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**DEPARTMENT OF HEALTH
MEDICAL QUALITY ASSURANCE
BOARD OF PODIATRIC MEDICINE**

**MINUTES
GENERAL BUSINESS MEETING**

**Wyndham Tampa Westshore
700 N. Westshore Boulevard
Tampa, FL 33609**

March 23, 2012

Agenda items are subject to being taken up at anytime during the meeting. Participants in this public meeting should be aware that these proceedings are being recorded and that an audio file of the meeting will be posted to the board's website.

CALL TO ORDER:

Dr. Beth Pearce, Chair, called the meeting to order at 9:00 a.m. Those present for all or part of the meeting included the following:

MEMBERS PRESENT:

Beth Pearce, D.P.M., Chair
Sherwood Weisman, D.P.M., Vice-Chair
Chet Evans, D.P.M.
Dennis Frisch, D.P.M.
Scott Koppel, D.P.M.
Robert Morris, Ph.D.

MEMBER NOT PRESENT:

Ms. Sandra Inge (excused)

STAFF PRESENT:

Bruce Deterding, Board Executive Director
Sharon Guilford, Program Operations Administrator

BOARD COUNSEL:

Rachel Clark, Assistant Attorney General
Office of Attorney General

PROSECUTING ATTORNEY

Michael Lawrence, Assistant General Counsel
Mary Miller, Assistant General Counsel
Department of Health

COURT REPORTER:

Dempster Berryhill
(813) 229-8225

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DEPARTMENT OF HEALTH

APPROVAL OF MINUTES:

January 17, 2012 – Telephone Conference Call

51

1 **Dr. Weisman moved to approve the above minutes with the correction to page 2 line 42 modifying the**
2 **next meeting date to March 23, 2012. The motion carried 6/0.**

3
4 **October 21, 2011 – Full Board Meeting**

5
6 **Dr. Weisman moved to approve the above minutes. The motion carried 6/0.**

7
8 **FINAL ORDER ACTIONS:**

9
10 **Motion for Final Order After Hearing Not Involving Disputed Issues of Material Fact and**
11 **Determination of Respondent’s Waiver of Right to Request a Formal Hearing:**

12
13 **Adam M. Frasch, D.P.M. – Case Number 10-21102**
14 **PCP: Pearce/Weisman**

15
16 Dr. Frasch was neither present or sworn and was not represented by counsel.

17
18 Mr. Lawrence informed the board that the respondent had violated:

- 19
 - Section 456.072(1)(x), F.S.
 - Section 456.072(1)(w), F.S.

20
21
22 **Dr. Evans moved to accept the investigative reports into evidence and to impose penalty.**
23 **The motion was seconded and carried 4/0.**

24
25 **Dr. Evans moved that the respondent was properly served by publication and has waived**
26 **the right to a formal hearing. The motion was seconded and carried 4/0.**

27
28 **Dr. Evans moved to adopt the findings of fact into evidence as alleged in the administrative**
29 **complaint. The motion was seconded and carried 4/0.**

30
31 **Dr. Evans moved to adopt the conclusions of law and find that the respondent was in**
32 **violation as alleged in the administrative complaint and the violation constitutes a violation**
33 **of the Practice Act. The motion was seconded and carried 4/0.**

34
35 Mr. Lawrence recommended the following penalty:

- 36
 - Letter of Concern
 - Administrative fine of \$1,000.00, payable within 60 days from the filing of the Final
38 Order

39
40 Discussion ensued.

41
42 **Dr. Evans moved to accept the department’s recommendation. The motion was seconded**
43 **and carried 4/0.**

44
45 **Dr. Evans moved to assess costs of \$329.42, payable within 60 days from the filing of the**
46 **Final Order. The motion was seconded and carried 4/0.**

47
48 **Sandra J. Freire, P.X.A. – Case Number 11-02411**
49 **PCP: Pearce/Weisman**

1 Ms. Freire was neither present nor represented by counsel.

2
3 Mr. Lawrence informed the board that the respondent had violated:

- 4 • Section 456.072(1)(x), F.S.
- 5 • Section 456.072(1)(w), F.S.

