

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

STATE MEDICAL BOARD

**MINUTES OF MEETING
May 12-13, 2011**

By authority of AS 08.01.070 (2) and in compliance with the provisions of AS 44.62, a regularly scheduled meeting of the Alaska State Medical Board was held on Thursday and Friday, May 12-13, 2011, in Anchorage, Alaska.

Thursday, May 12, 2011

Call to Order

The meeting was called to order by Dr. Jean Tsigonis, Chair, at 9:02 a.m.

Roll Call

Board members present:

Jean M. Tsigonis, MD, Chair	David J. Powers, MD
John S. Cullen, MD	William W. Resinger, MD
Edward A. Hall, Physician Assistant	Michael J. Tauriainen, Public Member
Kathleen Millar, Public Member	

Board member David A. Miller, MD, arrived at 9:12 a.m.

Board staff present:

Debora Stovern, Executive Administrator
Michelle Johnston, Licensing Examiner.

Agenda Item 1 Review Agenda

The Board reviewed the agenda. Ms. Stovern noted the addition of three Consent Agreements to be considered under Agenda Item 4 Board Actions: In the matter of cases numbered 2011-000385, 2010-000511, and 2850-05-003. She also noted an additional item of Correspondence under Agenda Item 16, and consideration of the draft minutes from the February 2011 teleconference under Agenda Item 18.

Agenda Item 2 Board Business

Announcements

The Chair reported that the July meeting will be in Fairbanks rather than Dutch Harbor.

Ethics Reporting

There were no ethics conflicts to report.

Election of Officers

In accordance with Alaska Statute (AS) 08.64.070, the Board elects a president and secretary from among its members; Board policy is to have an annual election. Currently, Dr. Tsigonis serves as president and Mr. Hall serves as secretary.

It was noted that the public member seat held by Mr. Tauriainen and the physician member seat held by Dr. Tsigonis will be expiring in March 2012 and are not eligible for reappointment. In addition, the physician member seats held by Drs. Cullen, Miller, and Powers will be expiring in March 2012 and they are eligible for reappointment. It was recommended that they notify Boards and Commissions if they are interested reappointment to the Board.

Dr. Tsigonis and Mr. Hall agreed to continue in their current positions for another year, with the intention of moving Mr. Hall into the position of Board president when Dr. Tsigonis ends her term.

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

RESOLVED to reappoint the current slate of officers.

Agenda Item 3 Full Board Interviews

Deepak Kumar, MD – Tab A

Dr. Kumar was present to discuss his license application with the board.

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

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

The Board entered executive session at 9:16 a.m.; staff remained for the session.

The Board went back on the record at 9:28 a.m.

Upon a motion duly made by Mr. Hall, seconded by Mr. Tauriainen, and approved by roll call vote, it was:

RESOLVED to grant an unrestricted license to Deepak Kumar, MD.

Roll Call Vote:

**Dr. Cullen – Yea
Mr. Hall – Yea
Ms. Millar – Yea
Dr. Miller - Yea
Dr. Powers – Yea
Dr. Resinger – Yea
Mr. Tauriainen – Yea
Dr. Tsigonis – Yea**

Mandy Grinnell, MICP – Tab B

Ms. Grinnell was present to discuss her mobile intensive care paramedic license application with the board.

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

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

The Board entered executive session at 9:32 a.m.; staff remained for the session.
The Board went back on the record at 9:36 a.m.

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

RESOLVED to grant an unrestricted MICP license to Mandy Grinnell.

Roll Call Vote:

**Dr. Cullen – Yea
Mr. Hall – Yea
Ms. Millar – Yea
Dr. Miller - Yea
Dr. Powers – Yea
Dr. Resinger – Yea
Mr. Tauriainen – Yea
Dr. Tsigonis – Yea**

Agenda Item 3 Board Actions

Investigative staff, including Senior Investigator Susan Winton, Investigator David Newman, and Investigator Lee Strout, joined the meeting to present proposed Consent Agreements for Board consideration.

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

RESOLVED to enter into executive session in accordance with AS 44.62.310(c) for the purpose of discussing Case No. 2800-08-023.

The Board entered executive session at 9:54 a.m.; staff remained for the session.
The Board went back on the record at 10:04 a.m.

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

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

The Board entered executive session at 10:05 a.m.; staff remained for the session.
The Board went back on the record at 10:42 a.m.

In the Matter of Case No. 2800-08-023 – Tab C

Investigator David Newman presented the proposed consent agreement from his investigation of alcohol-related practice issues. Although this locum tenens permit lapsed in November 2008, to resolve the investigation, the parties negotiated a disciplinary consent agreement that included conditions and probation for any future license application. Dr. Resinger recused himself from the vote because he was the consulting Board member during the investigation.

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

RESOLVED to adopt the consent agreement, Case No. 2800-08-023, signed by Marcus Rey Williams.

