

STATE BOARD OF MEDICAL EXAMINERS OF SOUTH CAROLINA
Executive Session Minutes
May 1-2, 2017

Synergy Business Park
The Kingstree Building
110 Centerview Dr., Room 108
Columbia, South Carolina 29210

MEETING CALLED TO ORDER

Dr. Stephen Gardner, President of the Board, called the regular meeting of the S.C. Board of Medical Examiners to order at 7:37 a.m. on Monday, November 7th, 2017, at SCLLR, 110 Centerview Drive, Room 108, Columbia, South Carolina, with a quorum present. Dr. Gardner announced the meeting was being held in accordance with the Freedom of Information Act by notice emailed to The State newspaper, Associated Press, WIS-TV and all other requesting persons, organizations, or news media. In addition, notice was posted on the Board's website and on the bulletin boards located at both of the main entrances of the Kingstree Building where the Board office is located.

Board members present for this meeting were:

Dr. Stephen R. Gardner, of Greenville, President
Dr. Jeff Welsh, of Columbia, Vice President
Dr. Robert E. Turner, of Florence
Dr. James L. Hubbard, of Rock Hill
Dr. Jim Chow, of Columbia
Dr. Stephen Schabel, of Charleston
Dr. Daniel Saad, of Greer

Excused Absences: The board excused the absences of Drs. Cook and Vasovski. Dr. Chow was excused for May 2nd, 2017.

S.C. Board of Medical Examiners

Sheridon Spoon, Board Administrator
Elizabeth Harrison, Administrative Assistant

Office of Disciplinary Counsel

Patrick Hanks, Office of Disciplinary Counsel
Megan Flannery, Assistant Disciplinary Counsel
Prentiss Shealey, Assistant Disciplinary Counsel
Shanika Johnson, Assistant Disciplinary Counsel
Rowland Alston, Assistant Disciplinary Counsel

Office of Advice Counsel

Darra Coleman, Chief Advice Counsel
Adam Russell, Advice Counsel

REVIEW/APPROVAL OF AGENDA

Dr. Welsh made a motion to approve the agenda. Dr. Saad seconded the motion. All in favor. Motion carries.

REVIEW/APPROVAL OF MINUTES FROM FEBRUARY 6-7 2017 BOARD MEETING

After considering recommendations, additions, deletions and corrections, a motion was made to approve the February 2017 meeting minutes by Dr. Welsh and seconded by Dr. Turner. The motion was unanimously passed.

PRESIDENT'S REPORT

Executive session for legal advice regarding SC Telemedicine Act and FSMB Prescribing Guidelines. The board entered an executive session from 7:40 a.m. to 8:52 a.m. for legal advice. Dr. Schabel made a motion to return to public session, seconded by Dr. Saad. The motion carried.

Margie Heggie-Chief Executive Officer of the South Carolina Medical Association addressed the board. She spoke to the board concerning her background and presented the Association's Strategic Plan, involving working with all partners in the health community including the board.

FSMB Conference-April 20-22, 2017-the board heard from Darra Coleman. She reported on the topics discussed at this conference. Dr. Welsh also attended.

Report from the 2017 RX and Heroin Summit, April 17-19,2017-Darra Coleman gave a report on this conference and outlined the 10 major points or takeaways from this event including all the major entities working together to address the problem of addiction.

2017 Tri-Regulator Symposium, Chicago, IL, Travel Request-July 25th and 26th, 2017-the board approved one staff member and one board member to attend this conference.

Exception for the prescribing of buprenorphine (Suboxone) when care is delivered via Telehealth for specific treatment of opioid addicted pregnant mothers; Exception for the prescribing of opioid medications when care is delivered via Telehealth for the specific treatment of chronic pain conditions among non-addicted pregnant women. Appearing James T. McElligott, MD MSCR, Medical Director for Telehealth, MUSC

Dr. James T. McElligott and Dr. Constance Guille appeared before the board and, after questions and discussion, the board passed a motion to go into executive session. The board voted to return to public session and proposed the following motion: In support of the letter dated March 12th, 2017 provided by MUSC, the board will require MUSC to submit an additional written plan and return before the board in August [2017]. The written plan should include the following criteria. First, that an initial assessment must be performed in person to establish diagnosis and care with a follow-up in person every six months thereafter recognizing that telehealth can be used as an adjunct but not a substitute for in-person care in this arena. Two, MUSC shall provide a very detailed protocol that addresses the following: Management of non-compliance, parameters for follow-up care, treatment of emergency situations, verification of the patient and locations, plans for communication with the OB provider including 24/7 access, designation of OB sites,

identification of all prescribing physicians and their Buprenorphine License Numbers who will be participating in the program, and the plan for secure prescribing and confirmation of delivery. Finally, MUSC must provide reports to the board every six months which include comparison and historical treatment data for this patient population. Motion by Dr. Gardner. Second by Dr. Chow. Motion carries.

