

NEVADA STATE BOARD OF HOMEOPATHIC MEDICAL EXAMINERS

MINUTES OF SPECIAL PUBLIC MEETING

Saturday, 10 March 2007

CANCER CENTER AND SCREENING CENTER
521 Hammill Lane
Reno, Nevada 89511

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

MEMBERS OF THE PUBLIC: The following persons were present:

Sean Devlin, DO, HMD
Greg Olson, MD, APH
Tiffany Van der Stoker

- A. The meeting was called to order at 10:30 a.m. Pacific time by President Valerie Kilgore. Roll call was taken and a quorum was determined to be present. The meeting was properly posted and certificates received. All visitors were welcomed.. The chair set the time for closure of the meeting to be 11:30 a.m.

Motion: Diane Kennedy moved to approve the agenda and the allotted time for ending the meeting.
Second: Fuller Royal
Action: Approved by Unanimous vote

- B. Executive Business.

2. Cyrus Pourzan, MD, HMD was introduced as a new appointee to the Board. Fuller Royal administered the Oath of Office as required pursuant to NRS 630A.130. Dr. Pourzan was invited to participate in Board activities and business as a Board member.

The Chair read a letter from absent Board member, Bruce Fong, wherein he expressed regret at not being able to attend the NIRB Committee or Board meeting. He expressed his support for the candidates applying for appointments to the NIRB as approved by the Committee and Board. Daniel Royal questioned why the letter was being read, since it was not part of the agenda. The Chair said she had been requested to read the letter by Dr. Fong. Daniel Royal asked if the Board could call him by phone to answer questions. The Chair said the Board could not call him.

3. The Minutes of the 27 January 2007 meeting of the Board were reviewed. Daniel Royal objected to the inclusion of Marie Royal's statement made during the Public Comment of the 27 January 2007 meeting, and asked the Board to remove such from the record. He stated she had not provided the Board with the statement in writing and did not intend for it to be a part of the record. Fuller Royal stated Marie Royal, as a public member attending the meeting, clearly wanted her statement in the record. John La Gatta stated he was in attendance at that meeting and felt she wanted her comments in the record.

Motion: Fuller Royal moved to approve the minutes of the 27 January 2007 meeting.

Second: Diane Kennedy

Action: Board members present voted "Aye" except for Daniel Royal, who voted "Nay." Motion passed.

4. Diane Kennedy, Chairperson of the NIRB Committee reported two vacancies on the Nevada Institutional Review Board must be filled by Board appointment. The NIRB Committee reviewed applications of individuals desiring to be appointed to the NIRB. Two (2) individuals, Sandra Tiffany and Greg Olson, MD, APH, were recommended by the Committee to the Board for appointment to the NIRB. The Committee did not have information on Dr. Thomas Lee. Sandra Tiffany was unable to attend the meeting.

- a. Applicant Sandra Tiffany. John La Gatta spoke in favor of Sandra Tiffany's appointment to the NIRB. Daniel Royal asked what training she had in the medical field. He also stated she had been "found guilty of ethics violations in the State of Nevada. . ." and therefore not an appropriate candidate for the NIRB. When asked for his source of information as to the statement he had just made, Daniel Royal said, "It was in the newspaper." Other Board members did not agree with him. John La Gatta suggested to Daniel Royal that he should consider withdrawing his comments about Sandra Tiffany and be very careful about making a serious accusation about someone. Daniel Royal withdrew his comments and asked to have the Board go into a closed session. John La Gatta suggested the Board vote without going into a closed session. Daniel Royal did not believe Sandra Tiffany was eligible pursuant to NRS 630A.865 (3) (a). After further discussion of his objection the Board took action.

Motion: Fuller Royal moved to accept the NIRB Committee's recommendation, and appoint Sandra Tiffany to the NIRB.

Second: Diane Kennedy

Action: Daniel Royal voted "Nay." All of the other Board members voted "Aye" Motion passed.

- b. Applicant Dr. Greg Olson. Dr. Greg Olson was present to answer questions by the Board but asked Daniel Royal to recuse himself because of a conflict of interest. Daniel Royal is the brother-in-law of Dr. Olson, and was involved with the applicant in another corporation. Also, Dr. Daniel Royal had worked in the same clinic at the time Dr. Olson was also employed by the clinic. Dr. Fuller Royal recused himself because of his relationship with Dr. Olson as his father-in-law. Following the advice of the Board's legal counsel, Daniel Royal said he would recuse himself, but had serious concerns with "APHs" serving on the NIRB, supervising medical and osteopathic doctors. Cyrus Pourzan asked if the law required percentages of representation on the NIRB among the various health care disciplines. The answer was no, but Daniel Royal pointed out that leaders in the allopathic and osteopathic community had been placed on the NIRB (that were removed by this Board). Diane Kennedy stated the Board was never consulted about those appointees. Daniel Royal used the term, "nepotistic," in describing the present NIRB when compared to the members he placed on the NIRB. Ned Reed, Deputy Attorney General, clarified NRS 630A.865 (3) (a) to the Board. John La Gatta questioned Dr. Olson as to his professional training and experience and residency in Nevada.

