

# NEVADA STATE BOARD OF OSTEOPATHIC MEDICINE

## \*\*\*\*PUBLIC NOTICE\*\*\*\*

# **BOARD MEETING**

# October 8, 2024 @ 5:30 PM

#### AT THE FOLLOWING LOCATION:

### Nevada State Board of Osteopathic Medicine ~ Conference Room 2275 Corporate Circle, Suite 210 Henderson, NV 89074

To join by Video/Teleconference on your computer, mobile app or room device, control+click: https://teams.microsoft.com/l/meetupjoin/19% 3ameeting\_NzI3YjA3MmItMzcwYi00ZjhjLTgwZWEtZTFkZDU2MGYzOGVi%40thread.v2/0 ?context=%7b%22Tid%22%3a%22e4a340e6-b89e-4e68-8eaa-1544d2703980%22%2c%22Oid%22%3a%2205628d65-31b9-47d5-9114-70d3f53bf58d%22%7d

**To join by Meeting ID through Microsoft Teams:** Meeting ID: 258 367 287 690 Passcode: QkNbDN

#### Or to join by telephone (audio only):

Audio Conference Number: +1 775-321-6111 Phone Conference ID: 286 392 747#

Please Note: The Board may take action on any agenda item delineated for action (discussion /for possible action); likewise, no action may take place on non-agenda items, including public proposals.

A (+) plus sign preceding an agenda item signifies that if the matter is an action item, in certain situations, the option exists to declare the meeting on that agenda item to be a Closed (Executive) Session per NRS 241.030.

All information or documents supplementing agenda items that are not otherwise confidential will be available in limited quantity at the board meeting office.

## \*\*\* MINUTES\*\*\*

#### I. CALL TO ORDER (Discussion/ For Possible Action) Carla Perlotto, President

Roll call to determine presence of a quorum. The following Board members were present:

Carla Perlotto, PhD Andrea Weed, D.O. Swadeep Nigam, MSc, MBA Paul Janda, D.O. Nasim McDermott, D.O. Dean Polce, D.O. Board Staff present: Frank DiMaggio, Executive Director Carrie Klein, Licensing Specialist Assistant Michelle Oberson, Administrative Assistant

#### Public:

Cassidy Wilson, McDonald Carano Amber Carter, Clark County Medical Association Robert Fountila, D.O. David Whitaker, D.O. Amanda Lipinski, CE Broker Deb Carter, CE Broker

#### II. PUBLIC COMMENT

**NOTE**: Prior to the commencement and conclusion of a contested case or a quasi-judicial proceeding that may affect the due process rights of an individual, the board may refuse to consider public comment. See NRS 233B.126. No public comments were received.

#### III. APPROVAL OF MINUTES (Discussion/For Possible Action) Carla Perlotto, President

*a. Board Minutes from September 10, 2024-* Mr. Nigam made a motion to approve the Board meeting minutes from September 10, 2024; seconded by Dr. Polce. There being no further discussion, the Board meeting minutes from September 10, 2024, were unanimously approved by the Board.

#### IV. CONSENT AGENDA TO GRANT LICENSURE FOR OSTEOPATHIC PHYSICIANS AND PHYSICIAN ASSISTANTS, AND TO GRANT RESTORATION OF LICENSES (Discussion/ For Possible Action) Carla Perlotto, President

Under this item the Board may consider the recommendations of the Executive Director and/or President/Vice President to grant licensure to the below listed applicants. The Board may remove any applicant's name from the consent motion but may not discuss the contents of the application for licensure without the applicant present following proper notice pursuant to the open meeting law.

#### Osteopathic Physician Name

Taylor Barney, D.O. Michael Biggs, D.O. Clayton Brittingham, D.O. Harrison Fleming, D.O. Nicholas Glover, D.O. Christopher Hammond, D.O. Stacy Henigsman, D.O. Benjamin Kaplan, D.O. Ethan Lowman, D.O. Ethan Lowman, D.O. Stephanie Liu, D.O. Daniel Nargizian, D.O. Lon Sproles, D.O. Geoffrey Taylor, D.O. Cherielynn Wagner, D.O.

