

**WEST VIRGINIA BOARD OF OSTEOPATHY**  
**Board Meeting Minutes**  
**February 4, 2011**

The West Virginia Board of Osteopathy met on Friday, February 4, 2011, in Conference Room 225 at the Embassy Suites in Charleston, West Virginia. The meeting was called to order at 1:10 PM by President, Ernest Miller, D.O. with the Business Session beginning at 2:30 PM following presentations by guests attending the open session.

**Members Present:**

Ernie Miller, D.O. – President  
Robert Whitley – Vice President  
Arthur Rubin, D.O. – Secretary

Joseph Schreiber, D.O. and Elizabeth Blatt, Ph.D. asked to be excused.

**Staff Members Present:**

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

**Minutes:**

The minutes of the November 5, 2010 regular meeting and the December 23, 2010 conference call were presented for review. Minutes were approved as presented.  
**(Whitley/Rubin)**

**Reports:** Licensed Physicians as of January 31, 2011:

1041 – Total Physicians:  
787 - In state  
254 - Out of state

9 – Newly Licensed Physicians

70 – 1<sup>st</sup> Year Educational Permits (from 7/1/10 thru 6/30/11):

12 – PGY 1 at Bluefield Regional  
4 – PGY 1 at Cabell Huntington  
6 – PGY 1 at Camden Clark  
20 – PGY 1 at CAMC  
4 – PGY 1 at Greenbrier Valley  
10 – PGY 1 at Ohio Valley Medical Center (1 added as of 1/18/11)  
4 – PGY 1 at United Hospital Center  
10 – PGY 1 at WVU

24 - Educational Permit Renewals:

- 4 – Bluefield Regional
- 2 – Cabell Huntington (Both with 3 month break in renewal date)
- 3 – Camden Clark
- 1 – CAMC
- 2 – Greenbrier Valley
- 7 - Ohio Valley Medical Center
- 5 – WVU

86 - Licensed PGY 2 or Greater:

- 5 – Bluefield Regional
- 3 – Cabell Huntington
- 4 – Camden Clark
- 38 – CAMC
- 3 – Greenbrier Valley
- 14 – Ohio Valley Medical Center
- 4 – United Hospital Center
- 15 – WVU

181 – Physician Assistants

- 98 – Prescriptive Writing Privileges
- 36 - DOs supervise 2 PAs
- 18 - DOs supervise 3 PAs

61 – Corporations

71 – PLLCs

Balance in State Depository Account as of December 31, 2010 - \$232,583.88

Beginning Balance as of July 1, 2010 - \$368,686.32

Total Receipts as of December 31, 2010 - \$56,026.25

Total Disbursements as of December 31, 2010 - \$192,128.69

Purchasing Card Report – Purchases for October, November, December 2010

Monthly Line Item Statements – October, November, December 2010

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

**Attendees:**

- Steven Smith, D.O.** - Requesting release from probation in February 2011
- Suzanne Williams, D.O.** - Personal response to Complaint 2005-07
- David G. Bowyer, R.Ph.** - Speaking to HB 2513, Pharmacy Collaboration Agreements
- Rob Aliff, Esquire** - Representing Practitioner Re: Complaint Nos. 2007-32; 2010-21; 2010-36

**OLD BUSINESS:**

- Vinson M. DiSanto, D.O.** - License reactivation DENIAL in North Carolina. WV Board of Osteopathy waiting for signed Consent Order with REPRIMAND and FINE.
- Sheila Faye Hockman, D.O.** - CONDITIONS placed for future reactivation of South Carolina license.
- Jerome David Homish, D.O.** - Ohio license REINSTATED on 5 Year PROBATION.
- John King, D.O.** - (AKA Christopher Wallace Martin, D.O.) Alabama license reinstatement DENIED.
- Okechukwu Ada Nwodim, D.O.** - Hearing Examiner's Recommendation Pending.
- Terry McLaughlin, PA-C** - Requesting additional privileges under the supervision of Patricia Browning, D.O. Motion was made for approval of Punch/Excisional Biopsies, Joint and Trigger Point Injections and Cryosurgery of Skin Lesions. **(Rubin/Whitler)**

