

NEVADA STATE BOARD OF HOMEOPATHIC MEDICAL EXAMINERS

MINUTES OF PUBLIC MEETING AND AGENDA

27 January 2007

LOCATION OF MEETING: GRANT SAWYER STATE OFFICE BUILDING
555 E. Washington, Room 4401
Las Vegas, NV 89101

MEMBERS OF THE BOARD AND STAFF: The following persons are either members of the Board or staff, and were absent or present for the meeting as designated:

Valerie Kilgore, Member and President.....	Absent
Bruce Fong, Member and Vice President.....	Present by phone
Fuller Royal, Member and Secretary-Treasurer.....	Present
Diane Kennedy, Member.....	Present
John H.O. LaGatta, Member.....	Present
Daniel Royal, Member.....	Absent
Executive Director, Nancy Eklof.....	Present
Ned Reed, Deputy Attorney General, Counsel to the Board.....	Present

MEMBERS OF THE PUBLIC: The following persons were present:

Doris J. Rapp MD (H) (Arizona). Applicant for HMD license
 Sam Winter DO (Nevada). Applicant for HMD license
 Tatiana Dickinson MD (Russia). Applicant for an APH certificate
 Debbie Bolda MA. Applicant for an HA certificate
 Hilary Dudley MA. Applicant for an HA certificate
 Marie Royal
 Ken Nomuro
 Hershel Fryd

A. In the absence of the Board President, the Meeting was called to order by Dr. Bruce Fong, Vice President, at 9:25 a.m. Pacific Time. Dr. Fong requested Fuller Royal Chair the meeting. Fuller Royal asked for verification of the meeting having been posted and noticed, which was verified by Executive Director Nancy Eklof. All visitors were welcomed. Time for adjournment was set for 4:00 p.m. or sooner.

Motion: John LaGatta moved to approve today's Agenda
 Second: Diane Kennedy, and asked the Board to include in the Agenda a letter from the Board President.
 Action: Passed unanimously

B. The documents for each applicant were declared to be complete by the Executive Director and in order by Dr. Bruce Fong who reviewed the applications. Each applicant was interviewed by the Board members.

1. Motion: Bruce Fong moved to approve Dr. Rapp for HMD licensure by reciprocity.
 Second: Diane Kennedy
 Action: Passed unanimously

2. Motion: John LaGatta moved to allow Dr. Winter to take the written exam for HMD licensure, followed by an interview. Second: Diane Kennedy
Action: Passed Unanimously
3. Motion: Bruce Fong moved to allow Dr. Dickinson to take the written exam for APH Certificate, followed by an interview. Second: John LaGatta
Action: Passed unanimously
4. Motion: Diane Kennedy moved to allow Debbie Bolda to take the written exam for HA Certificate, followed by an interview.
Second: John LaGatta
Action: Passed unanimously
5. Motion: John LaGatta moved to allow Hilary Dudley to take the written exam for Ha Certificate, followed by an interview.
Second: Bruce Fong
Action: Passed unanimously

C. Executive Business.

- 1-5 Motion: Diane Kennedy moved to approve the Minutes of November 16, 2006, December 14, 2006, December 20, 2006 Board meetings.
Second: John LaGatta
Discussion: Diane Kennedy stated she had never seen such detailed minutes. John LaGatta stated he believed the detailed minutes were necessary because of the Board's current state of affairs.
Action: Passed Unanimously

6. Election of Officers:

The Board has adopted regulations that will change the way elections will be conducted in the future, but those regulations have not been approved thus far by the Legislative Commission. Therefore, the Board must continue to follow NAC 630A. 025:

The Board will elect its officers annually before June 30. The term of an officer begins on July 1 after the election and ends on June 30 of the succeeding year. Those elected to office will take office on July 1, 2007.

Diane Kennedy nominated Fuller Royal for President
There were no other nominations

Motion: Diane Kennedy moved to elect Fuller Royal President
Second: John LaGatta
Action: Passed unanimously

John LaGatta asked if anyone could serve two offices. The Deputy Attorney General stated "no." Mr. LaGatta asked to consider the office of the Secretary-Treasurer before considering Vice President. The Secretary-Treasurer is also a member of the NIRB. Fuller Royal, the current Secretary-Treasurer has submitted his resignation. The election process proceeded as follows:

Diane Kennedy nominated Valerie Kilgore for Vice President.
There were no other nominations.
Action: Vote was unanimous in favor of Valerie Kennedy.

