

1
2
3
DRAFT

4
5
6
7
8
STATE OF ALASKA
DEPARTMENT OF COMMERCE, COMMUNITY, AND ECONOMIC DEVELOPMENT
DIVISION OF CORPORATIONS, BUSINESS, AND PROFESSIONAL LICENSING
STATE MEDICAL BOARD

9
10
October 25 - 26, 2007

11
12
MINUTES OF MEETING

13
14
15
16
By authority of AS 08.01.070(2) and in compliance with the provisions of AS 44.62, a scheduled meeting of the Alaska State Medical Board was held on Thursday and Friday, October 25 - 26, 2007, in the Matanuska Room, Mat-Su Regional Medical Center, Palmer, Alaska.

17
18
19
Thursday, October 25, 2007

20
Roll Call

21
22 Present were: David M. Head, MD, Chair Nancy Puckett
23 Robert A Breffeilh, MD Michael J. Tauriainen
24 John T. Duddy, MD Jean M. Tsigonis, MD
25 Edward A Hall, PA-C

26
27 The board's newest member, Dr. William Resinger was not present.
28

29 Staff Members present were Colleen Wilson, licensing examiner, and Leslie Gallant, the board's
30 executive administrator.
31

32
33
AGENDA ITEM 1 **In the Matter of Mark Joseph Beirne, MD**
34

35 Dr. Head noted that according to the administrative law judge's proposed decision, the board really
36 has no choice but to adopt the ALJ's decision and deny Dr. Beirne's application for a license.

37 Mr. Tauriainen questioned if the board should forever ban him from medicine because of a goof up.
38

39 Dr. Breffeilh stated that Dr. Beirne subverted the concept of what the board stands for.
40

41 Mr. Tauriainen did not agree with the administrative law judge's interpretation of the law regarding the
42 board's inability to re-license Dr. Beirne.
43

1 Dr. Head indicated that he would need a lot more from Dr. Beirne before he would consider returning a
2 license to him. He was guilty of a lot of significant misconduct that would disqualify him from licensure.

3
4 Dr. Duddy agreed with Dr. Breffeilh and felt that the board needed to adopt the ALJ's decision.

5
6 Mr. Tauriainen read 12 AAC 40.965. His concern was that the board would be forever banning a doctor
7 because he did something that the board could sanction for. He was not specifically arguing the
8 Beirne case but was arguing for future cases as well. He felt that was too harsh.

9
10 Ms. Gallant pointed out to the board that the board already denied Dr. Beirne's application for a
11 license. About a year and a half ago, the board interviewed Dr. Beirne and denied his application at
12 that time. He appealed that decision and went to hearing and pled his case before the judge. What
13 the board has before them at this meeting is the judge's decision from that hearing.

14
15 Mr. Tauriainen's concern was that this could be overturned by a judge in an appeal and that it might
16 be unconstitutional. He thought the foundation for the decision is weak.

17
18 Ms. Gallant pointed out that this is the same board, with one exception, who voted to deny Beirne a
19 license a year ago.

20
21 Mr. Tauriainen stated that he was not arguing the question of relicensing Dr. Beirne but that he was
22 arguing with the reasoning behind the judge's decision which seems to him to be grossly unreasonable.

23
24 **MOTION** **BREFFEILH moved to adopt the decision of the administrative law judge in the**
25 **matter of Mark J. Beirne, MD.**
26 **2nd** **HALL**
27 **VOTE** **6 Yea votes (Head, Breffeilh, Duddy, Hall, Puckett, Tsigonis)**
28 **1 No vote (Tauriainen)**
29 **0 Abstentions**

30
31 Dr. Head requested that Ms. Gallant ask the judge if this prohibition in regulation 12 AAC 40.965 is too
32 harsh.

33
34
35 **AGENDA ITEM 2** **In the Matter of Samuel H. Schurig, DO**
36

37
38 Dr. Head summarized for the board members that they already moved to return Dr. Schurig's license to
him under the terms of a memorandum of agreement.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36
37
38

Ms. Gallant clarified that the MOA has not yet been signed by the board. Dr. Schurig submitted the name of a supervising physician at the April meeting; that physician declined to serve in that capacity. Dr. Schurig had not provided the name of a replacement supervising physician. She did receive a fax document from Dr. Schurig's attorney only a day or two previous to the board meeting in which he requested approval for two new physicians. In addition, if Dr. Schurig goes to a remote location such as Delta Junction or to another city like Soldotna, the board needs to know how he intends to comply with all the provisions of the MOA. She advised that the staff has information to offer to the board regarding the proposed physicians that should be considered before it decides whether to approve them. Additional information on this matter was distributed to the board members at the beginning of the day's meeting.

MOTION **TAURIAINEN** moved that in accordance with AS 44.62.310(c) (2), the board go into executive session for the purpose of discussing the matter of Dr. Samuel H. Schurig.

2nd **BREFFEILH**

VOTE **7 Yea votes** (Head, Breffeilh, Duddy, Hall, Puckett, Tauriainen, Tsigonis)
0 Nay votes
0 Abstentions

Off the record at 9:53 am; on the record at 10:17 am.

Dr. Head advised the board there are three issues to be decided:

- 1) consider the MOA;
- 2) consider Dr. Andreasson to be a supervising physician;
- 3) consider Dr. Davidhizar to be a supervising physician.

