

# Arizona State Board of Homeopathic Medical Examiners

## Minutes of Regular Meeting

November 13, 2007

### 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)  
Don Farris (left at 3:00 p.m.)  
Martha Grout, MD, MD(H)  
Les Adler, MD, MD(H)  
David Rupley, Jr., MD(H)

##### Absent:

Marie Stika

Marc Harris, Assistant Attorney General (Mr. Harris left the meeting at 2:00 p.m.), Christine Springer, Executive Director and members of the public were also present.

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

#### *Executive Session Committee Minutes – September 11, 2007*

Dr. Grout made a motion approving the Executive Minutes of September 11, 2007. Dr. Rupley seconded the motion. Dr. Adler noted a typographical error in the spelling of his name as designated in the roll call. The motion passed unanimously with the amendment as noted.

#### *Regular Meeting Minutes – July 17, 2007*

Dr. Grout moved to approve the minutes of the Regular Meeting. Dr. Rupley seconded the motion. Dr. Grout requested a correction to page 4 in the second paragraph and Dr. Rupley stated that he had abstained from voting on the complaint matters since meeting materials had not reached him in time for review prior to the meeting. With these amendments noted the motion passed unanimously

#### *Teleconference Meeting Minutes – September 25, 2007*

Dr. Grout moved to approved the minutes of the Teleconference Meeting. Dr. Rupley seconded the motion that passed unanimously.

### III. Review, Consideration and Action on Applications

#### A. Physicians

Pieter J De Wet M.D.

Dr. De Wet was present and responded to questions about his application. The doctor's request for waiver of the written examination was accepted based on the requirements in ARS 32-2913. Dr. De Wet stated that he utilizes orthomolecular and complex homeopathy in his current practice.

The Board reviewed the circumstances of two Texas board actions involving an internet advertisement about the benefits of chelation therapy and a statement Dr. De Wet had made in his resume about membership with the American Board of Holistic Medicine. Dr. Rowe voiced that neither of the complaints would have been valid under the laws of the Arizona Homeopathic Medical Board since chelation therapy is defined as a modality of practice in *ARS §32-2901* and the American Board of Holistic Medicine is a recognized specialty board.

Following Dr. De Wet's case review Dr. Grout moved to approve the application. Mr. Farris seconded the motion that passed unanimously.

Linda R. Martin, D.O.

The Board reviewed Dr. Martin's license application. In the course of the review an action taken against Dr. Martin's osteopathic license in 2001 by the State of Texas was discussed. The action resulted in the issuance of a consent agreement and order suspending the doctor's license. The suspension was stayed and Dr. Martin was placed on probation for a four year term for failure to adequately supervise the activities of those under her supervision, She complied with all of the requirements of the order on December 7, 2005 and her Texas license is now active with no pending matters.

Board members queried Dr. Martin about the details of the 2001 action as well as a subsequent civil judgment entered against her by the Texas courts. Dr. Martin stated she had filed bankruptcy to settle the civil judgment entered by the court in favor of the patient.

Dr. Grout made a motion to move to executive session for legal advice at 10:55 a.m. The motion was seconded by Mr. Farris and passed unanimously. The Board returned to Regular Session at 11:05 a.m.

Dr. Rowe made a motion to table the application. An oral examination was not conducted at this time. Dr. Grout seconded the motion that passed unanimously. Mr. Farris stated his concerns that Dr. Martin should not have allowed a male employee to conduct therapy on a young female patient without a female employee physically present in the room. Dr. Adler expressed that he would want to receive further clarification about the terms of the bankruptcy hearing and notice of final settlement. In making their motion the Board requested additional substantive information including the following: evidence showing that Dr. Martin and her attorney were in attendance at the bankruptcy hearing, copy of documentation showing that judgments were discharged, copy of the original bankruptcy filing, and copy of criminal information filed against the male therapist and the subsequent dismissal of those charges.

***B. Medical Assistants***

Aaron Means

Drs. Rowe and Grout were recused from this discussion. A quorum of the remaining board members was not available and the matter was continued to the next regular meeting.

**IV. Review, Consideration and Action on Compliance Reports**

Jeffrey J. Rutgard MD(H)

Mrs. Springer provided a brief status update on the compliance requirements submitted by Dr. Rutgard since the last regular meeting. She stated that she was awaiting confirmation of course completion from the British Institute of Classical Homeopathy.

**V. Board Member Training**

The Board deferred this matter to the next regular meeting pending AAG Wood's attendance.

