

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
April 14-15, 2016

The members of the Missouri State Board of Registration for the Healing Arts convened on April 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
Sarah Martin-Anderson, PhD, MPP, MPH, Public Member
David Poggemeier, MD, Member

Staff Present:

Connie Clarkston, Executive Director
James Leggett, Executive I
Frank Meyers, General Counsel
Paul Lefebvre, Associate General Counsel
Tammy Branch, Executive Assistant
William Smittle, DO, Chief Medical Officer
Jerald Barnes, Chief Investigator
John Short, Probation Supervisor
Paul Williams, Probation Supervisor
Mike Bergman, Investigator II
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
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 Agenda - Dr. Freeman chaired the meeting during the Licensure Agenda.

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. James, Dr. Lampert, Dr. Martin-Anderson, Dr. Poggemeier and Dr. Tannehill voted in favor of the motion. The motion carried unanimously.

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

4. Donald W. Lamoureaux, DO – Auto Revocation **2015-000774**

The Board previously filed a complaint alleging cause exists to revoke Dr. Lamoureaux's license pursuant to section 334.103.1, RSMo. Specifically, the complaint alleged that on or about June 30, 2015, Dr. Lamoureaux entered a guilty plea in the United States District Court for the Western District of Arkansas, in case number 2:15CR20003-001, to one (1) count of Coercion and Enticement of a Minor, a felony offense and violation of Title 18 U.S.C. section 2422(b). Dr. Lamoureaux is currently incarcerated in the Butner Low Federal Corrections Institution in Butner, North Carolina.

Paul Lefebvre, legal counsel for the Board, requested a continuance to obtain proper service of the complaint and notice of hearing on Dr. Lamoureaux. The request for continuance was granted by Dr. Carter.

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

Motion made by Dr. James and seconded by Dr. Lampert 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. James, Dr. Martin-Anderson, Dr. Poggemeier and Dr. Tannehill voted in favor of the motion. Dr. Freeman 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 were presented for approval by the Board:

- February 5, 2016 – Telehealth Taskforce Open Meeting Minutes
- March 6, 2016 – Conference Call Open Meeting Minutes
- March 20, 2016 – Collaborative Practice Committee Open Meeting Minutes

Motion made by Dr. DiRenna and seconded by Dr. Lampert to approve the February 5, 2016 open minutes as presented. Dr. DiRenna, Dr. James, Dr. Lampert, Dr. Martin-Anderson, Dr. Poggemeier and Dr. Tannehill voted in favor of the motion. Dr. Freeman was not present. The motion carried unanimously.

Motion made by Dr. DiRenna and seconded by Dr. Tannehill to approve the March 6, 2016 and March 20, 2016 open minutes as presented. Dr. DiRenna, Dr. James, Dr. Lampert, Dr. Martin-Anderson, Dr. Poggemeier and Dr. Tannehill voted in favor of the motion. Dr. Freeman was not present. The motion carried unanimously.

2. Telehealth Committee Report

The Board's Telehealth Taskforce (Taskforce) met on February 5, 2015 to discuss telehealth and the various issues practitioners are experiencing. A copy of the open meeting minutes and power point presentations from the Taskforce meeting were presented for the Board's review.

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

3. MO Board of Pharmacy

Kimberley Grinston, Executive Director of the Missouri State Board of Pharmacy (Board of Pharmacy), and Douglas Lang, a member of the Board of Pharmacy, met with the Board to discuss issues their licensees are facing regarding prescriptions written following telehealth encounters. Specifically, the Board of Pharmacy is receiving calls asking whether an examination of a patient that is conducted via electronic equipment from a remote location would qualify as a physical examination as defined in section 334.108, RSMo. As section 334,108, RSMo is a Board statute, the Board of Pharmacy requested a meeting with the Board to clarify its interpretation of the statute and to discuss whether legislative or rulemaking action is needed to provide guidance for pharmacists and physicians in Missouri. A copy of the written request from the Board of Pharmacy and relevant statutes and regulations were presented for the Board's review.

