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COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF STATE
BUREAU OF PROFESSIONAL AND OCCUPATIONAL AFFAIRS

F I N A L M I N U T E S

MEETING OF:

**STATE BOARD OF OSTEOPATHIC MEDICINE
VIA VIDEOCONFERENCE**

TIME: 10:29 A.M.

Wednesday, April 14, 2021

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State Board of Osteopathic Medicine
April 14, 2021

BOARD MEMBERS:

- Randy G. Litman, D.O., Chairman
- K. Kalonji Johnson, Commissioner, Bureau of Professional and Occupational Affairs
- William B. Swallow, D.O., Vice Chairman
- Christopher S. Poggi, D.O., Secretary - Absent
- Mary Pat Howard, M.S., RN-BC, Executive Advisor of Quality Assurance, on behalf of Alison Beam, Acting Secretary of Health
- John B. Bulger, D.O.
- Thomas S. Dardarian, D.O.
- Bette A. Grey, BA, RRT, CPFT
- Frank M. Tursi, D.O.

BUREAU PERSONNEL:

- Shana M. Walter, Esquire, Board Counsel
- Dana M. Wucinski, Esquire, Board Counsel
- Jason T. Anderson, Esquire, Board Prosecution Liaison
- Nichole Wray, Acting Board Administrator
- Amanda Richards, Fiscal Management Specialist 2, Bureau of Finance and Operations, Department of State
- Kimberly Adams, Chief of Fiscal Management, Bureau of Finance and Operations, Department of State

ALSO PRESENT:

- John Gimpel, D.O., President/CEO, National Board of Osteopathic Medical Examiners
- Douglas Murray, Esquire, National Board of Osteopathic Medical Examiners

1 ***

2 State Board of Osteopathic Medicine

3 April 14, 2021

4 ***

5 [Pursuant to Section 708(a)(5) of the Sunshine Act, at
6 9:30 a.m. the Board entered into Executive Session
7 with Dana M. Wucinski, Esquire, Board Counsel, and
8 Shana M. Walter, Esquire, Board Counsel, for the
9 purpose of conducting quasi-judicial deliberations on
10 a number of matters that are currently pending before
11 the Board and to receive the advice of counsel. The
12 Board returned to open session at 10:29 a.m.]

13 ***

14 The regularly scheduled meeting of the State
15 Board of Osteopathic Medicine was held on Wednesday,
16 April 14, 2021. Randy G. Litman, D.O., Chairman,
17 called the meeting to order at 10:29 a.m.

18 ***

19 [Chairman Litman reminded everyone the meeting was
20 being recorded.]

21 ***

22 Approval of minutes of the February 10, 2020 meeting

23 CHAIRMAN LITMAN:

24 May I have approval for the minutes of
25 February 10, 2021?

1 DR. TURSI:

2 So moved.

3 CHAIRMAN LITMAN:

4 Second?

5 MS. GREY:

6 Second.

7 CHAIRMAN LITMAN:

8 All in favor?

9 [The motion carried unanimously.]

10 ***

11 [Dana M. Wucinski, Esquire, Board Counsel, noted the
12 prosecutor did not need to provide a presentation on
13 the Consent Agreements.]

14 ***

15 Roll Call

16 [A roll call of Board members was administered by
17 Chairman Litman.]

18 ***

19 Appointment - Bureau of Finance and Operations Annual
20 Budget Presentation

21 [Amanda Richards, Fiscal Management Specialist 2,
22 introduced herself and Kimberly Adams, Chief of Fiscal
23 Management, Bureau of Finance and Operations. She
24 addressed licensee population from a revenue
25 standpoint. She noted a licensee count of 10,435 in

1 FY 2016-2017 and 11,774 in FY 2018-2019, noting an
2 increase of 1,339 licensees. She reported a licensee
3 count of 12,464 in FY 2020-2021, which was an increase
4 of 690 licensees. She noted the total as of this
5 morning at 12,513 licensees, showing an increase of 49
6 licensees.

7 Ms. Richards noted revenue by source. She
8 reported FY 2018-2019 total revenue and FY 2019-2020
9 revenue, noting the biennial total. She noted 95.8%
10 of revenue came from renewals and applications.

