

**STATE OF ALASKA
DEPARTMENT OF COMMERCE, COMMUNITY, AND ECONOMIC DEVELOPMENT
DIVISION OF CORPORATIONS, BUSINESS, AND PROFESSIONAL LICENSING**

STATE MEDICAL BOARD

**MINUTES OF MEETING
March 28-29, 2013**

By authority of AS 08.01.070(2) and in compliance with the provisions of AS 44.62, a regularly scheduled meeting of the Alaska State Medical Board was held on Thursday and Friday, March 28-29, 2013, in Fairbanks, Alaska.

Thursday, March 28 2013

Call to Order

The meeting was called to order by David A. Miller, MD, Chair, at 9:00 a.m.

Roll Call

Board members present:

David A. Miller, MD, Chair
Cam Carlson, Public Member
Elizabeth Kohnen, MD
Kevin Luppen, PA-C

Kathleen Millar, Public Member
David J. Powers, MD
William W. Resinger, MD

Board member John S. Cullen, MD, attended portions of the meeting by teleconference.

Board staff present:

Debora Stovern, Executive Administrator
Susan Winton, Senior Investigator
Gary Keiser, Investigator
Dawn Hannasch, Licensing Examiner

Visitors present:

Thomas Meyer, Paramedic Association of Alaska

Agenda Item 1 Review Agenda

The Board reviewed the agenda and made no changes.

Agenda Item 2 Board Business

Announcements

The Board welcomed new Board member, Kevin Luppen, PA-C. It was also noted that Boards and Commissions is recruiting for a replacement member for Dr. Cullen's seat. Dr. Cullen has graciously continued to serve beyond his term expiration date, despite his other commitments.

Ethics Reporting

There were no ethics conflicts to report.

Agenda Item 3 Continuing Medical Education (CME) Audit Update and Actions

Ms. Stovern provided updated statistics for the audit from the last license renewal:

	Physicians	MICP	Total
Total number licenses audited	270	37	307
Number of audited licenses not renewed	28	5	33
Number of approved audits	230	27	257
Noncompliant audits referred to Paralegal	12	5	17
Noncompliant audits resolved	7	2	9
Noncompliant audits outstanding	5	3	8

She reported that two more had been resolved – one has complied by providing approved CME, and another has signed a Surrender Agreement to be considered by the Board.

In the Matter of Case No. 2012-000634

The Board reviewed a proposed consent agreement with an MICP who failed to verify compliance with the continuing medical education requirements of the license renewal. The licensee attended a physician assistant program, which did not meet the CME requirements for renewal of the MICP license.

Upon a motion duly made by Dr. Kohnen, seconded by Mrs. Carlson, and approved by roll call vote, it was:

RESOLVED to adopt the surrender agreement, Case No. 2012-000634, signed by Kevin Fitzgerald.

Roll Call Vote:

**Mrs. Carlson – Yea
Dr. Cullen – Absent
Dr. Kohnen – Yea
Mr. Luppen – Yea
Ms. Millar – Yea
Dr. Powers – Yea
Dr. Resinger – Yea
Dr. Miller - Yea**

The adoption order was signed by the Chair.

In the Matter of Case No. 2012-000647

Karen Wilke, Division Paralegal, joined the meeting by teleconference to discuss the status of noncompliant audits and answer any questions for the Board.

She reported on Dr. Knoll, who failed to verify compliance with the continuing medical education requirements of the license renewal and entered into a Consent Agreement adopted by the Board at their January 2013 meeting. The initial agreement provides for sanctions consistent with Board disciplinary

history and guidelines, including a reprimand, fine of \$3,500 (with \$2,000 suspended), a requirement to complete the deficient coursework, and a mandatory audit for the next two licensing renewals. He has since produced the deficient CME, which has been reviewed and approved by Ms. Stovern. It was noted that he had two years to comply with the audit requirements, so there was still a violation to consider.

The Board determined that even though Dr. Knoll produced the deficient CME, he did violate the audit requirements by failing to verify having met the CME requirements, as required by law, for approximately two years. Due to the delayed compliance with the audit requirement, the Board determined to uphold the reprimand, fine, and mandatory audit provisions.

Upon a motion duly made by Ms. Millar, seconded by Dr. Kohnen, and approved by roll call vote, it was:

RESOLVED to modify the consent agreement, Case No. 2012-000647, signed by James L. Knoll, MD, to acknowledge completion of the CME but delayed compliance with the audit for two years; all other conditions will remain, including assessment of the fine, and the mandatory audit.

Roll Call Vote:

**Mrs. Carlson – Yea
Dr. Cullen – Absent
Dr. Kohnen – Yea
Mr. Luppen – Yea
Ms. Millar – Yea
Dr. Powers – Yea
Dr. Resinger – Yea
Dr. Miller – Yea**

Agenda Item 4 Full Board Interviews

Daniel Taylor, MICP

Mr. Taylor did not appear for his scheduled interview; his interview will be rescheduled for the July meeting, although he may be considering withdrawing his application.

Craig Cotorra, MICP

Mr. Cotorra was unable to attend; his interview will be rescheduled for the July meeting.

Tracy Ann Berg, MD

Dr. Berg did not appear for her scheduled interview; her interview will be rescheduled for the July meeting, although she may be considering withdrawing her application.

Wayne Weaver Windham, MD

Dr. Windham was unable to attend; he may be considering withdrawing his application.

Agenda Item 9 Investigative Unit

Probation Monitoring

Senior Investigator Winton and Investigator Keiser joined the meeting to discuss probation issues.

Ms. Winton reported that the investigative unit had recently filled the probation monitor position and was working toward cross-training multiple investigators for that duty. An updated probation monitoring report had been provided in the Board packet. She noted that four licensees were out of compliance with the provisions of their agreements, although no public safety or public safety issues were involved. Investigators distributed an investigative report for each of the cases for Board consideration. Ms. Winton reported that she had researched Board actions for the past 20 years, and found no precedence for these types of violations. In previous cases where licensees had violated the terms of their agreements, it involved the continuation of bad patient care.

