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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

TIME: 9:30 A.M.

BOARD ROOM C

One Penn Center

2601 North Third Street

Harrisburg, Pennsylvania 17110

Wednesday, February 13, 2019

1 State Board of Osteopathic Medicine
2 February 13, 2019
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4

5 BOARD MEMBERS:
6

7 Randy G. Litman, D.O., Chairman
8 William B. Swallow, D.O., Vice Chairman
9 Burton T. Mark, D.O., Secretary
10 Ian J. Harlow, Commissioner of Professional and
11 Occupational Affairs - Absent
12 John B. Bulger, D.O. - Absent
13 Christopher S. Poggi, D.O.
14 Frank M. Tursi, D.O.
15 Arlene G. Seid, M.D., M.P.H., Secretary of Health
16 designee, present on behalf of Rachel Levine, M.D.,
17 Physician General/Secretary of Health
18
19

20 BUREAU PERSONNEL:
21

22 Kenneth J. Suter, Esquire, Board Counsel
23 Kerry E. Maloney, Esquire, Board Counsel
24 Anita P. Shekletski, Esquire, Board Prosecution
25 Liaison
26 Keith E. Bashore, Esquire, Board Prosecutor
27 Aaron Hollinger, Board Administrator
28
29

30 ALSO PRESENT:
31

32 Andy Sandusky, Executive Vice President, Public Policy
33 and Association Affairs, Pennsylvania Osteopathic
34 Medical Association
35 Michael DePalma, PA-C, Pennsylvania Society of
36 Physician Assistants
37 Brenda R. Dill, Director, Communications and
38 Education, Pennsylvania Osteopathic Medical
39 Association
40 Andrew C. Harvan, Esquire, Pennsylvania Medical
41 Society
42 Arthur K. Hoffman, Esquire, Medical Malpractice &
43 Professional Licensure, Thomas, Thomas & Hafer
44 Kimberly Adams, Chief of Fiscal Management, Bureau of
45 Finance and Operations
46 Amanda Richards, Fiscal Management Specialist, Bureau
47 of Finance and Operations
48
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50

1 ***

2 State Board of Osteopathic Medicine

3 February 13, 2019

4 ***

5 The regularly scheduled meeting of the State
6 Board of Osteopathic Medicine was held on Wednesday,
7 February 13, 2019. Randy G. Litman, D.O., Chairman,
8 called the meeting to order at 9:30 a.m.

9 ***

10 Approval of Minutes of the December 12, 2018 meeting

11 CHAIRMAN LITMAN:

12 Do I have a call for the approval of our
13 minutes from our December 12 meeting?

14 [The Board discussed corrections to the minutes.]

15 CHAIRMAN LITMAN:

16 Everybody accept the amendments?

17 DR. TURSI:

18 So moved.

19 DR. SWALLOW:

20 Second.

21 CHAIRMAN LITMAN:

22 All in favor of accepting the minutes
23 with the edits?

24 [The motion carried unanimously.]

25 ***

1 Report of Prosecutorial Division
2 [Keith E. Bashore, Esquire, Board Prosecutor,
3 presented the Consent Agreements for File No. 17-53-
4 00776 and File No. 18-53-006495.

5 Arthur K. Hoffman, Esquire, was present and
6 participated in the discussion regarding File No. 17-
7 53-00776.]

8 ***

9 [Anita P. Shekletski, Esquire, Board Prosecution
10 Liaison, presented the VRP Consent Agreement for File
11 No. 18-53-011076.]

12 ***

13 MR. MALONEY:

14 I would ask for a motion to amend
15 today's agenda to include File No. 15-
16 53-11253, so we may discuss that in
17 Executive Session.

18 DR. TURSI:

19 So moved.

20 DR. MARK:

21 Second.

22 CHAIRMAN LITMAN:

23 All in favor of that?

24 [The motion carried unanimously.]

25 ***

1 Appointment - Bureau of Finance and Operations Annual
2 Budget Presentation

3 [Kimberly Adams, Chief of Fiscal Management, Bureau of
4 Finance and Operations, introduced herself and Amanda
5 Richards, Fiscal Management Specialist.

6 Ms. Adams addressed the licensee population from
7 a revenue standpoint. She stated the total licensee
8 count was 11,722, which was up 52 licensees. She
9 noted the licensee population growth at 1,287 when
10 comparing FY 2016-2017 to FY 2018-2019. She commented
11 on the increase each biennial year since 2013.

