

**WEST VIRGINIA BOARD OF OSTEOPATHY**  
**Board Meeting Minutes**  
**September 20, 2011**

The West Virginia Board of Osteopathy met on Tuesday, September 20, 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:**

Ernest Miller, Jr., D.O. – President  
Robert Whitler – Vice President  
Joseph Schreiber, D.O. – Physician Member  
Arthur Rubin, D.O. – Secretary

**Staff Members Present:**

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

**Members Absent:**

Elizabeth Blatt, Ph.D. – Public Member

**Minutes:**

The following minutes were approved as presented: **(Rubin/Whitler)**  
May 19, 2011 - June 8, 2011 - June 30, 2011 - July 25, 2011 - August 25, 2011

**Reports:** Licensed Physicians as of September 13, 2011:

1061 – Total Physicians:  
797 - In state  
264 - Out of state

47 – Newly Licensed Physicians

73 – 1<sup>st</sup> Year Educational Permits (from 7/1/11 thru 6/30/12):

4 - PGY 1 at Access Health  
15 – PGY 1 at Bluefield Regional  
6 – PGY 1 at Camden Clark  
20 – PGY 1 at CAMC  
4 – PGY 1 at Greenbrier Valley  
2 - PGY 1 at Marshall University (Cabell/Huntington)  
8 – PGY 1 at Ohio Valley Medical Center  
1 – PGY 1 at United Hospital Center  
1 – Wheeling Hospital  
12 – 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

139 - Licensed PGY 2 or Greater:  
21 – Bluefield Regional  
9 – Camden Clark  
43 – CAMC  
11 – Greenbrier Valley  
7 - Marshall University (Cabell)  
24 – Ohio Valley Medical Center  
8 – United Hospital Center  
16 – WVU

184 – Physician Assistants  
110 – Prescriptive Writing Privileges  
33 - DOs supervise 2 PAs  
13 - DOs supervise 3 PAs

59 – Corporations

72 – PLLCs

Balance in State Depository Account as of July 31, 2011 - \$371,127.62  
Beginning Balance as of July 1, 2011 - \$352,427.35  
Total Receipts as of July 31, 2011 - \$37,523.75  
Total Disbursements as of July 31, 2011 - \$18,823.48

Purchasing Card Report – Purchases for March, April, May, June, July  
Monthly Line Item Statements – April – May – June - July 2011  
Financial Comparison Reports – FY2010 & FY2011

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

**Attendees:**

**Richard Blackburn, D.O.**

**Jack Levine, D.O.**

**4 Candidates for Board Counsel Position**

**OLD BUSINESS:**

**Monthly/Quarterly Practitioner Reports:**

Robert McCleary, D.O. – Remains in compliance with order

John F. Rice, PA-C – Remains in compliance with order

Joseph Freeman, D.O. – Received email from Ohio Licensing Board  
verifying compliance. Will follow up with full report.

**WVMPHP:**

A bi-annual statistics reported 5 osteopathic participants in the program.  
An invoice for payment was presented for the 533 osteopathic physician  
license renewals processed through the end of the renewal period, June 30,  
2011. That totals a payment of \$26,650.00 to be made to the West Virginia  
Medical Professionals Health Program. Motion passed to remit payment.

**(Rubin/Whitler)**

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

Dr. Richman affirmatively answered the questions from the last Board meeting. Motion passed unanimously to approve Dr. Richman for reinstatement of his Osteopathic license. **(Schreiber/Rubin)**

**Glenn Ballengee, D.O.:**

The Board did obtain a copy of the Indiana Order which requires Dr. Ballengee to complete the K-Star Program before his license can be restored. No further word from Dr. Ballengee stating that he is willing to do so.

**Anita Dawson, D.O.:**

The Board has received a letter from Dr. Dawson's attorney stating that she wishes to surrender her license as resolution to **Complaint Numbers 2006-35 and 2010-05**. With the surrender of her license this will also resolve **Complaint #2000-02** with a dismissal of **Complaint #2007-03**. **(Rubin/Whitler)**

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

Through his attorney, Dr. Short voluntarily admitted that he had neglected to report a filed suit on his last license renewal application. He stated he was not aware of the current "pending" status of the claim and mis-read the question on the application. Motion to accept Dr. Short's response to **Complaint #2011-26**. **(Schreiber/Whitler)** Dr. Rubin opposed.

**Nelson Velazquez, D.O.:**

License is currently on probation as ordered under **Complaint #2008-13**. Probation was extended due to non-compliance of 12-month, community service requirement. The Board has received confirmation that Dr. Velazquez has been providing services to Mercer County Healthright since June 2011. Motion made to continue probation until 12 months of community service can be documented. **(Rubin/Whitler)**

The Board broke for lunch at 12:10 PM and went back into open session at 1PM. During the entire meeting the Board moved in and out of Executive Session for deliberation and review of personnel issues and recommendations from the Complaint Committee.

**NEW BUSINESS:**

**Joe W. Morgan, D.O.:**

Has had actions taken against his license in Florida, Missouri and Kentucky. West Virginia license lapsed in June 30, 2009. No further action required.

**Timothy Fife, D.O.:**

Under Consent Order in Michigan for falsely reporting CME. West Virginia license lapsed June 30, 1997. No further action required.

**Med Express Dispensing:**

Notification has been received by the Board from Med Express regarding additional physicians being added to their dispensing requests as well as a new location being opened in Martinsburg, West Virginia.

