

**Arizona State Board of Homeopathic Medical
Examiners
Corrected Minutes of Regular Meeting
September 13, 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

The following board members were present:
Charles Schwengel, DO, MD(H) President
Annemarie Welch, MD, MD(H), Vice-President
Kathy Patrick, Public Member
Don Farris, Public Member (left meeting at 1:50 p.m.)
Garry Gordon, MD, DO, MD(H)
Todd Rowe, MD, MD(H)

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

III. REVIEW/APPROVAL OF MINUTES

Dr. Rowe made a motion adopting the July 12, 2005 Regular Session Meeting minutes. Dr. Gordon seconded the motion that that passed unanimously.

IV. REVIEW, CONSIDERATION, AND ACTION ON PHYSICIAN APPLICATIONS

A. *New Applications*

Dr. Nelson Kraucak, M.D. was present and responded to questions from the Board concerning his medical background and application. Following the discussion Dr. Kraucak was directed to present an oral review of clinical case number eight. Dr. Gordon noted the applicant's successful passage of the written and oral examinations and made a *motion approving* Dr. Kraucak's application for a homeopathic license. Mr. Farris seconded the motion that passed with a majority vote. Dr. Todd Rowe was recused from the discussion.

There was a brief discussion of Dr. Rowe's recusal from the Kraucak vote and Assistant Attorney General (AAG) Burns stated that Dr. Rowe's recusal is predicated on a pecuniary interest that by statute bars him from participating in the discussion.

Dr. Arlene Martone, MD was present and addressed the Board. She responded to board member questions about the status of her current license in the State of Florida. AAG Burns noted information in the application file shows that the Florida matter is not resolved and the board must determine if the applicant meets license requirements and if any mitigating factors exist. Ms. Patrick stated

that she would prefer that Florida complete its investigation and the Board not consider the application until the Florida issue is resolved.

The Board noted that Dr. Martone had successfully passed the written examination and allowed her to present an oral review of clinical case number 1.

Confirming Dr. Martone's successful completion of the written and oral examinations Dr. Gordon made a motion to *defer consideration* of the application pending resolution of the Florida board action. The motion included a request to inform Dr. Martone in a substantive request for additional information that before the application may be reconsidered, the pending Florida board action must be resolved within the one year time frame pursuant to A.R.S. §32-2912(F). Dr. Gordon's motion was seconded by Ms. Patrick and passed with a majority vote. Dr. Rowe was recused from the discussion and vote.

Dr. Sean Devlin, DO, MD(H) (Nevada) was present and responded to questions concerning his license application. The Board confirmed that he met requirements for waiver of the written examination pursuant to ARS §32-2913(A)2. Dr. Devlin successfully presented an oral review of clinical case number 3. Dr. Gordon moved to approve the license application. Mr. Farris seconded the motion that passed unanimously.

Dr. Atif Malik MD was present and answered questions regarding his interest and background in homeopathy. Dr. Gordon noted the applicant's successful passage of the written examination and requested that he proceed with an oral review of clinical case number 2. Complimenting Dr. Malik on oral presentation Dr. Gordon moved to approve the application. Ms. Patrick seconded the motion that passed with a majority vote. Dr. Rowe was recused from the discussion and vote.

**** There was a fifteen minute break at this point in the meeting

B. Tabled Applications – David Parrish, M.D.

Dr. Rowe was recused from this discussion. President Schwengel began the discussion by reminding the Board that in May, Dr. Parrish had not passed the oral examination and would have to retake it. Mrs. Springer confirmed that Dr. Parrish had passed the written examination.

In response to a question from the Board, Dr. Parrish stated that he had completed an approved course in classical homeopathy as directed by the Board in May. At 10:55 a.m. President Schwengel made a motion to adjourn to executive session for legal advice. The motion was seconded by Mr. Farris and passed with a majority vote. At 11:05 a.m. the Board returned to the regular meeting.

Corrected Page Three (see underlined sections)

The Board gave Dr. Parrish the option of taking the oral examination at this meeting or the next. Dr. Parrish agreed to take the examination and was given one hour to prepare a clinical presentation of case number 7. Following the allotted preparation time Dr. Parrish presented an oral review of the case. Board members directed multiple questions to him regarding his choice of treatments.

