

June 26, 2013 Minutes

South Dakota Board of Medical and Osteopathic Examiners – Regular Board Meeting

Board Members Present: Kevin Bjordahl, MD; 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 counsel
William Golden, Staff counsel

Dr. Mary Carpenter, President of the Board, called the public meeting to order at 9:00 am. Roll was called, a quorum was established.

Loren Vilhauer, PA, met with the Board in a public session regarding Findings of Fact and Conclusions of Law resulting from his contested case hearing. A motion to enter into executive session (SDCL 1-25-2[3]) was ratified by a vote of the Board (Reynolds/unanimous). The Board returned to the public session and the meeting resumed. A motion that: Mr. Vilhauer's Motion to Reconsider, to the extent there was one, was denied, that the Board adopt the Staff's Proposed Findings of Fact and Conclusions of Law with the following changes: Conclusion of Law #3 is rewritten to read, "It violated statute SDCL 36-4A-1.1 to render medical services without an approved practice agreement". (SDCL 36-4-37[2] [3]); Conclusion of Law #5 is stricken as per Staff's request; that the Board rejects Mr. Vilhauer's Proposed Conclusions of Law where inconsistent, which specifically are: Vilhauer Conclusion of Law #3, rejected as a partial conclusion that does not reflect the totality of circumstances; Vilhauer Conclusion of Law #4, rejected as un-necessary to support the decision because the stated issues were not an issue in the contested case proceeding (see the Petition and Stipulated Facts #9 and #12); and Vilhauer Conclusions of Law #5-7, rejected as inconsistent with the decision of the Board and reflecting matters outside the Board's jurisdiction, was approved by a vote of the Board (Christenson/unanimous). The assigned Board member for this contested case, Mr. Burchill, did not participate in the deliberation or vote (ARSD 27:78:05:05).

Dr. Simon Kovalik waived confidentiality (SDCL 36-4-31.5) and met with the Board in a public session. A motion to approve the recommended Stipulation and Agreement was ratified by a vote of the Board (Burchill/unanimous). The assigned Board member, Dr. Carlson, did not participate in the deliberation or vote (ARSD 27:78:05:05).

Dr. William Lee waived confidentiality (SDCL 36-4-31.5) and met with the Board in a public session. A motion to approve Dr. Lee's petition for unrestricted licensure was ratified by a vote of the Board (Bjordahl/unanimous, Dr. Carpenter abstained).

The Board considered David Starner, EMT/P, and his Consent Agreement with Reprimand. A motion to approve the recommended Consent Agreement with Reprimand was ratified by a vote of the Board (Reynolds/unanimous). The assigned Board member, Dr. Carlson, did not participate in the deliberation or vote (ARSD 27:78:05:05).

A motion to approve the March 27-28 Board meeting minutes was ratified by a vote of the Board (Erickson/unanimous).

A motion to approve the new licenses, permits, certificates and registrations listing was ratified by a vote of the Board (Erickson/unanimous). A motion to approve the financial report was ratified by a vote of the Board (Carlson/unanimous). The Board requested options to plan for future operations including technology, meeting space, etc.

The Board considered Dr. Rand Khouri Nemeh's petition for waiver of an application threshold requirement and issue the medical license based upon American Board of Medical Specialties (ABMS) board certification (SDCL 36-4-17). A motion to approve the recommended petition was ratified by a vote of the Board (Lindbloom/unanimous). A motion to approve an internal process for staff to approve future petitions for waiver of an application threshold requirement and to provisionally issue the medical license based upon ABMS board certification, and designate these provisional licensees in a quarterly listing, was ratified by a vote of the Board (Burchill/unanimous).

The Board considered a petition for a scope of practice expansion to permit EMT/Paramedics in Mitchell to administer Zemuron (*rocuronium bromide*) as instructed by the medical director of the ambulance service. The purpose is to maintain neuromuscular blockage during transport of a ventilated patient. A motion to approve the petition and to require a one year follow-up report from the medical director with the number of times Zemuron was administered by paramedics and the outcome(s) including any complications was ratified by a vote of the Board (Reynolds/unanimous).

Dr. Steven Benn, Dr. Laura Davis-Keppen; Dr. Maria Palmquist; Kali Messer, CGC; and Quinn Stein, CGC, were nominated as members of the Genetic Counselor Advisory Committee. A motion to approve these nominations was ratified by a vote of the Board (Erickson/unanimous).

The Board considered a petition for a Declaratory Ruling on Vitamin B12 Injections (ARSD 20:78:02:01). The Board determined that supporting scientific and medical

documentation is required (ARSD 27:78:02:02). A motion to deny the petition at this time was ratified by a vote of the Board (Erickson/unanimous vote).

The Board considered suggestions and guidelines about licensure eligibility that may be reviewed by both students and educational programs prior to the educational enrollment process. A motion to approve the suggestions and guidelines was ratified by a vote of the Board (Erickson/unanimous).

The executive director presented information on interstate compacts, a minimal data set, and the implementation of the new Resident License statute.

A motion to enter into executive session (SDCL 1-25-2[1] [3]) was ratified by vote of the Board (Burchill/unanimous vote).

The Board returned to public session and the meeting resumed.

The Board reviewed information on Board Member term end dates as follows:

Term end date for October 30, 2013

Burchill
Carpenter
Reynolds

Term end date for October 30, 2014

Christenson
Murray
Lindbloom
Carlson

Term end date for October 30, 2015

Erickson
Bjordahl

The Board reviewed information regarding Opioids and the Federation of State Medical Boards (FSMB) work on this topic, the FSMB annual report, and a reminder to consider attending the next FSMB annual meeting April 24 to 26, 2014.

The annual election of officers was held (ARSD 27:78:01:01). A motion to elect the following officers was ratified by a vote of the Board (Burchill/unanimous vote).

Dr. Mary Carpenter – President
Dr. Walter Carlson – Vice President
Dr. Brent Lindbloom - Secretary

The Board was informed that Craig Kennedy is assisting the staff with writing rules.

The next Board meeting will be held on September 11, 2013. The Joint Board of Medicine and Nursing meeting will begin at 9:00 am; the regular Board meeting will start immediately following the Joint Board meeting.

There being no further business the meeting adjourned at 2:00 p.m.