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MINUTES
BOARD OF OSTEOPATHIC MEDICINE
August 14-15, 2009

The Tampa Airport Marriott
Tampa International Airport
Tampa, FL
813-879-5151

9 **Friday, August 14, 2009**

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

14 **MEMBERS PRESENT:**

Allan R. Escher, D.O., Chair
Joel Rose, D.O., Vice Chair
Ronald Burns, D.O.
Robert McCann, D.O.
James S. St. Louis, D.O.
Tom Najjar, Consumer Member
Rina A. Palladino - Consumer Member

15 **COURT REPORTER:**

Berryhill and Associates
813-229-8225

14 **BOARD STAFF PRESENT:**

Kaye Howerton, Executive Director
Christy Robinson, Program Administrator
Betty Bates, RSII

15 **BOARD COUNSEL:**

Donna McNulty, Esquire

16 **DEPARTMENT OF HEALTH:**

Karin Byrne, Esquire
Howard Holtzendorf, Esquire

17 **OTHERS PRESENT:**

James Andriole, DO- PCP Chair
Judy Rivenbark, MD, PRN

14
15 **Please note that the meeting minutes reflect the actual order that agenda items were discussed**
16 **during the meeting and may differ from the agenda outline.**

17
18 **PLEDGE OF ALLEGIANCE**

19
20 Dr. Burns led the Board in the Pledge of Allegiance to begin the meeting.

21
22 **APPROVAL OF MINUTES**

23
24 **Tab 1 - Review and Approval of May 15-16, 2009 Meeting Minutes**

25
26 **Action Taken:** Dr. McCann moved to approve the minutes as presented. Dr. St. Louis seconded the
27 motion, which passed unanimously.

28
29 **GENERAL BUSINESS / CORRESPONDENCE**

30
31 **Tab 2 - Review and Approval of 2010 Proposed Meeting Dates**

32
33 **Action Taken:** After much discussion, a motion was made by Dr. Burns and seconded by Dr. St. Louis
34 to approve the dates and locations listed below. The motion passed unanimously.

- 35
36
37
38
39
- February 26-27, 2010 – LECOM in Bradenton
 - May 14-15, 2010 – to be determined by the Department
 - August 20-21, 2010 – to be determined by the Department
 - November 5-6, 2010 – to be determined by the Department

1
2 **Tab 3 - FSMB Foundation Introduction and General Information – Informational**

3 Dr. Escher asked Dr. Andriole, FSMB Treasurer, to provide a brief overview of the FSMB Foundation to
4 the Board. Dr. Andriole explained that the Foundation was recently revived and encouraged the Board
5 to utilize the services available for research projects and data collection. He indicated that they had
6 recently received additional grant money so the organization would be able to assist the Board with
7 funding on certain projects if needed.

8
9 **Tab 4 - Professional Boundaries, Inc. - Request for Consideration to Use CME Courses for
10 Discipline**

11 Ms. Robinson explained that this was a request for the Board and Department to consider endorsing
12 their courses for use with physicians that were disciplined. After brief discussion, no action was taken
13 on this item.

14
15 **Tab 5 - FSMB Newslines May/June 2009- Informational**

16 Dr. Andriole advised the Board that a new CEO for the FSMB was recently selected.

17
18 **Tab 6 - FSMB Board of Directors Meeting Highlights- Informational**

19 Dr. Andriole reiterated that during the FSMB annual meeting, the quality of Board websites was
20 discussed and suggested that the Foundation could assist with a pilot project to update the Board's
21 website or conduct research, concerning the quality of information contained on the site, etc.

22
23 **EXECUTIVE DIRECTOR'S REPORT – Kaye Howerton**

24
25 **Tab 8 - Department of Health Request for Modification of the Board's Citation Rule**

26 Ms. Howerton and Ms. Robinson explained that the Department was requesting that all Boards or
27 Councils consider having fines and penalty CME due at the same time, or to alleviate the imposition of
28 penalty CME in an effort to streamline the complaint and compliance processes.

29
30 **Action Taken:** After discussion, Dr. Rose moved to open rule 64B15-19.007, F.A.C. for development
31 and amend the language to require that all fines and penalty CME be due within 1 year of the citation.
32 Dr. Burns seconded the motion, which passed unanimously. Ms. McNulty was asked to have draft
33 language for the November meeting.

34
35 **No Tab – Legislative Update**

36 Ms. Howerton explained that Department staff and the Attorney General's office have had several
37 meetings to discuss the impact and implementation of SB 1986 which requires, among other things,
38 Boards and Councils to deny licensure to individuals that have been convicted of certain felonies or
39 terminated for cause from the Medicaid program. She reiterated the extensive amount of work that will
40 be involved in amending licensure applications and setting policy.