Physician Assistant Name Shaylee Nystrom, PA-C Specialty Anesthesiology Anesthesiology Radiology, Interventional and Diagnostic Internal Medicine Emergency Medicine OB/GYN Internal Medicine Anesthesiology Pathology, Dermatopathology Internal Medicine Emergency Medicine Anesthesiology Family Medicine

Supervising Physician Denis Patterson, D.O. Shannon Signorino, PA-C Lina Truong, PA-C Dennis Nguyen, D.O. Active – Not Working

**Restoration of License** Katherine Chen, D.O. John Donaldson, III, D.O. Matthew Hesh, D.O. Specialty Emergency Medicine Psychiatry Radiology, Diagnostic

Dr. Perlotto stated that John Donaldson, III, D.O., is missing paperwork required for his licensing application and will be removed from the above list.

Dr. Polce wanted to know how soon after approval do the licenses get issued to the licensees. Executive Director Frank DiMaggio stated that the licensing specialist, will send the new licensees a letter advising them that the Board approved their license and when the license is effective.

Dr. Janda made a motion to approve the licenses for the applicants as written above, excluding John Donaldson, III, D.O; seconded by Mr. Nigam. There being no further discussion, the Board unanimously approved licensure for the applicants as written above, excluding John Donaldson, III, D.O.

## V. +CONSIDERATION/REVIEW/POSSIBLE ACTION ON APPLICATION FOR REINSTATEMENT OF OSTEOPATHIC MEDICAL LICENSE FOR ROBERT

**FOUNTILA, D.O., (Discussion/For Possible Action)** Board may go into closed session pursuant to NRS 241.030 to move to a closed session because the discussion will have to do with this applicant's character, alleged misconduct, professional competence, or similar items) Carla Perlotto, President

Dr. Perlotto stated that Dr. Fountila's license has been inactive since 2018 and that the Board has been trying to get a detailed list of his work experience since then. Dr. Perlotto asked if Dr. Fountila has a list of the places he has worked at since 2018. Dr. Fountila stated that he has worked in Texas since 2007 and he semi-retired in 2023 and is now doing locum tenens work. Dr. Perlotto stated that since Dr. Fountila's license has been inactive in Nevada, the Board wanted to make sure that he is still been actively and continuously practicing osteopathic medicine. Dr. Fountila stated that he has never worked in Nevada but has worked until 2023 when he semi-retired and then started working as locum tenens. Dr. Perlotto wanted to know how long he had been doing locum tenens work and if it was full-time or part-time. Dr. Fountila stated he has been doing locum tenens work for about four-five months and he does it part-time, which is usually one or two weeks a month.

Executive Director Frank DiMaggio stated that he sent a letter to Dr. Fountila on September 12, 2024. The letter sets forth the issues and the reason why he is on the Board agenda for today's Board meeting. The letter states that since your Nevada Osteopathic medical license has been inactive since January 1, 2018, the Board's concern is to ensure that you are competent to practice osteopathic medicine with reasonable skill and safety to patients. Dr. Fountila sent in a schedule for his work with Medicus IPA showing he worked approximately one week a month beginning May 2024 to September 2024, which averaged out to twenty hours per week. Before then, Dr. Fountila worked at South Texas Health System-McAllen Medical Center from 2007-2023 which was full-time Monday through Sunday.

Dr. Polce wanted to know what twenty hours per week as a radiologist looks like and if he is busy during that time. Dr. Fountila stated that he reads about eight hours a day and he is busy during that time. Dr. Polce made a motion to approve the reinstatement of Dr. Fountila's Nevada osteopathic medical license; seconded by Dr. Janda. There being no further discussion, the Board unanimously approved the reinstatement of Robert Fountila's Nevada osteopathic medical license.

#### VI. +CONSIDERATION/REVIEW/POSSIBLE ACTION ON APPLICATION FOR LICENSURE FOR DAVID WHITAKER, D.O., (Discussion/For Possible Action) Board

may go into closed session pursuant to NRS 241.030 to move to a closed session because the discussion will have to do with this applicant's character, alleged misconduct, professional competence, or similar items) Carla Perlotto, President

