

1 STATE OF ALASKA
2 DEPARTMENT OF COMMERCE, COMMUNITY, AND ECONOMIC DEVELOPMENT
3 DIVISION OF OCCUPATIONAL LICENSING
4 STATE MEDICAL BOARD

5
6 MINUTES OF MEETING

7
8 January 25 – 26, 2007

9
10 By authority of AS 08.01.070(2) and in compliance with the provisions of AS 44.62, a scheduled meeting
11 of the Alaska State Medical Board was held on Thursday and Friday, January 25 – 26, 2007, in Room 1270
12 of the Atwood Building, 550 West Seventh Avenue, in Anchorage, Alaska.

13
14
15 **Thursday, January 12, 2007**

16
17 Call to Order – Roll Call – On the record at 9:15 am.

18
19 **ROLL CALL**

20
21 Present were: David M. Head, MD, Chair Michael J. Tauriainen
22 Robert A. Breffeilh, MD Jean M. Tsigonis, MD
23 John T. Duddy, MD
24 Nancy Puckett

25
26 Absent were Dr. Kevin Tomera and Physician Assistant Ed Hall.

27
28 Staff members present were Linda Sherwood, licensing examiner, and Leslie Gallant, the board's
29 executive administrator. Visitors Tim Pampusch and Tom Dale, physician assistants, were also present.
30 Administrative Law Judge Kay Howard was also present.

31
32 Dr. Head introduced and welcomed Dr. Jean Tsigonis to the board.

33
34 **AGENDA ITEM 1 In the Matter of Roger G. Gano, MD**

35
36 Judge Howard joined the board at the table to discuss the case.

37
38 **MOTION TAURIAINEN moved that in accordance with AS 44.62.310(c) (2), the board go into**
39 **executive session for the purpose of discussing the proposed decision in the**
40 **matter of Roger G. Gano, MD**
41 **2nd PUCKETT**
42 **VOTE 6 Yea votes (Head, Breffeilh, Duddy, Puckett, Tauriainen, Tsigonis)**
43 **0 Nay votes**
44 **0 Abstentions**

45
46 Off the record at 9:19 am; on the record at 9:30 am.

47
48 **MOTION BREFFEILH moved to accept the decision of the administrative law judge in the**
49 **matter of Roger G. Gano, MD.**
50 **2nd PUCKETT**
51 **VOTE 6 Yea votes (Head, Breffeilh, Duddy, Puckett, Tauriainen, Tsigonis)**
52 **0 Nay votes**
53 **0 Abstentions**

54
55 Mr. Tauriainen commented that he wanted to encourage Dr. Gano to keep after getting his license.

1 D. Head noted that the board found this was not an easy decision but that Dr. Gano has a lot to offer
2 but he still has a long way to go before he can safely offer himself to the public as a physician.
3

4 **AGENDA ITEM 3 Malpractice Case Review**

5 There were three cases for consideration by the board. Dr. Head explained how the board conducts
6 these case reviews.
7

8
9 Ms. Gallant explained the history behind the board's review of cases and the board's actions against
10 physicians who fail to report malpractice settlements as required by law.
11

12 Board members discussed the possibility of reinstating their newsletter to get information out to the
13 licensees about things like malpractice reporting.
14

15 Case 1

16
17 **MOTION DUDDY moved to take no action regarding malpractice case No. 1.**
18 **2nd TAURIAINEN**
19 **VOTE 6 Yea votes (Head, Breffellh, Duddy, Puckett, Tauriainen, Tsigonis)**
20 **0 Nay votes**
21 **0 Abstentions**
22

23 Case No. 2

24
25 **MOTION TAURIAINEN moved to take no action regarding malpractice case No. 2.**
26 **2nd PUCKETT**
27 **VOTE 6 Yea votes (Head, Breffellh, Duddy, Puckett, Tauriainen, Tsigonis)**
28 **0 Nay votes**
29 **0 Abstentions**
30

31 Case No. 3

32
33 **MOTION BREFFELH moved to take no action regarding malpractice case No. 3.**
34 **2nd DUDDY**
35 **VOTE 6 Yea votes (Head, Breffellh, Duddy, Puckett, Tauriainen, Tsigonis)**
36 **0 Nay votes**
37 **0 Abstentions**
38

39 **AGENDA ITEM 4 Trauma Registry Review Committee Nominations**

40
41 Dr. Head explained to the board members the work of the Trauma Registry Review Committee.
42

43 **MOTION TAURIAINEN moved to approve the nominees to the Trauma Registry Review**
44 **Committee, Mark Johnson and Debra Gariepy.**
45 **2nd BREFFELH**
46 **VOTE 6 Yea votes (Head, Breffellh, Duddy, Puckett, Tauriainen, Tsigonis)**
47 **0 Nay votes**
48 **0 Abstentions**
49

50 **AGENDA ITEM 5 Physician/Pharmacist Cooperative Plan Review**

51
52 The board reviewed the cooperative plan submitted to Dr. William Cooper.
53

54 **MOTION TAURIAINEN moved to approve the cooperative plan between William L. Cooper,**
55 **MD and Amber Briggs, pharmacist.**
56 **2nd PUCKETT**
57 **VOTE 6 Yea votes (Head, Breffellh, Duddy, Puckett, Tauriainen, Tsigonis)**

1 **0 Nay votes**
2 **0 Abstentions**
3

Ms. Puckett asked for a definition of "legend drugs." Ms. Gallant will forward to her the description after the meeting.

6 **AGENDA ITEM 8** **In the Matter of Winslow C. Nicholas, MD**
7

8
9 The board received information from the Pennsylvania board regarding Dr. Nicholas and that
10 precipitated the agreement to surrender his license in Alaska.

11 **MOTION** **BREFFELH moved to approve the surrender of license signed by Dr. Winslow**
12 **Nicholas.**
13 **2nd** **TAURIAINEN**
14 **VOTE** **6 Yea votes (Head, Breffelh, Duddy, Puckett, Tauriainen, Tsigonis)**
15 **0 Nay votes**
16 **0 Abstentions**
17

18
19 **AGENDA ITEM 12** **Board Actions**
20

21 Robert D. Wald, MD
22

23 The board discussed the case involving Dr. Wald and discussed how they wanted to handle the matter.
24 Ms. Gallant reported that Dr. Wald self-reported that he had forgotten to send in his renewal
25 application for his license and had seen patients with his license expired.

