

# Arizona State Board of Homeopathic and Integrated Medicine Examiners

## Regular Meeting Minutes

September 10, 2013

### 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:

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Todd Rowe, MD, MD(H)  
Don Farris  
Mary Grace Warner, MD, MD(H)  
Dr. Les Adler, MD, MD(H)  
Alan Kennedy  
Bruce Shelton, MD, MD(H)

Christine Springer, Executive Director was also present. Mona Baskin, Assistant Attorney General arrived at 9:05 a.m. Members of the general public were also in attendance.

### II. Review, Consideration, and Action on Minutes

Board members considered past minutes. Dr. Warner did not vote on the motions since she had not been a board member during the meetings under consideration.

Dr. Shelton made a motion to approve the Regular minutes of May 14, 2013. Noting an amendment on the second line of page 3, Dr. Shelton amended his motion. Mr. Kennedy seconded the amended motion and the amended motion passed 5 – 0.

Prior to voting on the Executive session minutes of July 9, 2013, Mrs. Springer indicated an amendment on page 2. Dr. Rowe made a motion approving the amended minutes. Mr. Kennedy seconded the amended motion that passed 5-0.

Dr. Shelton moved to approve the Regular minutes of July 9, 2013. Mrs. Springer indicated a change on page 1 and Dr. Shelton amended the motion to approve the suggested change. Mr. Farris seconded the amended motion that passed 5 – 0.

### III. Status of Board Member Appointments

- A. Board members extended a welcome to Dr. Mary Grace Warner-Dunlop, MD, MD(H) who is replacing Dr. Mary Ackerley. Dr. Warner indicated she was a practicing cardiologist for many years and upon her retirement began a practice as a homeopathic physician.
- B. Congratulations were extended to Dr. Les Adler who is beginning his second term with the Board. Dr. Adler practices homeopathic medicine in Sedona, Arizona.
- C. A plaque presentation to Dr. Mary Ackerley was tabled as she was not present at the meeting. Mrs. Springer indicated she would forward the plaque and convey the Board's thanks for her service.

**IV. Annual Meeting**

*1. Election of Officers*

Dr. Shelton nominated Dr. Todd Rowe to continue serving as Board President. Dr. Warner seconded the motion. Mr. Farris nominated Dr. Shelton to serve as Vice President. Dr. Warner seconded the motion. Dr. Shelton nominated Mr. Kennedy to serve as the Secretary Treasurer. Mr. Farris seconded the motion. No other nominations were offered and the candidates indicated their willingness to serve. A roll call vote was held with all board members voting aye 6 – 0.

*2. Meeting Schedule for 2013-2014*

Board members approved the proposed meeting schedule for 2013-2014. A copy of the schedule is available on the board's website at [www.azhomeopathbd.az.gov](http://www.azhomeopathbd.az.gov)

*3. Fees*

Dr. Shelton moved to approve the current fee schedule. Mr. Kennedy seconded the motion that passed unanimously 6 - 0.

**V. Review, Consideration and Action on Applications**

**A. Medical Assistants**

Dr. Bruce Shelton recused himself from this discussion

The application of **Cathry A. Stotesbery** was presented by Mrs. Springer who provided an overview of the applicant's credentials and indicated the documentation was administratively complete. Dr. Rowe moved to approve the application and Mr. Farris seconded the motion.

Vote to approve the application 5-0 Aye: Rowe, Warner, Kennedy, Farris, Adler  
Shelton recused

**Donna Lozito**

Mrs. Springer indicated Ms. Lozito had withdrawn her application for registration.

**B. Physicians**

There were no physician applications to consider.

**VI. 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. 11-03 Frank Lobacz, MD(H)**

Mrs. Springer informed the board that Dr. Lobacz had been sentenced in the US District Court of New York – Eastern Division on July 29, 2013. He was found guilty on counts 1, 2, 3, 4, 5, and 6 of the superseding indictment which included conspiracy to commit health care fraud, health care fraud, filing a false annual report of the employee benefit plan, and income tax evasion. She noted Dr. Lobacz had appealed his conviction.

Mr. Kennedy inquired about the appeal status and whether or not the guilty conviction was in effect. AAG Baskin indicated that the conviction stands until the respondent wins an appeal. She noted Dr. Lobacz is currently in custody.

Dr. Rowe moved to offer Dr. Lobacz a Consent Agreement to Revocation of his Homeopathic license. The motion included allowing Dr. Lobacz 35 days to sign and return the agreement. Mr. Farris seconded the motion.

Roll call vote to offer a Consent to Revocation of Homeopathic Medical License.

6 – 0 Aye

Mr. Kennedy, Mr. Farris, Dr. Shelton, Dr. Warner, Dr. Adler, Dr. Rowe

**Case No. 13-04 Martha Grout, MD, MD(H)**

AAG Baskin reported that a motion had been prepared and was under review by the Solicitor General and would be filed in the Arizona Supreme Court to create an Arbitration Panel.

Dr. Shelton inquired if any other investigation had been done. Mrs. Springer explained that the investigation was in a pend status until the jurisdiction matter is considered.

Dr. Adler inquired about the makeup of the panel. AAG Baskin indicated the panel was made up of Dr. Shelton, herself, AAG Boucek (of the Arizona Medical Board) and Arizona Medical Board member, Dr. Magalnik. An arbitrator would be appointed by the Arizona Supreme Court.