Executive Director Frank DiMaggio stated that Dr. Whitaker has the option to go into closed session. Dr. Whitaker declined to go into closed session. Executive Director DiMaggio stated that he sent an email to Dr. Whitaker regarding question number seven in the declaration section of his licensing application. That question asks if you have ever been investigated for, charged with, or convicted of unprofessional conduct, professional incompetence, gross malpractice or any other violation of statute or rule, or regulation governing the practice of medicine by any medical licensing board or other agency, including federal, hospital or medical society, or sued in a court of law for alleged malpractice. Doctor Whitaker's answer to that question was "No", and so the Board staff reached out to him because Board staff found a Citation on the Osteopathic Medical Board of California's website. The Citation was issued on September 12, 2023. Dr. Whitaker's application was made in January of 2024. The Citation from the Osteopathic Medical Board of California states that they received notification of a settlement report from the Southern California Permanente Medical Group in the amount of \$200,000, stating that a patient presented to the ER with complaints of pain, nausea and vomiting for five days; failing to maintain adequate and accurate records relating to the provision of services to patients is a California Business and Professional Code violation. The California Osteopathic Medical Board then administered two administrative fines each in the amount of \$250 for a total of \$500 to Dr. Whitaker. Once Board staff received that information, Board staff reached out to Dr. Whitaker to explain the discrepancy with his answer stating "No", that he's never been investigated or charged with any unprofessional conduct or professional incompetence. Dr Whitaker responded as follows: that the Citation he received from the California Osteopathic Medical Board was due to a lack of documentation from a patient who he took care of on September 18th, 2020; that the California Board recommended that he be more thorough in his documentation, and he has followed suit; that originally, when he applied for a Nevada license, he was unaware that this was an official citation as it was not listed on the California Osteopathic Medical Board's website and therefore he did not mention it in his Nevada license application. Executive Director DiMaggio stated that the question asks him if he has ever been investigated, been charged with any professional misconduct or professional incompetence, and the correct response seemingly would have been "Yes" and then disclosing the Citation regardless of whether it was listed on the California Osteopathic Medical Board's website. Mr. DiMaggio stated that the issue is whether the Dr. Whitaker's explanation regarding this matter concerning his Nevada license application is sufficient for the Board or does the Board want to consider adding a stipulation condition to his licensure such as taking a course on Ethics.

Dr. Whitaker stated that he made a poor decision in this matter and that the company he works for is helping him get licenses in twenty-six states. He said that since the Citation did not appear on the California's board website, they advised him to mark "no" to the subject question and handle the situation if it came up later.

Mr. Nigam wanted to know how long Dr. Whitaker has been practicing in California. Dr. Whitaker stated he has worked in California for twenty years.

Dr. Perlotto stated that reporting is something that we take seriously at this Board; that in the future, if there ever is anything such as this, he should be up front and disclose it to the Board and that the Board is usually of a mind that if Board knows these things up front then the Board tends to be a lot more understanding about those issues.

Mr. Nigam made a motion to approve Nevada osteopathic medical licensure for David Whitaker, D.O.; seconded by Dr. Janda. There being no discussion, the Board unanimously approved Nevada osteopathic medical licensure for David Whitaker, D.O.

#### VII. +CONSIDERATION/APPROVAL OF SETTLEMENT AGREEMENT AND ORDER REGARDING JAMES STAHELI, D.O., (Board may move to go into closed session pursuant to NRS 241.030 because the discussion will have to do with this applicant's character, alleged misconduct, professional competence, or similar items) (Discussion/For Possible Action) Carla Perlotto, President

