

1 STATE OF ALASKA
2 DEPARTMENT OF COMMERCE, COMMUNITY, AND ECONOMIC DEVELOPMENT
3 DIVISION OF CORPORATIONS, BUSINESS, AND PROFESSIONAL LICENSING
4 STATE MEDICAL BOARD

6 MINUTES OF MEETING

7
8 April 12 - 13, 2007
9

10
11 By authority of AS 08.01.070(2) and in compliance with the provisions of AS 44.62, a scheduled meeting
12 of the Alaska State Medical Board was held on Thursday and Friday, April 12 - 13, 2007, in Conference
13 Room C of the State Office Building, 333 Willoughby Street, Juneau, Alaska.
14

15 **Thursday, April 12, 2007**
16

17
18 Call to Order - Roll Call - On the record at 9:05 am.
19

20 **ROLL CALL**

21
22 Present were: David M. Head, MD, Chair Nancy Puckett
23 Robert A. Breffeilh, MD Michael J. Tauriainen
24 John T. Duddy, MD Kevin M. Tomera, MD
25 Edward A. Hall, PA-C Jean M. Tsigonis, MD
26
27

28 Staff members present were Linda Sherwood and Colleen Wilson, licensing examiners, and Leslie
29 Gallant, the board's executive administrator. Visitors Tim Pampusch and Tom Dale, physician assistants,
30 were also present.
31

32 Ms. Colleen Wilson was introduced and welcomed to the board. Ms. Wilson is the board's new licensing
33 examiner.
34

35
36 **AGENDA ITEM 1** **In the Matter of John A. J. Winczura, PA-C**
37

38 **MOTION** **TOMERA** moved to approve the revised board order for John Winczura as
39 corrected changing the wording to reflect that the Etg is a urine test and not a
40 blood test.
41 **2nd** **BREFFEILH**
42 **VOTE** **8 Yea votes (Head, Breffeilh, Duddy, Hall, Puckett, Tauriainen, Tomera, Tsigonis)**
43 **0 Nay votes**
44 **0 Abstentions**
45

46 Dr. Head reported to the board that Mr. Winczura is no longer employed at the practice in Palmer and
47 while he has not reported this to the board, it does not appear there are any requirements in his MOA to
48 report such events.
49

50
51 **AGENDA ITEM 2** **Board Actions for Consideration**
52

53 **In the Matter of Case No. 2801-05-004** **Robert J. Boucek, MD**
54

55 Dr. Head noted that the fine in this proposed MOA has had half of the fine imposed suspended. Ms.
56 Gallant advised the board members that she has requested the investigators include the standard fines

1 in proposed memoranda of agreement and give the board the option of reducing or eliminating the
2 fine rather than making the presumption that the fine will be altered in some way.
3

4 Dr. Head and Mr. Hall questioned why this MOA has a suspended fine and others in the book did not
5 have the fines reduced. Ms. Gallant explained that this is why she requested that the investigators not
6 automatically suspend fines; that is a decision the board should make, not the investigators.
7

8 **MOTION** **TOMERA moved to accept the memorandum of agreement with Robert J. Boucek.**
9 **2nd** **BREFFEILH**
10 **VOTE** **8 Yea votes (Head, Breffellh, Duddy, Hall, Puckett, Tauriainen, Tomera, Tsigonis)**
11 **0 Nay votes**
12 **0 Abstentions**
13

14
15 **In the Matter of Case No. 2800-06-010 Richard F. Buchanan, MD**
16

17 **MOTION** **BREFFEILH moved to accept the voluntary surrender of license signed by Richard**
18 **F. Buchanan, MD.**
19 **2nd** **TAURIAINEN**
20 **VOTE** **8 Yea votes (Head, Breffellh, Duddy, Hall, Puckett, Tauriainen, Tomera, Tsigonis)**
21 **0 Nay votes**
22 **0 Abstentions**
23

24
25 **In the Matter of Case No. 2807-07-001 James T. Ferguson, PA-C**
26

27 Dr. Head recused himself from this matter. He asked the board members to read the letter that Mr.
28 Ferguson wrote regarding the circumstances of his practice without a valid license. Dr. Duddy, as
29 secretary of the board, assumed the chair.

