

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

STATE MEDICAL BOARD

**MINUTES OF MEETING
November 6-7, 2014**

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, November 6-7, 2014 in Anchorage Alaska.

Thursday, November 6, 2014

Call to Order

The meeting was called to order by Kathleen Millar, Acting Chair, at 9:02 a.m.

Roll Call

Board members present:

Cam Carlson, Public Member
Sai-Ling Liu, DO
Grant T. Roderer, MD

Kevin Luppen, PA-C
Kathleen Millar, Public Member
David J. Powers, MD

Board member David A. Miller, MD, joined the meeting at 9:30 a.m., and assumed the Chair for the remainder of the meeting.

Board staff present:

Debora Stovern, Executive Administrator
Dawn K Hannasch, Licensing Examiner

There were no visitors present.

Agenda Item 1 Review Agenda

The Board reviewed the agenda; no changes were made.

Agenda Item 2 Board Business

Announcements

Ms. Stovern reported that Boards and Commissions is currently working to fill the vacant seat on the Board.

Ethics Reporting

There were no ethics conflicts to report.

Agenda Item 3 CME Audits Updates and Actions

Ms. Stovern provided a status report for the continuing medical education (CME) audit from the last license renewal. She reported that there is currently 1 case outstanding which has been referred to the Division Paralegal. She also noted that the Division Paralegal will resume the responsibility of handling outstanding CME audits for the next renewal.

	Physicians	MICP	Total
Number of licenses selected for audit	172	22	194
Number of audited licenses not renewed	17	2	19
Number of licenses audited	155	20	175
Number of approved audits	146	15	161
Noncompliant audits requiring further action:	9	5	14
Noncompliant audits resolved by Board action	6	0	6
Noncompliant audits pending resolution	2	0	2
Noncompliant audits referred to Paralegal	1	1	2
Noncompliant audits otherwise outstanding	0	1	1

Agenda Item 13 Correspondences

The following correspondence items were included in the Board packet for further review:

- 1) Alaska Mental Health Board – letter of concern regarding implementation of House Bill 281
- 2) Licensee letter of concern regarding House Bill 281
- 3) Alaska Mental Health Trust Authority – letter of concern regarding implementation of House Bill 281
- 4) Fairbanks Native Association – letter of concern regarding implementation of House Bill 281
- 5) American Osteopathic Association October newsletter
- 6) Accreditation Council for Continuing Medical Education (ACCME) news reports
- 7) Alaska Department of Health and Social Services press releases
- 8) American Telemedicine Association updates
- 9) cTel Roundtable Summit agenda and information

It was noted that the correspondence items related to telemedicine, and the implementation of House Bill 281, would be referenced during Agenda Item 10, Statute/regulation update, as well as Public Comment Forum. It was noted that Gov. Parnell did not sign the bill into law; he allowed it to become law after the

signature timeframe had elapsed. A copy of his press release was included in the Board packet for further review. The Board noted the following statement included in the release:

“The bill’s potential public benefits of health care access, affordability, and personal responsibility were rigorously weighed against concerns raised by the Alaska State Medical Board,” Governor Parnell said. “Like the overwhelming number of legislators who voted to pass HB 281, I believe Alaskans’ interests more heavily weight toward letting this bill become law. I also have a great deal of respect for the Alaska State Medical Board and its concern for, in certain circumstances, losing the ability for an in-office patient examination.”

Agenda Item 14 Federation of State Medical Boards (FSMB) updates

The next annual meeting of the Federation of State Medical Boards (FSMB) is scheduled for April 22-25, 2015 in Dallas, TX. The Board had previously determined to send Ms. Stovern to the meeting, along with Dr. Kohnen or Dr. Roderer, as their voting delegate,

The following additional FSMB items were included in the Board packet for further review:

- 1) Notice re: FTC case in Supreme Court
- 2) Interstate Medical Licensure Compact
- 3) USMLE Information, including attempt limit updates and Annual report
- 4) First call for annual meeting submissions, including call for resolutions, call for bylaws amendments, call for associate member nominations, and call for awards nominations
- 5) E-news (August through October editions)

Agenda Item 15 Administrative Businesses

Financial Report

The Board financial report was included in the Board packet for review, including data through the year end of Fiscal Year 2014.

Executive Administrator’s Report

The Executive Administrator’s Report was included in the Board packet for review, including an update on the following:

- Outreach efforts – Ms. Stovern corresponded with the Governor’s office regarding the Board’s position on telemedicine legislation; she attended the Alaska Academy of Physician Assistants panel discussion, spoke at the Medex (UAA) PA class on licensure processes, and attended Medex graduation ceremony; she attended the Board of Pharmacy meeting to report on the tribal health program regulations project; she responded to numerous telemedicine inquiries (from practitioners,

legislators, telemedicine providers, etc.) regarding the impact of HB 281; and she responded to AIM inquiries/polls by other state boards

