

**Arizona State Board of Homeopathic Medical
Examiners
Minutes of Regular Meeting (AMENDED)
January 11, 2005**

I. CALL TO ORDER

Presiding officer, Charles Schwengel DO, MD(H), called the meeting to order at 9:00 a.m.

II. ROLL CALL

MEMBERS PRESENT:

Charles Schwengel DO, MD(H), President
Annemarie Welch, MD,MD(H), Vice President
Anna Marie Prassa, Secretary-Treasurer
Don Farris
Garry Gordon, MD, DO, MD(H)
Bruce Shelton, MD, MD(H)

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

III. REVIEW, DISCUSS, AND ACTION: PREVIOUS MEETING MINUTES

Ms. Prassa made a motion to adopt the November 9, 2004 regular session minutes. Dr. Gordon seconded the motion that passed with a majority vote. Drs. Welch and Shelton were recused.

IV. REVIEW, CONSIDERATION, AND ACTION ON APPLICATIONS

A. *New Physician Applications*

Issac Eliaz M.D.

At the applicant's request, Dr. Eliaz's application was deferred to the May 10, 2005 regular meeting.

Devin Mikles, M.D.

Dr. Mikles was present to address the board and respond to questions. He stated that he utilizes various forms of healing including therapeutic massage and acupuncture in his practice. His first introduction to homeopathy occurred when his infant child was ill and had responded favorably to the treatment. There were other questions from the Board concerning his clinic's team approach to healing and his plans to work with Jana Shiloh.

Dr. Mikles completed the oral examination and his passage of the written examination was confirmed. Dr. Shelton moved to grant a homeopathic medical license to Dr. Mikles. Ms. Prassa seconded the motion that passed with a majority vote. Dr. Welch was recused.

Stefanie Workman, M.D.

Dr. Workman was present for her application and oral interview. Dr. Welch inquired about her current practice and whether she could utilize homeopathy within the practice group. Dr. Shelton made a motion approving the application. Mr. Farris seconded the motion that passed unanimously.

At this point Dr. Workman presented a clinical case review of oral examination number 1. Following her presentation board members commented favorably on the presentation and Dr. Shelton made a motion approving Dr. Workman's homeopathic medical license. Dr. Gordon seconded the motion that passed unanimously.

B. Homeopathic Medical Assistants

Dr. Shelton made a motion approving homeopathic medical assistant applications submitted by Kristina Adams, Alejandra Iniguez, Melissa Joseph, Joanne Ramundo, and Jana Shiloh. Motion seconded by Ms. Prassa and passed unanimously.

C. License Reviews

Rick Shacket, MD(H) License No. 133

Mrs. Springer directed the Board's attention to Dr. Robert Gear's correspondence reporting the clinical aspects of his ongoing supervision of Dr. Rick Shacket. The correspondence meets the 150 day reporting requirement outlined in the Consent Agreement and Order signed by Dr. Shacket. The terms of the Consent Agreement and Order indicate that Dr. Shacket's employment is to be supervised for six months from the date of the reactivation of his homeopathic medical license. The six month term will end February 12, 2005.

V. REVIEW, CONSIDERATION AND ACTION REGARDING INVESTIGATIONS/COMPLAINTS

A. Initial Reviews

05-02 J.H. vs. Georffrey Radoff, MD, MD(H)

Dr. Shelton recused himself from consideration of this matter. Dr. Radoff's attorney, Stephen Myers, was present and made a brief statement regarding the matter. He directed the Board's attention to a copy of his correspondence to the Arizona Medical Board (AMB) in which he sought to request that, in light of the many homeopathic treatments provided to J.H., primary jurisdiction to conduct the investigation be given to the Board of Homeopathic Medical Examiners. Mr. Myers further directed the Board's attention to AMB Assistant Attorney General Christine Cassetta's response in which she indicated both medical board's can agree to dual investigations. In Ms. Cassetta's correspondence she noted that the AMB was unaware that the Board of Homeopathic Medical Examiners had objected to their ongoing investigation and that AMB would continue their investigation. Mr. Myers referenced a historical opinion issued by the Arizona Court of Appeals regarding the Harvey Bigelson case and urged adherence to the findings of that court decision noting that whichever board conducted the investigation, the other board would be bound to rely on the findings of the

investigation. He stressed that in this particular matter, the complainant, J.H. had been treated primarily with homeopathic modalities.

