

# **Arizona State Board of Homeopathic and Integrated Medicine Examiners**

## **Minutes of the Regular Meeting**

**September 14, 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)  
Martha Grout, MD, MD(H)  
Don Farris  
Dr. Les Adler, MD, MD(H)  
Alan Kennedy

Absent:

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

#### ***Board Member appointments/reappointments - status***

Mrs. Springer made a brief statement that appointments were pending and it was possible candidates would be approved in mid September. She indicated she would notify affected board members as updates were received/confirmed.

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

#### *Regular Meeting Minutes –July 13, 2010*

Dr. Grout moved to approve the regular meeting minutes as drafted. Mr. Farris seconded the motion that passed unanimously.

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

There were no completed physician or medical assistant applications to consider.

### **IV. Annual Meeting**

#### ***Election of Officers***

Mr. Farris moved to retain the current slate of officers for the coming year as follows:

Dr. Todd Rowe, President ;  
Dr. Martha Grout, Vice-President  
Don Farris, Secretary-Treasurer

After each nominee indicated their interest in continuing to serve, Dr. Grout seconded the motion that carried unanimously.

**2010-2011 Meeting Schedule**

Board members concurred with the 2011 meeting schedule as presented. (Copy attached to these minutes)

**Fees**

The executive director reminded Board members of their previous vote taken at the 2009 annual meeting recommending that the renewal fee increase to the statutory cap of \$1000. She noted it had not been implemented due to a rulemaking moratorium. Dr. Grout commented that psychologically this increase would be unpopular. Mr. Kennedy inquired about the date of the last fee increase. Mrs. Springer stated that the last increase had occurred in August, 2007. Mr. Farris suggested the director prepare a chart comparing the Board's fees to other medical boards and report her findings at a future meeting.

The Board discussed the possibility of holding a special meeting to consider legislation relating to raising fee caps given that the Board is currently charging fees at the top of existing statutory caps in all but the renewal fee.

The board requested that the executive director prepare a comparative analysis showing each current fee and the amount of revenue realized in relation to total revenue. In addition, they agreed that the Board's fees should be reviewed in relation to those charged by other similar medical boards within Arizona.

**V. Complaints and Investigations**

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

Case No. 10-08

David Korn, DO, MD(H)

The Board reviewed a staff memorandum regarding this matter, noting that HIPPA precluded an in-depth discussion of confidential medical records. Mrs. Springer indicated that she was seeking the Board's confirmation of her verbal agreement to the Osteopathic Board that they should conduct the investigation pursuant to A.R.S. §32-2907. Dr. Rowe moved to cede jurisdiction to the Osteopathic Board. Mr. Farris seconded the motion.

There was general discussion and Dr. Grout commented that she had a concern over ceding jurisdiction to the Osteopathic Board and requested legal advice.

Dr. Adler made a motion to adjourn to Executive Session at 9:45 a.m. for legal advice. Dr. Grout seconded the motion that passed unanimously. The Board returned to the Regular Meeting at 9:50 a.m.

Noting that there was no further discussion, Dr. Rowe called the question concerning whether to cede jurisdiction to conduct the investigation to the Osteopathic Board. The motion passed unanimously 5 - 0.

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

### **A. Rules**

#### *1. Status Update regarding Article 1*

Mrs. Springer informed the Board she was preparing a Notice of Docket Opening regarding Article 1 since the previous docket had been terminated as published in the *Administrative Register* on August 20, 2010.

### **B.. Legislation**

#### *1. Review, Consider and Action on Fee Caps under A.R.S. §32-2914*

This agenda item was discussed in Agenda Item No. IV. Fees.

#### *2. Status Update – other pending legislation*

AAG Baskin informed Board members that staff at the Office of the Attorney General would discuss potential impacts of SB1255 and HB2545 in the near future and report back to the Board at a future meeting.

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

1. The Board reviewed, discussed and approved, (pending verification of instructor credentials) a continuing medical education request submitted by Terra Medica Bio-Med Sanum USA/Psychosomatic Energetics. The seminar, Introduction to Sanum Remedies/Uses in Treating Chronic Diseases, is scheduled for October 15, 2010 and approved for 3 hours. Dr. Adler made the motion, Dr. Grout provided a second and the motion passed unanimously.

2 The discussion relating to the current membership of physician licenses and the loss of 10% of the licensee base due primarily to physician retirements and age of the practitioner was discussed under Agenda Item IV: Annual Meeting and within the section concerning Fees.

3. The Board reviewed and discussed the current process utilized to review protocols and informed consents in relation to experimental therapies defined in *A.A.C. R4-38-109* and *R4-38-112*. The executive director indicated she had provided copies for each board member of the statutes and rules that govern this part of the board's regulatory authority.

The Board agreed that if the physician submitted a protocol and informed consent involving the provision of EDTA therapy the Board must review the documentation according to *ARS 32-2933(27)*. Essentially, even though this therapy has been in common beneficial clinical usage for at least 10 years, the statute states that the protocols and consents must be reviewed and the physician must file the required documentation if they intend to provide the therapy to the patients. Mrs. Springer acknowledged Dr. Grout's comment that the therapy had been in use for many years, but that unless the Board removed the statutory requirement, licensees must continue to comply with the intent of the statute.

In the future the Board agreed that other protocols and informed consents would be brought to the Board for review if the definition of an experimental therapy under the *Administrative Rule R4-38-109* is met. Those protocols and informed consents that were

not experimental, within the section of the administrative rule would be placed into the licensee's file, but not officially reviewed by the Board.

