

PUBLIC SESSION MINUTES
STATE BOARD OF MEDICAL EXAMINERS OF SOUTH CAROLINA
May 7-May 8, 2012

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

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 8:00 A.M., on Monday, May 7, 2012, 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. Jim Chow, of Columbia
Dr. Robert T. Ball, Jr., of Charleston
Dr. Robert E. Turner, of Florence
Dr. Jeff Welsh, of Columbia
Dr. Timothy Kowalski, of Columbia
Dr. Stephen Gardner, of Greenville

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

Bruce F. Duke, Board Administrator
April Dorroh, Program Assistant
Brenda Eason, Administrative Assistant
Ieshia Watson, Administrative Assistant
Laura McDaniels, 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 FEBUARY 2012 BOARD MEETING:

After considering recommendations, additions, deletions and corrections, a motion was made to approve the minutes by Dr. Welsh. Dr. Ball seconded the motion and the minutes were unanimously passed.

TRANSFER OF PATIENT RECORDS

Mr. Duke presented requests for the Board consideration about the selling of patient's records to an individual or entity other than a physician or hospital (see attached). After discussion Dr. Welsh moved to accept, with Dr. Gardner seconding the motion and the requests were unanimously approved.

BOARDS OPINION ON MANIPULATION UNDER ANESTHESIA

After a lengthy discussion, Dr. Gardner made a motion that the Board tables the discussion of manipulation under anesthesia due to the lack of evidence for the Board's consideration. Currently, the Board considers this procedure to be the practice of medicine. If additional evidence is presented that would demonstrate this procedure is safe for the public and fits the current regulatory status for accountability then the issue may be reconsidered. The motion was seconded by Dr. Turner and the Board unanimously approved.

RESPIRATORY CARE ADVISORY COMMITTEE RECOMMENDATIONS

Mr. Duke presented the recommendations from the Respiratory Advisory Committee's April 2012 meeting. Dr. deHoll moved to accept the recommendations. Dr. Ball seconded the motion and the Board unanimously approved the recommendations.

PHYSICIAN ASSISTANTS ADVISORY COMMITTEE RECOMMENDATIONS

Mr. Duke presented recommendations from the April 2012 Physician Assistants Advisory Committee' meeting for the Board's review. Dr. Gardner moved and Dr. deHoll seconded the motion to approve the recommendations as amended by the Board. The Board unanimously approved the following recommendations.

iSELECT MD UPDATE ON PILOT PROGRAM

Michael Iaquina with iSelect appeared and provided updates about the pilot program that have been developed specific to South Carolina and, in his opinion have improved access to health care. He noted that there is a lot of mis-information available to the public about what they do and that primarily they are improving access of care for non-emergent issues. He noted that prescriptions are not necessarily written each time but that the program allows a resident of South Carolina to consult with a physician on the phone while reviewing their updated health history.

He also noted that one of the things that they wanted to determine internally was the scope of illnesses they were treating, and there were 500 different clinical scenarios that could be treated through telemedicine. What they have found is less than seven illnesses were being called in. Those illnesses were respiratory infections, which include sinusitis, bronchitis, pharyngitis, otitis media and occasionally urinary tract infections. During the pilot program, Mr. Iaquina noted that at no time were any narcotics prescribed. Nor did they prescribe any sleep aids, antidepressants, hair loss or erectile dysfunction medications.

Dr. Costa confirmed with Mr. Iaquina that no controlled substances were prescribed at any level and that they have only prescribed legend drugs but no controlled substances.

Mr. Iaquina stated that over 97 percent of members indicated that they exceeded their expectations and exceeded their standard of care as they knew it and that their response time from the time they were contacted to the time of their consult with a physician was less than 30 minutes. He indicated that someone could sit at their desk or be at home on the weekends and could initiate a call. The records would then be updated and sent off to the physician. The physician would do a comprehensive review prior to contacting the number via phone.

Dr. Ball noted that after reviewing reports from iSelect that a large proportion of their clients did not have any primary care group and Mr. Iaquina confirmed this was correct but that one of the things they set out to do was to be a triage agent. He noted those instances would be a case where it was beyond the physician's scope and if they felt that they needed to have a face to face actual visit it was at that point they would volunteer to triage them.

Dr. Gardner asked specific questions about the calls getting answered at peak times and did they have a method to track this. Mr. Iaquina said that they measure themselves with the call center, physician response and resolution. He noted that they track all of them.

Mr. Iaquina confirmed with Dr. Chow that prescriptions were only written if necessary and under no circumstances would they prescribe sleep aids, propecia, viagra, lifestyle drugs, antidepressants or narcotics, nor do they see the need to prescribe these in the future.

