

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 27- 28, 2017

The members of the Missouri State Board of Registration for the Healing Arts convened on October 27-28, 2017 at Missouri Council of School Administrators Building, 3550 Amazonas Drive, Jefferson City, Missouri 65109.

Board Members Present:

David Poggemeier, MD, President
Jade James, MD, Secretary
James DiRenna, DO, Member
David Tannehill, DO, Member

Board Members Absent:

Sarah Martin, PhD, MPP, MPH, Public Member
Katherine Mathews, MD, Member

Staff Present:

Connie Clarkston, Executive Director
James Leggett, Associate Executive
Paul Lefebvre, General Counsel
Hong Chen, Associate General Counsel
Adam Grayson, Contract Legal Counsel
Tammy Branch, Executive Assistant
Harli Bexten, Paralegal
William Smittle, DO, Chief Medical Officer
William Voss, DO, Medical Staff
Gerald Cupp, MD, Medical Staff
James Ennis, DO, Medical Staff
Michelle Heislen, Enforcement Supervisor
Paul Williams, Probation Supervisor
Sidney Conklin, Chief Investigator
Jerald Barnes, Investigator II
Tonya Gammill, Investigator II
Howard Hammers, Investigator II
Richard Maxwell, Investigator II
Kevin Moroney, Investigator II
Kerry Placeway, Investigator II
Elizabeth Stevens, Investigator II
Kyle Maddox, Information Support 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. James chaired the meeting during the Licensure Agenda.

Motion made by Dr. DiRenna and seconded by Dr. James to go into closed session pursuant to sections 610.021 (1), (5), (7) and (14), 324.001 (8) and (9), and 334.001, RSMo. Dr. DiRenna, Dr. James, Dr. Poggemeier and Dr. Tannehill voted in favor of the motion. Dr. Martin and Dr. Mathews were not present. Motion carried unanimously.

Board Hearings – Dr. Poggemeier chaired the meeting during the Board Hearings.

9. Walter, Gail E., MD (Disciplinary Hearing) **2013-004745**

On August 27, 2013, Gail E. Walter's, MD medical staff privileges at Fitzgibbon Hospital were revoked based on findings that she was under the influence of narcotics while working on duty in violation of the hospital's medical staff bylaws.

Motion made by Dr. Tannehill and seconded by Dr. DiRenna to go into closed session pursuant to sections 610.021 (1), (5), (7) and (14), 324.001 (8) and (9), and 334.001, RSMo. Dr. DiRenna, Dr. James, Dr. Poggemeier and Dr. Tannehill voted in favor of the motion. Dr. Martin and Dr. Mathews were not present. Motion carried unanimously.

10. Deem, James P., PTA (Automatic Revocation Hearing) **2016-000235**

James P. Deem, PTA, submitted his 2016-18 renewal and answered in positive to Question #15: "Since your last renewal, have you been arrested, charged, indicted, found guilty, or entered a plea of guilty, an alford, no contest plea or plea of nolo contendere, in a criminal prosecution in any state or federal court whether or not sentence was imposed, including suspended imposition of sentence or suspended execution of sentence, except for minor traffic violations? Alcohol related traffic violations must be reported." Mr. Deem states that on August 8, 2015, he had an altercation with his now ex-girlfriend and was issued an arrest notice for Domestic Assault. On September 28, 2016, Mr. Deem entered a plea of guilty in the Circuit Court of St. Louis County to the class C felony of Domestic Assault 2nd Degree. The Court issued a Suspended Imposition of Sentence (SIS) order and placed Mr. Deem on a five (5)-year probation.

Motion made by Dr. Tannehill and seconded by Dr. James to go into closed session pursuant to sections 610.021 (1), (5), (7) and (14), 324.001 (8) and (9), and 334.001, RSMo. Dr. DiRenna, Dr. James, Dr. Poggemeier and Dr. Tannehill voted in favor of the motion. Dr. Martin and Dr. Mathews were not present. Motion carried unanimously.