26
27 Mr. Tauriainen moved and Dr. Breffelh seconded a motion not to reprimand or fine Dr. Wald but to send
28 him a letter of caution. Following discussion, Dr. Breffelh withdrew his second and Dr. Duddy seconded
the motion.

29
30
31 Mr. Tauriainen advised that, in his opinion, the staff should continue to prepare the memoranda of
32 agreement consistent with the board's past actions and present to the board as was done in this case
33 and then the board can determine what final action it wishes to take as was done in this case.

34
35 Mr. Tauriainen moved not to reprimand or fine Dr. Robert Wald but to send him a letter of caution that is
36 not reportable. Dr. Duddy seconded the motion. By a vote of five nay votes (Head, Breffelh, Duddy,
37 Puckett, and Tsigonis) to one yea vote (Tauriainen), the motion failed.

38
39 **MOTION** **DUDDY moved to approve the memorandum of agreement with a change to**
40 **suspend the \$1,000 civil fine.**
41 **2nd** **PUCKETT**
42 **VOTE** **5 Yea votes (Head, Breffelh, Duddy, Puckett, Tsigonis)**
43 **1 Nay vote (Tauriainen)**
44 **0 Abstentions**
45

46 The board members wished to express their gratitude to Dr. Wald for his honesty.
47

48 **AGENDA ITEM 2** **In the Matter of David Reynolds, MICP**
49

50 Administrative law judge Andrew Hemenway joined the meeting via teleconference. Also on the
51 teleconference were Robert Spitzfaden, attorney representing Mr. Reynolds, Mr. Reynolds, and David
52 Brower, assistant attorney general representing the state.

53
54 Mr. Hemenway addressed the board regarding the additional documents that the board received in
55 response to the proposed decision. The documents included the letters from Terry L. Thurbon. There
56 were also three other documents distributed to the board members on this date: Mr. Reynolds'

1 proposal for action, Mr. Brower's request asking to submit a late proposal for action, and Mr. Reynolds'
2 opposition to the Division's request to submit a late proposal.
3

4 Mr. Hemenway's recommendation to the board was to deny the motion to submit a late proposal and
5 to hear from both parties what they think the appropriate action should be.
6

7 Dr. Head recommended that if the board allows both sides to be heard that their comments be limited
8 to five minutes. Mr. Hemenway concurred.
9

10 Mr. Spitzfaden questioned exactly what the board was doing at this meeting as he was unclear.
11

12 Mr. Hemenway clarified that what the board was proposing was that they would deny the motion for
13 late filing to submit a proposal for action. In addition, the board was proposing to give both sides in the
14 matter the opportunity to speak directly to the points raised in their proposals for action.
15

16 Mr. Spitzfaden felt that Ms. Thurbon's letter stated that was what could not happen, that they would not
17 be allowed to argue the merits of the opposing sides.
18

19 Mr. Hemenway stated that what the chief judge (Ms. Thurbon) was saying in her letter was that a late
20 proposal for action ought not to be considered. She indicated in her letter that the board options were
21 To deny the motions and hear from the parties at the meeting or ...
22

23 Mr. Spitzfaden asked what the board would be hearing from the parties about. Mr. Hemenway went on
24 that under the Administrative Procedure Act, the parties may be afforded the opportunity to speak to
25 whatever they choose to speak at the appropriate meeting when the proposed decision comes up for
26 consideration. That is not part of the proposed action process but is under the Administrative Procedure
27 Act. The board was contemplating providing to Mr. Spitzfaden and Mr. Brower the opportunity to argue
28 to the board on your client's behalf with respect to the proposed decision.

29 Dr. Head advised Mr. Spitzfaden that the board members came to the meeting after reviewing a
30 significant amount of information in preparation for the meeting. However, the board was given new
31 material at the meeting; in order to take that into consideration, the board is giving him the opportunity
32 to tell the board what the new proposal is. If he did not wish to do that, the board members came to
33 the meeting prepared to vote on a decision in the matter.
34
35

36 Mr. Spitzfaden stated that Mr. Reynolds' proposal was submitted within the time limit required by law.
37 He questioned why the proposal was not given to the board when it was submitted.
38

39 Mr. Brower interjected and advised that it would not matter to him if his request for late filing was
40 considered or not but he asked if the proposal for action was filed by Mr. Reynolds went directly to the
41 board or did it go to the Office of Administrative Hearings.
42

43 Ms. Gallant advised that the proposal went to the Office of Administrative Hearings and was then
44 forwarded to her by that office. She further explained to Mr. Spitzfaden that the board's meeting
45 materials were mailed out to the board members more than a week prior to the meeting to allow them
46 enough time to read the material and be able to address the matters at the meeting. When
47 documents are received in her office after the board's books have been distributed, that late material
48 is held, copied and distributed to the board members at the beginning of the meeting. She confirmed
49 that the material Mr. Spitzfaden provided was distributed to the board members at the start of this
50 meeting.
51

52 Mr. Hemenway advised that the deadlines and scheduling of this case with respect to the proposed
53 decision were established to coincide with the next scheduled board meeting, this date. In the ordinary
54 course of events, this might have been scheduled for the subsequent meeting which would be in April.
55 The reason for the timing was to try to get the matter before the board at this meeting as an
56 accommodation to the parties who have had to wait for quite a long time. If the parties would prefer
57 to hold this over until April so the board could consider this at its leisure that would be another option.

1 He further stated that the deadline of January 26 in Ms. Thurbon's letter of January 19, 2007 is incorrect
2 but that the matter could be held over until the April meeting.

3
4 Dr. Head noted that one of the requests by Mr. Reynolds is that the case be referred back to the
5 administrative law judge to allow sufficient time for his case in Maine to be resolved. He noted that he
6 had no problem with that but he thought Mr. Reynolds wanted this resolved as soon as possible so that
7 he could know where he needs to proceed from here. He asked what Mr. Reynolds wants the board to
8 do.