Dr. Costa asked for any assurance that the pilot program could give that the public won't begin to utilize this as their primary source of medicine. Mr. Iaquina stated that at anytime they can get someone to their primary care physician and that's what they intended to do. They were suppose to move forward with a 10,000 customer pilot with the Medicaid population. Once they got approval from the Board they had their protocols in place but took a step back with the director of HHS and a couple others and didn't expand their business. They wanted to learn more about it. They anticipate over the next three or four months doing an additional pilot with HHS that is broader in scope but at the same time focusing on triage.

Dr. Gardner suggested the pilot program add data that would indicate iSelect tried to triage people to Primary Care Physicians (PCP) compared to what the emergency rooms in the state of SC who see repeat episodic care occurring from this same population and how effective they are in getting people to go to their PCP. The Board wants to know specifically what the pilot program is doing to create a medical home. Mr. Iaquina stated that now they see urgent cares, emergency rooms and hospitals competing and that they continue to see the PCP get less and less significant to a point where hospitals are buying up a lot of the PCP offices. They see PCPs seeing fewer patients and billing more procedures. Dr. Gardner asked what ideas iSelect had to encourage people to seek a medical home. Mr. Iaquina stated that by promoting the use of telemedicine prior to going to the emergency room and to have PCPs open up more opportunities to see patients. Dr. Ball requested that the Pilot program include data regarding what proportion of the 9 percent that were referred to their PCP for a more comprehensive treatment actually went to a doctor after their recommendation.

Dr. Costa stated there is a bill in the General Assembly that provides some insight as to what telemedicine will look like if passed. He stated that one of the essentials that prevailed in the

final form was that there would be a physical contact with a physician, a physical evaluation associated with any telemedicine, diagnostic or therapeutic model. The language in the current bill before the House leaves that determination up to the primary care doctor to whom that patient was referred for the physical evaluation and that the idea there needs to be a triage to a medical home for a continuity of care type facility model is something that's got tremendous momentum and may prevail. Mr. Iaquina stated they are aware of Bill 4944 but they have a telemedicine bill that they believe to be more practical. Dr. deHoll stated what the Board really wants to see telemedicine do, is leverage technology to improve the communication that occurs. He also stated that in the pilot program, it states that half the patients that are treated do have a primary care physician yet the report doesn't reflect any feedback from the PCP about those patients when they returned to their practice and that it's important to show that information to the Board.

Dr. Chow stated that the pilot report shows that 97 percent of the people were satisfied with iSelect's services but was curious about the other 3 percent. Mr. Iaquina stated that 97 percent said that iSelect exceeded their expectations and 2 percent said they met their expectations and 1 percent was refunded their money because they called wanting a prescription that was not written.

Dr. Ball asked iSelect to include data in their pilot program that includes the proportion of URIs that did and did not receive antibiotics because he is concerned that most URIs are caused by viruses for which antibiotics are not only inappropriate but dangerous.

Dr. Kolender, a physician from Charleston, SC spoke on behalf of iSelect. He stated a protocol that could help get people to their medical home would have to be a list of physicians who are willing to take in patients that don't have a primary care physician. He felt this would be most important. He stated that most of the patients he talked with are quite intelligent and realize that nothing substitutes for hands on treatment and that most utilized their services due to having to work and not be able to take time off or else they couldn't get in to see their physician for five to seven days.

Mr. Iaquina stated that a person can only use iSelect services twice in any 12 month period for the same illness. They will allow a person to call three times if they have a different illness within a 12 month period. He stated that they have had some that have tried to use them every three or four months and iSelect has refused to treat these patients. He stated that iSelect would really like to operate with full transparency and come back to the Board every six months and show what they have learned and what they are finding and if the Board feels they need to focus on driving more people to their primary home then that will be the core of their focus. The biggest issue is a lot of PCPs aren't accepting new patients. Dr. Costa noted that the Board would like to see some outcome based evidence of that.

Mr. Iaquina stated that any physician that works with iSelect can go online on their secure HIPAA secure portal and once the information is there the patient and physician have access to their information and records. The patients sign a medical release which allows them to share information with other providers and this makes it easier for the physician.

Dr. Costa stated that the Board still had concerns and that they optimistically would like to see this as a possible means of triaging to a less-fragmented system and that they would hate to see this as a mechanism towards further fragmentation and that they look forward to more

information that will convince the Board of that. Mr. Iaquina stated that iSelect looks to the SC Medical Board for oversight comments and suggestions. He stated that what the Board directs them to do, is what they intend to do. Dr. Costa stated that the amount of energy and resources that has gone into the pilot program at this point has been impressive and that the Board looks forward to further progress.

