

**WEST VIRGINIA BOARD OF OSTEOPATHY**  
**Board Meeting Minutes**  
**May 13, 2010**

The West Virginia Board of Osteopathy met in the Capitol Street Board Office in Charleston, West Virginia at 10:00 AM and moved immediately into Executive Session (**Gilligan/Blatt**). Executive Session was called to deal with an issue early in the open session to accommodate the press who were present regarding one complaint. Following the review, the Board moved back into open session. (**Whitler/Blatt**)

The meeting was called to order at 10:20 AM by Ernest Miller, D.O., President.

**Members Participating:**

Ernest Miller, D.O. – President  
Robert Whitler – Vice President  
Thomas Gilligan, D.O. – Secretary  
Arthur Rubin, D.O. – Physician Member  
Elizabeth Blatt, Ph.D. - Lay Member

**Staff Present:**

Diana Shepard – Executive Director  
Doren Burrell, Esq. – Attorney

**Complaint #2010-05:** A suspension of license was issued on April 17, 2010. Hearing was held on May 4-5, 2010. After reviewing the Hearing Examiner's recommendations the Board moved to affirm the previous suspension and to accept the Hearing Examiner's recommendation for continuation of suspension. (**Gilligan/Whitler**)

Amendments to the Hearing Examiner's report were recommended to correct grammatical errors and one reference to the testimony of Dr. Dawson which should have been noted as Dr. Tanner's testimony. The Board approved the amendments as noted. (**Rubin/Blatt**)

**Minutes:** The minutes of the April 6<sup>th</sup> and April 26<sup>th</sup> Conference Call meetings were approved as presented. (**Whitler/Rubin**)

**Reports:** Licensed Physicians as of May 9, 2010:

1028 – Total Physicians:

775 - In state

253 - Out of state

8 – Newly Licensed Physicians

49 – 1<sup>st</sup> Year Training Certificates (from 7/1/09 thru 6/30/10):

18 – Interns at CAMC

3 – Interns at GVMC

7 – Interns at OVMC

3 – Interns at UHC

4 – Interns at WVU

6 – Interns at Camden-Clark

1 – Cabell Huntington

7 – Bluefield Regional MC

155 – Physician Assistants

85 – Prescriptive Writing Privileges

23 - DOs supervise 2 PAs

15 - DOs supervise 3 PAs

62 – Corporations

67 – PLLCs

Balance in State Depository Account as of March 31, 2010 - \$259,665.89  
Beginning Balance as of July 1, 2009 - \$452,656.58  
Total Receipts as of March 31, 2010 - \$ 58,468.93  
Total Disbursements as of March 31, 2010 - \$251,459.62

The purchasing card sheets and documents from January through March 2010 were presented. The monthly line item statements for January through March 2010 were also presented. All reports have been reviewed by the Board's CFO, Mr. Whitler.

Motion passed to approve statistical and financial reports. *(Rubin/Blatt)*

**Attendees:**

**Robert Summers, D.O.** – Addressed the Board regarding Ohio revocation.

**Brad Hall, M.D. and Edward Eskew, D.O.** - Presenting quarterly report on WVMPPH.

**FSMB Presentation:** Representatives from the Federation of State Medical Boards attended the May Board meeting and gave a presentation of the FSMB's ongoing efforts to support state medical licensing boards. Presenting were James Andriole, D.O., Sandra Waters and David Johnson.

**OLD BUSINESS**

**Robert Summers, D.O.** - The Board received clarification from the Ohio Board of Medicine with their definition of "revocation" which still allows for a physician to apply for a licensure in Ohio. Only a "permanent revocation" would make an applicant non-eligible for licensure. Dr. Summers provided an open discussion of his issues and asked to be re-considered for licensure. If Dr. Summers could obtain a license in Ohio he would be considered for licensure in West Virginia. The Board strongly urged him to get involved in a PHP.

**Jeffrey Kent Bates, D.O.:** Receiving monthly reports from WV-Page. Recently received notification regarding relapse and breach of consent agreement. An order for Summary Suspension of License was issued on April 27, 2010. Dr. Bates has requested additional time for hearing while he acquires legal representation.

**Robert Crake, D.O.:** Need approval of consent agreement. Dr. Crake's attorney has not been able to contact him for his signature.

