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2
3 **DEPARTMENT OF HEALTH**
4 **MEDICAL QUALITY ASSURANCE**
5 **BOARD OF ORTHOTISTS & PROSTHETISTS**

6 **MINUTES**
7 **GENERAL BUSINESS MEETING**

8 **By**
9 **Telephone Conference**

10
11 **Friday, July 26, 2013**
12

13
14 These proceedings are being recorded and an audio file of the meeting will be posted to
15 the board's website.

16
17 **General Board Business started: 9:06 a.m.**
18

19 **CALL TO ORDER:**

20 Mr. Ronald Gingras, Chairman, called the meeting to order at 9:06 a.m. Those present
21 for all or part of the meeting included the following:

22
23 **MEMBERS PRESENT:**

24 Ronald Gingras, Chair
25 Steven Mersch, Vice-Chair
26 Tommy Chmielewski
27

28 **MEMBER NOT PRESENT:**

29 Erik Nilssen, M.D.
30

31 **STAFF PRESENT:**

32 Bill Miller, Board Executive Director
33 Sharon Guilford, Program Operations Administrator
34 Michele Jackson, Regulatory Consultant/Supervisor
35 Edith Rogers, Regulatory Specialist II
36

37 **BOARD COUNSEL:**

38 Lynette Norr, Assistant Attorney General
39 Office of Attorney General
40

41 **APPROVAL OF MINUTES:**
42

43 **June 25, 2013 – Telephone Conference Call**
44

1 **Mr. Gingras moved to approve the minutes with corrections to page 2, line 10**
2 **deleting “had indicated” and page 2, line 11 replacing “the” to “to”. The motion**
3 **was seconded and carried 3/0.**

4
5 Mr. Charles Mata addressed the board.

6
7 Ms. Norr stated that Mr. Mata’s application is being pulled due to staff needing to
8 complete additional review of his application.

9
10 **June 19, 2013 – Telephone Conference Call**

11
12 **Mr. Mersch moved to approve the minutes as presented. The motion was seconded**
13 **and carried 3/0.**

14
15 **March 7, 2013 – Full Board Meeting**

16
17 **Mr. Mersch moved to approve the minutes as presented or with the noted**
18 **corrections to page 4, line 9, and page 5 line, 32 modifying “Chapters to Sections”.**
19 **The motion was seconded and carried 3/0.**

20
21 **PETITION FOR VARIANCE/WAIVER - Wayne T. Lawall – Prosthetist-Orthotist**
22 **– Rule 64B14-4.003(1)(d), Florida Administrative Code**

23
24 Mr. Lawall was neither present nor represented by counsel.

25
26 Mr. Gingras stated that Mr. Lawall has submitted a Petition for Variance/Waiver of Rule
27 64B14-4.003(1)(d), F.A.C. He indicated Mr. Lawall had received ABC certification on
28 12/31/1986 but ABC did not require the completion of a NCOPE approved residency
29 program. Therefore, he is petitioning to waive the 1900 hours of training.

30
31 Discussion ensued.

32
33 **Mr. Mersch moved to approve the Petition for Variance/Waiver of Rule 64B14-**
34 **4.003(1)(d), F.A.C., due to he had received certification prior to the requirements of**
35 **an NCOPE approved residency program. The motion was seconded and carried**
36 **3/0.**

37
38 **Mr. Gingras moved to accept amending the agenda to add Mr. Lawall’s application**
39 **due to the application was complete. The motion was seconded and carried 3/0.**

40
41 **Mr. Gingras moved to approve Mr. Lawall’s application for licensure as a**
42 **Prosthetist-Orthotist. The motion was seconded and carried 3/0.**

43
44 **General Board Business ended: 9:26 a.m.**

45 **Applications started: 9:26 a.m.**

1 **APPLICANTS PRESENTED FOR BOARD REVIEW:**

2
3 **Lindsey I. Duval – Orthotist**

4
5 Ms. Duval was present and addressed the board. Mr. Robert Baumann (direct supervisor)
6 was also present.