**Monthly/Quarterly Practitioner Reports:**

- Steven Smith, D. O.** - Remains in compliance with Board Order.
- Robert McCleary, D. O.** - Remains in compliance with Board Order.
- John F. Rice, PA-C** - Mr. Rice is not currently licensed with the WV Board of Osteopathy, however WVMPHP provides an update on his compliance as a former licensee.
- Joseph Freeman, D. O.** - Reports have been forwarded to the WVMPHP from the Ohio PHP. However, Dr. Freeman's order required quarterly reports to be submitted to the WV Board of Osteopathy. The Board Attorney has forwarded a letter to Dr. Freeman reminding him of the requirement.

**WVMPHP:**

The 2010 Annual Statistical Report was provided by Dr. Brad Hall, Medical Director of the WVMPHP.

**Corporation Licenses:**

A letter of termination has been received from Jeanette Jackson, D.O. regarding **J2 Osteopathic Medicine, Inc.** The Secretary of State has also received notice of termination. The Corporation will be terminated as requested. **(Rubin/Whitler)**

A hearing was held on December 16, 2010, regarding A.G.S., Inc. There was no representative present for **A.G.S., Inc.** and the Hearing Examiner's report stated that the Board had performed due diligence in attempting to contact the Officers of the Corporation with no response. Therefore, she recommended termination of A.G.S., Inc. Motion was made to terminate the A.G.S. Corporation. **(Rubin/Whitler)**

A hearing was held on December 16, 2010, regarding **Central WV Dermatology Associates** with no representative from the Corporation appearing. The Hearing Examiner's Findings of Fact stated that the Board had performed due diligence in attempting to contact the Officers of the Corporation with no response. A motion was made to terminate the Corporation license for Central WV Dermatology. **(Rubin/Whitler)**

**Legislative Update:**

- a) **24 CSR 02 (PA Rule)** Currently in Judicial Committee Review
- b) **24 CSR 05 (Fee Rule)** Currently in Judicial Committee Review
- c) Legislative Auditors Looking at Requiring **Criminal Background Checks**
- d) Chapter 30, Article 41 "**Volunteer for Non-Profit Youth Organizations Exemption from Licensing, Certification and Permitting Act**"

The Board requested information from FSMB and surrounding states, i.e., Virginia, who may have legislative experience in the area of approving volunteer medical professionals with or without direct supervision of a fully licensed practitioner.

e) Proposed Changes to **Collaborative Pharmacy Legislation, HB2513**  
Draft #6 of the bill was reviewed with no major changes recommended. The bill is to be introduced next week.

f) **HB 2892 – Revision to Controlled Substance Monitoring**  
Currently State Police has access to the Pharmacy Registry and the Sheriff's are requesting access. The Board requests the word "designee" be removed and only the current, elected Sheriff is given access to the Registry. The Executive Director will keep the Board apprised of any changes to the bill as amendments are expected.

g) **24 CSR 01 Revision for Phentermine Violation?**

Clean-up is needed for the use and classification of Phentermine as a "Controlled Substance". In order to submit for the next legislative session, the rule would need to be revised and approved at the next Board meeting. Motion was made to present a revision at the next Board meeting. **(Rubin/Whitler)**

**NEW BUSINESS:**

**FSMB Annual Meeting:**

Meeting is scheduled for April 28-30 in Seattle, Washington. FSMB is requesting the names of those persons who will be representing the Board at the Annual Meeting. Two scholarships are available.

**2011 Legislative Audit:**

The WV Board of Osteopathy is one of the three Boards to be audited in 2011. No written confirmation has been received, to date. It was announced at the Annual State Licensing Boards Seminar in December.

