

Arizona State Board of Homeopathic and Integrated Medicine Examiners

Regular Meeting Minutes

May 10, 2016

I. Call to Order, 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:

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

Christine Springer, Executive Director; Sabrina Kahn, Assistant Attorney General; Frankie Shinn-Eckberg, Assistant Attorney General; and members of the general public were also present.

II. Review, Consideration, and Action on Minutes

Board members considered the minutes of the March 8, 2016 Regular Meeting.

MOTION: Dr. Warner moved to approve the minutes.

SECOND: Mr. Kennedy

MOTION PASSED unanimously 5-0

Kennedy, Gillette, Warner, Schwengel, Adler

III. Review, Consideration and Action on New Applications

Physicians – Elliott Dean Schmerler, M.D.

Dr. Elliott Schmerler was present and addressed questions from Board members regarding his license application. He addressed his legal issues regarding the IRS and subsequent state actions against his Nevada license. In response to a question from Dr. Schwengel he stated he is currently employed at Euro-Med and that he intends to practice family medicine.

Commenting on Dr. Schmerler's previous practice in cosmetic surgery, Mr. Kennedy inquired whether Dr. Schmerler intended to resume that practice. Dr. Schmerler stated he will not practice cosmetic surgery and that he would focus on family practice. In response to a question from Dr. Adler he indicated that he would practice homeopathy, orthomolecular medicine, chelation, and insulin potentiation therapy.

At 9:20 a.m. following a motion from Mr. Kennedy and a second from Mrs. Gillette the Board voted to move to **Executive Session** for legal advice (A.R.S. § 38—431.03(A)(3)) and to discuss confidential records (A.R.S. § 38 -431.03(A)(2)). Motion carried.

The Board invited Dr. Schmerler to the Executive Session at 9:40 a.m. and he left the Executive Session at 9:46 a.m. The Board returned to the Regular Meeting at 9:52 a.m.

Mr. Kennedy acknowledged that Dr. Schmerler is eligible for licensure in accordance with the statutory requirements of A.R.S. §32-2912 but he is requesting that Dr. Schmerler amend his application with an explanation regarding his response to Question No. 16. Following receipt of the amended application the Board will schedule a teleconference. The Board requested that Dr. Schmerler be present for the teleconference meeting.

In further discussion, Mrs. Gillette inquired whether the Board could approve the application with a stipulation that Dr. Schmerler amend the application addressing Question No. 16. Dr. Warner and Mr. Kennedy expressed that they would want to see the amended application prior to making their final voted.

MOTION: Mr. Kennedy moved to TABLE the application and request that Dr. Schmerler modify his current application with an explanation of his response to Question 16. Following receipt of the amended application the Board would schedule a teleconference to consider the license application.

SECOND: Dr. Warner

MOTION PASSED: 5 – 0

Kennedy, Gillette, Warner, Schwengel, Adler

The discussion of the Homeopathic Medical Assistant applications occurred following Agenda Item IV. Review Consideration and Action On Complaints and Investigations.

Homeopathic Medical Assistants

Board members considered the homeopathic medical assistant application of **Ronnie Voeun**. Finding that the application was complete and that the applicant had completed Medical Assistant training at the Pima Institute in addition to considerable in-house training Dr. Warner made a motion to approve the application

MOTION: Dr. Warner.

SECOND: Mrs. Gillette

MOTION PASSED 5 - 0

Adler, Warner, Schwengel, Gillette, Kennedy

The homeopathic medical assistant application of **Sarah Swerdfeger** was considered. Dr. Schwengel requested clarification to the applicant's response to Question No. 3 which did not appear to be complete. Mrs. Springer indicated that Ms. Swerdfeger had included a copy of a license for Massage Therapy that was in good standing and active.

Mrs. Gillette made a motion to approve the application.

MOTION: Mrs. Gillette

SECOND: Dr. Adler

MOTION PASSED: 5 – 0

Adler, Warner, Schwengel, Gillette, Kennedy

IV. Review, Consideration, and Action on Complaints and Investigations

A. Review, Discussion, Action – Tracking Log Notification of New Complaint File

Inquiry No. 16-02 Michael Loes MD, MD(H) Referral Arizona Medical Board

Mrs. Springer provided an overview of the complaint referred by the Arizona Medical Board. She stated that the complaint had been opened by that Board after they learned that Chelation Therapy was being used at a homeopathic treatment facility where the Respondent was Medical Director. The Arizona Medical Board

declined to pursue the matter noting that the jurisdiction fell within the Homeopathic and Integrated Medicine Board.