7
8 Mr. Gingras provided an overview of the applicant’s application. He stated that the
9 applicant had completed her NCOPE approved Orthotic Residency program with Hanger
10 P&O, Inc., in Lafayette, Colorado on 7/26/2011. The Verification of Clinical Experience
11 Form indicates that she had been employed with Performance P&O in Pensacola, Florida,
12 since 3/11/2013. Mr. Robert Baumann, (POR 145) stated that the applicant had been
13 performing “Certified Orthotist” responsibilities under a Florida licensed Orthotist. The
14 applicant had submitted an amended form on 6/17/2013, indicating that she was
15 employed as “support personnel for Florida licensed Orthotist.” He further stated that he
16 requested the application to be on this agenda for review and action.

17
18 Ms. Duval addressed the board regarding her clinical experience with Performance P&O
19 under the direct supervision of Mr. Baumann.

20
21 Mr. Baumann addressed the board regarding the errors that occurred with the Verification
22 of Clinical Experience Form.

23
24 Discussion ensued.

25
26 **Mr. Gingras moved to conditionally approve the application upon the submission of**
27 **an administrative fine of \$750.00, based on the applicant’s violation of Chapter 456,**
28 **F.S., and Section 468.809(b), F.S., payable within 30 days of the filing of the Final**
29 **Order. The motion was seconded and carried 3/0.**

30
31 **Sean B. O’Donnell – Orthotist Resident**

32
33 Mr. O’Donnell was present and addressed the board.

34
35 Mr. Gingras provided an overview of the applicant’s application. He stated that the
36 applicant was licensed as an Orthotic Resident (ORTR79) on 6/9/2011 and the residency
37 license expired on 6/8/2013. He has requested a one-year renewal in order to obtain
38 additional experience to assist him in passing the examinations.

39
40 The board asked if Mr. O’Donnell has taken any portions of the ABC examination.

41
42 Mr. O’Donnell stated that he has been scheduled to take the written and written
43 simulation examination in September 2013.

44
45 Discussion ensued.

1 **Mr. Gingras moved to approve Mr. O'Donnell's request for a one-year renewal**
2 **from the expiration date. The motion was seconded and carried 3/0.**

3
4 **Michele A. Tamm – Orthotist Resident**

5
6 Ms. Tamm was present and addressed the board.

7
8 Mr. Gingras provided an overview of the applicant's application. He stated that the
9 applicant was licensed as an Orthotic Resident (ORTR86) on 8/18/2011 and the residency
10 license will expire on 8/17/2013. She has requested a one-year renewal in order to allow
11 her time to take and receive the examination results.

12
13 Discussion ensued.

14
15 **Mr. Gingras moved to approve Ms. Tamm's request for a one-year renewal for one**
16 **year from the date of the expiration date. The motion was seconded and carried 3/0.**

17
18 **Matthew P. Dipaolo – Prosthetic Resident**

19
20 Mr. Dipaolo was neither present nor represented by counsel.

21
22 Mr. Gingras provided an overview of the applicant's application. He stated that the
23 applicant was licensed as a Prosthetic Resident (PROR21) on 9/30/2011 and the
24 residency license will expire on 9/29/2013. He has requested a one-year renewal to allow
25 him time to re-take the CPM portion of the examination in August 2013.

26
27 Discussion ensued.

28
29 **Mr. Gingras moved to approve Mr. Dipaolo's request for a one-year renewal for**
30 **one year from the date of the expiration date. The motion was seconded and carried**
31 **3/0.**

32
33 **Valerie L. O'Brien – Prosthetic Resident**

34
35 Ms. O'Brien was neither present nor represented by counsel.

36
37 Mr. Gingras provided an overview of the applicant's application. He stated that the
38 applicant was licensed as a Prosthetic Resident (PROR25) on 10/24/2011 and the
39 residency license will expire on 10/23/2013. She has requested a one-year renewal to
40 allow time to receive the results of the Clinical portion of the examination in time to
41 submit the application for full licensure.