11 Ms. Richards stated Board expenses incur by direct
12 charges, timesheets, or licensee population. She
13 noted expenses for FY 2018-2019 and FY 2019-2020
14 expenses, as well as the budget for FY 2020-2021 and
15 expenses as of March 31, 2021. She noted the current
16 balance, which had increased. She stated the budget
17 was adequate based on expenses.

18 Chairman Litman questioned how much was a
19 ramification of the effects of in-person proceedings
20 and investigations versus virtual.

21 Ms. Adams commented that Board member expenses
22 dropped significantly through COVID and was the only
23 effect to put an amount on at this point because other
24 expenses had not dropped significantly.

25 Ms. Richards reviewed revenues and expenses for FY

1 2020-2021. She reported on the Board's balance by the
2 end of the fiscal year and by FY 2023-2024.

3 Ms. Richards reviewed Board member expenses in FY
4 2018-2019 and FY 2019-2020 with the current budget at
5 \$15,000 for FY 2020-2021. She reported the current
6 expenses as of March 31, 2021. She stated the budget
7 was adequate and would be carried over to the next
8 fiscal year.

9 Ms. Richards mentioned that any revenue not used
10 by the board would be rolled over into the restricted
11 account for the Board's use.]

12 CHAIRMAN LITMAN:

13 Motion to accept the report.

14 DR. SWALLOW:

15 So moved.

16 CHAIRMAN LITMAN:

17 Second?

18 DR. TURSI:

19 Second.

20 CHAIRMAN LITMAN:

21 All in favor?

22 [The motion carried unanimously.]

23 ***

24 Report of Board Counsel

25 [Dana M. Wucinski, Esquire, Board Counsel, noted the

1 Board entered into Executive Session at 9:30 a.m. and
2 discussed the Consent Agreements on the agenda, along
3 with agenda items 6 and 7 and 15.

4 Ms. Wucinski stated the Board also decided to
5 create a subcommittee for review of the applications
6 in an attempt to minimize the application review time.

7 She noted the subcommittee would consist of Dr.
8 Swallow, who is also the Probable Cause Screening
9 Committee member.

10 Ms. Walter informed the Board of a scam alert,
11 where the State Board of Medicine, State Board of
12 Dentistry, and State Board of Nursing received reports
13 of successful scams on licensees.

14 Ms. Walter stated scammers are spoofing telephone
15 numbers and pretending to be agents from the Bureau of
16 Enforcement and Investigation, the Federal Bureau of
17 Investigation (FBI), and the Drug Enforcement
18 Administration (DEA) threatening license suspension.
19 She provided reminders concerning contact and personal
20 information for licensees.

21 Ms. Walter mentioned that those licenses subject
22 to suspension would receive a notice by certified mail
23 and/or personal service. She informed everyone the
24 notice regarding the scam was on the Department of
25 State website.]

1 ***

2 Report of Regulatory Counsel

3 [Dana M. Wucinski, Esquire, Board Counsel, referred to
4 Senate and House bills on the agenda for the Board's
5 information regarding pending legislation. She noted
6 Board Counsel may be requested to conduct a bill
7 analysis on any of these bills on behalf of the
8 Department and would reach out to Board members at
9 that time to accurately reflect the position of the
10 Board on a particular bill.

11 Ms. Wucinski addressed Senate Bill 397 regarding
12 modernization of physician assistant practice. She
13 stated the bill would remove language relating to
14 supervision of physician assistants, including
15 language concerning record review and replace it with
16 basic language that says the supervising physician
17 shall be responsible for the medical services that a
18 physician assistant renders.

19 Ms. Wucinski also stated the bill would not
20 require the onsite presence or personal direction of
21 the supervising physician. She stated it also removes
22 the detailed requirements of written agreement and
23 instead requires that the written agreement include
24 the physician assistant's scope of practice, removes
25 the language that requires the written agreement to be

1 approved by the Board, and instead requires the
2 written agreement to be maintained by the supervising
3 physician.

4 Ms. Wucinski noted it also removes the four
5 supervisee limit and allows the supervising physician
6 to determine the number of supervisees for their
7 practice.

