

STATE BOARD OF MEDICAL EXAMINERS OF SOUTH CAROLINA
MINUTES

Monday, November 6th, 2017

Members Present:

Dr. Stephen Gardner, of Greenville, President
Dr. Jeff Welsh, of Columbia, Vice President
Dr. Anne Cook, of Anderson, Secretary
Dr. Jim Chow, of Columbia
Dr. Scot Dilts, of Sumter
Dr. Ron Januchowski, of Spartanburg
Dr. Stephen Schabel, of Charleston
Dr. Daniel Saad, of Greer
Dr. Robert Turner, of Florence

LLR Staff present:

Sheridon Spoon, Administrator
Elizabeth Harrison, Compliance Officer
Darra Coleman, Chief Advice Counsel
Adam Russell, Assistant Advice Counsel

Review and adoption of Agenda. After review the meeting agenda was adopted. Motion by Dr. Saad. Second by Dr. Schabel. Motion Carried.

Review and approval of excused absences. The board approved the absence of Turner on Monday morning, Dr. Chow on Monday morning and Dr. Schabel on Tuesday afternoon. Motion by Dr. Saad. Second by Dr. Welsh. Motion carried.

Approval of August 2017 minutes. After review, the board approved the August 2017 meeting minutes. Motion by Dr. Schabel. Second Dr. Cook. Motion carried.

President's Report – Stephen R. Gardner, M.D.

1. Election of Officers-The board conducted annual election of officers.
President-Dr. Welsh. Motion Dr. Saad. Second Dr. Schabel. Motion carried.
Vice-president-Dr. Cook. Motion Dr. Saad. Second Dr. Schabel. Motion carried.
Secretary-Dr. Saad. Motion Dr. Schabel. Second Dr. Welsh. Motion carried.

2. Request for Exception to Transfer Patient Records-Palmetto Adult Medicine/McLeod Physician Assoc. II, Chandler Martin, Esq.

Mr. Martin appeared and presented the request. Upon consideration and discussion, the board approved the records transfer. Motion by Dr. Cook. Second Dr. Welsh. Motion carried.

3. H3587-Seizure Safety in Schools Study Committee-Appointment of pediatric neurologist. Upon consideration and discussion, the board appointed Dr. Addie Hunnicutt and Dr. Sanjay Nunley as an alternate to this committee. Motion by Dr. Schabel. Second by Dr. Saad. Motion carried.

4. Corporate practice of medicine and the oversight of unlicensed personnel-new advisory opinion

The board approved a motion to prepare FAQ for this advisory opinion through counsel. Ms. Coleman will contact the general counsels of S.C. Healthcare associations and other organizations. Motion Dr Saad. Second by Dr. Schabel. Motion carried.

5. Margie Heggie, CEO, S.C. Medical Association presented to the board SCMA's third biennial CME compliance report. 4,805 physicians are on record with SCMA as compliant with the drug course requirement. Ms. Meggie reported on the SCMA's procedures for verification of CME and their accreditation process for Category 1 classification as well as approval of medical service volunteer hours to meet the CME requirement for physicians and the approved form for same.
6. Telemedicine Practice by Physician Assistants-after review, this item was tabled. Motion to table. Dr. Saad. Second by Dr. Welsh. Motion carried.
7. Advisory opinion on Petitions for Reinstatement and Release from terms and conditions. After discussion, the board determined that the conditions under which a respondent may request reinstatement, release from terms and conditions or other order modification will be reflected by the board in the individual order. Motion Dr. Schabel. Second Dr. Dilts. Motion carried.
8. Permanent license application-Letters of recommendation [Physicians and Physician Assistants] After discussion, the board approved elimination of this requirement for Physician and Physician Assistant applicants. The board will require the applicant to provide the names of three potential references as part of the application. The board may request a letter of recommendation from the applicant. Motion Dr. Gardner. Second by Dr. Schabel. Motion carried.
9. FARB Conference report-Ms. Coleman reported from this conference in Savannah October 5-8, 2017 in Savannah Ga. Topics discussed included the opioid crisis, the North Carolina Dental Board decision presented by an FTC representative and the advice counsel function in other states.
10. Cosmetic Procedures-Dr. Chow began the discussion by beginning with the June 9th joint meeting of the Medical, Dental and Nursing boards from which came a joint opinion on Neuromodulators including Botox which has been published. Additional cosmetic procedures such as laser procedures being addressed was discussed. After discussion of the procedures and issues involved, the board directed Dr. Chow along with board counsel to move forward with a similar joint approach involving the other affected boards such as Cosmetology, Dental and Nursing and to report progress to the board at the February 2018 meeting. The materials Dr Chow had previously prepared on the subject were requested to be provided to each board member.
11. Controlled substance online prescribing for established patients-Dr. Gardner discussed this issue with the board for information only in relation to the state Prescription Monitoring Program administered by DHEC.

