



**NEVADA STATE BOARD
OF OSTEOPATHIC
MEDICINE
REGULAR BOARD**

MEETING MINUTES

April 7, 2009 @ 6:00 PM

I. CALL TO ORDER (Discussion/Action) Daniel Curtis, D.O., Chairman
Roll call to determine presence of a quorum

A. Dr. Curtis called to order the meeting to determine the presence of a quorum. It was determined that the following attendees were at the meeting and a quorum existed.

Board Members:

Daniel Curtis, D.O.
Scott Manthei, D.O.
Paul Kalekas, D.O.
James Anthony, D.O.
C. Dean Milne, D. O.
Lisa Miller-Roche, Esq.

Board Staff:

Barbara Longo, Deputy Executive Director
Tammy Sine, Bookkeeper & Licensing Specialist
Dianna Hegeduis, Esq., Board Counsel

Public:

Weldon "Don" Havins, M.D., J.D.
Kelly McIntosh

II. APPROVAL OF MINUTES FROM MARCH 3, 2009 (Discussion/Action) Daniel Curtis, D.O., Chairman

A motion was made to approve the minutes by Dr. Manthei, seconded by Dr. Kalekas, and approved.

III. CONSENT AGENDA TO GRANT LICENSURE FOR OSTEOPATHIC PHYSICIANS (Discussion/Action) Daniel Curtis, D.O., Chairman

Under this item the board may consider the recommendations of the Executive Director and/or President to grant licensure to the below listed applicants. The board may remove any applicant's name from the consent motion, but may not discuss the contents of the application for licensure without the applicant present following proper notice pursuant to the open meeting law.

Consent agenda to grant FULL LICENSURE to the following applicants:

Dr. Curtis stated that he was going to remove Dr. Zelko from the consent agenda as his fingerprint reports were not received in time.

Gregory Baker, DO
William Clearfield, DO
John Gull, DO
Shan-Fu Huang, DO
Henry Liang, DO
Grant Linnell, DO
Ann Miles, PA-C
Gerard Myers, DO
Jonathan Neuhardt, PA-C

Neurology
Family Practice
Otolaryngology
Family Practice
Anesthesiology
Diagnostic Radiology
Supervising - Vincent Scocia, DO
Anesthesiology
Supervising is David Wikler, DO

Timothy Zelko, DO

OB/GYN was removed from the list.

Temporary License:

Weissenberg, Ronald DO

General Surgery

Special License:

Kamp, Benjamin DO
Leskovan, John DO

General Surgery
General Surgery

License Reinstatement:

Chico-Blume, Christine

Anesthesiology

A motion was made to approve the licenses by Dr. Kalekas, seconded by Dr. Manthei, and approved.

IV. CONSIDERATION OF PROPOSED SETTLEMENT AGREEMENT & ORDER REGARDING MILES B. FINE, D.O., (Discussion/Action) Paul Kalekas, DO, Board Member

Dr. Milne was called so that a quorum would be present to vote on this item. Dianna explained that a complaint was filed by Dr. Curtis on behalf of the Board as the IBM. Six different complaints were filed with the Board by patients all indicating that a certain procedure was performed when they believe that the procedure was not performed. The investigating board member indicated that the billing and medical records did not indicate that the procedure fell into 31233, but in fact fell in the billing code 31231. Dr. Fine acknowledges that on the six patients the incorrect codes were utilized; although, he is claiming that it was inadvertent and not willful. The parties have agreed to settle this case rather than go forward to a hearing. Dr. Fine agrees to pay back the third parties and the patients. The codes were reviewed and he will make changes to his billing policy. He will furnish us a copy of the suggestions from Karen Zupko & Associates. He agrees to an audit two times a year. He agrees to pay the fees and costs incurred. He agrees to pay \$2500.00 per month beginning on April 15, 2009 for a total of \$10,000.00 in fines and settlement to the Board. He understands that if he fails to pay this amount the Board may reduce the amount to a judgment and proceed with an administrative action for his failure to comply with the Board. Dr. Milne made a motion to approve this settlement agreement and Dr. Kalekas seconded.

Dr. Manthei asked if any additional claims that may be found by Zupko & Company. If in reviewing this they find charges after this agreement is approved, then he would be subject to failure to comply. The audit report is to come to the Board for our review. Dr. Fine will reimburse the six patients from this complaint and will fix his billing procedures from this day forward. If Dr. Fine does not comply, then he is in violation of a Board order. Dr. Manthei asked to be excused from voting on this as Dr. Fine and he are both otolaryngologists. Dr. Milne asked for approval, which was approved. Dianna asked Dr. Milne if Dr. Kalekas could sign in Dr. Milne's behalf as Dr. Milne was not physically present at the meeting and he agreed. The settlement agreement was approved and signed.