**New Board Policies:**

Three new Board Policies were presented for review and approval:

- 1) Record Retention Policy
- 2) Confidentiality Policy
- 3) Practitioner Roster Requests

The Board recommended that all members sign an annual individual Confidentiality Statement, which will be added to the Policy. A request was also made to add a flowchart depicting scenarios for when information should/should not be released. A motion was made to approve all three policies as presented with recommended additions. **(Rubin/Whitler)**

**Dispensing Requests:**

Two requests were received from **Dr. Kimberly Jones-Fouche** and **Dr. Jana Peters**. Dr. Jones-Fouche is working at the Stevens/McDowell Correctional Facility and dispensing notification to the Board is not necessary. A motion was made and approved for dispensing for Jana Peters, D.O. **(Rubin/Whitler)**

**Frank J. Kadel, D.O.:**

The Board received notification from Dr. Kadel that he had resigned his privileges at LewisGale Hospital Alleghany in Low Moor, Virginia while under investigation. The Board will monitor this to see if there are any disciplinary actions forthcoming.

**Willie Lee Posey, II, D.O.:**

Board received notification from the FSMB that Dr. Posey has been excluded from the Medicaid/Medicare Programs by DHHS. Dr. Posey has not been licensed with the WV Board of Osteopathy since June 2000.

**2010 CME Audit:**

Results: 75 Physicians Randomly Audited  
37 Letters Mailed for Additional Documentation  
75 Physicians with 100% Compliance

Report was accepted and verified by the Board. **(Rubin/Whitler)**

A motion was made and passed at 3:40 PM to move into Executive Session, with all Board members, the Board's Executive Director and Attorney, to continue discussion of ongoing complaints. **(Whitler/Rubin)**

The public meeting resumed at 4:35 PM following Executive Session. **(Whitler/Rubin)**

**Reports of the Complaint Committee:**

The report from the January 25, 2011 meeting was approved as presented. **(Blatt/Rubin)**

Following the report from the Complaint Committee, a motion passed to dismiss the following complaints: **2007-28; 2009-43; 2010-23; 2010-33; 2010-26; 2011-01; 2010-30; 2010-31; 2010-32; 2010-35** (with modified Findings of Fact); **2010-11 and 2010-17** (without prejudice). **(Whitler/Rubin)**

**Complaint #2007-20:** Motion to dismiss. **(Rubin/Whitler)**

**Complaint #2007-32:** Motion to file Statement of Charges. **(Whitler/Rubin)**

**Complaint #2010-21:** Motion to file Statement of Charges and add allegation of false information on initial licensing application. **(Rubin/Whitler)**

**Complaint #2011-04:** Motion to file Board complaint from anonymous allegation about prescribing practices to family. **(Rubin/Whitler)**

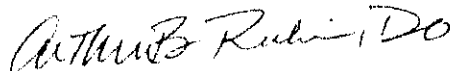
**Complaint #2009-10:** Physician did not renew in 2010 while under investigation. Board requires an answer from licensee to the complaint. Counsel instructed to prepare an "Entry of Answer" for the licensee's response. **(Rubin/Whitler)**

- Complaint #2009-05:** Motion to suspend WV license for a minimum of six months or until the Board receives official notice of the appellate court's decision to overturn the revocation upheld by the lower court in the State of Ohio. **(Rubin/Whitler)**
- Complaint #2010-05;** Motion to have the doctor undergo a clinical competency assessment. Upon completion of the assessment and receipt of the report, the Board would proceed to disposition of the case with certain, mandatory requirements:
- a) Complete and satisfy all measures recommended as a result of the assessment;
  - b) Complete a training program in medical record keeping, and
  - c) Agree not to prescribe any controlled substances.
- (Whitler/Rubin)**
- Complaint #2008-37:** Motion to terminate probation at the end of February 2011. **(Rubin/Whitler)**
- Complaint #2005-07:** Motion to revise Consent Agreement with a deadline for approval or refusal of March 1, 2011. **(Rubin/Whitler)**
- Complaint #2008-13:** Motion to continue probation until another seven (7) months of community service are provided as outlined in the Consent Order dated, December 3, 2008. **(Rubin/Whitler)**

Next scheduled Board Meeting will be held at the Charleston Office Conference Room in May 2011. Date and time to be determined by those members traveling to Charleston.

Motion for adjournment was made at 5:00 PM. **(Rubin/Whitler)**

Respectfully submitted,



Arthur Rubin, D. O.  
Secretary