**John King, D.O. (AKA Christopher Wallace Martin, D.O.):** Signed Order from New York that he shall not practice medicine there effective February 4, 2010; License Revoked with Order dated March 25, 2010. License has also been Revoked in Pennsylvania as of Order signed November 30, 2009.

**Robert McCleary, D.O.:** Receiving monthly reports on time – in compliance.

**John F. Rice, PA-C:** Received WV-PAGE report for January 2010 – in compliance. Mr. Rice's participation with WV-PAGE has been cancelled and he is now being monitored by WVMPPH. Has Consent Order with WV Board of Medicine.

**Steven Smith, D.O.:** Received quarterly report – in compliance. Received request from doctor's attorney to change treatment program to help doctor financially and personally. The requested treatment program changes received from Dr. Smith's attorney were not developed through an ongoing monitored PHP program and were not accepted by the Board. *(Rubin/Whitler)*

**Rules:** The proposed Legislative Rule changes for the three series have been approved and became effective April 27, 2010. The final reviews have been completed and filed with the Secretary of State's office.

Rules revisions for 2011 are due July 30, 2010. The Board will be revising Series 2, Physician Assistant rules due to Code changes during the 2010 legislative session. The issue of pharmacology requirements should be clarified in the Rule. The Board moved to conduct benchmarking with the National Physician Assistant Association while considering an 8 hour pharmacology requirement, notify the WV Board of Medicine of our endeavors and review our current formulary. The Board also discussed legislative consideration for a PA on the WV Board of Osteopathy. **(Rubin/Blatt)**

### **NEW BUSINESS**

**David Cercone, D.O.:** Dr. Cercone is applying for reinstatement of license that had expired June 30, 1991. He has been practicing in Pennsylvania and Ohio and is coming back to West Virginia. The Board approved Dr. Cercone's license reinstatement and did not feel an interview would be necessary. **(Gilligan/Whitler)**

**Cathy Comerci, D.O.:** Reinstatement of license – has Virginia action which required a complete post licensure assessment exam which Dr. Comerci completed. Dr. Comerci's reinstatement of her WV license was approved. **(Blatt/Rubin)**

**Erin Mullins-Frasher, D.O.:** The Board was notified by Wirt County Health Services Association that Dr. Frasher will be providing onsite medication dispensing at Ripley Family Medicine located in Ripley, West Virginia. The dispensing and charging protocol was provided.

**Donald Sizemore, D.O.:** Has Consent Agreement with Alaska Medical Board which included a \$1,000 fine for not reporting an academic probation on his license application. Upon review of his WV application dated, 5/4/04, Dr. Sizemore did not report his probation to the WV Board and no negative report was received from the WV School of Osteopathic Medicine. His WV license expires June 30, 2010. The Board moved for a Consent Order to mirror the Alaska Board order for a \$1,000 fine for not reporting the academic probation. **(Whitler/Blatt)**

**Ava Stanczak, D.O.:** Submitted license application with additional 40 CME hours, but only took FLEX exam. Has applied for a position at WVSOM, but if not eligible for licensure would like to withdraw her application and request a refund of her application fee. The Board moved to allow Dr. Stanczak to withdraw her application but the application fee is non-refundable.

**FSMB/AIM National Meetings:** Dr. Miller and Ms. Shepard attended the annual meeting of the FSMB in Chicago in April. They reported on the educational sessions and Dr. Miller was elected to the Nominations Committee for a two year term.

A summary of the 2009 Board actions as reported to FSMB was presented for review.

**Continuing Education Events:** Mr. Burrell has requested to attend the 6<sup>th</sup> National Harold Rogers PDMP(Prescription Drug Monitoring) Meeting in Washington, D.C., June 28-30<sup>th</sup>. There is no registration fee, only travel and expenses. Mr. Kidd, Board Investigator, has requested to attend the WV Regional meeting of the National Association of Drug Diversion Investigators on June 17, 2010. Registration fee is \$50 and the meeting will be held in Charleston. The Board approved both requests. **(Rubin/Blatt)**

**WV-Page:** The Board has requested the protocol for random drug testing from WV-Page in light of recent negative reporting. The Board has also become aware of some misrepresentation by leadership within WV-Page concerning their relationship. With the current Medical Director facing sentencing for pleading guilty to a felony, the Board

moved to send a letter to WV-Page and to any known Osteopathic licensees within their program acknowledging that the WV Board of Osteopathy does not and has never recognized WV-Page as a designated PHP. (Gilligan/Rubin)

**Miscellaneous Requests:** The following requests for “temporary” licensure were received:

- 1) DO licensed in Georgia to work at a summer camp in WV for one week.
- 2) Several DO’s licensed in Virginia to work at the Greenbrier Golf Classic.
- 3) Several DO’s doing a fellowship in Virginia to help with classroom teaching at Concord University and act as “team helpers” with athletes at the school.