Administrator's Report

1. Physician Assistant Advisory Committee- After discussion, the board approved the proceedings of the Physician Assistant's Advisory Committee from its October 13, 2017 meeting. The board appointed Dr. Welsh as the *ex officio* member of the committee and Dr. Gardner as a physician member of the committee. Motion Dr. Schabel. Second Dr. Welsh. Motion carried.
2. Respiratory Care Practitioner Advisory Committee-After discussion, the board approved the proceedings of the RCP Advisory Committee for the committee's October 20th, 2017 meeting. Motion by Dr. Gardner. Second by Dr. Januchowski. Motion carried.
3. Acupuncture Committee- After discussion, the board approved the license applications reviewed by the Acupuncture Advisory Committee. The committee did not hold a meeting in this interval. Motion by Dr. Gardner. Second by Dr. Schabel. Motion carried.
4. Board Elections Update-Mr. Spoon gave the board an update on board elections. New members include Dr. Dilts, District 5 and Dr. Januchowski, D.O. Seat. Upcoming elections are for Districts 2, 3, 6 and 7.

5. CME Audit Update-After discussion, the board directed counsel for the board to advise the next steps for those not in compliance with the audit.

Legislative Update, Holly Beeson, Rebecca Leach- LLR Office of Communications

Holly Beeson and Rebecca Leach, LLR Office of Communications and Governmental Affairs, updated the board on legislative items of interest. Ms. Beeson reminded the board this is the first year of a two-year session. Legislative items included medical marijuana, the VC Summer legislation, the APRN Bill, pharmacist compounding, and the new CME requirement for PAs and Podiatrists. Ms. Beeson's office will continue to email legislative updates to board members. Ms. Coleman mentioned the South Carolina Behavioral Health Coalition that has been formed addressing reimbursement for Naloxone and Suboxone.

FINAL ORDER HEARINGS

A MOTION WAS MADE AND PASSED FOR THE BOARD TO GO INTO CLOSED SESSION TO CONDUCT FINAL ORDER HEARINGS. EACH HEARING WAS HELD IN A CLOSED SESSION AND THE BOARD'S FINAL ORDER IS ON FILE AT THE BOARD OFFICE. AFTER TESTIMONY FOR EACH CASE, THE BOARD ENTERED AN EXECUTIVE SESSION TO RECEIVE LEGAL ADVICE FROM COUNSEL. 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:

2010-66, MOA, [Closed Hearing]

Motion to deny the request for dismissal. Motion by Dr. Cook. Second by Dr. Schabel. Motion carried.

The Respondent has violated the Medical Practice Act. The sanction of the board is as follows: A private reprimand with payment of investigative costs of \$500. Motion by Dr. Gardner. Second Dr. Schabel. Motion carried.

2010-65, MOA [Closed Hearing]

Motion for dismissal granted. Motion by Dr. Cook. Second Dr. Schabel. Motion carried.

2016-36, MOA [Closed Hearing]

Respondent has violated the Medical Practice Act. Private reprimand and \$168.00 in investigative costs. Motion by Dr. Cook. Second Dr. Schabel. Motion carried.

SHEALY, Roger D., M.D., 2016-130, MOA [Closed Hearing]

Respondent has violated the Medical Practice Act. Public reprimand. Civil Penalty of \$5,000 and \$400 in investigative costs. The suspension will remain in effect pending completion of the following terms and conditions. A practice plan and site with hours approved by the board. No Schedule II or III prescribing with the DEA. Maintain CME as required by law and follow prescribing guidelines. Motion by Dr. Cook. Second by Dr. Saad Motion carried.

BROOK, Gayle L., D.O., 2016-420, MOA [Closed Hearing]

Respondent has violated the Medical Practice Act. The sanction of the board is as follows: Public reprimand. Payment of \$200.00 in investigative costs within six months. Motion by Dr. Cook. Second by Dr. Schabel. Motion carried.

KAST, John M, M.D., Applicant for Licensure [Closed Hearing]

Allow applicant to proceed with permanent licensure in South Carolina. Motion by Dr. Gardner. Second Dr. Schabel. Motion carried.

BARAONA, Francisco, M.D., Applicant for Licensure [Closed Hearing]

Motion to accept applicant's request to withdraw his application. Motion by Dr. Schabel. Second Dr. Cook. Motion carried.

GEE, Jerry B., M.D., of Voorhees, N.J., Applicant for Licensure

Approved for licensure without condition.