**MOU with DIDE:**

All WV licensing boards are being asked to report any infection control issues, Found during a complaint investigation, to the Division of Infectious Disease Epidemiology (DIDE).

**Bonnie Cox, PA-C:**

The Board became aware that Bonnie Cox had been writing prescriptions from Dr. Anthony Haywood's office, her supervising physician, without having submitted an application for prescriptive privileges. The Board has now received an application for prescriptive privileges from Bonnie Cox, PA-C. Motion made to approve the current application for prescriptive privileges with a letter sent to both Ms. Cox and Dr. Haywood clarifying that prescriptive privileges were not approved in 2002 and that the Board will only be able to verify that Bonnie Cox had prescriptive privileges beginning September 20, 2011. **(Schreiber/Whitler)**

The Board requested that a question regarding prescriptive privileges be added to the PA license renewal application.

**Privacy Policy Notices:**

To protect the personal identification information of all board licensees, employees and contractors, a privacy notice is required on all documents requesting such information. Motion to incorporate the Board's Privacy Policy Notice, as amended, on all documents requesting personal identification . **(Rubin/Schreiber)**

**Safety Policy Review:**

The Board's Safety Policy was presented for review along with the results of the annual Board Office checklist. The policy and review were approved with no changes recommended. **(Whitler/Rubin)**

**Development of Rules for CSL:**

While the Board currently issues Controlled Substance License, there is no promulgated rule giving it authority for disciplinary actions nor clearly identifying its purpose as dispensing or prescribing. Dr. Rubin offered to work with the new Counsel on the development of such a rule.

**Dietetic Board Functions:**

The Board of Osteopathy has been approached by the Board of Dieticians to assume their licensing functions upon the retirement of their current Director. The Executive Director will meet with a representative of the Board of Dieticians to look at options that may be available.

**Reporting Violation of Individual Practice Acts:**

WV Code states that every board has a duty to report violations of individual practice acts, in a timely manner, to the board in which the individual practices. The WV Board of Osteopathy will, when necessary, follow the statute for reporting.

**Governor's Advisory Council on Substance Abuse:**

The WV Board of Osteopathy was not included in the Governor's Executive Order for the establishment of an Advisory Council on Substance Abuse. A letter will be written to the Governor requesting the Board of Osteopathy have representation on the Council. **(Rubin/Whitler)**

Motion was made to move into Executive Session at 1:50 PM with the Board's Counsel and Executive Director present. **(Schreiber/Whitler)**

The public meeting resumed at 3:40 PM following Executive Session. **(Whitler/Rubin)**

**Report of the Complaint Committee:**

The report of the August 16, 2011, Complaint Committee was approved as presented. **(Schreiber/Whitler)**

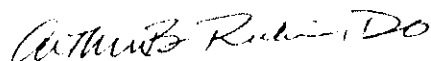
Following the report of the Complaint Committee, a motion passed for dismissal of the following complaints: **2010-27; 2011-05; 1999-12; 2002-02; 2002-16; 2010-13; 2011-18; 2011-12; 2010-02; 2011-02; 2011-15; 2011-16; 2010-34; 2011-06** and **2009-40**. Also, complaints: **2011-07; 2011-13; 2009-37** and **2008-16** were dismissed with letters of information to be sent with dismissal order. **(Schreiber/Whitler)**

- Complaint 2010-36:** License suspended at August 25, 2011, board meeting. Hearing to take place this week. Two days are scheduled.
- Complaint 2010-07:** Based on new evidence presented to the Board, motion made to re-open this complaint. **(Schreiber/Whitler)**
- Complaint 2010-25:** Physician is engaged in a felony investigation. The Board has been told a federal plea agreement will most likely occur. Motion for findings of Probable Cause and Summary Suspension. Motion did not pass. Second motion for Probable Cause to be set for hearing. **(Schreiber/Whitler)** Passed with one abstention.
- Complaint 2009-02:** Board has been waiting to hear from opposing counsel. The Board Counsel is instructed to contact the defense counsel regarding disposition of this case.

- Complaints 2003-04 and 2011-19:** As new evidence surfaces in the investigation of #2011-19, Complaint #2003-04 will be given additional attention.
- Complaint 2007-25:** Still awaiting Infection Control report from Logan General Hospital. Board Counsel will follow up with hospital.
- Complaint 2011-04:** At the request of the Complaint Committee, the physician presented at this morning's meeting of the Board to discuss this case. Motion to assess a \$500 fine and hold the complaint open for a six (6) month review of prescriptive practices. A copy of the Board rules regarding prescribing for family will be forwarded to the physician. **(Whitler/Rubin)**
- Complaint 2011-08:** The medical records on this complaint have been forwarded to an expert for review. The Board requests the physician provide a more detailed response to the complaint.
- Complaints 2008-27 and 2010-37:** Physician has pled guilty to a felony. Motion for revocation order prior to October sentencing. **(Whitler/Rubin)**
- Complaint 2009-05:** Physician presented before the Board today, at his request. Motion to revoke license consistent with the Board's rule. **(Rubin/Whitler)**
- New Legal Counsel:** After review of the four candidates screened by the Attorney General's Office, the Board delegated the selection to the Executive Director. All were equally qualified and the the Executive Director will negotiate with the AG's Office on making an offer.

Meeting was adjourned at 3:45 PM with the next Board meeting to be held at the Greenbrier on November 11, 2011. The meeting will begin at 9:30 AM.

Respectfully submitted,



Arthur Rubin, D. O.  
Secretary