

Arizona State Board of Homeopathic and Integrated Medicine Examiners

Regular Meeting Minutes

July 11, 2012

I. Call to Order, Roll Call

Presiding officer, Dr. Todd Rowe, called the meeting to order at 9:00 a.m.

Roll Call

Present:	Absent
Todd Rowe, MD, MD(H)	Mary Ackerley, MD, MD(H)
Martha Grout, MD, MD(H)	
Don Farris	
Dr. Les Adler, MD, MD(H) (present by telephone)	
Alan Kennedy	

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

II. Review, Consideration, and Action on Minutes

Regular Meeting Minutes – May 8, 2012

Dr. Grout moved to approve the regular minutes. Mr. Farris seconded the motion that passed unanimously.

Executive Session Minutes – May 8, 2012

Dr. Adler made a motion to approve the executive session minutes noting the inclusion of an additional statutory citation to clarify legal authority. Mr. Farris seconded the motion that passed unanimously.

Special Meeting Minutes – May 23, 2012

Dr. Grout made a motion to approve the special meeting minutes. Mr. Kennedy seconded the motion that passed unanimously.

III. Review, Consideration and Action on Applications

A. *Physicians*

Suruchi Chandra, M.D.

Mrs. Springer provided an overview of Dr. Chandra's application and post graduate training. She noted that Dr. Chandra had successfully passed the written examination and had complied with licensing requirements.

Dr. Chandra was present and responded to Board member questions regarding her background and interest in integrated and homeopathic medicine.

July 11, 2012 Regular Meeting

Dr. Rowe made a motion to approve the application. Dr. Grout seconded the motion that passed unanimously.

Roll Call: 5 – 0 approve

Dr. Adler, Dr. Grout, Mr. Farris, Mr. Kennedy, and Dr. Rowe

IV. Review, Consideration and Action on Complaints and Investigations

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

There were no new complaints received

B. Ongoing Cases

Case No. 11-11 Thomas Lodi, MD(H) – A.Y.

At 9:30 a.m. the Board considered the instant matter that had been scheduled for an investigative interview pursuant to A.R.S. 32-2934(C). Dr. Rowe announced that Mr. Stephen Myers, Esq. and Dr. Thomas Lodi were present for the interview.

Mrs. Springer reviewed the status of the investigation and listed the allegations made in the complaint.

Dr. Lodi was invited to the podium and asked the Board whether he could read a statement he prepared relating to the complaint and allegations. The Board agreed to hear the statement. He read his prepared statement and concluded with an apology to the Board.

Dr. Rowe began the interview and questioned Dr. Lodi about the following allegations: his relationship with A.Y., insufficient documentation in the patient's medical record, and his prescribing of I.V. Dilaudid. Dr. Lodi described the circumstances of the relationship with A.Y. and acknowledged the medical record was insufficient with regard to the administration of pain and other medication outside of the clinical setting. He described his efforts to convert current patient records to an electronic format. Dr. Lodi also indicated A.Y. had often been out of town and that he believed some of the gaps in the medical record could be attributed to those times. In response to Dr. Rowe's question regarding the high doses of IV Dilaudid he stated that A.Y.'s pain level was extreme and that his goal had been to alleviate that pain.

Dr. Rowe indicated the complaint had been brought to the Board's attention by one of the hospitals that A.Y. had sought care from. He noted their written concern alleging possible diversion of the IV Dilaudid. Dr. Lodi responded that he was unaware of any diversion and reiterated his efforts to alleviate the constant pain A.Y. experienced.

Mr. Kennedy clarified the timing of Dr. Lodi's emotional attachment to A.Y. and inquired whether or not Dr. Lodi could assure the Board that this type of circumstance would not happen again. Dr. Lodi indicated that the experience had been very difficult and that he had completed coursework on how to recognize behaviors that could lead to a breach of the doctor-patient relationship.

Mr. Farris requested additional information concerning the date of Dr. Lodi's engagement to A.Y.

Dr. Rowe inquired about Dr. Lodi's training as a psychologist and commented that Dr. Lodi should have been aware of the ethical issues involved when he became aware that an emotional attachment was developing beyond the doctor-patient relationship he had with A.Y. Dr. Lodi responded that he was aware of the problem and had turned over A.Y.'s care to another physician when he realized the emotional attachment was developing. He acknowledged his continuing involvement in prescribing pain medication when Dr. Watt was unavailable. Dr. Lodi stated that alleviating the severity of A.Y.'s pain had been his primary concern, but acknowledged that he did not have specialized training in pain management issues. He stated A.Y. had seen a pain management specialist and for a short time had responded favorably to the recommendations.

