

Missouri State Board of Registration for the Healing Arts

Drury Inn & Suites Creve Coeur
11980 Olive Blvd
Creve Coeur, MO 63141

Open Session Meeting Minutes
January 14-15, 2016

The members of the Missouri State Board of Registration for the Healing Arts convened on January 14-15, 2016 at Drury Inn & Suites Creve Coeur, 11980 Olive Blvd, Creve Coeur, MO 63141.

Board Members Present:

Jeffrey Carter, MD, President
David Tannehill, DO, Secretary
James DiRenna, DO, Member
Bradley Freeman, MD, Member
Jade James, MD, Member
Benjamin Lampert, MD, Member
David Poggemeier, MD, Member

Board Members Absent

Sarah Martin-Anderson, PhD, MPP, MPH, Public Member

Staff Present:

Connie Clarkston, Executive Director
James Leggett, Executive I
Frank Meyers, General Counsel
Paul Lefebvre, Associate General Counsel
Aaron Martin, Contract Legal Counsel
Adam Grayson, Contract Legal Counsel
Tammy Branch, Executive Assistant
William Smittle, DO, Chief Medical Officer
Jerald Barnes, Chief Investigator
John Short, Probation Supervisor
Paul Williams, Probation Supervisor
Sidney Conklin, Investigator II
Tonya Gammill, Investigator II
Howard Hammers, Investigator II
Richard Maxwell, Investigator II
Maggie McDowell, Investigator II
Kevin Moroney, Investigator II
Jeffrey Nichols, Investigator II
Kerry Placeway, Investigator II
Richard Schurman, Investigator II
Elizabeth Stevens, Investigator II
Catherine Stewart, Investigator II
Kim Beffa, Enforcement Supervisor
Andy Funk, Information Support Coordinator
Kim Brester, Administrative Services Coordinator

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

Licensure Committee Meeting - Dr. Freeman chaired the meeting during the Licensure Committee.

Motion made by Dr. James 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. DiRenna, Dr. James, and Dr. Poggemeier voted in favor of the motion. Dr. Carter, Dr. Lampert, Dr. Martin-Anderson and Dr. Tannehill were not present. The motion carried unanimously.

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. DiRenna, Dr. Carter, Dr. James, Dr. Poggemeier and Dr. Tannehill voted in favor of the motion. Dr. Lampert and Dr. Martin-Anderson were not present. The motion carried unanimously.

Appearance Agenda and Board Hearings - Dr. Carter chaired the meeting during the Appearance Agenda and Board Hearings.

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

7. Velez, Dennis A., MD – Probation Violation Hearing **2014-004793**
2014-007293

A probation violation hearing was scheduled before the full Board for purposes of determining the truth of the allegations contained in the complaint filed against Dr. Dennis A. Velez, MD, on July 2, 2015. Specifically, the Complaint alleges that Dr. Velez has violated the terms of his probation as outlined in the November 12, 2014 settlement agreement with the Board, which had placed his license on probation for five (5) years restricting him from the practice of neurosurgery.

The Board was represented by Frank Meyers, and Dr. Velez was present and was represented by Terry Allen. Aaron Martin served as the Board's legal advisor. Prior to the hearing Frank Meyers, General Counsel for the Board, dismissed the case without prejudice and the Board accepted the dismissal.

8. Ngengwe, Raphael N., MD – HB265 Hearing **2015-000217**

A HB265 hearing was held before the full Board for purposes of determining the truth of the allegations contained in the Complaint filed against Dr. Raphael Ngengwe, MD on September 23, 2015. Specifically the Complaint alleges that on or about November 5, 2014 the State Medical Board of Ohio indefinitely suspended Dr. Ngengwe's Ohio license due to his failure to respond to the Ohio Board on three (3) separate occasions.

The Board was represented by Frank Meyers and Dr. Ngengwe was present and was represented by John Roark. Aaron Martin served as the Board's legal advisor.

Motion made by Dr. DiRenna 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. DiRenna, Dr.

Freeman, Dr. Lampert, Dr. Poggemeier and Dr. Tannehill voted in favor of the motion. Dr. James and Dr. Martin-Anderson were not present. The motion carried unanimously.

9. Zereik, Jamal A., MD – Probation Violation Hearing **2014-007402**

A probation violation hearing was held before the full Board for purposes of determining the truth of the allegations contained in the Complaint filed against Dr. Jamal Zereik, MD on September 30, 2015. Specifically the Complaint alleges Dr. Zereik has violated the terms of his probation as outlined in the August 18, 2014 settlement agreement with the Board, which had placed his license on probation for five (5) years.