Dr. Breffeilh moved to approve Dr. Laverne Davidhizar as a supervising physician for Dr. Schurig. The motion was seconded by Dr. Duddy. The motion failed by a vote of 0 Yea votes to seven Nay votes.

MOTION **TAURIAINEN** moved to approve Dr. Andreassen to be a supervising physician for Dr. Schurig and to request that Investigator Lee Strout interview Dr. Andreassen and insure he is fully aware of the conditions of the MOA with Dr. Schurig and to insure he understands the requirements of the supervising physician.

2nd **BREFFEILH**

VOTE **7 Yea votes** (Head, Breffeilh, Duddy, Hall, Puckett, Tauriainen, Tsigonis)
0 Nay votes
0 Abstentions

1
2
3
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36
38

Dr. Head clarified that the board wishes written confirmation from Dr. Andreassen that he fully understands the requirements of a supervising physician and that he agrees to comply with those requirements.

Dr. Schurig advised the board that he would be commuting to Delta Junction from his home in Eagle River and that he would continue with all his appointments with his treatment providers in Anchorage (Wolf and Schultz).

Dr. Head again requested that Mr. Strout obtain Dr. Andreassen's written assurance that he understands the requirements being placed on him as Dr. Schurig's supervisor and with the other provisions of the MOA. It is the board's desire that Dr. Schurig succeed in this endeavor. He cautioned Dr. Schurig to be careful to remain in compliance with all provisions of the MOA.

Dr. Schurig confirmed his understanding of the importance of the MOA and his careful adherence to its provisions.

Ms. Gallant is to notify Dr. Andreassen of the need for his written understanding of the MOA.

The board members thanked Dr. Schurig for meeting with them.

AGENDA ITEM 3 In the Matter of William M. Palmer, MD

Dr. Head was concerned about the amount of the civil fine of this agreement. He would favor suspending the \$2,500 and leaving the fine at \$1,000.

Ms. Gallant explained to the board that the agreement is exactly in compliance with the board's policy for handling such cases as Dr. Palmer's.

Dr. Tsigonis asked if there is information in the renewal that addresses how many hours are needed and what to do if you don't have them.

Ms. Gallant responded that the entire regulations regarding CME are printed in the renewal document and instructions as to what the applicant should do if they do not have the minimum hours.

Dr. Breffeilh advised that Dr. Palmer is a friend of his and he believes the MOA is appropriate.

1 **MOTION** **BREFFEILH moved to approve the MOA.**
2 **2nd** **DUDDY**
3 **VOTE** **7 Yea votes (Head, Breffeilh, Duddy, Hall, Puckett, Tauriainen, Tsigonis)**
 0 Nay votes
4 **0 Abstentions**

5
6
7
8 **NEW AGENDA ITEM** **In the Matter of Lawrence Stanley Jackson, MD**

9
10 Ms. Gallant distributed to the board members the memorandum of agreement with Dr. Jackman which
11 also concerns CME matters. Dr. Jackson could only identify 45.75 hours and was 4.25 hours short of the
12 minimum.

13
14 **MOTION** **HALL moved to approve the memorandum of agreement with Dr. Lawrence S.**
15 **Jackman.**
16 **2nd** **BREFFEILH**
17 **VOTE** **7 Yea votes (Head, Breffeilh, Duddy, Hall, Puckett, Tauriainen, Tsigonis)**
18 **0 Nay votes**
19 **0 Abstentions**

20
21 **AGENDA ITEM 4** **In the Matter of Frederick T. Waller, MD**

22
23 Ms. Gallant explained that Dr. Waller has had to restrict his practice due to personal health issues. Since
24 the board does not enter into verbal agreements, a non-disciplinary memorandum of agreement was
25 prepared and Dr. Waller has signed off on it. His record is clean with no actions.

26
27 **MOTION** **TAURIAINEN moved to approve the memorandum of agreement with Dr. Frederick**
28 **T. Waller.**
29 **2nd** **BREFFEILH**
30 **VOTE** **7 Yea votes (Head, Breffeilh, Duddy, Hall, Puckett, Tauriainen, Tsigonis)**
31 **0 Nay votes**
32 **0 Abstentions**

33
34
35 **AGENDA ITEM 5** **Definition of "Surgery"**

36
37 The board had previously adopted a position on the use of lasers. Dr. John Troxel gave the board a
38 presentation on lasers and it was at that time the board adopted its position. A letter which was

1 received from the American College of Surgeons issued an expanded version of this position. The
2 director of the ACS advised that numerous states and the AMA have adopted this expanded position
3 on the performance of surgery and use of lasers. Ms. Gallant emphasized that this is a board guideline
and not a law.

5
6 Mr. Tauriainen felt that the board has gone far enough with its current position. People get hurt every
7 day by many professionals. It is simply a risk that is taken.

8
9 Dr. Tsigonis was in favor of including the additional language offered by the ACS and liked the idea of
10 making a broader distribution of the board's position.

11
12 **MOTION** **BREFFELH moved to accept the ACS Statement into the board's existing policy**
13 **language on the use of lasers.**

14 **2nd** **HALL**

15 **VOTE** **6 Yea votes (Head, Breffeilh, Duddy, Hall, Puckett, Tsigonis)**

16 **1 No vote (Tauriainen)**

17 **0 Abstentions**
18

19 Following discussion, the board asked that this new position be distributed to the Alaska State Medical
20 Association, to the boards of nursing, chiropractors, and barbers and hairdressers.

