

MINUTES

MEETING OF THE NEVADA STATE BOARD OF OSTEOPATHIC MEDICINE
SATURDAY, OCTOBER 13, 2001
GRANT SAWYER STATE OFFICE BUILDING
555 E. WASHINGTON AVENUE, ROOM 4700
LAS VEGAS, NV 89101

I CALL TO ORDER

Dr. Manthei, Chairman, called the meeting to order at 9:15 AM. Present: Dr. Manthei, Dr. Mozen, Dr. Mono, Dr. Licata, Ms. Parenti; Dr. Tarno, Executive Director; Trey Delap, Deputy Executive Director; Charlotte Bible, Esq., Deputy Attorney General; and Denise Davis, Executive Director NOMA.

II APPROVAL OF MINUTES AND FINANCIAL REPORT

Minutes of the July 14, 2001 meeting were sent to persons present prior to the meeting. Dr. Tarno reported a current balance of \$90,027.48. Dr. Manthei moved acceptance of the minutes and financial report; Dr. Mono seconded. There was a typographical error noted by Ms. Parenti, motion passed.

III INTRODUCTION AND SWEARING IN OF NEW MEMBERS

Dr. Manthei introduced Dr. Paul H. Mozen, D.O. and Ms. Pamela Parenti as newly appointed board members. Dr. Manthei then swore in the members by administering the constitutional oath to both Dr. Mozen and Ms. Parenti.

IV BOARD OPERATIONS ORIENTATION

Dr. Tarno referred the board to the Board Operations Orientation manual. Mr. Delap began an overview of the major themes of the orientation manual, which outlined some history of the board, the position of the board within state government, and extensive information regarding the boards' functions. To supplement the orientation manual, Ms. Bible distributed the Attorney General's guides regarding the open meeting law and ethics in government. Ms. Bible discussed in depth the legal aspects of serving as a

member of the Nevada State Board of Osteopathic Medicine. Ms. Bible also reviewed the legal requirements of administrative/regulatory hearings.

V IN THE MATTER OF THE COMPLAINT AGAINST VINCENT FORSHAN, D.O. (LIC# 829) CONSIDERATION OF THE CONSENT AGREEMENT

The complaint was based on: Count 1: Action against Dr. Forshan's license in California on July 19, 1999 including revocation of his license, stay or revocation, and probation for five years. The stipulation entered into between Forshan and the Osteopathic Medical Board of California constitutes violation of NRS 633.511 (3). Count 2: Answering untruthfully on an application for licensure to the Nevada State Board of Osteopathic Medicine in regards to a question related to investigations of or conviction of unprofessional conduct, a violation of NRS 633.511 (1).

This matter was set for hearing at the Board's July 14, 2001 meeting, however, Dr. Forshan was unable to attend and the hearing was vacated. Since that time, Deputy Attorney Bible had made contact with Dr. Forshan's counsel and reports that Dr. Forshan has agreed to the terms of the stipulation. The agreement includes that Dr. Forshan will not practice medicine in Nevada for the remainder of the year ending on December 31, 2001. Further, Dr. Forshan will not renew his Nevada Osteopathic Medical License. Finally, should Dr. Forshan desire to apply for reinstatement of his Nevada License, then the elements surrounding the charges may be considered by the board prior to the issuance of a license.

Dr. Forshan signed the stipulation agreement but was not present at the meeting; however, his legal counsel, John Sills, represented him. Dr. Licata moved acceptance of the agreement, seconded by Ms. Parenti, and motion was passed unanimously with the Chairman not voting.

**NOTE: Item VII was taken before item VI due to logistical difficulties.

VII EXECUTIVE DIRECTORS REPORT

Dr. Tarno reported that the Board office had moved to its new location. Mr. Delap reported that 623 renewal applications had been sent on October 1, 2001 with 10 or so applications received back at the date of the meeting.

Mr. Delap and Dr. Tarno reported that Dr. Moon was continuing to be monitored by the board appointed monitor. Dr. Manthei had asked if the monitor was being paid. It was discussed that future monitoring agreements should include a provision where the monitored physicians reimburses the monitor for monitoring time.

The monitoring of Dr. Leo Capobianco will be discussed at the next board meeting in January.

Mr. Delap referred the board to items received from the Federation of State Medical Boards and asked any board member who had a suggestion for a resolution to be offered at the next FSMB meeting to contact him. Dr. Manthei inquired as to whether or not any of the board members were planning on attending the AAOE meeting in San Diego. There appeared to be no one planning on attending the AAOE meeting.

