

Open Session Meeting Minutes
Missouri State Board of Registration for the Healing Arts
January 23 – 24, 2014
Drury Plaza Hotel at the Arch
2 South 4th Street, St. Louis, MO 63102

The members of the Missouri State Board of Registration for the Healing Arts convened on Thursday, January 23, 2014 at the Drury Plaza Hotel at the Arch, 2 South 4th Street, MO 63102 in the Sacagawea and Lewis meeting rooms.

Board Members Present:

Kevin F. O'Malley, President
Benjamin Lampert, MD, Secretary
Jeffrey D. Carter, MD, Member
James A. DiRenna, DO, Member
Bradley D. Freeman, MD, Member
David Poggemeier, MD, Member

Staff Present:

Connie Clarkston, Executive Director
James Leggett, Executive I
Sarah Schappe, General Counsel
Frank Meyers, Associate General Counsel
Kenneth Hammond, Chief Investigator
Paul Williams, Probation Supervisory
John Short, Probation Supervisor
John Heidy, Probation Supervisor
Kim Beffa, Enforcement Supervisor
Melissa Brautigam, Sr. Office Support Assistant
Michael Bergman, Investigator II
Ann Boulware, Investigator II
Tonya Gammill, Investigator II
Howard Hammers, Investigator II
Kevin Moroney, Investigator II
Richard Maxwell, Investigator II
Kerry Placeway, Investigator II
Ralph Ross, Investigator II
Richard Schurman, Investigator II
Elizabeth Stevens, Investigator II
Catherine Stewart, Investigator II
Willard Ward, Investigator II

To better track the order in which items were taken up on the agenda, each item in the minutes will be listed in the order it was discussed in the meeting.

MOTIONS TO CLOSE

1. I move that this meeting be closed, and that all records and votes, to the extent permitted by law, pertaining to and/or resulting from this closed meeting be closed, under Section 610.021 Subsection (14) and Chapters 324.001.8 and 324.001.9 RSMo for the purpose of discussing investigative reports and/or complaints and/or audits and/or other information pertaining to a licensee or applicant.
2. I move that this meeting be closed, and that all records and votes, to the extent permitted by law, pertaining to and/or resulting from this closed meeting be closed, under Section 610.021 subsection (1) RSMo for the purpose of discussing general legal actions, causes of action or litigation and any confidential or privileged communications between this agency and its attorney.
3. I move that this meeting be closed, and that all votes, to the extent permitted by law, pertaining to and/or resulting from this closed meeting be closed, under Section 610.021 Subsection (1) RSMo for the purpose of deliberation on discipline.
4. I move that this meeting be closed, and that all records and votes, to the extent permitted by law, pertaining to and/or resulting from this closed meeting be closed, under Section 610.021 Subsection (3) RSMo for the purpose of discussing hiring, firing, disciplining or promoting employee of this agency.
5. I move that this meeting be closed and that all records and votes, pertaining to and/or resulting from this closed meeting be closed, under Section 610.021 Subsection (14) and Chapters 324.001.8 and 324.001.9 RSMo for the purpose of discussing applicants for licensure.
6. I move that this meeting be closed and that all records and votes pertaining to and/or resulting from this closed meeting be closed under Section 610.021 Subsection (13) RSMo for the purpose of making performance ratings pertaining to individual employees.
7. I move that this meeting be closed, and that all records and votes pertaining to and/or resulting from this closed meeting be closed, under Section 610.021 Subsection (7) RSMo for the purpose of discussing and/or reviewing testing and examination records.
8. I move that this meeting be closed, and that all records and votes pertaining to and/or resulting from this closed meeting be closed, under Section 610.021 Subsection (5) RSMo for proceedings required pursuant to a disciplinary order concerning medical, psychiatric, psychological, or alcoholism or drug dependency diagnosis or treatment of specific licensees.

9. I move that this meeting be closed, and that all records and votes pertaining to and/or resulting from this closed meeting be closed, for the purpose of reviewing and approving the closed minutes of one or more previous meetings under Subsection of 610.021 which authorized this agency to go into closed session during those meetings.

Mr. O'Malley advised the Board that these motions could be referenced by number for motions to go into closed session.

Closed Session

Motion made by Dr. Poggemeier and seconded by Mr. O'Malley to go into closed session under numbers 1, 2, 3, 4, 5, 6, 7, 8 and 9 of the motions to close. Mr. O'Malley, Dr. DiRenna and Dr. Poggemeier were present and voted in favor of the motion. The motion carried unanimously.

Impaired Physician Meeting

The Impaired Physician Meeting was held in open session in the Chouteau Room 203. The Board Committee consisted of Dr. Lampert, Chair and Dr. DiRenna.

