

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

July 19 - 20, 2007

MINUTES OF MEETING

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

Thursday, April 12, 2007

Roll Call

Present were: David M. Head, MD, Chair Nancy Puckett
Robert A Breffeilh, MD Michael J. Tauriainen
John T. Duddy, MD Jean M. Tsigonis, MD
Edward A Hall, Pa-C

Staff Members present were Linda Sherwood and Colleen Wilson, licensing examiners, and Leslie Gallant, the board's executive administrator. Visitors Robert Janik and Mr. Tom Dale.

AGENDA ITEM 1 **In the Matter of Solomon Kamson, MD**

Dr. Head noted that Dr. Kamson is still under a suspension in California and Alaska doesn't give licenses to doctors under suspension in another state.

Ms. Gallant agreed and explained that his violation occurred in Washington and California piggybacked on Washington. Washington reinstated his license with restrictions and he is awaiting a hearing in California. What the board decides will set a precedent for further decisions on reinstating licenses to people who are suspended in other states. The decision can be tabled until after the hearing in California.

Mr. Tauriainen questioned if the board does nothing, could he practice in Alaska?

Ms. Gallant answered that his license has been lapsed since 2006. The board isn't pressed to do anything now, but Dr. Kamson could seek to reinstate his license within 5 years.

Dr. Breffeilh asked that the California and/or Washington agreements be attached to any document that comes before them regarding Kamson.

Dr. Tsigonis asked how the Alaska board became aware of his problems. Ms. Gallant explained that the board received notification from the FSMB.

MOTION **TAURIAINEN moved to table the decision until after the California decision.**
2nd **HALL**
VOTE **7 Yea votes (Head, Breffeilh, Duddy, Hall Puckett, Tauriainen, Tsigonis)**
0 Nay votes
0 Abstentions

AGENDA ITEM 2

In the Matter of Jamie Ash PA-C

Dr. Head explained that Ms. Ash signed the Memorandum of Agreement but wants the amount of the fine reduced.

Ms. Gallant advised that Ms. Ash saw 200 to 250 patients over a long period of time. She was sent a renewal and a reminder. Ms. Ash confirmed that the board had her correct address.

Mr. Tauriainen moved and Mr. Hall seconded a motion to accept the memorandum of agreement with Jamie Ash, PA-C but reducing the civil fine to \$500. He felt that she kind of self-reported and there was no indication that she endangered patients by continuing to practice after the license had expired. Her letter is persuasive and she had personal issues. He did not believe she intentionally misled the board. Others with much more grievous issues are not fined at all. He subsequently amended his motion to accept the memorandum of agreement with Jamie Ash, PA-C but to reduce the amount of the fine to \$1,000. The motion failed by a vote of three yea votes (Tsigonis, Hall, Tauriainen) to four nay votes (Head, Breffeilh, Duddy, Puckett).

Ms. Gallant explained that if the board wants to change any Memorandum of Agreement they need to tell investigation by rejecting them and changing what they want to see changed, such as fines.

Mr. Hall would like to see the fine reduced to \$1,000. Dr. Head would like to see \$1,500 to \$2,000.

MOTION	PUCKETT moved to accept the Memorandum of Agreement with Jamie Ash PA-C but to reduce the fine to \$1,500.
2nd	Breffeilh
VOTE	5 Yea votes (Head, Tsigonis, Duddy, Breffeilh, Puckett)
	2 Nay votes (Hall, Tauriainen)
	0 Abstentions

AGENDA ITEM 3

In the Matter of Brian A. Tansky, MD

Dr. Head noted that when he read the meeting book, he questioned why there was no fine included in the MOA.

Mr. Tauriainen agreed and also questioned why the probation time would be tolled when Dr. Tansky is out of state.

Ms. Gallant explained that all states toll time in probation agreements because they expect that the time will be satisfied in the state where the violation occurs. The exception to this is when the applicant is under an agreement for chemical dependency.

Dr. Tsigonis questioned whether he needed to report the event since the hospital reported it.

Dr. Head noted that Dr. Tansky was off by a year in his explanation.

Ms. Puckett agreed that there should be a civil fine included in the MOA.

MOTION	TAURIANINEN moved to accept the memorandum of agreement with Brian A. Tansky, MD, with the inclusion of a civil fine of \$2000.
2nd	BREFFEILH
VOTE	7 Yea votes (Head, Breffeilh, Duddy, Hall, Puckett, Tauriainen, Tsigonis)
	0 Nay votes
	0 Abstentions

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AGENDA ITEM 4 in the Matter of Jacqueline W. Walter, MD

Ms. Gallant explained that Dr. Walter came to the board's attention because she was selected for audit of her continuing medical education. The case was referred to state paralegal, Steve Winkler. She did not take kindly to being referred to Mr. Winker and claimed she was being harassed. She decided to voluntarily surrender her license.

