

EXECUTIVE SESSION MINUTES
STATE BOARD OF MEDICAL EXAMINERS OF SOUTH CAROLINA
February 4 - 6, 2013

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

MEETING CALLED TO ORDER

Dr. Louis E. Costa, II, President of the Board, called the regular meeting of the S.C. Board of Medical Examiners to order at 8:15 A.M., on Monday, February 4, 2013, at 110 Centerview Drive, Room 108, Columbia, South Carolina, with a quorum present. Dr. Costa 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. Louis E. Costa, II, President, of Charleston
Dr. David deHoll, of Iva
Dr. Anthony Beall, of Mt Pleasant
Dr. James Hubbard, of Rock Hill
Dr. Jeff Welsh, of Columbia
Dr. Timothy Kowalski, of Columbia
Dr. Stephen Gardner, of Greenville
Dr. Jim Chow, of Columbia
Dr. Robert Turner, of Florence

Members of the S.C. Department of Labor, Licensing and Regulation (LLR) staff participating at various times in the meeting included:

S.C. Board of Medical Examiners

Rion Alvey, Interim Board Administrator
April Koon, Program Assistant
Brenda Eason, Administrative Assistant
Ieshia Watson, Administrative Assistant
Laura McDaniels, Administrative Assistant
Connie Flanery, Administrative Assistant
Kathy Burgess, Administrative Assistant
Latonia Jones, Administrative Assistant

Office of General Counsel

Patrick Hanks, Assistant General Counsel
Erin Baldwin, Assistant General Counsel
Suzanne Hawkins, Assistant General Counsel

Office of Advice Counsel

Sheridon Spoon, Advice Counsel

REVIEW/APPROVAL OF AGENDA

An agenda for this meeting was reviewed and approved.

REVIEW/APPROVAL OF MINUTES FROM NOVEMBER 2012 BOARD MEETINGS:

After considering recommendations, additions, deletions and corrections, a motion was made to approve the minutes from the November 4-6, 2012 meeting by Dr. Welsh and seconded by Dr. Turner. The motion and the minutes were unanimously passed.

After considering recommendations, additions, deletions and corrections, a motion was made to approve the minutes from the November 16, 2012 teleconference meeting by Dr. Hubbard and seconded by Dr. Welsh. The motion and the minutes were unanimously passed.

TRAVEL APPROVAL

Dr. Welsh, Medical Board Member and April Koon, Program Assistant for SCBME were both approved by the Medical Board to attend the Federation of State Medical Boards annual meeting in Boston, MA. The motion was made by Dr. Costa and seconded by Dr. Hubbard. Motion was unanimously passed.

COLLABORATIVE TASK FORCE TO DISCUSS PAIN MANAGEMENT

Darra Coleman, Chief Advice Counsel, spoke to the Board about a subject that was brought up by the SC Board of Nursing concerning the request from two hospital systems requesting off-label use of Fentanyl and Ketamine. Mrs. Coleman requested that the Board appoint three designees to be a part of the collaborative task force along with the Board of Nursing and Pharmacy. She stated this will be a task force that will provide guidance and maybe the establishment of a protocol for when these two drugs can be used. Dr. Welsh made a motion for Dr. Costa, Dr. Kowalski and Dr. Beall to be the appointed members for the task force. Motion seconded by Dr. Beall. All in favor. Motion carries.

RPP DISCUSSION ON EXCEPTIONS TO THE ABSTINENCE POLICY FOR LICENSEES WITH ADD AND ADHD

Rick Wilson along with Mr. Sheheen from Recovering Professionals Program spoke to the Board about their abstinence policy for licensees with ADD and ADHD. Mr. Wilson stated they have already dealt with this issue with the SC Board of Nursing already. He stated that since the program was started in 2000 that RPP had allowed participants of the program to use drugs that a prescribing physician had thought was medically necessary. He stated they now realize that some of those drugs were the ones getting the participants in trouble. Mr. Wilson stated that they teamed up with top addictionologists in the region and they all came to the conclusion that participants should use abstinence in the program and that they can't take any drugs but would need to find alternatives unless a valid reason was present.

Mr. Sheheen discussed that the positive drug screens when from 22 to 23% being positive to 3% being positive. He even stated that many participants thanked them for helping them find other alternative to the drugs and they feel better and feel as though they are in a real recovery program.