Closed Session

Motion made by Dr. Lampert and seconded by Dr. Carter to go into closed session under numbers 1, 2, 3, 4, 5, 6, 7, 8 and 9 of the motions to close. Dr. Freeman, Dr. Dr. Carter, Dr. Lampert, Dr. Poggemeier and Dr. DiRenna voted in favor of the motion. The motion carried unanimously.

Adjournment

Motion made by Dr. Freeman and seconded by Dr. DiRenna to adjourn for the evening. The meeting adjourned at approximately 11:05 p.m. for the evening. Dr. Freeman, Dr. Carter, Dr. Lampert, Dr. Poggemeier and Dr. DiRenna voted in favor of the motion. The motion carried unanimously.

Open Session Meeting Minutes
Missouri State Board of Registration for the Healing Arts
January 23 – 24, 2014
Drury Plaza Hotel at the Arch
2 South 4th Street, St. Louis, MO 63102

The members of the Missouri State Board of Registration for the Healing Arts convened on Friday, January 24, 2014 at the Drury Plaza Hotel at the Arch, 2 South 4th Street, St. Louis, MO 63102.

Board Members Present:

Kevin F. O'Malley, President
Benjamin Lampert, MD, Secretary
Jeffrey D. Carter, MD, Member
James A. DiRenna, DO, Member
Bradley D. Freeman, MD, Member
David Poggemeier, MD, Member

Staff Present:

Connie Clarkston, Executive Director
James Leggett, Executive I
Sarah Schappe, General Counsel
Frank Meyers, Associate General Counsel
Glenn Bradford, Contract Legal Counsel
Charles Barbee, MD, Medical Staff
William D. Smittle, DO, Medical Staff
Kenneth Hammond, Chief Investigator
Paul Williams, Probation Supervisory
John Short, Probation Supervisor
John Heidy, Probation Supervisor
Melissa Brautigam, Sr. Office Support Assistant
Michael Bergman, Investigator II
Ann Boulware, Investigator II

Richard Maxwell, Investigator II
Kevin Moroney, Investigator II
Richard Schurman, Investigator II

The meeting convened in open session for the purpose of conducting the General Business Agenda.

Board of Healing Arts and Board of Nursing Meet and Greet

The Missouri Board of Healing Arts and the Missouri Board of Nursing conducted a meet and greet. No business was conducted and no action was taken by the board.

Approval of the Open Minutes

Motion made by Dr. Freeman and seconded by Dr. Lampert to approve the December 6, 2013 Open Conference Call meeting minutes as presented. Dr. Lampert, Dr. Poggemeier, Dr. Freeman and Dr. Carter voted in favor of the motion. The motion carried unanimously.

Motion made by Dr. Freeman and seconded by Dr. Lampert to approve the December 15, 2013 Open Conference Call meeting minutes as presented. Dr. Lampert, Dr. Poggemeier, Dr. Freeman and Dr. Carter voted in favor of the motion. The motion carried unanimously.

Proposed Amendments to Rules

- **Anesthesiology Assistants Fee Rule**

Connie Clarkston, Executive Director stated that the Anesthesiologist Assistant Advisory Commission recommended licensure fees be reduced. The recommendation was that the initial licensure fee be reduced from \$1,000 to \$300 and the renewal and reinstatement fees be reduced from \$500 to \$200.

Motion made by Dr. Lampert and seconded by Dr. Freeman to approve the proposed fee decrease. Dr. Lampert, Dr. Poggemeier, Dr. Freeman, Dr. Carter and Dr. DiRenna voted in favor of the motion. The motion carried unanimously.

- **Physical Therapy Medication Rules**

Sarah Schappe, Board's General Counsel stated that there are questions from the Department of Health about the scope of practice for Physical Therapists related to conflicts between Chapter 334, RSMo and what duties some employers are allowing physical therapists to perform. Ms. Schappe and Ms. Clarkston worked with representatives with the Department of Health to draft a proposed rule that attempts to address the matter. Bill Hopfinger, P.T. Advisory Commission Chair, was present and provided a verbal presentation. The following language is being proposed:

1. Pursuant to section 334.500.3, RSMo, the "provision of consultative, educational, research and other advisory services for the purpose of reducing the incidence and severity of physical disability, movement dysfunction, bodily malfunction and pain" includes but is not limited to:
 - A. Reviewing a patient's medications to identify any potential adverse effects and drug reactions, including ineffective drug therapy, significant drug side effects, significant drug interactions, duplicate drug therapy, and noncompliance with drug therapy.
2. Notwithstanding anything in this rule, and pursuant to section 334.500, a physical therapist may only practice physical therapy within the scope of their education and training including the education and training received in

continuing education courses, on the job training and through a formal degree program.

