

NEVADA STATE BOARD OF HOMEOPATHIC MEDICAL EXAMINERS

MINUTES OF

PUBLIC BOARD MEETING 15 SEPTEMBER 2007

LOCATION OF MEETING
Best Western Airport Plaza
1981 Terminal Way
Reno, NV 89502

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:

Dr. Fuller Royal, MD, HMD, Member and President—Present
Valerie Kilgore, Member and Vice President—Present
Dr. Bruce Fong , DO, HMD, Member and Secretary-Treasurer—Present
Diane Kennedy, Member—Present
Daniel Royal, DO, HMD, JD, Member—Absent
Dr. Cyrus Pourzan, MD, HMD, Member—Present
Leticia Gardea, Member—Present
Robert Elsinger, D.O., H.M.D., Temporary Member
K. J. Smith, Temporary Member
Executive Director, Nancy Eklof—Present
Ned Reed, Senior Deputy Attorney General, Counsel to the Board—Present

MEMBERS OF THE PUBLIC: **The following were present:.**

Keith Marcher, Deputy Attorgeneral General
Tiffany Van der Stokker
Michael Gerber, M.D., H.M.D.
Inge Gerber
Joe Brown
Alan Greenberg
Nancy Lucas
Thomas Lee
Louis Test
Jaclyn O'Malley, Reporter, Reno Gazette-Journal
Dennis Grover, representing Liberty and Justice for All (Public TV)
Rodney Teague, representing Dr. Daniel Royal

AGENDA ITEMS

1. OPEN SESSION.

The meeting was called to order at 10:16 a.m. Pacific Time by President Dr. Fuller Royal. Roll call was taken and a quorum was 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 3:00 p.m.

Motion: Diane Kennedy moved to approve the agenda.
Second: Leticia Gardea
Action: Approved with the Chair abstaining

2. BOARD BUSINESS.

B. Minutes of the 13 June 2007 telephone conference meeting were reviewed and discussed.

Motion: Dr. Cyrus Pourzan moved to approve the minutes.
Second: Valerie Kilgore
Action: Approved with Leticia Gardea and the Chair abstaining.

- C. Due to the unusual circumstances in Agenda Item 4A,, the Oath of Office was administered by the Secretary-Treasurer to K. J. Smith. Dr. Robert Eslinger had taken his Oath of Office prior to today's meeting. Both, Dr. Robert Eslinger and K. J. Smith have been appointed by Governor Gibbons to serve as temporary Board members until 30 September 2007 to participate in discussion/action pursuant to Agenda Item 4A and 4B of this Agenda. Both were welcomed and seated with the Board.

3. APPLICANT FOR LICENSURE/CERTIFICATION

- A. Applicant for Advanced Practitioner of Homeopathy, Alan Greenberg, was introduced to the Board. The Secretary-Treasurer and Executive directed stated his records were in proper order. Applicant was allowed to take the examination. He passed the written exam and came before the Board to be interviewed. Dr. Pourzan asked the applicant if there was anything in his past that involved ethical or professional conduct problems. The applicant answered, "No."

Motion: Dr. Bruce Fong moved to allow Alan Greenberg to take the written exam.
Second: Dr. Cyrus Pourzan
Action: Passed with the Chair abstaining

Motion: Dr. Bruce Fong moved to approve certification of Alan Greenberg as an APH
Second: Dr. Cyrus Pourzan
Action: Passed with the Chair abstaining.

4. NEW BUSINESS.

The Chair, Dr. Dr. Fuller Royal, recused himself from participating in Agenda Items 4A and 4B because of personal interests in these matters that are not common to other Board members. Vice President Valerie Kilgore chaired these agenda items.

- A. The Chair asked Senior Deputy Attorney General Ned Reed to present to the Board the recommendations of the Office of Attorney General pursuant to an investigation of complaint No. 2007-02 filed against a licensee. Mr. Reed reviewed the process for handling complaints against licensees and certificate holders with the new members of the Board. The Board concurred with the Complaint Committee's recommendation that this complaint be investigated further by the Office of Attorney General (OAG). Mr. Reed stated the OAG had obtained sufficient evidence through an investigator that certain Nevada statutes and codes have been violated. The investigator reported the physician under investigation has apparently allowed a non-licensed person in his clinic to practice therapies under the jurisdiction of the Nevada Homeopathic Medical Board. Therefore, the OAG recommended that those members of the Board allowed to vote (Dr. Fong, Valerie Kilgore, K. J. Smith, Dr. Robert Eslinger) vote to allow the OAG to file a formal disciplinary complaint. If the Board votes to approve that action, the Board will have 45 days in which to set a hearing for the licensee; and the Board may want to have a hearing officer to hear the complaint and render a decision in the matter. Mr. Reed said the licensee being investigated sent a letter by email to Mr. Reed and to members of the Board late last night, 14 September, 2007. Such a letter is an ex parte communication and cannot be made or attempted to be made between the decision-maker and a party concerning any material issue during the pendency of a license regulatory case. Mr. Reed recommended that any information received in this manner from the licensee not be considered by the Board.

Motion: Dr. Bruce Fong moved to go forward by filing a formal complaint.
Second: Valerie Kilgore

Action: Passed by voice vote with the following voting "Yea": Valerie Kilgore, Dr. Dr. Bruce Fong, Dr. Robert Eslinger, K. J. Smith. There were no "Nay" votes.