Motion made by Dr. DiRenna and seconded by Dr. Tannehill to go into closed session pursuant to sections 610.021 (1), (5), (7) and (14), 324.001 (8) and (9), and 334.001, RSMo. Dr. DiRenna, Dr. James, Dr. Poggemeier and Dr. Tannehill voted in favor of the motion. Dr. Martin and Dr. Mathews were not present. Motion carried unanimously.

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

1. Prerogatives of the Chair

Dr. Poggemeier discussed the following topics as Prerogatives of the Chair:

- The Board received an email from the Governor's office on October 26, 2017 at 5:40pm with notification that Katherine Mathews, MD would be appointed to the Board on October 27, 2017.

Staff Note: Dr. Mathews was appointed on October 27, 2017 and is reported as absent for this Board meeting due to the timing of the appointment.

- Ms. Clarkston updated the Board regarding the Opioid Summit the Board had discussed at previous meetings. Ms. Clarkston was contacted by the Missouri Hospital Association to gauge the Board's interest in partnering with them at the 2018 Annual Spring Conference focusing on the Opioid Epidemic. Ms. Clarkston spoke with Dr. Poggemeier prior to the meeting and confirmed the Board's interest in the conference. The Board held a discussion regarding whether opioid prescribing should be required as mandatory continuing medical education (CME), and requested the staff research on which states have such mandates. This item will be placed on the December 10, 2017 conference call for further discussion.

2. Approval of Minutes

The following minutes were presented for approval by the Board:

- September 17, 2017 Conference Call Open Minutes

Motion made by Dr. DiRenna and seconded by Dr. Tannehill to approve the September 17, 2017, minutes as written. Dr. DiRenna, Dr. James, Dr. Poggemeier and Dr. Tannehill voted in favor of the motion. Dr. Martin and Dr. Mathews were not present. Motion carried unanimously.

3. Executive Order 17-03 & Red Tape Reduction

On January 10, 2017, Governor Greitens signed Executive Order 17-03, ordering state agencies to undertake a comprehensive review of every regulation under its jurisdiction within the Code of State Regulations. The Governor instructed agencies to accept comments, hold at least two (2) public hearings to afford citizens and businesses the opportunity to identify ineffective or unduly burdensome regulations, and solicit and incorporate feedback and advice from private citizens, stakeholders, regulated entities and other interested parties. Further, the agencies are being asked to prepare a report for the Governor by May 31, 2018, affirming: the regulation is essential to the health, safety, or welfare of Missouri citizens; confirm the costs of the regulation do not outweigh its benefits; a process exists to measure the effectiveness of the regulation; less restrictive alternatives have been considered and found less desirable than the regulation; the regulation is based upon sound scientific, technical, economic, or other relevant information; and the regulation does not unduly or adversely affect citizens, customers of the state, or Missouri's competitive environment. Pursuant to the Governor's Order, the Board held public meetings on August 18th and September 19th. Moreover, interested parties were invited to submit comments on the Board's website, via email, mail or facsimile through October 6th. Provided for the Board's review is a copy of Executive Order 17-03 and a summary of the comments submitted by members of the public.

Motion made by Dr. Tannehill and seconded by Dr. DiRenna to direct staff to draft responses to public comments, including suggestions for feasible revision/rescission of current rules, at December 10, 2017 conference call. Dr. DiRenna, Dr. James, Dr. Poggemeier and Dr. Tannehill voted in favor of the motion. Dr. Martin and Dr. Mathews were not present. Motion carried unanimously.

4. Physician Assistant Rule Amendment

Mr. Paul Lefebvre, General Counsel for the Board, discussed the Proposed Amendment to 20 CSR 2150-7.135. Under section 334.735.1(8), RSMo, appropriate supervision of a physician assistant "shall require the supervising physician to be working within the same facility as the physician assistant for at least four hours within one calendar day for every fourteen days on which the physician assistant provides patient care as described in subsection 3 of this section." However, the

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current rule 20 CSR 2150-7.135(4) conflicts with the statute, stating that the supervising physician and physician assistant must work within the same facility sixty-six percent (66%) of the time per calendar quarter.