Motion made by Dr. Freeman and seconded by Dr. Lampert to approve the proposed rule as presented. Dr. Lampert, Dr. Poggemeier, Dr. Freeman and Dr. Carter voted in favor of the motion. The motion carried unanimously.

Telehealth – HB315 (2013)

Connie Clarkston, Executive Director provided the Board with an update HB315 and 20 CSR 2150-5.100 – Collaborative Practice Rule. Several members of the Board of Nursing were present during the discussion and provided feedback to the members of the board. The board discussed the following issues and received consensus from the Board of Nursing:

- 20 CSR 2150-5.100 (3)(H) sets the standard for the use of telehealth in those follow-up examinations by physicians. The board believes that in order for a sufficient medical examination to be performed by a physician, an in person visit or live interactive video is necessary. It is important to note that this change does not affect the scope of practice of a nurse or dictate standard of care for a nurse. It only sets the requirements for the exam conducted by physicians.
- 20 CSR 2150-5.100 (4)(F) sets the standard for participation in review of medical records, providing medical direction, medical services, consultations, and supervision of staff. The proposed change should dictate how a physician can be “present” for purposes of participating in review, providing medical direction, medical services, consultations, and supervision of staff by being present in person or via telehealth. It does not limit what a nurse can or can’t do, but prescribes the minimum standards that a physician must follow to be part of the collaborative practice agreement.

Interstate Medical Licensure Compact

Sarah Schappe, Board General Counsel updated the Board on matters concerning the Federation of State Medical Boards development of a draft Interstate Medical Licensure Compact and staff’s specific concerns.

Motion made by Dr. Carter and seconded by Dr. Poggemeier to send the memorandum completed by the Board’s General Counsel that states specific concerns regarding this interstate medical licensure compact to the Federation of State Medical Boards. Dr. Freeman, Dr. Carter, Dr. Lampert and Dr. DiRenna voted in favor of the motion. The motion carried unanimously. Dr. Carter requested that this matter be discussed during the March 2013 Conference Call.

2014 Legislation

Ms. Clarkston provided the board with a legislative update and asked the board to provide guidance to her in the event she was asked by the Department what the board’s opinion was on the following bills:

- **SB700** – This bill would remove all collaborative practice arrangements. Motion made by Dr. DiRenna and seconded by Dr. Carter directed Ms. Clarkston to oppose SB700 if asked. Dr. Carter, Dr. Lampert and Dr. DiRenna voted in favor of the motion. Dr. Freeman was not present and did not participate in the deliberation or vote on this matter. The motion carried unanimously.
- **HB1481** - This bill modifies the requirements of collaborative practice arrangements. Motion made by Dr. DiRenna and seconded by Dr. Poggemeier to direct Ms. Clarkston to oppose HB1481 if asked. Dr. Freeman, Dr. Carter, Dr. Lampert and Dr. DiRenna voted in favor of the motion. The motion carried unanimously.
- **SB659** – This bill would create a new license category for advanced practice registered nurses and modifies provisions related to advanced practice registered nurses.

Motion made by Dr. Lampert and seconded by Dr. Poggemeier to direct Ms. Clarkston to support the portion of SB659 that would allow a separate license be issued to Advanced Practice Registered Nurses and to oppose the remainder of the bill. Dr. Freeman, Dr. Carter, Dr. Lampert and Dr. DiRenna voted in favor of the motion. The motion carried unanimously.

Motion made by Dr. Carter and seconded by Dr. DiRenna to direct Ms. Clarkston to oppose the part of SB659 that defines the practice of APRN's and modifying the language regarding the rules that state they can provide primary care of services and calling themselves primary care providers and where it states that they can diagnose and interpret results. Dr. Freeman, Dr. Carter, Dr. Lampert and Dr. DiRenna voted in favor of the motion. The motion carried unanimously.

- **HB1060** – This bill establishes licensure of radiology technologists and establishes an advisory commission with the Board. No action was taken by the board.
- **SB569** – This bill establishes licensure of clinical lab personnel licensing and establishes an advisory commission with the Board. No action was taken by the board.
- **Senate Joint Resolution 30** – This resolution would authorize the Lieutenant Governor to make Board appointments if the Governor fails to do so within sixty (60) days. No action was taken by the board.

Board Delegated Authority

The board reviewed the draft changes to the Board Delegated Authority document with the following proposed changes:

- The applicant received (1) minor in possession (MIP) conviction:

[The event occurred before the applicant was enrolled in their professional program,]

The license can be approved and issued with a Letter of Concern (LOC) which includes information regarding MPHP/MAOPS.