41
42 Ms. Howerton also explained that staff was working with the Board of Medicine staff to create an
43 agenda for the first of several rule workshops that will be held regarding the registration of pain clinics
44 as a result of SB 462. She noted that the first meeting will be held on August 29 in Tampa.

45
46 **BOARD COUNSEL'S REPORT – Donna McNulty, Esquire**

47
48 **Tab 9 - Discussion of Rules 64B15-6.010 & 64B8-30.012- Physician Assistant Performance**

49 This item was discussed during the PA Council report later in the agenda.

50
51 **Tab 10 - Discussion of Rule 64B15-12.003 – Application for Licensure**

52 **Tab 11 - Discussion of Rule 64B15-12.005 – Limited License**

53 **Tab 12 - Discussion of Rule 64B15-12.009 – Osteopathic Faculty Certificate**

54 **Tab 13 - Discussion of Rule 64B15-22.004 – Mandatory Registration of Unlicensed Physicians**

1 Tabs 10-13 were discussed at the same time and voted on as a whole. Ms. McNulty advised the
2 members that the applications would need to be amended to comply with SB 1896. She advised that
3 the revised applications would be brought back before the Board at the next available meeting, but
4 asked that the Board approve the proposed questions in the interim. Dr. Andriole also advised the
5 members that the FSMB potentially had background information from other states regarding this issue.
6

7 **Action Taken:** After discussion, Dr. Burns moved to approve the proposed questions and to open
8 rules 64B15-12.003, 12.005, 12.009 and 22.004 for development. Ms. Palladino seconded the motion,
9 which passed unanimously.
10

11 **Tab 14 - Discussion of Rule 64B15-13.001(3)(f) – Regarding the 5 Most Misdiagnosed**
12 **Cases/Conditions**

13 Ms. Robinson explained that section 456.013(7), F.S. required the Boards of Medicine and Osteopathic
14 Medicine to include their respective 5-most misdiagnosed cases/conditions from the preceding
15 biennium in their definition of the prevention of medical errors course. She explained that in the past
16 the two Boards developed a similar list to avoid confusion for licensees. She also explained that she
17 was only able to identify 2 specific misdiagnoses during the 2006-2008 biennial period, which were
18 cancer and heart conditions, and suggested that Board consider adopting some of the Board of
19 Medicine's conditions.
20

21 **Action Taken:** After much discussion, Dr. Rose moved to open rule 64B15-13.001(3)(f) for
22 development and add the following conditions to the rule: cancer, wrong site surgery, acute abdomen,
23 heart conditions and surgical complications/errors. Dr. Burns seconded the motion, which passed
24 unanimously.
25

26 **Additional Action Taken:** Dr. Rose then moved to find that these changes would have no impact on
27 small business and no S.E.R.C. was needed. Dr. St. Louis seconded the motion, which passed
28 unanimously.
29

30 **Tab 15 - Rules Report- Informational**

31 Ms. McNulty advised the members that their disciplinary guidelines would need to be opened for
32 development as a result of SB 1986.
33

34 **Action Taken:** Dr. Burns moved to open rule 64B15-19.002 for development. Dr. Rose seconded the
35 motion, which passed unanimously.
36

37 **APPROVAL OF MINUTES - continued**
38

39 **Tab 46 - Review and Approval of Changes Made to the March 2002 Meeting Minutes**

40 Ms. Robinson explained that upon receiving a public records request, it was discovered that that the
41 incorrect court reporter was placed in the 2002 minutes. She asked that the Board approve the
42 addition of the correct court reporter.
43

44 **Action Taken:** Dr. Burns moved to approve the correction to the minutes as presented. Ms. Palladino
45 seconded the motion, which passed unanimously.
46

47 **COUNCIL ON PHYSICIAN ASSISTANTS REPORT – Ronald Burns, DO**
48

49 **Tab 16 - May 28, 2009 Council Meeting Minutes**

50 Dr. Burns provided the members with an overview of the meeting.
51

52 **Tab 51 - August 13, 2009 Council Meeting Minutes**

1 Dr. Burns provided the members with an overview of the meeting. Elizabeth Thompson, P.A., with the
2 Florida Academy of Physician Assistants spoke on the issue of SB 720 regarding the cosigning of
3 charts.
4

5 **Tab 47 - Discussion of 64B15-6.010 – Physician Assistant Performance**

6 **Action Taken:** Dr. Rose moved to approve the proposed changes to the rule and open rule 64B15-
7 6.010(3) for development. Dr. Burns seconded the motion, which passed unanimously.
8

9 **Additional Action Taken:** After additional discussion, Dr. Burns moved to find that the proposed
10 changes would have a positive impact on small business and that a S.E.R.C. would be needed. Ms.
11 Palladino seconded the motion, which passed unanimously.
12

13 **Tab 51 - August 13, 2009 Council Meeting Minutes- continued**

14 **Action Taken:** After discussion, Dr. Burns moved to approve the changes that were proposed in the
15 minutes to rule 64B15-6.001 (PA disciplinary guidelines) and to open the rule for development. Dr. St.
16 Louis seconded the motion, which passed unanimously.
17

