



ARIZONA STATE BOARD OF HOMEOPATHIC and INTEGRATED MEDICINE EXAMINERS

Douglas A. Ducey
Governor

(602) 542-8154 phone • (602)542-3039
1400 W Washington Ste 230
Phoenix, AZ 85007
homeopath.az.gov

Charles Schwengel, DO, DO(H)
Alan Kennedy
Mary Grace Warner, MD, MD(H)
Mario Fontes

AZ Homeopathic Examiners Board
Regular Session Minutes
September 12, 2017

1. CALL TO ORDER

The presiding officer, Dr. Charles Schwengel, called the meeting to order at 9:00 a.m.

2. ROLL CALL

Dr. Schwengel confirmed the attendance of the following Board Members.

Present:

Charles Schwengel DO
Mary Grace Warner-Dunlop, MD
Mario Fontes
Alan Kennedy

Also present: Eric Borg, Executive Director, Sabrina Khan, Assistant AG

3. DECLARATION OF CONFLICTS OF INTEREST

None declared.

4. REVIEW, CONSIDERATION, AND POSSIBLE ACTION REGARDING APPROVAL OF MEETING MINUTES.

- a. Regular Meeting Minutes – July 25, 2017
- b. Executive Session Minutes – July 25, 2017

The Board considered and discussed the Regular and Executive Session minutes of the July 25, 2017 meeting.

MOTION: Dr. Warner made a motion to approve the regular session minutes of July 25, 2017.

SECOND: Mr. Kennedy seconded the motion.

Motion passed unanimously.

MOTION: Dr. Warner made a motion to approve the executive session minutes of July 25, 2017.

SECOND: Mr. Kennedy seconded the motion.

Motion passed unanimously.

5. CONSENT AGENDA: REVIEW, CONSIDERATION, AND POSSIBLE ACTION ON APPLICATIONS FOR REGISTRATION AS A HOMEOPATHIC MEDICAL ASSISTANT.

- a. Alcides Calderon Betancourt
- b. Beata George
- c. Gualberto Gonzalez Hernandez
- d. Ailyn Garces Mendez
- e. Shelley Ann Glass Mata
- f. Yuslay Ponce Sanchez
- g. Marlon Gonzalez Suarez

Dr. Schwengel stated the current medical assistant applications for review had been previously submitted. Mr. Borg confirmed that the applications were submitted by medical assistants who were previously registered, but noted the supervising physician had changed. The supervising physician originally noted on these applications was Dr. Shackett, then changed to Dr. Schmerler, and is currently Dr. Starr.

Dr. Schwengel commented that the Insulin Potentiation Therapy (“IPT”) certification is dated 8/25/17, which is very recent. Mr. Fontes asked if Dr. Starr moved offices. Mr. Borg stated yes but that he may still be practicing in yet another office.

Mr. Borg commented on Dr. Starr and the IPT certification. Mr. Borg stated he has not found anything that speaks to Dr. Schmerler’s authority to train Dr. Starr. Dr. Schwengel stated that he completed IPT training 10 years ago and believes that having a certification does not grant someone the ability to train others. Mr. Fontes stated that the person training should be an “agent” of the school.

Dr. Schwengel stated that on one hand, someone should have to be qualified to teach, but on the other hand, he doesn’t recall the Board ever questioning someone’s certification. Dr. Schwengel stated that it is prudent to follow through and verify a certification.

Mr. Borg suggested that the Board take action on the applications contingent upon the verification of the certification. Ms. Khan stated that she does not recall any of our statutes directly referencing an IPT certification and the Board should may evaluate the matter upon review of the information on a case by case basis.

Mr. Fontes thinks there is a broader issue regarding the training of medical assistants in the homeopathic field. Dr. Warner stated she is not comfortable with the concept of one medical assistant training another medical assistant in IPT. Ms. Khan stated that the under the Homeopathic Board statutes, the Board regulates the supervising physicians, not the medical assistants.

Mr. Borg noted that if we receive an application where one medical assistant trained another medical assistant, the Board may evaluate that scenario at that time.

Dr. Schwengel stated that this is a two-tiered issue. First, the Board oversees the licensee (physician). Second, a medical assistant’s training is the responsibility of the supervising physician.

Motion: Mr. Fontes made a motion to approve all medical assistant applications.

Second: Dr. Warner seconded the motion.
Motion passed unanimously.

6. REVIEW AND DISCUSSION OF DUAL LICENSEE JURISDICTION PURSUANT TO A.R.S. § 32-2907.

a. Dual Jurisdiction – requested by Board member at July 25, 2017 meeting

Ms. Khan gave an overview of dual jurisdiction referencing A.R.S. § 32-2907. Ms. Khan commented that dual jurisdiction arises when a physician holds more than one medical license. If Both Board do not agree and claim jurisdiction over a matter, an arbitration panel is convened to determine jurisdiction. If a matter goes before an arbitrator for determination, the attorney for both Boards is present with their respective medical expert from each Board. Ms. Khan stated for example, if a matter proceeds to arbitration, she would be present with a medical expert from the Homeopathic Board, and that the assistant attorney general from the other Board would be present with their medical expert. At the time of the arbitration hearing, both parties would explain to the arbitrator why it should retain jurisdiction over the matter. Once the arbitrator makes a determination, the Board who is granted jurisdiction conducts the investigation, and when that Board completes its investigation, that Board provides the investigative materials to the other Board.

