously.

Tab 43 - David Berndt, DO – Request for Modification of the Final Order

Dr. Berndt was present with Bradford Bailey, Esquire and Dr. Rivenbark form PRN.

Action Taken: After much discussion, Dr. Burns moved to approve the request to modify the final order. Dr. Rose seconded the motion, which passed unanimously.

LICENSURE APPEARANCES

Tab 33 - Steven Svabek, DO

Dr. Svabek was present without counsel. Dr. Svabek was required to appear before the Board to discuss several pending malpractice cases and to clarify the status of his Indiana license. Dr. Svabek

previously appeared at the August meeting of the Board where is application was tabled for further clarification.

Acton Taken: After much discussion, Dr. Rose moved to conditionally approve the application pending receipt of the following:

- Official verification from Indiana indicating that there are no pending complaints or investigations against his license.

Dr. Fedor seconded the motion, which passed unanimously.

DISCIPLINARY CASES

Mr. Flury provided the Board with instructions for handling recommended order cases.

Tab 16 - Barry J. Kaplan, DO- Recommended Order - DOH Case #2006-06863

Dr. Kaplan was present with Tom Dukes, Esquire. Mr. Hunter represented the department and presented the case to the Board.

The Board reviewed and took action on the following Respondent's Exceptions to the Recommended Order:

1. Exception to paragraph #3 – Dr. McCann moved to reject the exception. Dr. Fedor seconded the motion, which passed unanimously.
2. Exception to paragraph #6 – Dr. McCann moved to reject the exception. Dr. Rose seconded the motion, which passed unanimously.
3. Exception to paragraph #7 – Dr. McCann moved to reject the exception. Dr. Rose seconded the motion, which passed unanimously.
4. Exception to paragraph #8 – Dr. McCann moved to reject the exception. Dr. Rose seconded the motion, which passed unanimously.
5. Exception to paragraph #10 – Dr. McCann moved to reject the exception. Dr. Burns seconded the motion, which passed unanimously.
6. Exception to paragraph #13 – Dr. Fedor moved to grant in part the exception. Dr. Rose seconded the motion, which passed unanimously.
7. Exception to paragraph #14 – Dr. Rose moved to reject the exception. Dr. McCann seconded the motion, which passed unanimously.
8. Exception to paragraph #16 – Dr. McCann moved to reject the exception. Dr. Rose seconded the motion, which passed unanimously.
9. Exception to paragraph #17 – Dr. McCann moved to reject the exception. Dr. Burns seconded the motion, which passed unanimously.
10. Exception to paragraph #18 – Dr. Fedor moved to grant the exception. The motion died with no second. Dr. McCann moved to reject the exception. Dr. Rose seconded the motion, which passed unanimously.
11. Exception to paragraph #22 – Dr. Rose moved to reject the exception. Dr. McCann seconded the motion, which passed unanimously.
12. Exception to paragraph #23 – Dr. McCann moved to reject the exception. Dr. Rose seconded the motion, which passed unanimously.
13. Exception to paragraph #24 – The exception was withdrawn by the respondent.
14. Exception to paragraph #29 – Dr. McCann moved to reject the exception. Dr. Burns seconded the motion, which passed unanimously.
15. Exception to paragraph #30 – Dr. McCann moved to reject the exception. Dr. Burns seconded the motion, which passed unanimously.
16. Exception to paragraph #31 – The exception was withdrawn by the respondent.
17. Exception to paragraph #32 – The exception was withdrawn by the respondent.

18. Exception to paragraph #40 – Dr. McCann moved to reject the exception. Dr. Burns seconded the motion, which passed unanimously.
19. Exception to paragraph #41 – Dr. McCann moved to reject the exception. Dr. Rose seconded the motion, which passed unanimously.
20. Exception to paragraph #50 – Dr. McCann moved to reject the exception. Dr. Rose seconded the motion, which passed unanimously.
21. Exception to paragraph #51 – Dr. Rose moved to grant in part the exception. Dr. Fedor seconded the motion, which passed unanimously.
22. Exception to paragraph #52 – Dr. McCann moved to reject the exception. Dr. Rose seconded the motion, which passed unanimously.

After additional discussion, Dr. McCann moved to adopt the remaining findings of fact as presented in the recommended order. Dr. Burns seconded the motion, which passed unanimously.

The Board reviewed and voted on the following Petitioner's Exceptions:

1. Petitioner's exception to Paragraph #47- Dr. Burns moved to accept the exception. Dr. Fedor seconded the motion, which passed unanimously.

After further discussion, Dr. Rose moved to adopt the conclusions of law as presented in the recommended order. Dr. Burns seconded the motion, which passed unanimously.

The Board then reviewed the Petitioner's Exception to the recommended penalty. Dr. Rose moved to reject the Petitioner's exception. Dr. Burns seconded the motion, which passed unanimously.