- Participation activities of national organizations – Ms. Stovern attended FSMB webinars (topics included uniform application, interstate licensure compact); she continues to work with FSMB to implement the Uniform Application; she attended American Telemedicine Association (ATA) videocasts (topics included status of proposed telemedicine legislation, state policy developments, healthcare reform, and the impact of telemedicine efforts); and she attended cTeL webinars re: telehealth and e-health issues.
- Tracking of Board actions – a report of the Board’s 2014 year-to-date actions was included for Board review.
- Tracking of licensing process – statistics and a detailed spreadsheet covering processing of applications for 2014 year-to-date was included for Board review.
- Status of CME_Audit – for the 2012 renewal, Ms. Stovern completed work on all noncompliant audits; the remaining noncompliant audit has been referred to the Division Paralegal, who is negotiating a consent agreement
- Status of regulations_projects – Ms. Stovern worked with the regulations attorney to provide a new draft to replace the previously withdrawn regulations regarding tribal health programs; she will begin work on educational materials and applications to implement the recently adopted regulations regarding military postgrad options; she will continue to provide the Board’s request for legislative assistance regarding statutory authority for delegation of routine duties; and she completed work on board draft regulations for remote practice, and reporting requirements
- Board Policies and Procedures_ – Ms. Stovern completed work on renewal applications and set up the online renewal process, which recently went live; she continues to revise and update the Board policies and procedures as changes are made; she updates and distributes the orientation manual to new Board members; and she regularly attends Division meetings regarding policies, mission, finances, and travel.

Review Minutes

The Board reviewed the minutes of their recent meetings.

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

RESOLVED to approve the minutes of the August 14-15, 2014 meeting.

Upon a motion duly made by Mrs. Carlson, seconded by Dr. Roderer, and approved by unanimous consent, it was:

RESOLVED to approve the minutes of the October 24, 2014 teleconference meeting.

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

RESOLVED to approve the minutes of the October 30, 2014 teleconference meeting.

Meeting Scheduling

The Board confirmed the schedule for upcoming meetings:

- February 5-6, 2015 in Kodiak – in the event that weather prevents travel to Kodiak, the Board will convene in Anchorage.
- May 7-8, 2015 in Juneau
- August 6-7, 2015 in Nome
- November 5-6, 2015 in Anchorage

Agenda Item 5 Investigative Unit

Investigative Report

Senior Investigator Susan Winton and Probation Monitor William Harlan joined the meeting. Ms. Winton reviewed the investigative report provided to the Board. The report included 9 open medical cases, 6 open physician assistant cases, and 20 closed cases and complaints.

Ms. Winton reported that they received 30 new matters in October alone.

Probation Report

A current probation monitoring report was included in the board packet for further review. Investigator Harlan reported that all individuals have been in contact with the Investigative Staff and are current in their reporting.

Upon a motion duly made by Dr. Roderer, and seconded by Mrs. Carlson, and approved by unanimous consent, 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 9:30 a.m.; Board staff remained for the session.

The Board went back on the record at 9:57 a.m.

Agenda Item 4 Board Actions

In the Matter of Case No. 2014-000954

The Board reviewed a proposed consent agreement from an investigation of a licensee who had practiced in Alaska, after his National Commission on Certification of Physician Assistance (NCCPA) lapsed. The agreement included a fine of \$1,000 and a reprimand, consistent with Board disciplinary guidelines. Mr. Luppen 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. Powers, seconded by Ms. Millar, and approved by a roll call vote, it was:

RESOLVED to adopt the consent agreement, Case No. 2014-000954, signed by Kenric Craver, PA-C.

Roll Call Vote:

Ms. Millar-Yea
Dr. Powers-Yea
Dr. Liu-Yea
Mrs. Carlson-Yea
Dr. Roderer-Yea
Mr. Luppen- Recused
Dr. Miller-Yea

The adoption order was signed by the Chair.

In the Matter of Case No. 2014-000258

The Board reviewed a proposed agreement from an investigation of a licensee who failed to disclose material information on his renewal application and to make timely report of the matters to the Board. The agreement included imposition of a civil fine of \$1,000. Mr. Luppen 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. Roderer, seconded by Dr. Liu, and approved by a roll call vote, it was:

RESOLVED to adopt the imposition of civil fine agreement, Case No. 2014-000258, signed by Matthew T James, PA-C.

Roll Call Vote:

Dr. Powers-Yea
Dr. Roderer-Yea
Mr. Luppen- Recused
Ms. Millar-Yea
Mrs. Carlson-Yea
Dr. Liu-Yea
Dr. Miller-Yea

The adoption order was signed by the Chair.

In the Matter of Case No. 2014-001845

The Board reviewed a proposed agreement from an investigation of a licensee who failed to disclose material information on a new license application. The agreement included imposition of a civil fine of \$1,000. Dr. Liu 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. Powers, seconded by Mrs. Carlson, and approved by unanimous consent, it was:

RESOLVED to enter into executive session in accordance with AS 44.62.310(c) for the purpose of discussing case #2014-001845.

The Board entered executive session at 10:05 a.m.; Board staff remained for the session.
The Board went back on the record at 10:15 a.m.

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

RESOLVED to adopt the imposition of civil fine agreement, Case No. 2014-001845, signed by William J Guthrie, DO.

Roll Call Vote:

Dr. Roderer-Yea
Mr. Luppen-Yea
Ms. Millar-Yea
Dr. Powers-Yea
Dr. Liu- Recused
Mrs. Carlson-Yea
Dr. Miller-Yea

The adoption order was signed by the Chair.

In the Matter of Case No. 2014-001579

The Board reviewed a proposed imposition of a civil fine agreement from an investigation of a licensee who failed to disclose material information on a new license application.