Dr. Grout inquired about the board's process in determining if a therapy is experimental or not. The executive director indicated she relied on research provided either through the internet or through documentation provided by the licensee at the time the informed consent/protocol was filed. Dr. Rowe and AAG Baskin suggested that if there were any questions regarding the experimental nature of the therapy that the executive director should request additional information on the length of time the therapy has been in beneficial clinical usage from the physician.

Mr. Kennedy inquired about the renewal process and the requirement to file informed consents/protocols. Mrs. Springer explained the process. Mr. Kennedy suggested the wording be changed on the renewal form to state: "any protocol by statute or rule that has not been in beneficial clinical usage 10 years or more may be subject to board review." The Board discussed posting a list of those therapies that are considered non experimental on the website. AAG Baskin stated that a list placed on the website of what has already been approved as non experimental would be helpful to licensees.

Dr. Rowe commented that it may also be helpful to post samples of approved experimental informed consents/protocols. Board members all agreed that the end result is to provide guidance to licensees about how to meet the requirements in statute and rule.

AAG Baskin requested time to review and analyze the potential legal impact of these suggestions prior to actual placement of samples on the website.

Dr. Rowe reiterated and requested that her analysis include consideration of the following information on the website:

1. List of therapies that board determines as non experimental
2. Samples of previously approved informed consents for experimental therapies
3. Samples of previously approved protocols for experimental therapies

Further discussion was tabled until the next meeting.

4. Board members reviewed a protocol and informed consent for HCG Diet Therapy submitted by Dr Bruce Shelton. Noting that the title of the informed consent needed the insertion of 'Homeopathic' to delineate the type of HCG Diet Therapy that would be offered to patients, Dr. Grout moved to approve the consent and protocol. Mr. Farris seconded the motion.

During discussion, Dr. Adler commented that 'Homeopathic HCG' should be inserted into the text wherever HCG is used to insure that patients are aware of the difference.

The question was called and motion passed unanimously.

5. Regarding the appointment of rules committee members, Dr. Rowe and Dr. Grout agreed to continue serving on this committee.

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

### *Executive Director Report*

a) Mrs. Springer presented a brief overview of finances as of August 31, 2010. Current cash balance is \$34,664 and 8% of the appropriation amount of \$116,900 has been spent. The current balance in the appropriated fund is \$95,972. She indicated that the Board had expenditures of \$20,927 as of August 31, 2010.

b) The executive director presented an overview of the 2011-12 Strategic Plan and Budget. Dr. Rowe thanked her for the information and noted he would like to participate in next year's strategic planning session. No changes were recommended to the FY2011-12 budget and strategic plan as presented.

c) A brief discussion was held on the feasibility of reducing per diem payments to board members for meeting attendance. They agreed to retain the current per diem amount of \$150 per board meeting. Mrs. Springer indicated that payment would be evenly distributed out of any remaining funds at the end of the fiscal year.

d) Mrs. Springer explained a correction to the accrual of annual leave based on her employment contract. She noted that when her position was increased to 35 hours per week, the pro rata amount of annual leave accrual had inadvertently remained at the previous level. The correct accrual rate, based on years of service and number of hours worked per week should have been 12 hours per month. The discrepancy came to light when budgetary measures were implemented to account for furloughs and the pro rata number of hours that would be subject to furlough was determined. Mrs. Springer indicated that the correction in the accrual of annual leave would be used before the end of the calendar year. Dr. Rowe made a motion approving the correction in the leave accrual. Dr. Grout seconded the motion that passed unanimously.

Mrs. Springer reviewed annual performance measures with the Board (Copy of the performance goals is attached to these minutes). She made special note of the improvement made in the number of closed complaints within the time frame recommended by the auditor general (180 days). In 2009 70% of complaints were closed within 180 days; in 2010 94% of complaints were closed within that time frame.

She directed their attention to the successful completion of the sunset review and passage of a 10 year extension of the Board's regulatory authority by the legislature. Finally, Mrs. Springer reviewed survey responses returned by licensees noting that of 30 surveys returned 27 indicated excellent responses to all of the questions. She requested their consideration of a 6% raise to be effective July 1, 2011. Mrs. Springer clarified that although she was requesting a 6% increase, the true increase was less than 1% given the effect of furlough days and loss of performance pay which had reduced her FY2011 salary 5.75%

Dr. Rowe made a motion approving a 6% raise effective in FY2012 on July 1, 2011. Dr. Grout seconded the motion that passed unanimously. Mrs. Springer thanked Board members for their support.

## **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**

- Rules – Article 2 Dispensing of Drug
- Informed consents/protocols – listing samples on website (AAG to report on this item)
- Statute of limitations regarding complaint matters

- Clarification of HB2545 (LOC on website) and SB1215 (health professionals, advertising, designations)

**XI. Future Meeting Dates**

- Meeting to discuss legislation relative to raising statutory caps on fees authorized in A.R.S. §32-2914
- Rules Committee Meeting regarding changes to Article 2 Dispensing of Drugs

**XII. Adjournment**

The meeting adjourned at 10:55 a.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 the Conference Room located in Conference Room B-1, Phoenix, Arizona, at 9:00 a.m. on November 9, 2010.

Respectfully Submitted,

Christine Springer  
Executive Director

**APPROVED BY THE BOARD IN REGULAR MEETING ON NOVEMBER 9, 2010**