- In cases where the Continued Medical Education (CME) hours are due on December 31 but the licensee didn't complete all of the required CME that year they will have an additional 30 days (in the next year) to complete and submit proof of completion to the Board and they would then be renewed and then issued a Letter of Concern relating to the timeliness of completing CME for both physicians and allied health professionals.

Motion made by Dr. DiRenna and seconded by Dr. Lampert to approve the above delegated authority as presented. Dr. Carter, Dr. Lampert and Dr. DiRenna voted in favor of the motion. Dr. Freeman was not present and did not participate in the deliberation or vote on this matter. The motion carried unanimously.

Closed Session

Motion made by Dr. Freeman and seconded by Dr. DiRenna to go into closed session under numbers 1, 2, 3, 5, 7, 8 and 9 of the motions to close. Dr. Freeman, Dr. Carter, Dr. Lampert and Dr. DiRenna voted in favor of the motion. Dr. Freeman was not present and did not participate in the deliberation or vote on this matter. The motion carried unanimously.

Telehealth – HB315 (2013) (continued)

Motion made by Dr. Poggemeier and seconded by Dr. DiRenna for staff to complete a document representing the consensus language as discussed and to schedule a conference call within two (2) weeks of the meeting. Dr. Freeman, Dr. Carter, Dr. Lampert, Dr. Poggemeier and Dr. DiRenna voted in favor of the motion. The motion carried unanimously.

Farrell, Julie, M.D. - House Bill 265 Hearing

2013-003537

Julie Farrell, MD was scheduled for an HB265 Hearing pursuant to section 334.102.7, RSMo, for the purpose of determining the truth of the allegations set forth in the Complaint filed with the Board on November 26, 2013 that states the North Carolina Board denied Dr. Farrell's application for licensure. This hearing was not because Dr. Farrell requested and was granted a continuance.

Closed Session

Motion made by Dr. Carter and seconded by Dr. Poggemeier to go into closed session under numbers 1, 2, 3, 4, 5, 6, 7, 8, and 9 of the motions to close. Dr. Freeman, Dr. Carter, Dr. Lampert, Dr. Poggemeier and Dr. DiRenna voted in favor of the motion. The motion carried unanimously.

Young, John Ling, MD - House Bill 265 Hearing

2013-001396

John Ling Young, MD was scheduled for an HB 265 Hearing pursuant to section 334.102.7, RSMo, for the purpose of determining the truth of the allegations set forth in the Complaint filed by the Board on August 23, 2013. The Complaint states that on or about February 21, 2013, the State of Washington Department of Health Medical Quality Assurance Commission entered a Findings of Fact, Conclusions of Law and Agreed Order disciplining Dr. Young's license. As part of the Agreed Order, Dr. Young would not renew his license for 3 years following its expiration (through July 25, 2016), and thereafter would not apply for a new Washington license. Dr. Young was also fined \$5,000.00 by the state of Washington. The Agreed Order was based upon findings that Dr. Young failed to cooperate with the disciplining authority by not furnishing documentation. The hearing was held.

Closed Session

Motion made by Dr. Freeman and seconded by Dr. Carter to go into closed session under numbers 1, 2, 3, 4, 5, 6, 7, 8 and 9 of the motions to close. Dr. Freeman, Dr. Carter, Dr. Lampert, Dr. Poggemeier and Dr. DiRenna voted in favor of the motion. The motion carried unanimously.

Randecker, Harold, MD - Automatic Revocation

2013-003390

Harold Randecker, MD was scheduled for an Automatic Revocation Hearing pursuant to section 334.103, RSMo, for the purpose of determining the truth of the allegations set forth in the Complaint filed by the Board on November 21, 2013. The Complaint states that on or about February 24, 2012, Dr. Randecker entered into a plea agreement with the United States government. Dr. Randecker pled guilty to the charge of Bankruptcy and False Statement under oath. The crime Bankruptcy-False Statement under oath is a crime involving fraud and/or dishonesty. The hearing was held.

Eichmann, Milton, MD - Probation Violation Hearing

2013-004736

Milton Eichmann, MD was scheduled for a Probation Violation Hearing in open session pursuant to section 324.042 and 334.100.2, RSMo, for the purpose of determining the truth of the allegations set forth in the Complaint filed by the Board on December 27, 2013. This hearing was not held because Dr. Eichmann requested and was granted a continuance.