6
7 **Dr. Koppel moved to accept the investigative reports into evidence and to impose penalty.**
8 **The motion was seconded and carried 4/0.**

9
10 **Dr. Evans moved that the respondent was properly served by publication and has waived**
11 **the right to a formal hearing. The motion was seconded and carried 4/0.**

12
13 **Dr. Koppel moved to adopt the findings of fact into evidence as alleged in the administrative**
14 **complaint. The motion was seconded and carried 4/0.**

15
16 **Dr. Koppel moved to adopt the conclusions of law and find that the respondent was in**
17 **violation as alleged in the administrative complaint and the violation constitutes a violation**
18 **of the Practice Act. The motion was seconded and carried 4/0.**

19
20 Mr. Lawrence recommended the following penalty:

- 21 • Letter of Concern
- 22 • Administrative fine of \$1,000.00, payable within 60 days from the filing date of the Final
- 23 Order
- 24 • Submission of continuing education hours for the biennium period April 1, 2008 through
- 25 March 31, 2010, if hours are not within the time period the respondent shall make-up the
- 26 hours within six months from the filing of the Final Order

27
28 Discussion ensued.

29
30 **Dr. Koppel moved to accept the department's recommendation. The motion was seconded**
31 **and carried 4/0.**

32
33 Further discussion ensued.

34
35 **Dr. Koppel moved to amend his motion to modify the administrative fine to \$500.00, due to**
36 **mitigating circumstances that the larger fine might constitute a hardship for the licensee.**
37 **The motion was seconded and carried 4/0.**

38
39 **Dr. Evans moved to assess costs of \$244.08, payable within 60 days from the filing date of**
40 **the Final Order. The motion was seconded and carried 4/0.**

41
42 **Bobbie G. Jacobs, P.X.A. – Case Number 11-02409**
43 **PCP: Pearce/Weisman**

44
45 Ms. Jacobs was neither present nor represented by counsel.

46
47 Mr. Lawrence informed the board that the respondent had violated:

- 48 • Section 461.013(1)(cc), F.S.

1 **Dr. Evans moved to accept the investigative reports into evidence and to impose penalty.**
2 **The motion was seconded and carried 4/0.**

3
4 **Dr. Evans moved that the respondent was properly served by publication and has waived**
5 **the right to a formal hearing. The motion was seconded and carried 4/0.**

6
7 **Dr. Koppel moved to adopt the findings of fact into evidence as alleged in the administrative**
8 **complaint. The motion was seconded and carried 4/0.**

9
10 **Dr. Evans moved to adopt the conclusions of law and find that the respondent was in**
11 **violation as alleged in the administrative complaint and the violation constitutes a violation**
12 **of the Practice Act. The motion was seconded and carried 4/0.**

13
14 Mr. Lawrence recommended the following penalty:

- 15 • Reprimand
- 16 • Administrative fine of \$500.00, payable within 60 days from the filing date of the Final
- 17 Order due to mitigating circumstances that the employee is paid an hourly wage
- 18 • Submit continuing education hours for the biennium period April 1, 2008 through March
- 19 31, 2010, if hours are not completed within the time period then the respondent shall
- 20 make-up the hours within six months from the filing date of the Final Order

21
22 Discussion ensued.

23
24 **Dr. Evans moved to accept the department's recommendation. The motion was seconded**
25 **and carried 4/0.**

26
27 **Dr. Koppel moved to assess costs of \$252.73, payable within 60 days from the filing date of**
28 **the Final Order. The motion was seconded and carried 4/0.**

29
30 **Neil A. Kravitz, D.P.M. – Case Number 11-06687**
31 **PCP: Pearce/Weisman**

32
33 Dr. Kravitz was neither present nor represented by counsel.

34
35 Mr. Lawrence informed the board that the respondent had violated:

- 36 • Section 461.013(1)(w), F.S.