V. DISCUSSION AND CONSIDERATION OF REVISION OF RENEWAL APPLICATION (Discussion/Action) Daniel Curtis, D.O., Chairman

Dr. Curtis explained that we are requesting additional questions to the current questionnaire on the present renewal form. These are questions that are on our initial application, but not on the renewal forms. Barbara Longo explained what the questions were and how the verbiage has been changed to "since your last renewal" and the question is stated as is shown on the initial application. Dr. Curtis made a motion to approve the changes on the renewal application and update our K3 System with this renewal application. This was seconded by Dr. Manthei and approved.

VI. DISCUSSION OF RYAN HAIGHT CONSUMER ONLINE PHARMACY PROTECTION ACT OF 2008 INCLUDING DISCUSSION OF SCHEDULING A WORKSHOP AND DRAFTING POTENTIAL LANGUAGE FOR A REGULATION (Discussion/Action) Daniel Curtis, D.O., Chairman

Dr. Curtis explained what this act entails. This act addresses the issue of telemedicine and the issue of pharmacy and drug prescribing over the internet. There was no legislation on this issue two or three years ago when a physician was prescribing Viagra over the internet and we did not have jurisdiction over it. This is a Federal law now. It states that if you are going to write a prescription over the internet or telemedicine you are required to physically exam the patient at least one time. You cannot have someone have an H & P exam from a third party physician. As we see more and more physicians utilizing the internet for this, they need to be aware of this Federal law. As of now, we do not have any policy, regulations, or statutes regarding this. The MD Board in their NRS statutes does refer to it and has a small section in theirs. We will need to get this as soon as possible to get something incorporated into our laws so that we can be compliant with the Federal laws. We could copy the language from NRS 630 regarding the Medical Boards statute regarding telemedicine. Dianna explained that we do not have jurisdiction to enforce the Federal Act and we will have to modify our statutes in order to enforce this issue. Dr. Havins suggested contacting Bryan Gresh to do an amendment to 269 regarding telemedicine. Dr. Curtis asked if there was any discussion. Dr. Manthei stated that this was a sensational legislative policy and something we should move on with as soon as possible. Dianna said the Board can schedule a workshop for potential regulations. Dr. Curtis said he will draft some language for the amendment and have Barbara Longo send it to Bryan Gresh to see how to add it to SB 269. Barbara Longo will work on scheduling this workshop at the close of the current Legislative Session.

VII. DISCUSSION REGARDING POSTING FORMAL COMPLAINTS ON WEBSITE
(Discussion/Action) Daniel Curtis, D.O., Chairman

Dr. Curtis asked for a discussion on this item. Dianna explained that we can have an item on the website for pending complaints. Right now if someone was to call they would not have any place to go online to see if there are complaints out that on a physician. Dr. Curtis asked if there were any repercussions from this of us getting sued by the physician. Dianna explained that once a complaint goes to a formal complaint, they are public documents. The MD Board goes back many years and we only have back to 2005 or 2006 with our settlement agreements or disciplinary actions. If people call in and we have a public complaint, we have to disclose it. This will save a lot of calls coming in to the office. These are not initial complaints, but complaints that have changed to formal and are with the AG's office to pursue. It will show to the press and media that we are doing our job. Dr. Manthei stated that we are public advocates and this is in the public's best interest and should be posted.

Dr. Curtis made a motion to approve that we post these from 2008 forward on our website, seconded by Dr. Manthei and approved.

VIII. DEPUTY EXECUTIVE DIRECTOR'S REPORT/ Staff Report (Discussion/Action)

a. Quickbooks Balance Sheet and P & L

Barbara explained the reports to the Board members. We have approximately \$45,000 in checking, but have over \$200,000 in various accounts that we can liquidate. We also have settlement agreements and special licenses out that we expect to receive in the near future.

b. Licensing and Enforcement Information

There are 30 D.O.'s and 6 PA's pending licenses. We have had 97 total applications this fiscal year with 1 denial, 2 canceled, 36 in process, and 58 licensed.

There were 10 new complaints and 13 dismissed complaints with 39 inactive and 1 formal complaint settled by the AG's office. There are 3 new complaints awaiting review/assignment to IBM. 20 complaints have been assigned or are currently under the review of an IBM. 16 complaints are with the AG's office. Of those, 7 are formal complaints or pending formal complaints and 9 are pending hearings.

c. PA and DO Supervising Agreement/Requirements.