18 **Tab 48 - Discussion of 64B5-6.0105- Notice of Noncompliance**

19 Dr. Burns explained the proposed changes relating to failure to comply with the domestic violence
20 continuing education requirement every third biennium.
21

22 **Action Taken:** After discussion, Dr. Burns moved to approve the proposed changes and open rule
23 64B15-0105 for development. Dr. Rose seconded the motion, which passed unanimously.
24

25 **Additional Action Taken:** Dr. Burns moved to find that the proposed changes would have no impact
26 on small business and no S.E.R.C. was needed. Ms. Palladino seconded the motion, which passed
27 unanimously.
28

29 **Tab 49 - Discussion of 64B15-6.003 – Physician Assistant Licensure**

30 Ms. McNulty explained that the physician assistant application would need to be amended to include
31 the questions proposed due to SB 1986.
32

33 **Action Taken:** After discussion, Dr. Burns moved to approve the proposed questions. Dr. Rose
34 seconded the motion, which passed unanimously.
35

36 **Additional Action Taken:** Dr. Burns then moved to incorporate the revised application by reference
37 into the rule. Ms. Palladino seconded the motion, which passed unanimously.
38

39 **Additional Action Taken:** After additional discussion, Dr. Burns moved that the proposed changes
40 would have no impact on small business and no S.E.R.C. would be needed. Dr. Rose seconded the
41 motion, which passed unanimously.
42

43 **Tab 50 - Discussion of 64B15-6.0035 – Physician Assistant Licensure Renewal and Reactivation**
44 Informational.
45

46 **ANESTHESIOLOGIST ASSISTANT COMMITTEE REPORT – Ronald Burns, DO**

47 Dr. Burns indicated that he had no report to provide at this time; however it was mentioned that NOVA
48 recently opened an Anesthesiologist Assistant school in Tampa.
49

50 **UNLICENSED ACTIVITY LIAISON REPORT – James St. Louis, DO**

51 Dr. St. Louis indicated that he had no report to provide at this time.
52

53 **PHARMACISTS FORMULARY COMMITTEE REPORT- Joel Rose, DO**

54 Dr. Rose indicated that he had no report to provide at this time.

1
2 **BUDGET LIAISON REPORT- Rina Palladino**

3
4 **Tab 17 - March 2009 Expenditures by Function**

5 Ms. Palladino provided an overview of the report. Dr. Escher directed Ms. Palladino to get with the
6 budget analyst to compare how the Board was doing in comparison with other Boards regarding their
7 fiscal soundness.

8
9 **LEGISLATIVE LIAISON REPORT – Robert McCann, DO**

10
11 **Tab 18 - 2009 Legislative Update**

12 Dr. McCann encouraged the members to contact their local representative regarding SB 1986. He
13 reiterated that this new law took discretion away from the Board in making appropriate licensure
14 decisions and would further reduce access to care by depleting the physician population, which was
15 already of great concern.

16
17 **Tab 19 - Overview of the July 9, 2009 Meeting of the Legislative and Congressional Leadership**
18 **Re: Volunteerism**

19 Dr. McCann provided the Board with an overview of the discussions held during this meeting. Some of
20 the areas discussed were the need for more training programs in Florida and the feasibility of
21 establishing more programs via the Veterans Administration. There was also a concern with retired
22 military physicians not being eligible for licensure in Florida. It was noted that the Board of Medicine
23 would be looking a proposing legislation to create a military license. Staff was asked to bring back any
24 available draft legislative language to the next meeting.

25
26 **BOARD CHAIRMAN'S REPORT – Allan Escher, DO**

27 Dr. Escher provided the members with an overview of the applications he reviewed as Chair and the
28 types of application issues he encountered.

29
30 **Tab 7 - Discussion Re: Joint Meeting with the Board of Medicine Regarding Pain Management**
31 **Clinic Registration**

32 Dr. Escher advised the members that the first rule workshop would be held on August 29 at noon in
33 Tampa and that he and Dr. McCann would serve on the joint committee. He indicated that it was
34 important for them to be apprised of any concerns of the Board and asked for comments and feedback.
35 Dr. Rose expressed the importance of looking at the patient population during this process.

36
37 **RATIFICATION OF LICENSURE**

38
39 **Tab 20 - Ratification of Licensure Approval from 4/15/2009 – 7/23/2009**

40 **Action Taken:** Ms. Palladino moved to approve the list as presented. Dr. McCann seconded the
41 motion, which passed unanimously.

42
43 **Tab 52 - Ratification of Board Chair Licensure Approval**

44 **Action Taken:** Dr. Rose moved to approve the list as presented. Dr. St. Louis seconded the motion,
45 which passed unanimously.