Executive Director Frank DiMaggio stated that he has recently spoken with Dr. Staheli, and Dr. Staheli indicated that he would most likely not be in attendance tonight. The settlement agreement has been signed by Dr. Staheli as well as by Mr. Dreitzer, Board Counsel. The pertinent facts in this case are that on December 13, 2023, Dr. Staheli entered into a consent agreement between himself and the State Medical Board of Ohio. The agreement was reached mutually by the parties that on several occasions Dr. Staheli renewed prescriptions for phentermine and other non-opioid controlled substances without proper examination of patients. The agreement further established that prior to prescribing these substances, Dr. Staheli would not check the OARRS system as required by Ohio law; and that Dr. Staheli frequently treated multiple members of the same family, and the birth dates of these family members would be mixed up in the medical records of those family members. To resolve these violations of Ohio law, Dr. Staheli agreed for his license to practice osteopathic medicine in the state of Ohio to be suspended for a period of ninety days and he would be placed on probation for a concurrent period of one year, subject to a series of terms set forth within the Ohio agreement. As a Nevada licensee, Dr. Staley is under jurisdiction of NRS Chapter 633. That chapter provides the grounds for initiating disciplinary action and one of those grounds is suspension of a license to practice osteopathic medicine, or to practice as physician assistant by any other jurisdiction. Dr. Staheli is in violation of NRS 633.511(1)(c). The relevant part of the NRS Chapter 633 provides that if the Board finds a person guilty in a disciplinary proceeding, it may take several different actions, one of which is to administer a public reprimand. The acknowledgments in the Board's proposed Settlement Agreement and Order state that Dr. Staheli is aware of, and understands the effect of, the Settlement Agreement and Order (SAO), which he has read carefully and fully acknowledged, and that he has had the opportunity to consult with legal counsel of his choice in connection with this. The proposed SAO further provides, among other things, that Dr. Staheli is aware of all his rights to contest the charges pending against him and that Dr. Staheli acknowledges that the SAO will only become effective after both the board and Dr. Staheli have executed it; and that if the Board approves this proposed SAO, it shall be deemed disciplinary action, and it shall be reported to the national practitioner databank (NPDB). The SAO's stipulated adjudication states that because of the disciplinary agreement entered between Dr. Staheli and the State Medical Board of Ohio, which includes suspension of his osteopathic medical license, Dr. Staheli is in violation of NRS 633.511(1)(c); that therefore, Dr.Staheli is publicly reprimanded pursuant to this Board's authority as set forth an NRS 633.651(1)(b); that Dr. Staheli is expressly required to adhere to the terms and condition of the agreement between himself and the State Medical Board of Ohio; that the entirety of that Ohio agreement is incorporated herein by reference into the SAO; that Dr. Staheli shall pay the board's actual costs and attorney's fees for the investigation and prosecution of this matter in the amount of \$2,000.00 and grants him 30 days from the effective date of the SAO to pay that amount, either by certified or cashier's check; that Dr. Staheli shall comply with all requirements necessary to maintain a current and active

osteopathic medical license in the state of Nevada, including renewing his license and paying all licensing fees in a timely manner; that this SAO does not bind the board to restrict the remedies available to it concerning any other violation of NRS chapter 633 or NAC chapter 633 by Dr. Staheli that are not specifically mentioned in this document, either currently known to the board or later discovered. Mr. DiMaggio stated that Dr. McDermott was the Investigation Board Member (IBM) in this matter and is going to sign off on this agreement. Dr. McDermott stated that her recommendation is to extend the SAO to Dr. Staheli and for the SAO to remain valid until all the outlined conditions are met.

Dr. Janda made a motion to approve the proposed Settlement Agreement and Order regarding this matter; seconded by Dr. Weed. Dr McDermott recused herself. There being no discussion, the Board unanimously approved the Settlement Agreement and Order regarding this matter.

#### VIII. + DISCUSSION/CONSIDERATION/POSSIBLE ACTION REGARDING CME SERVICES/CONTRACT WITH CE BROKER, (Discussion/For Possible Action) Carla Perlotto, President

a. Amanda Lipinski, Account Executive, CE Broker- Ms. Lipinski introduced Deb Cater who is CE Broker's client success partner for the State of Nevada. Ms. Lipinski reiterated that every licensee with CE Broker will have access to a free basic account and it is one hundred percent voluntary to opt into the paid accounts. Ms. Lipinski went over how a licensee would sign up with CE Broker on their website. Executive Director DiMaggio stated that the issue is that the licensee will see the "Start with Professional" button and will set up their account from there and not scroll down to see the basic free account; that the licensee will then call the Board saying that it was supposed to be a free account, but yet they are being charged and they must provide their credit card. Ms. Lipinski stated that they can send out instructions or have a video for the licensees to refer to which may help lessen any confusion. Dr. Perlotto stated that if the Board does decide to adopt CE Broker, the Board could put clear instructions for licensees in the Board's newsletter. Dr. Perlotto wanted to know if there was some type of recourse if the licensee clicked on the professional account and gave them their credit card and then decided they did not want that account. Ms. Lipinski stated the licensee would have to call customer support and CE Broker would fix it on their end. Ms. Lipinski stated that CE Broker has contracted with the Nevada Medical Board and has integrated with IMLC. Dr. Perlotto stated that if the Board did vote to integrate with CE Broker, there will be a charge from Thentia in the amount of \$1,350.00. Mr. DiMaggio stated that if the Board did vote today to sign up with CE Broker, the vote should be contingent on the Board approval of the \$1,350.00 cost from Thentia which can be placed on the next month's Board meeting agenda. Executive Director DiMaggio stated there is another issue with the CE Broker Master Service Agreement, namely that there is a provision in paragraph seven regarding the term of the agreement which says that CE Broker has the right to terminate this agreement without cause upon thirty days' advance written notice. Executive Director DiMaggio stated that it should either give both parties the right to terminate without cause upon thirty days' advance written notice or give neither party that right to terminate. Ms. Lipinski stated that she believes it should be both ways and will have to check on it to ensure that the Board has an up-to-date version of the MSA. Ms. Lipinski also stated that the Board owns its data and CE Broker would not charge the Board to get the data back.

