

**Arizona State Board of
Homeopathic Medical Examiners
Minutes of Regular Meeting
Held at 1400 West Washington, B-1
Phoenix, Arizona**

May 8, 2007

I. Call to Order, Roll Call

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

Roll Call

Present:

Charles Schwengel, DO, MD(H)
Don Farris
Garry Gordon, DO, MD(H)
Martha Grout, MD, MD(H)
Todd Rowe, MD, MD(H)
Marie Stika (arrived 9:05 a.m.)

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

Dr. Schwengel introduced John Hughes, a student at the Arizona College of Osteopathic Medicine. Mrs. Hughes is completing an internship at the American Medical College of Homeopathy.

II. Review and Approval of Minutes

Regular Minutes

Dr. Rowe made a motion to approve the March 13, 2007 Regular Meeting minutes. Mr. Farris seconded the motion that passed with a majority vote.
5-0 Rowe, Schwengel, Gordon, Grout, Farris

Executive Session Minutes

Dr. Rowe made a motion to approve the March 13, 2007 Executive Session minutes. Mr. Farris seconded the motion that passed with a majority vote.
5-0 Rowe, Schwengel, Gordon, Grout, Farris

III. Review, Consideration and Action On Pending Applications

Physicians

No new physician applications were considered.

Homeopathic Medical Assistant New Applications

Noting that he works directly with the applicants, Dr. Rowe recused himself from discussions related to the medical assistant applications of Robin Meyers and Robert Bannan and exited the room.

Dr. Grout made a motion to approve the application for medical assistant submitted by Robin Meyers. Mrs. Stika seconded the motion that passed with a majority vote.
Roll Call: 5-0 Grout, Stika, Schwengel, Gordon, Farris.
Rowe recused.

Dr. Gordon moved to approve the medical assistant application submitted by Robert Bannan. Dr. Grout seconded the motion that passed with a majority vote.
Roll Call: 5-0 Gordon, Grout, Stika, Farris, Schwengel.
Rowe recused.

Mary Ann Stalker was present to discuss her pending homeopathic medical assistant application. Her supervising physician, Dr. Hayle Aldren, was also present.

Noting that Ms. Stalker is licensed in Arizona as a naturopathic physician, Assistant Attorney General Wood explained that medical professionals are accountable to all professional regulatory boards with which they hold a license. Referencing AAC R4-38-310(A), Ms. Wood commented that the job description set forth in the pending medical assistant application is specifically barred by professional conduct statutes of the Arizona Board of Naturopathic Medical Examiners. Additional discussion was held with Dr. Stalker and Dr. Aldren.

Dr. Gordon made a motion to approve the application. Mr. Farris seconded the motion. Additional discussion was held. Dr. Rowe indicated his dissent and expressed concern that patients would be confused about which professional license the applicant would utilize at any given time in the performance of her duties. Ms. Wood suggested the Board table the motion and enter into discussions with the Board of Naturopathic Medical Examiners.

Dr. Gordon moved to table his original motion. Mrs. Stika seconded and the motion carried with a majority vote.
Roll Call: 4-2: Gordon, Stika, Rowe, Grout
Nay: Farris, Schwengel

Compliance Report(s)

Dr. Jeffrey Rutgard joined the meeting by telephone during the Board's discussion. Referencing the Consent Agreement and Order approved on November 18, 2004, they expressed their concerns with Dr. Rutgard's compliance in regard to continuing education requirements specified by the order. Dr. Gordon noted that the order granted Dr. Rutgard three years to complete continuing education requirements in orthomolecular medicine and classical homeopathy. They concurred that three years is adequate time to complete the requirement. The Board questioned Dr. Rutgard about upcoming orthomolecular course work sponsored by Jeffrey Bland.

Noting that Dr. Rutgard had written a letter requesting an extension of time in which to complete continuing education requirements, Dr. Grout made a motion to deny the request. Dr. Rowe seconded the motion that passed unanimously.
Roll Call: 6-0 Grout, Rowe, Schwengel, Gordon, Farris, Stika

Status Report – Incomplete Physician and HMA Applications

Clarification: The agenda indicated a pending application received from David Korn, DO. The agenda should have indicated a pending application received from Brent Korn, DO.