8 Ms. Wucinski addressed Senate Bill 425, which
9 would amend the Medical Care Availability and
10 Reduction of Error (MCARE) Act to provide more details
11 on informed consent. She stated, under MCARE, a
12 physician has the duty to obtain an informed consent
13 for a number of procedures, and the bill would clarify
14 that a physician can delegate authority to obtain
15 consent.

16 Ms. Walter addressed House Bill 642 of 2021
17 regarding telemedicine that provides boards publish
18 temporary regulations within 120 days and have final
19 regulations within 24 months. She noted the bill also
20 contains language relating to telemedicine and
21 information about insurance coverage.

22 Ms. Walter referred to House Bill 593 providing
23 for the Pharmaceutical Manufacturing Prohibited Gifts
24 Act that limits the ability of pharmaceutical
25 companies to provide gifts to health care providers

1 except in certain instances.

2 Ms. Walter noted House Bill 131 that requires a
3 respondent to appear in person at disciplinary
4 hearings.

5 Ms. Walter addressed House Bill 325, stating the
6 bill authorizes the Board to issue advisory opinions,
7 although the advisory opinions would not be binding on
8 the Board.

9 Chairman Litman referred to House Bill 397 and
10 questioned whether the physician assistants would
11 still have the same first year in practice
12 requirements.

13 Ms. Wucinski stated all of the language in
14 brackets was being proposed to be removed, including
15 countersignature requirements, the limit of four
16 supervisees, and the first 12 months of the physician
17 assistant's practice postgraduation.

18 Dr. Swallow commented that it also adds a
19 physician assistant as a permanent new member to the
20 Board.

21 Ms. Wucinski addressed Act 53 of 2020, informing
22 the Board that prosecution identified several crimes
23 for the Board to add to its list. She mentioned the
24 goal for consistency between the boards, specifically
25 between the State Board of Osteopathic Medicine and

1 the State Board of Medicine. She provided a list of
2 crimes the State Board of Medicine voted to add to the
3 Act 53 list of crimes directly related to the
4 profession. She reminded the Board that crimes not
5 listed on the list of directly related did not mean
6 prosecution cannot pursue it, but prosecution would
7 have the burden of proof.]

8 MS. WUCINSKI:

9 I believe the Board would entertain a
10 motion to add the following crimes to
11 the list of crimes related to the
12 profession under Act 53: Insurance
13 fraud under 18 Pa.C.S.A. § 4117(a) and
14 (b), false reports of child abuse under
15 § 4906.a, securing execution of
16 documents by deception under § 4114,
17 failure to report injuries by a firearm
18 or criminal act under § 5106, abuse of a
19 corpse under § 5510, aggravated assault
20 against a child under § 2702(a)(8) and
21 (9).

22 DR. TURSI:

23 So moved.

24 CHAIRMAN LITMAN:

25 Second to Dr. Tursi's motion?

1 DR. SWALLOW:

2 Second.

3 [Dr. Swallow questioned how the crimes listed interact
4 with telemedicine regarding an out-of-state
5 practitioner.]

6 Ms. Wucinski explained that Pennsylvania only has
7 jurisdiction over those licensed in Pennsylvania. She
8 stated Pennsylvania did not have any regulations on
9 telemedicine and did not have any authority to
10 discipline licensees from other states.

11 Mr. Anderson noted the Board only has
12 jurisdiction over licensees in the State regarding
13 criminal actions and telemedicine. He noted if an
14 individual is doing something from a license level of
15 action, prosecution could pursue that individual.

16 Dr. Swallow questioned whether there was a need
17 for a reporting process for victims in the
18 Commonwealth to the respective state of the licensee.

19 Mr. Anderson explained that there is a mechanism
20 in place to get the individual who is filing a
21 complaint to the correct location.]

22 MS. WUCINSKI:

23 We have a motion and a second.

24 CHAIRMAN LITMAN:

25 We have a vote to ratify that. All in

1 favor?

2 [The motion carried unanimously.]

3 ***

4 MOTIONS

5 MS. WALTER:

6 I believe the Board would entertain a
7 motion to accept the Consent Agreements
8 at item 3 on the agenda at Case No. 20-
9 53-013646 and item 4 at Case No. 20-53-
10 010828.

