

Arizona State Board of Homeopathic and Integrated Medicine Examiners

Minutes of the Regular Meeting

January 12, 2010

I. Call to Order, Roll Call

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

Roll Call

Present:

Todd Rowe, MD, MD(H)
Dr. Les Adler, MD, MD(H)
Don Farris
Martha Grout, MD MD(H)
Alan Kennedy
David Rupley, Jr., MD(H) (arrived 9:12 a.m.)

Absent:

Christine Springer, Mona Basking, Assistant Attorney General, and members of the public were also present

II. Review, Consideration, and Action on Minutes

Special Meeting Minutes - October 20, 2009

Dr. Grout moved approval of the special meeting minutes and Dr. Adler seconded the motion. The Board approved the motion that passed unanimously. (Dr. Rupley not present).

Executive Session Minutes – October 20, 2009

Dr. Adler moved to approve the executive session minutes and Mr. Kennedy seconded the motion. The Board approved the motion that passed unanimously. (Dr. Rupley not present)

Teleconference Meeting – November 10, 2009

Mr. Kennedy made the motion approving the teleconference meeting minutes. Dr. Grout seconded the motion that passed unanimously (Dr. Rupley not present).

III. Review, Consideration and Action on Applications

A. Physicians

The Board reviewed a request by prospective applicant, Dr. Sher Khan to undergo a preceptored training program as described by A.A.C. R4-38-104 to meet post graduate education requirements for licensure. Although the application indicated training would be conducted in a number of therapeutic modalities described as part of the practice of homeopathy, Dr. Rowe, Dr. Grout, and Dr. Adler agreed that the preceptor did not show evidence of a sufficient number of years in clinical practice, particularly in the homeopathic

modality. Dr. Rowe directed the Board's attention to *A.A.C. R4-38-305(B)(6)* as a guide which can be used to specify qualifications of prospective preceptors and noted the application submitted in this instance did not meet that criteria.

(Dr. Rupley arrived during this discussion)

Dr. Rowe further commented that the application was not clear with regard to the number of training hours that would be didactic and those that would be in a clinical capacity. Dr. Kennedy suggested the Board table the request to obtain more information relative to the preceptor's (Dr. Spicer) education in homeopathy. The other Board members did not concur and stated that Dr. Spicer's recent licensure as an N.M.D. did not indicate he would meet the experience or education component specified in rule at *A.A.C. R4-38-305(B)(6)*. The request was not approved.

B. Medical Assistants

There were no completed applications for board consideration.

IV. Review, Consideration and Action on Complaints and Investigations

A. Review, Consideration, and Action - Ongoing Reviews

**Case No. 09-11 Lloyd Arnold, DO, MD(H) and
Case No. 09-17 Lloyd Arnold, DO, MD(H)**

Mrs. Springer provided a status update on these matters that the Board tabled on July 14, 2009. She stated that a hearing is scheduled on January 23, 2010 at the Osteopathic Medical Board to determine if further action will be taken against Dr. Arnold's osteopathic medical license. She stated she would continue to monitor the matter.

B. Review, Consideration, and Action – Initial Reviews

Case No. 10-01 David Korn, DO, MD(H)

Mrs. Springer presented her report on this complaint and stated there were three allegations made by the patient; failure to properly supervise other physicians that provided actual care to the complainant; false advertising; and treatment of the wrong condition.

Dr. Grout noted that Dr. Korn had not been hired as the medical director at the onset of the complainant's first visit to Envita and that there was little evidence to show he directly supervised physicians involved in the actual care and treatment of the patient. She noted his consultation with the treating physician in discussing results of a lab test related to Lyme Disease that had been ordered, but that the consultation showed his function at the center to have been a consultant resource rather than involvement in direct patient care.

The Board reviewed the informed consents signed by the complainant and found that they indicate an alternative approach in the type of care to be provided. Mr. Kennedy noted it was the patient's responsibility to request conventional treatment at the time the consents were signed.

Finally, with regard to an allegation of false advertising on the center's website, the complainant did not provide advertisements from the 2007 timeframe when she was a patient at the center. Mrs. Springer stated her review of the signed patient consent forms provided by Envita in response to the medical records request did not indicate a web address. This allegation could not be substantiated.