Mrs. Springer indicated that it is usual practice for licensees to inform the Board of the therapies they are practicing during annual renewal and, at that time, they also provide a copy of informed consents representative of the therapies. Dr. Loes had provided an informed consent for the treatment facility, Alternative To Meds Center (ATMC) that was reviewed and approved as to form on May 12, 2015.

Dr. Loes was present and was invited to speak with the Board. He reiterated that he had submitted the informed consent to the Board at annual renewal as was the standard practice for licensees of the Board.

Dr. Warner made a motion to dismiss the matter, noting that she could find no violation of Homeopathic practices and procedures relating to the filing of informed consents.

MOTION: Dr. Warner

SECOND: Mrs. Gillette

MOTION PASSED 5 – 0

Adler, Warner, Schwengel, Gillette, Kennedy

V. Review, Consideration and Action on Professional Business

1. AAG Kahn spoke to the Board concerning A.R.S. § 32-2914(C) and noted the statute allows discretion to charge costs associated with the cost of a professional conduct investigation. However, she noted that a finding of unprofessional conduct must be reached prior to charging the actual cost of the investigation. The Board requested that Mrs. Springer inquire about whether the cost of a medical investigator can be assessed to the respondent as part of the investigation costs.

2. The Board did not discuss this agenda item concerning the deposit of monies collected from administrative penalties into the state general fund (A.R.S. § 32-2906(A) and A.R.S. § 32-2934(P)).

3. Mrs. Springer provided an overview of A.R.S. 32-35-326(D) regarding the ability of the Board to create an investment fund. She commented that the statute appears to authorize investment pools monitored by the Office of the State Treasurer. She noted that the State Funeral Board and the Nursing Care Institution Administrators have investment funds but that each Board also has a statute that authorizes the fund. She explained that the Board would have to request legislation to obtain authority to have such a fund.

4. Mr. Kennedy reported to the Board concerning the FARB Model for identifying and addressing anti-trust issues. He noted that FARB had published a May, 2016 press release regarding the topic and that closer to home, HB2501 had been promoted by the Governor's office in an attempt to address some of the anti-trust concerns brought forth in a recent Supreme Court ruling against the North Carolina State Board of Dental Examiners. Mr. Kennedy indicated that HB2501 had failed to move forward in this year's legislative session, but that next year the matter would return.

VI. Review, Consideration and Action on Rules and Legislation

a) Mrs. Springer stated she had been unable to finalize a draft of Articles 1, 2, and 3 regarding the Doctor of Homeopathy.

b) HB2501 – consolidation of Boards was discussed above in Agenda Item V.4.

VII. Review, Consideration and Action on Other Business

1. Financial Report

As of April 30, 2016 the Board's cash balance is \$12,430, with total expenses of \$60,107. As of this date the Board's total revenue was \$66,105. Mr. Kennedy reminded the Board that should a consolidation happen there would be savings related to rent and potential consolidation of executive director positions.

2. Personnel Matters

Mrs. Springer stated she would be retiring at the end of July and that she would need approval from the Board to begin the hiring process since there is a hiring freeze in effect. The Board thanked her for her years of service and briefly discussed the hiring process. It was the consensus of the Board that a committee should review the candidates and recommend the top 3 – 5 for an interview with the full Board.

MOTION: Mrs. Gillette made a motion granting Mrs. Springer the authority to submit a request for an exemption to the hiring freeze.

SECOND: Dr. Warner

MOTION PASSED: 5 – 0

Warner, Schwengel, Gillette, Kennedy, Adler

There was a general discussion of board member positions and the pending appointments of a replacement for Dr. Shelton and Dr. Adler.

VIII. Future Agenda Items

- Personnel Matters – Hiring Committee
- Dr. Schmerler application

IX. Call to the Public

Ms. Leah Gracer commented that the board proceedings had been enjoyable and very educational.

X. Future Meeting Dates

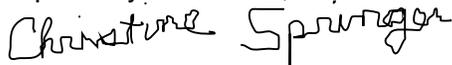
July 12, 2016 is the next regular meeting date

A teleconference meeting will be held to discuss the amended application of Dr. Schmerler

XI. Adjournment

The meeting adjourned at 11:15 a.m. following a motion by Mrs. Gillette. The motion was seconded by Dr. Adler and passed with a unanimous vote.

Respectfully Submitted,



Christine Springer
Executive Director

Board Approved in the Regular Meeting held on July 12, 2016