21
22
23 **AGENDA ITEM 9** **MICP Scope of Practice Questions**

24
25 As the board prepared to discuss the letter from Dr. David Vastola, Nancy Sanders of the Board of
26 Nursing was connected to the board meeting via telephone.

27
28 Dr. Head noted that the board has addressed this issue in the past on a case by case basis. In those
29 cases, the board requested detailed protocols of what would comprise the arrangement where the
30 paramedics would practice outside the usual scope of practice. He also noted that paramedics do
31 not have the proper training to provide routine care. In his opinion, the occasions where the board has
32 approved paramedics to functions outside their usual scope of practice are situations that required
33 close supervision by sponsoring physicians. He further felt that Dr. Vastola's letter indicates that they are
34 seeking to utilize paramedics as nurses.

35
36 Ms. Sanders felt that as described in Dr. Vastola's letter, the use of the paramedics was actually a
nurse's job. She represented from the nursing community that they would not encourage this practice

1 [using paramedics rather than nurses] but they understand there are some situations that would require
2 it.

3
4 Board members discussed if a medical technician or health aid could provide the services described in
5 Dr. Vastola's letter. One suggestion was that the paramedic under question obtains the health aid
6 training.

7
8 The board requested that Ms. Gallant send a letter to Dr. Vastola describing what has been done in the
9 past [in permitting paramedics to practice outside their normal scope] and to request he provide
10 additional details about the specific situation he references in his letter, perhaps to be present by
11 telephone at the next meeting. The board asked this be returned to at the next meeting for further
12 discussion.

13
14
15 **AGENDA ITEM 6 Full Board Interview – Barbour, Youssef Khaled, MD**

16
17 Dr. Barbour was scheduled to be present for a full board interview but he did not appear. He was
18 contacted by telephone and would appear later in the meeting. He advised he did not get the letter
19 scheduling him for the meeting.

20
21
22 Off the record at 11:23 am; on the record at 1:09 pm.

23
24
25 **AGENDA ITEM 7 Full Board Interview – Zarembo, Claudette Ann, MD**

26
27 Dr. Zarembo was present to discuss her application for an Alaska license with the board. Dr. Head
28 offered to her the opportunity to go into executive session for her interview. She declined the offer.

29
30 Dr. Zarembo advised that she holds three licenses (Colorado, Wyoming and California) and there are
31 no issues with any of them.

32
33 Ms. Gallant reviewed with the board the summary of Dr. Zarembo's application and the processes
34 involved in obtaining additional information for the board's consideration.

35
36 The board discussed with Dr. Zarembo her responses in the application to questions regarding her
37 postgraduate training, her criminal background, her malpractice history, her license history in the state
38 of Colorado including an application withdrawal, and her personal health history. They also discussed

1 her failure to notify the Colorado board about her conviction and her incorrect responses to the two
2 renewals of her Colorado license that asked about criminal convictions.

3
4 Dr. Duddy stated that Dr. Zaremba has been "less than straightforward" in her dealings with the board.
5 He was concerned about her failure to disclose important information in her application and to the
6 Colorado board.

7
8 Dr. Head summarized the case with the opinion that Dr. Zaremba should definitely have responded
9 'yes' to questions 22, 28a, 30a, and 37.

10
11 One point of some discussion was that after advising Dr. Zaremba to withdraw her application, the
12 Colorado board subsequently licensed her and back dated her license to the earlier date. The back
13 dating of the issued license sent a confusing message regarding Colorado's perspective on the
14 application.

15
16 Dr. Breffeilh asked that whatever action the board elected to take, that it not make the action so
17 onerous that SEARHC would find her unemployable. He wanted to avoid using the word
18 "probationary." Dr. Head agreed and suggested that a proposed motion include disciplinary sanctions
19 consistent with past actions.

20
21 **MOTION** **HALL moved to grant a license to Dr. Zaremba with a memorandum of agreement**
22 **to include a \$4,000 civil fine, a reprimand, and a requirement to meet with the**
23 **board at the Juneau meeting [April board meeting].**

24 **2nd** **BREFFEILH**

25 **VOTE** **7 Yea votes (Head, Breffeilh, Duddy, Hall, Puckett, Taurainen, Tsigonis)**

26 **0 Nay votes**

27 **0 Abstentions**

28
29 The board wishes Dr. Zaremba to meet with them at the April meeting [in Juneau] to see how she is
30 doing in Sitka.

31
32 Dr. Head authorized an Anchorage board member to sign off on the MOA on his behalf. Ms. Gallant
33 will have a draft of the MOA sent to Dr. Head before it is executed.

34
35 Ms. Gallant advised Dr. Zaremba to notify the states where she is licensed of the Alaska action
36 immediately. She also noted that this is a formal board action and will be reported to all appropriate
37 authorities and copies will be provided to her states of licensure.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36

AGENDA ITEM 6 Full Board Interview – Barbour, Youssef Khaled, MD

Dr. Barbour appeared to discuss his application with the board.

Dr. Duddy was consulted to review Dr. Barbour's application. He wanted to clarify Dr. Barbour's examination history where he failed Step 3 of the USMLE two times before passing it on the third attempt.

Dr. Barbour advised that he sat for Step 3 before starting his residency program. He also had personal family issues during the times that he was sitting for the examination. He did experience a little confusion with the examination questions. He ultimately scored the highest in his class.