Finding no evidence to support any of the allegations, Dr. Adler moved to close the investigation and dismiss the complaint. Mr. Kennedy seconded the motion that passed unanimously.

Roll Call to dismiss: 6 – 0

Adler, Kennedy, Rupley, Rowe, Farris, Grout

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

Case No. 10-02 David Korn, DO, MD(H)

Mrs. Springer explained that a complaint had been received from a patient that had sought minor surgical care from Dr. Korn. She informed the Board that she had agreed with the Osteopathic Examiner's Board request that they assume jurisdiction to investigate the complaint in accordance with A.R.S. §32-2907.

Dr. Rowe commented that he agreed that the Osteopathic Board should conduct the investigation on the basis that the patient was provided antibiotic therapy and minor surgery was performed.

Dr. Grout moved to table the matter and cede the investigation to the Board of Osteopathic Examiners in Medicine and Surgery. Dr. Rupley seconded the motion that passed unanimously.

D. Review of Yavapai Regional Medical Center medical record of P.T.

Mr. Kennedy recused himself from this discussion.

Dr. Rowe commented that if a referral to the Arizona Medical Board was to be made, it should be very clear in the medical record that there was gross negligence in the care and treatment of the patient. Dr. Adler commented that since the homeopathic standard of care relative to testing and diagnosis of thyrotoxicosis was very different from the allopathic standard, it would be very difficult to convince the allopathic board that the patient received inappropriate care.

Dr. Rupley commented that he felt the hospital personnel jumped to an unsupported conclusion and that fluid overloaded in the patient and placed the patient at serious risk. Dr. Grout stated that the determining issue would come down to a comparison of the two methods of treating thyroid and convincing the allopathic community of the alternative standard of conducting thyroid testing would be very difficult. She stated that changing the mindset of the current allopathic method of treating thyroid disease would not be possible based on the records in this particular case.

Dr. Grout made a motion that the Board not refer the case to the Arizona Medical Board as there was no evidence of gross misconduct. Dr. Adler seconded the motion that passed with a majority vote.

Roll Call 5-0

Grout, Rupley, Adler, Rowe, Farris
Kennedy recused.

(Following a discussion of this agenda item, AAG Baskin excused herself and left the meeting).

V. Review, Consideration and Action on Previous Board Orders

Charles Crosby – Quarterly report

The board reviewed the quarterly report submitted in conformance with the terms of the Consent Agreement and Order of Probation. There was a brief discussion regarding the time frame of the terms of the order. Dr. Rowe commented that the disorder is not curable and that the order is appropriate and should remain in effect.

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

A. Rules

1. AAC Chapter 38, Article 3. Education, Supervision, and Delegation Standards for Registration of Medical Assistants

Mrs. Springer informed Board members that the medical assistant rules were approved by the Governor's Regulatory Review Council on January 6, 2010 and would be filed at the Secretary of State's office for an effective date of March 8, 2010. She indicated that licensees would be notified with their renewal notices and a copy of the new rule would be placed on the website.

2. A.A.C. Chapter 38, Article 1. General

Mrs. Springer commented that a new rules docket would be opened for this Article due to the lengthy time the original docket sat idle from the effect of the rulemaking moratorium. She noted that several changes to Sections 103 and 115 should be addressed.

The Rules Committee agreed to meet to consider language related to the addition of neurotherapy in Section 103 and the proper use of the M.D.H. abbreviation in Section 115.

B. Legislation

Mrs. Springer informed the Board that the continuation bill contained in H.B.2030 would be heard in the House on January 13, 2010.

C. Substantive Policy Statements

Hgh Therapy

The Board discussed whether to prepare a substantive policy statement for the safe and legal usage of hgh (human growth hormone) therapy. They agreed that it is a therapeutic modality of orthomolecular therapy and in a complaint review would be considered under the parameters of *A.R.S. § 32-2933(5) and (6)*.