9
10 Mr. Spitzfaden stated that Mr. Reynolds wants his license. Also, he asked the board take five minutes to
11 read their proposal for action and then decide what they were going to do.

12
13 Mr. Hemenway agreed that the board may allow the proposal to be admitted on the record and if Mr.
14 Brower does not wish to speak to the board, the board could do that.

15
16 Mr. Brower stated is would be fine with him if the board denied his motion to accept a late filing.

17
18 Dr. Head advised that he would have no problem referring the case back to the administrative law
19 judge and allowing Mr. Reynolds to resolve the investigation in Maine because this board will not license
20 him as long as there is an open investigation in another state. He felt there is no point in even
21 addressing this issue until that investigation is resolved.

22
23 Mr. Brower pointed out that he did not see in the Office of Administrative Hearings' statutes that such a
24 request to return the matter to the ALJ is authorized because if it is sent back to the ALJ under AS
25 44.64.060(e)(2), for other specific proceedings, the ALJ shall complete the additional work and return
26 the revised proposed decision to the agency within 45 days. He questioned if that could happen. He
27 also noted that anyone who is denied a license for a specific reason is not precluded from applying
28 again.

31 **MOTION** **TAURIAINEN** moved that in accordance with AS 44.62.310(c)(2), the board go into
32 **executive session for the purpose of discussing the proposed decision in the**
33 **matter of David Reynolds, MICP.**
34 **2nd** **BREFFEILH**
35 **VOTE** **6 Yea votes** (Head, Breffelth, Duddy, Puckett, Tauriainen, Tsigonis)
36 **0 Nay votes**
37 **0 Abstentions**

38
39 Off the record at 10:48 am; on the record at 11:03 am. [The board moved on to other agenda items
40 while it waited for all parties to return to the teleconference to complete Agenda Item 2.]

41
42 **AGENDA ITEM 11** **Reports, Ethics, Minutes, Budget**

43
44 Reports
45 Board members had no questions about the reports for consideration.

46
47 Ethics
48 Board members had no ethics or conflicts of interest matters to report.

49
50 Minutes

51
52 **MOTION** **BREFFEILH** moved to accept the minutes of the meeting of October 12 – 13, 2006.
53 **2nd** **PUCKETT**
54 **VOTE** **6 Yea votes** (Head, Breffelth, Duddy, Puckett, Tauriainen, Tsigonis)
55 **0 Nay votes**
56 **0 Abstentions**

1 Budget

2 Ms. Gallant requested that the board approve and support sending the two medical board
3 investigators to training in Orlando, FL in June. The board members expressed their support of this
4 activity and approved the expenditure for this purpose. The board recognizes the importance of this
5 specialized training for its investigators, particularly in light of the fact that both medical board
6 investigators are new.

7
8 Mr. Tauriainen asked if the Division performs any background check in the investigators they hire. Ms.
9 Gallant advised that to her knowledge, they are subject to the standard employment review.

10
11 Mr. Tauriainen requested that a copy of the completed paid travel authorization be returned to the
12 board member with the reimbursement so they could see what was paid and what was not reimbursed.
13 Ms. Sherwood will request that the Juneau office do that.

14
15 Dr. Head requested that the state provide beverages and snacks at the board meetings.

16
17 Dr. Head advised that the board would wait until Mr. Reynolds and his attorney could rejoin the meeting
18 for their decision. The board was reluctant to move forward with a vote until all parties were present.
19 Mr. Hemenway and Mr. Brower disconnected from the call.

20
21 **AGENDA ITEM 10** **Regulations Project: New**

22
23 The board discussed the regulations being offered for the board's consideration.

24
25 Regulation No. 1 – 12 AAC 40.020 License by Examination

26
27 **MOTION** **BREFFELH moved to accept the proposed regulation change to 12 AAC 40.020 as**
28 **written.**
29 **2nd** **TSIGONIS**
30 **VOTE** **6 Yea votes (Head, Breffelh, Duddy, Puckett, Tauriainen, Tsigonis)**
31 **0 Nay votes**
32 **0 Abstentions**

33
34 Regulation No. 2 – New Regulation – Qualifications for Licensure

35
36 Dr. Head proposed changing the wording to read that ... "the board may deny a license" so that the
37 board still retains some discretion in considering these cases.

38
39 **MOTION** **TAURIAINEN moved to approved regulation No. 2 with the change in the wording**
40 **to read: "The board may deny a license to an individual..." .**
41 **2nd** **BREFFELH**
42 **VOTE** **6 Yea votes (Head, Breffelh, Duddy, Puckett, Tauriainen, Tsigonis)**
43 **0 Nay votes**
44 **0 Abstentions**

45 Regulation No. 3 – New Regulation – Acceptance of FCVS Credentials in the Application for
46 License

47
48 **MOTION** **BREFFELH moved to approve the proposed new regulation entitled "Acceptance**
49 **of Federation Credentials Verification Service Credentials in the Application for**
50 **Licensure as written.**
51 **2nd** **PUCKETT**
52 **VOTE** **6 Yea votes (Head, Breffelh, Duddy, Puckett, Tauriainen, Tsigonis)**
53 **0 Nay votes**
54 **0 Abstentions**

55
56 Mr. Tauriainen noted that if this regulation makes it through and becomes effective, he would like to see
57 that the existing language in the paramedic regulation 12 AAC 40.310(b) be removed.

1
2 Regulation No. 4 – Ethical Standards
3

4 Ms. Gallant explained that whenever one of the codes of ethics changes for one of the professionals
5 licensed by the board, the regulation must change as well.