At 10:15 a.m., Dr. Welch made a motion for the Board to adjourn to Executive Session for the purpose of legal advice. The Board returned to the Regular Meeting at 10:35 a.m.

At this point in the discussion, J. H. joined the meeting by teleconference. Dr. Schwengel noted that the question of primary jurisdiction in this matter must be determined before further investigation by the Board of Homeopathic Medical Examiners can continue. He directed that Mrs. Springer contact AMB's executive director and inform him that it is the Board's intention to seek primary jurisdiction since the majority of the treatments provided to J.H. involved homeopathic modalities. Dr. Schwengel explained the investigatory process to J.H. and noted that further action on the complaint was tabled until the jurisdictional issue was determined.

05-05 B.K. vs. Stuart Lanson MD, MD(H)

B.K. was present and was invited to join the discussion.

Dr. Schwengel noted that the complaint appeared to involve a fee dispute and suggested that Dr. Lanson may want to consider instituting a mediation process to resolve fee disputes. He stated that several past complaints submitted to the Board have also involved fee disputes and seem to point to a misunderstanding on the part of the patient as to what portion of fees they are responsible to pay after their insurance has submitted payment. Ms. Prassa inquired about continuing education related to practice management and suggested that the doctor's staff may benefit from attending these types of education courses.

B.K. was present and was invited to address the Board. B.K. complimented the care Dr. Lanson provided and stated that she was pleased with the result and clinical outcome. However, the financial dispute with Dr. Lanson's office over the amount of the fee not paid by insurance had been ongoing since May, 2001. She also stated that Dr. Lanson's accounting staff had indicated correspondence would be sent verifying that the amount due would be written off but that she had not received a letter confirming their statements.

Dr. Welch and Mr. Farris discussed insurance reimbursement with B.K. noting that a physician is obligated by contract to take the amount paid to their practice if it is a covered procedure per the terms of the physicians contract with the insurance company. However, if the procedure is not covered, the patient is responsible for the total amount. Medicare reimbursement and the *1816 waiver form* was also discussed. Dr. Welch noted that if Medicare never covers a particular procedure then the physician can bill the total amount to the patient.

Mr. Farris made a motion to dismiss the complaint as without merit noting that B.K. had signed pertinent informed consents acknowledging that she understood

her financial responsibility. Dr. Shelton seconded the motion. After further discussion Mr. Farris withdrew his motion.

Dr. Shelton made a motion to issue a non-disciplinary Letter of Concern. Ms. Prassa seconded the motion that passed with a majority vote. Dr. Welch dissented. The Board reached this decision noting that several of the past complaints filed against Dr. Lanson have involved fee disputes and a misunderstanding regarding the difference between what patients believe insurance will pay and what their financial responsibility is. The Board requested the letter state that no violation of statutes and rules had been determined from their review, but because of the continuing nature of these types of complaints the Board is concerned. They requested that the letter include the following suggestions for Lanson's consideration: designation of a patient intake person to review each informed consent with patients to insure they understand their financial responsibility and provision of an audio tape of the intake interview that would be given to each patient to take home.

Roll Call:

Approve: Dr. Shelton, Mr. Farris, Ms. Prassa, Dr. Schwengel, Dr. Gordon

Dissent: Dr. Welch

VI. REVIEW, CONSIDERATION AND ACTION ON PROFESSIONAL BUSINESS

1. Dr. Shelton recused himself from the discussion. The executive director indicated that staff at the Department of Revenue had verified their intention to proceed with filing a Notice of Final Rulemaking. The Board's formal comment to the suggested language of the proposed rules regarding a requirement by the Department that all prescriptions be provided in a written script form (including homeopathic remedies) had been considered by the Department to be non-substantial and would be incorporated into the language of the final rulemaking. The new language would designate that the prescription would be reduced to writing as "required by state law". Homeopathic physicians provide written prescriptions for controlled substances or prescription-only pharmaceutical drugs (A.R.S. §32-2951.C). Homeopathic remedies are written into the patient's medical record (A.R.S. §32-2951(A)2. but not required under A.R.S. §32-2901 et.seq. to be written as a prescription to the patient. The Board requested further updates on this item at the next regular meeting.