Upon a motion duly made by Dr. Resinger, seconded by Dr. Powers, and approved unanimously, it was:

RESOLVED to enter into executive session in accordance with AS 44.62.310(c) for the purpose of discussing probation matters.

The Board entered executive session at 9:45 a.m.; Board staff remained for the session.
The Board went back on the record at 11:46 a.m.

In the matter of Case Nos. 2013-000606 and 2010-000816

The Board reviewed the probation report on Dennis Lynn Mickleson, MD, regarding non-compliance with his Memorandum of Agreement of November 4, 2009, revised April 15, 2010. Dr. Mickleson failed to comply with requirements that he resume the terms and conditions of his probation upon returning to the State of AK and, therefore, violated an Order of the Board.

Upon a motion duly made by Ms. Millar, seconded by Dr. Kohnen, and approved by roll call vote, it was:

RESOLVED to issue a reprimand and fine of \$1,000 to Dr. Mickelson for violation of his consent agreement; the fine will be suspended as long as his license remains in inactive status.

Roll Call Vote:

**Mrs. Carlson – Yea
Dr. Cullen – Absent
Dr. Kohnen – Yea
Mr. Luppen – Yea
Ms. Millar – Yea
Dr. Powers – Yea
Dr. Resinger – Yea
Dr. Miller - Yea**

In the matter of Case Nos. 2013-000615 and 2010-000822

The Board reviewed the probation report on Michele Sullivan, MICP, regarding non-compliance with her Consent Agreement of October 22, 2009. Ms. Sullivan failed to comply with a requirement that she keep the Board's agent advised in writing at all times of her current employment and any changes in employment and, therefore, violated an Order of the Board.

Upon a motion duly made by Mrs. Carlson, seconded by Dr. Kohnen, and approved by roll call vote, it was:

RESOLVED to issue a reprimand and fine of \$1,000 to Ms. Sullivan for violation of her consent agreement; the fine will be suspended as long as she remains in compliance with all provisions of the consent agreement; further, her practice shall be limited to no direct patient care until the Board receives a letter from her treating physician and her sponsoring physician ensuring her fitness to practice.

Roll Call Vote:

Mrs. Carlson – Yea
Dr. Cullen – Absent
Dr. Kohnen – Yea
Mr. Luppen – Yea
Ms. Millar – Yea
Dr. Powers – Yea
Dr. Resinger – Yea
Dr. Miller - Yea

The Board designated Dr. Powers as the Board representative to work with investigators on a modified consent agreement.

In the matter of Case Nos. 2013-000609 and 2010-000823

The Board reviewed the probation report on Robert G. Thompson, MD, regarding non-compliance with his Consent Agreement of January 22, 2010. Dr. Thompson failed to comply with requirements to pay a fine and to complete 12 hours of continuing medical education (CME) focusing on ambulatory gynecology and, therefore, violated an Order of the Board. The Board reviewed the additional education completed by Dr. Thompson to fulfill terms of the Consent Agreement. Dr. Kohnen noted that she would recuse herself from the vote because she was the consulting Board member during the investigation of the violation.

Upon a motion duly made by Ms. Millar, seconded by Dr. Powers, and approved by roll call vote, it was:

RESOLVED to issue a reprimand to Dr. Thompson for noncompliance with his consent agreement; the portion of the fine that was suspended under provision of the consent agreement shall become due and payable within 30 days, unless he comes into full compliance with all provisions of the consent agreement; in addition, the Board will accept 4 credits of CME that has been completed, and requires the remaining eight credits of required CME to be completed within 30 days.

Roll Call Vote:

Mrs. Carlson – Yea
Dr. Cullen – Absent
Dr. Kohnen – Recused
Mr. Luppen – Yea
Ms. Millar – Yea
Dr. Powers – Yea
Dr. Resinger – Yea
Dr. Miller - Yea

In the matter of Case Nos. 2013-000617 and 2011-000744

The Board reviewed the probation report on Mark J. Beirne, MD, regarding non-compliance with his Consent Agreement of July 28, 2011, revised July 27, 2012. Dr. Beirne failed to comply with a requirement to reinstate his Arizona license and, therefore, violated an Order of the Board.

Upon a motion duly made by Dr. Resinger, seconded by Mr. Luppen, and approved by roll call vote, it was:

RESOLVED to issue a reprimand and fine of \$1,000 to Dr. Beirne for noncompliance with his consent agreement; the order is effective April 28, 2013.

Roll Call Vote:

**Mrs. Carlson – Yea
Dr. Cullen – Absent
Dr. Kohnen – Yea
Mr. Luppen – Yea
Ms. Millar – Yea
Dr. Powers – Yea
Dr. Resinger – Yea
Dr. Miller - Yea**

Agenda Item Division Update

Division Director Don Habeger joined the meeting by teleconference to discuss Board and Division issues. He provided an update on the following legislative items:

- Sunset extension for the medical board (SB 38) – in past years, sunset extensions were grouped in an omnibus bill; this year each board has a separate bill. Senator Olson has sponsored the bill to extend the medical board, which the Department expects to pass.
- Naturopath prescriptive authority (HB 7) – the Department does not expect the bill to move this session.
- Consultation/pain management (HB 53) – there was a recent hearing on a new version of the bill; the Department does not expect the bill to move this session. Rep. Higgins is working to keep the Prescription Drug Monitoring program going; however, the program will disappear if it is not funded. The sponsor of the bill, Rep. Keller, does not want to tie the PDMP funding to the consultation issue, but there is not currently a separate proposal to fund it.
- Division fees (HB 187) – this is a Department project that defines how fees are set; sections 2-7 are the “meat of the bill.” The goals/intent of the bill include –
 - 1) Allowing sub-groups of license fees to be analyzed based on special circumstances, at the direction of the Board. For example, entry level trades may not be able to afford the full cost of their license program, as required under current statute. The bill will allow for other license categories to help cover the cost. This is current practice and the 2011 Division audit included a recommendation to correct the statute.
 - 2) Section 7 allows the Division to use an appropriation from the general fund for investigative activities and legal costs, rather than requiring each Board to cover those costs with licensing fees. All of Alaska has an interest in public protection, not just the individual programs.
 - 3) Eliminate spikes in licensing fees by allowing the division to allocate deficits or surpluses over time, rather than requiring costs to be covered each year, as currently required (or each biennial licensing cycle, as is currently practiced).