Dr. Rowe commented about Dr. Lodi's use of the professional designation of M.D. on his website. He suggested Dr. Lodi review current law regarding the use of the professional titles and comply with Arizona statutes.

Dr. Adler asked if Dr. Helen Watt and Dr. Thomas Alexander were still associated with the clinic. Dr. Lodi responded that Dr. Alexander had left in 2010 and Dr. Watt was employed two days per week. Dr. Adler also inquired about why the patient medical record did not include any progress notes from Dr. Alexander. Dr. Lodi replied that Dr. Alexander had been with his clinic for less than a month and then Dr. Watt had joined his staff and had primary responsibility for A.Y.'s care.

The Board adjourned for a short break at this point in the interview

After their return from break the Board continued their review of the case. Dr. Rowe reiterated the following board concerns: insufficient medical records (A.R.S. 32-2933(20)); failure to act in accordance with recognized doctor-patient boundary guidelines (A.R.S. 32-2933(19)); inadequate supervision of medical staff (A.R.S. 32-2933(34)); failure to adhere to the Board's pain management guidelines concerning the prescribing of IV Dilaudid; and improper use of the M.D. professional designation of professional licensure (A.R.S. 32-2933(29) on Dr. Lodi's website.

The Board discussed the inadequate documentation of A.Y.'s therapeutic care in the medical record by A.Y.'s caregivers while at Dr. Lodi's home. Specifically, there was no file documentation to indicate the time or amount of IV pain medication (IV Dilaudid) administered, who administered the IV and whether A.Y.'s response was appropriate to the amount of medication administered.

Mr. Kennedy expressed his concern that it would appear that there may have been an effort to cover up the physician's actions, both in the clinic and in his home, as evidenced by the inadequate medical record.

Dr. Rowe directed the Board's attention to the ethical and boundary issues in the case and whether Dr. Lodi, in his capacity as A.Y.'s fiancée, would be considered a 'family member'. Assistant Attorney General (AAG) Baskin clarified that a fiancée is not considered an immediate family member and thus Dr. Lodi's conduct would not have violated professional conduct statutes relative to prescribing for an immediate family member.

Dr. Rowe noted Dr. Lodi's completion of recent coursework related to boundary issues appeared to have been helpful in that he had admitted to the inappropriate behavior. However, Dr. Lodi, as a physician with a background in psychology should have had more

awareness of the situation as the relationship began to develop. He stated that in his opinion, the behavior clearly indicated misconduct.

Dr. Adler and Mr. Kennedy both expressed concern that Dr. Lodi's emotional attachment to the patient may have prolonged suffering and made it more difficult to find another physician willing to manage the patient's care. Dr. Rowe agreed and stated that the boundary issue would have made it difficult for Dr. Watt to manage the case, since Dr. Lodi was not only her boss but A.Y.'s fiancée and he was, at times, actively involved in her care.

Board members discussed Dr. Lodi's supervision of caregivers assigned to provide care for A.Y. in his home and commented that both Dr. Watt and home health agency personnel had expressed concern over the dosage of IV Dilaudid. They agreed that the administration of medications was not adequately controlled and did not lend itself to a smooth continuity of care.

With regard to the issue of possible diversion, Dr. Rowe, Dr. Adler, and Dr. Grout all agreed that available medical records indicated A.Y. was in extraordinary pain. Without adequate medical records showing the administration of the I.V. Dilaudid there is no direct evidence to prove diversion; however, there was concern that the possibility could not be ruled out. Dr. Rowe commented that his review of the medical consultant's report indicated inadequate pain consultations and no comprehensive effort to follow or seek standard pain management guidelines. He also noted Dr. Lodi did not follow the Board's published pain management guidelines.

Board members also discussed Dr. Lodi's website and indicated he may be in violation of A.R.S. 32-2933(29) concerning the use of the professional designation 'M.D.' in his advertising. They noted that while he currently holds an active M.D. in the State of New York, he is not licensed as an M.D. in Arizona. The Board directed Mrs. Springer to contact Dr. Lodi and urge him to review Arizona advertising statutes and update his website to bring it into compliance with professional conduct statutes relating to designation of professional licenses in accordance with Arizona law.

Board members discussed potential action in accordance with A.R.S. § 32-2934 that may be appropriate in view of information from the medical consultant and the investigative interview. Dr. Rowe commented that Dr. Lodi had completed the Pace Program on Physician Boundary Issues and was scheduled to complete training related to Medical Records. There was discussion of possible terms to include as part of the order.

