

WEST VIRGINIA BOARD OF OSTEOPATHIC MEDICINE
Board Meeting Minutes
September 5, 2014

The West Virginia Board of Osteopathic Medicine met on Friday, September 5, 2014, in Conference Room #230 at the Embassy Suites, Charleston, West Virginia. Following lunch, which was provided by the Federation of State Medical Boards, a presentation was given by Stephen Heretick and Todd Phillips from FSMB.

Several attendees met informally with the Board. Those included:

Perry Oxley, Esquire (Anspach Law Office)
Duangnapa Cuddy, D.O.
Roland Chalifoux, Jr., D.O. and Legal Counsel, Richard Jones

President, Ernest Miller, D.O. called the business meeting to order at 2:50 PM.

Members Present:

Ernest Miller, Jr., D.O. – President
Joseph Schreiber, D.O. – Physician Member
Robert Whitley, Vice President
Michael Muscari, D.O. – Physician Member
Heather Jones, PA-C – Physician Assistant Member

Members Excused:

Elizabeth Blatt, Ph.D.
Arthur Rubin, D.O.

Staff Members Present:

Jennifer Akers, Esq. – Board Counsel
Diana Shepard – Executive Director

Attendees:

Stephen Heretick, FSMB
Todd Phillips, FSMB
Perry Oxley, Esquire
Duangnapa Cuddy, D.O.
Roland Chalifoux, Jr., D.O.
Richard Jones, Esquire
Joel Smithers, D.O. (Via Conference Call)
Jon Reed, PGY-3

Minutes:

The minutes of the June 26, 2014 Board meeting and the February and the July 25, 2014 Conference Call meetings were presented for review. Both sets of minutes were approved as presented. **(Whitley/Muscari)**

A brief recess was taken at 2:55 PM and the Board moved back into session at 3:10 PM. **(Whitley/Jones)**

Terry Thomas, D.O. was listed as an attendee of today's meeting. However, Dr. Thomas and his attorney, Ryan Brown, withdrew their request to attend.

Reports:

Licensed Physicians as of September 5, 2014:

1193 – Total Physicians: (A reported loss of about 50 licensee's who did not renew)

898 - In state
295 - Out of state

23 – Newly Licensed Physicians Since Last Meeting

67 – 1st Year Educational Permits (from 7/1/14 thru 6/30/15):

2 - PGY 1 at Access Health
17 – PGY 1 at Bluefield Regional
7 – PGY 1 at Camden Clark
17 – PGY 1 at CAMC
5 – PGY 1 at Greenbrier Valley
2 - PGY 1 at Marshall University (Cabell/Huntington)
2 - PGY 1 at Mon General/Cornerstone
9 – PGY 1 at Ohio Valley Medical Center
1 – PGY 1 at United Hospital Center
5 – PGY 1 at WVU

78- 1st Year Educational Permits (from 7/1/14 thru 6/30/15):

- 11 – Bluefield Regional
- 9 – Camden Clark
- 19 – CAMC
- 2 – Greenbrier Valley
- 9 – Marshall University (Cabell/Huntington)
- 3 – Mon General
- 14 – Ohio Valley Medical Center
- 2 – United Hospital Center
- 0 – Wheeling Hospital
- 9 – WVU

209– Physician Assistants

- 157 - Prescriptive Writing Privileges
- 27 - DO's supervise 2 PA's
- 18 - DO's supervise 3 PA's
- 1 - DO's supervise 4 PA's

58 – Corporations

74 – PLLC's (Three renewals still not completed)

Balance in State Depository Account as of June 30, 2014:	-	\$436,726.33/456,836.50
Beginning Balance as of July 1, 2013	-	373,493.53
Total Receipts as of June 30, 2014:	-	414,705.76
Total Disbursements as of June 30, 2014	-	351,472.96/331,362.79
Fines Deposited in State Treasury as of 6/30/2014	-	7,000.00

Purchasing Card Report – Purchases for June 2014
Monthly Line Item Statements – June 2014

During the close out of FY 2014, there was an object code error found in the reporting from November 2013 through June 2014. The Executive Director is working with the Finance Department within Administration in making the corrections. The old accounting system (FIMS) has been closed out and a new system, WV OASIS, has been implemented. Motion passed to approve the statistical and financial reports as presented with the expectation of a corrected report being available at the next meeting. (Whitler/Schreiber)

OLD BUSINESS:

Monthly/Quarterly Practitioner Reports:

Mary Coll, D.O.:	Received quarterly report of compliance. License still suspended.
Bruce Gorby, D.O.	WVMPHP reports Dr. Gorby has remained in compliance.
Robert Hogan, D.O.	License currently suspended. WVMPHP reported full compliance during last quarter.
Terry Thomas, D.O.	WVMPHP reports full compliance with last quarterly reporting period.

A list of all active osteopathic participants was provided by WVMPHP.

NEW BUSINESS:

Executive Director Report:

Licensure Analyst:

The Board previously approved a temporary, full time position for a licensure analyst to assist the Board during high volume license renewal period. The Executive Director requested that position be made full time, permanent. Motion was made to make the temporary position, permanent. **(Whitler/Schreiber)**

Expert Witness Invoice:

The Board received an invoice from Jason Pope, M.D. for \$22,575 in conjunction with his time spent on the Phillip Fisher, D.O. hearing. As this is an excessive amount, the Board requested a full accounting, day by day and month by month of the time spent on the case at \$300 per hour. Future contracts will reflect a cap on any given case.

