

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

STATE MEDICAL BOARD

**MINUTES OF MEETING
January 9, 2014**

By authority of AS 08.01.070(2) and in compliance with the provisions of AS 44.62, a teleconference meeting of the Alaska State Medical Board was held on Thursday, January 9, 2014, for the purpose of conducting regular Board business.

Thursday, January 9, 2014

Call to Order

The meeting was called to order by William W. Resinger, MD, Chair, at 1:02 p.m.

Roll Call

Board members present:

William W. Resinger, MD, Chair
Cam Carlson, Public Member
Elizabeth Kohnen, MD
Kathleen Millar, Public Member

David A. Miller, MD
David J. Powers, MD
Grant T. Roderer, MD

Board President David A. Miller asked Dr. Resinger to chair the meeting due to teleconference challenges. Board member Kevin Luppen, PA-C was unable to attend the meeting. Public member Cam Carlson joined the meeting at 1:12 p.m.

Board staff present:

Debora Stovern, Executive Administrator
Susan Winton, Senior Investigator
Gary Keiser, Investigator, joined the meeting at 1:12 p.m.
Jay Paff, Investigator
Dawn Hannasch, Licensing Examiner

There were no visitors present.

Agenda Item 1 Review Agenda

The Board reviewed the agenda and made no changes.

Agenda Item 2 Board Business

Announcements

There were no announcements.

Ethics Reporting

There were no ethics conflicts to report.

Agenda Item 5 Investigative Unit

Investigative Report

Board investigators Gary Kaiser, and Jay Paff joined the meeting. Senior Investigator Winton joined the meeting by teleconference. She reported that the Investigations Unit had opened 57 cases and closed 46 cases since the October 2013 report to the Board.

Probation Report

Investigator Paff noted two matters for consideration by the Board under Agenda Item 3. He reported no other current issues, and that timely probation reports are coming in to the office.

Agenda Item 3 Board Actions

The Board considered Board Actions presented by the Investigative Unit.

Upon a motion duly made by Dr. Roderer, 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 investigative matters.

The Board entered executive session at 1:06 p.m.; Board staff remained for the session.
The Board went back on the record at 1:35 p.m.

In the Matter of Case No. 2013-002263

The Board reviewed a proposed agreement from an investigation of nondisclosure of other state licenses on a new license application. The agreement included an imposition of civil fine of \$1,000.

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

RESOLVED to adopt the imposition of civil fine agreement, Case No. 2013-002263, signed by Kelly R. Glenn, DO.

Roll Call Vote:

Ms. Millar – Yea

Dr. Powers – Yea

Mrs. Carlson – Yea
Dr. Roderer - Yea
Dr. Kohnen – Yea
Mr. Luppen – Absent
Dr. Miller – Yea
Dr. Resinger – Yea

The adoption order was signed by the Chair.

In the Matter of Case No. 2013-002367

The Board reviewed a proposed agreement from an investigation of nondisclosure of previous health care certifications on a new license application. The agreement included an imposition of civil fine of \$1,000.

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

RESOLVED to adopt the imposition of civil fine agreement, Case No. 2013-002263, signed by Vincent M. Perino, PA.

Roll Call Vote:

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

The adoption order was signed by the Chair.

In the Matter of Case No. 2013-001922

The Board reviewed a proposed agreement from an investigation of failure to supply additional information for a newly filed collaborative plan by a physician assistant. 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. 2013-001922, signed by Karen L. Millstein, PA.

Roll Call Vote:

Dr. Kohnen – Yea
Mr. Luppen – Absent

Ms. Millar – Yea
Dr. Powers – Yea
Mrs. Carlson – Yea
Dr. Roderer - Yea
Dr. Miller – Yea
Dr. Resinger – Recused

The adoption order was signed by the Chair.

In the Matter of Case No. 2013-002123

The Board reviewed a proposed agreement from an investigation of practice by a physician assistant without properly documenting a collaborative plan with the Division. The agreement included a fine of \$1,000 and a reprimand, consistent with Board disciplinary guidelines.