Dr. Ball requested that iSelect add to their next report a statement of information regarding electronic health records and how iSelect is linked to SCHIEEx.(South Carolina Information Electronic Health Record Highway)

Dr. Costa thanked iSelect for their efforts and stated that the Board ultimately would like to see the pilot program comply more closely with what the November approved format was but that he feels this is a serious step in the right direction.

DIRECTOR HOLLY PISARIK

Mrs. Holly Pisarik, Director of LLR appeared at the Board meeting to introduce herself and to let the Board know that as director she feels it is her job to provide support to the boards and help make their job easier. She let the Board know she is always available to answer questions about the agency they may have.

Dr. Costa asked for clarity of what the role the Medical Board serves in its capacity within the legislative arena as a point of offering facts and objective information as opposed to a lobbying effort. She stated that one of the statutory duties of the Board and all other Boards is to promulgate regulations and that as a department LLR will help them walk through the process of publishing things in the State Register and getting it over to the House and Senate and getting things filed. She said the board may be asked to testify or the advice attorney may be asked to testify in front of Committee any time the Board Promulgates regulations. However, she stated that anytime bills are introduced that affect the practice of Medicine that it's different and not within the Boards statutory purview to draft bills and to go over and lobby on behalf of getting them passed.

She stated that there may be times the Medical Affairs Committee or some other committee asks the board to come over and testify and give factual information about a bill and how that would affect the protection of the public or how it would affect the board and LLR as an agency. She stated that the Boards job is to regulate, discipline, adopt ethics, and license but not to lobby and testify for or against certain legislative agendas. She stated that it is completely within the Boards purview to testify about how the Board has historically interpreted the practice act and why they have interpreted it in the manner they have. She stated that if anyone on the Board is ever asked to testify and they are not comfortable with or if they have questions then the Board would need to work with their advice attorney or herself to find the appropriate role as a Board member to participate.

Mrs. Pasarik agreed with Dr. Costa that educating the legislature before a bill is passed is certainly the better way of making law than it just getting passed without hearing the Board's opinion.

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:**

Clifton Yates, M.D.

2009-153

Panel Report / Final Order Hearing

Dr. Chow made a motion for revocation of license

Motion was seconded by Dr. Ball

Motion carries

MINUTE CLINIC REQUEST PERTAINING TO NURSE PRACTITIONERS

Mr. Gillespie, Senior legal counsel for Minute Clinic along with Dr. Annette Clark-Brown, lead collaborating physician, Jeanine McSworley, APRN and Brandy Dixon, APRN all appeared before the SC Medical Board informing them of a particular request regarding the physician-APRN ratio. Mr. Gillespie stated that they appeared before the SC Nursing Board in March 2012 and requested a waiver that was approved by the Nursing Board that allowed supervising physicians no more than three APRNs at any time, and the supervising physician under no circumstances may supervise more than six distinct APRNs. He also stated that they are here to answer any questions the Medical Board may have and he stressed that they are already complying with the SC law in the Medical Practice Act with the three FTE ratio found in said act.

Dr. Ball asked questions to the Minute Clinic staff as to how they planned to monitor 6 APRNs and making sure they only have 3 scheduled on any given day. Ms. Dickson replied that when they assign a nurse practitioner to a physician they have a chart that matches them up to their status referring to whether they are full time, part time or PRN and they use color charts to show how many practitioners are working for that particular day. She also stated they do their schedule in six-week increments.

After discussion, Dr. Gardner made a motion that the SC Nursing Board's recommendation is not inconsistent with the current Medical Practice guidelines. Dr. Ball seconded the motion and the Board unanimously approved.

OGC REPORT

Pat Hanks, General Counsel stated that they had no cases on appeal at this time.

OIE REPORT

Mark Sanders, chief investigator for Office of Investigations presented the Investigative Review Committee's Report.

Dismissals

Cases 1 – 18 were presented for dismissal. Dr. Gardner moved to accept the recommendation and Dr. deHoll seconded the motion. The Board unanimously approved the recommendations.

Formal Complaints

Cases 19 – 38 were presented for formal complaints. Dr. Gardner moved to accept with Dr. Welsh seconding the motion and the Board unanimously approved the recommendation.