Fuller Royal explained his reasons for his resignation. He has served as Secretary-Treasurer for 7 years and his term as a Board member will end in 2008. Another Board member needs to become familiar with the duties of this office. He stated he would be pleased to assist the new Secretary-Treasurer in carrying out the duties of this office. He was asked to describe what he felt were the most important ministerial parts of his office.

Bruce Fong asked if the Secretary-Treasurer would still continue to be the person dealing with the LCB in filing the required reports during this year as a result of the LCB procedures and financial audit. This person could now be delegated by the President to anyone on the Board.

Diane Kennedy moved to appoint Bruce Fong as Secretary-Treasurer.
Discussion: John LaGatta asked if Bruce Fong would be available to fill the office, having a medical office in Chicago and soon to have an office in Las Vegas. Dr. Fong said he could perform the duties.

Dr. Fong, Vice President, submitted his resignation as Vice President in order to be eligible to serve as Secretary-Treasurer until July 1, 2007. Diane Kennedy suggested the Board consider electing Fuller Royal interim Vice President to fill the vacancy created by Dr. Fong's resignation.

Motion: Fuller Royal moved to accept Dr. Fong's resignation

Second: Diane Kennedy

Action: Passed with Dr. Fong recusing himself.

Motion: Diane Kennedy nominated Dr. Fuller Royal for interim Vice President

Second: John LaGatta

Action: Passed with Fuller Royal recusing himself.

Motion: John LaGatta moved Dr. Bruce Fong immediately assume the duties of Secretary-Treasurer.

Second: Diane Kennedy

Passed: Passed with Bruce Fong recusing himself.

Board's legal counsel advised the Board to determine the time of service of each officer in order to comply with the new law when the LCB approves the regulations under consideration. These terms will be active until June 30, 2008.

Motion: John LaGatta moved the Board officers elected to serve terms beginning July 1, 2007 be filled until June 30, 2008, and the officers elected to serve in interim offices be filled until July 1, 2007.

Second: Diane Kennedy Action: Passed unanimously.

7. Annual Reports from all BHME Committees:

- a. Executive Committee. Valerie Kilgore. No Report.
- b. Policy and Bylaws Committee. Nancy Eklof. No Report.
- c. Fiscal-Finance Committee. Diane Kennedy. No Report.
- d. NIRB Committee. Diane Kennedy. No Report.
- e. NAC 630A Committee. Fuller Royal. Reported the Board's regulations LCB File No. R125-06 will be reviewed by the Legislative Commission by March, 2007.
- f. NRS 630A committee John H.O. LaGatta. No Report
- g. Complaint Committee. John H.O. LaGatta. Five complaints were filed against licensees during 2006; there were 6 open law complaints against the Board being investigated through the Office of Attorney General.
- h. Education Committee. Fuller Royal.
 - 1) Report on # applicants during 2006. Six (6): 4 in January and 2 in July, with one applicant failing the examination.
 - 2) Status of preparation of examinations. The questions for the open book examination are selected from a pool of questions prepared by licensees during the past 10 years. Questions are multiple choice.
 - 3) Status of applicant preparation for examination. The Board should not be involved in preparing the applicants for the examination, but no other source has come forward, such as the state association, NHIMA, to help with this necessary step. The Secretary-Treasurer has assumed the role of introducing the applicants to the examination process by answering questions raised by the applicants as to the actual procedure of an open book examination. This has been offered the day before applicants take the examinations.
 - 4) Changes in requirements for applying for license. The policy is for applicants failing the examination to be given an oral examination by the Board if they fail the exam by 5%. Therefore, all applicants are required to sign a waiver to come before the Board in a closed meeting after completing the examination.

John LaGatta asked if other states have similar methods for examining their applicants for licensees. He was advised by Diane Kennedy that Arizona had a similar type testing to the tests now used by the Board when the Board changed to the open book examination.