Dr. Perlotto made a motion to approve the Master Service Agreement (MSA) with CE Broker contingent upon the clarification and inclusion of language in the MSA giving both parties the right to terminate without cause upon proper notice and contingent upon the Board's approval of the cost to integrate CE Broker from Thentia in the amount of \$1,350.00; seconded by Mr. Nigam. Dr. Weed opposed the motion. There being no further discussion, the Board approved the Master Service Agreement (MSA) with CE Broker contingent upon the clarification and inclusion of language in the MSA giving both parties the right to terminate without cause upon proper notice and contingent upon the Board's approval of the cost to integrate CE Broker from Thentia in the amount of \$1,350.00.

#### IX. DISCUSSION/CONSIDERATION/POSSIBLE APPROVAL OF FY 2023-2024 AUDIT AS REQUIRED PER NRS 218G.400 (Discussion/For Possible Action) Carla Perlotto, President

Executive Director Frank DiMaggio stated that he notified Mr. Watkins, one of the partners of the Board auditors, Watkins, Jackson CPAs, that he may wish to be present for tonight's Board meeting and provided links to the meeting. However, Mr. Watkins does not appear to be present at this meeting. Mr. Nigam stated that there are no red flags that he observed in the draft audit report and the auditors not concerned about any shortcomings in the Board's accounting principles.

Mr. Nigam made a motion to approve and accept the audit as presented in the draft contained in the Board materials; seconded by Dr. Weed. There being no discussion, the Board unanimously voted to accept and approve the audit as presented in the draft contained in the Board materials.

#### X. DISCUSSION/CONSIDERATION/ACTION TO PROVIDE COMMENTS TO FSMB REGARDING ITS ADVISORY COMMISSION ON ADDITIONAL LICENSING MODELS' DRAFT GUIDANCE DOCUMENT AND RECOMMENDATIONS (Discussion/For Possible Action) Paul Mausling, D.O., President

Dr. Perlotto stated that she and Mr. DiMaggio attended a symposium sponsored by FSMB regarding this issue, and this issue does not apply to the our Board because there are no DO physicians outside of the United States; and issue deals with licensure for physicians from outside of the United States. Mr. Nigam wanted to know if there was any discussion on allopathic physicians from other countries that can apply to the DO Board. Dr. Perlotto stated that such physicians would only be allowed to apply to the MD Board, and we are not impacted by that at all. Executive Director DiMaggio stated that this guidance document specifically references those who have taken the USMLE and, that since he has been Executive Director, there has only been one case where USMLE was taken in lieu of the COMLEX, and it would have very little direct relevance to the Board. None of the Board members had any comments or recommendations to forward to FSMB regarding its advisory commission on additional licensing models' draft guidance document.

#### XI. EXECUTIVE DIRECTOR'S REPORT by Frank DiMaggio

- *a. Financial Statements*-Executive Director Frank DiMaggio stated that the Financial Statements and Licensing Status reports are in the Board packets; and that compact licenses are steadily increasing in number.
- b. Comments-Executive Director DiMaggio stated that he received an inquiry from the Legislative Council Bureau on September 25, 2024, regarding BDR 54-225 which concerns the biennial renewal cycle that the Board is interested in obtaining for DO and PA licensure. Executive Director DiMaggio did respond to the gentleman from LCB. The Board is still trying to get a legislative sponsor for the two-year licensing cycle for DOs and PAs and for the D.O. CMEs being reduced from thirty-five hours per year to forty hours every two years.