Roll Call Vote:

Dr. Cullen – Yea
Mr. Hall – Yea
Ms. Millar – Yea
Dr. Miller – Yea
Dr. Powers – Yea
Dr. Resinger – Recused
Mr. Tauriainen – Yea
Dr. Tsigonis – Yea

Mr. Tauriainen noted his objection to the wording of the “Compliance with Laws” section, which has prompted his “no” vote for previous cases.

The adoption order was signed by the Chair.

In the Matter of Case No. 2802-10-001 – Tab D

Investigator Lee Strout presented the proposed consent agreement from his investigation of prescription-related practice issues. The signed consent agreement provides for sanctions consistent with past similar violations.

Mr. Tauriainen again noted his objection to the wording of the “Compliance with Laws” section, which has prompted his “no” vote for previous cases. The Board also discussed the wording of the “Reprimand” section, which stated that a public reprimand be issued against the licensee but did not include a detailed statement of reprimand. Mr. Hall recused himself from the vote because he had a previous employment relationship with Dr. Demers.

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

RESOLVED to adopt the consent agreement, Case No. 2802-10-001, signed by Mary P. Demers, DO.

Roll Call Vote:

Dr. Cullen – Yea

Mr. Hall – Recused
Ms. Millar – Yea
Dr. Miller - Yea
Dr. Powers – Yea
Dr. Resinger – Yea
Mr. Tauriainen – Yea
Dr. Tsigonis – Yea

The adoption order was signed by the Chair.

In the Matter of Case No. 2011-000385 – Tab E

Investigator David Newman presented the proposed consent agreement from his investigation of alcohol issues not related to his practice. The signed nondisciplinary consent agreement provides for a probation period in order to monitor the licensee's progress. Dr. Resinger recused himself from the vote because he was the consulting Board member during the investigation.

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

RESOLVED to adopt the consent agreement, Case No. 2011-000385, signed by Peter Osterbauer, MD.

Roll Call Vote:

Dr. Cullen – Yea
Mr. Hall – Yea
Ms. Millar – Yea
Dr. Miller - Yea
Dr. Powers – Yea
Dr. Resinger – Recused
Mr. Tauriainen – Yea
Dr. Tsigonis – Yea

The adoption order was signed by the Chair.

In the Matter of Case No. 2010-000511 – Tab E

Senior Investigator Susan Winton presented the proposed consent agreement from her investigation of practice by a physician assistant without properly documenting a collaborative plan with the Division. The signed consent agreement provides for sanctions consistent with past similar violations. Drs. Resinger and Tsigonis recused themselves from the vote because they were consulting Board members during the investigation.

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

RESOLVED to adopt the consent agreement, Case No. 2010-000511, signed by Michael J. Pomeroy.

Mr. Tauriainen offered an amendment to the motion to remove the reprimand language from the consent agreement; however, the amendment was not accepted by the maker of the motion.

Roll Call Vote:

Dr. Cullen – Yea
Mr. Hall – Yea
Ms. Millar – Yea
Dr. Miller - Yea
Dr. Powers – Yea
Dr. Resinger – Recused
Mr. Tauriainen – No
Dr. Tsigonis – Recused

The adoption order was signed by the Chair.

In the Matter of Case No. 2850-05-003 – Tab E

Assistant Attorney General Robert Auth and Chief Investigator Quinten Warren joined the meeting to present a consent agreement in the matter of Ann-Marie Yost, MD. Mr. Auth explained that adoption of the consent agreement would settle an ongoing lawsuit by Dr. Yost which challenges the Board's adoption of a memorandum of agreement (MOA) with Dr. Yost in 2005. Although she signed the MOA, which includes a waiver of her right to a hearing on the matter, she claimed that the investigator promised that she could address the Board when they considered adoption of the MOA. The investigator maintains that Dr. Yost and her attorney could be present for the Board action, but that an address was not promised. She also had objections to the way the 2005 MOA was reported to the National Practitioner Data Bank, and believes that the wording has a stronger negative implication than the actual wording of the MOA.

The consent agreement provides for Board reconsideration of the 2005 MOA, a 30-minute address to the Board by Dr. Yost and/or her attorney, and dismissal of the lawsuit. Mr. Auth reported that the April 2011 scheduled trial had been continued pending the outcome of this Consent Agreement.

The Board noted that adoption of the consent agreement would represent a settlement of the ongoing dispute and would in no way set a new precedent where licensees could address the board even though they are signing a consent agreement in lieu of the hearing process. They also noted that they would be listening to the address by Dr. Yost and genuinely reconsidering the issues.

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

RESOLVED to adopt the consent agreement, Case No. 2850-05-003, signed by Ann-Marie Yost, MD.

Roll Call Vote:

Dr. Cullen – Yea
Mr. Hall – Yea
Ms. Millar – Yea
Dr. Miller - Yea
Dr. Powers – Yea
Dr. Resinger – Yea
Mr. Tauriainen – Yea
Dr. Tsigonis – Yea

The adoption order was signed by the Chair. The address by Dr. Yost was scheduled as the first order of business on the Agenda at 9:00 a.m. on Friday, May 13, 2011, to be followed by Board reconsideration of the 2005 MOA.