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

RESOLVED to adopt the imposition of civil fine agreement, Case No. 2014-001579, signed by Allison L Critchlow, DO.

Roll Call Vote:

Mrs. Carlson-Yea
Dr. Roderer-Yea
Mr. Luppen-Yea
Ms. Millar-Yea
Dr. Powers-Yea
Dr. Liu- Yea
Dr. Miller-Yea

The adoption order was signed by the Chair.

In the Matter of Case No. 2014-001580

The Board reviewed a proposed imposition of a civil fine of \$1,000 from an investigation of a licensee who failed to disclose material information on a new license application.

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

RESOLVED to adopt the imposition of civil fine agreement, Case No. 2014-001580, signed by Ravinder Shergill, MD.

Roll Call Vote:

Dr. Liu- Yea
Mrs. Carlson-Yea
Dr. Roderer-Yea
Mr. Luppen-Yea
Ms. Millar-Yea
Dr. Powers-Yea
Dr. Miller-Yea

The adoption order was signed by the Chair.

In the Matter of Case No. 2014-001769

Ms. Stovern distributed a proposed imposition of a civil fine of \$1,000 from an investigation of a licensee who failed to disclose material information on a new license application.

Upon a motion duly made by Dr. Roderer, seconded by Mrs. Carlson, and approved by unanimous consent, it was:

RESOLVED to enter into executive session in accordance with AS 44.62.310(c) for the purpose of discussing case #2014-001769

The Board entered executive session at 11:09 a.m.; Board staff remained for the session.
The Board went back on the record at 11:22 a.m.

It was noted that the applicant would be appearing for a full Board interview. The Board determined to reconsider the agreement at the time of the interview.

Agenda Item 6 Probation Monitoring

- Brian Donaldson, MD, was present for his probation interview. He declined the opportunity to enter into executive session. The probation monitoring report from the Investigation Unit indicated that he was in compliance with his agreement. He reported that he was doing well and had no issues to report.
- Michael Massey, DO, was present for his probation interview. He declined the opportunity to enter into executive session. The probation monitoring report from the Investigation Unit indicated that he

was in compliance with his agreement. He reported that he was doing well, was not currently practicing, and had no issues to report

- Dennis Mickleson, MD, was present for his probation interview. He declined the opportunity to enter into executive session. The probation monitoring report from the Investigation Unit indicated that he was in compliance with his agreement. He reported that he was doing well but having difficulty finding work due to his license restrictions.
- Peter Osterbauer, MD, was present for his probation interview. He declined the opportunity to enter into executive session. The probation monitoring report from the Investigation Unit indicated that he was in compliance with his agreement. He reported that he was doing well, currently working, and had no issues to report.
- Samuel Schurig, MD, was present for his probation interview. He declined the opportunity to enter into executive session. The probation monitoring report from the Investigation Unit indicated that he was in compliance with his agreement. He reported that he had been dealing with personal health issues, but is currently doing well and working. He noted the Board had previously approval of a revision to his MOA to allow for some modified supervision and asked the Board to extend it. The Board directed him to submit his request through staff.
- Robert Thompson, MD, was present for his probation interview. He declined the opportunity to enter into executive session. The probation monitoring report from the Investigation Unit indicated that he was in compliance with his agreement. He reported that he was doing well, currently practicing integrated medicine, and had no issues to report. The Board Chair noted Dr. Thompson's comments regarding the use of thyroid treatment, and cautioned him to comply with professional standards.
- Eric Youngstrom, MD, did not appear for his scheduled appointment. Staff noted that he may not have received the notice and will be following up with him.
- Jeffrey J Copeland, DO, is not on probation; he was present for an interview regarding his confidential non-disciplinary consent agreement. The monitoring report from the Investigation Unit indicated that he was in compliance with his agreement.

Upon a motion duly made by Mr. Luppen, seconded by Dr. Roderer, and approved by unanimous consent, it was:

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

The Board entered executive session at 11:24 a.m.; Board staff remained for the session.
The Board went back on the record at 11:30 a.m.

- John Ditzler (MICP), is not on probation; he was present for an interview regarding his confidential non-disciplinary consent agreement. The monitoring report from the Investigation Unit indicated that he was in compliance with his agreement.

Upon a motion duly made by Dr. Roderer, seconded by Mrs. Carlson, and approved by unanimous consent, it was:

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

The Board entered executive session at 11:32 a.m.; Board staff remained for the session.
The Board went back on the record at 11:40 a.m.

Agenda Item New Business

There was no new business for consideration.

Recess for lunch

The Board recessed for lunch at 11:45 a.m.
The Board went back on the record at 1:06 p.m.

Board members present:

David A. Miller, MD, Chair
Cam Carlson, Public Member
Sai-Ling Liu, DO
Grant T. Roderer, MD

Kevin Luppen, PA-C
Kathleen Millar, Public Member
David J. Powers, MD

Board staff present:

Debora Stovern, Executive Administrator
Dawn K. Hannasch, Licensing Examiner

Agenda Item 7 Malpractice Report Review

The Board reviewed a malpractice report, Case No. 3AN-14-04761-CI

Upon a motion duly made by Dr. Powers, seconded by Ms. Millar, and approved by unanimous consent, it was:

RESOLVED to accept the malpractice report, Case No. 3AN-14-04761-CI, with no further action.