Dr. Rowe suggested, in light of an ongoing concern with the possibility of diversion, that Dr. Lodi be evaluated by an addictionologist.

AAG Baskin suggested the Board may vote to require an evaluation by an addictionologist prior to offering Dr. Lodi a consent agreement. In addition, he should be informed of the board's concerns with the use of the professional M.D. designation on his website.

Mr. Kennedy made a motion that Dr. Lodi obtain as part of the Board's ongoing investigation, an evaluation from either Dr. Sucher or Dr. Greenberg and, if an alternative evaluator is chosen, Dr. Lodi must petition the Board for approval to obtain the evaluation from the other provider. Dr. Rowe seconded his motion that passed on a roll call vote 5 – 0.

Aye: Rowe, Adler, Kennedy, Grout, Farris

Mr. Kennedy moved to table the matter to the next meeting and to continue the investigation. He requested that Mrs. Springer inform Dr. Lodi of the issues with his website and that AAG Baskin begin crafting language for the consent agreement.

Dr. Rowe seconded the motion that passed unanimously in a roll call vote: 5 – 0

Aye: Rowe, Kennedy, Adler, Farris, Grout

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

Charles Crosby MD(H) Quarterly Report

Board members reviewed June 6, 2012 correspondence from Dr. Crosby's psychologist and noted his compliance with the terms of his consent agreement and order.

Stanley Olsztyn, MD(H) – Review documents filed to comply with terms of Consent Agreement and Order

Mrs. Springer directed the Board's attention to Dr. Olsztyn's submittal of evidence showing completion of 12 continuing education hours in record keeping and management as required by the terms of his Consent Agreement.

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

A. Rules

1. Draft Rulemaking – Doctor of Homeopathy – Status report

Mrs. Springer indicated she was completing the incorporation of suggested changes discussed by the Rules Committee to the language of the draft rules and would be requesting an exemption from the Governor's Office to move forward with rulemaking.

B. Legislation

1. Chiropractic Association Sunrise – Status report

The Board tabled this discussion to the next regular meeting. The Chiropractic Association Sunrise legislation seeks to include the practice of homeopathy to the scope of practice of licensed Arizona Chiropractors.

VII. Review, Consideration and Action on Professional Business

1. A discussion of the *A.R.S. § 32-2912(F)* and the types of actions that would bar licensure under *A.R.S § 32-2912A(4)* was tabled. The Board suggested additional research be conducted to determine how other Arizona medical licensing boards review disciplinary actions related to new applicants.

2. Consideration of an informed consent submitted by Dr. David Korn for Insulin Potentiated Antibiotic with Cheliodonine (IPAC) was tabled. Dr. Grout commented that additional language should be inserted to clarify Paragraph 14 to indicate the cost of the procedure, or, alternatively, should direct the patient to a separate informed consent explaining treatment costs.

3. A continuing education request submitted by the Healthy Medicine Academy relating to a seminar to be held September 15 and 16, 2012 was approved for 11

continuing education credits. Dr. Rowe made a motion approving the request. Dr. Grout seconded the motion that passed unanimously.

VIII. Review, Consideration and Action on Other Business

1. Executive Director Financial Report

This item was discussed in conjunction with the next item on the agenda.

2. FY2013 budget update and rulemaking relating to *A.A.C. R4-38-106*

Mrs. Springer informed the Board that revision of the rule increasing the annual renewal fee by \$25 would be considered at the Governor's Regulatory Review Council meeting on August 7, 2012. The rule will become effective in mid October and licensees with renewals due in November would experience the increase. She noted that the rulemaking is the first step in addressing the continuing erosion in revenue collections and that other cost reductions include twelve staff furlough days, reduced ERE, a deferral of joint office costs to the third quarter, a supplemental budget request in FY2013, and legislation to add certain fees necessary to reflect the true cost of operating the board.

IX. Call to the Public

Following an invitation from Dr. Rowe, there were no members of the public that wished to make a statement to the Board.

X. Future Agenda Items

- Registration of homeopathic medical assistants

XI. Future Meeting Dates

XII Adjournment

The meeting adjourned at 12:05 p.m. following a motion by Dr. Grout. The motion was seconded by Mr. Farris and passed with a 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 September 11, 2012.

Respectfully Submitted,

Christine Springer
Executive Director

Approved by the Board in the regular meeting of September 11, 2012