11 DR. TURSI:

12 So moved.

13 DR. SWALLOW:

14 Second.

15 CHAIRMAN LITMAN:

16 All in favor?

17 [The motion carried unanimously. Dr. Poggi and Dr.
18 Bulger are recused for both items. The Respondent's
19 name in item 3 at Case No. 20-53-013646 is Samuel
20 Joseph Daisley, D.O. The Respondent's name in item 4
21 at Case No. 20-53-010828 is Gustav R. Eles, D.O.]

22 ***

23 MS. WUCINSKI:

24 Moving on to agenda item 5, I believe
25 the Board would entertain a motion to

1 direct Board counsel to draft an
2 Adjudication and Order consistent with
3 discussions in Executive Session for
4 Samer Bolis, D.O., Case No. 20-53-001234.

5 DR. TURSI:

6 So moved.

7 CHAIRMAN LITMAN:

8 Second?

9 MS. GREY:

10 Second.

11 CHAIRMAN LITMAN:

12 All in favor?

13 [The motion carried unanimously.]

14 ***

15 MS. WUCINSKI:

16 I believe the Board would entertain a
17 motion to adopt as final the draft
18 Adjudication and Order for Mikaela
19 Potrako, LAT, Case No. 19-53-012921,
20 noting Dr. Bulger is recused.

21 DR. TURSI:

22 So moved.

23 CHAIRMAN LITMAN:

24 Second?

25 MS. GREY:

1 Second.

2 CHAIRMAN LITMAN:

3 All in favor?

4 [The motion carried unanimously.]

5 ***

6 MS. WUCINSKI:

7 Agenda item 15. I believe the Board
8 would entertain a motion to grant the
9 Application for an Unrestricted License
10 to Practice as an Osteopathic Physician
11 and Surgeon of Diane De Lisi Timms, D.O.

12 DR. TURSI:

13 So moved.

14 CHAIRMAN LITMAN:

15 Second?

16 DR. SWALLOW:

17 Second.

18 CHAIRMAN LITMAN:

19 All in favor?

20 [The motion carried unanimously.]

21 ***

22 NBOME - Update on COMLEX Level 2-PE Exam

23 [John Gimpel, D.O., President/CEO of the National

24 Board of Osteopathic Medical Examiners (NBOME),

25 addressed NBOME's mission to put patients first and to

1 ensure physicians are licensed based on a number of
2 criteria from the State Board of Medicine, including
3 the passage of an osteopathically distinctive
4 assessment of competencies demonstrated to be valid
5 and reliable for the practice of osteopathic medicine.

6 Dr. Gimpel stated the COMLEX-USA is recognized,
7 required, or accepted by all United States licensing
8 jurisdictions for licensure of osteopathic physicians.
9 He announced that the Medical Board of Australia
10 granted competent medical authority in 2020 to NBOME
11 with the COMLEX for U.S. DOs with 2 years of graduate
12 medical education to be licensed or registered in
13 Australia for comprehensive medical practice.

14 Dr. Gimpel reported doctors who want to come to
15 Pennsylvania and practice have not had a problem in
16 terms of getting a test date for taking the COMLEX
17 despite the month or two shutdown last March and April
18 and then the restart in May at Prometric centers of
19 delivering COMLEX. He reported hitting the 30,000
20 mark of COMLEX administrations given since restarting
21 testing after almost a two-month quarantine last
22 spring. He addressed difficulty and chaos during the
23 summer.

24 Dr. Gimpel noted not one single case of COVID-19
25 transmission or a contact tracing positive test has

1 occurred of the 30,000 who have taken the COMLEX since
2 May 2020.

3 Dr. Gimpel stated the Level 2-Performance
4 Evaluation (PE) exam to assess fundamental osteopathic
5 clinical skills was suspended several times due to the
6 pandemic. He announced that after continued input
7 from colleges, American Association of Colleges of
8 Osteopathic Medicine (AACOM), American Osteopathic
9 Association (AOA), and state licensing boards, NBOME
10 indefinitely postponed the Level 2-PE exam.

11 Dr. Gimpel addressed the alternative pathway,
12 where students would not need to take the Level 2-PE
13 exam for graduating, in which the AOA Commission on
14 Osteopathic College Accreditation (COCA) has authority
15 and made a temporary modification last June.