Mr. Habeger had previously noted that the Department takes a neutral position on legislation, but may provide information regarding the impact or cost of implementing proposed legislation. He encourages the Board to take an official position on any of the items they feel strongly about.

Recess for lunch

The Board recessed for lunch at 12:05 p.m.
The Board resumed the meeting at 1:05 p.m.

Board members present:

David A. Miller, MD, Chair
Cam Carlson, Public Member
Elizabeth Kohnen, MD
Kevin Luppen, PA-C

Kathleen Millar, Public Member
David J. Powers, MD
William W. Resinger, MD

Board member John S. Cullen, MD, attended portions of the meeting by teleconference.

Board staff present:

Debora Stovern, Executive Administrator
Susan Winton, Senior Investigator
Gary Keiser, Investigator
Dawn Hannasch, Licensing Examiner

Visitors present:

Thomas Meyer, Paramedic Association of Alaska

Agenda Item 7 Full Board Interviews

Raza Jafri, MD

Dr. Jafri was present to discuss his license application with the Board.

Upon a motion duly made by Dr. Resinger, seconded by Dr. Powers, and approved unanimously, it was:

RESOLVED to enter into executive session in accordance with AS 44.62.310(c) for the purpose of discussing the application of Dr. Jafri.

The Board entered executive session at 1:07 p.m.; staff remained for the session. The Board went back on the record at 1:13 p.m.

Upon a motion duly made by Dr. Powers, seconded by Dr. Resinger, and approved by roll call vote, it was:

RESOLVED to grant an unrestricted license to Raza Jafri, MD.

Roll Call Vote:

Mrs. Carlson – Yea

Dr. Cullen – Absent
Dr. Kohnen – Yea
Mr. Luppen – Yea
Ms. Millar – Yea
Dr. Powers – Yea
Dr. Resinger – Yea
Dr. Miller - Yea

Robert E. Lieberson, MD

Dr. Lieberson was present to discuss his license application with the Board.

Upon a motion duly made by Dr. Powers, seconded by Dr. Resinger, and approved unanimously, it was:

RESOLVED to enter into executive session in accordance with AS 44.62.310(c) for the purpose of discussing the application of Dr. Lieberson.

The Board entered executive session at 1:17 p.m.; staff remained for the session. The Board went back on the record at 1:46 p.m. Dr. Resinger noted that he would recuse himself from the vote because he was the consulting Board member during the investigation.

Upon a motion duly made by Dr. Kohnen, seconded by Mr. Luppen, and approved by roll call vote, it was:

RESOLVED to grant an unrestricted license to Robert E. Lieberson, MD, subject to his entering into an Imposition of Civil Fine agreement for non-disclosure of application information.

Roll Call Vote:

Mrs. Carlson – Yea
Dr. Cullen – Absent
Dr. Kohnen – Yea
Mr. Luppen – Yea
Ms. Millar – Yea
Dr. Powers – No
Dr. Resinger – Recused
Dr. Miller - Yea

Investigative staff will prepare the agreement for Dr. Liebeson to sign. Dr. Miller designated Mr. Luppen to sign the order on his behalf.

John E. Dunne, MD

Dr. Dunne was present to discuss his license application with the Board. He declined the opportunity to enter into executive session to discuss the “yes” answers on his application regarding a previous malpractice claim, previous complaints/investigations, and personal health issues. He confirmed the explanation and documentation provided with his application

Upon a motion duly made by Dr. Kohnen, seconded by Ms. Millar, and approved by roll call vote, it was:

RESOLVED to grant an unrestricted license to John E. Dunne, MD.

Roll Call Vote:

**Mrs. Carlson – Yea
Dr. Cullen – Absent
Dr. Kohnen – Yea
Mr. Luppen – Yea
Ms. Millar – Yea
Dr. Powers – Yea
Dr. Resinger – Yea
Dr. Miller - Yea**

Agenda Item 6 Malpractice Case Review

Case No. 3AN-10-8381-CI

At their October 2012 meeting, the Board had declined to take action on this report, pending additional information (including a more detailed explanation of the case and outcome, and copies of the court documents) for further review. The requested information was included in the Board packet for review. The Board determined to have a neurosurgeon review and make a recommendation.

Upon a motion duly made by Dr. Kohnen, seconded by Dr. Resinger, and approved unanimously, it was:

RESOLVED to refer the malpractice report, Case No. 3An-10-8381-CI, to investigative staff for further inquiry.

Case No. 3AN-09-10023-CI

Upon a motion duly made by Dr. Resinger, seconded by Dr. Powers, and approved unanimously, it was:

RESOLVED to accept the malpractice report, Case No. 3AN-09-10023-CI, with no further action.

Case No. 3AN-11-8154-M

The Board declined to take action on this report, pending review of a current NPDB report to confirm that there is no additional malpractice history or other irregularities. They directed staff to query NPDB for consideration during tomorrow's meeting.