42
43 Discussion ensued.

1 **Mr. Gingras moved to approve Ms. O'Brien's request for a one-year renewal for**
2 **one year from the date of the expiration date. The motion was seconded and carried**
3 **3/0.**

4
5 **Charles S. Mata – Prosthetist-Orthotist**

6
7 Mr. Mata's application has been pulled from the agenda.

8
9 **RATIFICATION OF LICENSURE:**

10
11 The board ratified the licensees as follows:

12
13 **Orthotist/Prosthetists**

14 (Jesus Manuel Alvarez, POR 242 through Marianne Ramos, POR 250)

15
16 **Mr. Gingras moved to approve the ratification lists. The motion was seconded and**
17 **carried 3/0.**

18
19 **Prosthetists**

20 (Angela Lorraine Revels, PRO 148 through Christopher Stephen Digioia,
21 PRO 156)

22
23 **Mr. Gingras moved to approve the ratification lists. The motion was seconded and**
24 **carried 3/0.**

25
26 **Orthotists**

27 (Jillian Kay Hitchcock, ORT 229 through Sidney Kieppe Nelson, ORT 239)

28
29 **Mr. Gingras moved to approve the ratification lists. The motion was seconded and**
30 **carried 3/0.**

31
32 **Orthotic Fitters**

33 (Magnun Angelo Baptiste, OF 238 and Juan Jose Diaz, OF 239)

34
35 **Mr. Gingras moved to approve the ratification lists. The motion was seconded and**
36 **carried 3/0.**

37
38 **Orthotic Fitter Assistants**

39 (Angela Denise Creamer, OFA 305 through Marie Sierra, OFA 308)

40
41 **Mr. Gingras moved to approve the ratification lists. The motion was seconded and**
42 **carried 3/0.**

43
44 **Pedorthists**

45 (Warren Keith Trowbridge, PED 216 and Nathan Alvin Phillips, PED 217)

1 **Mr. Gingras moved to approve the ratification lists. The motion was seconded and**
2 **carried 3/0.**

3
4 **Orthotic Residents**

5 (Lakesha Johnson, ORTR 113 through Andrew Tyler Hocz, ORTR 120)

6
7 **Mr. Gingras moved to approve the ratification lists. The motion was seconded and**
8 **carried 3/0.**

9
10 **Prosthetic Residents**

11 (Tara Michele Reynolds, PROR 55 through Ronald Alexander Dickson,
12 PROR 59)

13
14 **Mr. Gingras moved to approve the ratification lists. The motion was seconded and**
15 **carried 3/0.**

16
17 **APPROVAL OF ORTHOTIC FITTER COURSES:**

18
19 **CFS Allied Health Education (Additional booklets included) 231**

20
21 Mr. Rick E. Sevier, BS. Ed. BOCO, with CFS Allied Health Education, was present and
22 addressed the board.

23
24 Discussion ensued.

25
26 The board stated that the course did not include the eight (8) hour custom molded shoe
27 course. Therefore, the board did not believe the course would meet Rule 64B14-
28 4.003(2)(3), F.A.C.

29
30 Further discussion ensued.

31
32 Ms. Norr asked if Mr. Sevier would like to withdraw his application.

33
34 Mr. Sevier withdrew his application.

35
36 **O&P Education (Additional booklets included)**

37
38 Mr. James Hewlett, CO, BOCO, CII with O&P Education was present and addressed the
39 board.

40
41 Mr. Gingras stated that Mr. Hewlett provided the board with course materials which
42 includes the approval of the American Board for Certification in Orthotics, Prosthetics
43 and Pedorthics (ABC) and the Board of Certification/Accreditation International (BOC).

44
45 Discussion ensued.

1 The board stated that the course does not include the eight (8) hour custom molded shoe
2 course. Therefore, the board did not believe the course would meet Rule 64B14-
3 4.003(2)(3), F.A.C.

