

Arizona State Board of Homeopathic and Integrated Medicine Examiners

Regular Meeting Minutes

November 12, 2013

I. Call to Order, Roll Call

Presiding officer, Dr. Todd Rowe, called the meeting to order at 9:00 a.m. and confirmed the attendance of the following board members:

Present:

Todd Rowe, MD, MD(H)
Bruce Shelton, MD, MD(H)
Alan Kennedy
Dr. Les Adler, MD, MD(H)
Don Farris
Mary Grace Warner, MD, MD(H)

Christine Springer, Executive Director was present and Stephen Myers, legal representative for Dr. Martha Grout was also in attendance. Mona Baskin, Assistant Attorney General arrived at 9:05 a.m. .

II. Review, Consideration, and Action on Minutes

Board members considered past minutes. They took no action on the Rules Committee Minutes of September 25, 2013 and October 2, 2013, noting that Dr. Rowe and Dr. Shelton were the sole committee members.

They tabled the Teleconference Minutes of October 23, 2013 to allow additional review time for the Board and Assistant Attorney General.

Dr. Shelton made a motion approving the Regular Minutes of September 10, 2013. Dr. Warner seconded the motion that passed unanimously.

III. Review, Consideration and Action on Complaints and Investigations

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

There were no items for discussion under this agenda item.

B. Ongoing Cases – Review, Consideration and Action

Case No. 13-04 Martha Grout, MD, MD(H) (M.M.)

Mrs. Springer provided a status report concerning the ongoing investigation noting that she was still in the process of collecting all of the records relating to the case.

Dr. Warner took this opportunity to clarify her prior recusal discussion that had occurred during the October 23, 2013 teleconference. She clarified that a past physician/patient

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relationship did not create a conflict and that she believed she could review the matter fairly and impartially.

Dr. Shelton indicated he had a number of questions that he would want reviewed as part of the investigation and expressed concern over the length of time the investigation is taking.

Dr. Rowe and Dr. Warner indicated their concern with the direction of the investigation without an autopsy report from the medical examiner.

Mr. Kennedy and Dr. Adler commented that they believed the investigator could review what the Board has already obtained. Dr. Rowe reiterated that the medical examiner report is critical piece of evidence .

Dr. Rowe made a motion to move to Executive Session for legal advice at 9:21 a.m. Mr. Farris seconded the motion that passed unanimously. The Board returned to the Regular Meeting at 9:40 a.m.

Dr. Rowe directed that additional information should be obtained from Dr. Grout to include protocols and background materials relied upon in determining dosage, informed consents, and medical records from physicians in Maine. The board also requested that a copy of the death certificate issued by Arizona be made available.

The Board reviewed a draft consent agreement directing Dr. Grout not to prescribe or use laetrile during the case review. A.A.G. Baskin told the Board she had reviewed the agreement, but that Dr. Grout's attorney in October, had indicated he would advise against signing the agreement.

Dr. Grout's attorney, Stephen Myers requested an opportunity to speak to the board. He expressed concern over the terminology in the draft consent, specifically the use of the term "imminent danger" and commented that as of the November 12 regular meeting, the cause of the patient's death is unknown. He expressed concern with additional language stating that Dr. Grout should be aware of the facts of the board's case prior to signing any agreement and finally pointed out that if the board was concerned about Dr. Grout's use of laetrile, an agreement should have been presented to his client earlier in the investigation.

Mrs. Baskin pointed out that the Arbitration Committee did not meet until October 8, 2013 and that jurisdiction in the matter was undetermined until that date.

Board members discussed their concerns regarding whether to offer the consent agreement. Mr. Myers again requested to speak to the Board. He suggested that his client may be willing to provide a letter to the Board indicating she would not dispense laetrile and affirming that she does not have laetrile on stock.

Dr. Rowe made a motion to accept a letter from Dr. Grout stating she would agree to not use laetrile during the investigation. Dr. Shelton seconded the motion. Mr. Kennedy requested an amendment to the motion suggesting that the Executive Director work with Dr. Grout's attorney regarding the language in the letter. Board members discussed the motion and Dr. Rowe indicated he would not support an amendment to his motion. Mrs. Baskin cautioned that a letter would not be binding on the board and would be

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unenforceable. Dr. Adler suggested language that would indicate any deviation from the intent of the letter would be a violation.

Mr. Myers clarified that if a letter would be acceptable Dr. Grout would attest that she was not in possession of any laetrile, she had not ordered any laetrile, and would not order laetrile unless 60 days advance notice was provided to the board.

Mr. Kennedy made a motion to go into Executive Session for legal advice at 10:15 a.m. Dr. Warner seconded the motion that passed unanimously. The Board returned to the Regular Session at 10:25 a.m.