Action Taken: After much discussion, Dr. Rose moved to impose the following penalty:

- Suspension for 1 year with 6 months stayed
- Practice restriction- cannot perform any cosmetic surgery that involves any type of incision until such time that he demonstrates competency in this area by obtaining Board Certification through the ABMS or AOA
- \$6500.00 fine to be paid within 1 year
- Probation for 3 years with the terms being set after the suspension
- Reprimand
- Completion of the Nova Southeastern medical records course within 1 year or prior to returning to practice

Dr. Fedor seconded the motion, which passed unanimously.

Additional Action Taken: Dr. McCann moved to assess costs in the amount of \$38,291.93 to be paid by the end of the probation period. Dr. Burns seconded the motion, which passed unanimously.

Break for Lunch 1:15 – 2:00

DISCIPLINARY CASES- continued

Tab 16 - Barry J. Kaplan, DO- Recommended Order - DOH Case #2006-06863 (revisit)

Mr. Dukes requested the Board to consider approving a stay in the case in the event of an appeal. Mr. Hunter indicated that the department was in objection to a stay.

Action Taken: After discussion, Dr. Rose moved to deny the request for a stay in this case. Dr. McCann seconded the motion, which passed unanimously.

LICENSURE APPEARANCES

Tab 30 - Adam Patrick Hall, DO

Dr. Hall was present without counsel. Dr. Rivenbark with PRN was present and noted that Dr. Hall had signed a monitoring contract. Dr. Hall's application was tabled from the November board meeting pending a PRN evaluation.

Action Taken: After discussion, Dr. Rose moved to approve the application for licensure. The motion was seconded by Dr. Burns and carried unanimously.

Tab 31 - William I. Cross, DO

Dr. Cross was present without counsel. Dr. Cross was required to appear before the Board to discuss his good cause reason for failing to complete an AOA approved internship.

Action Taken: After much discussion, Dr. Rose moved to approve the application for licensure. Dr. Fedor seconded the motion, which passed with Dr. Rodriguez and Dr. McCann opposed.

Tab 32 - Gary Lee Shultz, DO

Dr. Shultz was present without counsel. Dr. Shultz was required to appear before the Board to clarify if he had taken an examination containing an osteopathic component. Ms. King noted that she had attempted to obtain this verification from the state licensing entity, but was unsuccessful.

Action Taken: After much discussion, Dr. McCann moved to deny the application based on lack of an osteopathic exam component. Dr. Rose seconded the motion. During discussion, the motion and second were withdrawn. Dr. McCann then moved to allow Dr. Shultz to withdraw his application for licensure. Dr. Rose seconded the motion, which passed unanimously.

DISCIPLINARY CASES (cont.)**Tab 21 - Denise McSherry, DO – Settlement Agreement – Case #2006-18519**

Dr. McSherry was present and represented by Ed Bayo, Esquire. Mr. Hunter represented the department and presented the case to the Board. Probable case was waived in this case.

Action Taken: After discussion, Dr. McCann moved AMEND the proposed settlement agreement:

- Letter of Concern
- \$5000.00 fine to be paid within 1 year of the final order
- \$6548.59 in costs to be paid within 1 year of the final order

Dr. Rose seconded the motion, which passed unanimously.

Both parties agreed to the amendment for the record.

Tab 24 - Joseph DeLuca, DO – Settlement Agreement – Case #2005-59975

Dr. DeLuca was present and represented by Ed Bayo, Esquire. Mr. Hunter represented the department and presented the case to the Board.

Action Taken: After discussion, Dr. Fedor moved to reject the settlement agreement as proposed. Dr. Rose seconded the motion, which passed unanimously. After additional discussion, Dr. Fedor moved to offer the following counter settlement agreement:

- Reprimand
- \$10,000.00 fine
- \$9891.84 in costs
- Probation for 3 years to include indirect monitor, 25% chart review, quarterly reports (monitor and respondent) and triplicate prescription pads
- The monitor must be a DO board certified in the same specialty as the respondent and be knowledgeable in the area of pain management

- 50 hours of community service
 - Completion of the USF drug course
 - Completion of the FMA medical records course
 - Practice restriction- Surrender of dispensing status registration during the probationary period
- Dr. Burns seconded the motion, which passed unanimously.

The department agreed to the counter offer for the record. The respondent was given 7 days to accept or reject the counter offer.

Tab 19 - Denis Malfant, DO – Informal Hearing – Case #2007-10866

Dr. Malfant was present with Nyjola Grybauskas, Esquire. Mr. Hunter represented the department and presented the case to the Board. The respondent withdrew their request for a formal hearing for the record.

