

Arizona State Board of Homeopathic and Integrated Medicine Examiners

Regular Meeting Minutes - Revised

May 13, 2014

I. Call to Order, Roll Call

Presiding officer, Dr. Todd Rowe, called the meeting to order at 9:00 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)
LaJuana Gillette
Mary Grace Warner, MD, MD(H)

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

II. Review, Consideration, and Action on Minutes

Board members considered the meeting minutes of the *March 11, 2014 Regular Meeting*. Dr. Shelton made a motion to approve the minutes and Dr. Warner seconded the motion. The motion passed unanimously, 6 – 0.

The Board considered the minutes of the *April 14, 2014 Teleconference Meeting*. Mr. Kennedy made a motion to accept the minutes. Dr. Adler seconded the motion that passed with a majority vote 5 – 0. 1 recusal (Gillette)

III. Review, Consideration, and Action on New Applications *Medical Assistants*

There were no new applications to consider.

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 informed board members that the investigation is ongoing. She indicated that a report from the Scottsdale Police Department is still pending and that a recent written data response from Dr Grout would be provided to Board members in time for the next regular meeting.

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Board members adjourned for a break at 9:45 a.m. and reconvened at 10:00 am.

V. Formal Hearing

Case No. 11-03 Frank Lobacz, MD(H), License No. 0041

Christopher Munns, Solicitor General was present from the Office of the Attorney General to answer legal questions from Board members. A court reporter was present to record testimony. Dr. Lobacz was not present at the hearing.

AAG Baskin summarized the evidence in the case and questioned Mrs. Springer regarding exhibits that the State introduced in support of its case. At the conclusion of her presentation she recommended that the Board consider revocation of Dr. Lobacz' homeopathic medical license.

Dr. Rowe described the hearing process and indicated that the Board should consider whether to accept the findings of fact described in the complaint and notice of hearing and presented by the State in its testimony at the hearing.

MOTION: Dr. Warner moved to accept the findings of fact described by the State in its testimony.

SECOND: Dr. Shelton

DISCUSSION: Dr. Shelton indicated he was convinced by the direct evidence. Dr. Rowe commented that the exhibits and evidence showed that the crime was committed knowingly and willingly. Mr. Kennedy inquired about the possibility of an appeal and how it would affect the Board's conduct of this proceeding.

VOTE: 6 – aye, 0 – nay,

MOTION PASSED

MOTION: Dr. Rowe moved to accept the conclusions of law for a finding of unprofessional conduct in violation of A.R.S. 32-2933(3) – Commission of a felony, whether or not involving moral turpitude, or a misdemeanor involving moral turpitude. In either case, conviction by any court of competent jurisdiction or a plea of no contest is deemed conclusive evidence of guilt; and A.R.S. 32-2933(5) – Violating federal, state, county or municipal laws of regulations applicable to the practice of medicine or relating to public health; and A.R.S. 32-2933(19) – Any conduct or practice contrary to recognized standards of ethics of the homeopathic medical profession, any conduct or practice that does or might constitute a danger to the health, welfare or safety of the patient or the public or any conduct, practice or condition that does or might impair the ability to practice homeopathic medicine safely and skillfully.

SECOND: Mrs. Gillette

VOTE: 6 – aye, 0 – nay

MOTION PASSED

MOTION: Dr. Rowe moved to accept the recommendation of the State that the homeopathic medical license 0041 of Dr. Lobacz be revoked.

SECOND: Dr. Warner

DISCUSSION: Mr. Kennedy questioned the Solicitor General, Mr. Munns, regarding the appeal status available to Dr. Lobacz. Mr. Munns indicated a physician could reapply for their license if a conviction was reversed or vacated on appeal. He briefly spoke to the appeals process. Dr. Adler suggested a permanent suspension of the license rather than an outright revocation. Dr. Rowe commented that he had considered this possibility, but that Dr. Lobacz had not communicated in any manner with the Board when he was given the opportunity to file an answer after he received the Complaint and Notice of Hearing.

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Mrs. Gillette called the question

ROLL CALL VOTE: A roll call vote was taken and the following Board members vote for license revocation: Dr. Warner, Dr. Adler, Dr. Rowe, Dr. Shelton, Mrs. Gillette and Mr. Kennedy.