Temporary licensure was not deemed necessary in any of the requests. However, request #1 was advised only to provide emergency first aid at the summer camp. Request #2 was denied as there are physicians already licensed within the state to provide coverage at the Golf Classic and Request #3 was approved for teaching only. No care falling within or amounting to the practice of medicine should be provided for the athletic department.

The Board received an inquiry from an osteopathic physician in Peterstown regarding PA coverage for patients in the boundary state of Virginia. The Board advised the doctor to inquire with Virginia Board.

**Prescribing Guidelines and Telemedicine:** The Board received a request from a Telemedicine/ Telehealth company asking for the Board’s position on the requirements for prescribing via telemedicine technology. The Board’s response was for each prescribing physician to be licensed through the WV Board of Osteopathy.

**Updates from Board Office:**

- 1) All renewal applications have been mailed along with a copy of the May 2010 newsletter.
- 2) The 2011 budget was submitted prior to the May 3, 2010 deadline.
- 3) The position for temporary assistance in the Board Office during the license renewal period has been filled by Linda Cottrill.
- 4) A Board policy will be established regarding fees for licensee lists from external requests.
- 5) A draft for an “Interview Summary Sign Off Sheet” was presented for review. This form will be completed and signed by the Board member following the completion of each interview, providing a paper trail of the interview process.

**PLLC Termination:** The Board has attempted several communications with Dr. Thomas Lauderman concerning his PLLC, “Doctors Quick Care.” We received notification that Doctors Quick Care was leased to Associated Specialist, Inc., however, the Risk Manager for Associated Specialist informed the Board that they would not insure Doctors Quick Care as a part of Associated Specialist, Inc. The Board moved to terminate the PLLC known as “Doctors Quick Care.” (Whitler/Blatt)

**WVMPHP:** The Board’s 2011 budget included \$25,000 for the WVMPHP. This will more than accommodate the 400+ licensees who will be renewing their licenses during this renewal period. The payment will be made during the second quarter 2011 and will be based on the actual number of license renewals in 2010.

**Report of the Complaint Committee:**

#2005-07; #2008-16; #2008-25; #2009-17; #2009-23; #2009-25 & 26;  
#2009-34; #2009-37; #2009-38; #2009-39; #2009-40; #2010-01; #2010-02;  
#2010-03; #2010-04

#2008-22 recommended for reconsideration. Also possible additional complaints initiated by Board.

A motion was made and passed at 2:45 P.M. to move into Executive Session, with all Board members, the Board's Executive Director and Attorney, to continue discussion of ongoing complaints. **(Whitler/Rubin)**

Meeting continued at 3:30 P.M. following Executive Session. Motion passed to dismiss **Complaints 2008-25 and 2009-17. (Rubin/Blatt)**

**Complaint 2005-07:** Final disposition cannot be made on this case until copies of the psychiatric records from the 2005 admission to William R. Sharpe, Jr. Hospital are received. Mr. Burrell explained the legal process for obtaining psychiatric records from the state facility.

**Complaint 2009-23:** Board determined Probable Cause and ordered a summary suspension of license with right to an immediate hearing. **(Whitler/Rubin)**

**Complaint 2008-22:** Board received additional information following an order for dismissal on October 8, 2008. The Board moved to open the complaint for re-consideration based on new information. **(Gilligan/Whitler)**

**Complaint 2010-06:** Reports received concerning breach of consent order, prescribing practices, personal substance abuse and improper discharge of a patient. Board moved to open a new complaint. **(Rubin/Blatt)**

**Medical Malpractice Reports** – Two cases were presented for review and discussion. No action required.

Motion passed to adjourn the meeting at 3:45 P.M with the next meeting to be held on July 15, 2010 at the Charleston Office. **(Whitler/Blatt)**

Respectively Submitted,



Thomas Gilligan, D.O.  
Secretary