Ms. Gallant confirmed with Dr. Barbour that he was licensed in both Syria and Ohio. He failed to list these licenses in his application. She reminded him to include all his licenses in such applications.

MOTION **HALL moved to grant a license to Dr. Youssef Khaled Barbour, MD.**
2nd **TAURIAINEN**
VOTE **7 Yea votes (Head, Breffellh, Duddy, Hall, Puckett, Tauriainen, Tsigonis)**
0 Nay votes
0 Abstentions

AGENDA ITEM 8 New Regulations Project

The board reviewed the proposed regulations changes in the meeting book.

With regard to regulation 1, changes to 12 AAC 40.405, this was a part of the larger project that changed the physician assistant regulations. This part was redacted out from the larger project and re-written by the regulations attorney, Steve Weaver.

Regarding proposed regulation No. 2, this change to the paramedics' continuing education language was voted on by the board at the July 2006 meeting.

Proposed regulation No. 3 is a new paragraph that is being requested by the staff. This exact regulation appears in the laws of some of the other boards. The additional of this language would give greater weight to the board's decisions on failure to disclose cases. Mr. Tauriainen pointed out that there should

1 be a phrase inserted regarding "the denial or an application for licensure." That proposed language
2 was inserted in the proposed draft.

3
4 Changes to regulation 12 AAC 40.025, No. 4, are housekeeping changes that will add greater clarity to
5 the existing regulation.

6
7 Proposed regulation No. 5 is also a housekeeping change that will make this regulation consistent with
8 other regulations regarding continuing medical education requirements.

9
10 Proposed regulation No. 6 is the regulation that was drafted by the board and ophthalmology
11 representatives to resolve the problem of doctors leaving their post-surgical patients in the care of
12 others who are not physicians.

13
14 Number 7 is a proposal to add a clear statement to the regulations that the performance of
15 independent medical evaluations is the practice of medicine and requires a license. There is another
16 version of this proposed regulation being offered by Dr. Larry Kropp, a pain management specialist,
17 which includes more language to this proposed regulation.

18
19 Dr. Duddy wished to include language that makes IME doctors accountable as this is a true problem for
20 both the patients and their physicians.

21
22 Dr. Breffeilh felt it would be advantageous to include language regarding expert witnesses.

23
24 Dr. Head suggested adopting the shorter version of the proposal and working separately on the expert
25 witness issue.

26
27 Regulation No. 8 in the package is the restoration of a regulation from the physician assistant project
28 that the staff believes was inadvertently dropped. The staff is requesting the board restore this
29 regulation.

30
31 Mr. Hall asked if physician assistants or other midlevels could be added to the proposal No. 6. He
32 wanted to make sure that the regulation did not exclude physician assistants. Drs. Head and Duddy did
33 not believe the regulation would exclude PAs from performing such tasks as designated by their
34 collaborative physicians.

35
36 Dr. Head felt that physician assistants are still covered by the proposed language and that is not
37 necessary to add other language. He felt it should go to public comment as offered.

1 **MOTION** **BREFFELH moved to approve the proposed regulations for public comment**
2 **including reinstating proposed regulation No. 8.**
3 **2nd** **DUDDY**
4 **VOTE** **7 Yea votes (Head, Breffelh, Duddy, Hall, Puckett, Taurainen, Tsigonis)**
5 **0 Nay votes**
6 **0 Abstentions**

7
8 Off the record at 2:44 pm; on the record at 2:57 pm.
9
10

11 **REPORT TO THE BOARD Physician Health Committee**
12

13 Dr. Mary Ann Foland was present to update the board on the activities of the Physician Health
14 Committee. She gave the board an overview of the work of the committee over the years.
15

16 In discussion of the status of clients in the committee, Dr. Foland agreed that five years of probation and
17 monitoring are a good idea and ten years of monitoring for repeat offenders.
18

19 She also advised the board that the committee is currently working on including physician assistants in
20 its program.
21

22
23 **REPORT TO THE BOARD Alaska Family Practice Residency Program**
24

25 Dr. Harold Johnston met with the board to update the board members on the activities of the program.
26 He was also present to correct some misinformation that was given to the board at the April meeting.
27

28 The program is in its tenth year and has graduated 65 physicians, with 32 of those practicing in rural
29 Alaskan communities. Twenty percent of the graduates are practicing in community health centers
30 and 33 percent are practicing in Native health care.
31

32 The board appreciated Dr. Johnston's taking the time to meet with them to inform them of the work of
33 the program.
34
35

36 **AGENDA ITEM 10 Probation Monitoring**
37

38 Mason, Bret L., DO

1
2 Dr. Mason met with the board and discussed his ongoing monitoring. He requested that his monitoring
3 be reduced from weekly testing to something less since he has been on probation for nearly four years.