37
38 **Dr. Evans moved to accept the investigative reports into evidence and to impose penalty.**
39 **The motion was seconded and carried 4/0.**

40
41 **Dr. Evans moved that the respondent was properly served by publication and has waived**
42 **the right to a formal hearing. The motion was seconded and carried 4/0.**

43
44 **Dr. Koppel moved to adopt the findings of fact into evidence as alleged in the administrative**
45 **complaint. The motion was seconded and carried 4/0.**

46
47 **Dr. Evans moved to adopt the conclusions of law and find that the respondent was in**
48 **violation as alleged in the administrative complaint and the violation constitutes a violation**
49 **of the Practice Act. The motion was seconded and carried 4/0.**

1 Mr. Lawrence recommended the following penalty:

- 2 • Reprimand
- 3 • Administrative fine of \$1,000.00, payable within 60 days
- 4 • Suspension with suspension stayed until the respondent submits proof of compliance with
- 5 the previous Board order

6
7 Discussion ensued.

8
9 **Dr. Evans moved to accept the department's recommendation. The motion was seconded**
10 **and carried 4/0.**

11
12 **Dr. Evans moved to assess costs of \$113.91, payable within 60 days from the filing of the**
13 **Final Order. The motion was seconded and carried 4/0.**

14
15 **Jessica A. Rhodes, P.X.A. – Case Number 10-17384**
16 **PCP: Peace/Weisman**

17
18 Ms. Rhodes was neither present nor represented by counsel.

19
20 Mr. Lawrence informed the board that the respondent had violated:

- 21 • Section 456.072(1)(c), F.S..

22
23 **Dr. Evans moved to accept the investigative reports into evidence and to impose penalty.**
24 **The motion was seconded and carried 4/0.**

25
26 **Dr. Evans moved that the respondent was properly served by publication and has waived**
27 **the right to a formal hearing. The motion was seconded and carried 4/0.**

28
29 **Dr. Evans moved to adopt the findings of fact into evidence as alleged in the administrative**
30 **complaint. The motion was seconded and carried 4/0.**

31
32 **Dr. Evans moved to adopt the conclusions of law and find that the respondent was in**
33 **violation as alleged in the administrative complaint and the violation constitutes a violation**
34 **of the Practice Act and chapter 456, F.S. The motion was seconded and carried 4/0.**

35
36 Mr. Lawrence recommended the following penalty:

- 37 • Revocation
- 38 • Administrative fine of \$1,000.00, payable within 60 days from the filing date of the Final
- 39 Order

40
41 Discussion ensued.

42
43 **Dr. Evans moved to accept the department's recommendation. The motion was seconded**
44 **and carried 4/0.**

45
46 **Dr. Evans moved to assess costs of \$805.51, payable within 60 days from the filing of the**
47 **Final Order. The motion was seconded and carried 4/0.**

48
49 **Motion for Final Order After Hearing Not Involving Disputed Issues of Material Facts:**
50

1 **Jonathan Cutler, D.P.M. – Case Number 09-23732**
2 **PCP: Pearce/Price**

3
4 Dr. Cutler was present, sworn and was represented by Mr. Michael Lowe, Esq.
5

6 Dr. Frisch stated that he knew Dr. Cutler but would be able to take action on the case without
7 prejudice.
8

9 Mr. Lawrence informed the board that the respondent had violated:

- 10 • Section 461.013(1)(l), F.S.

11
12 **Dr. Frisch moved to accept the investigative reports into evidence to impose penalty. The**
13 **motion was seconded and carried 5/0.**

14
15 **Dr. Frisch moved that the respondent was properly served. The motion was seconded and**
16 **carried 5/0.**

17
18 **Dr. Frisch moved to adopt the findings of fact into evidence as alleged in the administrative**
19 **complaint. The motion was seconded and carried 5/0.**

20
21 Mr. Lowe addressed the board on behalf of his client.
22

23 Dr. Cutler addressed the board.
24

25 Mr. Lawrence recommended the following penalty:

- 26 • Letter of concern
27 • Administrative fine of \$1,000.00, payable within 60 days from the filing date of the Final
28 Order