Agenda Item 5 Investigative Unit

Investigative Report

Ms. Winton reviewed the investigative report she had provided to the Board. The report included 32 open medical cases, 15 closed medical cases, 7 open PA cases, and 3 license actions. She also reported that they have closed most of the older cases and are closing more cases than opening.

Monitoring Impaired Practitioners

Ms. Winton reported that she, Mr. Newman, and Ms. Stovern had met with Dr. Mary Ann Foland and Vee Anderson regarding the Physician Health Committee (PHC) of the Alaska State Medical Association. The discussion was regarding duplicate monitoring requirements for impaired practitioners by both Board-ordered probation conditions and PHC contract conditions. Although the Board cannot delegate to the PHC its responsibility or authority to impose sanctions for violations, it can allow practitioners to request that their test results be provided to both the Board investigator and the PHC. This could result in less duplication in testing and cost.

The Board had no objection to a trial period for duplicate results from random testing.

Review Disciplinary Guidelines

The current Disciplinary Guidelines were included in the agenda packet for review by Board members. It is one of the tools used by investigators, covering various complaint categories and proposed disciplinary sanctions. The Board had previously determined to review the guidelines on a regular basis (at least annually) and edit or update it as necessary. Board members will submit suggestions for revisions to Ms Stovern and she will compile them for review by the full Board.

Agenda Item 6 Malpractice Case Review

The Board reviewed the following malpractice reports: Case Number 3AN-08-8548-CI, 3AN-09-8214-CI, PA-10-1243-CI, 3KE-09-105-CI, CV-08-2569, 06-L-243, 2008-14198-CIDL, 09-CI-6780, 2008 [case not filed], 3AN-077447, DCLP-3035, CIV-2008-1202-C, 2007-81, 09-1-0746-04, 039589, CR-08-0268, 2005-0809, 2005-34257, 08-4912, and 09/30.

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

RESOLVED to accept the malpractice reports with no further action.

Ms. Stovern asked the Board to clarify its intent regarding malpractice reporting requirements individual physicians when a case was paid in the name of a provider organization (i.e., hospital or clinic). AS 08-64.345 requires reporting for damages "paid by or on behalf of the licensee" and 12 AAC 40.930(a) requires reporting for damages of "each malpractice claim or action against the licensee." It was noted that it is common for all physicians and providers to be named in a lawsuit, and to dismiss those that are not involved in causing the issue or injury. However, there are some settlements that name only the providing organization, and not the name(s) of individual physicians. The Board determined that, in such a case, the physician providing the care that was

causal to the issue or injury would have an obligation to report, even if they were not specifically named.

Recess for lunch

The Board recessed for lunch at 11:59 a.m.

The Board resumed the meeting at 1:12 p.m. All attending Board members and staff were present.

Agenda Item 7 Full Board Interviews

Tonya Townsend, DO – Tab F

Dr. Townsend was not present to discuss her license application with the board.

Allen Rothpearl, MD – Tab G

Dr. Rothpearl had contacted Ms. Stovern prior to the meeting to reschedule his interview with the board for the next meeting.

Leroy Neal Keene – Tab H

Mr. Keene was present to discuss his physician assistant application with the board.

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

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

The Board entered executive session at 1:54 p.m.; staff remained for the session.

The Board went back on the record at 2:06 p.m.

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

RESOLVED to grant an unrestricted physician assistant to Leroy Neal Keene.

Roll Call Vote:

Dr. Cullen – Yea

Mr. Hall – Yea

Ms. Millar – Yea

Dr. Miller - Yea

Dr. Powers – Yea

Dr. Resinger – Yea

Mr. Tauriainen – Yea

Dr. Tsigonis – Yea

Agenda Item 8 In the Matter of Gary Zientek, MD

Dr. Zientek was present to discuss with the Board his request to reduce or remove conditions placed on his license under his October 2009 Consent Agreement. Investigator Jasmin Bautista joined the meeting to report on his compliance with the agreement.

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

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

The Board entered executive session at 2:08 p.m.; staff remained for the session.
The Board went back on the record at 2:25 p.m.

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

RESOLVED to discontinue license conditions and grant Gary Zientek, MD an unrestricted license.

Roll Call Vote:

**Dr. Cullen – Yea
Mr. Hall – Yea
Ms. Millar – Yea
Dr. Miller – Yea
Dr. Powers – Yea
Dr. Resinger – Yea
Mr. Tauriainen – Yea
Dr. Tsigonis – Yea**

Agenda Item 9 Physician/Pharmacist Cooperative Practice Agreement(s)

The Board reviewed a Cooperative Agreement submitted by Dr. Michael Fitch and Pharmacist Jeffrey James Gaarder. The Board determined that the protocol included in the agreement was actually the practice of medicine, related to the treatment of complex medical conditions, which should be in a clinical setting in the care of a physician, nurse practitioner, or physician assistant.

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

RESOLVED to deny the cooperative agreement proposed by Dr. Fitch and Jeffrey Gaarder.