Agenda Item 8 Board Actions

In the Matter of Case No. 2012-001246

The Board reviewed a proposed agreement from an investigation of nondisclosure of academic probation on a new license application. The agreement included an imposition of civil fine of \$1,000. Dr. Resinger noted that he would recuse himself from the vote because he was the consulting Board member during the investigation.

Upon a motion duly made by Dr. Kohnen, seconded by Ms. Millar, and approved by roll call vote, it was:

RESOLVED to adopt the imposition of civil fine agreement, Case No. 2012-001246, signed by Stefany J. Cameron, PA-C.

Roll Call Vote:

Mrs. Carlson – Yea
Dr. Cullen – Absent
Dr. Kohnen – Yea
Mr. Luppen – Yea
Ms. Millar – Yea
Dr. Powers – Yea
Dr. Resinger – Recused
Dr. Miller - Yea

The adoption order was signed by the Chair.

The Board reviewed the physician assistant license application submitted by Ms. Cameron.

Upon a motion duly made by Ms. Millar, seconded by Mrs. Carlson, and approved by roll call vote, it was:

RESOLVED to grant an unrestricted physician assistant license to Stefany J. Cameron, PA-C , subject to the imposition of civil fine agreement.

Roll Call Vote:

Mrs. Carlson – Yea
Dr. Cullen – Absent
Dr. Kohnen – Yea
Mr. Luppen – Yea
Ms. Millar – Yea
Dr. Powers – Yea
Dr. Resinger – Yea
Dr. Miller - Yea

In the Matter of Case No. 2012-001528

The Board reviewed a proposed agreement from an investigation of nondisclosure of academic probation on a new license application. The agreement included an imposition of civil fine of \$1,000. Dr. Resinger noted that he would recuse himself from the vote because he was the consulting Board member during the investigation.

Upon a motion duly made by Ms. Millar, seconded by Dr. Powers, and approved by roll call vote, it was:

RESOLVED to adopt the imposition of civil fine agreement, Case No. 2012-001528, signed by James R. Downey, MD.

Roll Call Vote:

Mrs. Carlson – Yea

Dr. Cullen – Absent
Dr. Kohnen – Yea
Mr. Luppen – Yea
Ms. Millar – Yea
Dr. Powers – Yea
Dr. Resinger – Recused
Dr. Miller - Yea

The adoption order was signed by the Chair.

The Board reviewed the license application submitted by Dr. Downey.

Upon a motion duly made by Ms. Millar, seconded by Mrs. Carlson, and approved by roll call vote, it was:

RESOLVED to grant an unrestricted license to James R. Downey, MD, subject to the imposition of civil fine agreement.

Roll Call Vote:

Mrs. Carlson – Yea
Dr. Cullen – Absent
Dr. Kohnen – Yea
Mr. Luppen – Yea
Ms. Millar – Yea
Dr. Powers – Yea
Dr. Resinger – Yea
Dr. Miller - Yea

In the Matter of Case No. 2012-000989

The Board had previously reviewed a proposed agreement presented by investigators during their January 2013 meeting, and had referred the case back to investigators to determine the number of non-disclosed medical malpractice cases and the extent to which the physician was involved in those cases.

Investigators presented a new proposed agreement from their investigation of nondisclosure of additional medical malpractice cases. It was noted that the applicant was not the treating physician and was not aware of the settlement in one undisclosed case, and there was a misunderstanding regarding the application question. Therefore, an imposition of civil fine agreement was negotiated, instead of a fine and reprimand that would be appropriate for a deliberate failure to disclose.

Dr. Resinger noted that he would recuse himself from the vote because he was the consulting Board member during the investigation.

Upon a motion duly made by Ms. Millar, seconded by Dr. Powers, and approved by roll call vote, it was:

RESOLVED to adopt the imposition of civil fine agreement, Case No. 2012-000989, signed by Daniel F. Neuzil, MD.

Roll Call Vote:

Mrs. Carlson – Yea

Dr. Cullen – Absent
Dr. Kohnen – Yea
Mr. Luppen – Yea
Ms. Millar – Yea
Dr. Powers – Yea
Dr. Resinger – Recused
Dr. Miller - Yea

The adoption order was signed by the Chair.

The Board reviewed the license application submitted by Dr. Neuzil.

Upon a motion duly made by Ms. Millar, seconded by Mr. Luppen, and approved by roll call vote, it was:

RESOLVED to grant an unrestricted license to Daniel F. Neuzil, MD, subject to the imposition of civil fine agreement.

Roll Call Vote:

Mrs. Carlson – Yea
Dr. Cullen – Absent
Dr. Kohnen – Yea
Mr. Luppen – Yea
Ms. Millar – Yea
Dr. Powers – Yea
Dr. Resinger – Yea
Dr. Miller - Yea

Agenda Item 9 Investigative Unit (continued)

Investigative Report

Board investigators Susan Winton and Gary Kaiser joined the meeting by teleconference. Ms. Winton reviewed the investigative report provided to the Board. The report included 15 open medical cases, 3 open physician assistant cases, and 5 closed cases and complaints.

Ms. Winton also reported that the Office of Administrative Hearings was expected to issue proposed decisions on two cases that had recently been heard. Once they are issued, the Board may wish to convene a teleconference to consider them.

Probation Report

A current probation monitoring report was included in the board packet for further review. It was noted that four individuals listed on the report were out of compliance with their agreements, as discussed earlier in the meeting. The remaining individuals on the list were in compliance with their agreements.

Agenda Item Public Comment Forum

There were no members of the public present to speak with the Board.

Agenda Item New Business

There was no new business for consideration.

Agenda Item 10 Board Review of Requests

In the matter of Harry Dean Shull Jr., MD

The Board reviewed a request for waiver of a license requirement submitted by Dr. Shull. His application is complete, except for the verification of his first year of postgraduate training. He completed the program in 1967 and the facility no longer has those records. Dr. Shull submitted his request for the waiver, in accordance with Professional Regulation 12 AAC 40.010(g), including an explanation for the reason he is unable to obtain the verification, as well as documentation that he met the training requirement (including his certificate of completion, a letter from the facility, and verification of the program on his AMA profile).