6
7 **MOTION** **TSIGONIS moved to approve regulation 4 as written.**
8 **2ND** **BREFFELH**
9 **VOTE** **6 Yea votes (Head, Breffelh, Duddy, Puckett, Tauriainen, Tsigonis)**
10 **0 Nay votes**
11 **0 Abstentions**
12

13 **AGENDA ITEM 2** **In the Matter of David Reynolds, MICP (Continued)**
14

15 Messrs. Spitzfaden and Reynolds rejoined the meeting via telephone.

16
17 **MOTION** **TAURIAINEN moved to deny the request for late filing of proposed action**
18 **submitted by David Brower.**
19 **2nd** **BREFFELH**
20 **VOTE** **6 Yea votes (Head, Breffelh, Duddy, Puckett, Tauriainen, Tsigonis)**
21 **0 Nay votes**
22 **0 Abstentions**
23

24 Dr. Head remarked that the board determined the cleanest way to handle this case was to adopt the
25 administrative law judge's proposed decision and deny Mr. Reynolds' license with the recognition that
26 there are many issues in his application that the board would want addressed in the future. This also
27 gives Mr. Reynolds time to go back and resolve issues with the Maine board. The options available to
28 Mr. Reynolds will be in the letter sent to him by the Office of Administrative Hearings.

29
30 **MOTION** **TAURIAINEN moved to adopt the administrative law judge's proposed decision in**
31 **the matter of David Reynolds.**
32 **2nd** **PUCKETT**
33 **VOTE** **6 Yea votes (Head, Breffelh, Duddy, Puckett, Tauriainen, Tsigonis)**
34 **0 Nay votes**
35 **0 Abstentions**
36

37 **AGENDA ITEM 10** **Regulations Project: New (Continued)**
38

39 Regulation No. 5 – Reinstatement of a Surrendered License
40

41 This regulation is a housekeeping matter to make the language in this regulation conform to current
42 CME requirements defined elsewhere in the regulations.

43
44 **MOTION** **BREFFELH moved to approve the language as written for regulation No. 5.**
45 **2nd** **TAURIAINEN**
46 **VOTE** **6 Yea votes (Head, Breffelh, Duddy, Puckett, Tauriainen, Tsigonis)**
47 **0 Nay votes**
48 **0 Abstentions**
49

50 Regulation No. 6 – Definitions
51

52 Ms. Gallant explained that this proposed language came about as a result of complaints received by
53 the board. The definition of "key third parties" is consistent with usage by other boards and is used in
54 the code of ethics for the physician assistants that the board just passed.

55
56 **MOTION** **BREFFELH moved to approve the proposed new paragraph 12 AAC 40.990(b)(5)**
57 **that includes a prohibition against sexual misconduct with key third parties and**

1 defining key third parties.
2 **2nd** **PUCKETT**
3 **VOTE** **6 Yea votes (Head, Breffeilh, Duddy, Puckett, Tauriainen, Tsigonis)**
0 Nay votes
0 Abstentions

6
7 **PUBLIC COMMENT**

8
9 There were no members of the public present to speak with the board and no correspondence was
10 received.

11
12 Off the record at 12:03 pm; on the record at 12:35 pm.

13
14 Present were:

15	Dr. Head	Ms. Puckett
16	Dr. Breffeilh	Dr. Tsigonis
17	Dr. Duddy	

18
19 Absent were Dr. Tomera, Mr. Hall, and Mr. Tauriainen.

20
21 **AGENDA ITEM 12 In the Matter of Solomon Kamson, ND**

22
23 Ms. Gallant advised the board that it was discovered that another board had taken action against Dr.
24 Kamson. Since the Washington board suspended his license, the California board has also suspended
25 his license there.

26
27 **MOTION** **BREFFEILH moved to approve the voluntary suspension signed by Dr. Kamson.**
28 **2nd** **PUCKETT**
VOTE **6 Yea votes (Head, Breffeilh, Duddy, Puckett, Tauriainen, Tsigonis)**
0 Nay votes
0 Abstentions

31
32
33 **AGENDA ITEM 12 In the Matter of Hernan Garreud, PA-C**

34
35 Ms. Gallant explained that Mr. Garreud wrote a prescription for a Schedule II controlled substance.
36 Mr. Hall was consulted on this case and recommended the reprimand and civil fine. Mr. Garreud is
37 reportedly no longer living in Alaska but still holds an active license here.

38
39
40 **MOTION** **BREFFEILH moved to approve the memorandum of agreement with Hernan**
41 **Garreud.**
42 **2nd** **DUDDY**
43 **VOTE** **6 Yea votes (Head, Breffeilh, Duddy, Puckett, Tauriainen, Tsigonis)**
44 **0 Nay votes**
45 **0 Abstentions**

46
47 **AGENDA ITEM 12 In the Matter of William J. Foody, MD**

48
49 Dr. Foody had a previous case before the board that was not pursued. More recently, a complaint was
50 received regarding his competence.

51
52 **MOTION** **DUDDY moved to approve the voluntary surrender of William J. Foody, MD**
53 **2nd** **BREFFEILH**
VOTE **6 Yea votes (Head, Breffeilh, Duddy, Puckett, Tauriainen, Tsigonis)**
0 Nay votes
0 Abstentions

1 **AGENDA ITEM** Special Applications

2
3 In the Matter of Scott Emery, MD

4 Dr. Emery held a license in Alaska that expired in 1994.

6
7 Ms. Gallant explained that Dr. Emery performed an independent medical evaluation on a patient but
8 did not hold a license at the time of the examination. He later submitted an application for license that
9 is also being presented for the board's consideration [in June 2005].

10
11 When the complaint was received, Dr. Emery was offered the option of signing a memorandum of
12 agreement that included disciplinary sanctions for practicing medicine without a license. His position
13 has been that performing IMEs is not the practice of medicine.

14
15 Dr. Tsigonis asked about doctors who come to the state to serve as expert witnesses.

16
17 Dr. Head noted that physicians who come into the state as a witness and who do not actually examine
18 the patient do not need to be licensed.

19
20 Ms. Gallant advised that reviewing medical records and rendering an opinion is considered a forensic
21 review of records and not the practice of medicine; however, conducting a physician examination
22 does fall under the practice of medicine. She also advised the board that in September 1996, the
23 Alaska State Medical Board sent a letter to all workers compensation insurance underwriters that
24 advised that performing independent medical evaluations was considered the practice of medicine
25 and required a license.

26
27 Dr. Emery was presented with a memorandum of agreement that included a reprimand and civil fine.
28 He has refused to sign the agreement. His application for a license is being brought to the board for
29 consideration.