The Board also noted that the protocol submitted under this agreement was titled “Collaborative Practice Agreement.” In accordance with Professional Regulation 12 AAC 40.983(l), a cooperative practice agreement is “an agreement between a physician and a pharmacist by which a physician authorizes the pharmacist to manage a patient’s medication therapy as specified in the agreement.” In accordance with 12 AAC 40.990(a)(4), a collaborating physician is a licensed

physician or osteopath “who enters into a consultative relationship with a nonphysician health care provider who undertakes the practice of medicine, medical diagnosis and treatment.” The Board determined that the title inappropriately used the term “collaborative” instead of “cooperative.”

Agenda Item Public Comment Forum

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

Agenda Item 10 Discuss Statutes/Regulations

Criminal History Records – Tab I

The Board had previously considered an application requirement for criminal history records. They tabled the discussion, pending further research regarding the number of other states requiring background checks, the average cost of a criminal history check, and FSMB research on the issue. After reviewing this information they determined they are not interested in pursuing a change at this time.

Foreign Medical Graduates – Tab J

The Board reviewed the licensing requirements for foreign medical graduates. In accordance with Professional Regulation 12 AAC 40.016, those applicants are required to be a graduate of a medical school approved by the California Medical Board, as well as either completed a three-year residency or completed three years of active, licensed medical practice in another state. The Board had previously considered replacing these requirements with a simple ECFMG (Education Commission for Foreign Medical Graduates) certification requirement. It was noted that the FSMB is researching this issue and gave a preliminary update at the annual meeting in April. The FSMB expects to compile their data into a comprehensive report for the 2012 meeting. The issue was tabled until the FSMB final report is available.

“Housekeeping” Regulations – Tab K

The Board considered clarifying regulations regarding the following:

- In accordance with Professional Regulation 12 AAC 40.350, mobile intensive care paramedics are required to complete 60 classroom or clinical hours of continuing medical education in order to qualify for license renewal. The board was interested in considering allowing some of those hours to be completed by internet, correspondence, or other distance education. Mr. Hall and Ms. Stovern volunteered to work on a draft for Board consideration.
- In accordance with Professional Regulation 12 AAC 40.400, a physician assistant must have a current certification issued by the National Commission on Certification of Physician Assistants (NCCPA), and one of the requirements to qualify for licensure is to submit a “certified copy” of the certification. The Division recommended changing the requirement to a “verification” of the certification. The Board concurred with that recommendation. They also discussed the assessment process for physician assistants and were interested in changing that process. Mr. Hall and Ms. Stovern volunteered to work on a draft for Board consideration.

- Patient records retention: In accordance with Professional Regulation 12 AAC 40.967(10), patient medical records must be maintained “for at least seven years from the date of creation of the record.” The Board determined to clarify the requirement by changing it to read “for at least seven years from the date of the last entry.”

These changes will be included in a future regulations project.

Update on legislation re: military courtesy licenses

The Division has been cooperating with the sponsor of House Bill 28, which will allow a military spouse to obtain an expedited temporary courtesy license in their field of practice (as long as they meet the current license requirements) and will exempt deployed military personnel from fees and requirements for license renewal. The Division will be drafting regulations to implement these provisions. The final bill, which passed the House and Senate in April and is awaiting transmittal to the Governor, was included in the Board packet for further review.

Agenda Item 11 Review Board Documents

Board Policies and Procedures

The Board has established a number of policies and procedures throughout the years, which had been compiled in a document by the previous Executive Administrator. During a recent Legislative audit, it was suggested that the Board review them periodically for update or revision, as may be necessary. Ms. Stovern will provide the policies and procedures in a booklet form for reference at Board meetings. The Board determined to review them annually.

The Board reviewed Policy 1-9 regarding Board member participation in professional associations, implemented in April 1995. The Board determined that simple membership in professional organizations by Board members is not a conflict; however, some officer positions may be a conflict. The determined to make the following revision:

It is the position of the Alaska State Medical Board that it may be a conflict of interest for a medical board member to be an officer of the Alaska State Medical Association (or other professional organization) or to serve as a member of the Physicians Health Committee, the Disciplinary Committee, or the Grievance Committee of those organizations. A board member has an obligation to disclose any potential conflict of interest to the board at the time of any vote.

Dr. Cullen recused himself from the vote because he is currently an officer of the Alaska Academy of Family Physicians.

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

RESOLVED to revise the policy as read into the record.

The Board reviewed Policy 1-26 regarding nondisclosure of licenses on an initial application. They reaffirmed the policy, which allows for an applicant to “forget” no more than two states of licensure, as long as the licenses are clear. Those applicants will be sent a cautionary letter from the Executive Administrator. Failure to disclose more than two states will result in a civil fine, and failure to disclose any license with investigatory history or board action will be referred to investigations for further inquiry and action.