Agenda Item 8 Full Board Interviews

Andrew D. Jenis, MD

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

Upon a motion duly made by Dr. Roderer, seconded by Mrs. Carlson, and approved by unanimous consent, 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. Jenis.

The Board entered executive session at 1:18 p.m.; Board staff remained for the session.
The Board went back on the record at 1:36 p.m.

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

RESOLVED to grant an unrestricted license to Andrew D. Jenis, MD.

Roll Call Vote:

Mr. Luppen-Yea
Ms. Millar-Yea
Dr. Powers-Yea
Dr. Liu-Yea
Mrs. Carlson-Yea
Dr. Roderer-Yea
Dr. Miller-Nay

John A. Boothby, MD

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

Upon a motion duly made by Mr. Luppen, seconded by Mrs. Carlson, and approved by unanimous consent, 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. Boothby.

The Board entered executive session at 1:40 p.m.; Board staff remained for the session.
The Board went back on the record at 1:50 p.m.

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

RESOLVED to grant an unrestricted license to John A Boothby, MD.

Roll Call Vote:

Ms. Millar-Yea
Dr. Powers-Yea
Dr. Liu-Recused
Mrs. Carlson-Yea
Dr. Roderer-Yea

Mr. Luppen-Yea
Dr. Miller-Yea

James Pullano, MD

Dr. Pullano did not appear for his scheduled interview to discuss his application for a locum tenens 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.

Agenda Item 10 Statues/Regulation Updates

Draft Regulation Projects:

- Reporting Requirements: Investigators had previously asked the Board to clarify their intent for the unprofessional conduct item under Professional Regulation 12 AAC 40.967(26)(A) “failing to report to the board, no later than 30 days after the effective date of the action, any disciplinary action against the licensee taken by another licensing jurisdiction, health care entity, or law enforcement agency.” Investigators were unclear about the reporting of an action taken by a law enforcement agency, since section (B) requires the reporting of a criminal conviction. The Board determined that the intent is that licensees must report under section (A) being charged with a criminal offense, and directed staff to draft clear language.

The following proposed regulation change was provided to the Board for consideration:

12 AAC 40.967. Unprofessional conduct. For purposes of AS 08.64.240(b) and AS 08.64.326, “unprofessional conduct” means an act or omission by an applicant or licensee that does not conform to the generally accepted standards of practice for the profession for which the applicant seeks licensure or a permit under AS 08.64 or which the licensee is authorized to practice under AS 08.64. “Unprofessional conduct” includes the following:

- (26) failing to report to the board, no later than 30 days after
- (A) the effective date of the action, **any criminal charge by a law enforcement agency, or any disciplinary action against the licensee taken by another licensing jurisdiction, health care entity, or ~~law enforcement agency~~ regulatory agency;**
 - (B) the date of conviction, any conviction of a crime referred to in AS 08.64.326(a)(4);

Upon a motion duly made by Ms. Millar, seconded by Dr. Powers, and approved by unanimous consent, it was:

RESOLVED to approve the draft regulations changes and send them out for public comment.

- Pain Guidelines: Dr. Roderer had previously volunteered to review the current Board guidelines on prescribing controlled substances. At previous meetings, the Board noted that the guidelines are from 1997 and are very basic, and they reviewed the FSMB 2013 Pain Policy. They had determined to discuss it further and to consider whether to update their guidelines or to adopt the FSMB

documents, either in guidelines or by regulation. A copy of the FSMB Pain Policy was included in the Board packet for further review.

The Board determined that there is not a need to make any regulatory changes, and directed Ms. Stovern to work with Dr. Roderer to update the Board guidelines.

Adopted Regulations Projects

The Board had previously adopted regulations dealing with postgraduate training requirements for active duty military service. A copy of the final regulations, as filed with the Office of the Lieutenant Governor, was included in the Board packet for further review.

Legislative information

- Telemedicine: The Board previously discussed the practice of telemedicine and took a position opposing proposed legislation (under House Bill 281) allowing for general telemedicine practice. A copy of the press release from the Office of the Governor was included in the Board packet for further review.

The Board again agreed that they do not support licensing physicians for the type of telemedicine practice in the legislation, that this type of telemedicine is not the best practice of medicine and is not in the best interest of the public, and they do not support lowering practice standards in the State of Alaska in order to promote telemedicine. The Board also expressed concern for other consequences of the bill, including disallowing current telemedicine practice and the requirement that the physician must be physically present in the state in order to practice telemedicine. This would pose a problem for Alaskan physicians that need to work with their established patients while traveling out of state.

Since HB 281 did pass and will become law on November 28, 2014, the Board discussed how to implement the law, and how to mitigate unintended consequences of the law. It was noted that there were several correspondence items (Agenda Item 13), as well as some anticipated public comments, to encourage the Board to adopt emergency regulations related to the practice of telemedicine.

