

Maine Board of Osteopathic Licensure
142 Sate House Station, 161 Capitol Street
Augusta, ME 04333-0142
Phone: (207) 287-2480/Fax: (207) 287-3015

Minutes of November 12, 2015 Board Meeting – 9:30 a.m. – 1:45 p.m.

Members Present: Joseph R. D. deKay, D.O., Board Chair; Scott Thomas, D.O., Vice-Chair; Natania Piper, D.O., Board Secretary; Gary Palman, D.O.; Melissa Michaud, PA-C & Marty W. McIntyre, Public Member; John F. Gaddis, D.O.; David Rydell, D.O.

Others Present: Susan E. Strout, Executive Secretary; Michael Miller, Assistant Attorney General; Julie Best, Consumer Outreach Specialist; Det. James Gioia, Office of the Attorney General; Angela Cole Westhoff, Executive Director, Maine Osteopathic Association; Jennifer Rush, Esquire; Thomas Reynolds, D.O.; Elizabeth Campbell, D.O.

I. Complaints & Investigations

Dr. Thomas recited the Complaint Review Script. All complaint reviews are conducted in Public Session without the use of names, unless otherwise noted.

A. CR2014-34

Following a second review and discussion regarding this complaint (incl. response, rebuttal and all materials gathered), which was tabled at the August 2015 meeting, the Board took this action:

MOTION: Made by Dr. Palman, seconded by Dr. Gaddis and voted to dismiss the complaint as it did not merit further Board action. Dr. Rydell was opposed. Ms. McIntyre, Case Reporter, did not vote.

B. CR2015-03

Following thorough review of the complaint, response and any other materials gathered, the Board took this action:

MOTION: Made by Dr. Gaddis, seconded by Dr. Thomas and voted unanimously to dismiss the complaint as it did not merit further Board action. Dr. deKay, Case Reporter, did not vote.

C. CR2015-24

Following thorough review of the complaint, response and other materials gathered, the Board took this action:

MOTION: Made by Ms. McIntyre, seconded by Dr. Piper and voted unanimously to dismiss the complaint as it did not merit further Board action. Dr. deKay, Case Reporter, did not vote.

D. CR2015-28

Following an overview from the Case Reporter, based on his review of the Prescription Monitoring Profile the Board took this action:

MOTION: Made by Dr. Rydell, seconded by Dr. Piper and voted to table final action on the complaint pending receipt of the licensee's response (complaint not previously sent for response due to lack of cooperation on the part of the complainant) and to subpoena 3-5 patient charts (to be determined by the Case Reporter) for his review. Dr. Palman, Case Reporter, did not vote. Dr. Thomas was opposed.

E. CR2015-29

Following review of the complaint, response, rebuttal and relevant records, the Board took this action:

MOTION: Made by Ms. McIntyre, seconded by Dr. Palman and voted unanimously to dismiss the complaint as it did not merit further Board action. Dr. deKay, Case Reporter, did not vote.

Continued from Page 1 of 4 – November 12, 2015 Board of Osteopathic Licensure Meeting Minutes

F. CR2015-32

Following review of the complaint, response, rebuttal and relevant records, the Board took this action:

MOTION: Made by Dr. Thomas, seconded by Dr. Rydell and voted unanimously to dismiss the complaint as it did not merit further Board action. Dr. Gaddis, Case Reporter, did not vote.

G. CR2015-36

Following review of the complaint, response and medical records, the Board took this action:

MOTION: Made by Dr. Thomas, seconded by Dr. Rydell and voted unanimously to dismiss the complaint as it did not merit further Board action. Dr. Gaddis, Case Reporter, did not vote.

H. IN2015-39

Following review of a report from the Medical Professionals Health Program and an overview from the Case Reporter, the Board took this action:

MOTION: Made by Dr. Thomas, seconded by Ms. McIntyre and voted unanimously to take no action. Dr. Rydell, Case Reporter, did not vote.

II. Consent Agreement/Board Order Compliance Reviews

A. Paul Gosselin, D, D.O.

Dr. Thomas, Case Reporter, noted the letter to the licensee following the October meeting and that there has been no further communication from the licensee. No Board action was necessary.

B. John Herzog, D.O.

Dr. Thomas, Case Reporter, noted no Consent Agreement compliance or other concerns. No Board action was necessary.

C. Bradley Libenson, D.O.

Dr. Palman, Case Reporter, noted the draft Consent Agreement, signed by the licensee. Following review, the Board took these actions:

MOTION: Made by Dr. deKay, seconded by Dr. Thomas to accept the draft Consent Agreement, as signed. Motion failed with Dr. Gaddis, Dr. Rydell, Ms. McIntyre and Ms. Michaud opposed. Dr. Piper abstained from voting. Dr. Palman, Case Reporter, did not vote.