Motion: John La Gatta moved to accept the Committee recommendation and to appoint Dr. Greg Olson to the NIRB.

Second: Cyrus Pourzan

Action: Passed with Daniel Royal and Fuller Royal recusing themselves

5. Fuller Royal stressed the necessity of providing the Board's Corrective Action pursuant to NRS 218.8235 and 218.8245, as required to the Division of Internal Audits and the Legislative Auditor. The report must be completed and filed on or before March 14, 2007 showing the Board's plan for corrective action taken in compliance with the requirements of the Audit Sub-Committee of the Legislative Commission. Diane Kennedy suggested each Board member read the report during the next 48 hours and submit suggestions to Fuller Royal for completion of the report. Ned Reed, the Board's legal counsel, stated he had reviewed Fuller Royal's prepared response and feels the report is satisfactory.

Motion: John La Gatta moved to allow Fuller Royal to finalize the Board's Corrective Action report to the proper authorities after receiving comments from the Board members.

Second: Diane Kennedy.

Action: Passed unanimously.

6. Fuller Royal advised the Board that AB 234 will have its first hearing Monday, 12 March 2007, at 1:30 p.m. He explained that parts of this were from SB 436 that was withdrawn during the 2005 Legislative Session. The Office of Administration approved this BDR on 1 September 2006. Daniel Royal stated AB 234 was never brought before the Board for its approval. Upon advising the Board he was on the Legislative Committee but was never consulted. Fuller Royal reminded Daniel Royal that very little could be accomplished during the 23 March 2006 Legislative Committee meeting because neither he, nor the other member of the committee had prepared for discussion of SB 436.

Motion: John La Gatta moved the Board approve AB 234.

Second: Diane Kennedy

Discussion: Daniel Royal opposed **Section 33** and "every part that has to do with the NIRB" because this bill "takes away the regulatory authority of the NIRB."

Action: Daniel Royal voted "Nay." All other Board members voted "Yea." Motion passed..

7. The Board discussed the legality of the Board having a Lobbyist during the 2007 Session of the Nevada Legislature:

Motion: John La Gatta moved the President of the Board may appoint a lobbyist during the 2007 Legislative Session if it can be determined not to be in violation of the tax exempt status for government agencies to do so.

Second: Fuller Royal

Action: Passed unanimously.

C. Fuller Royal presented Article 5, Section 12, and Article 7, Section 1 of the Policy and Bylaws Manual during the 27 January 2007 meeting with recommended additions/deletions, and new language during this Board meeting. The changes will provide the Board with additional checks and balances in all procedural and financial requirements, as recommended by the LCB auditors.

1. Board reviewed the additions in and deletions in Article 5, Section 12.

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]i[c]y 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]~~;~~

Motion: Diane Kennedy moved to accept the changes to Article 5, Section 12 of the Manual.

Second: Fuller Royal

Action: Passed unanimously

2. Board discussed the new language in Article 7, Section 1, which will empower the Board to take action when complaints filed with government agencies.

Article 7 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 **by a two-thirds vote of the Board during a regular or called meeting at which a quorum is present** that the complaint was frivolous, it may impose upon the Board member the discipline allowable in section 2 of this article.

Motion: Fuller Royal moved to approve the language change in Article 7, Section 1, which will require a language change as follows in Article 7, Section 2: **... majority two-thirds (2/3)**

Second: John La Gatta

Action: Passed unanimously

D. Public Comment. Sean Devlin, DO, HMD questioned the possible costs to licensees with the passage of AB 234. He also questioned the ability of the NIRB to function, which he said was frustrating those wishing to submit research projects.

Dr. Greg Olson stated he was interested in moving the NIRB to become efficient ASAP.

E. Announcements; The President will notify the members of the next meeting

F. Adjournment.

Motion: Fuller Royal moved the meeting be adjourned

Second: John La Gatta

Action: Passed unanimously

(Time: 11:48 p.m.)



12 April 2007

Fuller Royal for Bruce Fong, Secretary-Treasurer

Date