Upon a motion duly made by Dr. Resinger, seconded by Dr. Kohnen, and approved by roll call vote, it was:

RESOLVED to grant Dr. Shull's request for waiver of a license requirement under 12 AAC 40.010 (g).

Roll Call Vote:

**Mrs. Carlson – Yea
Dr. Cullen – Absent
Dr. Kohnen – Yea
Mr. Luppen – Yea
Ms. Millar – Yea
Dr. Powers – Yea
Dr. Resinger – Yea
Dr. Miller - Yea**

The Board reviewed the license application submitted by Dr. Shull.

Upon a motion duly made by Ms. Millar, seconded by Dr. Resinger, and approved by roll call vote, it was:

RESOLVED to grant an unrestricted license to Harry Dean Shull Jr., MD.

Roll Call Vote:

**Mrs. Carlson – Yea
Dr. Cullen – Absent
Dr. Kohnen – Yea
Mr. Luppen – Yea
Ms. Millar – Yea
Dr. Powers – Yea
Dr. Resinger – Yea
Dr. Miller - Yea**

In the matter of Julian Mattiello, MD

The application by Dr. Mattiello was referred to investigators in February 2012, for review of a non-disclosure issue regarding a surrender of hospital privileges, which was discovered on a routine NPDB

inquiry. An investigator interviewed Dr. Mattiello and other hospital staff, but was unable to obtain complete information, due to confidentiality issues under the other state law. A Board member reviewed the information and recommended that Dr. Mattiello participate in a full Board interview.

Dr. Mattiello met with the Board at their May 2012 meeting. At that time, the Board learned of some undisclosed personal information. The Board declined to take action on his application, considering it incomplete until further information was provided. That information was received and provided for Board review at their July 2012 meeting. Upon further review, the Board referred this file back to investigators for inquiry into the non-disclosure issues, as well as standard of care issues related to pending malpractice cases.

The Board again reviewed the application at their October 2012 meeting. A denial was considered due to the non-disclosure issues, as well as concerns with the high rate of medical malpractice claims for his spinal cases. The Board voted to table his application pending resolution of the pending malpractice cases.

Dr. Mattiello has requested the Board to consider his application as it stands.

Upon a motion duly made by Dr. Resinger, seconded by Dr. Kohnen, and approved unanimously, it was:

RESOLVED to enter into executive session in accordance with AS 44.62.310(c) for the purpose of discussing the application of Dr. Julian Mattiello.

The Board entered executive session at 3:11 p.m.; staff remained for the session.
The Board went back on the record at 4:30 p.m.

The Board declined to take action on the application and will take up this item during Friday's meeting.

The meeting was recessed at 4:30 p.m.

Friday, March 29, 2013

Call to Order

The meeting was called to order by David A. Miller, MD, Chair, at 9:07 a.m.

Roll Call

Board members present:

David A. Miller, MD, Chair
Cam Carlson, Public Member
Elizabeth Kohnen, MD

Kevin Luppen, PA-C
David J. Powers, MD
William W. Resinger, MD

Board member John S. Cullen, MD, attended portions of the meeting by teleconference. Public member Kathleen Millar joined that meeting at 9:45 a.m.

Board staff present:

Debora Stovern, Executive Administrator
Dawn Hannasch, Licensing Examiner

Visitors present:

Thomas Meyer, Paramedic Association of Alaska

Agenda Item 11 Full Board Interviews

Jonathan Christian Cook, MD

Dr. Cook was present to discuss his license application with the Board.

Upon a motion duly made by Dr. Kohnen, seconded by Dr. Resinger, and approved unanimously, it was:

RESOLVED to enter into executive session in accordance with AS 44.62.310(c) for the purpose of discussing the application of Dr. Cook.

The Board entered executive session at 9:10 a.m.; staff remained for the session. The Board went back on the record at 9:15 a.m.

Upon a motion duly made by Dr. Kohnen, seconded by Mr. Luppen, and approved by roll call vote, it was:

RESOLVED to grant an unrestricted license to Jonathan Christian Cook, MD.

Roll Call Vote:

**Mrs. Carlson – Yea
Dr. Cullen – Yea
Dr. Kohnen – Yea
Mr. Luppen – Yea
Ms. Millar – Absent
Dr. Powers – Yea
Dr. Resinger – Yea
Dr. Miller - Yea**

Jerome Frazier, DO

Dr. Frazier was unable to attend; he may be considering withdrawing his application.

Robert Fenton Tyree, MD

Dr. Tyree was present to discuss his license application with the Board. He declined the opportunity to enter into executive session to discuss the “yes” answers on his application regarding a previous juvenile issue and an academic probation during his first year of residency.

Upon a motion duly made by Dr. Resinger, seconded by Dr. Cullen, and approved by roll call vote, it was:

RESOLVED to grant an unrestricted license to Robert Fenton Tyree, MD.

Roll Call Vote:

Mrs. Carlson – Yea
Dr. Cullen – Yea
Dr. Kohnen – Yea
Mr. Luppen – Yea
Ms. Millar – Absent
Dr. Powers – Yea
Dr. Resinger – Yea
Dr. Miller - Yea

Agenda Item 10 Board Review of Requests (continued)

In the matter of Julian Mattiello, MD

The application by Dr. Mattiello was reviewed during Thursday’s meeting. The Board declined to take action on the application and will take up this item during today’s meeting.

Upon a motion duly made by Dr. Resinger, seconded by Dr. Powers, and approved unanimously, it was:

RESOLVED to enter into executive session in accordance with AS 44.62.310(c) for the purpose of discussing the application of Dr. Julian Mattiello.

