

Arizona State Board of Homeopathic and Integrated Medicine Examiners

Regular Meeting Minutes (Revised)

January 14, 2014

I. Call to Order, Roll Call

Presiding officer, Dr. Todd Rowe, called the meeting to order at 9:03 a.m. and confirmed the attendance of the following board members:

Present:

Todd Rowe, MD, MD(H)

Bruce Shelton, MD, MD(H)

Alan Kennedy

Dr. Les Adler, MD, MD(H) (*joined the meeting by telephone at 9:06 a.m.*)

Don Farris

Mary Grace Warner, MD, MD(H)

Christine Springer, Executive Director and Mona Baskin, Assistant Attorney General were also present at the meeting.

II. Review, Consideration, and Action on Minutes

Board members considered the minutes of the *November 12, 2013 Regular Meeting*. Dr. Shelton made a motion to approve the minutes and Dr. Warner seconded the motion. The motion passed 5 – 0. Dr. Adler was not present at the meeting during this agenda item.

The Board considered the *Executive Session minutes of November 12, 2013*. Dr. Shelton made a motion to accept the minutes. Assistant Attorney General Baskin requested the Board pend the minutes for her further review. Dr. Shelton withdrew his motion and the minutes were tabled to the next regular meeting.

Dr. Adler joined the meeting by telephone.

Board members questioned Ms. Baskin about how to indicate their review and approval of the *Rules Committee Minutes of September 25, 2013 and October 2, 2013*. She suggested that a member of committee may state, for the record, that the minutes have been reviewed and that they reflect the meeting discussion.

Dr. Rowe, who was one of the Rules Committee members, stated that the minutes of the September 25, 2013 and October 2, 2013 Rules Committees reflect the meeting discussion. Dr. Shelton agreed that the minutes as drafted are representative of the topics discussed.

Dr. Shelton made a motion approving the *October 23, 2013 Teleconference Meeting* minutes. Mr. Kennedy seconded the motion that passed unanimously.

III. Review, Consideration, and Action on New Applications

Medical Assistants

Dr. Adler recused himself from voting on these applications and explained that he had not been provided a copy of the information supplied before the meeting about the medical assistants.

Mrs. Springer provided an overview of the documents submitted by *Katie Cohen* in support of her application for medical assistant. The board members discussed the job description submitted by her supervisor, Dr. Abram Ber, and commented that many of Ms. Cohen's duties were related to front desk support and were administrative in nature. Dr. Rowe pointed out that the job description also indicated that Ms. Cohen was also responsible for assisting patients with questions directly related to supplements and homeopathic remedies. This interaction with patients in a capacity related to assisting patients with supplements and remedies would require that she be registered as a homeopathic medical assistant.

Dr. Shelton made a motion to approve the application. Mr. Farris seconded the motion that passed in a roll call vote 5 - 0.

Shelton, Rowe, Farris, Kennedy, and Warner voted Aye

Dr. Adler recused

An overview of the application of *Debby Davis-Hutchings* was presented by Mrs. Springer. She indicated Ms. Hutchings was supervised by Dr. Abram Ber and her duties included management of the retail supplement department and that she was responsible for assisting patients with questions related to supplements and homeopathic remedies. Dr. Rowe made a motion approving the application and Mr. Farris seconded the motion. The motion passed with a unanimous vote in a roll call 5 – 0.

Shelton, Rowe, Farris, Kennedy, and Warner voted Aye

Dr. Adler recused.

The Board considered the application of *Gloria Freeman* after Mrs. Springer provided a review of her application. Board members noted she was supervised by Dr. Ber and would be serving as a laboratory assistant relating to a detox protocol that incorporates electromotive force, hydrotherapy, and laser therapy. Dr. Shelton made a motion approving the application and Mr. Farris seconded the motion that passed in a roll call vote 5 – 0.

Shelton, Rowe, Farris, Kennedy, and Warner voted Aye

Dr. Adler recused

The application of *Janice Kressel* was reviewed for the Board by Mrs. Springer. She indicated Ms. Kressel's supervisor was Dr. Abram Ber and her duties included the sale of homeopathic remedies and vitamins. Dr. Shelton made a motion approving the application and Dr. Warner seconded the motion that passed in a roll call vote 5 – 0

Shelton, Warner, Farris, Kennedy, and Rowe voted Aye

Dr. Adler was recused.