**VI. Complaints and Investigations**

*A. Review, Consideration, and Action On Previously Tabled Case Reviews*  
Case No. 06-14 Joseph Sherman DO, MD(H)

The Board reviewed this previously tabled case including the investigative materials from the Arizona Board of Osteopathic Examiners. There was discussion about ensuring a sterile environment and the published outcomes of studies completed regarding the efficacy off swabbing with alcohol prior to puncturing tissue.

Dr. Adler made a motion to issue a non-disciplinary letter of concern with a requirement to complete 20 hours of continuing medical education. In the motion, Dr. Adler and board members agreed that while there was insufficient evidence to show actual harm to the patient they were concerned that failure to complete a patient procedure (ie. prolotherapy) without utilizing sterile technique might ultimately harm a patient as referenced in ARS 32-2933(19). He noted that the 20 hours previously completed by Dr. Sherman for the Osteopathic Board would be acceptable to meet the intended purposes of the Homeopathic Medical Board. Motion seconded by Dr. Rupley and passed unanimously.

Roll Call: 5-0; Adler, Rupley, Grout, Rowe, Farris  
Stika – Absent

Case No. 06-16 Jeffrey Baird DO, MD(H)

Mrs. Springer recounted the facts of this case, noting that the Board had previously tabled this matter in July, 2006 and ceded primary jurisdiction to the Osteopathic Medical Board. A consent agreement and order was entered by that board on May 21, 2007 censuring Dr. Baird for unprofessional conduct related to maintain adequate records on a patient and for conduct that may endanger a patient's health or may be reasonably expected to do so.

Dr. Baird was present and made a statement that he utilized the unapproved botox substance for occipital headaches. He also noted he had brought patient charts for Board review showing record keeping for his patients that received treatment with FDA approved botox. Dr. Grout inquired if he had filed protocols with the Board for the unapproved botox substance as required under the administrative rules for experimental forms of treatment. Dr. Baird indicated he had not done so. He proceeded to provide a background of how he obtained the unapproved botox substance noting that he had purchased the substance after attending a training course in 2003 concerning the administration of Botox and dermal fillers.

Dr. Rowe made a motion to adjourn to executive session at 11:45 a.m. for legal advice. The motion was seconded by Dr. Grout and passed unanimously. The Board returned to the regular meeting at 12:05 p.m.

Upon the return to regular session, Dr. Rowe explained to Dr. Baird that the Board could not review the patient charts he had brought to the meeting. The Board's review is limited to the investigation materials received from the Osteopathic Medical Board.

Dr. Adler expressed concern about the lack of documentation in Dr. Baird's records regarding who may have received the unapproved botox substance. Dr. Baird explained that his first statements made to the FDA were made under stress on the spur of the moment and that it was only after he had reviewed the matter with his wife that he was able to fully account for all of the unapproved botox substance.

Dr. Rupley commented that under ARS §32-2933(18) if another jurisdiction enters a disciplinary action against a licensee and the action is based on an act that the Board would consider unprofessional the Board must consider the circumstances and take action.

Dr. Baird expressed concern that the Osteopathic Board had assumed primary jurisdiction without timely notification to the Homeopathic Board. Mrs. Springer commented that her understanding was they were unaware of Dr. Baird's dual licensure until most of the investigation was complete. Once it was known, the Homeopathic Board received the information. Drs. Rupley and Grout requested that a letter be sent to the Osteopathic Board regarding the matter as well as to clarify a previous policy discussion with that Board regarding the jurisdictional process.

Dr. Rupley made a motion to offer Dr. Baird a consent agreement and order of censure for unprofessional conduct pursuant to ARS 32-2933(19), (20), and (5). The findings of fact will reflect the information from the Osteopathic Board investigation. Dr. Adler seconded the motion that passed unanimously.

Roll Call: 5-0 Rupley, Adler, Farris, Grout, Rowe.  
Stika absent

*B. Review, Consideration, and Action - Ongoing Investigations*  
Case No. 08-01 Gary Page, MD(H)

Mrs. Springer stated the investigation is ongoing.

*C. Other pending investigations – Status update*

This agenda item was not specifically addressed. AAG Mr. Harris noted that the agenda should list each pending matter. He indicated that while the fact that there is an open investigation is public, the nature of the investigation is not.

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

*A. Rules*

1. and 2. Discussion of the medical assistant and time frame rulemakings was deferred to the next regular meeting.

