

# Arizona State Board of Homeopathic and Integrated Medicine Examiners

## Regular Meeting Minutes

November 8, 2016

### 1. and 2. Call to Order and Roll Call

Presiding officer, Dr. Charles Schwengel, called the meeting to order at 9:00 a.m. and confirmed the attendance of the following board members:

#### **Present:**

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Charles Schwengel DO, DO(H)  
Alan Kennedy  
LaJuana Gillette  
Mary Grace Warner-Dunlop, MD, MD(H)

Christine Springer, Executive Director, Sabrina Khan, Assistant Attorney General, and members of the public were also present.

### 3 Conflicts of Interest

None

### 4. Meeting Minutes

Consideration of the Regular Meeting and Executive Session Minutes of September 13, 2016 was tabled.

### 5. Complaints and Investigations

a. *Inquiry Number 16-06 David Rupley, MD(H)*

The Board reviewed the chronology of the complaint allegations. Dr. Schwengel noted the patient had sought help for her neuropathy at the clinic and was treated with a device that utilizes magnets called a PEMFG (Pulsed Electro-Magnetic Field Generator). The patient alleges she was harmed by the treatment and has lingering pain, numbness in her calves and ankles, and that her symptoms have not improved.

Mrs. Gillette expressed concern that the person administering the treatment was untrained and did not know how to take a blood pressure.

Dr. Schwengel posed a question to AAG Khan noting that in Dr. Rupley's written response he indicates that the complainant was not his patient and that there was no doctor patient relationship. He questioned whether a licensee providing a service to the public would be liable for a negative outcome if there was no direct patient contact or examination provided.

November 8 2016 Minutes

AAG Khan responded that after the investigation was complete, the Board would deliberate and decide whether the licensee was supervising his staff appropriately.

MOTION: Mr. Kennedy made a motion to open an investigation

SECOND: Mrs. Gillette

In the discussion Dr. Schwengel requested that Dr. Garry Gordon be appointed to serve as the medical investigator in light of his familiarity with the therapeutic effects of the PEMFG device. Dr. Warner agreed that the Board needed additional information on the therapy.

The Board directed Mrs. Springer to request the complainant's medical records and contact Dr. Gordon for his assistance to serve as the medical investigator.

Mrs. Gillette called the question and the motion made by Mr. Kennedy passed unanimously. 4 – 0

Kennedy, Warner, Gillette, and Schwengel

*b. Inquiry Number 16-01 Devin Mikles, MD, MD(H)*

Mrs. Springer informed the Board that the Arizona Medical Board had declined jurisdiction and that the Homeopathic and Integrated Medicine Board must determine if they wished to open their own investigation.

Following discussion concerning whether a marketing dispute would fall within the bounds of the professional conduct of the licensee, AAG Khan noted that if an advertisement authored by the licensee was determined by the Board to be misleading then it would fall within the bounds of the practice act governing homeopathic physicians.

Dr. Warner and Mrs. Gillette stated that Dr. Mikles had provided immediate objection to the manufacturer of the product once he determined that the product had utilized his endorsement without his approval of the advertising claims.

MOTION: Mr. Kennedy made a motion to TABLE the matter. The Board directed Mrs. Springer to contact Dr. Mikles for additional information relative to his contract with the manufacturer of the product, Reconnect, and his efforts to ensure that claims made for the product reflected his approval of those written claims.

SECOND: Mrs. Gillette

Motion passed unanimously.

**6. Jurisdiction**

*a. Inquiry No. 16-05 Rick Shacket DO, DO(H)*

Mrs. Springer explained that the Board must decide whether they wished to have sole jurisdiction to conduct the investigation or share jurisdiction with the Osteopathic Medical Board that had requested dual jurisdiction.

November 8 2016 Minutes

There was additional discussion concerning aspects of the complaint particularly the status of supervision of whether homeopathic physicians supervise licensed health care providers such as physicians assistants.

MOTION: Mrs. Gillette made a motion to accept dual jurisdiction with the Osteopathic Medical Board.

SECOND: Dr. Warner

The motion passed unanimously 4-0  
Kennedy, Gillette, Warner , Schwengel

MOTION: Mr. Kennedy made a motion to open an investigation

SECOND: Mrs. Gillette

The motion passed unanimously 4 – 0  
Kennedy, Gillette, Warner, Schwengel

The Board adjourned for a five minute break and returned to the meeting at 10:00 a.m.