- i. Compliance Audit Committee: Fuller Royal reported a proposed change in the Bylaws (Article 5, Section 12) will be presented later in the Agenda.
8. President's Report: No Report
 9. Vice President's Report. No Report
 10. Secretary-Treasurer's Report. Fuller Royal.
 - a. A copy of the LCB Audit report and Fuller Royal's response on behalf of the Board was provided to each Board member. The Board is required to develop and submit a corrective action plan by March 14, 2007, showing the implementation of the 9 recommendations of the Auditors. The Board must draft and submit a status report by August 14, 2007. Since the Board has already complied with most, if not all, of the recommendations, these reports should not be complex or complicated. Deputy Attorney General Ned Reed expressed appreciation for the good job done by Fuller Royal on behalf of the Board. Mr. Reed expressed concerns as to how the audit was performed without allowing the Board to respond in consultation with other Board members and its legal counsel. He also questioned some of the statements made in the report did not allow for rebuttal.
 - b. The Open Meeting Law violation complaints submitted to the Office of Attorney General by Daniel Royal and Robert Gentry were reviewed by the Board. The conclusions of the Office of Attorney General are never defined as "frivolous," but as being "without merit." The Bylaws will have a proposed language change during a later agenda item.
 - c. Review of finances and budget. 630A.160(6). Present a claim to the State Board of Examiners for recommendation to the Interim Finance Committee to pay attorney's fees for cost of investigation/litigation (Former applicant's lawsuit). Fuller Royal suggested the Board's Fiscal-Finance Committee continue to work on ways whereby steps could be taken to reduce these fees. Committee Chair, Diane Kennedy, told the Board the lawsuit filed against the Board by Harvey Bigelsen cost the Board \$47,143.67. The Office of Attorney General has broken out the services supplied, making it clearer where the costs originated. For example, the lawsuit filed by a Board member against the Board and Board members cost the Board \$2,419.89. The Executive Director's research reveals the average cost of legal fees for Board work costs an average of \$350.00 to \$500.00 per month.
 - d. Current status of the NIRB. Fuller Royal reported the NIRB to be functioning well under the leadership of former Senator Ann O'Connell. She is working out the transfer of some records with former members of the NIRB, including the Executive Director, who refused to release any records in a letter addressed to the NIRB during its January 9, 2007 meeting. Fuller Royal reminded the Board and the NIRB Chairman the Board will need to appoint 2 members to the Board, since he is no longer the Secretary-Treasurer and not on the NIRB. With Ann O'Connell as President of the NIRB, there should be much better cooperation between the BHME and the NIRB.
 - e. The Secretary-Treasurer prepared a form for use by Board officers who must sign their names on official stationery containing the Board's letterhead and the State Seal, which will be used to authenticate the signers of a check to the Secretary-Treasurer requiring two signatures pursuant to Article 2 Section 2 of the Bylaws. John LaGatta suggested adding more signatures on the Bank account allowing others besides the Secretary-Treasurer to sign checks.

Motion: Diane Kennedy moved the Board adopt the signature form presented today by the Secretary-Treasurer for use when a second signature is required for checks to the Secretary-Treasurer.
Second: Bruce Fong
Action: Passed unanimously
 - f. The Statement from Quick Books was reviewed with the outstanding fees owed to the Office of Attorney General being \$88,557.00 as of December 31, 2006. Fuller Royal advised the Board a

BDR is in place that will enable to Board to effectively address its deficit with Office of Attorney General.

- g. & h. Board member Daniel Royal's 8 December 2006 and 15 December 2006 letters requesting "Salary Reimbursement" of \$1128.90 were reviewed and discussed by the Board. Diane Kennedy reminded the Board the previous Board voted not to accept per diem for future meetings during the 27 April 2002 Board meeting, but that vote had nothing to do with travel expenses. Deputy AG Reed asked if Dan Royal was a Board member during the 2002 Board meeting. Also, the question was raised as to why he did not bring this matter before now. Legal Counsel suggested tabling this until the next meeting, asking Dan Royal to answer questions as to why he waited until now to submit his "final request." Fuller Royal pointed out the letterhead used by Dan Royal to submit the bills is not in conformity with the Board's Policy and Bylaws, which limits the use of such to Board Officers (Policy 14). This item is tabled for the next meeting.
- i. Annual report to the Legislature (NRS 630A.155 (6)). Fuller Royal provided the required report that was put together in cooperation with former Board President David Edwards. The LCB provides this report only for legislators, but has no objection to the Board placing this on its website. The Board members believed it worthy of being viewed and read by the public.
11. Executive Director will provide the Board with a contract to service the Board as an independent contractor. Deputy Attorney General questioned whether or not she would qualify as an independent contractor. There is a State form through the Board of Examiners for an independent contractor which will be submitted to the Board.
Motion: Dr. Fong moved to continue the Board's Executive Director on an interim basis for \$2,000.00 per month, until a contract can be approved for her services as an independent contractor.
Second: John LaGatta
Action: Passed unanimously.
- The Executive Director asked for a major overhaul of the Board's present computer or the purchase of a new Dell computer for the cost of less than \$800.00. John LaGatta suggested the Board pay her for use of her computer to do the Board's work. However, Fuller Royal reminded the Board the computer contains minutes from closed meetings, and other information that should not be intermixed with other data.
- Motion: John LaGatta moved to purchase a Dell computer for \$750.00, not including taxes, and a reasonable amount for reasonable services in transferring the data from the original computer to the new computer.
Second: Bruce Fong
Action: Passed unanimously