We have mailed out and received all but 2 supervising agreements. We are in the process of sending a letter to the physicians to confirm that they are compliant with our regulations regarding supervising a physician assistant.

d. Enforcement Department.

We have an extra body in our enforcement department until Tacy Woodhams goes to her National Guard training. She is going through all the old renewals from GL Suite and filing them into the physician's charts. She is looking through the renewals and finding several failures to report issues on these physicians. We are going back three years and the IBM's will be provided the statutes that apply to the case along with the documentation so that you can make a ruling on that. I wanted to let you know since you probably have not seen much of that in the past, but you will be seeing that because we are finding failure to report incidents.

e. Legislature.

Dr. Kalekas and Barbara Longo went last week. Dr. Havins spoke on SB269. It is now through May that we will have a lot of these come where we do need to

have presence at the legislative session. Unfortunately we don't have a lot of notice, but it is very important that a Board member be present to comment on the proposed bill. Ms. Longo stated three are big ones for tomorrow that unfortunately are in two different rooms at the same time. Dr. Curtis will be there for the SB525 and it was suggested to have a Board Member be there for the other ones or Ms. Longo obtain input to make on the Board's behalf. Keep in mind that the Chair may ask questions that Ms. Longo is not capable of responding to therefore, it is very important that this be the responsibility of a Board member and something that the Board should take seriously because these can effect what happens in the future. Dr. Kalekas will try to be there tomorrow if he can find someone to cover his rounds.

IX. *LEGAL REPORT (Discussion/Action) Dianna Hegedius, SDAG, Board Counsel*

Dianna had no comments.

X. *PRESIDENT/CHAIRMAN Report on Board Business, Daniel Curtis, D.O.*

Dr. Curtis stated that he does not have enough time in a day to do the Executive Director position as well as his regular job. He is hoping that this merger of the Boards be settled one way or another so that we can get an Executive Director hopefully by June as he does not have the time to do it. We are in compliance with budget, payments, and other office duties.

XI. *PUBLIC COMMENT*

Under the public comment item, members of the public may bring matters not appearing on this item to the attention of the Board. The Board may discuss but may not act on the matters at this meeting. If the Board desires, the matters may be placed on a future agenda for action.

Dr. Curtis suggested looking at the proposed bills for tomorrow's legislative session. Dr. Havins asked if the Board wanted him to make some comments on SB364. Page 7 section 12, there has been some concern that passage of this would flood the state with doctors that may not be up to our standards. We could change this to ten years instead of five years as it now states. There is power in numbers. You need to be Board certified in a specialty. NAC 633.270 requires us to review the application and accompanying material submitted by an applicant to determine whether to issue a license. We could change the policy regarding the fingerprint reports to get an amendment that we must receive the fingerprint reports. Our policy is to have a complete application before it is approved. Dr. Curtis asked if this bill passes, could we change our policy to not have all the reports. Dr. Kalekas stated that he does not agree that we should have to have Board certified physicians, but have more stipulation on the residency program requiring three years. Dr. Curtis says that he could live with it. Dr. Kalekas stated that the MD Board shot it down before and probably will oppose it again. In the eyes of the legislature, if we are for it, but the MD Board does not support it, it shows that we still want to bring more doctors into this state. We can state that we are neutral on this issue and neither support nor are against it.

268 has to do with Board member selection. Is this allowing the MD Board to pick for us or not? This relates to the public member. Dr. Curtis asked if the MD supports this. Dr. Havins suggests that we support this.

525 is the big one regarding merging overlay of the Boards. The power of the Boards is greatly diminished. We oppose this bill. We have had problems in the past and are correcting them. There is nothing that states an administrator guarantees that this is any better than what is being done now. They would have control of our Boards funds. Our stand could be that this is a fundamental massive change to the Boards function and should not be made hastily. In the interim we should be able to review and study this thoroughly without a hasty decision and should be moved to the next legislative session. You could say that in the past the Board may have not functioned as well in the past, but have improved greatly in the past year. We can state what our complaint status is as whether there are hearings, investigation etc. The MD Board is against this administrative board over the medical Boards.

Dr. Havins made comments on other bills that are being reviewed by the legislature.

Kelly McIntosh from attorney Nutile's office was present, but had no comments.

The meeting was adjourned at 7:30 pm.

Approved at the 05/05/09 Board Meeting.