4
5 Ms. Norr asked if Mr. Hewlett would like to withdraw his application.

6
7 Mr. Hewlett withdrew his application.

8
9 **Ossur (Additional booklets included)**

10
11 Ms. Katie Swanson, CHES, CFO with Ossur was not present.

12
13 Mr. Gingras stated that Ms. Swanson provided the board with course materials for
14 review.

15
16 Discussion ensued.

17
18 The board stated that the course does not include the eight (8) hour custom molded shoe
19 course. Therefore, the board did not believe the course would meet Rule 64B14-
20 4.003(2)(3), F.A.C.

21
22 **Mr. Gingras moved to deny the Orthotic Fitter Course by Ossur for failure to meet**
23 **the requirements in Rule 64B14-4.003(2)(3), F.A.C. The motion was seconded and**
24 **carried 4/0.**

25
26 **Applications ended: 10:55 a.m.**

27 **General Board Business started: 10:55 a.m.**

28
29 **CHAIR/VICE-CHAIR REPORTS:**

30
31 **Future Agenda Items**

32
33 No report.

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

36
37 **• Follow Up**

38
39 Mr. Miller provided an update to several items he had to research and address from the
40 last meeting. He stated the board requested that he research the complaints within the
41 past two years and their status. The summary is as follows:

42
43 Complaints filed 124
44 Closed for lack of legal sufficiency - 2
45 Final Orders issued and terms have been satisfied - 61
46 Final Order issued and are still being monitored by the

1	Compliance Committee Officer -	5
2	Probable Cause Panel Closed -	52
3	Currently assigned to Prosecution Services Unit under legal review -	4

4

- 5 **Board Member Appointments**

6

7 Mr. Miller provided an update on the board member appointments.

8

9 **SB – 248 Section 456.076, F.S. – Treatment programs for impaired**

10 **practitioners**

11

12 Mr. Miller also stated that the changes in Chapter 456.076, F.S., would impose new

13 provisions regarding impaired treatment programs. He asked the board to vote on

14 whether to allow the board chair, credentials committee chair, or to continue allowing the

15 board to review the applications. A copy of the language was provided to the members.

16

17 Discussion ensued.

18

19 **Mr. Gingras moved to continue with the board reviewing the applicants. The**

20 **motion was seconded and carried 3/0.**

21

22 **BOARD COUNSEL’S REPORT:**

23

24 **Rule Status Report**

25

26 Ms. Norr provided an overview of the Rules Status Updates.

27

28 **COMMITTEE REPORTS:**

29

30 **Budget – Mr. Chmielewski**

31

32 No report.

33

34 **Continuing Education – Mr. Gingras**

35

36 No report.

37

38 The board requested that Rules 64B14-5.003 and 5.004, F.A.C., to be included on the

39 Thursday, October 24th agenda.

40

41 **Credentials – Mr. Gingras**

42

43 No report.

44

45 **Disciplinary Compliance – Mr. Gingras**

46

1 No report.

2
3 **Legislative – Dr. Nilssen**

4
5 No report.

6
7 **Probable Cause – Mr. Mersch**

8
9 **Stats**

10
11 Information only.

12
13 **Rules – Mr. Gingras**

14
15 **Discussion of 64B14-7.001(1), F.A.C. – Standards of Practice –**
16 **Clarification**

17
18 **64B14-7.001 Standards of Practice.**

19 (1) Pursuant to a licensed physician’s written prescription, the orthotist, prosthetist,
20 resident, intern, pedorthist orthotic fitter or orthotic fitter assistant shall assume the
21 responsibility for assessing the patient, planning the patient’s treatment plan, and
22 directing the program. No licensee shall implement a prescription that, in the licensee’s
23 judgment, is contraindicated. No change shall be made in the prescription without the
24 authorization of the prescribing physician.

25 (2) The licensee’s or registrant’s professional responsibilities include:

26 (a) Ongoing consultation with the prescribing physician regarding information that
27 will impact the patient’s medical and functional outcomes.