- B. The Board discussed with its legal counsel, Senior Deputy Attorney General Keith Marcher, the legality of considering any action in regards to Dr. Dan Royal's character, alleged misconduct, professional competence, or physical or mental health, since neither Dr. Dan Royal nor any person was in attendance at this meeting. Mr. Marcher stated it was not necessary to go into closed session since Dr. Dan Royal was absent.

a + b. Mr. Marcher explained "summary suspension" of a license. If the Board finds that public health,

safety or welfare imperatively require emergency action, and incorporates a finding to that effect in its order, summary suspension of a license may be ordered pending proceedings for revocation or other action. There must be sufficient evidence to show a clear danger to the public pursuant to NRS 233B.127. A discussion followed between Mr. Marcher and Mr. Reed in regards to public harm if the suspension were not implemented. Mr. Marcher reminded the Board that any decision by the Board must be limited to the allegations put forth in the complaint, and probably would not be sufficient evidence to make a determination at this time as to whether or not Dr. Dan Royal should be required to undergo a mental or physical examination pursuant to NRS 630A.420. Mr. Reed advised the Board members not to open the sealed envelopes, because Dr. Royal or his attorney should be in attendance to present this material. Mr. Reed believed his absence, and his failure to deny the allegations of the complaint strongly indicated a need for the Board to issue a summary suspension at this time. Mr. Marcher advised the Board that Dr. Dan Royal would no longer be able to sit on the Board if a summary suspension were to be ordered. Dr. Eslinger felt that the public was in danger as long as Dr. Dan Royal continues to allow an unlicensed person to participate in the treatment of patients. An affidavit from the investigator does indicate this is happening.

Motion: Dr. Dr. Bruce Fong moved the Board approve a summary suspension, as recommended by Senior Deputy Attorney General Ned Reed.

Second: Dr. Robert Eslinger

Action: Passed by voice vote with the following voting "Yea": Valerie Kilgore, Dr. Dr. Bruce Fong, Dr. Robert Eslinger, K. J. Smith. There were no "Nay" votes.

Motion: Dr. Dr. Bruce Fong moved the Board table any decision in regards to ordering Dr. Dan Royal to take a mental or physical examination until further evidence could be presented pursuant to his hearing.

Second: Valerie Kilgore

Action: Passed by voice vote with the following voting "Yea": Valerie Kilgore, Dr. Dr. Bruce Fong, Dr. Robert Eslinger, K. J. Smith. There were no "Nay" votes.

Mr. Marcher advised the Board the hearing must occur within 45 days. The full Board or a hearing officer would hear the case. Mr. Reed advised the Board this could take 2 days. He advised that the hearing be held in Las Vegas.

Motion: Dr. Bruce Fong moved for the Office of Attorney General to appoint a hearing officer and set a date for hearing complaint No. 2007-02 within the next 45 days.

Second: Valerie Kilgore

Action: Passed by voice vote with the following voting "Yea": Valerie Kilgore, Dr. Dr. Bruce Fong, Dr. Robert Eslinger, K. J. Smith. There were no "Nay" votes

(Vice President Valerie Kilgore returned the Chair to President Dr. Fuller Royal)

- C. A change in the supervising physician of Robert Field, A.P.H. & Kristin Field, A.P.H. from Dr Michael Gerber to Dr. David Holt was discussed by the Board.

Motion: Leticia Gardea moved to approve Dr. David Holt as Supervisor for Robert Field, A.P.H. and Kristin Field, A.P.H..

Second: Dr. Bruce Fong

Action: Passed with the Chair abstaining

- D. Dr. Dr. Bruce Fong reviewed the course material submitted by Greg Fihn, D.O, HMD & Maria Fihn, RN, A.P.H. and recommended the Board approve the course for CME credit.

Motion; Dr. Bruce Fong moved Dr. Greg Fihn and Marie Fihn be approved for CME credit for the course submitted.

Second: Valerie Kilgore

Action: Passed with the Chair abstaining

- E. A change in the supervising physician of Colleen Mahoney, R.N.A.P.H. from Dr. Frank Shallenberger to Dr. Michael Gerber was discussed by the Board.

Motion: Dr. Cyrus Pourzan moved to approve Dr. Michael Gerber as Supervisor for Colleen Mahoney, R.M., A.P.H.

Second: Dr. Bruce Fong
Action: passed with the Chair abstaining

- F. Dr. David Steenblock, D.O., failed to submit his annual renewal fee for 2007, and requested his license be placed on inactive status. The Board must adhere to the required procedure for reinstatement of his license pursuant to NRS 630A.530 and NRS 622A. No action taken.
 - G. A letter from the Dept. of Health & Human Services to NIRB was forwarded to the Board. This Board will take no action because it has no legislative responsibility over the NIRB. The Legislative Counsel Bureau is responsible..
5. EXECUTIVE DIRECTOR'S REPORT: Currently the debt to the Office of Attorney General is \$98,066. 81, and the current bank account balance is \$7,477.00
 6. POLICY AND BYLAWS MANUAL: Suggested Additions, deletions, and new language in the Policy and Bylaws Manual is necessary in order to comply with the Legislative Counsel Bureau audit's nine (9) recommendations in Policy and Bylaws Manual. Brief discussion occurred. Board members were encouraged to review these in preparation for making changes during the next Board meeting. The Policy and Bylaws Committee will continue to review and make recommendations to the Board in regards to the Manual.
 7. PUBLIC COMMENT. Dr. Michael Gerber, President of the Nevada Homeopathic and Integrative Medical Association, announced the annual convention will be held on September 22 and 23, 2007 at the Imperial Palace in Las Vegas. All Board members were invited to attend. A brief review of speakers and subjects was presented.
 8. ANNOUNCEMENTS; Regular meeting schedule for next year will be the last Saturday in January and July. Other meetings will be called by the President with the assistance of the Executive Director.
 9. ADJOURNMENT.

Motion: Dr. Cyrus Pourzan moved to adjourn the meeting
Second: Dr. Bruce Fong
Action: Passed with the Chair abstaining

Time: 1:37 p.m. Pacific Time