12 Ms. Adams reviewed revenue by its source, stating
13 that renewals and applications made up approximately
14 96% of the revenue. She noted the current biennial
15 total. She mentioned the Board approval of a fee
16 increase as of August 2016, which would go into effect
17 in FY 2020-2021.

18 Ms. Adams discussed expenses, noting the
19 categorical breakdown of administrative and legal
20 costs. She noted expenses as of January 31, 2018,
21 with a recent increase. She noted expenses incur from
22 direct costs, timesheets, and licensee-based fees.
23 She stated the budget was adequate.

24 Ms. Adams reviewed revenue and expenses, noting
25 the FY 2018-2019 budget reflecting a growth mirroring

1 the licensee increase.

2 Ms. Adams discussed the Board expenses as of
3 January 31, 2018, noting the \$15,000 budget for FY
4 2018-2019 was adequate and will remain adequate for FY
5 2019-2020. She commented that any excess will go back
6 to the Board's restricted account.

7 Dr. Tursi requested the clarification of
8 membership dues paid by Board members. Ms. Adams
9 offered to send a copy of the invoice for Mr. Tursi's
10 review.

11 Ms. Adams provided a pictorial graph of
12 expenditures since 2000, reflecting a breakdown of the
13 incurred expenses.]

14 ***

15 Report of Board Counsel

16 [Kenneth J. Suter, Esquire, Board Counsel, introduced
17 Attorney Kerry Maloney as his co-counsel.

18 Mr. Maloney provided a brief summary of his
19 professional background.

20 Mr. Suter noted three Consent Agreements,
21 proposed reports from the hearing examiners, and a
22 reconsideration for discussion during executive
23 session.]

24 ***

25 [Kenneth J. Suter, Esquire, Regulatory Counsel, stated

1 that the fee regulation was on pace to be implemented
2 in 2021. He noted continued work on the refining of
3 the graduate medical training regulation.]

4 ***

5 Report of Board Chair - No Report

6 ***

7 Report of Vice Chair - No Report

8 ***

9 Report of Department of Health

10 [Arlene G. Seid, M.D., M.P.H., Secretary of Health
11 designee, present on behalf of Rachel Levine, M.D.,
12 Physician General/Secretary of Health, noted that the
13 Department of Health was still encouraging people to
14 receive flu shots.

15 Dr. Seid addressed Pennsylvania Act 96 that goes
16 into effect in October 2019, mandating e-Prescribing
17 for Schedule II through Schedule V controlled
18 substances. She stated the department was working on
19 promulgating the regulations with the hope of having
20 input from stakeholders.

21 Dr. Poggi questioned whether anything would be
22 done regarding the extra fee for e-Prescribing any
23 scheduled medicine. Dr. Seid stated the legislation
24 had a lot of exemptions and suggested referring to Act
25 96, which was publicly available. She mentioned that

1 a draft of the regulations would be available in late
2 2019.]

3 ***

4 Report of Board Administrator
5 [Aaron Hollinger, Board Administrator, noted the need
6 for a vote on the Reconsideration Petition for
7 Exception of the Comprehensive Osteopathic Medical
8 Licensing Examination (COMLEX) Attempt Limit Policy.]

9 ***

10 [Pursuant to Section 708(a)(5) of the Sunshine Act, at
11 9:50 a.m. the Board entered into Executive Session
12 with Kenneth J. Suter, Esquire, Board Counsel, and
13 Kerry E. Maloney, Esquire, Board Counsel, for the
14 purpose of conducting quasi-judicial deliberations and
15 to receive legal advice from Board Counsel. The Board
16 returned to open session at 10:53 a.m.]

17 ***

18 MOTIONS

19 MR. SUTER:

20 The Board was in executive session. The
21 purpose of executive session was to
22 discuss quasi-judicial matters,
23 including ongoing litigation. Just for
24 the record, I recused myself from that
25 discussion on the ongoing litigation

1 that was part of the executive session.
2 For all other matters I'm about to list,
3 items 3, 4, 5, 6, 7, 8, 9, and 10 were
4 all considered in executive session on
5 the agenda.