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

RESOLVED to adopt the consent agreement, Case No. 2013-002123, signed by Yolanda M. Cotton, PA.

Roll Call Vote:

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

The adoption order was signed by the Chair.

In the Matter of Case No. 2010-000822

The Board reviewed a proposed agreement from an investigation of practice by an MICP subject to license restrictions and probation, who recently agreed to a voluntary suspension of her license. She has since left the state and has signed an agreement to voluntarily surrender her license. Certain conditions must be met in order to reapply for a license in the future.

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

RESOLVED to adopt the voluntary surrender agreement, Case No. 2010-000822, signed by Michele A. Sullivan, MICP.

Roll Call Vote:

Ms. Millar – Yea

Dr. Powers – Yea
Mrs. Carlson – Yea
Dr. Roderer – Yea
Dr. Kohnen – Yea
Mr. Luppen – Absent
Dr. Miller – Yea
Dr. Resinger – Yea

The adoption order was signed by the Chair.

In the Matter of Case No. 2013-001005

The Board reviewed a proposed agreement from an investigation of violations of a nondisciplinary consent agreement. The license was suspended by the Board in July 2013. The licensee has agreed to new conditions and probation and is petitioning the Board to lift the suspension. The consent agreement included 10 years probation, a \$10,000 fine (with \$8,000 suspended), a reprimand, and reporting and treatment provisions, and total permanent abstinence. Dr. Kohnen noted that she would recuse herself from the vote because she was the consulting Board member during the investigation.

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

RESOLVED to adopt the consent agreement, Case No. 2013-001005, signed by Peter J. Osterbauer, MD.

Roll Call Vote:

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

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

RESOLVED to adopt the order lifting the suspension of the license issued to Peter J. Osterbauer, MD, Case No. 2013-001005.

Roll Call Vote:

Mr. Luppen – Absent
Ms. Millar – Nay
Dr. Powers – Yea
Mrs. Carlson – Nay
Dr. Roderer – Yea
Dr. Kohnen – Recused

Dr. Miller – Yea
Dr. Resinger – Yea

The adoption orders were signed by the Chair.

Agenda Item License Application Review

Board members reviewed license application files.

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

RESOLVED to grant licenses to Kelly R. Glenn, DO, and Vincent M. Periono, PA, subject to the imposition of civil fine agreements adopted by the Board.

Upon a motion duly made by Dr. Roderer, 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 application matters.

The Board entered executive session at 1:49 p.m.; Board staff remained for the session. The Board went back on the record at 2:00 p.m.

Agenda Item 5 Full Board Interviews

David Buckland, DO

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

Upon a motion duly made by Dr. Roderer, 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. Buckland.

The Board entered executive session at 2:13 p.m.; Board staff remained for the session. The Board went back on the record at 2:22 p.m.

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

RESOLVED to grant an unrestricted license to David Buckland, DO.

Roll Call Vote:
Mrs. Carlson – Yea

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

Kristopher Johnson, MD

Dr. Johnson was present to discuss his application for a residency permit with the Board. Upon the recommendation of a reviewing Board member, the permit had already been issued, subject to his appearance for a full Board interview to complete the application process.

Upon a motion duly made by Dr. Roderer, 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. Johnson.

The Board entered executive session at 2:49 p.m.; Board staff remained for the session.
The Board went back on the record at 3:00 p.m.

No further action was required by the Board

Agenda Item 6 Malpractice Report Review

The Board reviewed malpractice reports, Case No. 3:10-CV00167-SLG, 3AN-09-11248CI, LACV103999, CV2012-007169, 95312, CV00002TMB, [no case #], and 1291-09.