The Board determined that there are two types of “telemedicine” practice they would allow in the State of Alaska:

- 1) The long-standing Board-sanctioned practice by a physician who is not physically present with the patient when:
 - there is an established physician-patient relationship based on an in-person physician exam; or
 - there is an appropriate (licensed) health care provider on the other side of the transaction (with the patient) to assist the physician with their examination and diagnosis processes; or
 - the physician is providing on-call or cross-coverage emergency care and the physician has access to the patient records; or
 - the physician is caring for a patient in a community where there is no physician, physician assistant, nurse practitioner, nurse, or community health aid, to conduct a physician examination; or

- the physician is a radiologist or pathologist and is only reading or interpreting films or samples.

This type of practice does not require the physician to be located in the State of Alaska, but does require the physician to practice in accordance with all relevant laws and practice standards.

- 2) The practice of telemedicine authorized under Alaska Statute (AS) 08.64.364 (effective November 28, 2014) by a physician prescribing, dispensing, or administering a prescription drug without first conducting an in-person physical examination of the patient, if:
- the prescription drug is not a controlled substance;
 - the physician is located in the State of Alaska and a licensed health care provider is available to provide follow-up care; and
 - the patient consents to sending, and the physician sends, a copy of the records to the patient's primary care provider.

This type of practice does require the physician to be located in the State of Alaska, and does require the physician to practice in accordance with all relevant laws and practice standards, including compliance with

- the American Medical Association (AMA) guiding principles for telemedicine practice (adopted June 2014); and
- the Federation of State Medical Boards (FSMB) Model Policy for the Appropriate Use of Telemedicine Technologies in the Practice of Medicine (adopted April 2014).

The Board determined that emergency regulations were not justified at this time, and reviewed the following draft regulations that would preserve the existing form of telemedicine (under section 26) and to establish professional standards for the new type of telemedicine authorized under the legislation (under section 29 and recordkeeping section e):

12 AAC 40.967. Unprofessional conduct. For purposes of AS 08.64.240(b) and AS 08.64.326, "unprofessional conduct" means an act or omission by an applicant or licensee that does not conform to the generally accepted standards of practice for the profession for which the applicant seeks licensure or a permit under AS 08.64 or which the licensee is authorized to practice under AS 08.64. "Unprofessional conduct" includes the following:

(27) providing treatment, rendering a diagnosis, or prescribing medications **without first conducting an in-person physical examination, or** based solely on a patient-supplied history that a physician licensed in this state received by telephone, facsimile, or electronic format, **except for**

(A) providing care to a person when the licensee has a patient-physician or patient-physician assistant relationship with the person;

(B) providing on-call or cross-coverage emergency care when the physician has access to the patient records;

(C) reading or interpreting of films or samples by a radiologist or pathologist; or

(D) caring for a patient in a community where there is no physician, physician assistant, nurse practitioner, nurse, or community health aid, to conduct a physical examination.

(29) prescribing, dispensing, or furnishing a prescription medication to a person without first conducting a physical examination of that person, unless the licensee has a patient-physician or patient-physician assistant relationship with the person; this paragraph does not apply to prescriptions written or medications issued

(A) for use in emergency treatment;

(B) for expedited partner therapy for sexually transmitted diseases; ~~or~~

(C) in response to an infectious disease investigation, public health emergency, infectious disease outbreak, or act of bioterrorism; **or**

(D) **a physician practicing telemedicine under AS 08.64.364, as long as the physician complies with the American Medical Association (AMA) guiding principles for telemedicine practice (adopted June 2014), and the Federation of State Medical Boards (FSMB) Model Policy for the Appropriate Use of Telemedicine Technologies in the Practice of Medicine (adopted April 2014), adopted by reference.**

12 AAC 40.940. STANDARDS OF PRACTICE FOR RECORD KEEPING.

(e) The patient records for a physician practicing telemedicine under AS 08.64.364 must comply with the requirements of this section, and also include:

(1) **the physical location of both the patient and the physician at the time of the telemedicine encounter;**

(2) **specific method of the telemedicine encounter; and**

(3) **the patient's consent to sending a copy of all records of the encounter to the person's primary care provider if the prescribing physician is not the person's primary care provider, and confirmation that the physician sent the records to the person's primary care provider.**

Upon a motion duly made by Mr. Luppen, seconded by Dr. Powers, and approved by unanimous consent, it was:

RESOLVED to approve the draft regulations changes to 12 AAC 40.967 and 12 AAC 40.940, and send them out for public comment.

A copy of the AMA and FSMB telemedicine guidelines were included in the Board packet for further review.

- Delegation to CMAs: The Board had previously adopted regulations setting standards for delegation of routine duties to unlicensed assistive personnel. Upon review by the Department of Law, it was determined that a statute change is required in order to allow such delegation of routine duties. The Board has requested assistance from Senator Olsen and the Alaska State Medical Association to initiate a statute change. They will consider re-adopting the regulations once the legislation is enacted.

Agenda Item **Public Comment Forum**

Visitors present included:

- David Morgan, representing himself (previous member of the Alaska Health Care Commission) – requested that the Board consider emergency regulations concerning the use of telemedicine for mental health patients, HB 281 has stopped mental health care physicians from practicing in many outlying communities. Mr. Morgan also commented on the abuse of opioids, and recommended that the Prescription Drug Monitoring Program (PDMP) be supported and funded.

It was noted that the Board opposed the HB 281 and several members had testified before the legislature regarding some of the unintended consequences.