30
31 The board members discussed denying Dr. Emery's application based on his violation of the law in
32 practicing medicine without a license.

33
34 **MOTION** **BREFFELH moved to deny a license to Dr. Scott Emery based on AS 08.64.240(b),**
35 **AS 08.64.326(a)(7), AS 08.64.360, and 12 AAC 40.967(6).**
36 **2nd** **PUCKETT**
37 **VOTE** **6 Yea votes (Head, Breffelh, Duddy, Puckett, Tauriainen, Tsigonis)**
38 **0 Nay votes**
39 **0 Abstentions**

40
41 Luis J. Jasa, MD

42
43 Dr. Jasa applied for a license but under the board's previous laws, they could not grant him a license
44 because of his examination history. However, with the recent change in the regulations, the board may
45 accept the weighted average scores in such cases if it elects to do so. The balance of Dr. Jasa's file is
46 clean and unremarkable.

47
48 **MOTION** **BREFFELH moved to grant a permanent license to Dr. Luis J. Jasa.**
49 **2nd** **TAURIAINEN**
50 **VOTE** **6 Yea votes (Head, Breffelh, Duddy, Puckett, Tauriainen, Tsigonis)**
51 **0 Nay votes**
52 **0 Abstentions**

53
54 Anne R. Niebler, MD

55 The board reviewed Dr. Niebler's application and the explanations included. Board members felt there
56 is no evidence that Dr. Niebler has an on-going problem.

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Dr. Duddy suggested that since she is currently being treated for depression, the board should suggest that she establish herself with a treating physician in Alaska.

Dr. Head agreed that the board can recommend it but without a memorandum of agreement could not require it.

Dr. Breffellh concurred that a letter should be sent to her about establishing a patient/physician relationship with a physician in Alaska.

Board members determined they would like to have Ms. Gallant send her a letter encouraging her to establish a relationship with a treating physician and to avoid self-prescribing.

MOTION **BREFFELH moved to grant a permanent license to Dr. Anne Niebler.**
2nd **TAURIAINEN**
VOTE **6 Yea votes (Head, Breffellh, Duddy, Puckett, Tauriainen, Tsigonis)**
 0 Nay votes
 0 Abstentions

John V. Mizell, MD

Ms. Gallant explained to the board that Dr. Mizell was initially interviewed by the board at the April 2006 board meeting. At that time, the board voted to grant to him a license with a memorandum of agreement that imposed certain conditions on the license. Since that time, Dr. Mizell has refused to sign an MOA and has ceased contact with the staff. She is requesting the board voted to deny the application.

Board members decided that rather than deny him at this meeting, they wanted a letter sent to him advising that unless he signs the MOA by the April 2007 board meeting, they will have no choice but to deny his application.

Ms. Gallant reminded the board that this is an individual who suffers from depression and allegations of sexual misconduct with a patient in Texas, although the Texas board closed the case.

Dr. Head thought that the allegations were unprofessional conduct in Texas.

The board reviewed the investigators report in Section N and determined it would write the letter telling him to either sign the MOA or be denied at the April meeting.

MOTION **DUDDY moved to write a letter to Dr. Mizell advising that he execute the memorandum of agreement by the April meeting or the board will have no choice but to deny his application.**
2nd **PUCKETT**
VOTE **6 Yea votes (Head, Breffellh, Duddy, Puckett, Tauriainen, Tsigonis)**
 0 Nay votes
 0 Abstentions

Patrick A. Plunkett, MD

The board reviewed the application documents from Dr. Plunkett and the collateral documents obtained for his file.

Dr. Head outlined the issues contained in this file, particularly the differences between what he reported in the application and the police reports that were obtained. Action in California is ongoing.

1 **MOTION** **DUDDY** moved to deny a license to Patrick A. Plunkett, MD based on AS
2 **08.64.240(b), 08.64.326(a)(1), (8)(b), (9), 12 AAC 40.967 (2)(a), and (18)(a) and**
3 **(b).**
4 **2nd** **BREFFELH**
5 **VOTE** **6 Yea votes (Head, Breffelh, Duddy, Puckett, Tauriainen, Tsigonis)**
6 **0 Nay votes**
7 **0 Abstentions**

8
9 **AGENDA ITEM 6** **In the Matter of Kurt Sorensen, MICP**

10
11 Mr. Sorensen was present to discuss his case with the board members. He was requesting the board
12 reconsider its decision, taken at the October 2006 meeting, to suspend his license.

13
14 Dr. Head offered Mr. Sorensen the option of going into executive session.

15
16 **MOTION** **TAURIAINEN** moved that in accordance with AS 44.62.310(c)(2), the board go into
17 **executive session for the purpose of discussing the proposed decision in the**
18 **matter of Kurt Sorensen, MICP, with appropriate staff to remain.**
19 **2nd** **DUDDY**
20 **VOTE** **6 Yea votes (Head, Breffelh, Duddy, Puckett, Tauriainen, Tsigonis)**
21 **0 Nay votes**
22 **0 Abstentions**

23
24 Off the record at 1:31 pm; on the record at 2:09 pm.

25
26 Dr. Head stated that the board gave Mr. Sorensen the instruction that he should make a formal
27 application submitting the appropriate forms. He advised that the board cannot do anything until the
28 application is submitted and complete including a physician sponsor. If he does make application and
29 all is in order, the application will be considered at a future date.

30
31 **AGENDA ITEM 7** **In the Matter of Michael Bernzoff, MD**

32
33 Dr. Bernzoff and his attorney, Dennis Maloney, joined the meeting via teleconference. Dr. Head asked
34 Dr. Bernzoff to elaborate on his request to be relieved from the condition imposed by his memorandum
35 of agreement.

36
37 Dr. Bernzoff explained the background behind his case with the board where he used a weapon in
38 therapy. He stated that he did not think that he signed an agreement with a restriction.

39
40 Ms. Gallant referred the board to the memorandum of agreement, paragraph C on page 5. There is no
41 wording on his license that reflects conditions or restrictions.

42
43 Mr. Auth pointed out that the NPDB report does not state "restrictions."