46
47 **Break for 15 minutes**

48
49 **VOLUNTARY RELINQUISHMENTS**

50
51 **Tab 21 - Requests to Voluntary Relinquish with No Pending Discipline**

52 There was much discussion regarding whether the Board should approve the voluntary relinquishment
53 of a licensee that had not completed all of the terms of an agreed upon non-disciplinary citation or other
54 disciplinary order. It was the consensus of the Board that an individual should not be permitted to

1 administratively relinquish a license if there were pending penalties due to imposition of discipline or a
2 citation.

3
4 **Action Taken:** Mr. Najjar moved to remove Dr. Marcus from the list. Dr. Burns seconded the motion,
5 which passed unanimously. Dr. Rose then moved to approve the voluntary relinquishment of the
6 individuals listed in 2-4 of the list. Dr. Burns seconded the motion, which passed unanimously. Ms.
7 Palladino then moved to deny the request for Dr. Marcus to relinquish his license and require
8 submission of another request after completion of the terms outlined in his citation. Dr. Rose seconded
9 the motion, which passed unanimously.

10 11 **OLD BUSINESS**

12 13 **No Tab - 2008 Board Report**

14 Ms. Robinson provided the members with the 2008 Annual Board Report and apologized for the
15 lateness of it. There was discussion about the vast difference in the amount of money imposed versus
16 collected. It was explained that it was most likely due to the approval of payment plans, due dates of
17 balances and some non-payment issues.

18 19 **NEW BUSINESS**

20 21 **No Tab – PCP Meeting Discussion**

22 Dr. McCann expressed concern about continuing to hold PCP meetings by phone and noted that those
23 meetings used to be held prior to the full Board meetings in person. Dr. Andriole, PCP Chair, also
24 reiterated concern with holding the meetings by phone as there have been several recent mishaps
25 involving the meetings. Dr. Andriole also expressed concern with the Department attempting to close
26 cases involving continuing education violations and offering weaker settlement agreements than were
27 offered in the past. Ms. Howerton apologized for the recent mistakes and noted that the Board office
28 staff was recently directed to become involved in the PCP meetings, as they had not been for several
29 years. She expressed concern with the many issues and felt that the revival of the Board office staff
30 involvement would address many of the issues. She also noted that she had recently spoken with the
31 Department prosecution staff about some of these concerns. It was also noted for the record that the
32 Boards had been asked by the Department to hold PCP meetings via phone to reduce costs.

33
34 **Action Taken:** After much discussion, Dr. McCann moved to hold all regular PCP meetings in person
35 the Friday morning of the full Board meetings. Dr. Rose seconded the motion, which passed
36 unanimously.

37 38 **OLD BUSINESS**

39 40 **No Tab - Discussion of the Morton Morris, D.O., J.D. Award**

41 Dr. McCann requested an update regarding discussion at the last meeting concerning the presentation
42 of the Morton Morris award. At that meeting, staff was asked to seek clarification from FOMA regarding
43 their desire to present the award in the future. Dr. Escher advised that he had recently received a letter
44 from FOMA regarding this issue and it was his intent to have the discussion at the November meeting
45 as the letter was not received in time for the agenda. Dr. Escher had a copy of the letter with him and
46 read it into the record. The letter indicated that FOMA did not wish to present this award and felt that it
47 should remain with the Board as its creator. Dr. Andriole, FOMA representative, reiterated FOMA's
48 position regarding the award. There was much discussion about the award and staff was directed to
49 place this discussion, as it pertained to award nominees, on the November meeting.

50
51 **Action Taken:** After much discussion, Dr. Rose moved to end discussion on the topic. Ms. Palladino
52 seconded the motion, which passed with Dr. McCann opposed.

53 54 **NEW BUSINESS**

1
2 **No Tab- Discussion Regarding California Naturopaths**
3 Dr. Andriole advised the Board that California's Governor recently consolidated the Naturopath Board
4 under the Osteopathic Medicine Board in an effort to save fiscal resources. He expressed concern and
5 asked the Board to be mindful and aware of this type of trend in the future as it could be detrimental to
6 the autonomy of this Board.
7
8 **The meeting recessed at 7:00pm.**

1 **SATURDAY, August 15, 2009**

2 **9:00 am**

3
4 **PROBATION AND COMPLIANCE REVIEW**

5
6 **Tab 32 - Mark Kantzler, DO – Required Appearance with Monitor**

7 Dr. Kantzler was present with his proposed monitor Dr. Finkelstein. Dr. Rivenbark from PRN was also
8 present.

9
10 **Action Taken:** After discussion, Dr. Rose moved to approve the monitor and appearance. Dr. Burns
11 seconded the motion, which passed unanimously.

