

Meeting of  
**REGULATORY COUNCIL OF COMMUNITY ASSOCIATION MANAGERS**  
Friday, November 18, 2011 at 9:00 a.m.  
Department of Business and Professional Regulation  
1940 North Monroe Street, Tallahassee, FL 32399

**CALL TO ORDER**

The meeting was called to order at 9:03 a.m. by Patricia Rogers, Chair. The meeting was opened with the roll call and a quorum was established.

**ROLL CALL**

Patricia Rogers  
Kelly Moran  
Dawn Warren  
David Beswick  
Margaret Rogers

**APPROVAL OF MINUTES**

August 5, 2011 telephone conference

**Motion:** Kelly Moran moves the August 5, 2011 minutes be approved as presented

**Second:** Margaret Rogers

Motion passes unanimously

October 10<sup>th</sup> telephone conference

**Motion:** Kelly Moran moves to approve the October 10<sup>th</sup> telephone conference minutes.

**Second:** Margaret Rogers

**Motion:** Patricia has correction page 6, she voted no.

**Motion:** Kelly Moran moves the minutes be accepted as amended.

**Second:** Margaret Rogers

Motion Passes unanimously

**CHAIR REPORT** - No report

**COUNSEL REPORT** – C. Khai Patterson

**1. Notification Letter JAPC (Joint Administrative Procedures Committee)**

Opt into Office of Fiscal Accountability and Regulatory Reform (OFARR) review.

Annual rules review completed as required for Chapter 20.

**2. Executive Order 11-211**

Send notice to Department of State and then send a copy to OFARR.

Or send to OFARR first and then wait seven days.

**Motion:** Kelly Moran moves to advise OFARR seven days in advance.

**Second:** David Beswick

Motion passes unanimously

## **PROSECUTING ATTORNEY’S REPORT – C. Erica White and Elizabeth Henderson**

C. Erica White has 194 cases.

Elizabeth Henderson has 170.

High number of cases due to duplicative complaints (CAM and CAM Firm) and an overall larger number of complaints received.

## **EXECUTIVE DIRECTOR REPORT – Anthony “Tony” Spivey**

### **1. Financial Statements**

Operating Account Balance = (-\$114,232)

Unlicensed Activity Balance = \$107,209

## **COUNCIL DISCUSSION TOPICS**

### **1. Dennis Warren Letter**

In October, The council asked that this be placed back on the agenda for discussion  
Some of it has been addressed.

Deputy Secretary Tim Vaccaro will be here to discuss web content. We can defer until  
later this morning.

(Skipped to Topic 4 until Department staff arrived for Topic 2 & Topic 3)

### **4. Management experience of expert witnesses**

Kelly Moran: Asked if the council could adopt a policy regulating minimum  
requirements to be an expert witness.

Khai Patterson: You have to feel comfortable with the probable cause that is within their  
domain to know when and how to use the expert witnesses.

Erica White: Given the case load of the number of cases that go to DOAH, two expert  
witnesses are enough. Only two cases went to DOAH last year.

Erica White: Counsel does have some discretion in choosing expert witnesses and most  
cases do not go to formal hearing where they are required.

Tony Spivey Introduced:

Tim Vaccaro, Deputy Secretary

G.W. Harrell, Division Director  
Tim Nungesser, Legislative Affairs Director

## **2. Legislative issues/update - Tim Nungesser**

The Department has four main initiatives this session.

1. Military fee waiver, for all members within 24 months, we waive their licensure fee.
2. Send renewal notices via email.
3. Cap continuing education to one cycle.
4. Allow a licensee to go from an active to inactive and back to inactive to allow licensees to work when they have the work.

Maggie Rogers: added she would like to see the Department and the Governor support legislation that allowed the CAM Council to be a Board.

Tim Nungesser: He would take a look at it.

Tim Vaccaro: added that all requests go to the Governor's office. We may take 50 proposals and may get the go ahead for 20. Anything is subject to the approval of the Governor's office.

Maggie Rogers: would appreciate the Department's support toward making the CAM Council a Board.

Dawn Warren: asked for DBPR to please take a look at the issue as well.

## **3. Discussion of Web content - Deputy Secretary Tim Vaccaro**

Deputy Secretary Vaccaro: Power point presentation of the Department's website on steps to verify a license and check complaints. If complaints were closed with a finding of no probable cause, it will no longer show on the website. All complaints against CAMs are public record and available to the public through a public records request. We are still providing that information and in some cases can email the information with no charge for the request. If the individual wants copies of documents, there is a charge per the public records request process.

Citizens can contact Jennifer Ganey with the Department's Office of Open Government or through public records email addresses available on the website.

Ultimately the decision was made that given the economic climate in the country, we need to try to afford people the opportunity to find jobs and get to work. So we did decide to go ahead and make some changes to the website while still protecting the public. We still acknowledge that all CAM complaints are public record.

The Council believes this adequately addresses the problem. There is a way to submit an anonymous complaint. But nothing is on the web until a violation is found. If a violation is found, it is on the record.

Caller, Mr. William Coliani: What degree does a violation revoke or cancels a license?

Erica White: In the rules there is a graduated violation process, so if a licensee has recurring violations it depends on the severity of the violation. Typically, licenses are not revoked in the first offense unless it is a significant financial crime.