Dr. Head asked if she ever sent in a report in writing of the harassment details. He requested more details on any such allegation of harassment.

Ms. Gallant answered she received an email and Mrs. Sherwood said she received a telephone call.

Dr. Breffeilh asked if Dr. Walter was advised of the consequences of her surrender.

Ms Gallant explained that all individuals are advised that license surrender is a serious action and reportable action to the National Practitioners Data Base. All doctors are advised that reports are submitted to all appropriate data banks when a license is surrendered. Many view this as an easy way out of a sticky situation where they are likely to be disciplined for some violation and they see the surrender as an easy to deal with the matter. It is not a good decision but they are fully apprised of the ramifications prior to making the decision.

MOTION	TAURIAINEN moved to accept the voluntary surrender of the license of Jacqueline W. Walter, MD
2nd	PUCKETT
VOTE	7 Yea votes (Head, Breffeilh, Duddy, Hall, Puckett, Tauriainen, Tsigonis)
	0 Nay votes
	0 Abstentions

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AGENDA ITEM 5 In the Matter of James L. Glenn, PA-C

Ms. Gallant advised that the MOA with Mr. Glenn was distributed in the manila file folders to each board member before the meeting started.

Mr. Tauriainen asked if Mr. Glenn actually had a DEA registration.

Ms. Gallant explained that he had a DEA registration but never submitted a copy of it to the board as required by law. The failure to file a copy of the DEA registration to the board was compounded by the fact that he was writing prescriptions for Schedule II drugs.

Dr. Breffeilh noted that Mr. Glenn's DEA didn't cover schedule II narcotics.

Mr. Hall agreed that the collaborative plan did not grant him the authority to handle Schedule II drugs. He noted that other PAs have been confused by getting Schedule II authority on the DEA registration when they do not have that authority by state law.

Dr. Head asked if a suspended fine is typical in these situations. Ms Gallant answered that she has asked investigations not to suspend fines when writing the MOAs as that is a decision to be made by the board. It was noted that there are occasions that the investigator must be a little flexible when negotiating the agreements.

MOTION	BREFFEILH moved to approve the memorandum of agreement with James L. Glenn, PA-C.
2nd	DUDDY

VOTE

7 Yea votes (Head, Breffellh, Duddy, Hall, Puckett, Taurlainen, Tsigonis)
0 Nay votes
0 Abstentions

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AGENDA ITEM 7

Licenses Required for Utilization Review Officers

Dr. Head thinks the board needs more information on this topic. They aren't required to be licensed now. The board may want to address this in future as regulation change.

No action will be taken at this time. Other states will be polled as to their requirements and the topic will be put on the agenda of a future board meeting.

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AGENDA ITEM 6

Prescription Drug Monitoring Program

Investigator Brian Howes gave a presentation on a proposed prescription drug monitoring program. He advised that he was seeking the board's support for the program in order to move forward with it.

The board discussed their concerns regarding privacy and costs.

MOTION

PUCKETT moved to write a letter in support of the prescription drug monitoring program.

2nd

BREFFEILH

VOTE

7 Yea votes (Head, Breffellh, Duddy, Hall, Puckett, Taurlainen, Tsigonis)
0 Nay votes
0 Abstentions

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Off the record at 11:05 am; on the record at 11:17 am.

AGENDA ITEM 9

Malpractice Case Reviews

Ms Gallant advised that if there were other cases for each individual, those cases may be found behind a green sheet in each section. If there is no green sheet, there were no other malpractice cases reported for that individual.

Case 1

MOTION

DUDDY moved to take no action in this case.

2nd

HALL

Vote

7 Yea votes (Head, Breffellh, Duddy, Hall, Puckett, Taurlainen, Tsigonis)
0 Nay votes
0 Abstentions

Case 2

MOTION

TAURIAINEN moved to take no action on this case.

2nd

BREFFEILH

Vote

7 Yea votes (Head, Breffellh, Duddy, Hall, Puckett, Taurlainen, Tsigonis)
0 Nay votes
0 Abstentions

Case 3

MOTION **HALL moved to take no action on this case.**
2nd **BREFFELH**
Vote **7 Yea votes (Head, Breffellh, Duddy, Hall, Puckett, Tauriainen, Tsigonis)**
 0 Nay votes
 0 Abstentions

Case 4

Ms. Gallant pointed out this physician has 2 cases. The board discussed the grievousness of this case.