12
13 **NEW DISCIPLINARY CASES**

14
15 **Tab 22 - James S. Snow, DO – Informal Hearing – DOH Case #2008-25765**

16 Allegations of Complaint: 459.015(1)(b)- disciplinary action in another state (2 counts) and
17 459.015(1)(k)- failing to perform a statutory/legal obligation by violating 456.072(1)(w)- failing to comply
18 with profiling and credentialing

19
20 Dr. Snow was present without counsel. Ms. Palladino was recused due to her participation on the
21 probable cause panel. Mr. Holtzendorf represented the department and presented the case to the
22 Board.

23
24 Dr. St. Louis moved to accept the case as presented. Dr. Burns seconded the motion, which passed
25 unanimously. Dr. Rose then moved to find that the respondent was properly served and requested an
26 informal hearing before the Board. Dr. Burns seconded the motion, which passed unanimously. Dr.
27 Rose then moved to adopt the findings of fact as presented in the administrative complaint. Dr. Burns
28 seconded the motion, which passed unanimously.

29
30 The Board then heard testimony from Dr. Snow about the case.

31
32 After testimony, Dr. Rose moved to adopt the conclusions of law. Dr. Burns seconded the motion,
33 which passed unanimously. Dr. Rose then moved to find that the conclusions of law constituted a
34 violation as presented in the Administrative Complaint. Dr. St. Louis seconded the motion, which
35 passed unanimously.

36
37 **Action Taken:** After additional discussion, Dr. Rose moved to impose the following penalty:

- 38 ▪ \$1000.00 Fine

39 Dr. Burns seconded the motion, which passed unanimously.

40
41 **Additional Action Taken:** Dr. Rose then moved to assess costs in the amount of \$801.93. Dr. St.
42 Louis seconded the motion, which passed unanimously.

43
44 **Tab 23 - Scott D. Yagger, DO – Informal Hearing – DOH Case #2008-04612**

45 Allegations of Complaint: 459.015(1)(o)- medical records violation

46
47 Dr. Yagger was present and represented by Michael D'Lugo, Esquire. Ms. Palladino was recused due
48 to her participation on the probable cause panel. Dr. McCann recused himself from participation in the
49 case due to a prior working relationship with the respondent. Dr. Rose noted for the record that he also
50 had a prior working relationship with the respondent but felt that he could make an unbiased decision in
51 the case. Mr. Holtzendorf represented the department and presented the case to the Board.

1 Mr. Holtzendorf advised the Board that the respondent recently submitted correspondence to withdraw
2 his request for an informal hearing and wished to have a formal hearing before DOAH. The
3 Department withdrew their motion for an informal hearing for the record.
4

5 **Action Taken:** Dr. Burns moved to refer the case to DOAH. Dr. Rose seconded the motion, which
6 passed unanimously.
7

8 **Tab 24 - Kent Thomas Brautigam, DO – Settlement Agreement – DOH Case #2008-06019**

9 Allegations of Complaint: 459.015(1)(x)- standard of care
10

11 Dr. Brautigam was present without counsel. Ms. Palladino was recused due to her participation on the
12 probable cause panel. Mr. Holtzendorf represented the department and presented the case to the
13 Board. Ms. McNulty reminded the Board that the settlement agreement required the Board to set the
14 specific areas of continuing education to be completed.
15

16 **Action Taken:** After discussion, Dr. Rose moved to require the continuing education to be in the
17 following areas: 2 hours in risk management, 2 hours in medical record keeping and 2 hours in
18 prevention of medical errors. Dr. Burns seconded the motion, which passed unanimously.
19

20 **Additional Action Taken:** After additional discussion, grant the Chair authority to approve the lecture
21 as required in the proposed settlement agreement. Dr. Burns seconded the motion, which passed
22 unanimously.
23

24 **Additional Action Taken:** Dr. Burns moved to adopt the settlement agreement as presented:

- 25 ▪ Letter of Concern
- 26 ▪ \$2500.00 Fine
- 27 ▪ \$3191.81 in Costs
- 28 ▪ Continuing Education- 6 hours in areas to be determined by the Board (hours specified above)
- 29 ▪ Lecture- on the topic of proper practice management and follow up regarding diagnostic testing
30 to be completed within 6 months

31 Dr. St Louis seconded the motion, which passed unanimously.
32

33 **Tab 25 - Jose N. Hernandez, DO – Settlement Agreement – DOH Case #2005-50030**

34 Allegations of Complaint: 459.015(1)(o)- medical records violation; 4590015(1)(t)- prescribing – other
35 than in the course of practice; 459.015(1)(x)- standard of care
36

37 Dr. Hernandez was present represented by Mark Dresnick, Esquire. Mr. Holtzendorf represented the
38 department and presented the case to the Board.
39

40 **Action Taken:** A motion was made and seconded to adopt the settlement agreement as presented.
41 The motion and second was later withdrawn. Dr. Rose then moved to reject the settlement agreement
42 as presented. Dr. Burns seconded the motion, which failed with Dr. Escher, Dr. Burns, Dr. McCann
43 and Mr. Najjar opposed.
44