29
30 **Dr. Evans moved to dismiss the case with no further action. The motion was seconded and**
31 **carried 5/0.**

32
33 Dr. Evans stated the respondent shall pay the administrative costs to the Department of Health.
34

35 Mr. Lowe accepted on behalf of his client.
36

37 **Motion for Final Order Based Upon Settlement Agreement:**

38
39 **Massood Jallali, D.P.M. – Case Number 10-19577**
40 **PCP: Price/Weisman**

41
42 Dr. Jallali was present, sworn, but was not represented by counsel.
43

44 Dr. Frisch stated that he participated on several cases regarding Dr. Jallali, but would not be
45 prejudiced in taking actions on this case.
46

47 Mr. Lawrence informed the board that the respondent had violated:

- 48 • Section 461.013(1)(w), F.S.
49

1 Mr. Lawrence advised the board that the settlement agreement contained the following
2 provisions:

- 3 • Appearance
- 4 • Reprimand
- 5 • Administrative fine of \$1,000.00, payable within 60 days from the filing date of the Final
6 Order
- 7 • Administrative costs of \$570.44, payable within 60 days from the filing of the Final
8 Order
- 9 • Suspension, with suspension stayed for 60 days to allow respondent to submit proof of
10 compliance with the previous board order

11
12 Discussion ensued.

13
14 **Dr. Koppel moved to accept the settlement agreement. The motion was seconded and
15 carried 6/0.**

16
17 **Prosecution Report**

18
19 Mr. Lawrence provided an overview of the Prosecution Report.

20
21 Dr. Pearce commended Mr. Lawrence and Ms. Miller on their performance for the board.

22
23 **PETITIONS FOR VARIANCE/WAIVER:**

24
25 **David J. Loiselle, D.P.M., A.B.P.S. – Rule 64B18-17, F.A.C. –**
26 **Continuing Education (Section 461.007, F.S.)**

27
28 Dr. Loiselle was present, sworn but was not represented by counsel.

29
30 Ms. Clark provided an overview of the procedures in the Petitions for Variance/Waiver of Rule
31 64B18-17, F.A.C. and Section 461.007, F.S., and advised that the board cannot vary or waive
32 from a statutory requirement.

33
34 **Dr. Frisch moved to approve the Petition for Variance or Waiver of rule due to a
35 substantial hardship, waive the continuing education requirements for the previous
36 biennium, and to accept the continuing education hours completed to-date. The motion was
37 seconded and carried 6/0.**

38
39 **Sheri Rosenthal, D.P.M. – Rule 64B18-13.008, F.A.C. – Reactivation from
40 Retirement Status to Active Status of a Podiatric Medical License**

41
42
43 Dr. Rosenthal was present, sworn but was not represented by counsel.

44
45 Dr. Pearce recused herself from participating in the actions of the petition.

46
47 Dr. Frisch stated that he knew Dr. Rosenthal but would not be prejudiced in acting on the petition.

1 Dr. Rosenthal requested the board to reactivate her license. She had also filed a petition for
2 variance/waiver of the total number of continuing education credits required to reactivate her
3 license.

4
5 Discussion ensued.

6
7 **Dr. Weisman moved to accept the Petition for Variance/Waiver of Rule 64B18-13.008,**
8 **F.A.C. The motion was seconded and carried 5/0.**

9
10 **Dr. Weisman moved to amend the motion the acceptance of the petition was due to a**
11 **Financial Hardship. The motion was seconded and carried 5/0.**

12
13 **RATIFICATION LISTS:**

14
15 **Podiatric Physicians**

16 Donald John Adamov, PO 3518 through Jason Kyle Luttrell, PO 3540

17
18 **Dr. Evans moved to approve the ratification list as presented. The motion was seconded**
19 **and carried 6/0.**

20
21 **Podiatric X-ray Assistants**

22 Fabiola A Escobar, PXA 1267 through Noel Ramirez, PXA 1308

23
24 **Dr. Evans moved to approve the ratification list as presented. The motion was seconded**
25 **and carried 6/0.**

26
27 **CHAIR/VICE-CHAIR REPORT:**

28
29 **Future Agenda Items**

30
31 Dr. Weisman requested the board consider changes to the licensure application, particularly the
32 correction to the title of the application.