- Kate Burkhart, Executive Director of the Alaska Mental Health Board – requested that the Board consider emergency regulations concerning the use of telemedicine for tele-psychiatry. She reported that physicians associated with of the Alaska Mental Health Board will not provide care because they are physically located out of State; due to the ambiguity of the language they want to protect their license from action. She estimated that approximately 100 people have lost access to their care, due to this issue. She believes that this constitutes a health care crisis that would justify the Board’s adoption of emergency regulations. Her letter, including proposed regulatory language, was included in the board packet for review by the Board.

It was again noted that the Board opposed the HB 281 and several members had testified before the legislature regarding some of the unintended consequences.

- Sharon Sigmon, General Counsel for Yukon-Kuskokwim Health Corporation (YKHC) – reported that YKHC believes that HB 281 has caused a health crisis for children in 50-60 villages, who will not be provided mental health care. She asked that the Board consider a resolution that the telemedicine regulation not apply to specialists or that the Board will not sanction these specialists for practicing telemedicine for mental health patients.

It was again noted that the Board opposed the HB 281, and had communicated their concerns to the Legislature and the Governor. Since the bill passed, and the Board is not able to overturn statutes, the Board has approved regulations that will preserve the existing Board-sanctioned practice of telemedicine and will set professional standards for the new type of telemedicine authorized under the bill. The Board does not intend to discipline physicians who practice in accordance with the proposed regulations and appropriate practice standards. The Board determined that they would draft a formal resolution to clarify this matter and to provide reassurance to physicians who wish to continue such current practice.

- Ed Hall, PA-C, former Board president – discussed concerns from the PA community regarding the time-consuming license application process. He asked the Board to consider a new “vetting” process, similar to physician applications, where PA applicants are required to only verify licensing and employment information since admission to their PA programs. He believes that this may take a statutory change and asked for support by the Board.
- Ron Hale, representing API – did not offer any comments.

- Laura Sarcone, representing APRN-Alliance – did not offer any comments.

Agenda Item 10 Statues/Regulation Updates (continued)

- Tribal Health Program federal exemptions: The Board had previously adopted regulations requiring Board recognition of the federal license exemption for licensees practicing in a Tribal Health program. The Department of Law advised the Board that they do not believe the Board has the authority to require that a practitioner “apply” for recognition of the exemption. The AG noted that the Board does have the authority to require notification from an exempt practitioner practicing in the State and to show that they are qualified for the exemption. The Board then withdrew the regulations in order to draft appropriate regulations that would fulfill the Board’s intent.

Assistant Attorney General Harriet Milks joined the meeting by teleconference to discuss the draft tribal health program regulations. She advised that the following provisions of the draft would be appropriate (although section c may already be authorized under other statutes):

New sec. 12 AAC 40.981 Federal licensure exemptions for persons who practice in an Alaska tribal health program. (a) A person who practices medicine, podiatry, or osteopathy, or who practices as a physician assistant or mobile intensive care paramedic, in an Alaska tribal health program must be licensed by the board unless they notify the board that they are practicing under another license in accordance with section 221 of 25 U.S.C. § 1621t (Patient Protection and Affordable Care Act, 2010). Notice required under this section must be received within 14 days of employment at an Alaska tribal health program, and must include:

- (1) proof of a current active license in another state,
- (2) proof of employment by a tribal health program that is operating under an Indian Self-Determination and Education Assistance Act agreement with the federal Indian Health Service.

(b) A person practicing under the exemption may not practice elsewhere in the state, however infrequently, and may not practice beyond the scope of the other state license.

(c) The board shall notify the licensing board or authority of the other state license, and any other appropriate state and federal authorities, of any complaints, investigations, violations, sanctions, or other adverse actions.

The Board determined to implement the changes offered by Ms. Milks.

Upon a motion duly made by Dr. Powers, seconded by Mrs. Carlson, and approved by unanimous consent, it was:

RESOLVED to approve draft regulations changes to 12 AAC 40.981, as amended, and send them out for public comment.

The Board recessed at 4:20 p.m.

Friday, August 15, 2014

Call to Order

The meeting was called to order by David A. Miller, MD, Chair at 9:21 a.m.

Roll Call

Board members present:

David A. Miller, MD, Chair
Cam Carlson, Public Member
Sai-Ling Liu, DO
Grant T. Roderer, MD

Kevin Luppen, PA-C
Kathleen Millar, Public Member
David J. Powers, MD

Ms. Millar took an absence from the meeting (from 9:25 a.m. – 10:38 a.m.)

Board staff present:

Debora Stovern, Executive Administrator
Dawn K. Hannasch, Licensing Examiner

Visitors present:

Ron Hale, representing API
Ed Hall, PA-C
Sharon Sigmon, representing YKHC
Laura Sarcone, representing APRN Alliance,
Sean McCallister, representing Providence

Agenda Item Division Update

Division Director Sara Chambers, Operations Manager Colleen Kautz, and Administrative Officer Martha Hewlett joined the meeting by teleconference to discuss Board and Division matters.

An additional packet of information prepared by the Division was distributed; it included additional data and an explanation regarding the year-end report, including direct and indirect expenditures, as well as a revised Board financial report.

Ms. Chambers reported on the following items:

- Financial handout – Ms. Chambers provided a brief review of the handout. She noted some of the items included in indirect costs (management, clerical staff, administrative support); and she noted that the Division was working to change the allocation formula to use actual time spent on a program, rather than a proportion based on license counts.

