

**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

January 22-23, 2015

The members of the Missouri State Board of Registration for the Healing Arts convened on January 22-23, 2015 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, Member

James DiRenna, DO, Member

David Poggemeier, MD, Member

David Tannehill, DO, Member

John Lyskowski, MD, Member

**Board Members Absent:**

Bradley Freeman, MD, Member

**Staff Present:**

Connie Clarkston, Executive Director

James Leggett, Executive I

Sarah Schappe, General Counsel

Frank Meyers, Associate General Counsel

Nancy Skinner, Contract Legal Counsel

Aaron Martin, Contract Legal Counsel

William Voss, DO, Interim Chief Medical Officer

Melvin Abend, MD, Medical Staff

William Smittle, DO, Medical Staff

Kenneth Hammond, Chief Investigator

John Short, Probation Supervisor

John Heidy, Probation Supervisor

Paul Williams, Probation Supervisor

Sidney Conklin, Investigator II

Maggie McDowell, Investigator II

Jeffrey Nichols, Investigator II

Andy Funk, Information Support Coordinator

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. Poggemeier and seconded by Dr. DiRenna to go into closed session pursuant to sections 610.021 (1), (5), and (14), 324.001 (8) and (9) and 334.001, RSMo. Dr. Carter, Dr. DiRenna, Dr. Lyskowski, Dr. Poggemeier and Dr. Tannehill voted in favor of the motion. Dr. Freeman was not present. The motion carried unanimously.

### **Closed Session**

Motion made by Dr. DiRenna and seconded by Dr. Lyskowski to go into closed session pursuant to sections 610.021 (1), (5), and (14), 324.001 (8) and (9) and 334.001, RSMo. Dr. Carter, Dr. DiRenna, Dr. Lyskowski, Dr. Poggemeier and Dr. Tannehill voted in favor of the motion. Dr. Freeman was not present. The motion carried unanimously.

### **Closed Session**

Motion made by Dr. Tannehill 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. Carter, Dr. DiRenna, Dr. Lyskowski, Dr. Poggemeier and Dr. Tannehill voted in favor of the motion. Dr. Freeman was not present. The motion carried unanimously.

### **Closed Session**

Motion made by Dr. Poggemeier and seconded by Dr. Tannehill to go into closed session pursuant to sections 610.021 (1), (5), and (14), 324.001 (8) and (9) and 334.001, RSMo. Dr. Carter, Dr. DiRenna, Dr. Lyskowski, Dr. Poggemeier and Dr. Tannehill voted in favor of the motion. Dr. Freeman was not present. 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. Association Liaison Meeting**

The Board met with various medical associations to discuss legislative proposals and topics of interest that may affect the medical field in the 2015 calendar year. This agenda item was for informational purposes and no action was taken by the Board.

#### **2. Approval of Minutes**

Motion made by Dr. Tannehill and seconded by Dr. DiRenna to accept to approve the October 23 and 24, 2014 Open minutes as presented. Dr. Carter, Dr. DiRenna, Dr. Lyskowski, Dr. Poggemeier and Dr. Tannehill voted in favor of the motion. Dr. Freeman was not present. The motion carried unanimously.

#### **3. Telehealth Rules**

The Board discussed the comments received regarding the current telehealth rules drafted jointly with the Board of Nursing, as required by HB315.

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

#### **4. Assistant Physician DRAFT Rules**

Ms. Schappe, General Counsel for the Board drafted some language for members to review and a legal analysis of the assistant physician bill.

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

### **5. Interstate Compact**

Ms. Schappe, General Counsel for the Board analyzed the Interstate Compact and has highlighted some areas of concern for your review.

Motion made by Dr. Tannehill and seconded by Dr. Lyskowski not to support the Interstate Compact in its current state/status. Dr. Carter, Dr. DiRenna, Dr. Lyskowski, Dr. Poggemeier and Dr. Tannehill voted in favor of the motion. Dr. Freeman was not present. The motion carried unanimously.

### **6. Physician Re-entry**

Ms. Schappe, General Counsel for the Board collected statutes from several states to create a reentry license for the Boards review.

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

### **7. Strategic Planning Meeting**

Ms. Clarkston, Executive Director for the Board shared the responses that the Board received about the December 2014 Strategic Planning Meeting with members, and we discussed holding these meetings every two (2) years.

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

### **8. Delegated Authorities**

The staff proposed an amendment to the Board Delegated Authorities to modify authorities related to complaints and malpractice cases against lapsed and deceased licensees and about reporting of abortions.

Motion made by Dr. Lyskowski and seconded by Dr. DiRenna to accept the modifications. Dr. Carter, Dr. DiRenna, Dr. Lyskowski, Dr. Poggemeier and Dr. Tannehill voted in favor of the motion. Dr. Freeman was not present. The motion carried unanimously.

Second motion made by Dr. DiRenna and seconded by Dr. Tannehill to add AMA/ADA to approved written documentation list for deceased physicians. Dr. Carter, Dr. DiRenna, Dr. Lyskowski, Dr. Poggemeier and Dr. Tannehill voted in favor of the motion. Dr. Freeman was not present. The motion carried unanimously.