*B. Discussion of Proposing Rules Related to Performance Audit Recommendations.*

1. Internships ARS 32-2913(D)(4)

Discussion of master plan relating to auditor suggestions concerning rules related to the approval of internships. Dr. Grout made a motion approving proposed language submitted in Appendix M of the master plan. Mr. Farris seconded the motion that passed unanimously.

2. Labeling, recordkeeping, storage and packaging of drugs

Dr. Grout requested that this discussion be tabled and a copy of previous rules in effect in 2003 relating to the labeling, recordkeeping and storage of drugs by dispensing physicians be sent to her by the executive director. There was a brief discussion to include a new subsection C in section 202 .

3. Deletion of oral examination requirement AAC R4-38-106 (A)(2)

Discussion and agreement that AAC R4-38-106(A)(2) relating to conduct of an oral examination for new licensees should be deleted. During the discussion, the Board also voted to amend the statute at Section §32-2913. They agreed that all new applicants would be required to pass a written examination. Subsections (A)(1) and (2) are to be deleted and the second sentence in subsection A will also be deleted. Dr. Rupley made a motion approving these changes to the rule and statute as discussed. Mr. Farris seconded the motion that passed unanimously.

4. AAC R4-38-103 proficiency in recognized homeopathic modalities

Dr. Rupley made a motion approving proposed language to amend AAC R4-38-103 relating to the recognition of proficiency in a specific modality. Mr. Farris seconded the motion that passed unanimously. Amended language is suggested as follows:

*An applicant may practice any of the specified modalities recognized as part of the practice of homeopathic medicine; however, if an applicant wishes to be certified to practice a specific modality they shall demonstrate the following proficiencies in the modality by completing the indicated number of post graduate hours."*

C. Legislation

A very brief status discussion of proposed legislation relating to auditor general recommendations from the recently completed audit was held. The discussion of continuing medical education and informed consent for homeopathic modalities was deferred until January 8, 2008 regular meeting.

Mrs. Springer informed the board members that the wait period for any potential licensee with a previous felony conviction was five years from absolute discharge of all requirements related to the felony, rather than two. She stated that committee of reference members had been informed of this change which was a deviation from what was presented at the committee of reference hearing.

Mrs. Springer explained that concerns expressed by the auditors regarding ensuring competency contained within ARS 32-2913(B) would be addressed through rule making and enhancements to include questions on the written examination relative to all homeopathic practice modalities. She briefly described the change from an annual renewal in December to one based on an annual renewal from the month of the initial licensure date. This change is intended to spread the receipt of revenue over the entire year. Finally, a brief discussion was held concerning the need for a physical or comprehensive examination of a patient or a prior physician-patient relationship before prescribing over the internet.

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

1. The update on the progress of the opening of the American Medical College of Homeopathy was deferred to the January, 2008 regular meeting.
2. Following a brief discussion, Dr. Adler confirmed that the informed consents submitted by Dr. Pieter de Wet, MD for integrative and alternative medicine were approved as submitted. Dr. Grout seconded the motion that passed with a majority vote 4 - 0. Mr. Farris was not present for the vote.

**IX. Review, Consideration and Action On Other Business**

1. Mrs. Springer directed Board members attention to information in their packets concerning the November, 2007 financial report.

**X. Future Agenda Items**

Listing pending complaint matters on the agenda  
Medical assistant proposed rules  
Time frame proposed rules  
Continuing Medical Education Rules – develop proposed language  
Informed Consent – consider sample form relative to professional conduct statute  
Board member training and investigator training  
Labeling, recordkeeping and packaging of drugs – develop proposed language  
American Medical College of Homeopathy status update

**XI. Future Meeting Dates**

Dr. Rowe stated he had conflicting scheduled commitments for the March 11, 2008 and May 13, 2008 regular meeting dates. The Board agreed to reschedule the meetings to March 18, 2008 and May 20, 2008.

Mrs. Springer stated there was a state holiday on the regular meeting date scheduled for November 11, 2008. This date was rescheduled to November 18, 2008.

**XII. CLOSE OF BUSINESS/ADJOURNMENT**

The meeting adjourned at 3:25 p.m. following a motion by Dr. Rupley. Dr. Grout seconded the motion that passed unanimously. The next Regular Meeting of the Board will convene at the State Board's Offices, 1400 W. Washington, Basement Conference Room B-1, Phoenix, Arizona, 9:00 AM, on November 13, 2007.

Respectfully Submitted,

Christine Springer  
Executive Director

**APPROVED AT THE TELECONFERENCE MEETING CONDUCTED 3-18-08**