The Board was represented by Aaron Martin and Dr. Zereik was present and was represented by Johnny Richardson. Frank Meyers served as the Board's legal advisor.

Motion made by Dr. James 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. DiRenna, Dr. Freeman, Dr. James, Dr. Lampert, Dr. Poggemeier and Dr. Tannehill voted in favor of the motion. Dr. Martin-Anderson was not present. The motion carried unanimously.

Closed Agenda - Dr. Carter chaired the meeting during the Closed Agenda.

Motion made by Dr. Freeman 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. DiRenna, Dr. Freeman, Dr. James, Dr. Lampert, Dr. Poggemeier and Dr. Tannehill voted in favor of the motion. Dr. Martin-Anderson was not present. The motion carried unanimously.

Investigative Agenda- Dr. Lampert chaired the meeting during the Investigative Agenda.

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

Malpractice and Medical Staff Interviews (MSI) agenda- Dr. Poggemeier chaired the meeting during the Malpractice and MSI Agenda.

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

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

1. Approval of Minutes

The following minutes are being presented for approval by the Board:

- December 13, 2015 – Conference Call Open Minutes

Motion made by Dr. DiRenna and seconded by Dr. Freeman to approve the open minutes as presented. Dr. DiRenna, Dr. Freeman, Dr. James, Dr. Lampert, Dr. Poggemeier and Dr. Tannehill voted in favor of the motion. Dr. Martin-Anderson was not present. The motion carried unanimously.

2. Audit Report

The Board was recently audited by State Auditor Office. The Audit Report was released on December 10, 2015. The Board received an overall performance rating of "Good", which means the audit results indicate this entity is well managed. A copy of the complete Audit Report was presented for the Board's review.

This information was provided for discussion purposes and no action was taken by the Board.

3. Financial Report

Included in the agenda was a financial summary, fund balance worksheet ending on November 30, 2015 and the five (5) year projections worksheet. Based on the five (5) year projections a fee decrease is recommended.

Motion made by Dr. Tannehill and seconded by Dr. DiRenna to explore options to decrease fees and support grant opportunities. Dr. DiRenna, Dr. Freeman, Dr. James, Dr. Lampert, Dr. Poggemeier and Dr. Tannehill voted in favor of the motion. Dr. Martin-Anderson was not present. The motion carried unanimously.

4. Anesthesiologist Assistants Proposed Rules

Recently the Board staff reviewed statutes and rules pertaining to Anesthesiologist Assistants. The goal of the review was to develop a user-friendly concise version of the rules. The draft rules were approved by the Advisory Commission at their December 18, 2015 conference call. A copy of the statute with some draft amendments were also discussed during the conference call. The Advisory Commission recommended no action be taken at the present time with regard to the statutory requirements.

Motion made by Dr. Lampert and seconded by Dr. Freeman to approve the proposed rules. Dr. DiRenna, Dr. Freeman, Dr. James, Dr. Lampert, Dr. Poggemeier and Dr. Tannehill voted in favor of the motion. Dr. Martin-Anderson was not present. The motion carried unanimously.

5. Post Graduate Training

Beginning in 2013, the Board directed staff to research the current length of residency programs in the United States and the potential impact of making changes to the current rule regarding post-graduate training requirements for physicians in Missouri. This was based on data reviewed by the Board showing an increased trend in applicants applying for a full medical license after only completing one (1) year of post-graduate training but not having completed the entire post-graduate program. The Board was concerned that such individuals were not qualified to practice medicine independently. During their July 2015 meeting, the Board directed legal staff to research the feasibility of changing the current temporary license structure to allow individuals who have only completed one (1) year of post-graduate training to practice independently outside of their residency program. The staff presented their research.

Motion made by Dr. Freeman and seconded by Dr. Tannehill to request legal to draft mock legislation with revisions to the training license to allow moonlighting and increase post-graduate training to two (2) years. The draft language should be brought back for Board discussion at their

April 2016 meeting. Dr. DiRenna, Dr. Freeman, Dr. James, Dr. Lampert, Dr. Poggemeier and Dr. Tannehill voted in favor of the motion. Dr. Martin-Anderson was not present. The motion carried unanimously.