45 There was discussion regarding the actual costs associated in the case and the not to exceed amount
46 that was agreed upon in the settlement agreement. During discussion, the respondent agreed to pay
47 the actual costs to date in the case.
48

49 **Additional Action Taken:** After much discussion, Dr. McCann moved to adopt the settlement
50 agreement as presented with the amendment of actual costs being assessed. The terms of the
51 agreement are:

- 52 ▪ Reprimand
- 53 ▪ \$10,000.00 Fine
- 54 ▪ \$11,804.55 in costs (actual amount)

- 1 ▪ Community service- 100 hours over 2 years
- 2 ▪ Probation- 2 years to include a monitor, 25% chart review and quarterly reports
- 3 ▪ Completion of the NSU records course or other equivalent course

4 Dr. Burns seconded the motion, which passed with Dr. Rose, Dr. St. Louis and Ms. Palladino opposed.

5
6 **Tab 26 - Peter A. Shriver, DO – Settlement Agreement – DOH Case #2007-16113**

7 Allegations of Complaint: 459.015(1)(x)- standard of care

8
9 Dr. Shriver was present and represented by Troy Crotts, Esquire. Mr. Najjar was recused due to his
10 participation on the probable cause panel. Mr. Holtzendorf represented the department and presented
11 the case to the Board. Ms. Robinson noted for the record that the patient in the case had called her
12 several times the day of the meeting and indicated that she wanted to be present to tell her story but
13 was unable to make arrangements to do so.

14
15 **Action Taken:** After discussion, Dr. Rose moved to adopt the settlement agreement as presented:

- 16 ▪ Letter of Concern
- 17 ▪ \$5000.00 Fine
- 18 ▪ \$3300.00 in costs
- 19 ▪ 5 hours of continuing education in the areas of cornea and external eye disease

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

21
22 **Dr. Escher passed the gavel to Dr. Rose to chair the next case due to his being recused.**

23
24 **Tab 27 - Daniel T. Fasciano, DO – Hearing on Determination of Waiver – DOH Case #2008-17659**

25 Allegations of Complaint: Tabled until November Meeting

26
27 The respondent was not present or represented by counsel. Dr. Escher was recused due to his
28 participation on the probable cause panel. Mr. Holtzendorf represented the Department and presented
29 the case to the Board.

30
31 Dr. Burns moved to accept the materials and investigative report as presented into the record. Dr. St.
32 Louis seconded the motion, which passed unanimously. Dr. Burns moved to find that he respondent
33 was properly served and waived his rights to a hearing. Ms. Palladino seconded the motion, which
34 passed unanimously. Dr. Burns then moved to adopt the findings of fact and conclusions of law as
35 presented in the administrative complaint and to find that they constituted a violation of section 459,
36 F.S. Dr. St. Louis seconded the motion, which passed unanimously.

37
38 The Department recommended that the case be dismissed due to the respondent's license currently
39 being suspended based on a prior case. He also noted the respondent's previous impairment issues.

40
41 **Action Taken:** After much discussion, Dr. Burns moved to table the case until the November meeting
42 to allow staff to research the length of time for current suspension and implications of dismissing the
43 case and that the license should remain suspended until the November meeting. Dr. McCann seconded
44 the motion, which passed unanimously.

45
46 **No Tab – Prosecutor's Report**

47 Mr. Holtzendorf provided the Board the quarterly report. He noted an increase in cases. Dr. Rose
48 asked that the Department evaluate the increase for possible trends in certain types of violations so
49 that the Board could increase their educational efforts in those areas if appropriate.

50
51 **Break for 5 minutes**

52
53 **LICENSURE REACTIVATIONS – Required Appearances**

1 **Tab 25 - Jeffrey Helfand, DO**

2 Dr. Helfand was present without counsel. Dr. Helfand was required to appear before the Board for
3 reactivation of his license pursuant to 64B15-12.007, F.A.C. Ms. McNulty advised the Board that Dr.
4 Helfand's specific circumstances did not necessarily warrant an appearance before the Board and that
5 they should approve his reactivation request.

6
7 **Action Taken:** After much discussion, Ms. Palladino moved to approve the reactivation of the license.
8 Dr. Rose seconded the motion, which passed with Dr. Escher, Dr. McCann and Dr. St. Louis opposed.

9
10 **No Tab – Discussion of Rule 64B15-12.007, F.A.C.**

11 Dr. Rose asked that the reactivation rule be brought back for discussion at the next meeting.

12
13 **PROBATION AND COMPLIANCE REVIEW - continued**

14
15 **Tab 29 - Gary Brandwein, DO- Required Appearance with Monitor**

16 Dr. Brandwein was present with his monitor Dr. Speiman.

17
18 **Action Taken:** After discussion, Dr. Rose moved to approve the appearance and report. Dr. Burns
19 seconded the motion, which passed unanimously. Dr. Rose then moved to approve the monitor. Dr.
20 Burns seconded the motion, which passed unanimously.