Application Checklists

In accordance with Professional Regulation 12 AAC 40.058, the Executive Administrator has the authority to approve permits that meet the requirements of the appropriate checklist adopted by the Board. Ms. Stovern has been working on updates to the checklists; the in-progress drafts were included in the Board packet for further review and comment by Board members. Once the revisions are finalized, they will be adopted by the Board under regulation.

The meeting was recessed at 4:01 p.m.

Friday, May 13, 2011

Call to Order

The meeting was called to order at 9:07 a.m.

Roll Call

Board members present:

Jean M. Tsigonis, MD, Chair	David A. Miller, MD
John S. Cullen, MD	David J. Powers, MD
Edward A. Hall, Physician Assistant	William W. Resinger, MD
Kathleen Millar, Public Member	Michael J. Tauriainen, Public Member

Board staff present:

Debora Stovern, Executive Administrator
Michelle Johnston, Licensing Examiner.

Agenda Item In the Matter of Ann-Marie Yost, MD

Pursuant to the Consent Agreement adopted by the Board during the Thursday meeting, Dr. Yost and her attorney, Matt Peterson, joined the meeting for a 30-minute address to the Board.

Mr. Peterson provided Board members and staff with an exhibit handout containing a highlighted copy of the 2005 Memorandum of Agreement (MOA) in the matter of case no. 2850-05-003, a copy of the National Practitioner Data Bank (NPDB) report of the MOA, and a copy of a 2005 letter from Dr. Yost that was considered by the Board when the MOA was adopted. The handout was allowed (and not considered ex parte communication) because the three documents were already a part of the record, and had been included with the Consent Agreement adopted during this meeting.

Mr. Peterson introduced Dr. Yost and gave a brief history of the events related to the 2005 MOA: The underlying violation was nondisclosure on her license application of an investigation by the Washington Board, which Dr. Yost claimed an inadvertent oversight. He asked the Board to decide that this did not rise to the level of reporting to the national databank and argued that the wording of the report was inconsistent with the nature of the MOA.

Dr. Yost stated that, even though she had been notified regarding the Washington investigation, she had understood it to be an inquiry regarding a complaint, which was later dismissed without action, and that she did not recall it as an investigation when she completed her application for licensure in Alaska. She also stated that she signed the MOA, rather than going through the appeal and hearing process, so that she could quickly resolve the issue and obtain her license because she was urgently needed at the Alaska facility.

The Board discussed the investigative process in Alaska, including the point at which a complaint inquiry becomes an investigation, and how licensees are notified of that. It was noted that the communications from the Washington Board to Dr. Yost specifically referenced an investigation. It was also noted that MOAs and Consent Agreements are intended as a compromise and settlement of issues and by voluntarily entering into such an agreement a licensee waives their right to a hearing. Wording to this effect is included in the agreements.

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

RESOLVED to reconsider the 2005 Memorandum of Agreement with Dr. Yost.

The Board determined that the MOA was consistent with past actions taken for similar violations, and remains consistent with current actions taken for similar violations.

They discussed the NPDB reporting issue. The adverse action report includes three areas in dispute:

- The “reason for action taken” included a narrative statement that “Dr. Yost admits that she falsified her application for licensure by answering no to the question...”
- The entry regarding whether the adverse action may have affected a patient was listed as “yes”
- The reporting category under “basis for action” was “fraud, deceit or material omission in obtaining license or credentials”

Although the reporting had been upheld by the Superior court and was consistent with the statute violation, it appeared that the wording may not have accurately reflected the Board action. The Board recommended that the Division correct the report to mirror the language in the agreement.

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

RESOLVED to accept the 2005 Memorandum of Agreement adopted by the Board, with direction to the Division to correct the NPDB report to change the wording from “falsification” to “omission” and change the “yes” to “no,” in accordance with NPDB guidelines and requirements.

Roll Call Vote:

Dr. Cullen – Yea

Mr. Hall – Yea

Ms. Millar – Yea

Dr. Miller - Yea

Dr. Powers – Yea

Dr. Resinger – Yea

Mr. Tauriainen – Yea
Dr. Tsigonis – Yea

Agenda Item 12 Board Review of Proposed Decision by Hearing Officer

In the Matter of James C. Cooper, MD
OAH Case #10-0148-MED, Board Case #2850-10-004

Rebecca L. Pauli, representing the Office of Administrative Hearings, joined the meeting to present the Proposed Decision after hearing the case. Her Proposed Decision, along with the Division's Proposal for Action, were included in the Board packet for review.

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

RESOLVED to enter into executive session in accordance with AS 44.62.310(c) for the purpose of discussing the proposed decision of the hearing officer.

The Board entered executive session at 10:11 a.m.; Ms. Stovern, Executive Administrator, remained for the session. The Board went back on the record at 10:25 a.m.

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

RESOLVED to adopt the proposed decision and order by the Hearing Officer, Case No. OAH-10-0148-MED.

Roll Call Vote:

Dr. Cullen – Yea
Mr. Hall – Yea
Ms. Millar – Yea
Dr. Miller - Yea
Dr. Powers – Yea
Dr. Resinger – Yea
Mr. Tauriainen – Yea
Dr. Tsigonis – Yea

The adoption order was signed by the Chair.

