

**December 13, 2012, Draft Minutes to be approved March 2013**

**South Dakota Board of Medical and Osteopathic Examiners – Telephonic Board Meeting, 3:00 p.m. (CST), Board Room #303, 101 N. Main Ave., Sioux Falls**

Board Members Present: Mr. Patrick Burchill; Walter Carlson, MD; Mary Carpenter, MD; Mr. Bernie Christenson; David Erickson, MD; Brent Lindbloom, DO; Jeffrey Murray, MD; James Reynolds, MD

Board Staff Present: Margaret Hansen, PA-C; Mr. Ted Huss; Ms. Jane Phalen

Counsel Present: Roxanne Giedd, Board; William Golden, Staff  
Joel Arends, attorney for Dr. Annette Bosworth

Dr. Mary Carpenter, acting president of the Board, called the public telephonic Board meeting to order at 3:00 pm. Roll was called, a quorum was established.

Mr. Golden and Mr. Huss presented results of research about the National Practitioner Data Bank (NPDB), specifically, whether a “yes” check mark on the question that refers to potential patient harm would result in the provider being excluded from reimbursement by private insurance or Medicaid.

On November 28, 2012, Dr. Annette Bosworth appeared at the regular Board meeting. She informed the Board members that because of the NPDB report with the “yes” check mark on the question that refers to potential patient harm, she had been excluded by insurance companies and Medicaid and she could not be reimbursed for her services. Dr. Bosworth offered this testimony under oath at her November 9, 2012, administrative hearing which was held due to her non-compliance with her June 27, 2012, Agreement.

As a result of her appearance, the Board instructed the staff to research this matter and report back to the Board with the results.

Representatives from Dakotacare, Sanford Health Plan and Wellmark were interviewed by the Board investigator. They were asked whether a “yes” check mark in a NPDB report would result in the cessation of a provider’s insurance reimbursements. All three representatives informed the Board investigator that the “yes” check mark is not a deciding factor in determining whether a provider is approved for reimbursement.

The following companies (Dakotacare, Sanford Health Plan, Wellmark Blue Cross Blue Shield Iowa, Avera Health Plan, Blue Cross Blue Shield Illinois, Cigna, Humana, Medica and United Healthcare) were researched by the Board investigator who reported that Dr. Bosworth is listed as an approved provider and can bill and receive reimbursement from these companies. This information is available on the internet.

The Board investigator then researched Medicaid reimbursement. He interviewed a representative from the Department of Social Services and was informed that 7 months before the NPDB report was submitted, Medicaid sent her a letter suspending her from

the Medicaid program due to a credible allegation of fraud pursuant to 42 CFR 455.23 – SUSPENSION OF PAYMENTS IN CASES OF FRAUD: (a) Basis for suspension. (1) The State Medicaid agency must suspend all Medicaid payments to a provider after the agency determines there is a credible allegation of fraud for which an investigation is pending under the Medicaid program against an individual or entity unless the agency has good cause to not suspend payments or to suspend payment online in part.

It was also reported that if a member of the public wanted to see whether Dr. Bosworth was an approved provider for their insurance company, they could look up this information on the internet.

At the November meeting, the Board instructed the staff to draft a letter to the NPDB indicating that as Dr. Bosworth came into compliance with her Agreement effective November 28, 2012, she is safe to engage in practice.

The Board was informed that the letter was prepared and signed by Mr. Christenson, and then it was provided to Joel Arends to use on behalf of his client, Dr. Bosworth.

Dr. Reynolds asked whether Dr. Bosworth was an approved provider for Medicare. The Board investigator said he had not researched Medicare. There was discussion that participating providers who wish to be reimbursed are listed as approved providers in the SD Medicare Book. Not being included on this list would not preclude providers from seeing Medicare patients. The Board investigator said he would research Medicare to see if Dr. Bosworth is on the website as a provider and report back to the Board.

A motion to enter into executive session pursuant to SDCL 1-25-2 (1) and (3): Executive or closed meetings may be held for the sole purposes of:

(1) Discussing the qualifications, competence, performance, character or fitness of any public officer or employee or prospective public officer or employee. The term "employee" does not include any independent contractor;

(3) Consulting with legal counsel or reviewing communications from legal counsel about proposed or pending litigation or contractual matters; was approved. (Dr. Jeff Murray/Unanimous vote)

Mr. Arends disconnected from the teleconference and the Board entered executive session.

A motion by the Board in public session to end executive session; was approved. (Dr. Jeff Murray/unanimous vote)

Mr. Arends was called and asked if he wished to return to the teleconference meeting once the Board came back into a public session and he declined.

There was no further business or discussion. A motion to adjourn was approved. (Dr. Murray/ Unanimous vote)

The meeting adjourned at 4:02 p.m.