21
22 **Tab 31 - Richard A. Hill, DO – Required Appearance with Monitor**

23 Dr. Hill was present and represented by Edwin Bayo, Esquire. His monitor Dr. Fields and Dr.
24 Rivenbark from PRN were also present. Dr. McCann recused himself from discussion in this matter.
25 Mr. Bayo advised the Board that Dr. Hill's current practice plans would not include the treatment of
26 female patients and that he would procure a female chaperone in the future should his plans change.

27
28 **Action Taken:** After discussion, Dr. Rose moved to approve the appearance and the monitor. Ms.
29 Palladino seconded the motion, which passed with Dr. Escher and Dr. St. Louis opposed.

30
31 **PHYSICIAN IN TRAINING LICENSURE APPEARANCES**

32
33 **Tab 45 - Louis J. Riccardo, DO**

34 Dr. Riccardo was not present. Mr. Bayo advised the Board that he was recently retained to represent
35 Dr. Riccardo. Dr. Riccardo was required to appear before the Board to discuss his criminal charges.
36 Mr. Bayo indicated that Dr. Riccardo wished to withdraw his application for a training license at this
37 time.

38
39 **Action Taken:** Dr. McCann moved to accept the withdrawal of the application. Dr. Rose seconded the
40 motion, which passed unanimously.

41
42 **PROBATION AND COMPLIANCE REVIEW - continued**

43
44 **Tab 33 - Barry Kaplan, DO- Request for an Extension of Time to Pay Fine and Modification of**
45 **Practice Plan**

46 Dr. Kaplan was present without counsel. His monitor, Dr. Chois was present. Dr. Kaplan withdrew his
47 request for another payment extension and request to lift probation for the record. There was much
48 discussion concerning the additional procedures that Dr. Kaplan wished to be permitted to practice.

49
50 **Action Taken:** After much discussion, Dr. McCann moved to reject the request for modification of
51 practice plan for any procedures involving an incision until he was able to demonstrate that he could
52 perform the procedures appropriately. Dr. Rose seconded the motion, which passed unanimously.

1 **Additional Action Taken:** After additional discussion, Dr. McCann moved to allow Dr. Kaplan to
2 perform 2 punch biopsies and 2 liposuction procedures (up to 4000cc supernatant fat) in each of the
3 following areas under the direct supervision of his monitor and appear at the next available meeting
4 with a full report written by the monitor:

- 5 ▪ Abdomen
- 6 ▪ Inner thigh
- 7 ▪ Outer thigh
- 8 ▪ Upper arms

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

10
11 **Tab 34 - Antonio Ramirez, DO – Petition for Modification of Final Order Re: CME Course**

12 Dr. Ramirez was present and represented by Richard Schwamm, Esquire.

13
14 **Action Taken:** After much discussion, Dr. Rose moved to amend the final order to include:

- 15 ▪ In lieu of the continuing education course, Dr. Ramirez could write a an article on the subject to
16 be published in the Journal of the American Osteopathic Association, based on scientific
17 research, grant an extension of 6 months to complete the report and an appearance at the
18 February 2010 meeting to present the report to the Board.

19 Dr. Burns seconded the motion, which passed unanimously.

20
21 **Additional Action Taken:** Dr. Rose amended his motion to include the completion of grand rounds
22 with a written report upon completion. Dr. Burns seconded the amendment, which passed
23 unanimously.

24
25 **Tab 35 - Saleem Sharar, PA – Required Appearance with Monitor**

26 Mr. Sharar was present with his monitor Dr. Shalub.

27
28 **Action Taken:** After discussion, Dr. Rose moved to approve the monitor. Dr. St. Louis seconded the
29 motion, which passed unanimously.

30
31 **Break for lunch at 12:25**

32
33 **Tab 36 - James D. Zebranek, DO- Appearance for Reinstatement of Licensure**

34 Dr. Zebranek was present without counsel. His father was present with him and provided comments to
35 the Board. Dr. Rivenbark from PRN was also present. Dr. Rivenbark advised the Board that PRN was
36 not able to advocate for practice at this time.

37
38 **Action Taken:** After discussion, Dr. McCann moved to reject the request for reinstatement of
39 licensure. Dr. Rose seconded the motion, which passed unanimously.

40
41 **LICENSURE APPEARANCES**

42
43 **Tab 38 - Pierre Angier, DO**

44 Dr. Angier was present without counsel. Dr. Angier was required to appear before the Board to discuss
45 affirmative answers to questions 50 and 51 on the application.

46
47 **Action Taken:** After the Board interviewed the applicant, Dr. Rose moved to approve the application
48 for licensure. Dr. St. Louis seconded the motion, which passed unanimously.