The Board declined to take action at this time on the reports for Case No. 3AN-09-11248CI and Case No. LACV103999,

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

RESOLVED to accept the malpractice report, Case No. 3:10-CV00167-SLG, Case No. CV2012-007169, Case No. 95312, Case No. CV00002TMB, Case [no case #], and Case No. 1291-09, with no further action.

Agenda Item 7 Statute/Regulation Updates

Legislative Update

Telemedicine – the Board previously reviewed SB 80, which would allow for telemedicine practice without an in-person physician-patient relationship, which is contrary to current professional standards established by the Board.

The Board does recognize that telemedicine is practiced extensively in Alaska, due to the geographic diversity of the state. The difference between the proposed legislation 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 physicians with their examination and diagnosis processes. Without that element, the physician is relying only on patient-supplied information, which is a violation of current professional standards.

At the last meeting, the sponsor of the bill, Senator Dyson, attended the meeting to discuss the issues. Board members expressed their support of the Senator's intent behind the bill. But they noted concerns with the language of the bill, which allows for telemedicine practice only by out-of-state physicians, for practice in any community, whether underserved or not, and seems to be at odds with the stated intent. They were also concerned with setting professional standards by statute, instead of allowing the Board to fulfill their mandate to set professional standards by regulation.

The Board also discussed the national licensure issue that is actively opposed by the Federation of State Medical Boards (FSMB) in Washington DC. The national licensure supporters are attempting to change the definition of the practice of medicine as occurring where the physician is located. The historical definition, as supported by state medical boards and the FSMB, is the practice of medicine occurs where the patient is located.

The Board reviewed recent correspondence from Senator Dyson, including amended language and notes that it is supported by the Alaska State Medical Association (ASMA).

The Board noted that it may be possible to fulfill the Senator's intent through regulation, by including a specific provision to Professional Regulation 12 AAC 40.967(29), which would allow an exception to the in-person physician-patient requirement for a community that has no physician, PA, or community health aid available to perform an examination. That would eliminate the need for a separate telemedicine license, the setting of different professional standards for in-state and out-of-state practitioners, and would keep the setting of professional standard by regulation, which can be revised by the Board as necessary, rather than set in statute.

The Board directed Ms. Stovern to work with Dr. Powers to work on a regulations project, to be reviewed by Dr. Miller, then presented to the Board for consideration at their next meeting. Ms. Stovern will also let Senator Dyson and ASMA know about this project.

Agenda Item 8 Federation of State Medical Boards (FSMB)

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

- Interstate Compact
- Advocacy Alerts
- DOD Questions
- USMLE Survey
- Minimum Data Set Pilot
- Call for resolutions, nominations, committee appointments
- Newslines Fall 2013
- E-news (October through December editions)

It was also noted that, at the last meeting, the Board designated Dr. Kohnen and Ms. Stovern to attend the FSMB annual meeting in April 2014. Ms. Stovern will also attend the concurrent Administrators in Medicine (AIM) meeting.

Agenda Item New Business

There was no new business for consideration.

Agenda Item 10 Administrative Business

Financial Report

The Division financial report was included in the Board packet for review, including data through the first quarter of FY 2014, as well as a report of the Board's direct and indirect expenditures for FY 2013.

Review Minutes

A copy of the draft minutes from the October meeting was included in the Board packet for review. The Board will consider the minutes at their next meeting.

Report from Division Director

A report from the Division Director was included in the Board packet for review.

Meeting Scheduling

The Board confirmed the schedule for upcoming meetings:

- March 6-7, 2014 in Fairbanks
- June 5-6, 2014 in Sitka
- August 14-15, 2014 in Nome
- November 6-7, 2014 in Anchorage

It was noted that there are other events scheduled in Fairbanks at the time of the Board meeting, so reservations should be made as soon as possible.

Adjournment

There being no further business,

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

RESOLVED to adjourn the meeting of the Alaska State Medical Board.

The meeting was adjourned at 3:05 p.m.

Respectfully submitted:

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

3/7/14 _____
Date

Approved:

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

3/7/14 _____
Date