



NEVADA STATE BOARD OF OSTEOPATHIC MEDICINE

******PUBLIC NOTICE******

REGULAR BOARD MEETING

APRIL 14, 2015 @ 6:00 PM

AT THE FOLLOWING LOCATION:

***Nevada State Board of Osteopathic Medicine ~ Conference Room
2275 Corporate Circle, Suite 210
Henderson, NV 89074***

Please Note: The Board may take action on any agenda item delineated for action (discussion /for possible action); likewise, no action may take place on non-agenda items, including public proposals.

A (+) plus sign preceding an agenda item signifies that if the matter is an action item, in certain situations, the option exists to declare the meeting on that agenda item to be a Closed (Executive) Session per NRS 241.030.

All information or documents supplementing agenda items that are not otherwise confidential will be available at the board meeting in limited quantities

***** MINUTES *****

I. CALL TO ORDER (Discussion/ For Possible Action) Ronald Hedger, D.O., President

Roll call to determine presence of a quorum

Board Members:

Ronald Hedger, D.O.
Ricardo Almaguer, D.O.
James Anthony, D.O.
Samir Pancholi, D.O.
S. Paul Edwards, Esq., Public Member
Nicole Cavenagh, Ph.D., Public Member

Board Staff:

Barbara Longo, Executive Director
Louis Ling, Esq., Board Counsel
Sophia Long, Esq., DAG
Steve Ray, Chief of Enforcement

Public:

Mr. and Mrs. Barney
David Klink, Esq.
Steven Moore
Robert Cranston

II. PUBLIC COMMENT

Mrs. Barney asked to make a comment regarding agenda item V. Ms. Long asked that we wait until we get to that agenda item and then she can make her comment.

III. APPROVAL OF BOARD MEETING MINUTES FROM MARCH 10, 2015, (Discussion/For Possible Action) Ronald Hedger, D.O., President

A motion was made by Dr. Anthony to approve the minutes from 03/10/15, seconded by Dr. Almaguer; there being no discussion, the minutes were approved by the Board.

IV. +CONSENT AGENDA TO GRANT LICENSURE FOR OSTEOPATHIC PHYSICIANS & PHYSICIAN ASSISTANTS (Discussion/ For Possible Action) Ronald Hedger, D.O., President

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:

Physician Name

John Alexander, D.O.
Charles Garcia, D.O. – Reinstatement
Jewel Grant, D.O. – Endorsement
Candance Leaphart-St. Cloud, D.O.
Joni Lopez, D.O.
Brien Miller, D.O.
Kevin Pham, D.O.
Justin Puopolo, D.O.
Nicholas Racker, D.O.
Dominic Robine, D.O.
James Taylor, D.O.
Colleen Walker-Vamos, D.O. – Endorsement
Michael Wade, D.O. – Reinstatement
John Whitaker, D.O. – Reinstatement

Specialty

Pediatric Cardiology
Emergency Medicine
OB/GYN
OB/GYN
Ophthalmology
Internal Medicine/Gastroenterology
Internal Medicine
Diagnostic Radiology
Anesthesiology
Internal Medicine/Cardiology
Cardiothoracic Surgery
Anesthesiology & Internal Medicine
Family Medicine
Family Medicine

Physician Assistant

Logan Johnson, PA-C
Debbra Montoya, PA-C
Tony Tan, PA-C
Joseph Walker, PA-C
Lyndsie Wilson, PA-C

Supervising Physician

Unknown
Douglas Vacek, D.O.
Richard Orr, D.O.
Kevin Kapov, D.O.
Mara Posner, D.O.

Special Licenses NRS.633.411:

Theresa Baumstark, D.O.
Sarah Bobnick, D.O.
Joseph Nagan, D.O.
Noah Settergren, D.O.

Nellis AFB
Nellis AFB
UNSOM – Pulmonary Critical Care
Internal Medicine

Temporary Licenses

Elizabeth Huck, D.O.

Diagnostic Radiology

A motion was made by Dr. Anthony to approve the above licensee, seconded by Mr. Edwards, there being no discussion; the license was approved by the Board.

V. **+DISCUSSION/CONSIDERATION OF SETTLEMENT AGREEMENT AND ORDER REGARDING DANIEL ROYAL, D.O., IBM JAMES ANTHONY, D.O., (Discussion/For Possible Action/Board may go into closed session pursuant to NRS 241.030 to move to a closed session because the discussion will have to do with this applicant's character, alleged misconduct, professional competence, or similar items).** Ronald Hedger, D.O., President