D. Miscellaneous.

1. Dr. Doris Rapp and Dr. Geoffrey Radoff requested permission for evaluating and treating children with autism (ASD) living outside Nevada without requiring the children to be transported to Nevada for in-office evaluation and treatment. Following a discussion the following motion was made:

Motion: John LaGatta moved physicians may treat autistic children by electronic means provided an initial evaluation in person is performed on the patient and the patients are seen every 6 months.
Second: Dr. Fong
Action: Passed unanimously
2. The Allopathic Board (BME) refuses to forward homeopathic related complaints against NRS 630 licensees who are also licensed under NRS 630A to the Homeopathic Medical Board. Complaints filed against licensees and certificate holders are to be reviewed when filed with the Board. (**NRS 630A.400 (1)**). The failure of the BME to investigate and rule on the use of homeopathic remedies by the BME without referring

them to the Homeopathic Board needs to be addressed. After a discussion among Board members, the following motion was made:

Motion: Diane Kennedy moved for John LaGatta to consult with the BME in respect to resolving differences of opinion as to referring complaints filed against dually licensed physicians whenever the practice of homeopathy is involved.

Second: Bruce Fong

Action: Passed unanimously

3. The allopathic Board committee meetings are neither noticed publicly nor open to the public. The allopathic Board does not provide the public with committee meeting agendas, does not keep minutes of transactions, and does not record committee meetings. The Deputy AG, Ned Reed, could contact the Deputy AG assigned to the BME to understand how this action can be carried out in compliance with the Open Meeting Law.

Motion: John LaGatta moved the Deputy AG for the Board, Ned Reed, contact the Deputy AG for the BME to inquire how they operate, and whether they are in accord with the Open Meeting Law.

Second: Diane Kennedy

Action: Passed unanimously.

- E. Board considered retaining a legislative counselor to keep the Board informed on legislative action affecting the Board. John LaGatta. Board offered to represent the Board during the 2007 Legislative Session. Diane Kennedy stated having a legislative counselor or lobbyist would result in a loss of the Board's tax-exempt status with the IRS. This was discovered during the 2005 Legislative Session when a former Board President became a lobbyist representing the Homeopathic Board without the Board's knowledge. John LaGatta wants this matter examined further. He asked Diane Kennedy to present her evidence. This will be tabled until this is cleared up.

Motion: Bruce Fong moved the Board grant authority to the Board President to make decisions for or against legislative actions, representing the desire of the Board in matters pertaining to legislation that could impact the Homeopathic Medical Board or NRS 630A.

Second: Diane Kennedy

Action: Passed Unanimously

- F. Dr. Phillip Minton did not appear before the Board in regards to his request for reinstatement of his license to practice homeopathic medicine in Nevada. No discussion; no action taken.

- G. The Board did not close the meeting to the public to interview and question the applicants for license/certification following completion of the written examination. However, each applicant was interviewed privately. After interviewing each applicant, the Board invited the public to re-enter the meeting.

Sam Winter, DO (Nevada). Applicant for HMD license: Passed the written examination with a score of 89%.

Motion: Bruce Fong moved to grant Dr. Winter a license to practice homeopathic medicine in Nevada (HMD).

Second: Diane Kennedy

Action: Passed unanimously.

Tatiana Dickinson, MD (Russia). Applicant for an APH certificate: Passed the written examination with a score of 87%.

Motion: John LaGatta moved to grant Dr. Dickinson a license to receive a certificate to practice as an advanced practitioner of homeopathy (APH).

Second: Bruce Fong

Action: Passed with Fuller Royal recusing himself.

Debbie Bolda, MA. Applicant for an HA certificate: Passed the written examination with a score of 80%.

Motion: John LaGatta Moved to grant Debbie Bolda a certificate to practice as a homeopathic assistant (HA).

Second: Diane Kennedy

Action: Passed with Fuller Royal recusing himself.

Hilary Dudley, MA. Applicant for an HA certificate: Passed the written examination with a score of 84%.

Motion: Bruce Fong Moved to grant Hilary Dudley a certificate to practice as a homeopathic assistant (HA).

Second: John LaGatta

Action: Passed with Fuller Royal recusing himself.