The Board entered executive session at 9:19 a.m.; staff remained for the session.
The Board went back on the record at 9:31 a.m.

Upon a motion duly made by Dr. Kohnen, seconded by Dr. Resinger, and approved unanimously, it was:

RESOLVED to enter into executive session in accordance with AS 44.62.310(c) for the purpose of discussing the application of Dr. Julian Mattiello.

The Board entered executive session at 9:40 a.m.; staff remained for the session.
The Board went back on the record at 9:51 a.m.

The following Board deliberations were read onto the record:

Based on the information available to the Board at this time, the Board declines to take action on the application of Julian Anthony Mattiello, MD. The Board’s mission is to protect the public. The Board has concerns with his professional competence (see Professional Regulation 12 AAC 40.970), specifically regarding the spinal surgery issues revealed during his interview and in pending malpractice cases alleging professional incompetence, gross negligence, or repeated negligent conduct involving a high percentage (100%) of documented spinal cases during his tenure at Brandywine Hospital. The Board has considered outright denial, or granting a limited license restricting from practice of spinal surgery, but favors postponing consideration of the application pending the satisfactory completion of a fellowship in spinal surgery.

Upon a motion duly made by Dr. Kohnen, seconded by Mrs. Carlson, and approved by roll call vote, it was:

RESOLVED to decline to take action on the application of Dr. Mattiello, as read onto the record.

Roll Call Vote:

**Mrs. Carlson – Yea
Dr. Cullen – Yea
Dr. Kohnen – Yea
Mr. Luppen – Yea
Ms. Millar – Absent
Dr. Powers – Yea
Dr. Resinger – Yea
Dr. Miller - Yea**

Agenda Item 6 Malpractice Case Review (continued)

Case No. 3AN-11-8154-M

The Board reviewed this report during Thursday's meeting and declined to take action, pending review of a current NPDB report to confirm that there is no additional malpractice history or other irregularities. Ms. Stovern reported that a new NPDB query revealed no additional records.

Upon a motion duly made by Dr. Resinger, seconded by Mr. Luppen, and approved unanimously, it was:

RESOLVED to accept the malpractice report, Case No. 3AN-11-8154-M, with no further action at this time, considering that this appears to be an isolated incident and does not represent a pattern based on a query of the National Practitioner Data Bank.

Agenda Item Public Comment Forum (continued)

The Board invited comment from Thomas Meyer, president of the Paramedic Association of Alaska. He thanked the Board for their support for an MICP seat on the Board, and reported that the Association is looking for other organizations to support their effort. He was also hoping to discuss the continuing medical education (CME) requirements for MCIP renewals, but the Association resolution had not been provided to Board staff. He will have that information submitted for consideration at the next Board meeting.

Agenda Item 5 Statute/Regulation Updates

Regulation Updates

- Regulations package – At their January 2013 meeting, the Board adopted a comprehensive regulation package that included general housekeeping regulations to update licensing and renewal requirements, as well as substantive regulations establishing standards for delegation to unlicensed assistive personnel.

Ms. Stovern reported that the Office of the Attorney General had conducted a routine review of the regulations, and determined that the delegation standards need additional work by the Board. This section has been split from the package and deferred to a later date as Part 2 of the regulations project; the remaining project (Part 1), with minor corrections, has been filed with the lieutenant governor.

Regarding the Part 2 section of the regulations project, the AG found that there was not currently statutory authority for licensees to delegate any duties (routine or not) to unlicensed assistive personnel. It was recommended that the Board and/or Division pursue a statute change to allow for limited delegation, which is prevalent in medical practice. Ms. Stovern provided a rough draft of a statute change, based on the Nursing Board statutes.

Upon a motion duly made by Dr. Powers, seconded by Dr. Resinger, and approved unanimously, it was:

RESOLVED to proceed with initiating a statute change regarding delegating routine duties.

The Board directed Ms. Stovern to write a letter and provide a copy of the rough draft to Senator Olsen and to the Alaska State Medical Association (ASMA) requesting assistance with this legislative project.

- Licensing Exemptions for Tribal Health Programs – The Board had previously reviewed an April 17, 2012 opinion issued by the Office of the Attorney General relating to the federal licensing exemption (under the March 2010 Patient Protection and Affordable Care Act, Section 221) for health care practitioners working for Alaska Native tribal health programs. The opinion noted that state licensing boards still maintain authority over the practice of these individuals because these tribal health professionals are not federal employees; and they must either meet the Section 221 requirements or comply with state licensing requirements. In addition, a state licensing board may require proof of meeting the Section 221 provisions before recognizing the exemption, and may cease recognizing the exemption if the other state license is suspended or revoked. A health professional may qualify for the exemption if they are employed by a tribal health program that has a self-determination contract with the federal government, and the employee has a current, active license issued by another state Board.

The Board had determined that they would like to pursue a process whereby health care professionals employed by a tribal health program would request recognition of their Section 221 exemption by the Board. That way, tribal health care professionals under the jurisdiction of the Board would either need a license or an exemption recognized by the Board in order to work in a tribal health care program; the exemption determinations would not be made by the employer programs.

The Board reviewed draft regulations provided by Dr. Powers and Ms. Stovern. It was noted that the intent is for the Board recognition process to be relatively quick and easy, with minimal fees to compensate for Board time and resources. The Board recommended a review fee of \$100 for physicians and \$50 for PAs and paramedics.

Upon a motion duly made by Dr. Powers, seconded by Dr. Resinger, and approved unanimously, it was:

RESOLVED to approve the proposed regulations for tribal health programs.

- Postgraduate training and active duty military service – At the January 2013 meeting, the Board approved a regulation that would allow some specific military field practice to satisfy the second year of postgraduate training required for licensure. They had determined to hold this item until the next meeting in order to bundle it with other regulations projects. The Board directed Division staff to begin the regulations process for this project (including the tribal health regulations and the military training regulation).