44
45 Mr. Maloney stated that Dr. Bernzoff has not been able to get appointed to the VA for two years
46 because of this agreement. He stated that he will never do this [use firearms in therapy] again. Can
47 the board just lift this requirement.

48
49 Dr. Head asked what Dr. Bernzoff is requesting from the board. Dr. Bernzoff stated that in order for him
50 to get a job with the VA, his license must be unrestricted. He stated that he made a mistake when he
51 applied for his Arizona license in not reporting that he was under investigation by the Alaska board. He
52 stated that was an error.

53
54 Ms. Gallant pointed out to the board that Dr. Bernzoff's question to her initially was when would the
55 prohibition against using firearms in the MOA [paragraph C, page 5] "go away." She responded to him
56 in a letter dated November 14, 2006, that there was no provision in the MOA that addressed duration of
57 the prohibition against using firearms. Should the board elect to remove paragraph C from the MOA,

1 then his license would be reported as a free and unrestricted license. The license has been disciplined;
2 however, and reports would continue to show that the license has been disciplined.
3

4 **MOTION** **BREFFELH moved to relieve Dr. Bernzott from the restriction prohibiting the use of**
5 **firearms in therapy [paragraph C of the MOA].**
6 **2nd** **PUCKETT**
7 **VOTE** **6 Yea votes (Head, Breffelh, Duddy, Puckett, Taurainen, Tsigonis)**
8 **0 Nay votes**
9 **0 Abstentions**

10
11 An order will be prepared that removes paragraph C from the MOA with Dr. Bernzott.

12
13 Mr. Maloney asked if a report would be submitted to the national data bank that says the license is
14 unrestricted.

15
16 Ms. Gallant advised that a report would be submitted to the National Practitioner Data Bank that
17 indicates the license is free and unrestricted but that it has been disciplined. The license itself will not
18 have any reference printed on it.
19

20 **AGENDA ITEM 9** **Regulations Project – Physician Assistant Regulations**

21
22 Mr. Hall provided his written comments regarding the PA regulations and there were several letters from
23 the public regarding the regulations.

24
25 Jim Wojciehowski was present to hear the board's discussion on the regulations.

26
27 Dr. Head referred to the letter from the state medical association. He concurred with their comments
28 regarding 12 AAC 40.410.
29

30
31 Ms. Gallant explained the wording change to 12 AAC 40.410 that she and Mr. Hall discussed. The new
32 language to read: (a) A licensed physician assistant may not practice without at least one
33 collaborative relationship established under this chapter. Such plan of collaboration will be on a form
34 provided by the board and will include:". Then the language proposed in the draft would continue.

35 **MOTION** **TSIGONIS moved to approve the physician assistant regulations as modified and**
36 **move the project forward.**
37 **2nd** **BREFFELH**
38 **VOTE** **6 Yea votes (Head, Breffelh, Duddy, Puckett, Taurainen, Tsigonis)**
39 **0 Nay votes**
40 **0 Abstentions**

41
42 **AGENDA ITEM** **License Application Review**

43
44 Board members reviewed license application files for the remainder of the afternoon.

45
46 The board recessed at 4:03 pm.
47
48

49 **Friday, January 26, 2007**

50
51 The meeting was called to order at 9:07 am

52
53 **ROLL CALL**

54
55 Present were: Dr. David Head Ms. Nancy Puckett
56 Dr. Robert Breffelh Mr. Mike Taurainen
57 Dr. John Duddy Dr. Jean Tsigonis

1 Also present were staff members Linda Sherwood and Leslie Gallant. Visitors present were Tim
2 Pampusch, Tom Dale, and John Winczura.

3
4 **AGENDA ITEM 13** **In the Matter of John A. J. Winczura**

6 Mr. Winczura was present to request the board allow him relief from some of the requirements of his
7 memorandum of agreement. He explained problems he is having with Tricare [will not allow him to
8 treat their patients] and with the level of testing and meetings he is required to attend.

9
10 **MOTION** **BREFFELH moved, and TAURIAINEN amended, to modify Winczura's memorandum**
11 **of agreement to include a monthly random EtG test, with response time increased**
12 **to 12 hours, and reducing the required AA meetings to two times per week,**
13 **keeping all other requirements of the MOA.**
14 **2nd** **DUDDY**
15 **VOTE** **4 Yea votes (Breffelh, Puckett, Tauriainen, Tsigonis)**
16 **2 Nay votes (Duddy, Head)**
17 **0 Abstentions**

18
19 Drs. Duddy and Head stated that they were supportive of reducing the testing but were concerned
20 about reducing the number of AA meetings attended each week.

21
22 Dr. Breffelh noted that he is very impressed with the changes Mr. Winczura has displayed. He requested
23 a letter from Mr. Winczura for the April meeting telling the board how he is doing between the meetings.
24 Mr. Winczura agreed to do that.

25
26 **AGENDA ITEM 14** **Full Board Interview – Richard L. Stern, MD**

27
28 Dr. Stern was present to discuss his application with board members.

29
30 Ms. Gallant explained to the board that Dr. Stern's file was initially reviewed by Dr. Duddy who
31 requested the interview. Also, a letter was received from Dr. Stern's treating physician.

32
33 Dr. Stern discussed his intentions for practice in Alaska. He works locum tenens assignments and remains
34 in Florida between assignments. He will not be moving to Alaska full time.

35
36 Dr. Duddy noted that his concern was that if Dr. Stern planned to move to Alaska and work full time, he
37 would recommend that Dr. Stern obtain a treating physician in Alaska and be aware of the limitations
38 for resources in the more remote areas of the state.

39
40 **MOTION** **DUDDY moved to grant an unrestricted license to Dr. Richard L. Stern.**
41 **2nd** **BREFFELH**
42 **VOTE** **6 Yea votes (Head, Breffelh, Duddy, Puckett, Tauriainen, Tsigonis)**
43 **0 Nay votes**
44 **0 Abstentions**

45
46 **AGENDA ITEM 14** **Full Board Interview – Jane Sonnenburg, PA-C**

47
48 Ms. Sonnenburg was present to discuss her application with the board.