David Klink, Esq. introduced himself as the attorney for Dr. Royal. Mr. Ling explained the settlement agreement to the Board members. Dr. Royal is to be on a two year probation; he will pay fees and costs in the amount of \$18,000 with 25% (\$4500) due after this agreement is approved and thereafter monthly payments of \$1,000 starting May 31, 2015 until paid in full. During the term of probation he will not dispense any controlled substances from his practice. He will still be potentially dispensing other items such as samples, dangerous drugs, homeopathic remedies, and other things he uses in his practice. He will maintain his license; he will obey all of the applicable laws that apply to an osteopathic physician. He will get a practice monitor within ten days. The practice monitor will request from Dr. Royal patient files for the patients he is treating for pain. There are some things slightly different from previous settlement agreements. The practice monitor will be allowed to use as part of the guide for the conditions that he is negotiate with Dr. Royal the FSMB model guidelines and a set guidelines developed by one of the pain management certification boards which is from the Journal of Pain. Both of these are going to be very useful in providing guidance for both Dr. Royal and the practice monitor in terms of establishing what the standard of care is for these patients. The monitor will be reviewing the files and conferring with Dr. Royal if he finds concerns and things that need to be addressed. He will develop a plan with Dr. Royal in which he will consider among various things that they will have to deal with is the number of patients that Dr. Royal should be allowed to treat including the number of new patients he be allowed to treat on a daily basis and the types of pain that he will allow Dr. Royal to practice. They will also talk about the types of control substances and corticosteroids that Dr. Royal will be prescribing, the limitations on the quantity of controlled substances and corticosteroids, and any other terms and conditions that will allow and assure that Dr. Royal's treatment in the future will conform to the settlement agreement which includes that he is meeting the standard of care. The practice monitor will be providing with quarterly reports, and he will also, if there are other duties that the IBM feels needs to be added, then subsection G does allow for that too. Dr. Royal will pay for the cost of the practice monitor. Dr. Royal will also take 20 units of CME in pain management, addictionology, and the proper prescribing of controlled substances and 10 units of CME related to corticosteroids. The CMEs must be approved by the IBM. He will be monitored through random audits of his records and his prescriber's profile in the prescription monitoring program. As part of this plan, if there are any changes that need to be made in this plan, the IBM and practice monitor have the freedom to make those changes in this plan as they need to as probation could last as long as two-years. He will allow the IBM and the practice monitor to enter his practice to review records or whatever else they need to do. Dr. Royal and the IBM have agreed that if Dr. Royal has paid all of the \$18,000 in fees and costs and he has been in compliance with the settlement agreement and order, and we get four consecutive quarterly reports from the practice monitor indicating that he is abiding by the terms of the settlement agreement then upon receiving that fourth good report from the practice monitor then this probation can terminate early. We are trying to get Dr. Royal to make the changes in his practice to the standard of care as we will be monitoring him and if he has done so after one year then the probation should be terminated at that point. If Dr. Royal fails to comply with the terms of this settlement agreement we can summarily suspend

his controlled substances privileges in Nevada and then there is a mechanism by which he then can request a hearing before the Board within 30 days of doing so.

Mr. Klink stated that was a fair summary of the agreement that was negotiated and thinks it is the agreement that best suits both parties interest in this matter.

Mr. Edwards asked if the IBM and staff had chosen a practice monitor. Mr. Longo stated that it will be Andrew Kim, D.O.

A motion was made by Dr. Almaguer to approve the order and settlement agreement on Dr. Royal, seconded by Dr. Cavenagh, there being no discussion; the settlement agreement was approved with Mr. Edwards voting no. The IBM was recused from voting.

Dr. Hedger stated that we have a public comment now. Mrs. Lynn Barney approached and first stated that it kind of defeats the purpose since it has already been passed. Dr. Hedger explained that the facts of the case that have been investigated are what have to be the vote. She stated that she would just like the record to note that she is the mother that complained on 06/06/14, her son is the one who died as a result of the opioid prescriptions from Dr. Royal. She would have liked to see that his license be suspended and not been given the opportunity to practice while he improves his skills, while taking the extra credits and things of that nature. She asked if his controlled substance was suspended for a time. Mr. Ling explained that his ability to dispense or provide controlled substances from his office has been suspended. He can still write prescriptions, but he cannot hand them to patients from his office. Mrs. Barney stated that she would have to disagree that that is not in the best interest of the community. With all the findings that were found, she would just have to disagree strongly that that is not in the best interest of our community.

VI. +DISCUSSION/CONSIDERATION TO AMEND SETTLEMENT AGREEMENT AND ORDER REGARDING JACQUELINE LEVENTHAL, D.O., IBM SAMIR PANCHOLI, D.O., (Discussion/For Possible Action/Board may go into closed session pursuant to NRS 241.030 to move to a closed session because the discussion will have to do with this applicant's character, alleged misconduct, professional competence, or similar items).

Ronald Hedger, D.O., President

Mr. Ling explained the amendment on Dr. Leventhal's previous settlement agreement, which was her intent to leave this State and move to Utah and our settlement agreement had no terms to address this. If she moves to another State, she has to notify us 30 days before she leaves and has to provide written proof to us that she has given our order to the licensing authority in that State. She has to provide us with written proof that she has entered in to Utah's substance abuse treatment program similar to the one she is doing here with Mr. Espadero. That program will provide reports to the IBM and to Mr. Espadero. That State will notify us when their agreement has been satisfied. A motion was made by Dr. Anthony to approve the order and settlement agreement on Dr. Leventhal, seconded by Mr. Edwards, there being no discussion; the settlement agreement was approved. The IBM was recused from voting.