VII CONSIDERATION OF PROPOSED REGULATIONS

Ms. Bible began by outlining the need for regulation updating and revision considering the passage of legislation changing certain elements of Chapter 633 of the NRS. Ms. Bible offered several changes to the Nevada Administrative Code in a handout to the board. Ms. Bible asked to board to consider the proposed regulations. Ms. Bible also added that the process for regulation adoption includes holding one or more public workshops for input regarding the regulations. After the workshops the drafts of the regulations are formalized and sent back to the board for further approval. There was some discussion regarding the content of one or more regulations. Dr. Manthei halted the discussion noting that content comments would best be offered at workshop. Dr. Licata was appointed to represent the board at the upcoming workshop. A meeting with Dr. Licata, Ms. Bible, and Trey Delap is to be scheduled and the date for a workshop is to be set as well.

VI IN THE MATTER OF THE COMPLAINT AGAINST RICHARD M. TAYLOR, D.O. (LIC. #438)

Richard Taylor, D.O., Louis Test, Esq., and Clark Barton participated via telephone. Jennifer Carvalho, Esq., Deputy Attorney General acted as Board Counsel during this segment of the meeting.

Dr. Manthei called the matter. Ms Bible summarized the previous order of summary suspension of August 22, 2001. Ms Bible summarized the order and letter with designation of approved entities for the medical exam of Dr. Taylor. As of the date of the meeting, Dr. Taylor had not seen any of the approved entities for a medical evaluation as approved by the board. Due to this, Ms. Bible stated that Dr. Taylor was not in compliance with the order. Ms. Bible asked the board to set a hearing date, and to set a deadline for Dr. Taylor to have the evaluation so that the board could determine non-compliance with the order.

Louis Test, Esq., attorney for the respondent offered that Dr. Taylor contact other physicians in the area to have the evaluation. The places on the list offered by the board are all out of state and too costly for Dr. Taylor. Mr. Test offered Dr. Charles Price, who has been treating Dr. Taylor for his most recent bout of depression could offer an evaluation lieu of the approved list.

Ms. Bible countered Mr. Tests' argument by asserting that the entities given to Dr. Taylor by the board were specialists in dealing with physicians and are better equipped to

provide the board with more specific information. Further, Dr. Price is currently a treating physician, which presents a conflict in providing an unbiased evaluation. Dr. Price cannot demonstrate specialization in professional evaluation. The treating physician would have a different objective than a physician providing a comprehensive evaluation.

Mr. Test responded by noting first that Dr. Price did not know Taylor before this time. Further, that he would hope that whatever the board would ultimately require would include some monitoring by a treating physician, which should be Dr. Price. Secondly, Mr. Test encouraged the board to talk with Dr. Price to determine if they feel as though he would be qualified to offer the evaluation. If the board still feels as though Dr. Price is not qualified, could the board suggest another in-state doctor to perform the evaluation?

Dr. Tarno reminded the board that the charging action was initiated because of the depression. Further, Dr. Taylor's advocate, the Nevada Health Professionals Assistance Foundation (the Diversion Program) refused to continue acting as his advocate because of three failed drug tests.

Dr. Manthei asked Dr. Taylor if he was currently taking medication for his depression prescribed by Dr. Price. Dr. Taylor responded in the affirmative. Dr. Manthei continued and mentioned that he agreed with Ms. Bible. Dr. Manthei suggested that he would know a southern Nevada psychiatrist who may be able to provide the board with the information it needs.

Dr. Mozen stated that he thought Dr. Price was qualified. Further, that it is within the best interest of the board that the diversion program and Dr. Price monitor Dr. Taylor closely. Both entities should then report to the board.

Dr. Mono stated that he had reviewed Dr. Price's Curriculum Vitae and found Dr. Price to not be qualified for the evaluation. Dr. Mono stated that he was in favor of Dr. Taylor attending a program that specialized in physician evaluations.

Dr. Manthei made a motion that he will determine if the local psychiatrist is qualified to conduct the evaluation. If he determines that the local physician is qualified, then he will offer that as an option to Dr. Taylor. Dr. Mozen seconded the motion, which passed unanimously.

Ms. Bible requested that the board set a date for hearing on the complaint and a time frame for satisfaction of the order. Mr. Test asked that this date be set for as soon as possible citing Dr. Taylor's need to get back to work.