### **9. Patient Safety Conference**

Ms. Clarkston, Executive Director for the Board ask the members of the Board if they want to participate in hosting a conference in the fall of 2015.

Motion made by Dr. Tannehill and seconded by Dr. DiRenna to extend the invitation to other allied health professionals regulated by the Board. Dr. Carter, Dr. DiRenna, Dr. Lyskowski, Dr. Poggemeier and Dr. Tannehill voted in favor of the motion. Dr. Freeman was not present. The motion carried unanimously.

### **Appearance Agenda**

Dr. Lampert chaired the meeting during the Appearance Agenda.

**Brandt, Eldon D., DO – Automatic Revocation Hearing**

**2012-001296**

On March 20, 2013, Dr. Eldon D. Brandt, DO, 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 Legitimate Medical Purpose and Not in the Usual Course of Professional Medical Practice, which are felonies. He was sentenced to two (2) years' probation. A disciplinary hearing was held pursuant to section 334.102, RSMo. Nancy Skinner served as the Board's legal advisor. Frank Meyers represented the Board. Dr. Brandt received notice but failed to appear. A finding of default was made on the record.

**Murphy, James T., MD – HB265 Hearing**

**2014-000645**

On January 21, 2014 staff received a Federation Report indicating that Dr. James T. Murphy, MD's New York Medical license was placed on inactive status for failure to maintain adequate medical records. The allegations set out in the Statement of Charges shows that Dr. Murphy failed to diagnose, adequately treat, admit for treatment, evaluate, discharge and maintain an adequate medical record for four (4) different patients. A disciplinary hearing was held pursuant to section 334.102, RSMo. Nancy Skinner served as the Board's legal advisor. Frank Meyers represented the Board. Dr. Murphy received notice but failed to appear. A finding of default was made on the record.

**Sultan, Ajmal A., MD – HB265 Hearing**

**2012-003715**

On or about July 10, 2012, Dr. Ajmal A. Sultan, MD, voluntarily surrendered his DEA license while under investigation. On or about December 12, 2013 the Arizona Medical Board placed Dr. Sultan's license on probation for five (5) years for opiate dependency. On or about January 23, 2014 the Virginia Board of Medicine issued an Order indefinitely probating Dr. Sultan's medical license for falsely answering "no" to multiple questions on his application. A disciplinary hearing was held pursuant to section 334.102, RSMo. Nancy Skinner served as the Board's legal advisor. Frank Meyers represented the Board.

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

**Franklin, L. Chris, DO – Probation Violation Hearing**

**2013-001334**

Dr. Franklin's license to practice medicine was suspended on May 8, 2014 pursuant to a settlement agreement he entered into with the Board. Dr. Franklin violated his settlement agreement with the Board by failing to cooperate with MAOPS, failing to meet with the probation supervisor and failing to submit to urine tests. A probation violation hearing was held pursuant to section 324.042, RSMo. Nancy Skinner served as the Board's legal advisor. Sarah Schappe represented the Board. Dr. Franklin received notice but failed to appear.

**Benne, Michael G., Jr., MD – HB265 Hearing**

**2014-002157**

On or about January 29, 2014 the Tennessee Board of Medical Examiners issued an Order wherein Dr. Michael G. Benne, Jr., MD, voluntarily surrendered his Tennessee medical license for the purpose of avoiding further administrative action. The Tennessee action was based on findings that Dr. Benne's care of twenty (20) patients fell below the standard of care, he failed to maintain records and allowed himself to be employed by a lay person in violation of Tennessee law and the AMA Code of Medical Ethics, he treated his employer as a patient, he prescribed controlled substances without sufficient justification, and

he allowed his employer to see patients and prescribe to patients using his prescription pad and DEA authorization. A disciplinary hearing was held pursuant to section 334.102, RSMo. Nancy Skinner served as the Board's legal advisor. Frank Meyers represented the Board. Dr. Benne received notice of the hearing but did not appear.

**Wilkie, Robert G., MD – Probation Violation Hearing**

**2014-004427**

Dr. Robert G. Wilkie, MD, entered into a settlement agreement with the Board, effective July 12, 2012, suspending his license for three (3) years or until he receives a fit to practice letter from a Board approved provider, followed by five (5) years of probation. Dr. Wilkie is not in compliance with his settlement agreement, as he has failed to follow all recommendations of MPHP. A probation violation hearing was held pursuant to section 324.042, RSMo. Nancy Skinner served as the Board's legal advisor. Sarah Schappe represented the Board.

**Closed Session**

Motion made by Dr. Carter and seconded by Dr. DiRenna to go into closed session pursuant to sections 610.021 (1), (5), and (14), 324.001 (8) and (9) and 334.001, RSMo. Dr. Carter, Dr. DiRenna, Dr. Lyskowski, Dr. Poggemeier and Dr. Tannehill voted in favor of the motion. Dr. Freeman was not present. The motion carried unanimously.

**Adjournment**

Motion made by Dr. DiRenna and seconded by Dr. Carter to adjourn. Dr. Carter, Dr. DiRenna, Dr. Lyskowski, Dr. Poggemeier and Dr. Tannehill voted in favor of the motion. Dr. Freeman was not present. The motion carried unanimously.