6. Delegated Authorities – SB 107

The recent draft of the Board Delegated Authorities was presented for the Board's review and approval. Changes included clarification regarding physician examinations and proposed guidelines to respond to questions from the public.

Motion made by Dr. Lampert and seconded by Dr. Freeman to accept delegated authorities as presented. Dr. DiRenna, Dr. Freeman, Dr. James, Dr. Lampert, Dr. Poggemeier and Dr. Tannehill voted in favor of the motion. Dr. Martin-Anderson was not present. The motion carried unanimously.

7. Patient Safety Conference

The first annual Patient Safety Conference was held in August 2014 and was sponsored by the boards of Healing Arts, Dental, Nursing, and Pharmacy. These boards were then joined by the Missouri State Board of Chiropractic Examiners, the Missouri Board of Podiatric Medicine, the Missouri Board of Respiratory Care, the Missouri Committee for Psychologists, the Missouri Committee for Professional Counselors and the Missouri Committee for Social Workers to sponsor the 2015 Conference. Planning will begin soon for the 2016 Conference and Board input is needed.

Motion made by Dr. Poggemeier and seconded by Dr. Tannehill to support the 2016 Patient Safety Conference by sending information to the Patient Safety Coordinators at major hospitals and explore continuing education opportunities as well as expand upon the topic of professional burnout. Dr. DiRenna, Dr. Freeman, Dr. James, Dr. Lampert, Dr. Poggemeier and Dr. Tannehill voted in favor of the motion. Dr. Martin-Anderson was not present. The motion carried unanimously.

8. Physical Therapy Commission Discussion

At the December 23, 2015 conference call, the Board held a general discussion regarding the practice of physical therapy in the state of Missouri. As the Board has seen an increase in the number of cases being referred for disciplinary action, the Board requested members of the Advisory Commission be invited to the January 14-15, 2016 meeting to discuss unlicensed practice and the Commission's perspective on this issue. Specifically the Board is concerned with recent recommendations from the Advisory Commission to discipline the supervisors of physical therapy techs and physical therapy aides regarding the unlicensed practice of physical therapy, when it appears they had no such involvement in said activity other than being the listed supervisor. William Hopfinger, PT, ATC, Chair of the Advisory Commission was present for the discussion.

This information was provided for discussion purposes and no action was taken by the Board.

9. FSMB DRAFT Report – Marijuana and Medical Regulation

On December 8, 2015, the Board office received an email that FSMB Workgroup has completed its draft policy document for which they are seeking review and comment. The DRAFT Report was reviewed by the Board. The Workgroup will consider all comments received in drafting its final recommendations for submission to the FSMB Board of Directors in February 2016; and thereafter, to the House of Delegates for consideration in April 2016.

This information was provided for discussion purposes and no action was taken by the Board.

10. American Board of Laser Surgery

Per the directive from the October 2015 meeting, we contacted Dr. Warren Seiler, Executive Director of the American Board of Laser Surgery (“ABLS”), and requested a copy of his report concerning the use of lasers and light in medical, surgical and cosmetic practices. Dr. Seiler aspires to increase awareness of the dangers and risks associated with using laser and light devices. He believes regulatory agencies and organizations need stronger oversight of “laser specialties,” ensuring that only properly trained professionals perform laser and light procedures. Dr. Seiler’s report, curriculum vitae, treatment policies and patient forms was reviewed by the Board.

This information was provided for discussion purposes and no action was taken by the Board.

11. 2015 USMLE Annual Report

The 2015 Annual Report on the USMLE to Medical Licensing Authorities in the United States has been released and was included for the Board’s review. This report provides an overview of the USMLE program, updates on recent changes, performance data, standard setting process and schedule, and a summary of state medical boards’ interactions with the USMLE program in 2014.

This information was provided for discussion purposes and no action was taken by the Board.

12. FSMB Annual Meeting

FSMB’s Annual Meeting will be held April 28 – April 30, 2016, at the Manchester Grand Hyatt in San Diego, CA. A copy of the draft agenda and reimbursement policy was included for the Board’s review.

This information was provided for discussion purposes and no action was taken by the Board.

Adjournment

Motion made by Dr. Tannehill and seconded by Dr. Poggemeier to adjourn. Dr. DiRenna, Dr. Freeman, Dr. James, Dr. Lampert, Dr. Poggemeier and Dr. Tannehill voted in favor of the motion. Dr. Martin-Anderson was not present. The motion carried unanimously.