Agenda Item 13 Full Board Interviews

Bradley Neil Buma, MD – Tab O

Dr. Buma was present to discuss his license application with the board.

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

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

The Board entered executive session at 10:31 a.m.; staff remained for the session.
The Board went back on the record at 10:51 a.m.

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

RESOLVED to grant an unrestricted license to Bradley Neil Buma, MD.

Roll Call Vote:

**Dr. Cullen – Yea
Mr. Hall – Yea
Ms. Millar – Yea
Dr. Miller - Yea
Dr. Powers – Yea
Dr. Resinger – Yea
Mr. Tauriainen – Yea
Dr. Tsigonis – Yea**

Andrew Mitchell, MD – Tab P

Dr. Mitchell was present to discuss his application with the board. He declined the opportunity to enter into executive session to discuss his application. The Board requested further explanation of the “yes” answers on his application regarding previous malpractice cases and Washington license action. He explained that the Washington Board had investigated two complaints of sexual abuse by patients at a women’s prison where he worked in approximately 1989, as well as a 2004 prescription issue that resulted in a Washington order. He complied with the conditions and was released from the order in 2006. He reported having personality issues at some of his places of employment. He plans to complete his schedule at the Seward hospital and continue locum tenens work in the future.

It was noted that his locum tenens permit had been temporarily approved by Ms. Stovern, pending his participation in the Board interview.

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

RESOLVED to grant a locum tenens permit to Dr. Mitchell for the remainder of the 90-day permit period.

Cecelia Ann Grant, PA – Tab Q

Ms. Grant was present to discuss her physician assistant license application with the board.

Upon a motion duly made by Mr. Tauriainen, seconded by Mr. Hall, and approved unanimously, it was:

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

The Board entered executive session at 11:26 a.m.; staff remained for the session.
The Board went back on the record at 11:31 a.m.

Upon a motion duly made by Mr. Tauriainen, seconded by Mr. Hall, and approved by roll call vote, it was:

RESOLVED to grant an unrestricted physician assistant license to Cecelia Ann Grant.

Roll Call Vote:

Dr. Cullen – Yea

Mr. Hall – Yea

Ms. Millar – Yea

Dr. Miller - Yea

Dr. Powers – Yea

Dr. Resinger – Yea

Mr. Tauriainen – Yea

Dr. Tsigonis – Yea

Agenda Item 14 Discussion Items

ASMA Contract for PHC Program

Ms. Stovern reported that the 5-year contract between the Division and the Alaska State Medical Association (ASMA) for monitoring impaired physicians had an expiration date of April 12, 2011 and had been extended through July 15, 2011 in order to allow time to negotiate the next contract. The Division has designated Ms. Stovern to take the lead in renewing the contract. Mr. Hall volunteered to work with Ms. Stovern on the contract renewal.

Dr. Mary Ann Foland, representing the ASMA Physician’s Health Committee (PHC), joined the meeting. She reported that the PHC would like to clarify the language of the contract with regard to reporting and confidentiality.

Use of Epi-pen by Wilderness Guides

Dr. Tsigonis had been contacted by a pharmacist from the Medicaid office with questions about the use of Epi-pen by wilderness guides; apparently it was a discussion by legislators. The Board discussed their jurisdiction, concerns with inappropriate use, and emergency situations under Good Samaritan laws. They determined that they need more information and more specific questions to formulate an appropriate response. Dr. Tsigonis noted that she had not heard anything beyond the initial inquiry.

Expedited Partner Therapy

Board members discussed practical options for treating partners of patients diagnosed with sexually transmitted diseases, including whether to write a prescription to each partner, whether to write a prescription to the patient with enough refills for partner use, or whether to just refer to public health for treatment. They determined that the appropriate option is at the discretion of the treating physician.

Ms. Stovern noted that the issue had been discussed at the April 2009 Board meeting and had determined that the New Mexico Board had adopted appropriate guidelines. The Board had subsequently adopted a regulation change to exempt expedited partner therapy from the unprofessional conduct provision for providing prescription medication to a person without first conducting a physical exam. A State Epidemiology Bulletin with recommendations for Alaska providers was included in the Board packet for further review.

Recess for lunch

The Board recessed for lunch at 11:55 a.m.

The Board resumed the meeting at 12:15 p.m. All Board members and staff were present.

Agenda Item 13 Full Board Interviews

Casey Ross Luecher, MICP – Tab R

Mr. Warren was present to discuss his mobile intensive care paramedic license application with the board.

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

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

The Board entered executive session at 1:07 p.m.; staff remained for the session.

The Board went back on the record at 1:12 p.m.

Upon a motion duly made by Mr. Hall, seconded by Mr. Tauriainen, and approved unanimously, it was:

RESOLVED to grant an unrestricted MICP license to Casey Luecher.

Travis M. Bellville, MD – Tab S

Dr. Bellville was present to discuss his resident permit application with the board.