After the case presentation, Dr. Schwengel questioned Dr. Parrish about the status of the pending Arizona Medical Board (AMB) matter. He explained that the AMB had ordered him to complete a PACE evaluation and also stated that during his 30 years of practice he had never had a complaint or violation against his medical license with the AMB or in other states. Dr. Schwengel pointed out that even though many aspects of the case under investigation at the AMB would fall within the definition of the practice of homeopathic medicine, Dr. Parrish's non-compliance with an order of the AMB bars the Board from granting a license at this time. *Dr. Gordon made a motion to table the license application pending a clear resolution of the pending case at the AMB. Dr. Welch seconded the motion that passed with a majority vote. Dr. Rowe – recused. Mr. Farris not present (left at 1:59 p.m.)*

Dr. Welch reiterated that Dr. Parrish must comply with the AMB order and bring the case to a resolution. The executive director was instructed to provide Dr. Parrish with information regarding time frames noting that the application was filed in March, 2005. Dr. Welch stated that although Dr. Parrish had shown significant improvement from his last oral examination in May, it was her opinion that the oral examination was not yet determined. No formal vote was taken to approve or disapprove Dr. Parrish's oral presentation.

C. Consent Agreements- Dr. Rick Shacket, D.O.

Mrs. Springer read a memorandum reviewing Dr. Shacket's written request to end the probationary status of his homeopathic license. Noting that Dr. Shacket had complied with all terms of the consent agreement and order Dr. Gordon made a motion to end probation and restore the license to an active, non-monitored status. Mr. Farris seconded the motion that passed unanimously.

V. REVIEW, CONSIDERATION AND ACTION REGARDING INVESTIGATIONS/COMPLAINTS

Initial Reviews

05-06 J.H. vs. Geoffrey Radoff M.D., M.D.(H)

Following a brief discussion Dr. Welch stated that the Board could not proceed with the review in as much as progress notes, consent forms and allopathic medical records had not been provided. The case was deferred to the next regular meeting.

05-22 J.E. vs. Alan Abromovitz M.D., M.D.(H)

Dr. Abromovitz was present with his therapist, Nancy Segal, L.M.T. and the office manager, Sandy Benton. The Board asked Dr. Abromovitz to describe his standard practice method. At the Board's invitation, Ms. Benton and Ms. Segal made statements regarding their conversations with J.E.

Board member Farris made a statement that he believed any patient should be warned in advance that treatment might involve access to certain areas of the body that may cause embarrassment. He stated that Dr. Abromovitz should provide more explanation of the process he would use on the patient.

Dr. Rowe stated that an informed consent would be proper in these types of procedures.

Dr. Welch suggested an informed consent with copies of the illustrations from the training manuals provided to the Board by Dr. Abromovitz in his written response to the complaint. He may also wish to consider allowing the patient the option of having another person present in the examination room.

Dr. Rowe made a motion to request primary jurisdiction in the case since the procedures utilized were related to neuromuscular integration modalities defined in the practice of homeopathic medicine. They directed Mrs. Springer to inform the AMB of their vote. Motion seconded by Dr. Gordon and passed unanimously.

06-03 A.M. vs. Thomas Lodi M.D.(H)

Dr. Schwengel recused himself from this discussion. Dr. Welch chaired this part of the meeting. Following discussion Dr. Gordon made a motion to invite Dr. Lodi for an investigational interview at the next regular meeting. Dr. Rowe seconded the motion that passed with a majority vote. The board requested that Dr. Lodi provide answers to the following questions: 1) Is he an internist and where did he do his residency; 2) is he board certified in oncology; 3) does he have a website; 3) has he changed his name on his medical license in New York.

Ongoing Reviews

05-15 Anonymous vs. Pamela Morford, MD, MD(H) - Status Update

The Board agreed to continue this matter to the regular meeting of November 8, 2005 to allow the doctor additional time to prepare her response.

VI. ANNUAL MEETING – Elections, Fees, Schedule of Meetings

Dr. Gordon moved to nominate the existing officers for president, vice-president and secretary treasurer for the next year. Mr. Farris seconded the motion. There was no additional discussion.

Dr. Gordon made a motion to close nominations. Dr. Rowe seconded the motion that passed with no opposition.

Mrs. Springer stated that new fees had become effective on July 2, 2005. The schedule of meetings had been published on the web-site and would remain on the second Tuesday of every other month.

