

Missouri State Board of Registration for the Healing Arts

Missouri Council of School Administrators Building

3550 Amazonas Drive

Jefferson City, Missouri 65109

Open Session Meeting Minutes

October 23-24, 2014

The members of the Missouri State Board of Registration for the Healing Arts convened on October 23-24, 2014 at the Missouri Council of School Administrators Building, 3550 Amazonas Drive, Jefferson City, Missouri 65109.

Board Members Present:

Benjamin Lampert, MD, President

Jeffrey Carter, MD, Secretary

James DiRenna, DO, Member

Bradley Freeman, MD, Member

David Poggemeier, MD, Member

David Tannehill, DO, Member

John Lyskowski, MD, Member

Staff Present:

Connie Clarkston, Executive Director

James Leggett, Executive I

Sarah Schappe, General Counsel

Frank Meyers, Associate General Counsel

William Voss, DO, Interim Chief Medical Officer

Melvin Abend, MD, Medical Staff

William Smittle, DO, Medical Staff

Gerald Cupp, MD, Medical Staff

Charles Barbee, MD, Medical Staff

Kenneth Hammond, Chief Investigator

John Short, Probation Supervisor

John Heidy, Probation Supervisor

Jerald Barnes, Investigator II

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

Willard Ward, Investigator II

Andy Funk, Information Support Coordinator

Kim Brester, Administrative Services Coordinator

Kim Beffa, Enforcement Supervisor

Michelle Heislen, Processing Technician II

Monica Monroe, Processing Technician II
Tammy Garwood, Processing Technician I
Tammy Branch, Processing Technician I

The order of the items reflected in these minutes is not necessarily reflective of the order in which the items were reviewed and discussed.

Closed Session

Motion made by Dr. DiRenna and seconded by Dr. Carter to go into closed session pursuant to sections 610.021 (1), (5), and (14), 324.001 (8) and (9) and 334.001, RSMo. Dr. Lampert, Dr. Carter, Dr. DiRenna, Dr. Freeman, Dr. Lyskowski, Dr. Poggemeier and Dr. Tannehill voted in favor of the motion. The motion carried unanimously.

Closed Session

Motion made by Dr. Freeman and seconded by Dr. Carter to go into closed session pursuant to sections 610.021 (1), (5), and (14), 324.001 (8) and (9) and 334.001, RSMo. Dr. Lampert, Dr. Carter, Dr. DiRenna, Dr. Freeman, Dr. Lyskowski, Dr. Poggemeier and Dr. Tannehill voted in favor of the motion. The motion carried unanimously.

Closed Session

Motion made by Dr. DiRenna and seconded by Dr. Carter to go into closed session pursuant to sections 610.021 (1), (5), and (14), 324.001 (8) and (9) and 334.001, RSMo. Dr. Lampert, Dr. Carter, Dr. DiRenna, Dr. Freeman, Dr. Lyskowski, Dr. Poggemeier and Dr. Tannehill voted in favor of the motion. The motion carried unanimously.

Closed Session

Motion made by Dr. Freeman and seconded by Dr. Carter to go into closed session pursuant to sections 610.021 (1), (5), and (14), 610.021(3) and (13), 324.001 (8) and (9) and 334.001, RSMo. Dr. Lampert, Dr. Carter, Dr. DiRenna, Dr. Freeman, Dr. Lyskowski, Dr. Poggemeier and Dr. Tannehill voted in favor of the motion. The motion carried unanimously.

General Business Agenda

Dr. Lampert chaired the meeting during the General Business Agenda and the Board voted the following actions be taken:

1. Approval of Minutes

Motion made by Dr. DiRenna and seconded by Dr. Tannehill to accept to approve the July 7, 2014 Mail Ballot Open minutes, July 24 and 25, 2014 Open minutes, September 7, 2014 Open Minutes, and September 9, 2014 Open Minutes as presented. Dr. Lampert, Dr. Carter, Dr. DiRenna, Dr. Freeman, Dr. Lyskowski, Dr. Poggemeier and Dr. Tannehill voted in favor of the motion. The motion carried unanimously.