The Board considered *Erika Randal's* application to serve as a medical assistant to Dr. Ber. Ms. Randal's job description indicated that in addition to her front desk duties she was responsible for filling orders for supplements. Dr. Shelton moved to approve the application. Mr. Farris seconded the motion that passed 5 – 0.

Shelton, Warner, Farris, Kennedy, and Rowe voted Aye.

Adler recused.

The application of *Harry Sacks* was considered by the Board. The application indicated his job duties include all of the purchasing functions related to supplements and remedies for Dr. Ber's clinic. There was a motion by Dr. Shelton to approve the application. Mr. Farris seconded the motion that passed with a roll call vote 5 – 0. Shelton, Farris, Warner, Kennedy and Rowe voted Aye. Dr. Adler recused.

IV. Review, Consideration and Action on Complaints and Investigations

A. Review, Discuss – Tracking Log Notification of New Complaints

There were no items for discussion under this agenda item.

B. Ongoing Cases – Review, Consideration and Action

Case No. 13-04 Martha Grout, MD, MD(H) (M.M.)

Mrs. Springer provided a status report concerning the ongoing investigation noting that she was still in the process of collecting all pertinent records relating to the case.

Dr. Shelton made a motion to move to Executive Session for consideration of confidential records and legal advice at 9:42 a.m. Mr. Farris seconded the motion that passed unanimously. The Board returned to the Regular Meeting at 10:10 a.m.

Dr. Rowe indicated the investigation is ongoing and directed that additional information should be obtained from Dr. Grout relating to protocols and background materials relied upon in determining dosage amounts for the use of Poly MVA and Vitamin C in such cases. Additionally, he recommended a toxicologist be consulted to review the medical record and autopsy report and possible interaction between Amygdalin, Poly MVA, and Vitamin C. Dr. Shelton requested information about Dr. Grout's training relating to the use of Poly MVA, Amygdalin, and Vitamin C.

Case No. 11-03 Frank Lobacz, MD(H)

Case No. 08-08

Mrs. Springer briefed the board on the status of a Consent Agreement sent to Dr. Lobacz that would have allowed him to voluntarily surrender and cancel his homeopathic license no. 0041. Dr. Lobacz had not responded to the Board's offer of a voluntary surrender and the Board must now consider whether to vote the matter to a formal hearing.

Following a discussion regarding legal requirements for serving a complaint and notice of hearing, Dr. Rowe made a motion directing staff to prepare the complaint and notice the matter for a formal hearing. Dr. Shelton seconded the motion that was approved in a roll call vote 6 - 0:

Warner, Farris, Adler, Kennedy, Shelton, Rowe - Aye

V. Review, Consideration and Action on Previous Board Orders

Charles Crosby, MD(H) Quarterly Report

Dr. Rowe indicated the report from Dr. Crosby's therapist had been received timely and it indicated that there was no change in the doctor's status and no need for further action.

Thomas Lodi, MD(H) Status of Compliance

Mrs. Springer noted Dr. Lodi's compliance with regard to the timeliness of the 60 day reports as required in the consent agreement terms. She indicated the fifth required report was received from Dr. Lodi on January 6, 2014. The report was timely filed via a letter sent by email indicating he had not been in country for the time frame from November 8, 2013 through January 6, 2014. His letter indicated he would not return to the states until January 10, 2014.

The Board confirmed that he was in compliance with the terms of the consent agreement. Mrs. Springer reminded board that they had allowed Dr. Lodi to direct his staff to make the quarterly reports in a timely manner and submit the reports to the board via email.

Question from Mr. Kennedy, asking if we could have Dr Lodi submit his passport to the board to determine the time frames that he was out of the country. AAG Baskin stated that this condition had not been placed as a term in the consent agreement.