VII. REVIEW, CONSIDERATION, and ACTION ON PROFESSIONAL BUSINESS

1. Mrs. Springer gave a brief overview of the sunset review process. AAG Burns commented that should an audit be conducted the auditor general may attend executive sessions.
2. Mrs. Springer informed the board of the Drug Enforcement Administration decision to issue mid-level practitioner registrations to homeopathic physicians that do not maintain an active M.D. or D.O. license within Arizona. Those physicians that have both an MD(H) and the MD or DO will receive a registration that begins with alpha letter "B" followed by the number. Both registrations allow the doctor to prescribe schedules 2, 2N, 3, 3N, 4, and 5. Dr. Rowe expressed concern that the DEA was not recognizing the education level of the licensed MD(H). He volunteered to draft a letter to the DEA to initiate further dialogue about the issue.
3. AAG Burns discussed Attorney General Goddard's Opinion regarding email communications. She directed the Board's attention to page 9 and the section explaining examples of email communications.
4. Mrs. Springer informed the board that final rules amending AAC R15-5-156 and R15-5-2343 had been filed by the Department of Revenue at the office of the Secretary of State. The rules waive the collection of sales tax on homeopathic prescriptions. A brief discussion was held concerning nutritional substances and whether or not a substance was listed in the homeopathic pharmacopoeia. Substances purchased without a prescription of a professional would not qualify for a sales tax exemption.
5. Correspondence from Dr. Page regarding in-office surgical procedures and whether they qualify under the definition of minor surgery was discussed. Drs. Rowe, Gordon and Schwengel concurred that if a procedure involved the use of anesthesia requiring monitoring or intubation then the procedure would not fall under the definition. AAG Burns directed board members to ARS 32-2901(17) that states that minor surgery does not include the use of general, spinal or epidural anesthesia. She questioned what Dr. Page intended in his correspondence when he referred to the use of "general anesthesia". The Board concurred that the procedures as described in Dr. Page's correspondence would qualify under the definition of minor surgery.

***The Board took a five minute break

VIII. REVIEW, DISCUSS AND ACTION REGARDING OTHER BUSINESS

1. Mrs. Springer discussed the fiscal year 2006 budget. The budget had been previously approved by the legislature in 2004 as part of the two year budget for 2005 and 2006. The appropriation from the legislature had not increased. However, the actual cost of operating the board showed increased costs to the

board in joint office costs, health insurance (paid by the board rather than by the employee), travel and risk management. In addition, telecommunications costs would double due to a statewide contract approved and already implemented in fiscal year 2006. Although many large agencies would have until 2008 to obtain additional appropriations to cover the increased telecommunications costs, the state board's office, as a part of the Department of Administration would implement the contract immediately (without adequate notice to small boards and commissions). Board revenues should increase because of the implementation of fees approved in Article 1 and effective July 2, 2005. However, the increases noted above would require that the board implement cost saving measures in certain areas to insure that appropriations would stretch through the end of the fiscal year on June 30, 2006.

Following discussion the Board agreed to forgo per diem and travel costs beginning with the November, 2005 meeting and continuing through the March, 2006 meeting. In addition, Mrs. Springer indicated that the board would no longer utilize the Administration Department mailroom in that there was a 14% mark-up on all mail services. Additional cost savings may be considered during the fiscal year. Should funds become available at the end of the fiscal year, per diems and travel costs for the three meetings would be reimbursed. Mrs. Springer noted that the board anticipated that adequate appropriations would be available for fiscal year 2007 with regard to increases in joint office costs and health insurance. The legislature would also fund any increases granted to state employee salary.

2. Mrs. Springer explained that a financial audit conducted by the General Accounting Office had determined that her original employment contract signed in 1999 was not up-to-date concerning vacation leave. The original contract was based on 20 hours per week with a pro-rata amount of 7 hours per month of vacation leave. Her current work schedule of 30 hours per week required an adjustment to 11 hours per month to properly reflect the amount of vacation leave. Dr. Welch made a motion approving the contract adjustment. Dr. Gordon seconded the motion that passed with a majority vote. Mr. Farris had excused himself from the meeting at 1:59 p.m.

IX. FUTURE AGENDA ITEMS

Dr. Rowe requested that two discussions be placed on a future agenda:

- 1) accreditation of homeopathic schools in the state, and
- 2) the legal status of students while in school and their ability to treat patients while in clinical rotation.

X. CALL TO THE PUBLIC

Ms. Wendy Balas criticized and expressed disappointment in the Board's actions taken in March, 2005 regarding their review of a complaint against Karen Sontag.

She spoke in support of Ms. Sontag and disputed statements made by complainants.

Mr. J.D. Smith asked the Board if he could submit additional information to the Board concerning the Karen Sontag case. Although the Board could not consider the information in regards to the disputed matter, Mrs. Springer took the information and explained that she would refer the documentation to the county attorney. Mr. Smith also expressed his disappointment in the Sontag case.

XI. ESTABLISHMENT OF FUTURE MEETING DATES

None

CLOSE OF BUSINESS/ADJOURNMENT

The meeting adjourned at 2:45 p.m. following a motion by Dr. Rowe. Ms. Patrick seconded the motion that passed with a majority vote. The next Regular Meeting of the Board will convene at the State Board's Offices, 1400 W. Washington, Basement Conference Room B-1, Phoenix, Arizona, 9:00 AM, on **November 8, 2005**.

Respectfully Submitted,

Christine Springer
Executive Director