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

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

The Board entered executive session at 1:16 p.m.; staff remained for the session.

The Board went back on the record at 1:24 p.m.

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

RESOLVED to grant an unrestricted resident permit to Travis M. Bellville, MD.

Kristopher Johnson, MD – Tab P

Dr. Johnson was present to discuss his resident permit application with the board.

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

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

The Board entered executive session at 1:32 p.m.; staff remained for the session.

The Board went back on the record at 1:49 p.m.

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

RESOLVED to grant an unrestricted resident permit to Kristopher Johnson, MD, valid through June 1, 2011, and to waive the fee for reapplication during his current residency.

Roll Call Vote:

Dr. Cullen – Yea

Mr. Hall – Yea

Ms. Millar – Yea

Dr. Miller - Yea

Dr. Powers – Yea

Dr. Resinger – Yea

Mr. Tauriainen – Yea

Dr. Tsigonis – Yea

Agenda Item 16 Correspondence

Licensing requirements for off-shore care

The Board reviewed a letter from Kevin Luppen regarding regulation of health care providers on vessels when they are beyond the limits of Alaska waters. The Board determined that they may encounter treatment situations when they are actually in Alaska waters, even if the majority of the time they are beyond those limits, and the provider would need to be licensed by the Alaska Board in order to provide treatment. Ms. Stovern will provide a response to the inquiry.

USMLE qualification

The Board reviewed a letter from the Federation of State Medical Boards (FSMB) regarding the Alaska eligibility requirements and attempt limits for the USMLE examination. They tabled the discussion, pending further research.

Public Citizen's Rankings Report and FSMB Summary of 2010 Board Actions

Ms. Stovern distributed documents provided by the Federation of State Medical Boards (FSMB) for review by the Board, included their annual Summary of Board Actions, and an information sheet with recommendations for response to the Public Citizens' Rankings Report. She also reported that she had been contacted by a representative from the Public Citizens organization requesting that investigative action be taken on data they took from the Summary of Board Actions regarding

physicians who had been disciplined by hospitals but had apparently not been subject to corresponding Board action. She responded to that inquiry by recommending that, if they had specific information about professional misconduct by an Alaska-licensed physician, they contact Investigations to file a complaint.

Agenda Item New Business

Dr. Tsigonis shared a letter she received from Representative Kawasaki regarding his intent to sponsor legislation to create schools of medicine and law in the University of Alaska.

Mr. Hall reported that he had recently learned that Alaska Medicaid instituted a new policy of not paying for treatment by mid-level practitioners. He recommended that Board members contact the Director of Medical Assistance for more information.

Agenda Item 17 License Application Review

Board members reviewed license application files.

Upon a motion duly made by Mr. Tauriainen, seconded Mr. Hall, and approved unanimously, it was:

RESOLVED to approve the following physicians for licensure in Alaska:

Damon Philip Anagnos	Benjamin David Marvin
Chadwick Edward Barnes	Mitchell Croft Marzo
James Robert Belk	William Davis McIntyre III
Matthew Richard Benson	Peter Keith McIver
Karin Diane Berg	George Peter Mulopulos
Arpan Mohan Bhakta	Aljanich Matthew Nash
Keith Stuart Boniface	Debra Jo Newman
David Allen Brown	David Taylor Notter
Frank Richard Butruille	Terry Paul Olivas
Jack Sui-Ki Chan	Jessica Danielle Pitluk
Susie Chun	Eugene Francis Pollmueller
Christina Earlene Clark	Jack Michael Pomerantz
Cheryl Ann Collier-Brown	Marie Linda Pope
James Anthony Cooper	Andrew Felix Precht
Spencer Joseph Curtis	Nicole Marie Pressman-Schneider
Andrew Marc Elsberg	Gregory C. Richterrich
Aaron Gustavo Feliz	Sarah Lynn Roberts
Jerald Paul Flynn Jr.	Beth Silverman Ruben
Lee Ann Gee	Nikhat Salamat
Phyllis Claire Gilmore	Daniel Christopher Schubert
Marah Elizabeth Gotcsik	Carl James Seger
Janet Mary Grimes	Hillary Marie Seger
Joel Phillip Herrington	Neal Kumar Sikka
Ross Arthur Horsley	David Myron Sizemore
Keller, Kathy Ann	Keith Michael Spellman
Rachel Mauryce Kerford Lescher	David L. Steinhiser

Joseph Chisung Kim
Daniel Sean Lann
Jason Arlen Lattin
Samuel Gordon Leftenant
Adrian Grant Letz
Yolanda Lai Loo
Jaleh Mansouri
Ron Mark

Christian Robertson Douglas Stowell
Chris Allen Swanson
Maria Engracia Reyes Sy
Peer Olaf Theobald
Lisa Marie Tibor
Huong Hoai Tran
Amy Gail Willaims
Mujun Yu

Upon a motion duly made by Mr. Tauriainen, seconded by Mr. Hall, and approved unanimously, it was:

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

Peter Chesnut Lunce
Benjamin Patrick Westley

Upon a motion duly made by Mr. Tauriainen, seconded by Mr. Hall, and approved unanimously, it was:

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

Adam Glenn Crouch
Megan Christine Davies
David Michael Lefler Jr.
Carolyn Dean Baker McDougald
Jeffery Dale Medland
Corinna Lynn Muller

Ronald James Oconer
Josiephina Castro Souza
Sara Louise Stout
Geoffery Bishop Taylor
Billy Piapong Vanasupa

Upon a motion duly made by Mr. Tauriainen, seconded by Mr. Hall, and approved unanimously, it was:

RESOLVED to approve the following mobile intensive care paramedics for licensure in Alaska:

Arthur Bruce Flippin
Jarrad Dane Henry
William Mark Manuel
Marc Talbot Mykkanen
Lucas Joseph Nesladek
Sonja Pina-Peterson

Elizabeth Mary Reiter
Nathan J. Ridley
Matt Edward Scherrer
Wes Preston Tibbetts
Nicholas James Wood

Upon a motion duly made by Mr. Tauriainen, seconded by Mr. Hall, and approved unanimously, it was:

RESOLVED to approve the following physician assistants for licensure in Alaska:

Andrew David Bodmer

Mark Jason Logan

Gayle Elizabeth Brannon
Michele Renee Cain
Michelle Dawn Caserta
Victoria Anne Hunter
Matthew Thomas James
Nicole Johnson
Maggie Rea Laufenberg

Mary Elizabeth Madill
Jesse Allen Mumm
Susan Elissa Parrish
Carolyn Royce Snapp
Tiffani Dawn Showalter
Elizabeth Ashley Taylor
Ronald Gene Waters

Agenda Item Additional Board Action Information

NPDB Reporting

Susan Winton, Senior Investigator joined the meeting to provide information about Division reporting of Board actions to the National Practitioner Data Bank (NPDB). The NPDB has recently expanded reporting requirements and changed the reporting categories resulting in updated reporting procedures within the Division. She noted that nondisclosure on a license application is a violation of AS 08.64.326(a)(1) for securing a license through deceit, fraud, or intentional misrepresentation, and AS 08.64.326(a)(7) for failure to comply with statutes, regulations or board orders. Such violations are reported under the NPDB category “for fraud, deceit or material omission in obtaining license or credentials.”

Suspension Language

The Board had previously discussed the standard language used in consent agreements that allow for automatic license suspension if the licensee violates any federal, state or local laws. Mr. Tauriainen had named this the “jaywalking clause” and has routinely voted against accepting agreements because of his objection to license actions that may not be related to licensing issues.

Ms. Winton reported that the Division has been eliminating that language when it is not appropriate. New language includes requirements for compliance with laws related to the license or to fitness to practice. She noted that one of the consent agreements adopted by the Board during this meeting had been negotiated earlier and may have contained the older language. However, the recent consent agreements no longer include the standard “jaywalking clause.”

In the Matter of Case No. 2850-09-005

Ms. Stovern presented the proposed order to reinstate based on action taken by the Board during the Thursday meeting regarding the request by Dr. Zientek to reduce or remove conditions on his license under his October 2009 Consent Agreement.

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

RESOLVED to adopt order to reinstate the license of Gary M. Zientek, MD.

The adoption order was signed by the Chair.

Agenda Item 18 Administrative Business

Financial Report

The Board’s Financial Report, prepared by the Division Administrative Officer, was included in the Board packet for further review.

Although the State Medical Board appears to be financially sound, and their spending is within the projected annual budget, the Division has been restricted by the spending authority allowed by the legislative budget. The Board's travel request for the July meeting in Dutch Harbor was denied and the meeting was rescheduled for Fairbanks.

Ms. Stovern reported that the financial issues faced by the Division during Fiscal Year 2011 will likely continue into Fiscal Year 2012. However, the Division Director is aware of the budget needs, particularly the increased cost of legal services, hearing office services, and meeting travel; he intends to pursue an appropriate level of spending authority in upcoming budget requests.

Review Minutes

The Board reviewed the minutes of February 17, 2011 teleconference meeting and the January 20-21, 2011 meeting.

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

RESOLVED to approve the minutes of the February 27, 2011 teleconference meeting, as presented.

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

RESOLVED to approve the minutes of the January 20-21, 2011 meeting, as presented.

The Chair signed the approved minutes.

Meeting Scheduling

The Board confirmed the 2011 meeting schedule:

- July 28-29 in Fairbanks
- October 27-28 in Anchorage

The Board set a tentative 2012 meeting schedule:

- January 26-27 in Anchorage
- May 17-18 in Petersburg
- July 26-27 in Soldotna
- October 25-26 in Fairbanks

Adjournment

There being no further business, the meeting adjourned at 2:04 p.m.

Respectfully submitted:

Approved:

Debora Stovern, Executive Administrator
Alaska State Medical Board

Jean M. Tsigonis, MD, Chair
Alaska State Medical Board

Date

Date