31 **MOTION** **TOMERA moved to approve the memorandum of agreement with James T.**
32 **Ferguson, PA-C, with \$500 of the fine suspended.**
33 **2nd** **BREFFEILH**
34 **VOTE** **6 Yea votes (Breffellh, Duddy, Hall, Puckett, Tomera, Tsigonis)**
35 **1 Nay vote (Tauriainen)**
36 **0 Abstentions**
37 **1 Recusal (Head)**
38

39
40 **In the Matter of Case No. 2852-05-002 Wendy L. Stiles, MD**
41

42 Dr. Stiles was placed on six months' probation during her postgraduate training program for
43 "...difficulties relating to interpersonal interactions." She failed to disclose the disciplinary action in her
44 application. Dr. Stiles responded 'no' to all questions in the application. The residency program director
45 provided copies of the peer review discussions with her at the time that documented an indefinite
46 period of probation.
47

48 **MOTION** **TOMERA moved to approve the memorandum of agreement with Wendy L. Stiles,**
49 **MD.**
50 **2nd** **DUDDY**
51 **VOTE** **8 Yea votes (Head, Breffellh, Duddy, Hall, Puckett, Tauriainen, Tomera, Tsigonis)**
52 **0 Nay votes**
53 **0 Abstentions**
54

55 The board also advised they would add her name to the list for approval on Friday and approve her
56 application for license pending receipt of updated application documents.
57

1 In the Matter of Case No. 2850-06-007 Rush A. Youngberg, MD

2
3 MOTION TOMERA moved to approve the memorandum of agreement with Rush A.
4 Youngberg, MD.
5 2nd TAURIAINEN
6 VOTE 8 Yea votes (Head, Breffellh, Duddy, Hall, Puckett, Tauriainen, Tomera, Tsigonis)
7 0 Nay votes
8 0 Abstentions
9

10
11 In the Matter of Case No. 2800-07-011 Cindy H. (Nguyen) Sirois, MD

12
13 MOTION TOMERA moved to approve the memorandum of agreement with Cindy H. Sirois,
14 MD.
15 2nd HALL
16 VOTE 8 Yea votes (Head, Breffellh, Duddy, Hall, Puckett, Tauriainen, Tomera, Tsigonis)
17 0 Nay votes
18 0 Abstentions
19

20
21 In the Matter of Case No. 2800-07-006 David B. Robinson, MD

22
23 MOTION TOMERA moved to approve the memorandum of agreement with David B.
24 Robinson, MD.
25 2nd BREFFEILH
26 VOTE 7 Yea votes (Head, Breffellh, Duddy, Hall, Puckett, Tomera, Tsigonis)
27 1 Nay votes (Tauriainen)
28 0 Abstentions
29

30
31 In the Matter of Case No. 2800-07-003 Jayne S. Fortson, MD

32
33 MOTION TOMERA moved to approve the memorandum of agreement with Jayne S.
34 Fortson, MD.
35 2nd BREFFEILH
36 VOTE 8 Yea votes (Head, Breffellh, Duddy, Hall, Puckett, Tauriainen, Tomera, Tsigonis)
37 0 Nay votes
38 0 Abstentions
39

40
41
42 In the Matter of Case No. 2800-07-012 Jacqueline Silkey, MD

43
44 Ms. Gallant explained that Dr. Silkey was an applicant who disclosed that she was being monitored by
45 the Arizona board for drug diversion and chemical dependency. She went for treatment for addiction
46 in Arizona and is under an agreement with the Arizona board at this time. The Arizona board reports she
47 is in compliance there. The [Alaska] memorandum of agreement is not a disciplinary action but places
48 her under probation and monitoring similar to the Arizona agreement. She was referred to Mary Ann
49 Foland, MD [Alaska Physician Health Program] to get her into the program here.
50

51 Dr. Head noted that the Arizona agreement included a prohibition against eating poppy seeds; we
52 have never seen that before. He thought it was a good idea to include in our agreements.
53

54 Mr. Hall asked if the board could request a full board interview should they approve the MOA. Ms.
55 Gallant responded that if the board wished to have a full board interview, then a decision on all of the
56 documents (application and MOA) should be tabled until the time of the full board interview.
57

1 Dr. Duddy noted that the board could grant a temporary license pending a full board interview.

2
3 Dr. Breffeilh commented that she is already under an agreement in another state and is in compliance.
4 He moved to accept the MOA [and grant a license]. The motion was seconded by two board
5 members. Ms. Gallant confirmed that the board could approve a temporary permit and interview her
6 at the July meeting.