5 Dr. Head advised that he would have no problem going to a two times a month schedule for testing.
6

7 Dr. Mason advised he is feeling good, has a program for living, and has learned some life lessons. He
8 advised he attends AA meetings at least three times a week and he does 12-step work every day. He
9 also described for the board that in talking with others, he learned that a random testing program of 14
10 tests a year is truly random and works very well. He advised the hospital has dropped their monitoring of
11 him. He also advised the board that for him, monitoring is a very positive experience as it has assisted
12 him in proving his sobriety to others.
13

14 The board appreciated Dr. Mason's appearance and thanked him for attending the meeting.
15

16 The board recessed at 4:45 pm.
17
18

19 **Friday, October 26, 2007**

21 On the record at 9:15 am.
22

23 **Roll Call**
24

25 Present were: David M. Head, MD, Chair Edward A Hall, PA-C
26 Robert A Breffeilh, MD Michael J. Tauriainen
27 John T. Duddy, MD Jean M. Tsigonis, MD
28

29 Absent were Dr. William Resinger and public member Nancy Puckett.
30

31 Staff Members present were Colleen Wilson, licensing examiner, and Leslie Gallant, the board's
32 executive administrator.
33

34 **AGENDA ITEM 10 Probation Monitoring**
35

36 Winczura, John, PA-C

1 Mr. Winczura was present to discuss his probation monitoring with the board. He described the practice
2 where he is currently working in Delta Junction with Dr. Raymond Andreassen.

3
4 Dr. Head offered Mr. Winczura the opportunity to go into executive session; Mr. Winczura declined.

5
6 Dr. Head noted for Mr. Winczura issues of concern; an Etg report returned back positive for Mr.
7 Winczura. Mr. Winczura absolutely denied the possibility that he failed an Etg test. He has read about
8 false positives for such tests.

9
10 Dr. Head advised that it was disturbing to the board to find out about the positive test result and to find
11 out about it so long after it occurred.

12
13 Ms. Gallant advised that the scientist at the testing lab stated that it was a negligible amount of alcohol
14 that was detected. She stated that the matter that caused the most concern to the staff in the office
15 was the inability of the probation monitor to connect with Mr. Winczura by telephone to have him
16 report for the test in September. When they could not reach him on his cell phone, she gave them his
17 home telephone. They advised they left a message on the home phone but did not get a return call.

18
19 Mr. Winczura was very concerned and very annoyed. He stated that he did not get any call on his cell
20 phone. He told the board that Jasmine [Bautista] has been told over and over again that if she does
21 not reach him on his cell phone, to call all his other numbers. She has admitted at times that she did not
22 call him on his cell phone. He was going to obtain his ACS telephone records for his cell phone.

23
24 Dr. Head stated that he wants to verify [from Jasmine Bautista] what numbers are being called for Mr.
25 Winczura's monitoring. It was even more upsetting to him that it was reported that the probation
26 monitor could not reach Mr. Winczura by telephone. The failed test could not be verified. The bigger
27 concern was the inability to reach Mr. Winczura to have him re-test.

28
29 Ms. Gallant confirmed that Martha Mendez, a staff person in the Investigations Unit, was tasked with
30 calling Mr. Winczura and she reported she could not reach Mr. Winczura. She advised she tried his cell
31 phone repeatedly. She [Mendez] was given the home phone and she stated that she left a message
32 on that telephone when no one answered, but she did not receive a call back from that message
33 either.

34
35 Dr. Head stated that a log should be kept by the probation monitors of all testing notifications that can
36 be produced.

37
38 Attempts were made to reach the chief investigator to connect him to the meeting.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36

Mr. Tauriainen asked why his [Winczura's] work phone was not called.

Ms. Gallant stated that it was her understanding that it was Mr. Winczura's preference that his cell phone be used as the primary contact.

Mr. Winczura stated, "Absolutely not," that it was his preference that the monitor starts by calling his home phone first and then to keep calling all other telephones and leave messages at each one. He also stated that there was one occasion, with the nursing board, that he received the message three or four days after the call had been made.

Mr. Hall commented that while he understood Mr. Winczura's anger over this situation, it is Mr. Winczura who is under the memorandum of agreement with requirements. If he had not received a call to test, he should have called in to advise the probation monitor that he had not been notified. He felt it was Mr. Winczura's responsibility to maintain his compliance with the MOA. He should have taken some responsibility in this process.

Mr. Winczura disagreed with that assessment. He acknowledged that while he perhaps should have called in when he hadn't heard from them, they are supposed to be professionals who are supposed to be performing a professional job. They did not call all his phone numbers as he has asked them over and over again to do.

Mr. Hall felt that Winczura should take responsibility for his compliance and his denials are of concern. He questioned why Mr. Winczura would not take the responsibility to follow up with the probation monitor proactively when he had not received a call to report for a test.

At this time, Mr. Winczura stepped away from the meeting and advised he would call his telephone company for their records.

[The record reflects that Mr. Winczura left the room at 9:37 am.]

Dr. Duddy advised that he believes Mr. Winczura regarding the positive test, but that he is still concerned about the anger issue.

Dr. Tsigonis felt that there is a system failure here but that Mr. Winczura should have called in on his own.

1 Mr. Tauriainen asked if the labs don't call when they have a positive. Ms. Gallant agreed that that
2 would have made sense. She was disturbed that she received a written report of a positive test three
3 weeks after the test occurred.

5 Dr. Head stated that the investigators need to keep logs of when they call probationers and the results
6 of the calls and the logs need to be in the board's meeting books.

8 Mr. Tauriainen also felt that Mr. Winczura's work place should have been called in the effort to reach
9 him.

11 Dr. Tsigonis agreed that the investigators need to keep logs of all attempts to contact the probationers.
12 She also asked that the investigators write down the numbers from which they are calling.