Discussion of Revision of Joint Pain Management Guidelines

After discussion and legal advice, the board voted to form a committee consisting of Drs. Gardner, Welsh and Dr. Cook, the board's executive committee and Dr. Turner, as well as representatives of the Nursing and Dentistry boards to be presented to the board in August. Motion by Dr. Gardner. Second by Dr. Schabel. Motion carries.

Review of Board Advisory Opinion: *Termination of Physician-Patient Relationship*

Darra Coleman presented revision to this advisory opinion. The Office of Advice Counsel has made revisions as to the code sections cited in the advisory opinion as well as new regulation 81-1 regarding termination which includes situation where the licensee dies, disappears or becomes incapacitated. After discussion, the board passed a motion to accept the current revisions and formed a committee consisting of Dr. Hubbard and the Executive Committee to address certain OB conditions which may be involved.

LEGISLATIVE UPDATE

Holly Beeson and Rebecca Leach, LLR Office of Communications and Governmental Affairs, updated the Board on bills that impact the board and the medical community including H3438 on biosimilars, H3064 on hormonal contraceptives, S561 on the Pharmacy Technician ratio, the APRN bill did not cross over but the enhanced nurse licensure compact bill did. There was one bill on podiatry which did not pass. Other bills discussed were on medical marijuana, good Samaritans, the drug 'take-back' program, mandatory higher education for healthcare workers, fetal exposure to alcohol and the SCRIPTS program.

Administrator's Report

Mr. Spoon reported the following:

Physician Assistant Advisory Committee-meeting of April 14, 2017 was cancelled due to lack of quorum. The board approved the meeting agenda items including the MUSC prescribing course as amended and presented to the board by Ms. Helen Martin of MUSC. Motion by Dr. Gardner. Second by Dr. Schabel. Motion carries.

Respiratory Care Practitioner Advisory Committee-meeting of April 21, 2017 was cancelled due to a lack of a quorum. The RCP committee has a public member vacancy which is posted on the board's webpage. The board approved all meeting items. Motion by Dr. Gardner. Second by Dr. Schabel. Motion carries.

Acupuncture Advisory Committee The board approved the committee's proceedings and made note of the correction to the previous committee proceedings of January 11th, 2017 involving that Daith Piercing is purported to treat medical conditions, as well as new committee members James Hogg, Acupuncturist, and David Durant, public member. Motion by Dr. Gardner. Second by Dr. Schabel. Motion carries.

Reappointment of Medical Disciplinary Commission members with terms expiring:

Dr. Hensel, Dr. Kaplan, Dr. Scott-1st District

Dr. Holdredge, Dr. Kunkel-3rd District

Dr. Campbell-4th District

Dr. Baxley-5th District

Dr. Bishara, Dr. Sonfield, Dr. Phillips and Dr. Whitehead-7th District

Board Election Update-Elections for the 4th and 5th districts and the DO seat on the board. The winners of the two district elections, Drs. Wright and Dilts were certified to the Governor. The DO seat is undergoing a runoff election. Upcoming elections are the at-large seat and District 6.

CME Audit and discussion of license status for non-compliance-the board discussed the CME audit and the issue of how to address the license status for those who did not comply. They directed board staff to send a follow-up letter and email to those who have not responded. The communication would offer them another opportunity to comply and the right to appear before the board or a hearing officer to address non-compliance issues.

FINAL ORDER HEARINGS

A motion was made and passed for the Board to go into Executive Session to conduct Final Order Hearings. Each hearing was held in Executive Session and the Board's Final Order is on file at the Board Office. After testimony for each case, the Board entered a private deliberative session. No votes were made or actions taken while the Board was in Executive Session. A motion was made and passed to return to Public Session and the Board voted on the following sanctions after each Final Order Hearing:

Final Order and Application Hearings, Monday, May 1, 2017

2015-338, MOA [CLOSED HEARING]

Respondent has violated the Medical Practice Act. The sanction of the board is as follows: Respondent shall be issued a public reprimand. He shall be suspended immediately with said suspension stayed for a two-year probationary period. During the probationary period, the Respondent must submit reports from a therapist on a quarterly basis to the board. Respondent must maintain a prescribing log which may be in the form of a PMP Report. Respondent must practice under a supervising physician with quarterly reports to the board. Respondent may not prescribe to himself, friends, or family members. Respondent must work at a site approved by the board and under a supervisor approved by the board. He must notify the board of any change. Respondent must complete ten hours of CME credit inclusive of ethics and prescribing which shall not count towards his statutorily-required CME requirements per year for the two-year

probationary period. Respondent must complete a recordkeeping course as approved by the board. Respondent shall pay the costs incurred in the investigation of this matter of \$600. The suspension will automatically terminate at the end of the two-year period if Respondent successfully complies with the conditions of probation. Respondent will not have to re-appear before the board at that time.

Motion by Dr. Gardner. Second by Dr. Schabel. Motion carries.

Applicant for Licensure [CLOSED HEARING]

Approve applicant for licensure conditioned on his entering into a private agreement with the board. In the private agreement, he must continue with his RPP Contract to its conclusion. The RPP contract must provide for no failed first tests. Any positive test shall be reported to the board. At the conclusion of that RPP Agreement, applicant need not re-appear before the board.