49
50 **MOTION** **TAURIAINEN moved that in accordance with AS 44.62.310(c)(2), the board go into**
51 **executive session for the purpose of discussing the application of Jane**
52 **Sonnenburg, PA-C.**
53 **2nd** **PUCKETT**
54 **VOTE** **6 Yea votes (Head, Breffelh, Duddy, Puckett, Tauriainen, Tsigonis)**
55 **0 Nay votes**
56 **0 Abstentions**
57

1 Off the record at 9:54 am; on the record at 10:14 am.

2
3 **MOTION** **TAURIAINEN** moved to extend Ms. Sonnenburg's temporary permit for the full eight
4 months with the stipulation that she obtain an independent psychiatric evaluation
5 with the report to be provided to the board at the April meeting.
6 **2nd** **BREFFELH**
7 **VOTE** **6 Yea votes** (Head, Breffelh, Duddy, Puckett, Tauriainen, Tsigonis)
8 **0 Nay votes**
9 **0 Abstentions**

10
11 **AGENDA ITEM** **In the Matter of Cathryn L. Chicola, MD**

12
13 Ms. Gallant explained that this is a case of failure to report malpractice settlement.

14
15 Mr. Tauriainen expressed his desire to see more information disseminated to the licensees. All the board
16 members would like to see reminders and more information distributed to the licensees. Dr. Breffelh
17 suggested asking the medical association to include short, regular column for their *HeartBeat*
18 publication.

19
20 **MOTION** **BREFFELH** moved to accept the memorandum of agreement with Dr. Cathryn L.
21 **Chicola.**
22 **2nd** **PUCKETT**
23 **VOTE** **6 Yea votes** (Head, Breffelh, Duddy, Puckett, Tauriainen, Tsigonis)
24 **0 Nay votes**
25 **0 Abstentions**

26
27 Ms. Gallant noted to the board that their discussion regarding the newsletter goes to a bigger issue and
28 that is greater outreach to both licensees and the public.

29
30 **MOTION** **BREFFELH** moved to reinstate the printed or electronic newsletter and to include
31 **the website address on the wallet card for licensees.**
32 **2nd** **TAURIAINEN**
33 **VOTE** **6 Yea votes** (Head, Breffelh, Duddy, Puckett, Tauriainen, Tsigonis)
34 **0 Nay votes**
35 **0 Abstentions**

36
37 Off the record at 10:29 am; on the record at 11:01 am.

38
39 **AGENDA ITEM 15** **Board Discussion – Co-Management in Alaska**

40
41 Dr. Carl Rosen was present to discuss issues related to co-management of patient care in Alaska. The
42 proposal of the ophthalmologic community is to add a paragraph to the unprofessional conduct
43 regulation regarding co-management.

44
45 Dr. Duddy explained for the non-physicians at the meeting what the issue is regarding post-surgical care
46 of patients. Typically, the surgeon is responsible for the care of the patient both before and after
47 surgery. What is happening here that Dr. Rosen is addressing is a doctor is coming up, performing the
48 surgeries, and leaving designating the patients' post-surgical care to non-physicians.

49
50 Dr. Breffelh agreed that this is a patient care issue. The surgeon has a moral and ethical obligation to
51 the patient both pre- and post-surgery. If you abandon a patient before they have recovered from
52 their surgery, you have done them a disservice.

53
54 Dr. Rosen agreed that there are broader implications to the co-management question. Co-
55 management of patient care should not be a routine practice. During the time following surgery when
56 complications are most likely to occur, he urges the board to come up with a way to protect the

1 patient. He emphasized that the issue of co-management extends to all medical specialties, not just
2 ophthalmology. Co-management care can still be done, just not as a routine, reflex practice.

3
4 Dr. Head advised that it is routine in places like Nome where they have a surgical center or Bethel
5 where they will have a surgeon come in for three or four days and then the surgeon leaves town. The
6 primary care physicians are most often the ones who provide the post-surgical care. Taking the ability
7 to co-manage post-surgical care away from physicians is the last thing the Bush communities would
8 want.

9
10 Dr. Rosen agreed that when there is no other alternative, that would still be fine to do.

11
12 Dr. Breffeilh added that what is wrong is when the patient ends up with a post-surgical complication
13 and the only resort they have, since their surgeon is gone, is to go to the emergency room for help.

14
15 Ms. Gallant stated that the proposal for the board's consideration is to include a new paragraph in the
16 unprofessional conduct regulation that would add a paragraph making it unprofessional conduct to fail
17 to provide continuing care to post-surgical patients as worded in the handout.

18
19 Dr. Tsigonis commented that with the shortage of surgeons in Fairbanks, the doctors there are being
20 very selective about what they do and are transferring what she sees as surgical cases to family
21 practice. She views this proposed language as a protection for the family practice doctors. This issue is
22 broader than just ophthalmology.

23
24 Mr. Taurainen sees co-management as sort of an after-the-fact second opinion. He further stated that
25 co-management should result in less cost to the patient. For patients who do not experience any
26 postoperative complications, a lower level of care seems appropriate.

27
28 Dr. Duddy explained that for surgical procedures, there is a global fee for 90 days. During that period of
29 time, the surgeon is responsible for the pre-operative physical, the surgical procedure, and for every
30 single visit after the surgery. Any other providers involved are at an additional cost. Co-management
31 would actually cost more. For example, if he delegated post-surgical care to a non-physician, they
32 would bill for their services and be paid for them. That would add to the cost of the procedure.

33
34 Dr. Rosen explained that understanding co-management in broader terms might be better understood
35 if the reasons against the routine use of co-management are clear. There is an 80/20 split of fees with
36 physicians who co-manage. There is an issue with the Office of Inspector General about the
37 inducements and the referral patterns that occur. He and his partners do not co-manage so there is no
38 inducement and no referral pattern.

39
40 Dr. Duddy stated that he is responsible for the management of his patients following surgery and that is
41 not delegated to others. He manages their care and does not delegate the patient care to nurses or
42 others. He directly manages the care provided.