14 Dr. Head felt that the board has no choice but to go to a 14 tests per year for Mr. Winczura.

16 **MOTION** **TAURIAINEN** moved to go to 14 random drugs tests each year [once each month
17 with two additional randomly selected tests at any time during the year].

18 **2nd** **BREFFEILH**

19 **VOTE** **6 Yea votes** (Head, Breffeilh, Duddy, Hall, Tauriainen, Tsigonis)

0 Nay votes

0 Abstentions

23 Dr. Head requested that Mr. Winczura return to meet with the board at the January meeting.

26 Donaldson, Brian R., MD

28 Dr. Donaldson met with the board for his annual probation meeting.

30 **MOTION** **TAURIAINEN** moved that in accordance with Alaska Statute 44.62.310 (c)(2) the
31 board go into executive session for the purpose of discussing the matter of Brian
32 R. Donaldson, MD.

33 **2nd** **BREFFEILH**

34 **VOTE** **6 Yea votes** (Head, Breffeilh, Duddy, Hall, Tauriainen, Tsigonis)

0 Nay votes

0 Abstentions

38 Off the record at 9:56 am; [no time stated].

1
2 Dr. Head commented that Dr. Donaldson could appear before the board at any time he wishes, that
3 he should just let Ms. Gallant know when he wishes to be on the agenda.

4
5 **MOTION** **TSIGONIS moved to leave Dr. Donaldson's memorandum of agreement as it is**
6 **currently in effect at this time.**

7 **2nd** **HALL**

8 **VOTE** **6 Yea votes (Head, Breffeilh, Duddy, Hall, Tauriainen, Tsigonis)**

9 **0 Nay votes**

10 **0 Abstentions**

11
12 Killebrew David S., MD

13
14 Dr. Head offered executive session to Dr. Killebrew but he declined.

15
16 Dr. Killebrew joined the board to discuss his current status in probation. He advised that he enjoys work,
17 has collegial relationships, and feels good about what he is doing. He continues to be monitored by the
18 PHC and is tested weekly with Etg testing. He stated that there have been times when he has not been
19 called. When that happens, he just goes in for the test.

20
21 The board appreciates that he goes in proactively when he has not been called by the Division.

22
23 Dr. Head asked Dr. Killebrew if he would have any objection to being tested 14 times each year rather
24 than weekly. Dr. Killebrew said it would be good for him as the tests are \$70 each, but he is willing to be
25 monitored as the board directs.

26
27 Board members agreed that Dr. Killebrew could go to being tested 14 times a year, once each month
28 with two random tests added.

29
30 The board thanked Dr. Killebrew for appearing.

31
32 **MOTION** **BREFFEILH moved to go to 14 tests a year for Dr. Killebrew.**

33 **2nd** **DUDDY**

34 **VOTE** **6 Yea votes (Head, Breffeilh, Duddy, Hall, Tauriainen, Tsigonis)**

35 **0 Nay votes**

36 **0 Abstentions**

37
38 Off the record at 10:28 am; on the record at 10:37 am.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36
37
38

Gleason, Timothy A., DO

Dr. Gleason and his attorney were present to meet with the board.

Dr. Head offered Dr. Gleason the opportunity to have his case discussed in executive session.

MOTION **TAURIAINEN** moved that in accordance with Alaska Statute 44.62.310 (c)(2) the board go into executive session for the purpose of discussing the matter of Timothy A. Gleason, DO.

2nd **HALL**

VOTE **6 Yea votes** (Head, Breffellh, Duddy, Hall, Tauriainen, Tsigonis)
0 Nay votes
0 Abstentions

Off the record at 10:40 am; on the record at 11:15 am.

MOTION **TAURIAINEN** moved that Dr. Gleason will send a letter to the board, addressed to Ms. Gallant, that he will not practice or see patients. Should he violate that letter of agreement, the board will suspend his license immediately.

2nd **HALL**

VOTE **6 Yea votes** (Head, Breffellh, Duddy, Hall, Tauriainen, Tsigonis)
0 Nay votes
0 Abstentions

Glenn S. Hartig, DO

Dr. Hartig was present to meet with the board for his annual probation monitoring meeting.

MOTION **TAURIAINEN** moved that in accordance with Alaska Statute 44.62.310 (c)(2) the board go into executive session for the purpose of discussing the matter of Glenn S. Hartig, DO.

2nd **HALL**

VOTE **6 Yea votes** (Head, Breffellh, Duddy, Hall, Tauriainen, Tsigonis)
0 Nay votes
0 Abstentions

1 The board made no changes to Dr. Hartig's current probation.

2

3

Silkey, Jacqueline S., MD

5

6 Dr. Silkey was present to meet with the board.

7

8 **MOTION** **TAURIAINEN** moved that in accordance with Alaska Statute 44.62.310 (c)(2) the
9 **board go into executive session for the purpose of discussing the matter of**
10 **Jacqueline S. Silkey, MD.**

11 **2nd** **BREFFEILH**

12 **VOTE** **6 Yea votes** (Head, Breffeilh, Duddy, Hall, Tauriainen, Tsigonis)

13 **0 Nay votes**

14 **0 Abstentions**

15

16 Off the record at 11:37 am; on the record at 11:47 am.

17

18 **MOTION** **DUDDY** moved to grant a license to Jacqueline S. Silkey, MD, under the terms of
19 **the memorandum of agreement currently in place.**