7
8 Dr. Head confirmed that there is a requirement in the proposed MOA that she appear for periodic
9 interviews.

10
11 Board members discussed the various options available with regard to licensing Dr. Silkey. Dr. Head
12 expressed the desire to have Dr. Silkey come and meet with the board for a full board interview in
13 October.

14
15 Dr. Tsigonis felt her problem is a critical one and that Dr. Silkey should meet with the board to discuss it.

16
17 Ms. Gallant advised that she did not see the file at the meeting and it was possibly still in Anchorage.
18 She suggested the board could vote to approve the memorandum of agreement and approve the
19 issuance of the temporary permit now. This would be pending the review of her file [since it was
20 thought the file was in Anchorage at the time] by an Anchorage board member. The staff could issue
21 the temporary permit under the terms of the MOA and with the requirement that she appear for a full
22 board interview at the October meeting.

23
24 Dr. Breffeilh agreed to accept that suggestion and amended his motion. The second, Dr. Tomera,
25 agreed with the amendment.

26
27 **MOTION** **BREFFEILH moved and amended his motion to approve the memorandum of**
28 **agreement with Jacqueline Silkey, MD, and to grant her a temporary permit with**
29 **a request she appear for a full board interview in October.**
30 **2nd**
31 **VOTE** **TOMERA**
32 **8 Yea votes (Head, Breffeilh, Duddy, Hall, Puckett, Tauriainen, Tomera, Tsigonis)**
33 **0 Nay votes**
34 **0 Abstentions**

35 Ms. Gallant will give the application file to an Anchorage board member for review and to have the
36 temporary permit signed off. [It was thought at this time that the file was still in Anchorage and not at
37 the meeting.]

38
39
40 **AGENDA ITEM 3** **Malpractice Case Review**

41
42 The board discussed the requirements for reporting malpractice settlements to both the state and the
43 National Practitioners Data Bank.

44
45 **Case 1**

46
47 **MOTION** **TOMERA moved to take no action regarding malpractice case No. 1.**
48 **2nd** **BREFFEILH**
49 **VOTE** **8 Yea votes (Head, Breffeilh, Duddy, Hall, Puckett, Tauriainen, Tomera, Tsigonis)**
50 **0 Nay votes**
51 **0 Abstentions**

52
53 **Case 2**

54
55 **MOTION** **TOMERA moved to take no action regarding malpractice case No. 2.**
56 **2nd** **BREFFEILH**
57 **VOTE** **8 Yea votes (Head, Breffeilh, Duddy, Hall, Puckett, Tauriainen, Tomera, Tsigonis)**

1 0 Nay votes
2 0 Abstentions
3

4 Case 3

5 **MOTION** TOMERA moved to take no action regarding malpractice case No. 3.
6 **2nd** BREFFEILH
7 **VOTE** 8 Yea votes (Head, Breffellh, Duddy, Hall, Puckett, Tauriainen, Tomera, Tsigonis)
8 0 Nay votes
9 0 Abstentions
10

11
12 Cases 4 and 5

13
14 Ms. Gallant advised the board that the physician involved in cases No. 4 and 5 was in the process of
15 surrendering her license. Neither of the cases were reported to the board as required by law so the
16 physician involved indicated to the investigator she would surrender her license rather than be
17 disciplined.
18

19 **MOTION** TOMERA moved to take no action regarding malpractice case Nos. 4 and 5
20 **pending acceptance of a surrender of license agreement.**
21 **2nd** HALL
22 **VOTE** 8 Yea votes (Head, Breffellh, Duddy, Hall, Puckett, Tauriainen, Tomera, Tsigonis)
23 0 Nay votes
24 0 Abstentions
25

26 Case No. 6

27
28 **MOTION** TOMERA moved to take no action regarding malpractice case No. 6.
29 **2nd** DUDDY
30 **VOTE** 8 Yea votes (Head, Breffellh, Duddy, Hall, Puckett, Tauriainen, Tomera, Tsigonis)
31 0 Nay votes
32 0 Abstentions
33
34

35 AGENDA ITEM 11 Nomination to Trauma System Review Committee

36
37 **MOTION** TAURIAINEN moved to approve the nomination of Mary Thompson to the Trauma
38 **System Review Committee.**
39 **2nd** HALL
40 **VOTE** 8 Yea votes (Head, Breffellh, Duddy, Hall, Puckett, Tauriainen, Tomera, Tsigonis)
41 0 Nay votes
42 0 Abstentions
43
44