Legislative Updates

- Military training credit – the Board reviewed SB 4/HB 84 that would require Boards to accept military education, training, and service as equivalent to some or all of the license requirements. It was noted that the Medical Board has already begun a regulations process (see above) that would allow for credit under these proposed statutes.
- Medical Board sunset extension – the Board reviewed SB 38 that would authorize the Medical Board through June 30, 2020. Senator Olson sponsored the bill and expects it to pass this session. Previous Board President Ed Hall has been assisting and testifying at Legislative committee hearings.
- Consultation for opiate prescriptions – the Board had previously reviewed HB 53, which requires practitioners to consult with a Board-approved pain management specialist when prescribing certain levels of opiates. The Board had noted several concerns:
 - the Board is responsible for establishing professional standards and this proposal sets professional standards without Board or practitioner input;
 - it is unclear what event/issue is prompting this proposal, since the Board has not seen any significant trends or problems with misconduct involving prescribing these types of drugs (only one case in the past several years);
 - adding specialists and other requirements to the physician-patient relationship may create obstacles and increased costs for patients needing care;
 - the appropriate term should be “morphine equivalent” instead of “opiate”;
 - podiatrists should not be included, as their scope of practice does not include pain management;
 - since the language is modeled after a similar requirement in the State of Washington, the Board would like to review their law, along with the data showing the results/consequences following implementation (particularly if there were unintended consequences);
 - if other states are implementing this type of requirement;
 - controlled substances are generally the purview of the DEA under existing federal regulations and oversight; and
 - the Board would be given the additional responsibility of determining the professional standards and the appropriate process for credentialing and approving the pain management specialists.

Ms. Stovern distributed research on regulation of opioid prescribing, as requested by the Board at their last meeting, including: bill sponsor statements and analysis, bill position from American Academy of Pain Management, rosters of Alaska licensed physicians with self-declared specialties in Pain management and Pain Medicine, summary of FSMB publication “Responsible Opioid Prescribing,” FSMB model policy on Controlled Substances, AMA policy promoting prevention of fatal opioid overdose, Washington State statute and regulations on pain management, and the Oregon Pain Management Commission response to the Washington law.

The Board directed Ms. Stovern to write a letter to the sponsor of the bill noting that the Board has reviewed the proposed legislation, they have not taken a position but have concerns with the current version of the bill, including:

- designating nurse practitioners as pain specialists would appear to require physicians to consult with nurse practitioners;
- practice in rural areas may make a consultation requirement difficult or prohibitive, in terms of both logistics and compensation;
- physician standard of care should be set through physician peer review and professional/specialty organizations, not through legislation.

In addition, the Alaska State Medical Association (ASMA) has taken a position that promotes renewed funding for the Prescription Drug Monitoring Program (PDMP) as a critical tool for preventing prescription drug abuse. A copy of their letter to legislators was provided for Board review.

- Naturopathy prescriptive authority – the Board reviewed HB7, as well as the Division’s proposed regulations, both clarifying naturopathy prescriptive authority as limited to dietetic, herbal or homeopathic remedies. It was noted that the Alaska State Medical Association (ASMA) had recently taken a position in support of both proposals; a copy of their letter was provided for review.
- Telemedicine – the Board reviewed HB 80, which would allow for telemedicine practice without an in-person physician-patient relationship. Current professional standards define the following as unprofessional conduct:
 - Providing treatment, rendering a diagnosis, or prescribing medications based solely on a patient-supplied history received by telephone, facsimile, or electronic format; or
 - Prescribing, dispensing, or furnishing a prescription medication to a person without first conducting a physician examination of that person.

The Board has recently reviewed the issue, and noted that telemedicine is practiced extensively in Alaska, due to the geographic diversity of the state. The difference between this proposal and other types of telemedicine practiced legally in the state is the presence of an appropriate health care provider on the other side of the transaction (i.e.; with the patient) to assist the physician with their examination and diagnosis processes. Without that element, the physician is relying only on patient-supplied information.

The following Board position was read onto the record:

Senate Bill 80 attempts to redefine the practice of medicine, which has at its core the physical examination of patients. This is not in the best interest of public safety/protection, which is our charge. Further, it would appear that the bill has an economic interest, despite the claim that it is in the interest of patient convenience.

Upon a motion duly made by Dr. Resinger, seconded by Dr. Kohnen, and approved unanimously, it was:

RESOLVED to adopt the official Board position on telemedicine, as read onto the record.

The Board directed Ms. Stovern to write a letter to the sponsor of the bill noting the Boards position, and to provide a copy of the letter to the Alaska State Medical Association (ASMA) and to individual Board members.

- Division fees – the Board reviewed HB 187 which was discussed during the Division Update agenda item. This is a Department project that defines how fees are set, and finances investigative and legal costs from the general fund instead of through license fees. A memo from the Division “FAQs About HB 187” was distributed for further review.

Agenda Item 12 License Application Review

Board members reviewed license application files.

The Board declined to take action on the following applications pending their appearance for a full Board interview:

- Francis Raymund Rivero Carandang, MD
- Yariv Cohen, MD

Upon a motion duly made by Mr. Luppen, seconded by Ms. Millar, and approved unanimously, it was:

RESOLVED to approve the following physicians for licensure in Alaska, pending completion of their application file:

Juan Jose Alva

Robert Marsden Blanch

Mary Bouras

Edward Slocum Brewer III

Corinna Yee-Shin Chang

Monique Chantrell Dase

Ross William Dodge

Yolanda Nicole Evans

Paul Franke

Ronald Howard Gottlieb

William Neelis Harrington

Carrie Lynn Harvey

Jessica Brooke Highfill

Clint Grant Humphreys

Kristina Marie James

Carolyn Diana Jordan

Benjamin Che Chu Kam

Robert Louis Lantieri

Brian Daniel Larson

Thomas Roy Latendresse

Kristin Selbyann LeSage

Matthew Ryan Mendlick

Joseph Paul Rank

Alan Schmerler

Sean David Thornton

Barbora Volovarova

Kerry Philip Wappett

Theodore Jinsoo Woo

Yiming Wu

April Walton

Peter John Dillon, Jr.