Mr. Wilson stated that the biggest push back they have had is with the ADHD participants. He feels that they need to provide a process for an exception to be allowed for only ADHD situations but that this would require their treating physician to determine and report back that in their opinion that the participant is safe to practice while using drugs to treat their ADHD. Mrs. Coleman stated that the Board needs to come up with some criteria for accommodating this

exception and gave some suggestions. The Board recommended Dr. Kowalski and Dr. Chow be involved with this process and help put this opinion together along with RPP and the other Boards involved.

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 a transcript of each hearing, as well as the Board's Final Order, are 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:**

Darryl M Sugar, M.D.

2010-2

Final Order Hearing

A motion was made by Dr. Beall as follows:

- Accept Memorandum of Agreement
- Public Reprimand
- No Fine
- License will be suspended with the ability to reappear before the Board pending psychiatric evaluation from a psychiatrist approved by the Board as was stipulated in the previous order.

Motion was seconded by Dr. Turner

All in favor

Motion carries

Douglas F Crane, M.D.

2012-397

Final Order Hearing

A motion was made by Dr. Hubbard as follows:

- Accept Memorandum of Agreement
- Public Reprimand
- License will remain under suspension
- Surrender controlled substance prescribing privileges
- Prior to future request to lift the suspension, Respondent must recertify in psychiatry through the ABMS Board, the American Board of Psychiatry and Neurology; take a record keeping course; continue psychiatric treatment through a psychiatrist approved by the Board with semi-annual reports to the Board.

Motion was seconded by Dr. Turner

All in favor

Motion carries

PROPOSED CHANGES TO THE PHYSICIAN ASSISTANT PRACTICE ACT

Mr. Paul Jacques, PA with the SC Academy of Physician Assistants spoke to the Board about proposed changes to the PA Practice Act. He stated that the current SC code has a lot of stipulations in it that make it very difficult for a PA to obtain their license in this state and the purpose of these proposed changes were to get some relief from that burden. There were five key points that they spoke about. 1.) Mr. Jacques suggested that the Board require the initial licensure applicant to come with their practice guidelines with them for their interview and that would be the Boards opportunity to educate the PA about not going beyond what they feel comfortable doing. He also suggested that the PA Committee not have to review and approve these scopes as they have always done in the past. The Medical Board felt that there would be no accountability there if the PA Committee no longer approved scopes of practice. 2.) Mr. Jacques also spoke about their request to drop the 75% requirement in lieu of a minimum of six months onsite experience. Dr. Costa stated that this could bring several problems with the physician always being gone and the PA running the practice without any supervision at all. 3.) Mr. Jacques also suggested that the PA's should have full prescriptive authority. He stated that patients need access to those medications but that the physician would be the one delegating that task to the PA. Dr. Gardner agreed that their needs to be more access but that physician supervision is the key to protecting the public. Dr. Costa stated that he see's three weak links for exploitation. He stated that if the scope of practice is in place and approved by the Board then that helps ensure the other key points discussed are followed appropriately with proper supervision. 4.) Dr. Costa stated that the fourth point dealt with co-signatures on charts. Dr. Gardner stated he was flexible on that subject but reminded everyone that co-signature on charts is validation and documentation of the collaborative nature of the practice. Dr. Costa stated that he saw key points three and four as being very workable. 5.) Dr. Costa state that key point number five was supervision ratio and that he has no problem with an increase to four PA's but that it can't constitute more than three FTE's.

Mr. Riley, lobbyist for the SCMA stated that they would take these discussions and see where they can try and get together on agreements on some of the amendments the Board suggest before moving to introduction of new legislation.

Dr. Costa stated that this has been a very productive discussion and that public safety is the Boards main priority and the Board takes this under advisement at this time.

James K Harley, D.O. **Applicant for Licensure**

Dr. Hubbard made a motion to approve applicant to proceed with licensure.

