

**WEST VIRGINIA BOARD OF OSTEOPATHY**  
**Board Meeting Minutes**  
**May 19, 2011**

The West Virginia Board of Osteopathy met on Thursday, May 19, 2011, in the Charleston Office Board Room. The meeting was called to order at 10:00 AM by President, Ernest Miller, D.O.

**Members Present:**

Ernie Miller, D.O. – President  
Robert Whitler – Vice President  
Arthur Rubin, D.O. – Secretary  
Joseph Schreiber, D.O. – Physician Member  
Elizabeth Blatt, Ph.D. – Public Member

**Staff Members Present:**

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

**Minutes:**

The minutes of the February 4, 2011, regular meeting was presented for review. Minutes were approved as presented. **(Whitler/Blatt)**

**Reports: Licensed Physicians as of May 12, 2011:**

1063 – Total Physicians:  
793 - In state  
270 - Out of state

20 – Newly Licensed Physicians

73 – 1<sup>st</sup> Year Educational Permits (from 7/1/10 thru 6/30/11):  
14 – PGY 1 at Bluefield Regional (2 Added as of 2/7/2011)  
4 – PGY 1 at Cabell Huntington  
6 – PGY 1 at Camden Clark  
20 – PGY 1 at CAMC  
5 – PGY 1 at Greenbrier Valley (1 Added as of 2/7/2011)  
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

167 – Physician Assistants (6 Did not renew license in 2011)

- 95 – Prescriptive Writing Privileges
- 45 - DOs supervise 2 PAs
- 16 - DOs supervise 3 PAs

62 – Corporations

74 – PLLCs

Balance in State Depository Account as of March 31, 2010 - \$180,469.98

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

Total Receipts as of March 31, 2010 - \$83,179.00

Total Disbursements as of March 31, 2010 - \$271,395.34

Purchasing Card Report – Purchases for January, February and March 2011

Monthly Line Item Statements – January, February and March 2011

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

**Attendees:**

- Glenn Ballengee, D.O.** - Considering applying for WV License. Action in Indiana.
- Brad Hall, M.D.** - Representing WVMPHP

**OLD BUSINESS:**

**Vinson M. DiSanto, D.O.** - Motion to approve a Consent Order with REPRIMAND and FINE. **(Rubin/Whitler)**

**Confidentiality Matrix/  
Agreements for Board Members** - A matrix and agreements for signature were presented to Board members regarding confidentiality. Board President should give approval to Complaint Committee members when discussing details of complaints with outside experts.

**Monthly/Quarterly Practitioner Reports:**

**Robert McCleary, D. O.** - Remains in compliance with Board Order.  
**John F. Rice, PA-C** - Remains in compliance with WV Board of Medicine Order.  
**Joseph Freeman, D. O.** - Now receiving regular reports from the Ohio Board Compliance Officer. Dr. Freeman is in compliance.

**WVMPHP:**

The current participation list was shared by Dr. Brad Hall. He also offered the services of WVMPHP for providing recommendations when specific types of assessments are needed for osteopathic licensees.

**Corporation Licenses:**

At the February 2011 meeting, the Board recommended termination of A.G.S., Inc. The Board recently learned that AGS had filed for bankruptcy. Under Federal Bankruptcy Law, no creditor can take action to enforce a debt. Therefore, the Board rescinded the termination order and will file notice of claim with the Bankruptcy Court. **(Rubin/Whitler)**

**Legislative Update:**

**24 CSR 02 (PA Rule)** and **24 CSR 05 (Fee Rule)** were approved with two (2) minor grammatical changes. The Board approved the rules with the proposed changes and asks for an effective date of June 17, 2011. **(Rubin/Whitler)**

**NEW BUSINESS:**

**FSMB Annual Meeting:**

A report of the FSMB Annual Meeting was presented by attendees, Ernest Miller, D.O., President and Diana Shepard, Executive Director.

Ms. Shepard also reported that she had attended the New Executive Orientation Session on May 16, 2011. This was held at the FSMB offices in Euless, Texas with the cost

underwritten by the Federation.

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**2012 Legislative Agenda:**

- A) 24 CSR 01 Revision for Phentermine Violation:**  
Section 18.1.30 lists amphetamines or sympathomimetic amine drugs under Schedule II controlled substance. The Board corrected the rule to eliminate the words "Schedule II." No change was made to the definition of short term use of Phentermine for the treatment of obesity. **(Rubin/Whitler)** The Rule change will be distributed to all licensees for 30 day comment prior to filing with Legislative Rules Committee by July 23, 2011.
- B) Other Legislative Issues to Consider During Legislative Audit Period:**
- 1) Adding a Physician Assistant to the membership of the Board;
  - 2) Requiring licensees to report a malpractice claim when it is filed rather than when it is settled/closed;
  - 3) Scope of Practice for Advanced Practice Nurses – Meeting scheduled with Board of Medicine and Board of Nursing in Senator Dan Foster's office on June 10, 2011.

**Post-Graduate Programs:**

Additional education, training and information is needed by the Residents, Program Coordinators and Program Directors on the application process for Educational Permits and Full Licensure.

**Dispensing Requests:**

Notification was received from MedExpress for three additional sites in which Osteopathic physicians will be dispensing. The sites included Weirton, Princeton and Lewisburg.