Dr. Grout commented that the DEA requires three conditions be met before recommending the therapy and it was her fear that licensees using hgh may not be in compliance with all of the conditions. Dr. Rupley stated that, in his opinion, *A.A.C. R4-38-*

109 addresses the use of experimental forms of diagnosis and treatment and that the therapy had been in beneficial clinical usage for at least 10 years. Both Drs. Grout and Rupley commented that licensees should be aware of the importance of filing protocols and informed consents in accordance with A.R.S. §32-2933(27) if they are utilizing hgh as a therapeutic modality.

Board members requested that Mrs. Springer contact the Arizona Homeopathic and Integrated Medicine Association (AzHima) director to discuss the issue further and inquire if the association would be willing to assist in educating physicians that use the therapy to be in compliance with federal and state regulations. They recommended that a copy of the substantive policy statement of the Arizona Naturopathic Medical Board be provided to the Association.

Thyroid Conditions – Diagnosing and Treating

The Board discussed best practices for diagnosing and treating thyroid conditions noting that the TSH alone is not necessarily fully adequate when diagnosing a thyroid condition. They agreed that the T3 and T4 tests are also an integral part of the diagnostic process.

Dr. Rowe recommended that the matter be tabled at this time and that other mechanisms may be available to the Board with regard to informing licensees of the treatment protocols. He suggested that the substantive policy statement parameters be reviewed prior to taking further action.

VII. Review, Consideration and Action on Professional Business

1. Mrs. Springer stated she had been able to secure a copy of the Arizona Government University's investigator training manual and that she would be reviewing the booklet to determine which chapters should be included in the medical consultant training. Board members commented they would like to tape the presentation and be able to provide a disc to new medical investigators. Several other suggestions were made including asking an investigator from another medical board to assist with the training.
2. A general discussion was held concerning when to conduct teleconference meetings. All board members agreed that they were cost effective and saved travel time for out of county members. However, the Board agreed that if a complaint review was to be conducted a teleconference would not be the appropriate format in which to hold the meeting.
3. Discussion of the next newsletter was deferred.
4. Dr. Geoffrey Radoff's Protocol and Informed Consent for Hydrogen Peroxide IV Therapy was reviewed. Both Drs. Adler and Grout agreed that the protocol was not correct and should be revised to reflect what condition is being treated, what the risks and benefits are of the treatment, and why the therapy is being offered to the patient. In addition, patients should be informed of what the alternatives are to the therapy.

Mrs. Springer was directed to provide a copy of a previously approved Consent for Hydrogen Peroxide IV Therapy for Dr. Radoff as a representative sample and to request that he revise his protocol and informed consent for review by the Board at their next meeting.

5. Mrs. Springer stated she was awaiting skills checklists for the acupuncture, neuromuscular and orthomolecular therapies. She questioned board members about whether the skills checklist should include both oral chelation and IV chelation. They agreed that there should be questions on the examination for both therapies and that skills checklists should be provided for both therapies.

6. Continuing Education Review – Jeffrey Utter, D.C. Retired

The Board reviewed and approved coursework in the amount of eight (8) credit hours for the following course: Orthopedic and Neurological Examination of the Upper Extremities
Motion made by Dr. Rowe, seconded by Dr. Grout and passed unanimously.

VIII. Review, Consideration and Action on Other Business

Mrs. Springer gave a brief overview of finances as of December 31, 2009. She stated that the current cash balance is \$37,521 and 52.78% of the appropriation amount of \$104,900 has been spent. The current balance in the appropriated fund is \$48,778.

IX. Call to the Public

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

X. Future Agenda Items

- Substantive Policy Statements for thyroid testing and Hgh
- Preceptor training standards

XI. Future Meeting Dates

A Rules Committee meeting to include Drs. Rowe, Grout, and Rupley will be scheduled for January 28, 2010 at 8:00 a.m. and will be held via Teleconference.

XII. Adjournment

The meeting adjourned at 12:10 p.m. following a motion by Dr. Grout. The motion was seconded by Dr. Adler and passed unanimously. The next Regular Meeting of the Board will convene at 1400 W. Washington, in the Conference Room located in Conference Room B-1, Phoenix, Arizona, at 9:00 a.m. on March 9, 2010.

Respectfully Submitted,

Christine Springer
Executive Director

Approved in Regular Meeting on May 11, 2010