**Motion:** Kelly Moran moved that the web content has been addressed adequately with regard to CAM complaints by the Department to the satisfaction of the Council in response to the Dennis Warren's letter.

**Second:** David Beswick

Motion passes 4-0

Dawn Warren abstained, due to conflict of interest.

## **5. Definition of gross misconduct**

Council asked it be placed back on the agendas for further discussion.

Counsel, Khai Patterson: Definition of gross misconduct.

“There is no actual legal definition of gross misconduct. Former Counsel David Flynn pulled each item under the legal definition of gross—“anything that is flagrant or extreme especially in badness or offensiveness or consisting of an overall toll exclusive of deduction.” Misconduct is deliberate or wanton violation of standards of conduct by a government official. Wrongful behavior and an attorney's violation of the standards set forth in professional conduct. Also pulled a definition that is similar gross negligence or carelessness which is a conscious violation of people's rights to safety, gross or reckless disregard for the safety or the lives of others and is so great it appears to be a conscious violation of other people's rights to safety. Counsel also included a definition of official misconduct which is improper and or illegal acts by a public official which violate his or her duty to follow the law or act on behalf of the public good.”

Khai Patterson: If you use the word intent it will be almost impossible for your prosecutor to be successful in proving intent.

Elizabeth Henderson: I agree with Ms. Patterson in the terms of that any inclusion in the gross misconduct definition with makes it much, much harder to prove. I prefer when I have the opportunity to proceed with a fraud based or negligence based. I prefer to proceed under the negligence based statute. Proving intent is much tougher than proving a standard that was not met.

Patricia Rogers, Chair: I am not as concerned with the legal part as telling a CAM out three what gross negligence or gross misconduct is. They need to understand what

standards they should be following. There needs to be a broader education which tells them that if they do xxx, they could be committing gross misconduct.

Maggie Rogers: I agree, but don't tie the hands of your prosecutors.

Dawn Warren: It should not say "gross" That is the problem.

**Motion:** Maggie Rogers moved that we send a letter the schools a request to emphasize the 2013 legislative updates professional standards to licensees.

**Second:** Kelly Moran.

**Amendment:** Kelly Moran amended the motion asking that the letter go to pre-licensure providers and include in the pre-licensure courses a review if the professional standards of licensing.

**Motion:** Dawn Warren moves the amendment

**Second:** Kelly Moran

The amendment carries 5-0

On the motion as amended passes 5-0

Suzanne Lee from the Bureau of Education and Testing (BET) commented: pre-licensure course certain criteria. We can send letters out asking them to meet this but because, it is not required, we can only send the letter and remind them of that focus.

Anthony Spivey will draft a letter for Chairman Roger's review.

## **6. Rule 61E14-4.001(3)(a) - Continuing Education Renewal requirements**

A question brought up by a few of the providers.

Suzanne Lee: Legislation has July 1 and October 1. Enacting dates. Most recent years it was primarily July 1<sup>st</sup>.

Suzanne Lee recommended a mid-point letter 90 days prior to the end of that Legislative Update period.

**Motion:** to research and draft a letter reminding the education providers to use the proper legal update language.

**Second:** Dawn Warren

The motion passed unanimously

## **7. Discussion of professional standards from other sates.**

Lisa Kirkland Osteen: presentation of comparison of CAM laws from other states, including Florida, Nevada, Illinois and Virginia which are regarded by the industry as the strongest regulatory models.

Kelly Moran: provided copies of CAM statutes from other states Community Managers Professional Standards.

**Motion:** Kelly Moran moves that the council members review the standards of professional conduct, disciplinary actions and any statutes and rules we should consider and submit their recommendations to the Executive Director by January 15<sup>th</sup>. The matter shall be placed on the next conference call agenda.

**Second:** Maggie Rogers  
Motion passes unanimously.

## **8. CAM Public Information Brochures Update**

Maggie Rogers: Can we require or request that this be placed on the bulletin board of every condo?

**Motion:** Kelly Moran: Our CAM and Professional Standards brochure should be placed in pdf form on our website for download. Also mail a copy to every active licensee and active management company and ask them to display them. It may be necessary because of costs to email them.

**Second:** Maggie Rogers  
Passes unanimously

## **NEW BUSINESS**

Tony Spivey: The Council needs to decide if there will be a phone line at each live meeting.

**Motion:** Maggie Rogers so moves.  
**Second:** David Beswick seconds

## **Letter from Graham Cook**

Tony Spivey explained that Mr. Cook's letter states he does not think the required 18 hours is enough for a licensed CAM to do his job.

Kelly Moran: While we agree with Mr. Cook that 18 hours is not enough continuing education for CAMs, however based on the current economy in Florida we will not be able to take any action and we will keep this in mind for the future.

Patricia Rogers, Chair: directed Tony Spivey to respond, again, to Mr. Cook and express the current opinion of the Council.

## **FUTURE MEETING DATES:**

February 3, 2012

May 11, 2012

**OLD BUSINESS** - None

**ADJOURNMENT**

**Motion:** Kelly Moran moves the meeting be adjourned.

**Seconds:** Maggie Rogers seconds the motion.

Meeting is adjourned at 11:38 a.m.