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

SULLIVAN, Patricia, M.D., Applicant for Renewal

Motion to deny renewal of license. Motion by Dr. Chow. Second Dr. Cook. Motion carried.

ZILLES, Michael M, M.D., Applicant for Licensure

Approved for licensure without condition. Motion by Dr. Dilts. Second Dr. Schabel. Motion carried.

After a call for public comment, the board adjourned at 7:27 p.m.

Tuesday, November 7th, 2017

Office of Disciplinary Counsel and Office of Investigations and Enforcement Report-Pat Hanks, Office of Disciplinary Counsel, Jason Haynes, Office of Investigations and Enforcement

In addition to the case statistics and training received by OIE staff, there were 171 active cases. 82 Dismissals, 17 Letter of Caution and 16 Formal Complaint, IRC recommendations presented to the board for approval.

Motion to accept Dismissals-Motion by Dr. Schabel. Second by Dr. Cook. Motion carried.

Motion to accept Letters of Caution- Motion by Dr. Gardner. Second by Dr. Turner. Motion carried.

Motion to accept Formal Complaints- Motion by Dr. Saad. Second by Dr. Schabel. Motion carried.

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SWEATT, Lois, M.D. Appearance regarding 2015 CME audit compliance.

Motion to allow an additional 180 days from November 7th, 2017 for the licensee to pay \$500.00 civil penalty for audit non-compliance. Motion by Dr. Gardner. Second by Dr. Schabel. Motion carried.

Petition for Reinstatement. [Closed Hearing]

Motion: Allow reinstatement of license contingent upon continued participation in RPP. Motion by Dr. Schabel. Second by Dr. Saad. Motion carried.

2013-10, Petition for release from terms and conditions. [Closed Hearing]

Reinstatement of license with the terms and conditions known to the Respondent and the Board. Must appear before the board for release from terms and conditions. Worksite and practice plan must be approved by the board. Motion by Dr. Cook. Second by Dr. Schabel. Motion carried.

PANDYA, Shreyash, M.D., Applicant for Licensure

Approved for licensure without condition. Motion by Dr. Welsh. Second by Dr. Schabel. Motion carried.

2015-28, MOA.

Letter of Caution. Motion by Dr. Cook. Second by Dr. Welsh. Motion carried.

HAMMETT, David H, M.D., 2013-307, 2013-185, MOA [Closed Hearing]

Motion: 2013-185. Respondent has not violated the Medical Practice Act. Dismissal. Motion: 2013-307. Respondent has violated the Medical Practice Act. Public reprimand. Civil penalty of \$300. Motions by Dr. Cook. Second by Dr. Gardner. Motion carried.

MCCANN, Christa M.D., 2017-32, MOA [Closed Hearing]

Respondent has violated the Medical Practice Act. The sanction of the board is as follows: Public reprimand. Investigative costs of \$570.00. Upon completion of Pre-Trial Intervention the license may be reinstated and then immediately suspended with a stay of suspension subject to the following conditions: Workplace approval by the board with no more than 40 hours per week for at least the first three months of practice. Any changes in employment must be reported to the board immediately and approved by the board. No controlled substance prescribing for at least two years. Respondent must complete 40 hours of CME in controlled substances, benzodiazepines and amphetamine. Respondent must follow up with primary care physician with an annual report to the board. Respondent must take a recordkeeping course approved by the board. Respondent must provide quarterly reports of clinical performance from the employer to the board. Respondent may not request release from these terms and conditions for at least two years from the hearing date.

Motion by Dr. Cook. Second Dr. Welsh. Motion carried.

SHORTT, Kevin G. M.D., 2014-86, Final Order Hearing, Panel Report

Revocation of license. Motion by Dr. Januchowski. Second Dr. Turner. Motion carried.

2008-17, 2006-182, Petition for Release from Terms and Conditions [Closed Hearing]

Motion: Permit respondent to be released from RPP requirements as of December 7th, 2017 provided that Respondent voluntarily participate in the RPP senior monitoring program for three years. Motion by Dr. Saad. Second by Dr. Januchowski. Motion carried.

2016-55, MOA [Closed Hearing]

Motion: Respondent has violated the Medical Practice Act. The sanction of the board is as follows: Private reprimand. Investigative costs of \$242.12 payable within 180 days from date of order. Respondent shall be required to use AMA-approved guidelines with regard to any use of social media and to follow all AMA guidelines regarding chaperoning and patient care. Motion by Dr. Cook. Second by Dr. Turner. Motion carried.

The board took note of its upcoming meetings as follows: February 5-7, 2018, May 7-9, 2018, August 6-8, 2018 and November 5-7, 2018.

After a call for public comment, the board adjourned at 6:51 p.m.