Motion made by Dr. DiRenna and seconded by Dr. Tannehill to have legal staff draft a generic statement in response to this inquiry and bring it back to the June Conference Call for review. Dr. DiRenna, Dr. James, Dr. Lampert, Dr. Martin-Anderson, Dr. Poggemeier and Dr. Tannehill voted in favor of the motion. Dr. Freeman was not present. The motion carried unanimously.

4. Compounding Pharmacies

On January 19, 2015, the Board received a letter from several pharmacy associations regarding concerns over the Food and Drug Administration's (FDA) implementation of the Drug Quality and Security Act (DQSA). These associations are concerned with the impact DQSA will have on patient access to compounded medications, and they are requesting the Board delay consideration of any pending regulatory or policy decision regarding compounded drugs until new rules are published by the FDA. A copy of the January 19, 2015 letter and memo from legal staff were presented for the Board's review.

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

5. FSMB Presentation on Interstate Medical Licensure Compact

Eric Fish, Sr. Vice President of Legal Services for the Federation of State Medical Boards (FSMB) appeared before the Board to discuss the Interstate Medical Licensure Compact (IMLC) and address any of the Board's concerns.. A copy of a letter from Eric Fish and supplemental information were presented for the Board's review.

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

6. Request for Rulemaking

The Board received a request for rulemaking from the American Congress of Obstetricians and Gynecologists (ACOG) asking the Board to promulgate rules to effectuate the licensure and regulation of midwives in Missouri. A copy of the letter from ACOG and accompanying attorney-client privileged memo were presented for the Board's review.

Motion made by Dr. DiRenna and seconded by Dr. Tannehill to go into closed session pursuant to section 610.021 (1), RSMo. Dr. DiRenna, Dr. Freeman, Dr. James, Dr. Lampert, Dr. Martin-Anderson, Dr. Poggemeier and Dr. Tannehill voted in favor of the motion. The motion carried unanimously.

Motion made by Dr. Freeman and seconded by Dr. Tannehill that it is not within the Board's purview to promulgate rules relating to midwifery and for legal staff to draft a response to the request for rulemaking. Dr. DiRenna, Dr. Freeman, Dr. James, Dr. Lampert, Dr. Martin-Anderson, Dr. Poggemeier and Dr. Tannehill voted in favor of the motion. The motion carried unanimously.

7. Collaborative Practice Audits

On March 20, 2016, the Board's Collaborative Practice Audit Committee (Committee) met to discuss implementing a new audit procedure regarding collaborative practice agreements (CPA). The Committee directed staff to make changes to the proposed audit checklist based on feedback from the Committee members, and then bring the information to the full Board for review and discussion on how to implement the audit process. A copy of the original memo, proposed audit checklist and supplemental information was presented for the Board's review.

Motion made by Dr. Poggemeier and seconded by Dr. Freeman to approve the draft checklist with the added provision that staff begin with a pilot audit of two percent (2%) of CPAs to determine if additional changes are necessary to the checklist. Dr. DiRenna, Dr. Freeman, Dr. James, Dr. Lampert, Dr. Martin-Anderson, Dr. Poggemeier and Dr. Tannehill voted in favor of the motion. The motion carried unanimously.

8. FSMB Draft Proposals

The Federation of State Medical Boards (FSMB) is scheduled to hold its 2016 annual meeting on April 30, 2016 in San Diego, California. During this meeting, FSMB's House of Delegates will vote on several proposed resolutions. Among those resolutions being discussed are:

- Resolution 16-1: Task Force to Study the Need for State Board Regulation of Physician Compounding; and
- Resolution 16-2: Advocacy Efforts in Response to Antitrust Concerns of State Medical Boards.

Copies of the draft resolutions were presented for the Board's review.

Motion made by Dr. Lampert and seconded by Dr. Freeman to support resolution 16-1. Dr. DiRenna, Dr. Freeman, Dr. James, Dr. Lampert, Dr. Martin-Anderson, Dr. Poggemeier and Dr. Tannehill voted in favor of the motion. The motion carried unanimously.