Motion by Dr. Hubbard. Second by Dr. Schabel. Motion carries.

ACOSTA, Daniel, M.D. of Greenville, N.C., Applicant for Licensure

Application withdrawn. Motion to accept withdrawal by Dr. Schabel. Second by Dr. Hubbard. Motion carries.

HURWIT, Handre, M.D. of North Miami, Florida, Applicant for Licensure

Approved for licensure without condition. Motion by Dr. Hubbard. Second by Dr. Schabel. Motion carries.

GIUDICI, Stanley, M.D. of Middletown, NY, Applicant for Licensure

Application withdrawn. Motion to accept withdrawal by Dr. Schabel. Second by Dr. Turner. Motion carries.

[CLOSED HEARING]

Petition granted to release Respondent from terms and conditions.

Motion by Dr. Turner. Second by Dr. Welsh. Motion carries.

[CLOSED HEARING]

Petition granted to release Respondent from terms and conditions. Motion by Dr. Chow. Second by Dr. Welsh. Motion carries.

[CLOSED HEARING]

Petition granted to release Respondent from terms and conditions. Motion by Dr. Schabel. Second by Dr. Welsh. Motion carries.

[CLOSED HEARING]

Applicant shall be allowed to proceed with licensure on the condition that he establish psychiatric care and provide semi-annual reports to the board for a period of two years. He shall enroll with the Recovering Professionals Program for a period of five years.

Motion by Dr. Schabel. Second by Dr. Turner. Motion carries.

2014-385, MOA

[CLOSED HEARING]

The board accepts the MOA and finds that Respondent has violated the Practice Act, Public reprimand. \$2,000 civil penalty and \$200 in costs. Respondent must remain in RPP for a period of five years from December 25, 2014 forward with no failed drug screens. Respondent must re-appear before the board at the conclusion of that five-year period.

Motion by Dr. Gardner. Second by Dr. Schabel .

[CLOSED HEARING] 2014-456, MOA

The board accepts the MOA. The complaint is dismissed with a Letter of Caution.

Motion by Dr. Saad. Second by Dr. Schabel.

[CLOSED HEARING]

Petition granted to release Respondent from terms and conditions.

Motion by Dr. Chow. Second by Dr. Schabel. Motion carries.

[CLOSED HEARING] 2015-234, MOA

Petitioner's Request to have restrictions of hours worked per week and worksite specific location removed. Other restrictions in the order shall remain in effect.

Motion by Dr. Turner. Second by Dr. Schabel. Motion carries.

At 7:19 pm, a motion was passed to adjourn.

The board reconvened at 7:41 am, Tuesday, May 2nd, 2017 for the second day of its May 2017 regular meeting.

OIE/ODC REPORT

Pat Hanks Office of Disciplinary Counsel (ODC) presented the ODC Report to the Board.

Jason Haynes of the Office of Investigations and Enforcement presented the Investigative Review Committee's statistical report. Introduction of new investigator David Pyke and upcoming investigator training such as Medical Terminology (Midlands Technical Collage), Council on Licensure, Enforcement & Regulation (CLEAR) Investigator-Basic Program, Threat Assessment (SLED), LRADAC Science of Addiction Workshop, National Association of Drug Diversion Investigators (NADDI) Annual Carolinas Conference and Reid Technique of Investigative Interviewing and Advanced Interrogation Techniques.

Dismissals

81 cases were presented and approved for dismissal. Dr. Saad moved to accept the recommendations and Dr. Hubbard seconded the motion. Motion carried.

Orders to Cease and Desist

3 cases were presented and approved for an order to cease and desist. Dr. Saad moved to accept the recommendations and Dr. Welsh seconded the motion. Motion carried.

Formal Complaints

17 cases were presented for formal complaint. Dr. Saad moved to accept the recommendations. Dr. Welsh second. Motion carries.

Letters of Caution

15 cases were presented for a Letter of Caution. A motion was made by Dr. Schabel to approve the letters of caution. Dr. Hubbard seconded the motion. Motion carries.

FINAL ORDER HEARINGS

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Final Order and Application Hearings, Tuesday, May 2, 2017

2014-461, MOA [CLOSED HEARING]

Accept the Memorandum of Agreement and issue a private reprimand. The board directs Respondent to continue treatment with counselor. Respondent shall provide semi-annual reports to the board. Respondent must continue his RPP contract to completion and must re-appear before the board at that time. Respondent is assessed \$40 in costs.
Motion by Dr. Gardner. Second by Dr. Schabel. Motion carries.

2016-416, Petition for reconsideration [CLOSED HEARING] [CONTINUED]

2011-337, Final Order Hearing-Panel Report, ODC [CLOSED HEARING]

The board accepts the panel report and recommendations. The recommendation for sanction is to impose a private reprimand. Respondent's motion to dismiss is denied based on the same grounds as the panel found. Motion by Dr. Schabel. Second by Dr. Turner. Motion carries.

The board adjourned at 12:48 p.m. on Tuesday, May 2nd, 2017
Minutes Submitted by Sheridan Spoon, Administrator