Upon a motion duly made by Mr. Luppen, seconded by Dr. Resinger, and approved unanimously, it was:

RESOLVED to approve the following doctors of osteopathy for licensure in Alaska, pending completion of their application file:

Rodney Eugene Batie

Jaron Bruce Coombs

Brent Robert Jacobson

Upon a motion duly made by Mr. Luppen, seconded by Mrs. Carlson, and approved unanimously, it was:

RESOLVED to approve the following physician assistants for licensure in Alaska, pending completion of their application file:

*Jessica Helen Anderson
Steven Mark Bertrand
Anna Darlene Frisby
Abigail Leigh Granath
Sarah Beth Hunt
Clara Scott Scott
Nicole Rose Thomas*

Upon a motion duly made by Mr. Luppen, seconded by Mrs. Carlson, and approved unanimously, it was:

RESOLVED to approve the following mobile intensive care paramedics for licensure in Alaska, pending completion of their application file:

*James N. Brady
Lisa Lynne Connelly
William Diebold
Jordan West Lingo
Douglas William Seiffert*

Agenda Item 13 Correspondence

American Association of Osteopathic Examiners (AAOE)

A preliminary program for their upcoming annual meeting was included in the Board packet for further review.

Accreditation Council for Continuing Medical Education (ACCME)

Updates and press releases were included in the Board packet for further review.

Alaska Healthcare Commission

The Board reviewed their publication “2013 Core Strategies and Policy Recommendations” and noted the information on telemedicine practice in Alaska. Ms. Stovern reported that she had previously participated in one of their meetings on telemedicine; it appeared that there is widespread support for the many forms of telemedicine that are legally practiced in the state under the current professional standards. The Board directed Ms. Stovern to provide a courtesy copy to the Commission regarding their position on the proposed telemedicine legislation.

Alaska Department of Health and Social Services

Press releases from the Commissioner’s Office were included in the Board packet for further review.

Agenda Item 14 Federation of State Medical Boards (FSMB)

The following information from FSMB was included in the Board packet for further review.

- Preliminary agenda for the upcoming annual meeting– April 18-20, 2013
- FSMB letters re: licensure portability
- USMLE score information
- FSMB Board meeting highlights
- Resolutions to be considered at the annual meeting
- Call for recognition
- E-news (January through March editions)

Dr. Kohnen and Ms. Stovern will be attending the FSMB annual meeting, and have been appointed as voting delegates on behalf of the Board. They requested Board guidance on the resolutions to be considered at the meeting. The Board expressed full confidence in their ability to represent the Board.

Agenda Item 15 Administrative Business

Budget Report

The budget report with the Board's 5-year revenue and expenditure data was included in the Board packet for review. The report includes data through the end of the second quarter of FY 2013, as well as a separate breakdown of investigative costs, and a statistical analysis of cost per license. Also included was a detailed report of the Board's direct expenditures and a summary of indirect expenditures for FY 12.

Executive Administrator's Report

The Board reviewed the Executive Administrator's Report, presented by Ms. Stovern, including an update on the following:

- Outreach efforts – Ms. Stovern attended meetings with pharmacy and telemedicine representatives regarding the Board's position on legislation; and responded to inquiries regarding delegation standards and the Board's regulations.
- Participation in activities of national organizations – Ms. Stovern attended several FSMB webinars on topics including licensing applications and meeting procedures; and she attended a videocast meeting of the American Telemedicine Association (ATA).
- Board staffing concerns – Ms. Stovern met with Division managers and reported that the Division will be providing additional clerical help from existing administrative staff to all licensing programs, and the Division has initiated a class study to increase the compensation for licensing examiners and supervisors.
- Tracking of Board actions – a report of the Board's first quarter 2013 actions was provided for Board review; the report included confirmation of appropriate reporting of all actions.
- Tracking of licensing process – statistics and a detailed spreadsheet covering processing of applications for the first quarter 2013 was provided for Board review.

- Regulations projects – at their previous meeting, the Board adopted a comprehensive regulation project which was reviewed by the AG office and sent to the Lt. Governor for filing; Ms. Stovern worked with Dr. Powers to complete a draft regulation proposal regarding tribal health programs; the Board will continue to work on draft regulations regarding military postgraduate education options.
- Policy and procedure updates – Ms. Stovern has been working on revising and updating the Board policies and procedures as changes are made; she provided the new member orientation manual to the new Board member.

Review Minutes

The Board reviewed the minutes of the January 17-18, 2013 regular meeting. Ms. Stovern provided some minor editing corrections.

Upon a motion duly made by Dr. Resinger, seconded by Ms. Millar, and approved unanimously, it was:

RESOLVED to approve the minutes of the January 17-18, 2013 meeting, as revised.

Meeting Scheduling

The Board confirmed the schedule for upcoming meetings:

- July 18-19, 2013 in Dillingham
- October 17-18, 2013 in Anchorage

Ms. Stovern distributed a list of hotels in Dillingham and Dr. Powers made appropriate recommendations.

Adjournment

There being no further business, the meeting of the Alaska State Medical Board was adjourned at 12:40 p.m.

Respectfully submitted:

Approved:

/s _____
Debora Stovern, Executive Administrator
Alaska State Medical Board

/s _____
David A. Miller, President
Alaska State Medical Board

July 18, 2013 _____
Date

July 18, 2013 _____
Date