16 Dr. Gimpel announced creating a Special
17 Commission on Osteopathic Medical Licensure
18 Assessment, making sure COMPLEX remains the gold
19 standard for licensure so Pennsylvania and every other
20 state can trust it for licensure of osteopathic
21 physicians. He mentioned soliciting nominations from
22 groups, putting out stakeholder surveys asking for
23 feedback, and having public commentary periods to
24 build into the two phases.

25 Dr. Gimpel stated the Commission's first phase

1 was to clarify the pathway for the current graduating
2 class and met their deliverable for March 11, 2021, to
3 clarify that and have a second deliverable milestone
4 to clarify the next class of 2022 by April 30 to get
5 themselves eligible for taking COMLEX Level 3.

6 Dr. Gimpel reported phase 2 as looking at COMLEX
7 as a whole through about April 2022. He noted
8 initiatives emphasizing opportunities for enhancing
9 diversity, equity, and inclusion and reducing systemic
10 bias or any injustices.

11 Dr. Gimpel addressed the importance of ensuring
12 COMLEX remains the gold standard for osteopathic
13 physician licensure for its intended of licensure and
14 secondary uses.

15 Dr. Gimpel explained that the classes of 2021 and
16 graduating in the next couple of months continue on as
17 usual if they had already taken and passed the Level
18 2-PE. He stated about 25% of the graduating class
19 passed Level 2-PE and will go on and take Level 3. He
20 stated those in the current graduating class and a few
21 in the prior class who failed Level 2-PE but had not
22 had the chance to retake the exam, the dean was being
23 asked to attest, not only that they graduated but have
24 demonstrated the fundamental osteopathic clinical
25 skills necessary for graduation.

1 Dr. Gimpel explained that those who had an
2 unsuccessful attempt at PE is where the residency
3 program director will require the resident complete at
4 least six months of residency but just a
5 recommendation for those who passed PE.

6 Dr. Gimpel stated that the vast majority of the
7 students who never took the PE would still get the
8 attestation from their dean and would get the
9 attestation from their program director but with the
10 recommendation and not the requirement that the
11 student completed at least six months of that
12 residency.

13 Dr. Gimpel commented that Pennsylvania has other
14 requirements regarding graduate medical education
15 (GME) and a requirement regarding the osteopathic
16 manipulative component that essentially, taking a
17 separate OMT exam, that criteria was met if the
18 students had taken and passed the Level 2-PE prior.

19 Dr. Gimpel requested Pennsylvania's input and
20 feedback and what further evidence would be needed
21 other than our Level 1, Level 2, Level 3, and the
22 attestations for people in the class of 2021.

23 Chairman Litman mentioned recently receiving
24 requests for attestation this year from two of his
25 residents that took COMLEX Level 3, noting it to not

1 be detailed. He questioned whether the attestation
2 form going to be more in detail and whether deans
3 would be required to write a letter or required to
4 have a similar electronic attestation for their
5 individuals or class.

6 Dr. Gimpel stated there is an attestation program
7 built in. He explained that in order to take Level 1,
8 the individual must have completed 1 year and have
9 been deemed by the dean to be in good academic and
10 professional standing and then are granted the
11 eligibility. He noted it to be the same with Level 2
12 CE, and as Dr. Litman mentioned, for Level 3, again
13 very unique to the COMPLEX program, the dean must
14 attest not just that they are in good academic
15 standing but are in good professional standing.

16 Dr. Gimpel stated the dean would not be expected
17 to grant eligibility if there is some type of issue,
18 and there have been a number of cases every year where
19 the attestation is refused and/or rescinded. He
20 explained that the Commission has been looking at
21 different ways of moving forward to see if attestation
22 would continue to be used or if it needed to be more
23 rigorous or more have defensible checklists and more
24 audit involved.

25 Dr. Gimpel addressed feedback from stakeholders

1 across the osteopathic medical profession as well as
2 patients and public input mentioning the importance of
3 skills mentioned are fundamental and the assessment of
4 OMT and OMM are critically important in protecting the
5 public and making sure that that provision of OMT
6 would be conducted safely.

7 Dr. Gimpel stated the class of 2021 would be
8 relatively simple for the deans to meet because the
9 Commission on Osteopathic College Accreditation had
10 granted an exception to graduate people this year last
11 June. He mentioned that what happens moving forward
12 depended on the Commission and Board's decision as to
13 what would meet the requirements and expectations of
14 protecting the public in the Commonwealth of
15 Pennsylvania.