FSMB Board Attorney Workshop & CMBI:

The Annual Board Attorney Workshop is being held in Savannah, Georgia on October 23 – 24, 2014. Approval was given for Ms. Akers to attend. The CMBI workshop is scheduled for November in Baltimore, Maryland. Mr. Kidd has already re-certified.

Pharmacy Rules:

A copy of the proposed joint revisions to the pharmacist immunization rules in Title 15, Series 12, to allow pharmacy interns to give meningococcal vaccines with a Pharmacist present, was presented to the Board prior to going to the Legislative Rule Making Committee. No changes were recommended.

Office Lease:

The current five-year lease with Neyer Management for the office space for the Board is up for renewal in November 2014. A new lease agreement has been presented to the Board for approval. The only increase is the \$55.00, per month, added for a fourth parking space. Motion was made to approve the new five year lease and submit to the West Virginia State Real Estate Division for approval and processing. **(Schreiber/Whitler)**

Uniform Application:

The Federation of State Medical Boards has assured the Board that grant money is available for the implementation of the Uniform Application with the West Virginia Board of Osteopathic Medicine. The Executive Director was advised to follow up with Big Picture for a projected cost and then apply to FSMB for a grant. **(Whitler/Muscari)**

**Complaint Filed
Against Board Counsel:**

A complaint has been filed with the Office of Disciplinary Counsel by a former witness in the Phillip Fisher, D.O. hearings. The complaint is against the Board's counsel, Ms. Akers. If Attorney General's Office does not provide legal counsel for their employees and Ms. Akers was acting as a representative of the Board, this should be reported to BRIM, our insurance carrier. Motion made to contact BRIM about possible legal representation for Ms. Akers, as may be needed. **(Whitler/Schreiber)**

**Licensing Issues:
MedExpress**

MedExpress submitted requests for additional work sites for four osteopathic physicians. All have current licenses and have renewed their CSL's.

Robert Sutherland, D.O.

Additional information was obtained following Dr. Sutherland's interview with the full Board at our June 26th meeting. His application still reflects a "No" answer to question #1. Upon correction and written explanation to question #1, Dr. Sutherland will be issued a license. **(Muscari/Schreiber)**

Brian McDevitt, D.O. Current Consent Order for reinstatement requires the completion of a CPEP assessment or a comparable assessment. Dr. McDevitt has concerns over the osteopathic representation within the multiple choice section of the evaluation. CPEP has confirmed that NBME designed and scored the multiple choice portion of the assessment. Motion was made to allow Dr. McDevitt to sit for the Convex exam in place of CPEP. However, results of the CPEP assessment must be released to the Board before approval of license reinstatement. **(Whitler/Muscari)**

Phillip Fisher, D.O.: A hearing was held in the 4th Floor Conference Room at 405 Capitol Street from the last week in July through first week of August. We are awaiting the completed transcripts for each counsel to submit their Findings of Fact and Conclusions to the Administrative Law Judge.

The Board moved into Executive Session at 4:35 PM with the Executive Director and Board Counsel present. **(Schreiber/Whitler)**

Motion was made to move back into Public Session at 5:10 PM. **(Whitler/Schreiber)**

Report From the Complaint Committee:

Cases Reviewed By Complaint Committee on August 26, 2014:

2014-19; 2014-15; 2014-21; 2014-13; 2014-18; 2014-17; 2014-12; 2014-14; 2014-11 and 2014-08.

Following the report of the Complaint Committee, the following actions were taken by the Board:

- A) **Complaints for Dismissal:** 2014-15; 2014-21; 2014-13; 2014-18; 2014-17; 2014-12; 2014-11 and 2014-08. **(Whitler/Muscari)**
- B) **Consent Order:** Complaint 2014-14. **(Whitler/Muscari)**
- C) **New Complaint:** The Board received information that a physician was pre-signing prescription pads and allowing office staff to complete the prescriptions. Motion to open Complaint 2014-22 was unanimously passed. **(Whitler/Schreiber)**

Board Suit: Perry Oxley, from Anspach Law Firm, met with the Board and outlined the number of claims the Board has been named in regarding John Pellegrini, D.O. and the HOPE Clinic. Only two claims have been filed in circuit court and they require a response from counsel by September 22, 2014. Mr. Oxley discussed options open to the Board regarding defense strategies and a possible cross claim against HOPE Clinic. Motion was made to authorize counsel to file an appropriate cross claim. **(Whitler/Schreiber)**

Duangnapa S. Cuddy, D.O.: The amended application of Dr. Cuddy was approved for a full, unrestricted license. **(Muscari/Schreiber)**

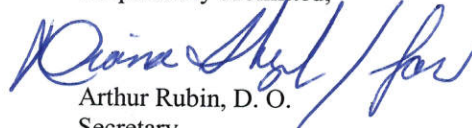
Joel Smithers, D.O.: License application approved with Consent Order to mirror that of the North Carolina Board of Medicine. **(Schreiber/Muscari)**

Roland Chalifoux, Jr., D.O.: No action, until all Board Members have had opportunity to review all documentation from original complaint to action taken in Kanawha County Circuit Court.

Medical Malpractice Reports: Seven (7) individual cases were reviewed with no further action required.

Meeting was adjourned at 5:25 PM with next scheduled meeting to be held on November 7, 2014, at the Greenbrier in conjunction with the WVOMA Annual Meeting. **(Muscari/Schreiber)**

Respectfully submitted,


Arthur Rubin, D. O.
Secretary