Motion seconded by Dr. Welsh

All in favor

Motion carries

John Pence, M.D. **2010-233 / 2011-93** **Final Order Hearing**

A motion was made by Dr. Gardner as follows:

- Accept Memorandum of Agreement
- Public Reprimand

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- The Board approves a limited license for purposes of applying for recertification to the American Board of Pediatrics only
 - Continue with RPP
 - Pay Cost of \$8,800
 - Initial approval of planned practice site through the Board

Motion was seconded by Dr. Chow

All in favor

Motion carries

A motion was made by Dr. Gardner and seconded by Dr. Chow to adjourn at 6:45 pm

Reconvened at 8:30 am Tuesday February 5, 2013.

Mohit Datta, M.D.

Applicant for Licensure

Dr. Gardner made a motion to approve applicant to proceed with licensure.

Motion seconded by Dr. Kowalski

All in favor

Motion carries

Djeunou M Tchamba, M.D.

Applicant for Licensure

Dr. Costa made a motion to approve applicant to proceed with limited licensure and must become Board Certified before full licensure.

Motion seconded by Dr. Welsh

All in favor

Motion carries

Roger K Hershline, M.D.

2009-89 / 2012-441

Final Order Hearing

A motion was made by Dr. Kowalski to accept Dr. Hershline's request to permanently relinquish his license in South Carolina.

Motion was seconded by Dr. deHoll

All in favor

Motion carries

Kalpesh K Purohit, M.D.

Applicant for Licensure

Dr. Kowalski made a motion to approve applicant to proceed with licensure.

Motion seconded by Dr. deHoll

Dr. Gardner dissented

Motion carries

PROPOSED ADVISORY OPINION ON PHYSICIAN PATIENT RELATIONSHIP DISCUSSION

Mrs. Darra Coleman, Chief Advice Counsel for LLR, stated that the issue up for discussion is to fine-tune the language of this advisory opinion by adding additional language. She stated that Sally Rodger, representative with the SCMA could not be there but there were two questions she had for the Board. Her questions were 1. What was meant by the term acknowledgement? ; 2. Should the term primary care provider be changed to primary care physician? Mrs. Coleman state that the Board had already considered primary care physician language and changed it to be primary provider of care in three instances which are in the new version of the opinion that was shared with all parties involved to include Mr Mullins, Mr. Bowers and Mr. Squire, all representatives of Teledoc. Mr. Mullins stated that he feels like the Boards policy may be extending statute. Dr. Costa stated that the Boards interpretation is based on a standard. He also stated that what the Board is proposing is their historical understanding of what 40-47-113 means, particularly as it relates to on call. He stated that it is important and imperative to have clarity on the subject now and not wait so see what comes out of the General Assembly in a two-year session. Mr. Squire asked the Board to defer the advisory opinion at least until the next session. He stated that Teledoc was a complying company and will reluctantly accept this if the Board adopts this advisory opinion.

Dr. Gardner addressed Sally Rodgers first question about what was meant by the term acknowledgement. He stated that acknowledgement means you have delegated to someone or an entity or a group of physicians or some other healthcare provider, the responsibility for the care of a patient that is part of your medical practice or home.

Dr. deHoll made a motion for approval of the advisory opinion. The motion was seconded by Dr. Kowalski. All in favor. Motion carries. (See attached)

Dawn Pender, MSN, FNP-BC, CPNP

Nursing request for exemption to the 45-Mile requirement for physician supervision

A motion was made by Dr. deHoll to approve the request for extension and seconded by Dr. Gardner. All in favor. Motion carries.

Aurelia Allen, NP

Nursing request for exemption to the 45-Mile requirement for physician supervision

A motion was made by Dr. Kowalski to approve the request for extension and recommend that the healthcare providers are adequately trained to utilize the equipment and should have ACLS training. Motion seconded by Dr. deHoll. All in favor. Motion carries.

A motion was made by Dr. deHoll and seconded by Dr. Costa to adjourn at 6:05 pm

Reconvened at 8:30 am Wednesday February 7, 2013

Omar Jaraki, MD

2006 – 517 / 2007 – 81 / 2008 – 14, 114, 142, 160, 178, 215, 219, 248, 249, 200 / 2009– 118, 202

Final Order Hearing

A motion was made by Dr. deHoll to accept Dr. Jaraki's request to permanently relinquish his South Carolina Medical license. Motion was seconded by Dr. Kowalski.