20 **2nd** **HALL**

21 **VOTE** **6 Yea votes** (Head, Breffeilh, Duddy, Hall, Tauriainen, Tsigonis)

22 **0 Nay votes**

23 **0 Abstentions**

24

25 Perino, Nina, PA-C

26

27 Ms. Perino was present for her probation meeting with the board.

28

29 **MOTION** **TAURIAINEN** moved that in accordance with Alaska Statute 44.62.310 (c)(2) the
30 **board go into executive session for the purpose of discussing the matter of Nina**
31 **Perino, PA-C**

32 **2nd** **BREFFEILH**

33 **VOTE** **6 Yea votes** (Head, Breffeilh, Duddy, Hall, Tauriainen, Tsigonis)

34 **0 Nay votes**

35 **0 Abstentions**

36

37 Off the record at 11:39 am; on the record at 11:52 am.

38

1 The board thanked Ms. Perino for appearing.

2

3 The board recessed at 11:57 am; returned on the record at 12:36 pm.

5

6 Winczura, John, PA-C

7

8 Mr. Winczura rejoined the meeting.

9

10 Dr. Head advised Mr. Winczura that after he left the meeting earlier, the board discussed his current
11 drug testing schedule and the process involved. He advised that the board is going to a program of
12 fourteen tests a year, one each month with two additional tests, all to be done randomly.

13

14 Mr. Winczura first apologized to the board for leaving the meeting earlier. He also advised that he
15 could do a tickler in his calendar for testing; in the past, it has been as many as 50 days between tests.

16

17 Mr. Tauriainen emphasized that Mr. Winczura's appearances before the board are because of things he
18 has done. He added that he is glad Mr. Winczura returned to the meeting.

19

20 Dr. Head stated that there is a shared responsibility between the probation monitors and the individuals
21 under probation. He does not know how the positive test result happened, but he really wants Mr.
22 Winczura to succeed in recovery. He believes the positive test was positive for erroneous reasons. He
23 cautioned Mr. Winczura to be very careful what he eats and drinks and take every precaution to be
24 successful in this program.

25

26 Dr. Breffeilh agreed and added that Mr. Winczura should not be using ethanol based hand cleaners.

27

28 Mr. Winczura assured the board that he would not drink but he stated that he is an alcoholic; he has
29 been sober for seven years. He wants to satisfy the board's concerns. He actually had another reason
30 for appearing before the board at this meeting: he wished to petition the board to vacate his MOA.
31 Under the circumstances of the meeting today, he does not expect that to happen. But, he will be
32 back at the next meeting to request the MOA be lifted. He is having difficulty getting a full-time job
33 because of the MOA. He is sober and he has demonstrated his resolve. He asked the board not
34 penalize him for saying what he thinks. He believes he has complied with the all the board's requests.
35 He wishes to go into private practice and start his own business. His current collaborative physician has
36 agreed to be his collaborative physician in this endeavor. The problem is that his collaborative
physician is in Delta Junction; his office would be in Eagle River or Anchorage. That would violate the

1 restriction against remote practice. He would ask the board to consider allowing him to work remote
2 from the collaborating physician.

3
4 Mr. Tauriainen suggested that over the next couple of meetings, rather than asking the board to release
5 him from his agreement, Mr. Winczura should look for modifications to make his employability easier
6 while still keeping the board comfortable with him. The board wants him to be able to pursue his
7 vocation.

8
9 Dr. Head commented that before he would consider modifying the MOA, there should be a time when
10 the board sees him for probation monitoring where the board does not have issues or difficulties
11 contacting him or times when he does not get angry or upset with the board. That has been his history
12 for the entire six years that Dr. Head has known him.

13
14 Mr. Winczura felt that his anger was justifiable.

15
16 Dr. Head stated that his opinion is his but the board will judge him on his actions and how he presents
17 himself to the board. They have no other choice. Mr. Winczura continues to blame others for problems
18 that are his alone. It is not the board's fault that he cannot get a job in Anchorage; it is not the board's
19 fault that he is under a memorandum of agreement.

20
21 Mr. Winczura stated that he is not blaming the board but telling them what the situation is. He knows
22 this situation is because of things he has done. He created the situation and he has presented to the
23 board ways that might help him to be successful. He is blaming the Investigation Unit because they did
24 wrong [by not reaching him for testing].

25
26 Dr. Breffeilh asked for the definition of remote practice. Ms. Gallant responded that the physician
27 assistant regulations define remote practice as the practice being 30 miles or more away from the
28 collaborating physician by road.

29
30 Dr. Tsigonis asked the reason behind the prohibition against remote practice. It was explained that
31 some of Mr. Winczura's problems occurred at a remote practice. The restriction against remote
32 practice affords Mr. Winczura greater supervision by his collaborating physician.

33
34
35 **MOTION** **BREFFEILH moved to keep Mr. Winczura's memorandum of agreement as it stands**
36 **with a revision to 14 EtG random tests annually, one each month with two**
37 **additional tests during the year.**

38 **2nd** **TAURIAINEN**

1 **VOTE** **6 Yea votes (Head, Breffeilh, Duddy, Hall, Tauriainen, Tsigonis)**
2 **0 Nay votes**
3 **0 Abstentions**

5 Mr. Winczura asked if it would be acceptable for his alternate collaborating physician to be in
6 Anchorage with his primary in Delta Junction.