28 (b) Orthotic/prosthetic evaluation of the patient.

29 (c) Identification and documentation of precautions, special problems, or
30 contraindications.

31 (d) Development of a treatment plan including the short and long terms goals.

32 (e) Implementation of a treatment plan.

33 (f) Periodic review and update of the treatment plan, including reassessment of the
34 patient in reference to goals and, when necessary, modification of the treatment plan.

35 (g) Collaboration with members of the health care team when appropriate.

36 (h) Prior to rendering services, advising the patient or guardian, in terms which the
37 patient or guardian can understand, of the nature and purpose of the services to be
38 rendered, the nature and purposes of the prescribed device, the treatment plan, use and
39 care of an orthosis or prosthesis, and an estimate of delivery time and financial
40 responsibilities.

41 (i) Determination of the appropriateness of proper fit and function of any orthosis or
42 prosthesis.

43 (3) Sexual misconduct in the practice of “Orthotics/Prosthetics” by any person
44 licensed under this chapter is prohibited. Sexual misconduct in the practice of
45 orthotics/prosthetics means exercising influence within the licensee-patient relationship
46 for purposes of engaging a patient in sexual activity.

1 (4) It is below the standards of practice for any person licensed under this chapter to
2 practice if they are unable to practice with reasonable skill and safety to patients by
3 reason of illness, use of alcohol, drugs, narcotics or chemicals, or any other type of
4 material, or as a result of any mental or physical condition.

5 (5) It is below the standard of practice and prohibited under this section for any
6 person licensed under this chapter to delegate or assign activities, tasks or procedures that
7 fall within the scope of any practice defined in Section 468.80, F.S., to support personnel,
8 without providing direct supervision for the performance of the activities, tasks or
9 procedures. Direct Supervision requires:

10 (a) The licensed orthotist, prosthetist, orthotist/prosthetist, or pedorthist to provide a
11 physical evaluation of each patient's orthotic and or prosthetic needs and may delegate
12 appropriate duties to support personnel. However, the licensed practitioner shall
13 physically evaluate the effectiveness, appropriateness and fit of all devices within the
14 scope of the licensed practitioner's licensure practice requirements, including those
15 repaired devices in which the repairs affect the fit, physical structure or biomechanical
16 function of the device, on every patient, prior to the delivery of the device;

17 (b) For the purpose of replacement of worn or broken components which do not in
18 any way alter the fit, physical structure or biomechanical functioning of the existing
19 device, direct supervision of support personnel providing repairs to orthoses or prosthesis
20 means the aforementioned repair must be approved by the appropriately licensed
21 practitioner prior to beginning of repairs. The responsible licensed practitioner must at all
22 times be accessible by two way communication, enabling the supervisor to respond to
23 questions relating to the repair.

24 *Rulemaking Authority 468.802 FS. Law Implemented 456.063(1), 456.072(1)(o), (u),*
25 *468.802, 468.808 FS. History—New 7-1-98, Amended 10-24-04, 1-16-06, 4-12-10.*

26
27 Mr. Mersch asked if a patient can be evaluated by a practitioner in the orthotics and
28 prosthetics field prior to prescription with physicians.

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

31
32 **FY 11-12 and 12-13 Report**

33
34 Mr. Gingras provided an overview of the Unlicensed Activity during the FY 11-12 and
35 12-13. The following was reported:

36

37 <u>Complaints filed</u>	10
38 Referred for investigation -	5
39 Consumer Services Unit Review -	3
40 Ceased and Desist Issued -	2
41 Arrests -	0

42
43 There was no action necessary.

44
45 **APPROVAL OF 2014 MEETING DATES**

1 The board approved the proposed 2014 meeting dates and locations as follows:

2
3 February 28th (Ft. Lauderdale/Miami)

4 June 27th (Tallahassee)

5 October 17th (Orlando)

6
7 **NEXT MEETING DATE:**

8
9 **October 25th – Orlando**

10
11 Information only.