2. The executive director briefed the board concerning a recent action by the DEA that has placed the renewal of DEA permits for Arizona licensed homeopathic physicians under review. The DEA action may affect Arizona licensed homeopathic physicians that do not also hold an *active* MD or DO license in Arizona or another state. She noted that the DEA designates homeopathic physicians as mid-level practitioners. Of the states that license homeopathic physicians, the DEA does not grant DEA Permits to those physicians licensed by the Connecticut Board of Homeopathic Medical Examiners, but does grant DEA Permits to physicians licensed by the Nevada Board of Homeopathic Medical Examiners. After discussion, Dr. Shelton made a motion directing that the executive director correspond with the DEA indicating that A.R.S. 32-2901 et.seq. defines the *Practice of Homeopathic Medicine* as

inclusive of pharmaceutical medicine. Arizona MD(H)'s are educated and licensed as either an M.D. or D.O. *prior* to receiving the MD(H) license. The motion also directed that correspondence be sent to Governor Napolitano's office requesting that a letter under her signature be sent to the DEA verifying the statutory authority of the MD(H) to practice pharmaceutical medicine. Motion seconded by Dr. Gordon and passed unanimously.

3. A brief discussion was held regarding the intention of the National Institute of Health (NIH) to utilize Dr. David Rupley's practice location in Tucson as a site to study the possible benefits of chelation therapy. A recent article in a Tucson newspaper had incorrectly characterized the benefits of chelation therapy and the Board was concerned that incorrect information had been provided to them. Dr. Shelton indicated his communication with Dr. Rupley confirmed that the newspaper had misquoted the doctor.

4. A. Discussion was held with Dr. Shelton regarding his BUTTAR Trans Dermal DMPS Informed Consent and Permit. He stated that he had been inundated by patients seeking treatment for their autistic children. His intention in bringing the matter to the Board's attention was informational as well as compliant to registration of experimental forms of diagnosis and treatment under *A.A.C R4-38-112*.

B. Dr. Gordon explained that RNA products were considered nutritional and beneficial to patients with autism.

VII. REVIEW, DISCUSS AND ACTION REGARDING OTHER BUSINESS

A brief presentation was made by the executive director who indicated the final projections regarding Joint Office Costs for 2006-2007 had remained very close to the current FY05 budget. The Joint Legislative Budget Committee and the Governor's Office of Strategic Budget and Planning recommended approval of the budget with the new numbers and had placed the board's budget on their Consent Agenda. The Department of Administration reconfigured costs according to the number of FTE's utilizing the common space areas (including walkways and storage) and had removed charges for common space that was available to all state agencies (ie. the small conference rooms).

VIII. FUTURE AGENDA ITEMS

Status of rulemaking on Articles 1 and 3
Discussion of upcoming Sunset Review process
Update regarding Department of Revenue rulemaking

IX. CALL TO THE PUBLIC

No members of the public spoke

X. ESTABLISHMENT OF FUTURE MEETING DATES

No deviation from the current published schedule.

CLOSE OF BUSINESS/ADJOURNMENT

The meeting adjourned at 11:45 a.m. following a motion by Mr. Farris. Dr. Gordon seconded the motion that passed unanimously. The next Regular Meeting of the Board will convene at the State Board's Office Building, 1400 W.

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Washington, Basement Conference Room B-1, Phoenix, Arizona, 9:00 AM, on
March 8, 2005.

Respectfully Submitted,

Christine Springer
Executive Director

Minutes approved at Regular Meeting 3-8-05