VII. + CONSIDERATION/APPROVAL OF SETTLEMENT AND ORDER REGARDING JEFFERY PENDER, D.O., IBM RICARDO ALMAGUER, D.O., (Discussion/For Possible Action/Board may go into closed session pursuant to NRS 241.030 to move to a closed session because the discussion will have to do with this applicant's character, alleged misconduct, professional competence, or similar items).

Ronald Hedger, D.O., President

Ms. Longo explained the settlement agreement for non-reporting to the Board members. Dr. Pender failed to report of an onset of a lawsuit that failed to report the outcome of the

malpractice, so this is our standard non-reporting administrative fine only. Dr. Pender has paid the administrative \$500 fine for the failure to report. A motion was made by Dr. Anthony to approve the order and settlement agreement on Dr. Pender, seconded by Dr. Cavenagh, there being no discussion; the settlement agreement was approved. The IBM was recused from voting.

VIII. + CONSIDERATION/APPROVAL OF SETTLEMENT AND ORDER REGARDING SAMUEL WINTER, D.O., IBM RICARDO ALMAGUER, D.O., (Discussion/For Possible Action/Board may go into closed session pursuant to NRS 241.030 to move to a closed session because the discussion will have to do with this applicant's character, alleged misconduct, professional competence, or similar items). Ronald Hedger, D.O., President

Ms. Longo explained the settlement agreement for non-reporting to the Board members. Dr. Winter failed to report of an onset of a lawsuit failed to report the outcome of the malpractice, so this is our standard non-reporting administrative fine only. Dr. Winter has paid the administrative \$500 fine for the failure to report. A motion was made by Dr. Anthony to approve the order and settlement agreement on Dr. Winter, seconded by Dr. Cavenagh, there being no discussion; the settlement agreement was approved. The IBM was recused from voting.

IX. CONSIDERATION/APPROVAL OF ORDER OF FULFILLMENT OF SETTLEMENT TERMS REGARDING MICHELLE HYLE, D.O., IBM NICOLE CAVENAGH, Ph.D., (Discussion/For Possible Action), Ronald Hedger, D.O., President

Ms. Longo explained that Dr. Hyla entered into a settlement agreement with the Board in October 2014. She was the medical director of a spa that had unauthorized persons having access to dangerous drugs and doing vitamin B12 injections. They were also ordering drugs without her oversight. She has paid fees and costs of \$3000 and is no longer the medical director. Dr. Hyla has now fulfilled the terms of his settlement agreement. A motion was made by Dr. Anthony to approve the order of fulfillment, seconded by Mr. Edwards, and approved by the Board. The IBM was recused from voting.

X. CONSIDERATION/APPROVAL REGARDING A BOARD POLICY ON CONTINUING EDUCATION AUDITS, (Discussion/For Possible Action), Ronald Hedger, D.O., President

The new continuing medical education audit policy was explained to the Board members. Mr. Edwards made a motion to approve the CME policy seconded by Dr. Anthony; there being some discussion and changes to the policy proposed, the motion was approved by the Board with Dr. Almaguer opposed.

XI. EXECUTIVE DIRECTOR'S REPORT

- a. Financial
- b. Licensing
- c. FSMB Annual Meeting – Dr. Hedger and Ms. Longo will be going to the meeting and Dr. Pancholi is electing to go as well.

XII. LEGAL REPORT (Discussion/Action) by Louis Ling, Board Counsel and/or Sophia Long, Deputy Attorney General

Mr. Ling stated that you need to get a real ID or passport or you will not by 11/01/15 if you want to fly. Mr. Ling explained the North Carolina Dental Board U.S. Supreme Court Decision. He recommended that Board create a regulation for anything that is questionable.

XIII. ITEMS FOR FUTURE DISCUSSION/ACTION/UPCOMING AGENDA

Dr. Hedger stated that the Board is getting some inquiries from multiply people asking if they call in to listen and be a part of the meetings, so it might be time that we may consider having a general call in number. Ms. Longo stated she has started looking into some options and should have something more by next meeting.

XIV. *PRESIDENT Report on Board Business, Ronald Hedger, D.O., President*

Dr. Hedger mentioned that the NRS on supervising physicians and physician assistants are to have a letter of agreement or collaboration between them on file and believes the agreement is enough, but it isn't. We would like to get an approval basically restating the statute to the physicians and physician assistants that this is what the statute states and what the requirement is and informing them what is required in the statute.

XV. *PUBLIC COMMENT*

No comment.

Dr. Anthony made a motion to adjourn the meeting, seconded by Dr. Cavenagh, and approved by the Board.

Approved at 05/12/15 Board meeting.