12
13 **BOARD COUNSEL’S REPORT: (continued)**

14
15 **Discussion of:**

16
17 **Rule 64B14-4.115, F.A.C. – Requirements for Renewal of Prosthetic or**
18 **Orthotic Residency or Internship and Application**

19
20 The board recommended the following changes:

- 21
22 • #1 - A registration renewal is permitted only once in each specific residency
23 discipline by statute....”
24
25 • Add a new 7 - **ID BADGE:** Please submit legible copies of the ID Badges.
26

27 **Mr. Gingras moved to approve the application and changes to Rule 64B14-4.115,**
28 **F.A.C. The motion was seconded and carried 3/0.**

29
30 **Mr. Gingras moved that the proposed rule would not have any adverse impacts on**
31 **small business. The motion was seconded and carried 3/0.**

32
33 **Mr. Gingras moved that the proposed rule would not be likely to directly or**
34 **indirectly increase regulatory costs to any entity (including government) in excess of**
35 **\$200,000 in the aggregate in Florida within 1 year after the implementation of the**
36 **rule. The motion was seconded and carried 3/0.**

37
38 Ms. Norr addressed the following rules.

39
40 **Rule 64B14-7.004, F.A.C. – Citations**

41
42 **64B14-7.004 Citations.**

43 Pursuant to Section 456.077, F.S., the Board designates the following as citation
44 violations:

45 (1) Failure to furnish patient records in a timely manner in violation of Section
46 456.057(4), F.S.: If corrected within 15 days, fine of \$100.

1 (2) Failure to report to the department any person who is in violation of Chapter 468,
2 F.S., Part XIV or Chapter 456, F.S., or the rules promulgated thereunder: \$250 fine.

3 (3) Failure to notify the Board of a change of current mailing address in violation of
4 Section 456.035, F.S., second offense: Fine of \$500.

5 (4) Violation of Section 468.811(1)(i), F.S., by failing to provide written notice of any
6 applicable warranty for an orthosis, prosthesis or pedorthic device provided to a patient:
7 Fine of \$100.

8 (5) Failure of the licensee to satisfy continuing education requirements established by
9 the board: Fine of \$100 per hour of continuing education not completed.

10 (6) Tendering a check that is dishonored by the institution upon which it is drawn
11 shall result in a fine of \$100 and payment of the check amount within 30 days.

12 (7) Failure to pay a fee or fine timely: if paid no later than 60 days from the date due,
13 a fine of \$500.00; if fine or fee is paid but more than 60 days from the date due, the fine
14 shall be double the original fee or fine amount.

15 (8) Failure to pay a one time assessment fee assessed pursuant to Rule 64B14-2.013,
16 F.A.C., in a timely manner: a fine of \$500.00 and payment of the assessment.

17 *Rulemaking Authority 456.072, 456.077 FS. Law Implemented 456.072, 456.077 FS.*
18 *History—New 7-1-98, Amended 3-19-02, 10-24-04, 4-25-06, 3-1-10.*

20 **Rule 64B14-7.005, F.A.C. – Notice of Noncompliance**

21 **64B14-7.005 Notice of Noncompliance.**

22 Pursuant to Sections 120.695 and 456.073(3), F.S., the Board designates the following as
23 minor violations for which the Board authorizes issuance of notices of noncompliance:

24 (1) Renewal of a license by fraudulent misrepresentation through submitting a
25 worthless check.

26 (2) Failure to notify the Board of a change of current mailing address.
27 *Specific Authority 120.695, 456.073(3) FS. Law Implemented 120.695, 456.073(3) FS.*
28 *History—New 7-1-98.*

30 **Rule 64B14-7.007, F.A.C. – Mediation**

31 **456.078 Mediation.--**

32 (1) Notwithstanding the provisions of s. 456.073, the board, or the department when
33 there is no board, shall adopt rules to designate which violations of the applicable
34 professional practice act are appropriate for mediation. The board, or the department
35 when there is no board, shall designate as mediation offenses those complaints where
36 harm caused by the licensee:

37 (a) Is economic in nature except any act or omission involving intentional misconduct;

38 (b) Can be remedied by the licensee;

39 (c) Is not a standard of care violation involving any type of injury to a patient; or

40 (d) Does not result in an adverse incident.