**Case No. 13-03 Abram Ber MD(H)**

Mr. Farris indicated Dr. Ber had complied with the Board's request to change his corporate name and business documentation to comply with *Arizona Administrative Code R4-38-115*. Mr. Farris made a motion to dismiss the complaint. Dr. Adler seconded the motion.

Roll call vote to dismiss the complaint

Aye 6 – 0

Dr. Rowe, Mr. Kennedy, Dr. Warner, Mr. Farris, Dr. Adler, and Dr. Shelton

**VII. Review, Consideration and Action on Previous Board Orders**

**Charles Crosby, MD(H) Quarterly Report**

Mrs. Springer indicated the report was due September 30, 2013.

**Thomas Lodi, MD(H) Status of Compliance**

Mrs. Springer noted Dr. Lodi's compliance with regard to the timeliness of the 60 day reports as required in the consent agreement terms. Dr. Warner volunteered to review the reports for compliance with the terms of the consent agreement.

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

**A. Legislation – Review, Consideration , and Action**

1. There was a brief discussion of the Board's intention to seek legislation to increase fee caps in A.R.S. § 32-2914. After a short discussion the board agreed that the language

should indicate a percentage amount of increase rather than a specific cap. The actual fee would be set in rulemaking based on a percentage increase. Mr. Farris agreed to attend meetings with Mrs. Springer when she has contacted a legislator to discuss the matter with them.

***B. Substantive Policy Statements – Telemedicine Policy***

The Board reviewed and discussed written correspondence submitted by the Arizona Homeopathic and Integrated Medical Association (AHIMA). Based on the information provided in the correspondence Dr. Rowe commented that he believed there was a lack of consensus in the community about how best to utilize telemedicine when treating patients.

Dr. Shelton stated that national policy promotes an examination of the patient before treatment; or requires another physician near the patient to complete an examination. Additionally, both physicians must have consensus regarding the status of the patient.

Dr. Rowe suggested that a policy may be premature at this time. Mr. Farris indicated that the public view is that telemedicine can be unsafe, unless a physical examination is performed by a licensed physician.

Dr. Rowe suggested the matter be tabled at this time.

Mr. Kennedy indicated that the primary responsibility of the physician is to protect the public first. He noted his participation in an Arizona Town Hall regarding access to healthcare and commented that rural patients often have difficulty receiving care. Technology helps to address the problem. His view was that the policy would provide a framework and it would be up to the physician whether or not they wished to provide services by telemedicine.

Dr. Rowe commented that physicians can already practice by telemedicine. His concern was that the suggestions by AHIMA differ from the standard policy.

Mr. Farris indicated he would prefer to table the matter at this time.

There was additional discussion regarding the best avenue to take regarding this subject. AAG Baskin indicated that AHIMA's proposals conflict with A.R.S. §32-2933(40)(41). In as much as telemedicine is an emerging issue in medicine a legislative change may be necessary.

Dr. Rowe suggested the Board revisit the matter in one year and respond to the association that a majority of board members suggested the matter be tabled for the time being.

***C. Five Year Rules Review – Title 4, Chapter 38, Articles 1 -4***

The board formed a rules committee comprised of the executive director, Dr. Shelton, and Dr. Rowe.

**IX. Review, Consideration and Action on Professional Business**

1. The Board discussed ideas related to the written examination for homeopathic physicians. Names of individuals with expertise in each of the homeopathic practice modalities were also provided to the executive director.

2. The Board discussion focused on providing clarification to physicians regarding whether or not an individual assisting them in one of the homeopathic modalities should be registered. Board members agreed that a definition of homeopathic medical assistant should be placed in the rules. They agreed on the following language:

*' an individual who assists and obtains collaborative information related to the treatment and practice of homeopathic medicine. This does not apply to clerical and accounting staff.'*

*Don Farris left the meeting at this point in the meeting*

**X. Review, Consideration and Action on Other Business**

1. Executive Director Presentation of FY2015 budget and AZIPS

Mrs. Springer presented information regarding the close out for FY13 budget noting that there had been a \$14,000 carry forward from the previous year. Revenues were \$91,012 and expenditures for FY13 were \$86,500. She indicated that expenses for FY2014 would remain near the current level with projected increases in office rent and communications costs. She noted the five year review was due on all of the articles making up the administrative rules for the board and would necessitate hiring a rules consultant to assist with the extensive process created by the legislature as part of the administrative procedures act. Board members affirmed the budget for FY2015 as presented.

2. Staffing Level Report – Mrs. Springer provided information relating to the cost of increasing her hours from 19.5 to 28 hours per week. Mr. Kennedy moved to approve an increase of staff hours to 28 hours per week effective December 1, 2013. The hourly salary is to remain at the current level. Dr. Rowe seconded the motion that passed with a majority vote. Mr. Farris was not present.

**XI. Call to the Public**

No members of the public were present to address the board.

**XII. Future Agenda Items**

Five Year Review

**XIII. Future Meeting Dates –**

No meeting dates scheduled

**Adjournment**

The meeting adjourned at 11:45 a.m. following a motion by Dr. Adler. The motion was seconded by Mr. Kennedy and passed with a majority 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 November 12, 2013.

Respectfully Submitted,

Christine Springer  
Executive Director

**Minutes approved in Regular Meeting on November 12, 2013**