*b. Inquiry No. 16-03 Martha Grout, MD, MD(H)*

Dr. Schwengel gave a brief review of the arbitration panel and indicated that the arbitrator had granted jurisdiction to the Arizona Medical Board. He commented that upon completion of the hearing he did not believe the arbitrator fully understood the full scope of the Homeopathic Board's authority.

AAG Khan explained that the Board would be able to review the investigative materials after the medical board completes its investigation. We would have the option of opening our own complaint or dismissing the matter, but our investigation would be limited to the findings of the Arizona Medical Board.

**7. Quarterly Status Report**

*a. Case Number: 05-21 Charles Crosby MD, MD(H)*

The Board reviewed the quarterly report submitted by Dr. Crosby in support of his consent agreement. He was found in compliance with the terms of the order.

**8. Administrative Matters**

a. Cindi Hunter, Prescription Monitoring Program Coordinator was present from the State Board of Pharmacy to discuss the implementation of SB 1283 in relation to the CSPMP (Controlled Substances Prescription Monitoring Program). She explained that the program began in 2007 and that historical data from that time period to current is available to licensing boards when they are reviewing practitioner's prescribing habits. She explained the Board's responsibility pursuant to the new law is to inform practitioners that beginning October 1, 2017 before they prescribe an opioid analgesic or benzodiazepine controlled substance listed in Schedule II, III, or IV for a patient, they must obtain a patient utilization report regarding the patient for the past 12 months from

November 8 2016 Minutes

the CSPMP database tracking system at the beginning of each new course of treatment and at least quarterly while the prescription remains a part of treatment.

The Board questioned Ms. Hunter concerning the best way to notify practitioners and how to retain the CSPMP report within the patient file. Mr. Kennedy commented that the board should set policy regarding how to retain the records.

b., c., and d. Mrs. Springer reported on the lack of progress concerning vacant board positions. She provided a review of the dates she had contacted the Governor's office and their current story regarding how to apply for a position.

She informed the board that the Auditor General had notified the board that a sunset review report would be due the summer of 2019.

Finally, she provided information concerning the relocation of the health regulatory boards to 1740 West Adams and the projected time frames of the move.

e. The Board acknowledged the pending resignation of Mrs. Springer and briefly discussed the transition of the office to the new director. Mrs. Springer expressed her thanks for their support and stated she had greatly enjoyed working with the board members over the years.

#### **9. Executive Director Hire:**

MOTION: Mr. Kennedy made a motion to move to executive session at 10:55 a.m. to discuss personnel matters pursuant to A.R.S. § 38-431.03(A)(1).

SECOND: Dr. Warner

The motion passed unanimously.

The Board returned to the regular session at 11:10 a.m.

Dr. Schwengel commented that the search for an executive director had begun with 27 applicants that was whittled down to six who were invited for a personal interview. He expressed his admiration for the excellent qualities each of the candidates had reflected during their interviews and in their resumes. Dr. Schwengel noted that three finalists had been selected and had been vetted with regard to their references and continued willingness to work with the board. He noted that the decision was a difficult one in that each of the three candidates were highly qualified and would bring special talents to the position.

MOTION: Mrs. Gillette made a motion to extend an offer of employment to Eric Borg with the salary as discussed in executive session.

SECOND: Dr. Warner

Motion passed unanimously.

Dr. Schwengel and board members welcomed Mr. Borg on his appointment and thanked Ms. Martin for her participation and wished her much success in her job search.

#### **10. Call to the Public**

No public members remained present

November 8 2016 Minutes

**11. Future Board Meeting Dates**

- Meet and Greet Luncheon to be scheduled in December –date to be determined
- Regular Meeting January 10, 2017

**12. Future Agenda Items**

Controlled Substances Prescription Monitoring Program policy discussion  
Minutes of Regular and Executive Sessions September 13, 2016

**13. Adjournment**

The meeting adjourned at 11:20 a.m. following a motion by Mrs. Gillette. The motion was seconded by Mr. Kennedy and passed with a unanimous vote.

Respectfully Submitted,

Eric Borg  
Executive Director