41 (2) For the purposes of this section, an "adverse incident" means an event that results in:

42 (a) The death of a patient;

43 (b) Brain or spinal damage to a patient;

44 (c) The performance of a surgical procedure on the wrong patient;

- 1 (d) The performance of a wrong-site surgical procedure;
2 (e) The performance of a surgical procedure that is medically unnecessary or otherwise
3 unrelated to the patient's diagnosis or medical condition;
4 (f) The surgical repair of damage to a patient resulting from a planned surgical
5 procedure, which damage is not a recognized specific risk as disclosed to the patient and
6 documented through the informed-consent process;
7 (g) The performance of a procedure to remove unplanned foreign objects remaining from
8 a surgical procedure; or
9 (h) The performance of any other surgical procedure that breached the standard of care.
10 (3) After the department determines a complaint is legally sufficient and the alleged
11 violations are defined as mediation offenses, the department or any agent of the
12 department may conduct informal mediation to resolve the complaint. If the complainant
13 and the subject of the complaint agree to a resolution of a complaint within 14 days after
14 contact by the mediator, the mediator shall notify the department of the terms of the
15 resolution. The department or board shall take no further action unless the complainant
16 and the subject each fail to record with the department an acknowledgment of satisfaction
17 of the terms of mediation within 60 days of the mediator's notification to the department.
18 A successful mediation shall not constitute discipline. In the event the complainant and
19 subject fail to reach settlement terms or to record the required acknowledgment, the
20 department shall process the complaint according to the provisions of s. 456.073.
21 (4) Conduct or statements made during mediation are inadmissible in any proceeding
22 pursuant to s. 456.073. Further, any information relating to the mediation of a case shall
23 be subject to the confidentiality provisions of s. 456.073.
24 (5) No licensee shall go through the mediation process more than three times without
25 approval of the department. The department may consider the subject and dates of the
26 earlier complaints in rendering its decision. Such decision shall not be considered a final
27 agency action for purposes of chapter 120.
28 (6) Any board created on or after January 1, 1995, shall have 6 months to adopt rules
29 designating which violations are appropriate for mediation, after which time the
30 department shall have exclusive authority to adopt rules pursuant to this section. A board
31 shall have continuing authority to amend its rules adopted pursuant to this section.
32 **History.**--s. 66, ch. 97-261; s. 96, ch. 2000-160; s. 22, ch. 2003-416. **Note.**--Former s.
33 455.614.
34

35 **64B14-7.007 Mediation.**

36 For purposes of Section 456.078, F.S., which permits mediation when the violation is
37 economic and without intentional misconduct, the violation can be remedied by the
38 licensee, the violation is not a standard of care violation, and the violation does not result
39 in an adverse incident, the Board finds the following offenses appropriate for mediation:

40 (1) Where reimbursement or restitution to the patient or client is appropriate;

41 (2) Failure to timely provide patient records to a patient or a patient's legal
42 representative as required by s. 456.057(6), F.S.;

43 (3) Failure to comply with the requirements of Sections 381.026 and 381.0261, F.S.,
44 to provide patients with information about their patient rights and how to file a patient
45 complaint;

46 (4) Failure to notify the Department of change of practice or mailing address; and

1 (5) False, deceptive, or misleading advertising not involving intentional misconduct.
2 Specific Authority 456.078, 468.802 FS. Law Implemented 456.078 FS. History–New
3 _____.

4
5 After a lengthy discussion, the board requested the above rules to be included on the
6 Thursday, October 24th, board agenda.

7
8 Ms. Norr stated the staff will research the mediation process.

9
10 **General Board Business ended: 12:38 p.m.**

11
12 **ADJOURNMENT:**

13
14 The meeting was adjourned at 12:38 p.m.