

# Arizona State Board of Homeopathic and Integrated Medicine Examiners

## Minutes of the Regular Meeting

November 8, 2011

### I. Call to Order, Roll Call

Presiding officer, Dr. Todd Rowe, called the meeting to order at 9:03 a.m.

#### Roll Call

Present:

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Todd Rowe, MD, MD(H)  
Martha Grout, MD, MD(H)  
Don Farris  
Mary Ackerley, MD, MD(H)  
Dr. Les Adler, MD, MD(H)  
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 – September 13, 2011*

Alan Kennedy moved to approve the minutes of September 13, 2011. Dr. Grout seconded the motion that passed unanimously.

#### *Finance Committee Minutes – July 12, 2011*

Mr. Farris and Mr. Kennedy reviewed the minutes and stated that they reflected the discussion held July 12, 2011. No other board members were present at the committee meeting and accordingly did not vote on the minutes as presented.

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

#### **A. Physicians – Dr. Paul Branch**

The application of Dr. Paul Branch was reviewed and discussed. Dr. Branch was invited to speak with the Board and indicated he would be opening an alternative medical practice in Tucson. Mrs. Springer reviewed the doctor's post graduate training noting that he had presented over 850 hours of seminars and coursework in homeopathy. In addition, Dr. Branch passed the written examination and had met all licensing requirements.

Dr. Rowe made a motion approving the application. Dr. Ackerley seconded the motion that passed unanimously.

#### **B. Medical Assistants Julia Eastman**

Mrs. Springer presented an overview of the qualifications presented in support of Ms. Eastman's application for homeopathic medical assistant, noting that Dr. Eugenie Wright, MD, MD(H) would be supervising her work. Dr. Grout made a motion approving the application. Dr. Adler seconded the motion that passed unanimously.

**Michelle Fanelli**

Mrs. Springer stated that Ms. Fanelli would be supervised by Dr. Warner-Dunlap and met training qualifications. Dr. Grout made a motion approving the application. Dr. Ackerley seconded the motion that passed unanimously.

**Rachel Tomb**

The Executive Director presented training qualifications submitted by the applicant in support of her application. She stated that Ms. Tomb completed a three year on-the-job training as well as medical assisting education and that she would be supervised by Dr. David Korn, DO, MD(H). Dr. Adler moved to approve the application. Dr. Grout seconded the motion that passed unanimously.

**VI. Review, Consideration and Action on Complaints and Investigations**

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

***Case No. 11-10 A.B. vs. Stanley Olsztyn, MD(H)***

Dr. Rowe stated that a new complaint involving fees had been received against Dr. Olsztyn. Board members reviewed the information provided in the complaint, the initial investigative report and the doctor's responses.

Dr. Olsztyn was present and at the Board's invitation responded to concerns brought forth by Dr. Adler who commented that although a proper refund had been provided to the complainant related to the cost of a testosterone test, he was concerned over the different cost figures provided to the complainant. Dr. Adler also expressed concern over the tone of the discharge letter provided to the patient.

Following additional questions and responses board members agreed that pricing quotes provided to the complainant for a testosterone test may have been confusing but that the explanations provided by the doctor indicate there was no evidence of improper billing and no professional misconduct. On this basis board members agreed that the matter should be dismissed and declined to open a complaint investigation.

Dr. Rowe made a motion to dismiss the complaint. Dr. Grout seconded the motion that passed unanimously.

Roll Call: 6 – 0 to dismiss

Rowe, Grout, Adler, Ackerley, Farris, Kennedy

***Case No. 11-09 C.H. vs. David Korn, DO, MD(H)***

The Board considered whether to open an investigation into this complaint and determine jurisdiction. Dr. Rowe commented that the treatment provided to C.H. was predominately alternative and that the Board should seek jurisdiction related to Dr. David Korn, DO, MD(H). In support of his statement, Dr. Rowe directed the Board's attention to the informed consent utilized at Envita which refers primarily to alternative therapies. In

addition, statements made by C.H. refer to Dr. Korn's homeopathic medical assistant, Ashleigh Hays who is a registrant of the Homeopathic and Integrated Medicine Board. He also commented that other aspects of the complaint refer to issues currently under investigation by the Osteopathic Board of Examiners and may more appropriately belong in their jurisdiction.

