

SOUTH DAKOTA BOARD OF MEDICAL AND OSTEOPATHIC EXAMINERS
MINUTES

Wednesday September 10, 2008
10:00 a.m.

Holiday Inn City Centre
Sioux Falls

The meeting was called to order at 10:00 a.m. by Robert Ferrell, MD, president of the Board, and roll call was taken. Board members present were Mr. Patrick Burchill, Mr. Bernie Christenson, Mary Carpenter, MD, David Erickson, MD, Alex Falk, MD, Robert Ferrell, MD, Brent Lindbloom, DO, Milton Mutch, MD, and James Reynolds, MD. Staff members present were Margaret Hansen, Jane Phalen, and Donald Srstka. Advisory Committee members present were Vicki Blake-Nafus, PA-C and Rodney King, PA-C. Guests present were Bob Graff, Director, Office of Emergency Medical Services, South Dakota Representative Tim Rave, Rebekah Craddock, Vice President South Dakota Association of Healthcare Organizations (SDAHO), and Quentin Stein.

OLD BUSINESS and UPDATES

The minutes from the June 5, 2008 board meeting were reviewed. MOTION by Dr. Lindbloom, seconded by Mr. Christenson to approve the minutes. Passed unanimously.

Quinn Stein was in attendance and offered to address any questions regarding proposed genetic counseling legislation. Any Board legislation will be promoted by SDAHO because this legislation cannot be an agency bill. The Board has agreed to assist and adopt the legislative language and to be the regulatory agency if the bill is passed by the South Dakota Legislature. Ms. Hansen and Mr. Srstka met on several occasions on behalf of the Board with the SDAHO ad hoc committee, comprised of the major SD healthcare systems. The SDAHO legislative language, with two modifications, was adopted by the Board.

Board recommendation discussed at previous meetings regarding policy for employment start dates and baseline eligibility requirements for physicians can be found on the Web site. The Web site receives over 19,000 hits per month, with 229,561 visits between August 2007 and 2008.

Executive Director Report:

Ms. Hansen provided the following information:

- 1) two staff members, Jane Phalen and H. Adrian Mohr, attended Certified Medical Board Investigators training.
- 2) The Federation of State Medical Boards (FSMB) appointed Ms. Hansen to the Special Committee on Strategic Planning for the FSMB and she has been elected to the Administrators in Medicine (AIM) Board of Directors representing the central district.

- 3) Due to a shortage of staff, the investigation coordinator has been working with incomplete and problematic applications. As a result, complaint reviews are being delayed. Twenty-five new investigations have been initiated since the June meeting.
- 4) The implementation of the new technology will take at least 14 months
- 5) The financial report was presented.
- 6) Upcoming meetings: Board members were encouraged to attend the annual meeting of the Federation of State Medical Boards. The next meeting will be Washington DC. The AIM meeting will be in Kansas City 5-8 November. Request for two members of the staff attend. MOTION by Dr. Erickson, seconded by Dr. Falk to approve travel. Passed unanimously.
- 7) The Board is sponsoring a page in South Dakota Medicine and the first submission was reviewed. It was reported that the Department of Health approved more staff, the new technology, and a new location for the Board office.

MOTION by Dr. Mutch, seconded by Mr. Burchill to accept the executive director report. Passed unanimously.

NEW BUSINESS:

The South Dakota Health Professionals Assistance Program (SDHPAP) was again reviewed from the June meeting. Avera Behavioral Health has submitted a proposal to administer the SDHPAP and this proposal has been approved by the SDHPAP participating boards. MOTION by Mr. Christenson, seconded by Dr. Lindbloom to approve the Avera Behavioral Health contract for SDHPAP. Dr. Erickson abstained from the vote. Passed unanimously.

Mr. Graff and Representative Rave were introduced to the Board members. A short outline regarding a grievance stemming from the difference between initial licensure and renewal of licensure was discussed. Mr. Graff informed the board that he will meet with all future students and explain the initial licensure and renewal process. Mr. Rave called the party that expressed the original concern, and discussed this concern in an attempt to explain the process. Board staff will continue efforts to keep licensees and ambulance services educated and informed on licensure and renewal processes by correspondence, meetings and by posting educational information on the Board Web site. The Advanced Life Support Advisory Committee will be invited to the next Board meeting.

The application of Mr. Michael Greene for a respiratory care license was brought before the board. The board did request a personal appearance by the applicant but the applicant declined and requested withdrawal of his application. MOTION by Dr. Falk, seconded by Dr. Carpenter to approve the request to withdraw while

under investigation. Passed unanimously. The Findings of Fact, Conclusions of Law and an Order were subsequently entered and incorporated.

Mr. Srstka presented information on two recent South Dakota Supreme Court decisions, and about laws that impact the reporting of disciplinary actions by healthcare facilities.

The Board revisited and discussed the problems caused by regulatory gag clauses. No physician should be permitted to deprive the Board of Examiners of information about misconduct committed by that physician in the course and scope of the practice of medicine regulated by the State of South Dakota. MOTION by Dr. Carpenter, seconded by Dr. Falk to draft legislation to prohibit a person licensed under the Medical Practices Act from including a "gag clause" in a civil settlement agreement. Passed unanimously.

The Board reviewed the list of new licenses, certificates, permits and registrations issued since the last meeting. Discussion was held regarding license issuance and the Board was informed that the total number of new licenses issued between August 2005 and September 2008 was 2,217 (1,078 MD/DO). An upward trend for license applications received and issued has been noted with 83 more initial licenses issued in 2008 compared to the same date in 2007. The factors contributing to the increase in licenses issued include the streamlined licensing application and regular status updates available online.

With the increase in applications being received there has also been a corresponding increase in problem application submissions which require more staff time to review and evaluate. Most problem applications found to be incomplete have been linked to third party staffing companies who do not appear to understand the licensure process and are not reading the directions.

MOTION by Dr. Lindbloom, seconded by Mr. Christenson to ratify the new licenses, certificates, permits and registrations. Passed unanimously.

The Board discussed and reviewed a request from a certified nurse practitioner (CNP) to obtain reinstatement of his license. The Board of Nursing (BON) has approved the request to reinstate this CNP license with probation and referred this request to this Board for their review.

MOTION by Dr. Carpenter, seconded by Dr. Reynolds to accept the request as approved by the BON with the addition of a report on the progress from the collaborating physician at the end of one year. Passed unanimously.

The Board welcomed physician assistant, Vicki Blake-Nafus to her first Board meeting as a member of the Physician Assistant Advisory Committee.

The date of the next meeting is set for 13 November 2008 to accommodate the BON rules hearing.

There being no further business at 11:45 a.m. MOTION by Dr. Reynolds, seconded by Dr. Erickson to adjourn the meeting. Passed unanimously.