45 AGENDA ITEM 8 Reports, Minutes, Ethics, Budget

46
47 Reports

48
49 The board members reviewed and discussed the licensing examiners' report.
50

51 Minutes

52
53 **MOTION** DUDDY moved to accept the minutes of the January 25 – 26, 2007 board meeting.
54 **2nd** BREFFEILH
55 **VOTE** 8 Yea votes (Head, Breffellh, Duddy, Hall, Puckett, Tauriainen, Tomera, Tsigonis)
56 0 Nay votes
57 0 Abstentions

1
2 Ethics

3
4 Board members advised they had no ethics or conflicts of interest issues to report.

5
6 Budget

7
8 There was no budget report provided for this meeting.
9

10
11 NEW AGENDA ITEM CSHB 113

12
13 Dr. Breffeilh advised the board that he recently testified on CSHB 113, a bill that expands the scope of
14 practice for optometrists. He advised that he was commenting on the bill as a physician and not as a
15 board member.

16
17 The board returned to the review of reports. The staff will obtain copies of CSHB 113 for the board's
18 review later in the day.
19

20
21 AGENDA ITEM 9 Special Applications for Consideration

22
23 Sarah M. Dobbs, MD

24
25 **MOTION** **DUDDY moved to grant a license to Dr. Sarah Dobbs under the authority of as**
26 **08.64.325(B)(2) and regulation 12 AAC 40.016(c)(3).**

27 **2nd** **TOMERA**

28 **VOTE** **8 Yea votes (Head, Breffeilh, Duddy, Hall, Puckett, Taurialinen, Tomera, Tsigonis)**

29 **0 Nay votes**

30 **0 Abstentions**
31

32
33 At this time, Senator Don Olson joined the board in its meeting to discuss issues of concern in the
34 legislature that relate to the board or the practice of medicine. Senator Olson commented on the
35 following:

36
37 - There has been much discussion on the WWAMI program and increasing funding to get more
38 physicians in Alaska.

39
40 - The Alaska Family Practice Residency Program at Providence Hospital has requested several
41 million dollars from the legislature.

42
43 - There is another bill in the legislature this year that provides for the licensure of radiologists.

44
45 - There has been a supplemental budget request for a sizable amount of money for autism. He
46 told the board he was asked for his opinion and he wanted to hear from the medical board members
47 about this.

48
49 Dr. Tomera stated that each resident in the program is paid for by Medicare. The program receives
50 around \$100,000 and the resident is paid around \$30-40,000. They also do third party billing for services
51 provided. He felt that requesting money from the state was "triple dipping."
52

53 Senator Olson noted that the request for funding from the residency program is for new money coming
54 into the state because of the "PTP" situation. The problem is that once you give money out, people
55 come back every year requesting more saying, 'well, you funded it last year.'
56

1 Dr. Tsigonis asked for more information about the autism issue. She stated it is a pretty rare diagnosis
2 that has received a lot of news. It seems like the money should be spent on more global public health
3 matters. While autism is a sad situation, it is really rare.
4

5 Senator Olson said the legislators are being told that 6 out of 10,000 children are diagnosed with autism.
6

7 Dr. Head advised that as far as the Native population goes, current studies show there is no autism in
8 true Native children. It appears in Native children who are part white, but has not been found in true
9 Native children.
10

11 Dr. Duddy applauded the WWAMI program but stated that it is a long term solution to the physician
12 shortage in Alaska. Increasing the number of residency slots will begin to address that shortage within
13 three years.
14

15 Dr. Head agreed and stated that according to Dr. Harold Johnston, Alaska's sole residency program is
16 one of the few that does not receive state funding. Dr. Johnston has stated that the most they could
17 increase the residents to would be 12 doctors. They could look at starting pediatrics or psychiatry
18 residencies but family practice could not absorb any more than 12 because the attendings would not
19 be able to absorb any more than that. He also stated that he did not know how much of the requested
20 new funding was to support the existing program and how much was to increase the program. He
21 suggested to Senator Olson that before he acted on the information provided by Dr. Tomera regarding
22 funding sources and billing practice, Senator Olson may wish to talk with Dr. Johnston.
23

24 Senator Olson stated that the program is threatening to pull its rotating residents out of the rural sites,
25 particularly Bethel.
26