49
50 **Tab 39 - Raul Barroso, DO**

51 Dr. Barroso was present without counsel. Dr. Rivenbark from PRN was also present. Dr. Barroso was
52 required to appear before the Board to discuss his affirmative answer to questions 48, 49, 50, 52 and
53 53 on the application and his off-sequence training.

1 **Action Taken:** After the Board interviewed the applicant, Dr. St. Louis moved to approve the
2 application for licensure. Dr. Rose seconded the motion, which passed unanimously.

3
4 **Tab 40 - Robert S. Bloome, DO**

5 Dr. Bloome was present without counsel. Dr. Bloome was required to appear before the Board to
6 discuss his criminal charges.

7
8 **Action Taken:** After the Board interviewed the applicant, Dr. Rose moved to approve the application
9 for licensure. Ms. Palladino seconded the motion, which passed unanimously.

10
11 **Tab 41 - Robert R. Brightwell, DO**

12 Dr. Brightwell was present without counsel. Dr. Brightwell was required to appear before the Board to
13 discuss his affirmative answer to questions 39, 40, 42, 47 and 52, criminal charges, off-sequence
14 training, staff privilege revocation and discipline in another state.

15
16 **Action Taken:** After the Board interviewed the applicant, Dr. Burns moved to approve the application
17 for licensure. Dr. St. Louis seconded the motion, which passed unanimously.

18
19 **Tab 42 - Jeffrey A. Cohen, DO**

20 Dr. Cohen was present without counsel. Dr. Cohen was required to appear before the Board to discuss
21 his pending malpractice case and certification exam.

22
23 **Action Taken:** After the Board interviewed the applicant, Ms. Palladino moved to approve the
24 application for licensure. Dr. St. Louis seconded the motion, which passed unanimously.

25
26 **Tab 43 - Ryan Herbert, DO**

27 Dr. Herbert was present without counsel. Dr. Herbert was required to appear before the Board to
28 discuss his off-sequence training and probation.

29
30 **Action Taken:** After the Board interviewed the applicant, Dr. St. Louis moved to approve the
31 application for licensure. Dr. Burns seconded the motion, which passed unanimously.

32
33 **Tab 44 - Thomas J. Singer, DO**

34 Dr. Singer was present without counsel. Dr. Singer was required to appear before the Board to discuss
35 his criminal charges.

36
37 **Action Taken:** After the Board interviewed the applicant, Dr. McCann moved to approve the
38 application for licensure. Dr. St. Louis seconded the motion, which passed unanimously.

39
40 **Tab 53 - Lori Beth Schmerling, DO**

41 Dr. Schmerling was present without counsel. Dr. Schmerling was required to appear before the Board
42 to discuss her unfavorable training evaluation. During the course of the interview, Dr. Schmerling
43 indicated that she was recently placed on probation. She provided the Board with a letter she received
44 from the program regarding the probation. Staff indicated that this information was not notated on the
45 application and that they would typically obtain additional information directly from the program
46 regarding any action. She was advised that the Board may not be able to make a favorable decision on
47 her application without appropriate documentation explaining the new circumstances and that she
48 should consider waiving her 90 day rights and coming back at the November meeting. She was also
49 advised that she may wish to voluntarily submit to an evaluation by the PRN prior to the next meeting.

50
51 Dr. Schmerling waived her 90 day rights for the record.

1 **Action Taken:** After much discussion, Dr. McCann moved to accept the waiver and table the
2 application until the November meeting. Ms. Palladino seconded the motion, which passed
3 unanimously.
4

5 **PHYSICIAN IN TRAINING LICENSURE APPEARANCES - continued**
6

7 **Tab 54 - Song Phuong Diep Le, DO**

8 Dr. Le was present without counsel. Dr. Le was required to appear before the Board to discuss his
9 extended time in medical school and criminal charges.
10

11 **Action Taken:** After the Board interviewed the applicant, Dr. Burns moved to approve the application
12 for a training license. Dr. St. Louis seconded the motion, which passed unanimously.
13

14 **LIMITED LICENSE APPLICATION REVIEW**
15

16 **Tab 37 - Darryl Aarons, DO**

17 Dr. Aarons was not present or represented by counsel. Dr. Aarons was required to appear before the
18 Board to discuss his application for a limited license.
19

20 **Action Taken:** Dr. Rose moved to require an appearance before the Board at their next meeting
21 pursuant to section 456.013, F.S. Dr. Burns seconded the motion, which passed unanimously.
22

23 **PROBATION AND COMPLIANCE REVIEW - continued**
24

25 **Tab 30 – Joseph Deluca, DO- Required Appearance for Approval of Monitor**

26 Dr. Deluca was not present or represented by counsel. The Board took no action on this item.
27

28 **There being no further business the meeting adjourned at 3:15pm.**