Motion made by Dr. Freeman and seconded by Dr. Tannehill to support resolution 16-2. Dr. DiRenna, Dr. Freeman, Dr. James, Dr. Lampert, Dr. Martin-Anderson, Dr. Poggemeier and Dr. Tannehill voted in favor of the motion. The motion carried unanimously.

9. Grant Program

The Board previously directed staff to research the feasibility of instituting a grant program to fund various public interest initiatives. This discussion began after the Board was informed that a portion of its fund may be swept into the general revenue due to a surplus. A memo was presented for the Board's review.

Motion made by Dr. Tannehill and seconded by Dr. James to go into closed session pursuant to sections 610.021 (1), RSMo. Dr. DiRenna, Dr. Freeman, Dr. James, Dr. Lampert, Dr. Martin-Anderson, Dr. Poggemeier and Dr. Tannehill voted in favor of the motion. The motion carried unanimously.

Motion made by Dr. Freeman and seconded by Dr. Lampert to prepare a proposed fee decrease and bring back the proposal to the June Conference call. Dr. DiRenna, Dr. Freeman, Dr. James, Dr. Lampert, Dr. Martin-Anderson, Dr. Poggemeier and Dr. Tannehill voted in favor of the motion. The motion carried unanimously.

10. 2017 Legislative Proposals

The Board discussed potential legislation to pursue during the 2017 legislative year.

a. Reentry to Practice

At its May 2015 meeting, the Board reviewed draft legislation and rules regarding a proposed physician re-entry program. The Board directed staff to add the draft legislation to its list of 2015 legislative proposals. This legislation was not approved by the governor's office for filing in 2016. A copy of the proposed legislation was presented for the Board's review.

Motion made by Dr. Freeman and seconded by Dr. Tannehill to continue moving the reentry to practice legislation through the legislative process. Dr. DiRenna, Dr. Freeman, Dr. James, Dr. Lampert, Dr. Martin-Anderson, Dr. Poggemeier and Dr. Tannehill voted in favor of the motion. The motion carried unanimously.

11. Consumer Report

On March 29, 2016, Consumer Reports® published a survey ranking state medical and osteopathic board websites for 2015. A copy of the survey and accompanying memo were presented for the Board's review.

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

12. Dental Sleep Medicine

On February 5, 2016, the Board received a letter from the American Academy of Dental Sleep Medicine (AADSM) outlining AADSM's concerns that physicians are providing non-custom oral appliances for the treatment of obstructive sleep apnea. A copy of the letter from AADSM and accompanying memo were presented for the Board's review.

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

13. Request from Dr. Voran

The Board received a request from Dr. David Voran, MD, asking for guidance on whether he can utilize telemedicine to perform Annual Wellness Visits (AWV) on Medicare patients. A copy of the letter from Dr. Voran and accompanying memo were presented for the Board's review.

Motion made by Dr. Anderson and seconded by Dr. Tannehill to have legal staff send a response stating there are no telehealth rules or statutes specifically addressing the matter, the issues identified generally fall within the applicable standard of care and refer Dr. Voran to CMS for issues of

reimbursement. Dr. DiRenna, Dr. Freeman, Dr. James, Dr. Lampert, Dr. Martin-Anderson, Dr. Poggemeier and Dr. Tannehill voted in favor of the motion. The motion carried unanimously.

14. AT Advisory Commission

On March 22, 2016, Ms. Kelly Quinlin submitted a letter requesting the Board consider her for reappointment to the Advisory Commission for Athletic Trainers. A copy of Ms. Quinlin's letter and accompanying memo were presented for the Board's review.

Motion made by Dr. Poggemeier and seconded by Dr. Tannehill to approve Ms. Quinlin's reappointment. Dr. DiRenna, Dr. Freeman, Dr. James, Dr. Lampert, Dr. Martin-Anderson, Dr. Poggemeier and Dr. Tannehill voted in favor of the motion. The motion carried unanimously.

Adjournment

Motion made by Dr. Lampert and seconded by Dr. DiRenna to adjourn. Dr. DiRenna, Dr. Freeman, Dr. James, Dr. Lampert, Dr. Martin-Anderson, Dr. Poggemeier and Dr. Tannehill voted in favor of the motion. The motion carried unanimously.