Executive Director DiMaggio stated that the Board has a new staff member, Michelle Oberson. Michelle took Carrie Klein's place, and her title is Administrative Assistant/Complaints Assistant and Ms. Klein has moved into the position of Licensing

Specialist Assistant. This position should result in having help with some of the licensing and other administrative burdens that we face especially once we get the AA licensure regulations approved.

# XII. LEGAL REPORT (Discussion/For Possible Action) by Richard Dreitzer (Fennemore Craig, LLC) Board Counsel

Executive Director Frank DiMaggio stated that Mr. Dreitzer could not be in attendance at tonight's meeting, but he did send an email. Mr. DiMaggio stated that Mr. Dreitzer's email indicated that LCB asked to make a number of small changes to the documents submitted in support of R001-24 and R062-24; that these changes have been made and submitted to LCB; and that. Mr. Dreitzer is trying to respond to each LCB request in real time. The email also stated Mr Dreitzer had been preparing for one of the hearings with Hearing Officer Jill Greiner, but that Ms. Greiner had to recuse herself from the case when he discovered she had heard past matters concerning this case; therefore, the matter will need to be brought up before the Board at the next meeting for reassignment to a new Hearing Officer; and that there is another very large matter that Mr. Dreitzer has been working on with Hearing Officer Greiner and he hopes to be on her calendar for the presentation and discussion of a tentative settlement agreement on that matter, as he believes a resolution is near. Mr. Dreitzer apologized to the Board in his email for his absence at tonight's Board meeting.

#### XIII. LEGISLATIVE UPDATE (Discussion/For Possible Action) by Cassidy Wilson, Board Government Affairs/Lobbyist

Ms. Cassidy Wilson of McDonald Carano stated that LCB did reach out to the Board as Assemblywoman Tracy Brown-May asked LCB to look at all Nevada medical boards and to review their licensing and their CME requirements to make them uniform and to draft an appropriate BDR; and that the State is exploring different options to expedite licensure for applicants who want to come to Nevada and work so that they can do so in a timely manner. Ms. Wilson stated that LCB has a deadline of October to comply with the Assemblywoman's request; and that LCB will send that BDR draft to the Assemblywoman who will then review it. Ms. Wilson said she will reach out at the end of the month to see what Assemblywoman Brown-May's thoughts are. Ms. Wilson believes that the licensing and CME requests that the Board has made will be covered in that BDR, since it will be concerned with all Nevada medical boards. Ms. Wilson said that in regard to the large Business and Industry (B&I) Boards and Commissions bill, Dr. Sanchez, Director of B&I, is reaching out to all Boards and asking for a specific time and date to meet with the Executive Dirctors and their lobbyists. Legal counsel will not be involved in this meeting. Ms. Wilson said that this bill draft request (BDR) is about four hundred pages and will be changing the Nevada Boards and Commissions structure as a whole. Dr. Perlotto wanted to know if this is the super board that is being talked about has been discussed with Ms. Wilson by anyone else. Ms. Wilson stated that there is now talk about just having one super board instead of five, but that B&I is still going through the process and changing their ideas; and that there should be some documentation on this hopefully by the end of the month.

#### XIV. ITEMS FOR FUTURE DISCUSSION/ACTION/UPCOMING AGENDA

Dr. Polce stated he wanted to revisit and add the Anesthesiologist Assistant licensing issue on next month's Board meeting agenda.

#### XV. PRESIDENT'S REPORT on Board Business, Carla Perlotto, President

*a. Next Board Meeting date: November 12, 2024-* Dr. Perlotto mentioned the next Board Meeting will be November 12, 2024, at 5:30pm.

#### XVI. PUBLIC COMMENT

No public comments were received.

#### XVII. ADJOURNMENT (For Possible Action) Carla Perlotto, President

Dr. Perlotto made a motion to adjourn the meeting; seconded by Mr. Nigam. There being no further discussion, the Board unanimously approved adjourning the meeting.

#### Minutes approved by the Board at the November 12, 2024 Board Meeting.