All in favor
Motion carries

OGC REPORT

Pat Hanks, General Counsel, spoke to the Board about a problem they are having with MUSC and their evaluation process. He stated that it is a timeliness issue and an issue of the evaluations being delegated out to other individuals less credentialed than what the Board has agreed to use. Mr. Hanks stated for example that if the Board requires a polygraph, sometimes they aren't performing them and in some cases withholding the evaluation they do perform from the respondent. Mr. Sheheen from RPP stated that he has contacted the substance abuse program that the Board has agreed to refer to and that the communication is just not there. He also stated that they have made the problems known to the Dr. Sarah Book who is very good at communication but she can't always get the reports from the evaluators involved.

Dr. Kowalski has agreed that he will contact Dr. Dwyer at MUSC and make the appropriate phone calls to find out if we can rectify the situation we have with performance issues.

OIE REPORT

Althea Myers, chief investigator for Office of Investigations presented the Investigative Review Committee's Report along with the statistical report.

Dismissals

40 Cases were presented for dismissal. Dr. Kowalski moved to accept the recommendations and Dr. deHoll seconded the motion. All in favor. Motion carries.

Formal Complaints

19 Cases were presented for formal complaints. Dr. Welsh moved to accept with Dr. Gardner seconding the motion and the Board unanimously approved the recommendations.

Letters of Caution

A motion was made by Dr. deHoll to approve the 6 cases that were presented for a letter of caution. Dr. Gardner seconding the motion and the Board unanimously approved the recommendations.

Henry Vanpala, M.D.

Applicant for Licensure

Dr. deHoll made a motion to approve applicant to proceed with licensure.

Motion seconded by Dr. Kowalski

All in favor
Motion carries

Steve Reeves, M.D.
Applicant for Licensure

Dr. Turner made a motion to approve applicant to proceed with licensure.
Motion seconded by Dr. deHoll
All in favor
Motion carries

Michael Daniel, M.D.
Applicant for Licensure

Dr. Kowalski made a motion to approve applicant to proceed with licensure.
Motion seconded by Dr. deHoll
All in favor
Motion carries

ANESTHESIOLOGIST ASSISTANT COMMITTEE RECOMMENDATIONS

Two Anesthesiologist Assistant applicants were reviewed by the Board and approved to move forward with permanent licensure. Dr. Gardner moved to approve and Dr. Kowalski seconded the motion. All in favor. Motion carries. (See attached)

RESPIRATORY CARE COMMITTEE RECOMMENDATIONS

After a brief discussion and overview, a motion was made by Dr. Welsh and seconded by Dr. deHoll to approve the RCP Committee recommendations. All in favor. Motion carries. (See attached)

PRESIDENT AND ADMINISTRATORS REMARKS

- 1.) Dr. Costa made a brief statement concerning the loss of the SC Medical Board Administrator Bruce Duke. He stated that Mr. Duke was a not only a competent administrator and was very successful in his efforts to improve Board function but he was a friend to staff at LLR and to the Board and he is greatly missed.
- 2.) A motion was made by Dr. Hubbard to approve Dr. Costa to interview Mr. Philip Tolman for his Board appearance in person in Charleston instead of having him appear before the full Board. The motion was seconded by Dr. Chow. All in favor. Motion carries.
- 3.) Dr. Costa and other Board members had a brief discussion related to the upcoming renewals and acceptance of CME's outside of the policy timeframes. The Board stated they recommend that Rion Alvey use his discretion and approve extensions on CME's only if they have extenuating circumstances that they can prove to the Board.
- 4.) Darra Coleman, Chief Advice Counsel discussed with the Board the policy on Post Exposure Prophylaxis that the Board adopted in 2011. After a brief discussion, a motion was made by Dr. Gardner and seconded by Dr. Turner to rescind the policy on Post-exposure prophylaxis. All in favor. Motion carries.

**A motion was made by Dr. Gardner and seconded by Dr. deHoll to adjourn at 1:47 pm on
Wednesday February 6, 2013**

**Respectfully Submitted
April Koon
Program Assistant**

**LLR-BOARD OF MEDICAL EXAMINERS –FEBRUARY 4-6, 2013
ANESTHESIOLOGY ASSISTANT COMMITTEE MEETING**

AGENDA TOPIC: Temporary AA’s applying for Permanent Licensure

FROM: Brenda K. Eason, Administrative Assistant

Attached is a AA’s who are currently on temporary license. They have met all the requirements for permanent license and are now requesting to update from the temporary license to the permanent license. Those with asterisk (*) have answered “yes” on the application and will be discussed at the AA Meeting.