2. 2014 Strategic Planning Meeting Update

The 2014 Strategic Planning Meeting details and tentative agenda was discussed. This agenda item was for informational purposes and no action was taken by the Board.

3. 2015 Legislative Update

At the July 2014 meeting the Board reviewed the following proposed legislative proposals and voted to approve the proposals for submission for consideration to the Division of Professional Registration and Department of Insurance, Financial Institutions and Professional Registration.

- Non-Binding Opinions - This would be a newly enacted section of Chapter 334, which would allow the Board to issue non-binding opinion statements addressing the issues and/or questions posed by its licensees and avoid potential issues with licensees, including disciplinary issues, that could easily be avoided with an answer by the Board thus avoiding potential harm to the public, future discipline and/or litigation.
- Physician Examination Requirements (334.040, RSMo) - The proposed changes would help clarify current licensure requirements, significantly streamline the application process, and help bring Missouri's licensure rules and statutes more in line with current medical training and education requirements.
- Physician Licensure Requirements (section 334.031, RSMo) - This proposal would lessen the burden for applicants to by eliminating submission of the above stated documents and require applicants to provide a copy of their diploma showing they received a medical or osteopathic degree.
- Physical Therapist and Physical Therapist Assistants Disciplinary Provisions (section 334.613, RSMo) - The proposed change would add language allowing the Board to discipline the license of any Physical Therapist or Physical Therapist Assistant who has not "...failed to renew or has surrendered his or her license..."
- Speech Language Pathologists (Chapter 345, RSMo) - The proposed changes make the requirements to get an SLPA license more consistent with the educational opportunities available in Missouri and should increase the number of SLPAs available to provide services.

The following proposal received approval from the Division of Professional Registration and the Department of Insurance, Financial Institutions and Professional Registration and will be submitted to the Governor's office for review and final approval.

- Physician Examination Requirements (section 334.040, RSMo);
- Physician Licensure Requirements (section 334.031, RSMo)
- Physical Therapist and Physical Therapist Assistants Disciplinary Provisions (section 334.613, RSMo)

This item was for informational purposes and no action was taken by the Board.

4. Board Delegated Authorities

The staff proposed an amendment to the Board Delegated Authorities to modify authorities related to the Executive Director's absence.

Motion made by Dr. Lyskowski and seconded by Dr. Freeman to accept the modifications. Dr. Lampert, Dr. Carter, Dr. DiRenna, Dr. Freeman, Dr. Lyskowski, Dr. Poggemeier and Dr. Tannehill voted in favor of the motion. The motion carried unanimously.

5. Budget

A summary of the FY2015 Budget was discussed by the Board. This item was for informational purposes and no action was taken by the Board.

6. Physician Reentry

The Physician Reentry Committee met via conference call on October 7, 2014. Agenda materials contained the legal analysis and minutes from the meeting. Dr. DiRenna provided a verbal update to the members of the Board.

Motion made by Dr. DiRenna and seconded by Dr. Tannehill to have legal counsel research and draft language to establish a new classification of licensure for reentry. Dr. Lampert, Dr. Carter, Dr. DiRenna, Dr. Freeman, Dr. Lyskowski, Dr. Poggemeier and Dr. Tannehill voted in favor of the motion. The motion carried unanimously.

7. Rule Petitions

The following rule petitions were submitted for the Board's review:

- 20 CSR 2150-7.135 - Physician Assistant Supervision Agreements – The Board received a request from Cynthia Emily, PA-C questioning whether physician assistants are able to see new patients independently.

Motion made by Dr. Freeman and seconded by Dr. Tannehill to respond that the rules are appropriate and clear and doesn't need any further rule. This motion was withdrawn.

Motion made by Dr. Tannehill and seconded by Dr. DiRenna to have legal counsel respond that the Board has declined to amend the rules and to explain the Board's reasoning for doing so. Dr. Lampert, Dr. Carter, Dr. DiRenna, Dr. Freeman, Dr. Lyskowski, Dr. Poggemeier and Dr. Tannehill voted in favor of the motion. The motion carried unanimously.