Letters of Caution

Cases 39 – 47 were presented for a letter of caution. After further discussion it was decided that five cases out of the nine cases need further investigation with possible Formal Complaint. The remaining 3 cases were approved for a letter of caution. Dr. Ball moved to accept with Dr. deHoll seconding the motion and the Board unanimously approve the recommendations.

Mr. Sanders presented a statistical report of cases in OIE to the Board (see attached).

Mitchell Rubin, M.D **Applicant for licensure**

Dr. deHoll made a motion to allow applicant to proceed with licensure
Motion seconded by Dr. Turner
Motion carries

Evan Allen, M.D **Applicant for licensure**

Dr. deHoll made a motion to allow applicant to proceed with licensure
Motion seconded by Dr. Gardner
Motion carries

Randy Lee Warren, M.D. **Applicant for licensure**

Dr. Ball made a motion to allow applicant to proceed with licensure with conditions:

- The stipulation with the license is that it will remain active until the applicants October 2012 testing for the ABMS board at which time the board will then reconsider that license in the context of a pass/fail

Motion seconded by Dr. deHoll
Motion carries

ADJOURN

At 6:45pm Dr. Ball made a motion to adjourn. Dr. Turner seconded the motion and it was unanimously passed.

RECONVENE

The Board reconvened at 8:15 am on Tuesday, May 8, 2012.

Jeffrey A Reynante, M.D. **Applicant for Licensure**

A motion was made by Dr. Kowalski to allow applicant to proceed and be granted a limited license until he has successfully completed his board certification, after which time he will be granted a permanent license if he passes or the license will become inactive if he fails.

Motion seconded by Dr. Chow
Motion carries

Michael Hughes, M.D. **2010-235** **Final Order Hearing**

A motion was made by Dr. Gardner as follows:

- Accept Memorandum of Agreement
- Public reprimand
- Pay court cost of \$ 4,042.00
- Pay fine of \$5,000.00
- Continued contract with RPP for a minimum of five years, respondent may petition the board at the end of five years if he wishes to be released
- A report yearly from his professional group concerning his professional performance and behavior to the board
- Evaluation by the Professional Progressive Program at MUSC for professional behavior issues or equivalent program approved by the board
- Ethics course to be approved by the board and be completed within one year

Motion seconded by Dr. Ball
Motion carries

Keith Kraemer, M.D. **Applicant for Licensure**

Dr. Ball made a motion to allow applicant to proceed with licensure
Motion seconded by Dr. Turner
Motion carries

MCLEOD HEALTH/ / REQUEST PERTAINING TO NURSE PRACTITIONERS

Dr. Hyman, Medical Director of the occupational health employee clinic with McLeod Health appeared before the SC Medial Board with a request pertaining to the supervision / APRN ratio. Dr. Hyman stated that they appeared before the SC Nursing Board in March 2012 and they requested a waiver that was approved by the Nursing Board that allowed him to supervise up to five APRN's within a twenty mile radius.

After a lengthy discussion, Dr. Kowalski made a motion to approve Dr. Hyman to supervise the four APRN's in his pool that are equivalent of three FTEs as long as he can present in writing the appropriate alternate supervising physician that covers in his absence. The motion was seconded by Dr. Chow and carries unanimously.

Melissa Logan, M.D.
Applicant for Licensure

Dr. deHoll made a motion to allow applicant to proceed with licensure
Motion seconded by Dr. Turner
Motion carries

Howard Lynn Kim, M.D.
Applicant for Licensure

Dr. Kowalski made a motion to allow applicant to proceed with licensure
Motion seconded by Dr. Turner
Motion carries

Jason Daniel Sciarretta, M.D.
Applicant for Licensure

Dr. Chow made a motion to allow applicant to proceed with licensure
Motion seconded by Dr. deHoll
Motion carries

John Michael Farthing, D.O.
Applicant for Licensure

Dr. Welsh made a motion to allow applicant to proceed with licensure
Motion seconded by Dr. Kowalski
Motion carries

Kenneth Santiago, M.D.
Applicant for Licensure

Dr. Turner made a motion to allow applicant to proceed with licensure
Motion seconded by Dr. deHoll
Motion carries

REQUEST FROM DR. HESTER, RESIDENCY DIRECTOR AT MCLEOD REGIONAL

The Board considered a request from Dr. Hester regarding two residents at McLeod Regional Medical Center. After discussion the Board asked Mr. Spoon to send Dr. Hester a letter stating that the Board requires one year of residency training for United States Medical School graduates as a requirement for full licensure in South Carolina.

THE BOARD ADJOURNED AT 5:30 pm

Respectfully Submitted

Bruce Duke

Administrator