Following discussion, this action was taken:

MOTION: Made by Ms. McIntyre and seconded by Dr. Gaddis to renew the licensee's license and retain the 2008 Consent Agreement, doing away with the signed draft. Motion failed with Dr. Rydell, Dr. Gaddis, Dr. deKay, Dr. Thomas, Ms. Michaud and Dr. Piper opposed. Dr. Palman (Case Reporter) did not vote.

After additional discussion, this motion was made:

MOTION: Made by Ms. Michaud and seconded by Dr. deKay to modify the draft Consent Agreement to five (5) years as opposed to two (2). Motion failed with Dr. Piper, Dr. Rydell, Ms. Michaud in favor. Dr. Thomas, Dr. deKay, Ms. McIntyre and Dr. Rydell were opposed. Dr. Palman, Case Reporter, did not vote.

Following more discussion, the Board took this action:

MOTION: Made by Dr. deKay, seconded by Dr. Piper and voted to accept the draft Consent Agreement as signed by the licensee. Ms. McIntyre was opposed. Dr. Palman, Case Reporter, did not vote.

III. Minutes/Revenue & Expense Reports

A. Review of Draft October 2015 Meeting Minutes

Review of the October 2015 minutes was tabled until the November 2015 meeting.

B. Revenue & Expense Reports

The Board reviewed and accepted the financial reports. No Board action was necessary.

IV. Miscellaneous

A. Federation of State Medical Boards

Board members briefly discussed telemedicine which will be discussed in more detail later in the meeting.

B. Chapter 2 – Joint Physician Assistant Rule

Following a brief overview regarding one (1) change suggested by the Board of Licensure in Medicine, the Board took this action:

MOTION: Made by Ms. McIntyre, seconded by Dr. Palman and voted unanimously to approve the final draft and to move forward with rule, beginning the process pursuant to the Maine Administrative Procedures Act guidelines.

C. Chapter 3 – Rules for Physician Supervision of Physician Extenders

Following review and discussion as well as guidance from AAG Miller, the Board took this action:

MOTION: Made by Dr. deKay, seconded by Dr. Thomas and voted unanimously to repeal this rule chapter as, in light of the new joint rule regarding physician assistants as well as changes in the law regarding nurses, it is no longer relevant or necessary. The repeal will be addressed as part of the APA¹ process

D. Maine Osteopathic Association Midwinter Symposium – Invitation to Present

Board members reviewed the invitation to give a presentation at the MOAs annual midwinter conference in February 2016. Following review, the Board took this action:

MOTION: Made by Dr. Thomas, seconded by Dr. Gaddis and voted unanimously to approve a presentation regarding the complaint/investigation process by AAG Miller and Mrs. Strout at the MOA conference on Friday, February 5th. Drs. Thomas, Rydell and Gaddis will join if possible.

E. Review of Iowa Telemedicine Rule

Board members reviewed the IA rule as well as the MD Board draft rule, based on the IA document. It was noted that Dennis Smith (MD Board) extended an invitation to this Board to consider a joint rule-making effort on this subject. The Board took this action:

MOTION: Made by Ms. McIntyre, seconded by Dr. Gaddis and voted unanimously to proceed to joint rule making with the Board of Licensure in Medicine on the subject of telemedicine.

F. MedScope Article: Medical Marijuana – Up in Smoke?

Board members briefly discussed the article. No Board action was necessary.

¹ Administrative Procedures Act

G. Continuing Medical Education Information

Board members reviewed the draft 'CME...Simplified' document prepared by the Executive Secretary and noted that this should be helpful to licensees. As it is an informational only document, no Board action was necessary.

V. Licensure Matters

A. Permanent Licensure Applications (D.O.)

Following circulation and review, the Board took this action:

MOTION: Made by Ms. McIntyre, seconded by Dr. Piper and voted unanimously to approve the permanent licensure applications submitted by: Colleen Yavarow, D.O.; Thomas Caruso, D.O and Forough Shirehjini, D.O.

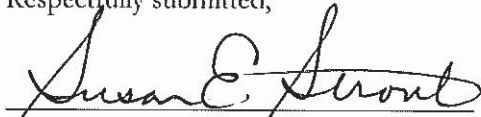
B. Permanent Physician Assistant Applications (PA-C)

No PA applications were ready for final review.

The Board was reminded that there would be a hearing at the December meeting. Following a brief discussion regarding the fact that there will be regular business to deal with, the Board agreed to begin the December 10th meeting at 9 a.m. with the hope that most can be dealt with prior to the start of the hearing.

There being no additional business, the meeting was adjourned at 1:45 p.m.

Respectfully submitted,



Susan E. Strout, Executive Secretary