Jones, Joseph, MD - House Bill 265 Hearing

2012-005196

Joseph Jones, MD was scheduled for an HB265Hearing pursuant to section 334.102.7, RSMo, for the purpose of determining the truth of the allegations set forth in the Complaint filed with the Board on December 31, 2013. The Complaint states that the Arkansas State Medical Board entered an Emergency Order of Suspension and Notice of Hearing, suspending Respondent's Arkansas license on an emergency basis pending a disciplinary hearing. The hearing was held.

Closed Session

Motion made by Dr. Lampert and seconded by Dr. Poggemeier to go into closed session under numbers 1, 2, 3, 4, 5, 6, 7, 8 and 9 of the motions to close. Dr. Carter,

Dr. Lampert, Dr. Poggemeier and Dr. DiRenna voted in favor of the motion. Dr. Freeman was not present and did not participate in the deliberation or vote of this matter. The motion carried unanimously.

Crisp, Nolan, MD - Automatic Revocation Hearing **2013-005704**

Nolan Crisp, MD was scheduled for an automatic revocation hearing pursuant to section 334.103.1RSMo, to determine the truth of the allegations set forth in the Complaint filed on December 4, 2013. The Complaint states that on or about April 09, 2013 Dr. Crisp entered into a plea agreement, pleading guilty to (1) one count of illegal distribution and dispensing of a schedule II controlled substance. On October 30, 2013 Dr. Crisp was sentenced to two (2) years in prison. The hearing was held..

Closed Session

Motion made by Dr. Lampert and seconded by Dr. Poggemeier to go into closed session under numbers 1, 2, 3, 4, 5, 6, 7, 8 and 9 of the motions to close. Dr. Carter, Dr. Lampert, Dr. Poggemeier and Dr. DiRenna voted in favor of the motion. Dr. Freeman was not present and did not participate in the deliberation or vote of this matter. The motion carried unanimously.

Ryser, Carol, MD - Automatic Revocation Hearing **2013-005781**

Carol Ryser, MD was scheduled for automatic revocation hearing pursuant to section 334.103.1, RSMo to determine the truth of the allegations set forth in the Complaint filed on December 9, 2013. The Complaint states states that on or about June 26, 2012 Dr. Ryser was indicted and charged with health care fraud and filing false tax returns. On March 22, 2013, Dr. Ryser pled guilty to both counts and was placed on probation for a period of three (3) years. The Kansas Medical Board revoked her medical license based on the above court action. The hearing was held.

Jamry, Wit A., MD - Automatic Revocation **2013-000474 & 2013-001172**

Wit Jamry, MD was scheduled for an automatic revocation hearing pursuant to section 334.103.1, RSMo to determine the truth of the allegations set forth in the Complaint filed on December 6, 2013. The Complaint states on or about On February 20, 2013, Dr. Jamry entered into a guilty plea agreement with the US District Court and pled guilty to one (1) felony count of executing a health care fraud scheme. This hearing was not held because Dr. Jamry requested and was granted a continuance.

Gasser, George, DO **- Probation Violation Hearing** **2010-002835**
2012-004684
2013-006438

George Gasser, DO was scheduled for a Probation Violation Hearing pursuant sections 324.042 and 334.100.2, RSMo for the purpose of determining the truth of the allegations set forth in the Complaint filed by the Board on December 20, 2013. The Complaint alleged that Dr. Gasser violated the Settlement Agreement executed with the Board on June 13, 2011, thereby giving cause for further disciplinary action against his license. The Complaint specified that Dr. Gasser violated the Agreement by failure to attend a Board approved documentation course and failure to provide proof of

completion of the course by the deadline and for refusal to respond to the requests of Board staff. This hearing was not held as Dr. Gasser signed a settlement agreement for a voluntary surrender in lieu of further discipline.

Impaired Physician Committee

Dr. Lampert provided a review of what transpired during the Impaired Physicians Committee meeting.

Motion made by Dr. DiRenna and seconded by Dr. Poggemeier to approve the list of treatment centers as presented and approved the two (2) new centers that were added. Dr. Carter, Dr. Lampert, Dr. Poggemeier and Dr. DiRenna voted in favor of the motion. Dr. Freeman was not present and did not participate in the deliberation or vote of this matter. No one opposed, the Motion carried.

The next time the Board will meet and discuss business is during the March 23, 2014 Conference Call scheduled to begin at 7:00 p.m.

Adjournment

Motion made by Dr. DiRenna and seconded by Dr. Carter to adjourn for the evening. The meeting adjourned at approximately 8:35 p.m. Dr. Carter, Dr. Lampert, Dr. Poggemeier and Dr. DiRenna voted in favor of the motion. Dr. Freeman was not present and did not participate in the deliberation or vote of this matter. The Motion carried.