Dr. Rowe made a motion to adjourn to Executive Session for legal advice related to jurisdiction pursuant to A.R.S. §32-2907 at 12:45 p.m. The motion was seconded by Mr. Farris and passed with a majority vote.

The Board returned to the Regular Session at 12:50 p.m.

Dr. Rowe made a motion to table the matter until the next regular meeting. The Assistant Attorney General will investigate the jurisdiction question and report to the Board at the next regular meeting.

**Case No. 11-11      *Thomas Lodi, MD(H)***

The executive director presented a brief review of the complaint against Dr. Lodi and explained that it had been filed pursuant to A.R.S. §32-2934(A).

Following a brief discussion Dr. Rowe made a motion to open a complaint investigation and submit the record to an outside medical investigator. Mr. Farris seconded the motion that passed unanimously.

**B.      *Ongoing Cases***

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

Mrs. Springer stated that the scheduled sentencing in the U.S. District Court, New York Eastern District in the case involving Dr. Lobacz was moved to December 9, 2011. Dr. Rowe reiterated his intention to move forward on preparation of a Consent to Surrender License once final sentencing is accomplished.

**Case No. 11-04      *Dr. Levin for E.D. vs. Stanley Olsztyn MD(H)***

**Case No. 11-07      *A.B. vs. Stanley Olsztyn, MD(H)***

**Case No. 11-08      *J.F. vs. Stanley Olsztyn, MD(H)***

**Note:** Discussion of the following agenda item was conducted out of the regular order of the written agenda and followed the discussion of the new Case 11-11.

Mrs. Springer presented an overview of the complaints for board members. She indicated that each of the complaints alleged toxicity from IV's containing Colchicine that were provided to the complainants.

Medical consultant, Dr. Bruce Shelton, joined the meeting by telephone and presented his report. He noted he had reviewed six charts of patients that had received IV's of the Colchicine on the same day(s). Of the six, three patients had experienced no negative effects. Dr. Shelton reviewed symptoms experienced by the complainants and follow-up provided to them in emergency clinics and hospitals.

Dr. Rowe questioned Dr. Shelton about the therapeutic modality intravenous Colchicine falls within under the practice of homeopathic medicine. Other subjects discussed concerned what other treatments each patient may have received the same day; how other medications a patient may use would interact with intravenous Colchicine;

oral gout medications and whether the other medications may be contra-indicated if intravenous Colchicine has been provided.

Other board members inquired about the effect of antibiotics when the body is metabolizing Colchicine; side effects from intravenous Colchicine and also oral Colchicine, and whether any of the other treatments provided that day to patients might have been contra-indicated with the Colchicine IV.

Dr. Shelton commented that in each of the three patients experiencing a negative outcome, each had, at some point in their follow up care in either emergency clinics or the hospital, received some type of antibiotic treatment.

Board members invited Mr. A.B. and his attorney, Glynn Gilcrease, Jr. to speak with them. Mr. A.B. explained what had occurred and noted his physical symptoms following the IV. He also commented on current medications he was currently on and that he had been a longtime patient of Dr. Olsztyn and a proponent of alternative medicine. He commented that in his opinion, the IV may have been given too quickly.

The Board adjourned for a short 10 minute break

After the Board reconvened Mr. J.F. briefly spoke to the Board and responded to their questions

Following this, there was additional discussion among board members. Dr. Shelton rejoined the meeting by telephone and the Board requested he conduct an interview with Dr. Olsztyn's nurse. Mrs. Springer was directed to obtain additional information regarding existing medications patients may have been taking prior to receipt of the IV Colchicine and to obtain additional information from the FDA concerning the use of compounded Colchicine. Board members clarified outstanding questions that Dr. Olsztyn should be prepared to respond to and voted to hold an *informal interview* pursuant to A.R.S. 32-2934(G). The motion was made by Mr. Farris, seconded by Dr. Grout and passed unanimously.

**Case No. 11-04      Stephanie Workman, MD, MD(H)**

Mrs. Springer referenced her investigative report and informed the Board that no homeopathic procedures had been utilized in this case. The Arizona Medical Board had completed their investigation and issued a non disciplinary advisory letter to Dr. Workman related to a concern with the maintenance of medical records. The record had been sent to the Arizona Homeopathic and Integrated Medicine Board in compliance with A.R.S. §32-2907 regarding dual licensed physicians.

Dr. Grout made a motion to dismiss the complaint noting that no homeopathic procedures were utilized. Mr. Kennedy seconded the motion that passed unanimously.