Dr. McCann moved to adopt the findings of fact as presented in the administrative complaint. Dr. Rose seconded the motion, which passed unanimously. Dr. Burns moved to adopt the conclusions of law as presented in the administrative complaint. Dr. Rose seconded the motion, which passed unanimously. Mr. Hunter then offered the agenda materials into evidence.

Action Taken: After much discussion, Dr. McCann moved to impose the following penalty:

- Reprimand
- \$1000.00 fine to be paid within 1 year of the final order
- \$1435.75 in costs to be paid within 1 year of the final order
- The respondent's voluntary withdrawal from practice shall remain in effect until he reappears before the Board to demonstrate the ability to practice with skill and safety, including a PRN evaluation
- Additional terms to be imposed at the time of reappearance

Dr. Rose seconded the motion, which passed unanimously.

Tab 20 - Thomas Singel, II, DO – Settlement Agreement – Case #2007-03041

Dr. Singel was not present or represented by counsel. Mr. Hunter represented the department and presented the case to the Board.

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

- Letter of Concern
- \$1000.00 fine
- \$240.63 in costs
- Completion of the required continuing education prior to the meeting or the license shall become suspended. It was noted that the respondent had submitted appropriate proof of the CE before the meeting.

Dr. Burns seconded the motion, which passed unanimously.

Tab 22 - Gary Pynckel, DO – Settlement Agreement – Case #2007-05201

Dr. Pynckel was present without counsel. Mr. Hunter represented the department and presented the case to the Board. Probable cause was waived in this case.

Action Taken: After discussion, Dr. Rose moved to adopt the settlement agreement as presented. Dr. Burns seconded the motion which failed with all members opposed. Dr. Fedor then moved to reject the settlement agreement. Dr. Rose seconded the motion, which passed unanimously. After additional discussion, Dr. Fedor moved to offer the following counter settlement agreement:

- Letter of Concern
- \$5000.00 fine
- \$4285.18 in costs

- 100 hours of community service
- Completion of a laws and rules continuing education course
- Must inform all medical assistants in writing of their specific duties, which must be approved by the Board Chair within 30 days.

Dr. Rose seconded the motion, which passed unanimously.

Both parties accepted the terms of the counter offer for the record.

Tab 25 - Elizabeth Ziner, DO – Settlement Agreement – Case #2007-14091

Dr. Ziner was present with Bruce Lamb, Esquire. Mr. Hunter represented the department and presented the case to the Board. Mr. Hunter indicated that the license number should be corrected to reflect “UO” rather than “OS”.

Action Taken: After discussion, Dr. Fedor moved to reject the settlement agreement. Dr. Burns seconded the motion, which passed unanimously. After additional discussion, Dr. Fedor moved to offer the following counter settlement agreement:

- Letter of Concern
- \$1000.00 fine
- \$2010.39 in costs
- Completion of 5 hours in Risk Management
- Presentation of a 1 hour lecture on wrong site surgery within 6 months of the final order

Dr. Rose seconded the motion, which passed unanimously.

Both parties accepted the counter offer for the record.

Tab 23 - Thomas Randles, DO – Settlement Agreement – Case #2007-27809

Dr. Randles was present with John Derr, Esquire. Dr. Rivenbark form PRN was also present. Mr. Hunter represented the department and presented the case to the Board.

Action Taken: After discussion, Dr. Fedor moved to reject the settlement agreement. Dr. Rose seconded the motion, which passed unanimously. After additional discussion, Dr. Fedor moved to offer the following counter settlement agreement:

- Reprimand
- \$10,000.00 fine
- \$5613.05 in costs
- 600 hours of community service within 5 years
- Completion of a course advocated by PRN on sexual boundaries
- Suspension until respondent can appear before the Board to demonstrate the ability to practice with skill and safety
- Additional suspension for 1 year to begin after entering into the PRN contract and PRN advocates for practice
- The Board may impose additional terms upon required appearance
- Permanent practice restriction- must have a licensed female chaperone present during the treatment of all female patients
- Probation for 5 years to include a monitor and quarterly reports to begin after the 1 year suspension

Dr. Rose seconded the motion, which passed unanimously.

Additional Action Taken: After additional discussion, Dr. Fedor moved to allow the respondent 1 year of quarterly payments to pay the fines and costs. Dr. Burns seconded the motion, which passed unanimously.

The petitioner accepted the counter offer for the record. The Respondent was given 7 days to accept or reject the counter offer.

Tab 26 - John Russell, DO – Settlement Agreement – Case #2007-03800

Dr. Russell was not present or represented by counsel. Mr. Hunter represented the department and presented the case to the Board. Dr. Rose was recused due to his participation on the probable cause panel in this case.

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

- Reprimand
- \$1000.00 fine
- \$340.14 in costs to be paid within 2 years of the final order
- Completion of all missing continuing education and submission of the required proof of financial responsibility within 1 year of the final order

Dr. Fedor seconded the motion, which passed unanimously.