43
44 Dr. Tsigonis noted that the standard of care is that the physician does the surgery and then follows the
45 patient after the surgery, stays involved with the patient's care personally by visualizing the patient,
46 seeing them in the office, making decisions, etc. They may have other people doing things to the
47 patient but they are responsible and are personally involved. In this situation, the surgeon is designating
48 someone of less education to do that follow-up decision making and that is the issue. They are
49 delegating to someone who is not capable of doing the same follow-up care that the surgeon would
50 do. For probably 90 percent of the time, that would be fine, but for the ones who have complications,
51 does that delegated person have the expertise to recognize problems that may arise?

52
53 Dr. Head asked if the patient has any alternative than just going to the emergency room. They do not
54 have a physician locally who is backing up the co-management unlike when the nurses are taking care
55 of them, like in the hospital, there is a physician providing oversight who could be present in minutes if
56 needed.

1 Dr. Marvin Grendahl was present and addressed the board regarding the problems that can arise from
2 common ophthalmologic surgical procedures and the challenges with co-management of
3 ophthalmologic patients.

6 Dr. Head advised he supports co-management language being included in the unprofessional conduct
7 regulations; however, he does not support the language offered at this meeting because it would
8 significantly, negatively impact the Bush hospitals. He recommended that Dr. Rosen work with Ms.
9 Gallant to revise the language for the regulation. He also noted that he would want to hear from the
10 optometrists about this issue as well.

11 Dr. Rosen stated that his intention in bringing this to the board was not to focus on ophthalmology issues
12 but to take a broader look at this co-management practice in general.

13 Ms. Gallant asked if the board would agree to review proposed language via a mail ballot.

14
15 **MOTION** **BREFFELH moved to have draft language of a new regulation addressing co-**
16 **management be prepared and sent to the board members using a mail ballot.**
17
18 **2nd** **PUCKETT**
19 **VOTE** **6 Yea votes (Head, Breffelh, Duddy, Puckett, Tauriainen, Tsigonis)**
20 **0 Nay votes**
21 **0 Abstentions**
22

23 Dr. Head asked that a draft first be distributed for comment from the board and then prepare a mail
24 ballot to adopt the draft.

25 Dr. Head thanked Drs. Rosen and Grendahl for meeting with the board.

26
27 **AGENDA ITEM** **Physician Health Committee**

28 Dr. Mary Ann Foland met with the board to discuss the work of the Physician Health Committee.

29
30
31 **AGENDA ITEM** **License Application Review**

32
33
34 **MOTION** **TAURIAINEN moved to approve the following physicians for licensure in Alaska:**

Arvanetes, Louis Gregory	Hansen, Amy Louise
Ashley, David George	Hartman, Michael Joseph
Backer, Laura Kay	Ho, Viet Huy
Boltuch, Robert Lawrence	Hooper, Ethel Marie
Bringhurst, Dirk Charles	Howarth, Stephen Thomas
Brittain, Shelley Glenn	Hughes, Robert Milton
Brubaker, Samuel Mummau	Jawadi, Jameela Husain
Crabo, Lars Gustaf	Johnson, Pierre McElroy
Crosier, Jess Erwin	Johnson, Thomas Gary
Dau, Chi Quynh	Kamali, Javid
Davies, Donald Wesley	Lathrop, Tara Dawn
Davis, Mark Cameron	Lian, Eugene June
Debenham, Douglas Ray	Lian, Sungmi
Dern, Theodore Louis	Lockhart, Amy Rachel
Dunn, Catherine Lynn	McBride, Jr., Daniel Scott
Eggleston, Jr., Maurice Keith	McGowan, John David
Eves, Jason Howard	Medford, Beth Ann
Fisher, Mark Frederick	Mego, Thomas Scott
FitzSimon, Denise Irene	Meier, Eric Albert
Ford, Corey Charles	Michel, Steven John

Franze, Ingrid Elisabeth
Gilliam, Jr., Paul Edwin
Haggerty, Marcia Lynn
Hande, Rashmi
Hansen, Amy Louise
Hartman, Michael Joseph
Ho, Viet Huy
Hooper, Ethel Marie
Howarth, Stephen Thomas
Hughes, Robert Milton
Jawadi, Jameela Husain
Johnson, Pierre McElroy
Johnson, Thomas Gary
Kamali, Javid
Lathrop, Tara Dawn
Lian, Eugene June
Lian, Sungmi
Lockhart, Amy Rachel
McBride, Jr., Daniel Scott
McGowan, John David
Medford, Beth Ann
Mego, Thomas Scott
Meier, Eric Albert

Nagaruk, Nora Rose
Newell, Donald Edward
Parshad, Sulekha
Patton, Gurdon Richard
Pendarvis, Raine William
Perkins, Thomas Franklin
Rabbani, Gita Rahnema
Richards, Gail Elaine
Robinson, Gene Lee
Rodriguez Olivencia, Carlos Antonio
Salter, Wallace John
Selland, Brian Lee
Somerson, Lisa Dawn
Spurling, Gregory Robert
Stearley, George Matthew
Strayer, Michael Patrick
Strong, Benjamin Waite
Stucki, Jon Curtis
Topol, Paul Jiri
Tran, Ann Anh
Wiggins, Robert Verne
Yanagida, Masao
Younger, Ross Martin

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2nd
VOTE

BREFFEILH
6 Yea votes (Head, Breffellh, Duddy, Puckett, Tauriainen, Tsigonis)
0 Nay votes
0 Abstentions

MOTION

TAURIAINEN moved to approve the following physicians for licensure pending the completion of their application files:

Chun, Yong Hwan
DeVillez, Richard Louis
Harley, Kenneth Roy

2nd
VOTE

BREFFEILH
6 Yea votes (Head, Breffellh, Duddy, Puckett, Tauriainen, Tsigonis)
0 Nay votes
0 Abstentions

MOTION

TAURIAINEN moved to approve the following doctors of osteopathy for licensure in Alaska:

Covert, Brandon Wade
Hipskind, Jeanette
Placek, Elizabeth Mary
Russo, Scott Michael

2nd
VOTE

PUCKETT
6 Yea votes (Head, Breffellh, Duddy, Puckett, Tauriainen, Tsigonis)
0 Nay votes
0 Abstentions