Mr. Fontes asked if a complaint is filed with the Osteopathic Board regarding a dually licensed physician and the physician tells the Osteopathic Board that he can do this as a Homeopathic Physician, can the Homeopathic Board say that this is under his scope and request jurisdiction? Ms. Khan answered stating the Homeopathic Board may vote to retain jurisdiction.

Mr. Borg asked if the Osteopathic Board or the Medical Board receives a complaint, are those Boards obligated to notify the other Board. Ms. Khan commented that the Boards are required under the statute to notify the other Board of a dual licensee, and typically, the executive director of one Board notifies the other. Mr. Borg commented whether the Boards automatically check for dual licensure. Mr. Fontes asked how common the process of arbitration is. Mr. Kennedy stated that during his time as a Board Member, this has occurred twice.

Dr. Schwengel stated that it seems that the Osteopathic Board and the Medical Board have recently been more active in asserting jurisdiction than in previous years. He also brought up the issue of de novo” investigations. Ms. Khan stated that the Board who was not granted jurisdiction is limited to the investigative materials gathered by the other Board. The Board that was not granted jurisdiction may not re-investigate the matter, and is limited to the investigative materials of the Board that was granted jurisdiction.

Mr. Fontes commented the Homeopathic Board should investigate cases where homeopathic remedies are used, and that IPT should likely be investigated by this Board. Ms. Khan commented that the physician member boards have their own statutes and rules that they must follow.

7. REVIEW, CONSIDERATION, AND POSSIBLE ACTION REGARDING JURISDICTION OF DUAL LICENSEE DR. DEAN SILVER CASE #2017-02.

a. Jurisdiction review case #2017-02, Silver

Mr. Borg provided the Board an overview of this case. A complaint was filed with the Arizona Medical Board. Mr. Borg commented that there were a lot of issues raised, and that it is not clear if the allegations are violations of our Board’s statutes. He stated that this case may be better served having the Medical Board conduct the investigation as it has more resources. Mr. Borg explained that the Medical Board has investigators on staff who would be able to properly investigate this matter, as this matter appears to require a lot of investigation dealing with the standards of care and other allegations.

Dr. Schwengel commented that he doesn't see anything in the complaint that these are homeopathic related allegations, and that the complaint was originally submitted to the Medical Board.

Mr. Borg noted that Dr. Silver's attorney contends that 95% of Dr. Silver's practice is homeopathic. Dr. Warner stated that the allegations are too general and do not speak to specific treatments. Dr. Warner commented that there may be credibility issues with the complainant and that the Medical Board should investigate this matter.

Motion: Dr. Warner made a motion to cede jurisdiction to the Arizona Medical Board.

Second: Mr. Fontes seconded the motion.

A roll call vote was conducted.

Dr. Warner: Yes.

Dr. Schwengel: Yes.

Mr. Kennedy: Yes

Mr. Fontes: Yes

The motion passed unanimously.

8. BOARD ADMINISTRATIVE MATTERS FOR REVIEW AND DISCUSSION

a. Fee Waiver Process

Mr. Borg detailed the fee waiver history and function. If an applicant's income falls below 200% of the federal poverty guidelines, the application fee should be waived. Mr. Borg pointed out the directions from both the Governor's office and the AG's office that directs Boards to work with the Dept. of Revenue (DOR). In addition, many boards such as the Homeopathic Board have statutes that do not consider an application complete until the fee is paid. Ms. Khan stated that the implementation of the fee waiver process is a policy decision for the Board to determine.

Mr. Borg suggested we draft language in our application that directs applicants to the DOR so that they can determine if they qualify. Dr. Schwengel stated he did not think that the fee waiver issue would affect physicians. As for medical assistants, he noted that they do not fall under licensing but rather the registration of the supervising physician so this wouldn't be applicable.

Dr. Warner feels that applicants should be directed to the DOR to get the qualifying determination. Mr. Fontes asked for a draft of the application language the Board could use.

9. REVIEW, CONSIDERATION, AND POSSIBLE ACTION REGARDING BOARD MEMBER ELECTIONS PURSUANT TO A.R.S. § 32-2903.

Motion: Mr. Kennedy nominated and made a motion to have Dr. Schwengel serve as President and Mr. Fontes serve as Secretary/Treasurer.

Second: Dr. Warner seconded the motion.

The motion passed unanimously.

Motion: Mr. Kennedy made a motion to retain Dr. Warner as Vice-President.

Second: Mr. Fontes seconded the motion.

The motion passed unanimously.

10. CALL TO THE PUBLIC

No one came forward to speak.

11. REVIEW AND CONSIDER FUTURE BOARD MEETING DATES.

a. November 14, 2017

12. REVIEW AND CONSIDER FUTURE AGENDA ITEMS

Office relocation

13. ADJOURNMENT

Motion: Mr. Kennedy made a motion for adjournment at 10:12 a.m.

Second: Dr. Warner seconded the motion.

Motion passed unanimously.

Respectfully submitted,

Eric Borg
Executive Director