Tab 27 - Melanie Hames, DO – Motion for Waiver/Default – Case #2007-08066

The respondent was not present or represented by counsel. Mr. Hunter represented the department and presented the case to the Board. Dr. Burns moved to find that the respondent had waived their rights to a hearing and were in default. Dr. McCann seconded the motion, which passed unanimously. Dr. Burns then moved to adopt the findings of fact in the case. Dr. McCann seconded the motion, which passed unanimously. Dr. Burns then moved to adopt the conclusions of law in the case. Dr. McCann seconded the motion, which passed unanimously.

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

- Reprimand
- \$4000.00 fine
- \$440.24 in costs
- Suspension until she appears before the board, at which time the Board may impose additional terms

Dr. Burns seconded the motion, which passed unanimously.

Tab 28 - Charles Bertani, DO – Motion for Waiver/Default – Case #2007-22445

The respondent was not present or represented by counsel. Mr. Hunter represented the department and presented the case to the Board. Dr. Burns moved to find that the respondent had waived their rights to a hearing and were in default. Dr. McCann seconded the motion, which passed unanimously. Dr. Rose then moved to adopt the findings of fact in the case. Dr. Burns seconded the motion, which passed unanimously. Dr. Burns then moved to adopt the conclusions of law in the case. Dr. Rose seconded the motion, which passed unanimously.

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

- Reprimand
- \$5000.00 fine
- \$433.03 in costs
- Suspension until she appears before the board, at which time the Board may impose additional terms

Dr. Burns seconded the motion, which passed unanimously.

Tab 29 - James Petrola, DO – Motion for Waiver/Default – Case #2007-17610

The respondent was not present or represented by counsel. Mr. Hunter represented the department and presented the case to the Board. Dr. Rose moved to find that the respondent had waived their rights to a hearing and were in default. Dr. McCann seconded the motion, which passed unanimously. Dr. Rose then moved to adopt the findings of fact in the case. Dr. McCann seconded the motion, which

passed unanimously. Dr. Burns then moved to adopt the conclusions of law in the case. Dr. Rose seconded the motion, which passed unanimously.

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

- Revocation
- \$3828.00 in costs

Dr. Rose seconded the motion, which passed unanimously.

PHYSICIAN IN TRAINING APPEARANCES

Tab 34 - Alison S. Gardner, DO

Dr. Gardner was not present or represented by counsel. Dr. Gardner's application for a physician in training was continued from the November meeting to obtain additional clarification on several issues.

Action Taken: After much discussion, Dr. Rose moved to deny the physician in training registration application. The motion was seconded by Dr. McCann and carried unanimously.

NEW BUSINESS

No Tab – Petition to Set Aside Final Order from James Zebranek, DO

Action Taken: After discussion, Dr. Fedor moved to deny the petition. Dr. Burns seconded the motion, which passed unanimously.

No Tab – Discussion Regarding Continuing Education Requirements

The Board discussed several issues concerning the current mandatory continuing courses and possible options.

Action Taken: After discussion, Dr. Rose moved to notice rule 64B15-13.001, F.A.C for development. Dr. McCann seconded the motion, which passed unanimously. The Board also directed staff to obtain feedback form other interested parties on this issue.

No Tab- Discussion Regarding Continuing Education Requirements for Military Licensees

Ms. King advised the Board that licensees in the military were having difficulty obtaining the mandatory courses in cases where they were deployed to other countries. She noted concern with these individuals being able to comply with the requirements and facing possible disciplinary action of audited.

Action Taken: After much discussion, it was the consensus of the Board that being in the military should be considered a mitigating factor in cases where the physician is audited.

No Tab – Discussion Regarding Continuing Education Requirements for Reactivation of a License

Ms. King asked the Board to clarify what courses should be required for reactivation in instances where the licensee has been inactive for several bienniums and the mandatory continuing requirements have changed. For example, she indicated that licensees are having difficulty obtaining a course on managed care, since this is no longer required for renewal.

Action Taken: After discussion, it was the consensus of the Board that licensees should be allowed to meet the current requirements if they have any difficulty obtaining previously mandated courses.

Tab 12 – Legislative Update - continued

HB 341 - Dr. McCann moved to remain neutral on the PRN bill. Dr. Burns seconded the motion, which passed unanimously.

No Tab- Discussion Regarding Medical Assistants

The Board directed Mr. Flury to research their rule making authority regarding medical assistants for the next meeting so that they could determine the necessity of a legislative proposal.

ELECTION OF 2008 OFFICERS

Dr. McCann was elected as Chair by a vote of 3/2.

Dr. Burns was elected as Vice Chair by a unanimous vote.

There being no further business the meeting was adjourned at 5:45 p.m.