16 Dr. Dardarian mentioned difficulty with a
17 residency that is not osteopathically focused,
18 following those candidates on their osteopathic
19 principles and skills.

20 Dr. Gimpel noted it is inordinately difficult for
21 a learner encountering difficulties to progress, which
22 is why deans liked having national standardized exams
23 as there was a bar the students would have to
24 demonstrate to a national standard, whether it is
25 knowledge of anatomy or clinical skills.

1 Dr. Gimpel addressed OMT and OMM Practical Exam
2 requirements and questioned the Board plans to deal
3 with that for the class of 2020-2021 for the 75% that
4 did not take a PE. He questioned whether the
5 attestation would suffice or would they also need to
6 take a practical or performance assessment.

7 Chairman Litman noted the Board had many
8 discussions, but a final word had not been
9 established. He noted at the present time the Board
10 required an OMT demonstration as part of initial
11 licensure.

12 Dr. Gimpel mentioned to keep NBOME in mind if the
13 Board encountered any other questions in their
14 deliberations or was interested in expanding that
15 requirement.]

16 ***
17 Report of Board Chair - No Report

18 ***
19 Report of Vice Chair - No Report

20 ***
21 Report of Commissioner - No Report

22 ***
23 Report of Department of Health
24 [Mary Pat Howard, M.S., RN-BC, Executive Assistant of
25 Quality Assurance, announced the Johnson & Johnson

1 vaccine was recently suspended because of six cases of
2 blood clotting in women.

3 Chairman Litman questioned whether there were any
4 comorbid patterns in those six cases.

5 Ms. Howard stated the Centers for Disease Control
6 and Prevention (CDC) and the Food and Drug
7 Administration (FDA) were examining the issue. She
8 noted Pennsylvania stopped the vaccine until at least
9 April 20, 2021.

10 Ms. Howard informed the Board that Pennsylvania
11 was 5th among all 50 states for the total number of
12 doses administered and 11th for first-dose
13 administered as of percentage of population. She
14 reported the percentage positivity rate was up at
15 9.5%.]

16 ***

17 Report of Board Administrator - No Report

18 ***

19 For the Board's Information/Discussion - Board Meeting
20 Dates

21 [Randy G. Litman, D.O., Chairman, noted the next
22 scheduled Board meeting date is June 9, 2021.]

23 ***

24 Adjournment

25 CHAIRMAN LITMAN:

1 May I have a motion for adjournment?

2 DR. TURSI:

3 So moved.

4 DR. SWALLOW:

5 Second.

6 CHAIRMAN LITMAN:

7 Thank you everyone. Our meeting is now
8 adjourned.

9 [The motion carried unanimously.]

10 ***

11 [There being no further business, the State Board of
12 Osteopathic Medicine Meeting adjourned at 11:35 a.m.]

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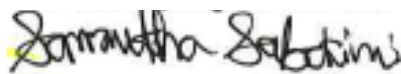
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CERTIFICATE

I hereby certify that the foregoing summary minutes of the State Board of Osteopathic Medicine meeting, was reduced to writing by me or under my supervision, and that the minutes accurately summarize the substance of the State Board of Osteopathic Medicine meeting.



Samantha Sabatini,

Minute Clerk

Sargent's Court Reporting
Service, Inc.

STATE BOARD OF OSTEOPATHIC MEDICINE
REFERENCE INDEX

April 14, 2021

	TIME	AGENDA
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6		
7		
8	9:30	Executive Session
9	10:29	Return to Open Session
10		
11	10:29	Official Call to Order
12		
13	10:29	Approval of Minutes
14		
15	10:30	Roll Call
16		
17	10:30	Appointment - Bureau of Finance and
18		Operations Annual Budget Presentation
19		
20	10:40	Report of Board Counsel
21		
22	10:44	Report of Regulatory Counsel
23		
24	10:56	Motions
25		
26	11:00	Appointment - NBOME - Update on COMLEX
27		Level 2-PE Exam
28		
29	11:32	Report of Department of Health
30		
31	11:35	For the Board's Information/Discussion
32		
33	11:35	Adjournment
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