33
34 **EXECUTIVE DIRECTOR'S REPORT:**

35
36 **Solicitation to Publish Information about Awards or Commendations given to**
37 **Board Members**

38
39 Mr. Deterding requested the board members to provide him with any awards or commendations
40 they have received.

41
42 Mr. Deterding commented on the board member appointment status.

43
44 **BOARD COUNSEL'S REPORT:**

45
46 **Rules Status Update**

47
48 Ms. Clark provided an overview of the Rules Status Report.

49
50 **COMMITTEE REPORTS:**

1 **Budget – Ms. Inge**

- 2
- 3 • **Expenditures by Function for Period Ending 12/31/2012**
 - 4 • **Cash Balance Report for 3 Months Ending 12/31/2012**
 - 5 • **Total Expenditures (Direct and Allocated) by Board for 3 Months Ending**
 - 6 **12/31/2012**
 - 7 • **Allocations to Boards by Source Organization and Category for 3 Months Ending**
 - 8 **12/31/2012**
- 9

10 Informational purposes only.

11

12 **Continuing Education – Dr. Koppel**

13

14 **CE Providers & Courses Approved by Committee**

15

16 **Dr. Evans moved to approve the ratification list as presented. The motion was seconded**

17 **and carried 6/0.**

18

19 **Credentials – Dr. Frisch**

20

21 No report.

22

23 **Examination – Dr. Evans**

24

25 No report.

26

27 **Disciplinary Compliance – Dr. Weisman**

28

29 **Jay G. Rhodes, D.P.M. – Case Number 07-21955 – Termination of**

30 **Probation**

31

32 Dr. Rhodes was present and addressed the board.

33

34 **Dr. Weisman moved to accept the termination of probation of Dr. Rhodes. The motion was**

35 **seconded and carried 6/0.**

36

37 **Legislation – Dr. Frisch**

38

39 Dr. Frisch provided a brief overview of the 2012 Legislative Session.

40

41 Mr. Deterding stated that several changes to Chapter 456, Florida Statutes, that may impact

42 practitioner criminal history questions on the applications and he would provide a more detailed

43 report at the next meeting.

44

45 Ms. Wendy Hanson, Esq., with the Florida Podiatric Medical Association, addressed the board

46 regarding the 2012 Legislative Session.

47

48 Ms. Hanson asked the board if it would be appropriate for the FPMA to divide their offering of

49 the Florida Laws and Rules course into two sessions: advanced course (to include case law) and

50 a basic course.

1
2 The board agreed with Ms. Hanson's request by acclamation.

3
4 **Probable Cause – Dr. Pearce**

5
6 **Statistics**

7
8 Dr. Pearce provided a brief overview of the statistics.

9
10 **Residency Programs – Dr. Pearce**

11
12 No report.

13
14 **Rules – Dr. Evans**

15
16 **Discussion of:**

17 **Rule 64B18-17.006, F.A.C. – Continuing Education for Board Members, Probable**
18 **Cause Panel Members and Expert Witnesses (New)**

19
20 Dr. Evans provided an overview on the board's intent to modify the continuing education to Rule
21 64B18-17.006, F.A.C. He commented that Mr. Deterding had provided language for the board to
22 consider and possibly make a motion for Rule Development.

23
24 **Dr. Evan moved to file a Notice for Rule Development to Rule 64B18-17.006, F.A.C., to**
25 **allow board members continuing education credit for participation as a board member.**
26 **The motion was seconded and carried 6/0.**

27
28 Ms. Clark stated that she would inform Ms. Mary Ellen Clark of the board's intent.

29
30 **Unlicensed Activity – Mr. Morris**

31
32 No report.

33
34 **NEXT MEETING DATE – July 27th – Orlando**

35
36 **ADJOURNMENT:**

37
38 Dr. Weisman moved to adjourn the meeting and the motion was seconded. The meeting was
39 adjourned at 11:45 a.m.