She assured the Board that none of the Board's revenue goes into the general fund; any surplus is carried forward to the next fiscal year, as recorded in the Board financial reports.

- Staffing vacancy – Ms. Chamber reported that the Division is actively looking for a “high caliber” candidate to fill the vacant Licensing Examiner position. In the meantime, the Division has assigned other staff to assist with licensing applications, and has contracted with a retired licensing examiner to process renewals. She noted that the Division is working to refine ways of communicating with applicants regarding their status, and ways to pro-actively communicate with hospitals and credentialing agencies to reduce delays.

She assured the Board that the funding that was dedicated toward the vacant licensing examiner position will not be lost or reallocated into a general fund.

She also responded to Board concerns and public comments about the length of time it takes to process PA and other applications and the challenges of filling vacancies. She noted that the Division has experienced a high turnover rate this year, which may be attributed to two main causes: employees who leave State, and employees who are promoted to a higher paying position.

- Classification study – Ms. Chambers reported on the status of the Division-initiated classification study to increase the pay range for licensing examiners and licensing supervisors. She noted that the division believes that re-classification is extremely important to ensure staff competency and retention.
- Legislative Budget and Audit (LBA) Committee – Ms. Chambers reported that she continues participating regularly in the LBA meetings to report on Division progress with concerns raised in the 2011 special audit and during the hearing process on HB 187 during the last legislative session. They are specifically reviewing Division processes, travel, and fiscal matters. She noted that the committee may be considering some new legislation that would include items from HB 187.

Agenda item 11 Full Board Interviews:

William Joseph Guthrie, DO

Dr. Guthrie rescheduled his interview for the next meeting.

Elaine E Polk, PA

Ms. Polk was present to discuss her license application with the Board.

Upon a motion duly made by Dr. Roderer, seconded by Mrs. Carlson, and approved by unanimous consent, it was:

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

The Board entered executive session at 9:59 a.m.; Board staff remained for the session.
The Board went back on the record at 10:03 a.m.

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

RESOLVED to grant an unrestricted physician assistant license to Elaine E. Polk.

Roll Call Vote:

Dr. Powers-Yea
Dr. Roderer-Yea
Mr. Luppen-Yea
Ms. Millar-Absent
Mrs. Carlson-Yea
Dr. Liu-Yea
Dr. Miller-Yea

Charles Blackadar, MD

Investigator Brian Howes joined the meeting.

Upon a motion duly made by Mr. Luppen, seconded by Mrs. Carlson, and approved by unanimous consent, 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 10:04 a.m.; Board staff and investigators remained for the session. The Board went back on the record at 10:18 a.m.

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

Upon a motion duly made by Dr. Roderer, seconded by Mr. Luppen, and approved by unanimous consent, it was:

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

The Board entered executive session at 10:19 a.m.; Board staff and investigators remained for the session. The Board went back on the record at 10:25 a.m.

Upon a motion duly made by Dr. Roderer, seconded by Mr. Luppen, and approved by unanimous consent, it was:

RESOLVED to reject the Imposition of civil fine agreement, Case No. 2014-001769.

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

RESOLVED to grant an unrestricted license to Charles Blackadar, MD subject to his entering into a consent agreement which includes an imposition of \$1,000 civil fine and a reprimand.

Roll Call Vote:

Mrs. Carlson-Yea
Dr. Roderer-Yea
Mr. Luppen-Yea
Ms. Millar-Absent
Dr. Powers-Yea
Dr. Liu-Yea
Dr. Miller-Yea

Agenda Item 12 License Application Review

Board members reviewed license application files. The Board declined to take action on the applications of Howard L. Smith, MD, and Yaakov Friedman, MD, pending their appearance for a full Board interview.

Upon a motion duly made by Dr. Powers, seconded by Dr. Roderer, and approved by unanimous consent, it was:

RESOLVED approve the following applicants for licensure in Alaska subject to agreements adopted by the Board on November 6, 2014:

Ravender Shergill, MD

Allison Critchlow, DO

Upon a motion duly made by Dr. Powers, and seconded by Mr. Luppen, and approved by unanimous consent, it was:

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

*Mohamad Wissam Al-Baghdadi
Suleiman Ali
Alexandra Robyn Aminoff
Omeed Azizirad
Rebecca Pace Barclay
Ronald Eugene Beresky
Megan Elizabeth Bouchareb
John Thomas Boyd
Meredith Jung Hee Broderick
Zachariah W. Chamber
Robert A. Comp
Angela Giron Covington
Sarah Marie Deland*

*Stephen William Doggett
Michael Francis Downs
Leah Tatum Engright
Susan Payne Etheridge
Robert Eugene Fromm
Christopher M Gay
Bernard Wilbur Giorgio
Baruch Bernard Goldstein
Shannon Christine Gulley
Hank J. Hanna
Charles Earl Hansell
Douglas Alan Hansen
Mark Chandler Hansen*

*Eric Brent Harris
Carolyn Sayolr Hawk
Christopher Roy Hawk
Wayne Thomas Honeycutt
Peter Michael Houck
Jill Lenore Jenkins
Christine Guth Jette
Ramu Srinivas Jonnalagadda
Keith Alan Kelts
Hellen Kyung-Ah Kim
Cameron David Klug
Ekaterine Knowlton
Bjorn Britton Krane
Georgia Blackwood Kubic
Elizabeth Sharma LaFleur
Jennifer Sarah Lambe
Christina Marie Lietzke
Geesnell Bautista Lim
Christopher John Morgan*