8 Dr. Head concurred that the question of remote practice was a big concern from the beginning, the
9 concern of Mr. Winczura practicing unsupervised. He noted that at Mr. Winczura's request, the board
10 lifted the requirement that there be constant on-site supervision. Now, he wants to go even further and
11 allow that the physician can be remote from Mr. Winczura's practice.

13 Dr. Duddy expressed his concerns that this is another request to chip away at the requirements of the
14 MOA.

16 Ms. Gallant read from the regulation that defines remote practice and her interpretation that the
17 regulation references the primary physician.

19 Mr. Hall suggested that if he could find an alternate in Anchorage, could he switch that alternate to the
20 primary position.

23 **AGENDA ITEM 13 Special Application Review – Okuley, Sylvia**

25 Dr. Head offered to Ms. Okuley the opportunity to go into executive session.

27 **MOTION** **TAURIAINEN moved that in accordance with Alaska Statute 44.62.310 (c)(2) the**
28 **board go into executive session for the purpose of discussing the matter of Sylvia**
29 **Okuley, PA-C**

30 **2nd** **HALL**

31 **VOTE** **6 Yea votes (Head, Breffeilh, Duddy, Hall, Tauriainen, Tsigonis)**
32 **0 Nay votes**
33 **0 Abstentions**

35 Off the record at 1:04 pm; on the record at 1:28 pm.

37 **MOTION** **BREFFEILH moved to grant an unrestricted license to Sylvia Okuley, PA-C.**

1 2nd **TAURIAINEN**
2 **VOTE** **6 Yea votes (Head, Breffellh, Duddy, Hall, Tauriainen, Tsigonis)**
3 **0 Nay votes**
 0 Abstentions

4
5
6
7 **AGENDA ITEM 11 In the Matter of Gary S. Gerlay, MD**

8
9 Ms. Gallant directed the board's attention to the minutes from the July meeting where the board gave
10 direction regarding testing for Dr. Gerlay. He was ordered by the board to undergo a full psychiatric
11 examination by doctors of the board's choosing, that there be supervised drug tests, all to be submitted
12 to the administrative law judge to be considered as additional evidence in Gerlay's case. The New
13 Mexico board was contacted to recommend experts located in that state to conduct these tests. They
14 did not offer any referrals but only suggested we contact the physician monitoring program there. The
15 program does perform such evaluations. No additional time was spent seeking evaluators in New
16 Mexico. The psychologists at Pacific Psychological Services in Seattle were contacted to perform the
17 evaluations for Dr. Gerlay. They have done much work for both the Alaska and Washington boards. A
18 letter was sent to Dr. Gerlay advising him to make appointments with them for the evaluations.

19
20 Dr. Gerlay returned the letter and objected to going to Seattle for the evaluations. He advised he
21 would get his own evaluations in New Mexico. The state's attorney sent the letter to the administrative
22 law judge.

23
24 Judge Stanley granted the state's motion on rule of law that reiterated the board's authority to
25 designate examining doctors. He advised that the burden is on Dr. Gerlay to satisfy the order of the
26 board. Since Judge Stanley has given his ruling on Dr. Gerlay's complaint, no further action will be
27 taken on the part of the board's staff.

28
29
30 **NEW AGENDA ITEM In the Matter of Elisabeth-Anne Cole, MD**

31
32 The board reviewed the Memorandum in Support of Motion for Default and Motion for Default
33 Judgment. Ms. Gallant summarized Dr. Cole's case for the board. Dr. Cole has failed to respond to the
34 Accusation that was filed against her on May 11, 2007.

35
36 **MOTION TSIGONIS moved to approve the Judgment by Default in the matter of Elisabeth-**
 Anne Douce Cole, MD requested by the Division.

37
38 2nd **HALL**

1 **VOTE** **6 Yea votes (Head, Breffeilh, Duddy, Hall, Tauriainen, Tsigonis)**
2 **0 Nay votes**
3 **0 Abstentions**

4
5
6 **AGENDA ITEM 13** **Reports, Minutes, Ethics, Budget**
7

8 Ethics

9 No board members or staff had any ethics or conflicts of interest issues to disclose

10
11 Reports

12 The board members reviewed the reports submitted by the licensing examiners and the investigators.

13
14 Minutes

15
16 **MOTION** **HALL moved to approve the minutes of the July 19 – 20, 2007 meeting.**

17 **2nd** **BREFFEILH**

18 **VOTE** **6 Yea votes (Head, Breffeilh, Duddy, Hall, Tauriainen, Tsigonis)**

19 **0 Nay votes**

20 **0 Abstentions**
21

22 Budget

23 The board reviewed the budget and had no comment.
24
25

26 **AGENDA ITEM 13** **Special Application Review**
27

28 Ralph E. Adams, MD

29
30 Board members discussed the situation Dr. Adams is in with his licenses in several states. Due to personal
31 health reasons, his license in Oregon was suspended. He had surgery that restored his vision but in the
32 meantime, other states where he is licensed piggy-backed on the action in Oregon. He is trying to sort
33 all these licensing issues out in the states in which he wants to continue to practice.
34

35 **MOTION** **BREFFEILH moved to restore an unrestricted license to Ralph E. Adams, MD.**

36 **2nd** **TAURIAINEN**

37 **VOTE** **6 Yea votes (Head, Breffeilh, Duddy, Hall, Tauriainen, Tsigonis)**

38 **0 Nay votes**