Dr. Mozen made a motion that the matter is set for hearing at the next board meeting to be held in Reno in January. Also, that Dr. Taylor should submit the report of his evaluation to the board no later than 10 days prior to the meeting. Ms. Parenti seconded the motion, the motion carried with the chairman voting opposed.

IX REVISION TO INTERVIEW PROCEDURES AND ETHICAL TESTING OF APPLICANTS

Dr. Manthei stated the recent legislative changes have raised the initial license requirements for Osteopathic physicians to be the strictest in the country. With changes in the law, it will become necessary for the board to spend more time considering other things rather than license interviews. Dr. Manthei recommends that the board consider other options than having an interview.

Dr. Tarno gave a history of the interview process. He stated that during his tenure as chairman of the board he began the tradition of asking applicants medical questions to test the breadth of knowledge. Dr. Tarno conceded that very little was obtained from the interview any more. Those physicians are required to demonstrate their knowledge through comprehensive tests.

Dr. Manthei suggested that the board augment the procedure to require an interview at the boards' discretion. It may not be necessary to interview physicians coming directly out of training. An interview may be required for a physician who has been in practice for a significant length of time or if something in their application warrants it. Also, the board may consider a 10-year testing rule. Other boards require a physician to have taken a comprehensive test in the past 10 years in order to be licensed.

The board consented to continuing to gather information on this subject.

XII CONSIDERATION OF ATTORNEY GENERAL OPINION REGARDING THE EMPLOYMENT OF PHYSICIAN ASSISTANTS

Ms. Bible presented an Attorney General Opinion (AGO), which was requested by the Board regarding the employment of Physician Assistants. The questions answered by the report included: Can a corporation force an employee physician to supervise a PA-C or what entities other than physicians can employ Physician Assistants. In summary, PA's derive their authority by working under a physician. Even if the physician does not pay the PA, a PA must be supervised. The Board moved to accept the AGO as the Boards opinion.

XII INTERVIEW OF APPLICANTS CLOSED SESSION

Dr. Manthei moved that the board go into closed session, seconded by Dr. Licata, motion carried.

XIII VOTING ON APPLICANTS

Oliver Popa, D.O. Family Practice

Dr. Licata made the motion to grant licensure, seconded by Dr. Manthei, passed unanimously. He shall have license #1043.

John Always, D.O. Otolaryngology

Dr. Licata made the motion to grant licensure, seconded by Dr. Mozen, passed unanimously. He shall have license # 1046.

Anthony Economou D.O. Ophthalmology

Dr. Mozen made the motion to grant licensure, seconded by Dr. Licata, passed by a vote of 4 to 1. He shall have license #1045.

U. Inge Ferguson, D.O. Internal Medicine

Dr. Mozen made the motion to grant licensure, seconded by Manthei, passed unanimously. She shall have License #1047.

John Henner, D.O. Emergency Medicine

Dr. Licata made the motion to grant licensure, seconded by Dr. Manthei, passed unanimously. He shall have license #1040.

Charles Schaap, D.O. Family Practice

Dr. Licata made the motion to grant licensure, seconded by Dr. Manthei, passed unanimously. He shall have license #1042.

Deborah Nowlin, PA-C

No Motion made

Guy Sneed, D.O. OB/GYN

Dr. Mozen made the motion to grant licensure, seconded by Dr. Licata, passed unanimously. He shall have license #1044.

Robert Erwin, D.O. Family Practice

Dr. Mozen made the motion to grant licensure, seconded by Dr. Licata, passed unanimously. He shall have license #1039.

Hung T. Vo, D.O. Internal Medicine

Dr. Licata made the motion to grant licensure, seconded by Dr. Mozen, passed unanimously. He shall have license #1041.

Jeff Moon, D.O. with Melvin Pepper, PA-C

Dr. Licata made the motion to grant a certificate, seconded by Ms. Parenti, passed unanimously. He shall have certificate # 99.

Guita Tabassi, D.O.

Dr. Mozen made the motion to grant licensure, seconded by Dr. Licata, passed unanimously. She shall have license #1048.

XIV MATTERS OF FUTURE AGENDA

None

XV PUBLIC COMMENT PERIOD

No public comments were received

XVI NEXT MEETING DATE AND ADJOURN

The next meeting will be held Saturday, January 19, 2002, at Harvey's Lake Tahoe.