*Jay Michael ODell
Joanmarie Dietz Pellegrini
Thomas J. Poulton
Dean Raymond Prater
Jonathan Simon Reisman
Gregory Hugh Rose
Steven Neil Schechterman
Ronald John Sharp
Darren Layne Shirley
Brian Glen Smith
Edwin Dwight Vyhmeister
Adam Ronald Walker
Liam T. Walsh
Richard A. Weaver
Stanley Dale Wells
Hunter Buchanan Wessells
Jennifer Lynn Wheeler-Buenger
Eun Jung Yi*

Upon a motion duly made by Mr. Luppen, seconded by Dr. Roderer, and approved by unanimous consent, it was:

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

*Jim Mattson Cook
Michael Angelo Dibartolo
Joshua Wayne Hinson
Eric Deaye King
Menelito Dela Cruz Lilagan*

*Bret Christopher Powers
Alois Albin Treybal
Mindy L Treybal
Yuri Tsirulnikov*

Upon a motion duly made by Mr. Luppen, seconded by Dr. Powers, and approved by unanimous consent, it was:

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

*Matthew Ellis Battaglia
John Edward Bradford
Michaela Brooks
Matthew William Byers
Kimberly Dang
Jonathan Garry Fraley
Anna Rosa Hardesty
Ryan Alan Hawley*

*Melissa Dian Johnson
Amy Elizabeth Knissel
Bradley Glade McLaughlin
Larry Michael Oborn
Angela Starr Steffen
Caroline Hayes Subday
Rachel Beverly Tallbacka
John Robert Western*

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

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

*Joseph Jason Anthes
Anthony L Dugan
Jesse David Enchave
Crosby Wyatt Hanson*

*John Edwin Krattiger
Vernon Harry Miller Jr
Samuel Troy Sanders*

Agenda Item 10 Statues/Regulation Updates (continued)

The Board determined that they would draft a formal resolution to clarify board-sanctioned telemedicine practice and to provide reassurance to physicians who practice in accordance with the Board's proposed regulations and appropriate practice standards.

The following Board resolution was read onto the record:

WHEREAS, The Alaska State Medical Board has approved regulations regarding the practice of telemedicine in the State of Alaska; and

WHEREAS, The Alaska State Medical Board has opposed House Bill 281 which fundamentally changed the practice of telemedicine in the State of Alaska; and

WHEREAS, The Alaska State Medical Board is required to implement House Bill 281 and establish regulations regarding the practice of telemedicine in the State of Alaska;

The Alaska State Medical Board has approved regulations regarding the practice of telemedicine in the State of Alaska:

- these regulations preserve the existing Board-sanctioned practice of telemedicine, which does not require the physician to be physically present in the State of Alaska and allows for the prescription of medications, if the physician has an established physician-patient relationship or if there is an appropriate (licensed) health care provider with the patient to assist with the examination and diagnosis process; and
- these regulations also establish practice standards for telemedicine authorized under House Bill 281 (Alaska Statute 08.64.364), for initial primary care patient encounters which does require the physician to be physically present in the State of Alaska; and

WHEREAS, these proposed regulations may not be final for approximately 12 months;

BE IT RESOLVED, that the Alaska State Medical Board will not sanction physicians who practice in accordance with the proposed regulations and relevant practice standards.

BE IT FURTHER RESOLVED that the Alaska State Medical Board favors repealing House Bill 281 during the next legislative session.

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

RESOLVED to adopt the Board's resolution, as read onto the record.

Roll Call Vote:

Mrs. Carlson-Yea
Dr. Roderer-Yea
Mr. Luppen-Yea
Ms. Millar-Yea
Dr. Powers-Yea
Dr. Liu-Yea
Dr. Miller-Yea

The resolution was signed by the Chair.

Dr. Miller also noted for the record that he would continue to vote "no" on all applications for telemedicine practice in the State of Alaska.

Agenda item 9 Board Review of Requests

In the matter of Samuel Schurig, DO

Following his probation interview, Dr. Schurig submitted a request for modification of his supervision requirements.

Upon a motion duly made by Dr. Roderer, seconded by Mrs. Carlson, and approved by unanimous consent, 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 11:46 a.m.; Board staff remained for the session.
The Board went back on the record at 12:06 p.m.

Upon a motion duly made by Dr. Roderer, seconded by Ms. Millar, and approved by unanimous consent, it was:

RESOLVED to deny the request for modification by Samuel Schurig, DO, pending demonstration that he has complied with chart review requirements.

Adjournment

There being no further business:

Upon a motion duly made by Dr. Roderer, seconded by Ms. Millar, and approved by unanimous consent, it was:

RESOVLED to adjourn the meeting of the Alaska State Medical Board

The meeting was adjourned at 12:07 p.m.

Respectfully submitted:

Approved:

s/

Debora Stovern, Executive Administrator
Alaska State Medical Board

s/

David A. Miller, President
Alaska State Medical Board

February 6, 2015

Date

February 6, 2015

Date