Mrs. Springer gave a brief status report concerning the progress of pending physician and medical assistant applications. She stated that applications filed by Dr. Richard Melde and Dr. Brent Korn should be complete by July, 2007 and September, 2007 respectively.

Mrs. Springer indicated she was in the process of verifying actions taken by previous professional licensing boards regarding the pending applications for homeopathic medical assistant filed by Jessie MacMillan and Rod Russell.

IV. Review, Consideration, and Action Regarding Investigation/Complaints

Initial Reviews

07-02 Lloyd Arnold DO MD(H)

Mrs. Springer presented a background of the facts in this matter. Board members agreed that the procedures utilized did not fall within the homeopathic standard of practice and ceded jurisdiction to the Board of Osteopathic Examiners. Dr. Grout made a motion to decline jurisdiction. Dr. Gordon seconded the motion that passed unanimously.

Roll call: 6-0 Grout, Gordon, Schwengel, Farris, Stika, Rowe

Ongoing Reviews

No discussion was held on this matter.

Status Reports – Ongoing Complaint Reviews

07-01 Thomas Grade, MD(H)

Mrs. Springer informed the Board of the formal hearing scheduled for July 17, 2007 at 3:00 p.m. She explained that Dr. Grade had not renewed his homeopathic medical license.

Assistant Attorney General Wood explained that the pending complaint had been initiated while the license was active and in light of Dr. Grade's non-renewal, the license status is considered to be administratively suspended pending the outcome of the complaint. Responding to a question from a board member, Ms. Wood explained that should Dr. Grade not attend the hearing, the board would take action based on the allegations deemed admitted in the Notice of Formal Hearing.

05-21 Charles Crosby MD(H)

This matter was pulled from the agenda to provide all parties additional time to consider revisions to the consent agreement and order.

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

A. Rules

1. Proposed Rules A.A.C. R4-38-105 Fees

Mrs. Springer reported that the permanent fee rules would be reviewed at the Governor's Regulatory Review Council on their August 4, 2007 meeting agenda. Fees become effective 60 days following the date filed in the Secretary of State's office.

2. Emergency Rules A.A.C. R4-38-105 Fees

Mrs. Springer explained that fees authorized in the emergency rulemaking would expire on June 4, 2007. In response to a question from Dr. Rowe expressing concern about the interim between the expiration of the emergency and the implementation of the

permanent rule, she explained that the board may file to renew the emergency fees for an additional 180 days.

3. Proposed Rules Chapter 38, Article 3, R4-38-301-311 Medical Assistants
Mrs. Springer informed the board that a rule writer had been retained to complete the rule making relative to this article. She explained that part of the funds would be drawn from the 2007 appropriated fund balance with the remainder coming from the 2008 appropriation. The overall cost of the rule making for Articles 3 and 4 (Time Frames) is \$4000.

B. Legislation

1. Legislative Report – Discussion

Mrs. Springer discussed with the Board the possible effects of H.B. 2208 (posting minutes); H.B. 2115 (CME for medical professionals), H.B. 2467 (verifying citizenship for applicants for licenses); SCR 1016 (lobbying by publicly funded employees); and Senate Bill 1295 which was signed into law and removes the word '*oriental*' found in some of the language of *Title 32, Chapter 29* and replaces it with the word '*Asian*'

2. Legislative Committee Report

There was no report from the legislation committee. Dr. Rowe informed the Board that Dr. Grout and Dr. Rowe were prepared to meet when the preliminary audit report is filed with the board.

VI. Performance Audit Review/Update

No action was taken on this agenda item. The Board is awaiting the release of the preliminary audit report.