H. Public Comment.

"My name is Marie Royal.

I believe it should be clear to this Board by now (with the knowledge of a new bill—BDR 694— being introduced into the 2007 Legislative Session) that Dan Royal, a member of this board, has been acting as a "mole," working against this Board every step of the way. He has tried to undermine its progress by frivolous Board complaints, legal complaints forcing the Board to incur thousands of legal expenses, creating chaos, manipulating minutes, and by slandering Board members.

"As president he used his position to stall meetings and for his own gain and purposes.

His failure to show up today is another example of trying to thwart the Board business in the hope you would not be able to have a quorum and thus prevent a meeting. I don't know what action your Board can take, but certainly feel you should do whatever you can to stop this interference in the business of the Homeopathic Medical Board by this Board member." (Marie Royal is the mother of Daniel F. Royal and the wife of F. Fuller Royal, the father of Daniel F. Royal)

I. Items to be placed on the agenda for the next Board meeting:

1. Fuller Royal provided Board members with copies of BDR 60 and BDR 694 for review, but not to be discussed in this meeting. BDR 694 begins with "**1. Whereas, the Nevada State Board of Homeopathic Medical Examiners has been proven to be insolvent:**" This, along with other BDRs will be placed on the agenda for the next Board meeting.
2. Board members are to consider additions in **bold italics** and deletions in brackets ~~strikethrough~~ in the following Bylaw during the next Board meeting

Article 5. Section 12: Compliance Audit Committee: A Compliance Audit Committee shall be appointed by the President. Committee duties shall be to **assist public or private auditors in maintaining all procedural and financial requirements necessary to be in full** ~~and survey the practices of licensees and certificate holders for~~ compliance with NRS 630A and NAC 630A. The **Vice President shall be a member and Chair the** Compliance Audit Committee. **The Committee shall meet with the Policy and Bylaws Committee annually, or more often if necessary, to recommend additions/deletions or new language to the Policy and Bylaws Manual as needed pursuant to** ~~has the full power to act on~~ all matters within ~~its respective areas of business as found in~~ this **P[ol]icy M[an]ual**, the Board **B[yl]aws**, NRS 630A, **NRS 241, [or] NAC 630A, or within any other Nevada statute or code, including the State Administration Manual (SAM), the Government Accountability Office requirements, and the Board and Commission Manual.** The Compliance Audit Committee shall be subject to the orders of a majority vote of the Board **during any regular or called meeting at which a quorum is present** ~~and none of its acts shall conflict with any order of or action taken by majority vote of the Board~~. All **recommendations** ~~[compliance audits and]~~ **for Board actions believed necessary to sustain the Board in fulfilling its legislative mandate to protect the public and advance alternative and complementary integrative medicine (CIM) in Nevada shall become priority agenda items during every Board meeting until resolved to the satisfaction the Board as determined by a majority vote of the Board during a regular or called meeting at which a quorum is present** ~~[taken by the Committee shall be reported to the Board]~~; No action taken.

3. Board members are to consider deleting the following language in brackets ~~strikethrough~~ from the Bylaws during the next Board meeting:

Article7 Section 1: If a board member files or aids and abets another to file an open meeting law complaint with the Attorney General's Office or any other complaint with a governmental agency, other than a complaint constituting grounds for disciplinary action pursuant to NRS 630A.390, pertaining to a Board action or inaction, or the conduct of a Board officer or the Executive Director, and the complaint is deemed to be without merit ~~[by the Attorney General's Office or other governmental agency considering it]~~, the Board may separately review this complaint to determine if the complaint was frivolous. If, after a meeting, the Board determines that the complaint was frivolous, it may impose upon the Board member the discipline allowable in section 2 of this article. Discussed, but no action taken.

J. There are complaints filed against NRS 630A licensees that may present the Board members with a conflict of interest as to those members currently serving on the Complaint Committee. Each member of the Committee may have to resign from the Committee, and send a letter to the Governor requesting a replacement for individuals to

replace them for hearing and acting on the complaints. The Board may need to delegate its authority to a hearing officer or panel of 3 non-Board members because of possible conflicts of interest among Board members. (NRS 630A.160 (5) and NRS 233B.122). No action taken.

K. Announcements; Next Regular meeting will be in July, but other meetings can be called at the pleasure of the Chair.

L. Motion: Bruce Fong moved to adjourn the meeting.

Second: John LaGatta

Action: Passed unanimously.

(Time: 1:33 p.m. Pacific Time)

Bruce Fong, Secretary-Treasurer

Date