- 1) **Bradley Bugher, AA**
Supervising Physician – Dr. Alisha Palliser
Grand Strand Regional Medical Center
809 82nd Parkway
Myrtle Beach SC 29572

Interviewed and approved by Dr. Sompong Kraikit on 11/20/2012

- 2) **Tyler Childers, AA**
Supervising Physician – Dr. Mark Naquin
Ambulatory Surgery Center of Aiken
4211 Trolley Line Road
Aiken SC 29801

Interviewed and approved by Dr. Jeffrey Welsh on 1/2/2013

- 3) **Vanessa Tabor, AA**
Supervising Physician – Dr. Mark Naquin
Ambulatory Surgery Center of Aiken
4211 Trolley Line Road
Aiken SC 29801

Interviewed and approved by Dr. Jeffrey Welsh on 1/2/2013

Establishment of Physician-Patient Relationship as Prerequisite to Prescribing Drugs

Approved by the Board at its November 5, 2012 Board Meeting

Service Area: Medical

Subject: Establishment of Physician-Patient Relationship as Prerequisite to Prescribing Drugs

In accordance with S.C. Code Ann. § 40-47-113 of the 1976 Code of Laws of South Carolina, as amended, the South Carolina Board of Medical Examiners has adopted the following statement as guidance for physicians in the practice of medicine under the South Carolina Medical Practice Act and the Principles of Medical Ethics as adopted by the Board.

Establishment of Physician-Patient Relationship as Prerequisite to Prescribing Drugs

S.C. Code of Laws Section 40-47-113 (1976, as amended), provides:

(A) It is unprofessional conduct for a licensee initially to prescribe drugs to an individual without first establishing a proper physician-patient relationship. A proper relationship, at a minimum, requires that the licensee make an informed medical judgment based on the circumstances of the situation and on the licensee's training and experience and that the licensee: (1) personally perform and document an appropriate history and physical examination, make a diagnosis, and formulate a therapeutic plan; (2) discuss with the patient the diagnosis and the evidence for it, and the risks and benefits of various treatment options; and (3) ensure the availability of the licensee or coverage for the patient for appropriate follow-up care.

(B) Notwithstanding subsection (A), a licensee may prescribe for a patient whom the licensee has not personally examined under certain circumstances including, but not limited to, writing admission orders for a newly hospitalized patient, prescribing for a patient of another licensee for whom the prescriber is taking call, prescribing for a patient examined by a licensed advanced practice registered nurse, a physician assistant, or other physician extender authorized by law and supervised by the physician, or continuing medication on a short-term basis for a new patient prior to the patient's first appointment.

(C) Prescribing drugs to individuals the licensee has never personally examined based solely on answers to a set of questions is unprofessional.

With regard to the exceptions set forth in S.C. Code Ann. § 40-47-113 (B), the South Carolina Board of Medical Examiners has adopted the definition of “on-call” as the temporary assumption of responsibility for an established doctor-patient relationship. An “on-call” physician is a South Carolina licensed physician who is available to physically attend, if necessary, to urgent and follow up care needs of a patient for whom he has temporarily assumed responsibility with the acknowledgment of the patient’s primary care provider.

A physician who prescribes drugs to an individual he has never personally examined and for whom he has not assumed responsibility with the acknowledgment of the patient’s primary care provider has engaged in unprofessional conduct **unless** he is writing admission orders for a newly hospitalized patient, prescribing for a patient examined by a licensed advanced practice registered nurse, a physician assistant, or other physician extender authorized by law and supervised by the physician, or continuing medication on a short-term basis for a new patient prior to the patient's first appointment.

Specifically, a physician who prescribes drugs for an individual with whom he has only had telephonic and/or electronic communication and for whom he has not assumed responsibility with the acknowledgment of the patient’s primary care provider has engaged in unprofessional conduct **unless** he is writing admission orders for a newly hospitalized patient, prescribing for a patient examined by a licensed advanced practice registered nurse, a physician assistant, or other physician extender authorized by law and supervised by the physician, or continuing medication on a short-term basis for a new patient prior to the patient's first appointment.