Similarly, while section 334.735.2(1), RSMo, provides that physician assistants shall practice at a location within a fifty (50)-mile radius of the supervising physician's practice location, subsection (6) of 20 CSR 2150-7.135 requires physician assistants to practice within thirty (30) miles of the supervising physician unless the physician assistant obtains a waiver from the Board to practice up to fifty (50) miles apart. Under the current statute, the waiver is no longer necessary as all physician assistants are allowed to practice up to fifty (50) miles from the practice location of the supervising physician.

Moreover, the Board is proposing removing subsections (3), (5) and (7) of 20 CSR 2150-7.135 because the provisions essentially impose requirements that are already codified in the statute, in sections 334.735.1(8) and 334.735.13, RSMo.

Lastly, the proposed amendment removes a reference in subsection (1) of 20 CSR 2150-7.135 to an earlier version of rule which no longer exists.

Motion made by Dr. Tannehill and seconded by Dr. James to approve the amendments and proceed with filing. Dr. DiRenna, Dr. James, Dr. Poggemeier and Dr. Tannehill voted in favor of the motion. Dr. Martin and Dr. Mathews were not present. Motion carried unanimously.

5. Physical Therapist Rule Amendment

Mr. Paul Lefebvre, General Counsel for the Board discussed the Proposed Amendment to 20 CSR 2150-3.040. Under section 334.540, RSMo, the Board can issue a physical therapy (PT) license to an applicant who possesses an active license in another jurisdiction, provided that, such person has not been disciplined by another board and is licensed in a jurisdiction whose requirements are substantially equal to, or greater than, the requirements for licensure of physical therapists in Missouri. While examination and academic requirements are substantially uniform across PT licensing authorities in the United States, approximately fifteen (15) states do not currently require applicants to present evidence of their good moral character. The proposed amendment would incorporate good moral character into the threshold criteria for a PT license in Missouri, thereby ensuring the Board is afforded the opportunity to grant a license to otherwise qualified applicants actively licensed in those jurisdictions. Furthermore, under the current rule, applicants who "received examination scores equivalent to those set forth in 20 CSR 2150-3.030" are candidates for PT licenses by reciprocity, exclusively. As 20 CSR 2150-3.030 only describes the FSBPT examination's scaled scores, applicants who passed a state board examination prior to their state's adoption of the FSBPT examination are not eligible for a license by reciprocity. The proposed amendment would also address this issue.

Motion made by Dr. DiRenna and seconded by Dr. James to approve the amendments and proceed with filing. Dr. DiRenna, Dr. James, Dr. Poggemeier and Dr. Tannehill voted in favor of the motion. Dr. Martin and Dr. Mathews were not present. Motion carried unanimously.

6. Board Delegated Authorities

Mr. Lefebvre went through the revisions of the Delegated Authorities which were presented for approval by the Board.

Motion made by Dr. James and seconded by Dr. Tannehill to approve the Board Delegated Authorities as submitted, as well as an addition that would allow the Licensure Section Executive

Director to review and determine if an applicant needs to appear in front of the Board; then the staff will send a case summary to the Licensure Chair for approval to expedite licensure process. Dr. DiRenna, Dr. James, Dr. Poggemeier and Dr. Tannehill voted in favor of the motion. Dr. Martin and Dr. Mathews were not present. Motion carried unanimously.

Closed Session

Motion made by Dr. Tannehill and seconded by Dr. DiRenna to go into closed session pursuant to section 610.021 (1) RSMo. Dr. DiRenna, Dr. James, Dr. Poggemeier and Dr. Tannehill voted in favor of the motion. Dr. Martin and Dr. Mathews were not present. Motion carried unanimously.

Adjournment

Motion made by Dr. James and seconded by Dr. DiRenna to adjourn. Dr. DiRenna, Dr. James, Dr. Poggemeier and Dr. Tannehill voted in favor of the motion. Dr. Martin and Dr. Mathews were not present. Motion carried unanimously.