27 Dr. Tomera believes the program sold a bill of goods to the Anchorage community by saying that these
28 residents would go to rural Alaska. What has happened is that the family medicine program has
29 targeted areas like south Anchorage where there are people with insurance. If you call for an
30 appointment as a Medicare patient, they will advise you that their next available appointment is in
31 twelve months. He questioned how many residents are actually going out in to the rural communities to
32 work.
33

34 Dr. Breffeilh expressed his concerns about the optometrists' bill and advised that he was hoping to get a
35 resolution from the board in opposition to the bill.
36

37 Senator Olson stated that he tends to be in favor of expanding the scope of practice of optometrists.
38

39 Dr. Head asked if anything was happening with the naturopath bill from a couple years ago. Senator
40 Olson advised it will come up again.
41

42 Ms. Gallant asked Senator Olson if he could support the creation of a statewide database system for
43 controlled substances. Many states already have such programs and the issue is being discussed within
44 the Division and the medical board.
45

46 Senator Olson agreed that drug seeking patients are a real problem. His big concern would be not to
47 overburden the solo practitioner.
48

49 Senator Olson and the board members also discussed the current legislation regarding licensing
50 radiology technicians. Dr. Duddy related anecdotally his experiences between certified and non-
51 certified radiology technicians. Mr. Hall advised that the PA academy is in favor of training RTs but not
52 in favor of licensing. The bill leaves a lot of questions unanswered.
53

54 The board thanked Senator Olson for coming to meet and talk with them.
55
56
57

1 AGENDA ITEM 9 Special Applications for Consideration - Continued

2
3 Frederick T. Waller, MD

4
5 **MOTION** **BREFFEILH moved to grant a license to Dr. Waller upon the successful execution of**
6 **a memorandum of agreement that restricts his practice to performing**
7 **independent medical evaluations and office based consults only.**
8 **2nd** **HALL**
9 **VOTE** **8 Yea votes (Head, Breffeilh, Duddy, Hall, Puckett, Taurialnen, Tomera, Tsigonis)**
10 **0 Nay votes**
11 **0 Abstentions**

12
13 The board agreed that an Anchorage board member could sign off on the MOA with Dr. Waller for the
14 board chair.

15
16
17 AGENDA ITEM 4 Co-Management of Post-Surgical Patients

18
19 Ms. Gallant pointed out to the board her first draft regulation, and Dr. Carl Rosen's proposed revision.
20 Also, Frank Bickford was present representing the Alaska Ophthalmologic Society and distributed
21 language for a proposed regulation from the American Association of Ophthalmologists to the board
22 members for consideration. The proposed regulation read:

23
24 Failure by an operating surgeon to continue care of their individual patients
25 through the post-surgical recovery and healing period or routine designation by
26 the operating surgeon of postoperative responsibilities to non-medical or
27 osteopathic physicians, except when the surgeon involved travel to a rural area
28 of the state for occasional practice of medicine, or travel to an area of the state
29 designated as a physician shortage area by the State Medical Board.

30
31 Board members had difficulties with the proposed language specific to the reference to osteopathic
32 physicians, a need for a definition of "rural" as used in the proposed, and the reference to "physician
33 shortage area."

34
35 Connected to the meeting via teleconference were Dr. Carl Rosen in Anchorage and Michael Leavitt,
36 Washington DC, with the American Association of Ophthalmologists.

37
38 Dr. Tomera asked if the word "naturopathic" should have been where the word "osteopathic" appears
39 in the proposal. Mr. Leavitt and Dr. Rosen agreed that was correct. He also questioned the intent
40 behind the use of the word "rural." Mr. Leavitt responded that the provisions of this proposed language
41 would apply to areas where there is adequate access, but not to remote or "rural" areas of the state.

42
43 Dr. Head agreed that the definition is too vague for the use of those words in a regulation. It would
44 require very specific definition if used in a regulation. The language is going in the right direction
45 though.

46
47 Dr. Breffeilh asked if a new proposal could be distributed to the board by email so this project does not
48 need to be unnecessarily delayed.

49
50 Dr. Tsigonis felt there are two issues: 1) the type of physician providing follow-up care, and 2) does the
51 type of person doing the follow-up care differ between urban and rural practices.

52
53 Dr. Rosen added another component and that was who can provide the care under routine
54 circumstances and who can provide care under urgent or emergency circumstances. Co-
55 management should be the exception rather than the rule.