6 At this point, I understand the
7 Board would like to consider a motion to
8 approve the consent agreements that are
9 on the agenda today; items 3, 4, and 5.
10 They are, respectively, File No. 17-53-
11 00776, File No. 18-53-006495, and File
12 No. 18-53-011076.

13 The motion that the Board would
14 like to entertain is to approve all
15 three of these consent agreements.

16 DR. TURSI:

17 So moved.

18 DR. SWALLOW:

19 Second.

20 CHAIRMAN LITMAN:

21 All in favor?

22 [The motion carried unanimously. The Respondent's
23 name for File No. 17-53-00776 is Michael A. McCormick,
24 D.O. The Respondent's name for File No. 18-53-006495
25 is Allison Kehoe, PA-C.]

1 ***

2 MR. SUTER:

3 The next item that the Board would like
4 to consider a motion for are items 6, 7,
5 and 8. I am going to do these jointly.
6 These are all proposed reports from
7 hearing examiners.

8 They are File No. 18-53-004849,
9 Walter. M. Krajewski, D.O.; File No. 17-
10 53-006842, Robert C. McGrath Sr., D.O.;
11 and File No. 18-53-004600, Rajendra D.
12 Yande, D.O.

13 The motion that the Board wants to
14 consider is directing Counsel to adopt
15 all three of these proposed reports from
16 hearing examiners.

17 DR. MARK:

18 So moved.

19 DR. SWALLOW:

20 Second.

21 CHAIRMAN LITMAN:

22 All in favor?

23 [The motion carried unanimously.]

24 ***

25 MR. SUTER:

1 The next item is No. 9. It is a
2 reconsideration by Binyamin Rothstein,
3 D.O. The Board would like to consider a
4 motion delegating this matter for a
5 hearing to receive evidence so the Board
6 can appropriately consider whether or
7 not to terminate the probation early in
8 this matter.

9 DR. TURSI:

10 So moved.

11 DR. POGGI:

12 Second.

13 CHAIRMAN LITMAN:

14 All in favor?

15 [The motion carried unanimously.]

16 ***

17 MR. HOLLINGER:

18 Based on discussions in executive
19 session, I believe the Board would
20 entertain a motion to go back to Michael
21 Duley for additional information on how
22 he meets the nexus requirements to allow
23 him to retake the COMLEX.

24 DR. SEID:

25 So moved.

1 DR. TURSI:

2 Second.

3 CHAIRMAN LITMAN:

4 All in favor?

5 [The motion carried unanimously.]

6 ***

7 MR. SUTER:

8 File No. 15-53-11253, with the
9 Respondent's name of Michelle Lynn
10 Stewart, D.O., I'm seeking a motion to
11 direct Board Counsel to continue
12 settlement negotiations in the case
13 under the parameters as discussed in
14 executive session.

15 DR. TURSI:

16 So moved.

17 DR. MARK:

18 Second.

19 CHAIRMAN LITMAN:

20 All in favor?

21 [The motion carried. Mr. Suter recused himself from
22 deliberations and voting on the motion.]

23 ***

24 For the Board's Information/Discussion - Meeting Dates

25 [Chairman Litman noted the next meeting date scheduled

1 for April 10, 2019.]

2 ***

3 Adjournment

4 CHAIRMAN LITMAN:

5 I make a motion to end our meeting.

6 DR. SEID:

7 So moved.

8 DR. POGGI:

9 Second.

10 CHAIRMAN LITMAN:

11 All in favor?

12 [The motion carried unanimously.]

13 ***

14 [There being no further business, the State Board of
15 Osteopathic Medicine Meeting adjourned at 11:02 a.m.]

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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.



Seth R. Baier,

Minute Clerk

Sargent's Court Reporting
Service, Inc.

STATE BOARD OF OSTEOPATHIC MEDICINE
REFERENCE INDEX

February 13, 2019

TIME	AGENDA
9:30	Official Call to Order
9:30	Approval of Minutes
9:31	Report of Prosecutorial Division
9:36	Appointment - Bureau of Finance and Operations Annual Budget Presentation
9:45	Report of Board Counsel
9:47	Report of Regulatory Counsel
9:48	Report of Board Administrator
9:50	Executive Session
10:53	Return to Open Session
10:53	Motions
11:01	For the Board's Information/Discussion
11:02	Adjournment