Dr. Rowe withdrew his previous motion to accept a letter from Dr. Grout stating she would agree to not use laetrile during the investigation. He explained his action by stating that there were insufficient facts to pursue a consent agreement at this time and that without the medical examiner's report, a consent agreement would be premature. Dr. Shelton withdrew his second of the previous motion.

Mr. Kennedy expressed deep concern about the care provided to the patient M.M. and urged the Board to proceed with some type of agreement. He made a motion to offer Dr. Grout the Board's draft consent agreement and delete paragraph 3 in the Conclusions of Law. Dr. Warner seconded the motion.

Roll Call vote regarding the motion to offer the Board's Consent Agreement with Paragraph 3 of the Conclusions of Law deleted:

Aye: Adler, Farris, Shelton, Kennedy, Warner

Nay: Rowe

Motion carried 5 – 1

The Board directed Mrs. Springer to revise the Board's Consent Agreement prohibiting the use of laetrile, deleting paragraph 3 of the Conclusions of Law and present it to Dr. Grout for her consideration.

A.A.G. Baskin informed the Board and Mr. Myers that she had reviewed the Arbitration Committee's order and clarified that each medical board would conduct its own investigation and that no information would be shared.

Case No. 13-01, 10-08,

Case No. 10-02

David Korn, DO, MD(H)

Mrs. Springer presented information relating to the referenced cases which had been previously tabled and jurisdiction ceded to the Board of Osteopathic Examiners in Medicine and Surgery. She explained that Dr. David Korn had passed away on August 28, 2013 and that the three cases should be officially closed.

Dr. Shelton made a motion to remove the three matters from their tabled status and made a motion to close them. Motion seconded by Mr. Farris and passed unanimously.

IV. Review, Consideration and Action on Previous Board Orders

Charles Crosby, MD(H) Quarterly Report

Dr. Rowe indicated the report from Dr. Crosby's therapist had been received timely and appeared to indicate no change or cause for concern.

Thomas Lodi, MD(H) Status of Compliance

Mrs. Springer noted Dr. Lodi's compliance with regard to the timeliness of the 60 day reports as required in the consent agreement terms. She indicated information had been received timely from Dr. Lodi on November 7, 2013. No patients had been seen by Dr. Lodi from September 8, 2013 through November 7, 2013 and Mrs. Springer stated that he is currently working in Thailand through January, 2014.

The Board confirmed their acknowledgment of the report filed by Dr. Warner noting her review of the patient records submitted by Dr. Lodi's office for the time frame of August, 2013 through September 7, 2013.

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

Legislation – Review, Consideration , and Action

There was a brief discussion of the Board's intention to seek legislation to increase fee caps in A.R.S. § 32-2914. After a short discussion the board agreed that the language should indicate a percentage amount of increase rather than a specific cap. The actual fee would be set in rulemaking based on a percentage increase. Mr. Farris agreed to attend meetings with Mrs. Springer when she has contacted a legislator to discuss the matter with them.

Five Year Review Report - - Title 4, Chapter 38, Articles 1 -4

Mrs. Springer updated the Board on the progress of the Five Year Review Report. She indicated an extension of time to file the report was granted by the Governor's Regulatory Review Council until April 2, 2014. The rules analyst had requested information for the report and she was in the process of providing the information to the analyst.

VI. Review, Consideration and Action on Professional Business

1. Dr. Rowe recused himself from consideration of this matter. A course entitled *Homeopathic Practitioner Introduction to Homeopathy* sponsored by the American Medical College of Homeopathy was reviewed. Mr. Kennedy made a motion to approve the course. The motion was seconded by Dr. Warner and passed with a majority vote 5 – 1 Dr. Rowe recused.

2. At this point in the meeting Dr. Rowe presented highlights of the 2013 National Homeopathic Practitioner survey to board members. He indicated that 600 participants had responded to the survey and that results can be obtained by contacting the American Medical College of Homeopathy.

VII. Review, Consideration and Action on Other Business

1. Mrs. Springer presented information regarding the current board financial report. She indicated that as of October 31, 2013, revenues were \$28,530 and expenditures were \$24,555.

2. A short discussion was held concerning the informational correspondence that is sent with new application requests. The document entitled *License Information for New Applicants* was reviewed by members. Dr. Rowe requested that Mrs. Springer update and

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check contact information related to sponsors of coursework for the various therapeutic modalities.

3. No discussion was held regarding A.R.S. § 32-2911 Persons and acts not affected by chapter.

VIII. Call to the Public

No members of the public were present to address the board.

IX. Future Agenda Items

Pending homeopathic medical assistant applications

X. Future Meeting Dates –

No meeting dates scheduled

XI. Adjournment

The meeting adjourned at 11:55 a.m. following a motion by Mr. Farris. The motion was seconded by Dr. Warner and passed with an unanimous vote. 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 14, 2014.

Respectfully Submitted,

Christine Springer
Executive Director

Approved in Regular Meeting on January 14, 2014