VOTE: 6 – aye, 0 – nay

MOTION PASSED

VI. Review, Consideration, and Action on Previous Board Orders

Charles Crosby, MD(H) Quarterly Report

The Board reviewed a quarterly report submitted on Dr. Crosby's behalf by his therapist in accordance with the terms of his Consent Agreement and Order. They noted that the report had been received timely and that the doctor's therapy was progressing favorably. No further action was taken.

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

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

Mrs. Springer stated the Governor's Regulatory Review Council had reviewed the draft Five Year Review Report and had recommended a few changes. Public Comment was ongoing for 30 days and the report would be on their meeting agenda in June. She indicated that no disputes were anticipated.

Mrs. Springer reported that the Five Year Review Report indicated a December 30, 2014 implementation date for Article 1 through Article 4 of Title 4, Chapter 38 and commented that the Council would expect the Board to comply with the December timeframe. She informed the Board that the rules analyst would incorporate the comments from the Five Year Review Report into the draft rules so that a complete rules package could be presented for consideration.

Legislation

AAG Baskin informed the Board members about House Bill 2087 which requires health board and commission members to attend 12 hours of training which is directed toward specific topics relating to boards and commissions and must be completed before January 1, 2016. Dr. Shelton inquired about who would provide the training. AAG Baskin indicated this was not yet determined.

Mrs. Gillette stated she had completed on-line training about the open meeting law prior to the beginning of her board service.

AAG Baskin noted that training would have to be specific to each board since statutes are different between the various boards. This is particularly true of disciplinary procedures.

VIII. Review, Consideration, and Action on Professional Business

1. Mrs. Springer presented FY2013 statistical information relating to the Medical Marijuana program. Based on the report 3 MD(H) physicians have certified 50 patients which is an average of 17 patients per physician. Homeopathic physicians certified less than 1% of the 36,346 total number of marijuana certifications issued in FY2013. The most common medical condition certified was for severe and chronic pain.

2. The board reviewed the application process described by rule in *R4-38-104A* and *R4-38-402*. Mrs. Springer explained that she has 90 days to review an initial application. If a document is missing the applicant is notified and the 90 day time frame stops. The applicant must return all of the missing information within 180 days which also includes completing the written examination.

The discussion also centered on insuring that evidence of completion of a 40 hour class of classical homeopathy be submitted as part of the applicant's file before they are allowed to take the written examination. The 40 hours are part of the required 300 hours of post graduate education in one or more of the treatment modalities described in law as making up the practice of homeopathic medicine.

2. Dr. Shelton explained information that he had received from Terra Medica concerning their decision to voluntarily recall 56 lots of Pleo-FORT, Pleo-QUENT, Pleo-NOT, Pleo-STOLO, Pleo-NOTA-QUENT, and Pleo-EX homeopathic products. He noted that the FDA was concerned that under the appropriate conditions, the products could produce penicillin or derivatives of penicillin. The notice of the recall from Terra Medica states that the products have been used for 18 years in the United States without incident. The company is attempting to communicate with the FDA but that the FDA has declined to confirm an appointment for a personal meeting. The Board suggested that the information be placed in the Board's newsletter about the recall.

IX. 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 April 30, 2014, revenues were \$74,201 and expenditures were \$62,749. The legislative appropriation for FY2014 is 102,100. The current ending cash balance is \$25,163.

X. Call to the Public

Dr. Dean Silver was present to speak to the Board. He stated he was concerned with the emphasis on homeopathy in the written examination and that many physicians were fearful of the written examination because of the overwhelming number of homeopathically oriented questions. He urged the Board to consider the integrated perspectives of modern medicine and to include more questions related to orthomolecular medicine, nutrition, and chelation therapy. The Board thanked him for his comments.

XI. Future Agenda Items

Senate Bill 1154 and the definition of dry needling as a physical therapy modality

Appointments

Homeopathy as a definition in the Practice of Homeopathic Medicine

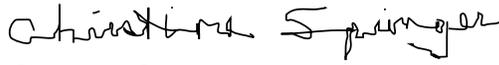
XII. Future Meeting Dates

XIII. Adjournment

The meeting adjourned at 11:05 a.m. following a motion by Dr. Adler. The motion was seconded by Mr. Kennedy 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 July 8, 2014.

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Respectfully Submitted,

A handwritten signature in black ink that reads "Christine Springer". The signature is written in a cursive style with a large initial "C" and a long, sweeping underline.

Christine Springer
Executive Director

APPROVED BY THE BOARD IN REGULAR MEETING ON JULY 8, 2014