VI. Review, Consideration and Action on Rules, Legislation, Substantive Policy Statements

Legislation – Review, Consideration , and Action

Mrs. Springer stated that she had sought a sponsor for fee legislation seeking to amend A.R.S. § 32-2914. She indicated she had contacted Senator Barto's office several times and had not received an opportunity to speak directly with the senator about the issue.

Mrs. Springer discussed the pros and cons of introducing legislation in the current session. She stated that the legislature would require the Board's updated revenue projections, which were not meeting expectations at this point in the fiscal year. She noted the legislature was considering a bill to ban laetrile and that if that were to occur any Board testimony would be best served without having a separate bill seeking to change the fee structure. Finally, consolidation of boards is a topic of conversation at the legislature and the resources in addressing that topic would be better served without addressing fees.

Dr. Rowe commented that although fees should be updated since they had not changed since 1995, he agreed that this session may not be the best time to address that need. Board members were in agreement that the proposed legislation should be tabled until the next session.

Five Year Review Report - -- Title 4, Chapter 38, Articles 1 -4

Mrs. Springer updated the Board on the progress of the Five Year Review Report. She stated the consultant is in the process of preparing the economic impact statement and comparing it to the 2009 economic impact statement. She stated that suggested changes to the rules incorporating the doctor of homeopathy rulemaking would also be included in the Five Year Review Report.

Doctor of Homeopathy Rulemaking

This item was deferred to the next regular meeting.

VII. Review, Consideration and Action on Professional Business

Dr. Shelton recused himself from participation in this matter.

Mrs. Springer explained that an email had been received from Florida physician, Dr. Kenneth Woliner regarding the Board's stance on HCG. She explained that the Board had

reviewed protocols and consents for Homeopathic HCG Diet Program using the substance Ha2cg submitted by Dr. Bruce Shelton under *A.A.C.R4-33-111 Experimental Forms of Diagnosis and Treatment* in 2010. The Board reviewed Dr. Shelton's consents as required in our rules. She noted that the FDA has issued letters to manufactures of HCG and asked them to cease and desist from making the product. Mrs. Springer directed the board's attention to a recent action against an Arizona company that had manufactured HCG, which is a different product from the Ha2cg in Dr. Shelton's protocols and consent.

The Board requested that Mrs. Springer monitor actions relating to HCG at the federal level. Mr. Kennedy clarified the board's processes relating to reviewing experimental protocols and consents.

Dr. Adler left the meeting at this point in the proceedings

VIII. Review, Consideration and Action on Other Business

1. Financial Report

Mrs. Springer presented information regarding the current board financial report. She indicated that as of December 31, 2013, revenues were \$23,900 and expenditures were \$32,068. The legislative appropriation for FY2014 is 102,100. She explained that historical revenue at the same time in fiscal year 2013 was essentially the same. She indicated she had revised revenue projections downward to \$79,040 based on prospective renewals due in the next six months. She noted the fiscal year 2014 budget revenues were based on receipt of 6 new applications and that one application was currently pending and reiterated that no other new applications had been received. In response to a question from Dr. Shelton she confirmed that board member per diem was unavailable and had not been paid for two fiscal cycles. She indicated that she was now eligible for health insurance since her work schedule had increased from 19.5 hours to 28 hours per week. Mrs. Springer also reviewed cost considerations based on her salary at 24 hours per week and 28 hours per week.

2. 2014 Schedule of Meetings

The Board rescheduled the November board meeting to Wednesday, November 12, 2014. The original date of the meeting fell on a state holiday and the building would not be open to the public.

IX. Call to the Public

No members of the public were present to address the board.

X. Future Agenda Items

Examination Training Course for Prospective Applicants
Board Member Appointments

XI. Future Meeting Dates –

XII. Adjournment

The meeting adjourned at 11:15 a.m. following a motion by Mr. Farris. The motion was seconded by Dr. Warner and passed with an unanimous vote. The next Regular Meeting of the Board will convene at 1400 W. Washington, in Conference Room B-1, Phoenix, Arizona, at 9:00 a.m. on March 11, 2014.

January 14, 2014 Regular Meeting

Respectfully Submitted,

Christine Springer
Executive Director

Approved by the Board in Regular Meeting on March 11, 2014