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

**A. Rules**

1. Chapter 38, Article 2, Section 201 – Section 206

The executive director updated board members on the status of this rulemaking related to dispensing and labeling of drugs and noted that a Notice of Docket Opening had been filed at the Office of the Secretary of State. She was hopeful that a hearing on the rules could be held at the March, 2012 meeting.

2. Selection of committee members to a rulemaking committee related to homeopathic doctor legislation

Mrs. Springer informed the board of a rulemaking exemption that was part of the recent homeopathic doctor legislation. Dr. Grout and Mr. Kennedy agreed to serve on a committee to promulgate rules for the homeopathic doctors. Board members requested that Mrs. Springer contact interested parties to invite their participation in the process.

3. Chapter 38, Article 1, Section 105 Fees

Mrs. Springer explained that a Notice of Docket Opening had been filed at the Office of the Secretary of State. She indicated she would complete an economic impact state and file a Notice of Proposed Rulemaking at the Secretary of State's Office as the next step in the process.

## **B.. Legislation**

1. SB1175 Doctor of Homeopathy license – status update

Dr. Rowe recused himself from this discussion. The executive director very briefly indicated that the board would seek a legislative sponsor to add licensing criteria found in ARS 32-2912(A)(4) to the licensing criteria for prospective homeopathic doctors.

2. Chiropractic Association Sunrise Application –

Dr. Rowe explained that the Arizona Chiropractic Association was sponsoring a bill to add homeopathy to the scope of practice of chiropractic doctors in Arizona. A recent hearing on the bill found that stakeholders were not fully supportive of their efforts and that additional work relating to educational criteria and the number of training hours had to be completed. He indicated that the Chiropractic Association anticipated that the sunrise application would be brought back to the legislature in 2013.

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

Charles Crosby – Quarterly Report

Following a brief review of the most recent quarterly report filed in compliance with the requirements of the Consent Agreement and Order, Dr. Rowe noted he found the report to indicate Dr. Crosby's ongoing compliance with the board's order.

## **VII. Review, Consideration and Action on Professional Business**

1. Mr. Farris presented information related to the Finance Committee and fees. He pointed out that the Board's fees were capped by statute and that these had not changed since 1984. The renewal fee was the primary source of income to the Board and was currently \$25 shy of reaching its statutory cap. He urged the board and homeopathic physicians to consider registering their medical assistants noting that he believed there may be a number of assistants working in clinics that are not currently registered.

Board members discussed whether all assistants should be registered, noting that current rules require that only those assisting with alternative therapies be registered. The general consensus was that assistants providing direct patient care should be registered.

There was brief discussion related to spot checking businesses to ensure that a dispensing permit has been issued for the dispensing of drugs and devices.

2. Board members briefly discussed the direction of telemedicine and requested that Mrs. Springer draft a substantive policy statement for their consideration.

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3. Dr. Rowe made a motion approving an application submitted Dr. Crosby relative to continuing education credit for the AANP Annual Convention and Exposition held August 17, 2011 to August 20, 2011. The motion was seconded by Dr. Grout and passed unanimously.
4. The Board declined to comment on a rulemaking concerning the Arizona Radiation Regulatory Agency, noting that homeopathic physicians are not typically utilizing these processes.

## **VIII. Review, Consideration and Action on Other Business**

### ***Executive Director Report***

1. Mrs. Springer presented a brief overview of finances as of September 30, 2011. Current cash balance is \$26,781.25 and 35% of the appropriation amount of \$105,300 has been spent. The current balance in the appropriated fund is \$77,688. She indicated that the Board's total expenditures were \$27,612 as of September 30, 2011. Revenues received to date equal \$24,727.

## **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**

- Review Board's role in performing mandated continuing education
- Policy discussion, mission of the board, appropriateness of educating the public and the allopathic community about homeopathic licensure and regulation.
- Dispensing license enforcement
- Prorated issue fee for homeopathic medical assistants

## **XI. Future Meeting Dates**

January 10, 2012

## **XII. Adjournment**

The meeting adjourned at 1:55 p.m. following a motion by Dr. Grout. The motion was seconded by Mr. Farris and passed unanimously. 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 January 10, 2012

Respectfully Submitted,

Christine Springer  
Executive Director

**APPROVED IN REGULAR SESSION ON JANUARY 10, 2012**