VII. Review, Consideration and Action On Professional Business

1. Policy discussion and possible action of the following:

a) Oral examination process

This discussion was deferred to a special meeting tentatively scheduled for May 29th. Assistant Attorney General Wood commented that her research regarding whether or not the board may conduct oral examinations in executive session found that there is no confidentiality provision related to oral examinations.

b) Update regarding written examination

Mrs. Springer reported that Dr. Stephanie Workman and Dr. Gregory Meyer had volunteered to serve on an examination committee to revise the classical homeopathic component of the written examination.

c) Informed Consent and homeopathic modalities

This discussion was deferred to a special meeting tentatively scheduled for May 29th. Dr. Schwengel noted that in his experience he has found it advisable for homeopathic physicians to obtain written consent from patients indicating that they understand the treatments they are receiving are being provided under the physician's homeopathic medical license.

d) Policy to ensure applicant proficiency related to AAC R4-38-103 (c).

Consider legislative change requiring proficiency.

The board discussed and agreed that it would clarify the intended meaning of AAC R4-38-103 (C) if the board were to issue proficiency certificates in the modalities defined under the 'Practice of Homeopathic Medicine' at A.R.S. §32-2901 (22). They also considered whether a physician would be required to obtain continuing medical education related to the certificated proficiency. Mrs. Springer was directed to obtain

information related to whether or not other medical boards charge an additional fee to licensees who obtain proficiencies in specific therapy modalities.

e. Recusal process

Assistant Attorney General Wood discussed the intent of the recusal process and recited what situations would require that a member recuse. She explained that the public should understand that a board member is acting in a non-biased manner in considering an issue or if a recusal is necessary due to a board member's vested interest.

2. Complaint Process

a. Mrs. Springer confirmed that a pool of volunteer professionals recruited from the homeopathic physician roster had agreed to assist the board with medical investigations. Ms. Wood explained that they should receive training relative to report writing and the proper conduct of investigative interviews.

b) Initiation of the investigative process in matters involving dual licensees
Following discussion the board agreed that in cases involving dual jurisdiction a copy of the initial complaint should be sent to the other medical board with which the physician is licensed. At the same time basic information regarding the matter should be obtained. The information would include preliminary information in which there may be questions that require resolution; police reports; court records; and subpoenas to obtain medical information.

c) The board reviewed a form entitled '*Board Action*' that will be utilized to assist with complaint review. They agreed that Ms. Springer should obtain as much available information relative to a complaint matter before the board conducts its' initial review. This information would include court or police records and medical information. Following receipt of the information it should be sent to a medical investigator for their review relative to whether or not the allegations contained in the complaint are supported by the available information.

3. Board member appointments.

Dr. Schwengel indicated the Arizona Homeopathic and Integrative Medical Association had submitted the names of potential board member appointees to the Governor's Office for her consideration.

4. Inactive status initial discussion.

There was general discussion of the impact to the board should legislation relative to an inactive license status be proposed. While there was general consensus that an inactive status would be favorably viewed, the fiscal impact of such legislation given the small number of licensees was of real concern. Mrs. Springer indicated that approximately 65 licensees were in-state and 37 were out of state. Should those that were outside Arizona determine that inactive status was preferable the impact of their reduced annual renewal fee would be substantial in that approximately a third of the total would pay a reduced fee. The board determined that at this time, they would not seek legislation establishing an inactive renewal status.

VIII. Review, Consideration and Action On Other Business

1. Executive Director Report

a) Financial Report

Mrs. Springer presented a report of the board's financial status as of April 30, 2007. As of this date board expenses were \$70,601 which represents 79.95% of the \$87,000 appropriation. Total expenses through June 30 are projected to be \$87,082. Mrs. Springer indicated that the projection included \$2000 toward the cost of a rule writer to

continue work on the revision of the medical assistant rules. She noted that the cash balance on July 1, 2007 should be \$54,369.

IX. FUTURE AGENDA ITEMS

Charles Crosby MD(H)
Oral examination process
Informed Consent
Proficiency relative to AAC R4-38-103 (C)

X. CALL TO THE PUBLIC

No public members were present at this time

XI. FUTURE MEETING DATES

May 29, 2007 Audit Report Committee and Special Meeting tentatively scheduled.

XII. CLOSE OF BUSINESS/ADJOURNMENT

The meeting adjourned at 1:00 p.m. following a motion by Dr. Rowe. 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, Conference Room located inside Room 280, Phoenix, Arizona, **12:30 p.m. on July 17, 2007.**

Respectfully,

Christine Springer
Executive Director