- 20 CSR 2150-6.010 Definitions – Morgan Simpson, AT, has requested that the Missouri Athletic Trainer Advisory Committee modify 20 CSR 2150-6.010(1)(H) by changing the "may" to "shall." This rule petition appeared on the July 2014 General Business Agenda. However, it was advertently not discussed during the meeting. The request was reviewed and discussed by the Board at their September 7, 2014 conference call.

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This item was for informational purposes and no action was taken by the Board.

Closed Session

Motion made by Dr. Carter and seconded by Dr. Lyskowski to go into closed session pursuant sections 610.021 (1), (5), (14), RSMo and 324.001 (8) and (9) and 334.001. Dr. Lampert, Dr. Carter, Dr. DiRenna, Dr. Freeman, Dr. Lyskowski, Dr. Poggemeier and Dr. Tannehill voted in favor of the motion. The motion carried unanimously.

Appearance Agenda

Dr. Lampert chaired the meeting during the Appearance Agenda.

Adem, Atonine, MD - Disciplinary Hearing

2010-002086

On or about April 17, 2014, in the case of the Board of Registration for the Healing Arts v. Antoine Adem, M.D., case number 12-0526 HA, the AHC found that cause exists to discipline Antoine Adem's license pursuant to Sections 334.100.2(4) and (4)(g).

Motion made by Dr. Carter and seconded by Dr. Poggemeier to go into closed session pursuant to sections 610.021 (1), (5), and (14), 324.001 (8) and (9) and 334.001, RSMo. Dr. Lampert, Dr. Carter,

Dr. DiRenna, Dr. Lyskowski, Dr. Poggemeier and Dr. Tannehill voted in favor of the motion. Dr. Freeman was not present during the vote. The motion carried unanimously.

Brandt, E.D., DO - Automatic Revocation Hearing **2012-001296**

On or about March 22, 2013, Dr. Brandt entered a guilty plea in the United States District Court for the Middle District of Florida to one count of Distribution of Oxycodone Not for Legitimated Medical Purpose and Not in the Usual Course of Professional Medical Practice, which are felonies. He was sentenced to two (2) years' probation.

Motion made to continue this case for proper service. Motion granted. Dr. Lampert, Dr. Carter, Dr. DiRenna, Dr. Freeman, Dr. Lyskowski, Dr. Poggemeier and Dr. Tannehill voted in favor of the motion. The motion carried unanimously.

Cohen, Harry, MD - HB265 Hearing **2013-005538**

On or about July 25, 2013, Dr. Cohen voluntarily surrendered his DEA registration while under investigation. Subsequently, on or about October 3, 2013, Dr. Cohen voluntarily surrendered his Arizona medical license based on findings that he had self-prescribed Ambien, had surrendered his DEA registration, and had refused to submit to an assessment. Following the surrender of his Arizona medical license, on or about December 4, 2013, Dr. Cohen surrendered his California medical license based on the Arizona discipline. Both the Arizona and California surrenders constitute final disciplinary action against Dr. Cohen's medical licenses.

Falconer, Erick, MD - Automatic Revocation Hearing **2014-001305**

Dr. Falconer pled guilty to knowingly, voluntarily, and intentionally making false statements during an interview with special agents of the FDA.

Motion made by Dr. Freeman and seconded by Dr. Carter to go into closed session. Dr. Lampert, Dr. Carter, Dr. DiRenna, Dr. Lyskowski, Dr. Poggemeier, Dr. Freeman, and Dr. Tannehill voted in favor of the motion. The motion carried unanimously.

Raben, Cyril, MD - Automatic Revocation Hearing **2014-002254**

Ohio Medical Board revoked Dr. Raben's license. The action was based on disciplinary action taken by a hospital.

Adjournment

Motion made by Dr. Poggemeier and seconded by Dr. Tannehill to adjourn the meeting. The meeting adjourned at approximately 6:30 p.m. Dr. Lampert, Dr. Carter, Dr. DiRenna, Dr. Freeman, Dr. Lyskowski, Dr. Poggemeier and Dr. Tannehill voted in favor of the motion. The motion carried unanimously.