**Board Staff Salaries:**

West Virginia government employees were given 2% salary increases for the 2012 Fiscal Year. The Board approved a 2% increase for all full time employees who were on the payroll as of January 1, 2011. This is to be effective 7/1/2011. **(Whitler/Rubin)**

**House Staff Day Interviews:**

Beginning 2012, interviews will only be conducted on House Staff Day for those applicants applying for full licensure.

**PHP Payment for PA Renewals:**

Since 24CSR5, providing for fee increases for Physician Assistant License Renewals, was not made effective until after the 2011 renewal period, a payment cannot be made to WVMPHP until 2012.

**Public Citizens Ranking Report:**

The Board reviewed the 2010 Public Citizen Action Annual Report of State Boards. The WV Board of Osteopathy scored a composite index of 12.79 which was higher than that of surrounding states. The composite index is determined by the number of actions taken compared to the number of licensees within the state.

**Delineation of PA Privileges by Specialty:**

Board received a request from Orthopedic Trauma Group in Charleston for Board approval of their orthopedic-specific delineation of privilege form for Physician Assistants. A letter will be forwarded to Orthopedic Trauma Group notifying them that the WV Board of Osteopathy only licenses the undifferentiated practice of medicine.

**John P. Short, D. O.:**

Dr. Short notified the Board on February 11, 2011, of his failure to report pending malpractice claims on his 2010 license renewal application. The Board FINES Dr. Short \$500.00 for failure to disclose. **(Rubin/Whitler)**

**Steven Richman, D. O.:**

Dr. Richman's license lapsed in 2001 and was not renewed. In 2007 he obtained a volunteer license. He is now wishing to apply for reinstatement. The Board is asking Dr. Richman for the following information:

- 1) Has he kept up with CME?
- 2) How many hours per week has he been "volunteering"?
- 3) What type of practice/patient population has he been working with?
- 4) Is he willing to take the Convex?

**Reassignment of Hearing Examiner:**

The Hearing Examiner contracted by the Board for the upcoming hearings has taken a new position. Legal Counsel and Executive Director will consult on the selection of a new contracted hearing examiner.

At 12:00 PM the Board recessed for lunch.

A motion was made and passed at 1:20 PM to move into Executive Session, with all Board members, the Board's Executive Director and Attorney, to continue discussion of ongoing complaints. **(Schreiber/Whitler)**

The public meeting resumed at 3:00 PM following Executive Session. **(Whitler/Rubin)**

**Reports of the Complaint Committee:**

The report from the April 19, 2011 meeting was approved as presented.  
**(Rubin/Whitler)**

Following the report from the Complaint Committee, a motion passed to dismiss the following complaints: **2006-10; 2008-18; 2006-02; 2006-44; 2007-07; 2010-07; 2010-28; 2010-08; 2010-22; 2011-03. (Rubin/Whitler)**

**Glenn Ballengee, D.O.:** Dr. Ballengee appeared before the Board and discussed submitting an application for licensure in West Virginia. He provided information concerning the surrender of his DEA license and restrictions placed on his license in Indiana. The Board advised him that they would need to see the Indiana documents before making a decision about licensure in West Virginia.

**Complaint #2003-08:** Motion to dismiss . **(Rubin/Blatt)**

**Complaint #2009-15:** Motion to dismiss following 6 month stay. **(Schreiber/Blatt)**

**Complaint #2008-22:** Motion to dismiss. Dr. Rubin and Mr. Whitler abstaining.  
**(Blatt/Schreiber)**

**Complaint #2011-10:** Motion to file new complaint and subpoena office records.  
**(Rubin/Whitler)**

**Complaint #2011-11:** Motion to file new complaint with order for Summary Suspension. **(Rubin/Whitler)**

**Complaint #2009-12:** Approval of Consent Order for REPRIMAND and \$300.00 FINE. **(Rubin/Whitler)**

**Complaint #2009-10:** Approval of voluntary surrender of license while under investigation. **(Rubin/Whitler)**

**Complaint #2008-19:** Motion to dismiss complaint and deny license for re-instatement due to Minnesota action. **(Whitler/Rubin)**

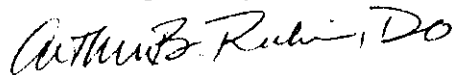
**Complaint #2007-31  
&  
#2008-14:** No action on complaints while respondent is incarcerated. However, motion to advise physician of an administrative denial for license renewal as application is incomplete.  
**(Rubin/Blatt)**

- Complaint #2010-03:** Motion to hold complaint open for six (6) months while attempting to obtain additional documentation of medical visits from treating physician. Also, motion to report treating physician to Ohio Board of Medicine for lack of documentation while continuing to prescribe controlled substances. **(Rubin/Blatt)**
- Complaint #2009-23:** Motion for Counsel to prepare Statement of Charges for Board review. **(Rubin/Blatt)**
- Board Staff Issues:** Discussion of Board Attorney performance was held. Executive Director will follow up with Fran Hughes, Deputy Director of the Attorney General's Office and report back to the Board.
- Complaint #2009-25  
&  
#2009-26:** The Board reviewed a list of those agencies which provided assessments on sexual mis-conduct issues. Motion to recommend the physician to schedule an assessment with Dr. Linton at WVU, Vanderbilt University or contact Dr. Brad Hall for recommendations from the WVMPPH. **(Rubin/Blatt)**

A tentative Board Conference Call will be scheduled for Wednesday, June 8, 2011, at 9 AM. The next full Board meeting will be scheduled during that conference call.

Motion for adjournment was made at 3:30 PM. **(Schreiber/Blatt)**

Respectfully submitted,



Arthur Rubin, D. O.  
Secretary