Ms. Gallant described the process of review includes a letter to the doctor that either no further action would be taken on the case or that the matter is being referred to investigations. If the board wants any comments put in the letter, it can be included. The letter is not disciplinary. Ms. Puckett thinks a phrase such as "the board understands that steps have been taken to prevent this from happening again," should be placed in the letter. The board discussed if the word tragic should be used in the phrase. Ms. Gallant and Dr Head will confer on the correct phrase to add.

MOTION **DUDDY moved to take no action on this case but to send a letter to the physician as discussed.**
2nd **HALL**
Vote **7 Yea votes (Head, Breffellh, Duddy, Hall, Puckett, Tauriainen, Tsigonis)**
 0 Nay votes
 0 Abstentions

Case 5

MOTION **TAURIAINEN moved to take no action on this case.**
2nd **PUCKETT**
Vote **7 Yea votes (Head, Breffellh, Duddy, Hall, Puckett, Tauriainen, Tsigonis)**
 0 Nay votes
 0 Abstentions

Ms. Gallant explained that the board has an opinion on who should use lasers. Dr. Head asked that a copy of the board's official opinion on who should use lasers be sent to the physician involved in this case.

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Agenda Item 14 Reports, Minutes, Ethics, Budget

Ethics

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

Minutes

MOTION **BREFFELH moved to approve the minutes of the April 12 - 13, 2007 board meeting.**
2nd **DUDDY**
VOTE **7 Yea votes (Head, Breffellh, Duddy, Hall, Puckett, Tauriainen, Tsigonis)**
 0 Nay votes
 0 Abstentions

MOTION **BREFFELH moved to approve the minutes of the special teleconference meeting of June 25, 2007**
2nd **TAURIAINEN**

VOTE **7 Yea votes (Head, Breffellh, Duddy, Hall, Puckett, Tauriainen, Tsigonis)**
0 Nay votes
0 Abstentions

Budget

MOTION **DUDDY moved to accept the budget.**
2nd **TAURIAINEN**
VOTE **7 Yea votes (Head, Breffellh, Duddy, Hall, Puckett, Tauriainen, Tsigonis)**
0 Nay votes
0 Abstentions

Reports

The board members reviewed and discussed the licensing examiners' and investigative report. There was discussion about the probation cases.

MOTION **DUDDY moved to accept the reports.**
2nd **TAURIANINEN**
VOTE **7 Yea votes (Head, Breffellh, Duddy, Hall, Puckett, Tauriainen, Tsigonis)**
0 Nay votes
0 Abstentions

During this discussion, Brian Howes, investigator, asked the board to clarify the details to be included in Dr. Sam Schurig's memorandum of agreement. He was asking specifically what the board's requirement was for the chaperone. Dr. Head recommended listening to the April recording of the meeting.

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NEW AGENDA ITEM Regulations

Ms. Gallant directed the board's attention to the Dept of Law edits by the regulations attorney. She pointed out page 4, regulation 12 AAC 40.405. The attorney has a problem with the existing language of paragraph (a). Even though the board didn't want to change existing language, he felt it needed to be changed to match the physician regulation. The designee isn't supposed to have discretionary authority. He wants it changed to read "...the designee would approve the checklist." This has been removed from the project and will be added to a future project. This project will move forward, unless the board has objections, with regulation 12 AAC 40.405 removed. When this project is filed with the lieutenant governor's office, it will become law 30 days later.

Ms. Gallant further directed the board to the regulation changes which include FCVS and others. The project has gone out for public comment and none were received. [This project includes changes to regulations 12 AAC 40.010, 12 AAC 40.015, 12 AAC 40.017, 12 AAC 40.020, 12 AAC 40.955, 12 AAC 40.965, and 12 AAC 40.990.]

(Dr. Breffellh left the room and was not present for the motion.)

MOTION **PUCKETT moved to approve and move the regulation changes to the**
2nd **Department of Law.**
VOTE **DUDDY**
6 Yea votes (Head, Tsigonis, Puckett, Duddy, Hall, Tauriainen)
0 Nay votes
0 Abstentions

Dr. Head asked that investigation cases not be given to board members during meetings as it distracts the board members and they are unable to fully participate in the meeting.

Off the record at 12:10 pm; on the record at 1:20 pm.

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Roll Call

Present were:	David M. Head, MD, Chair	Nancy Puckett
	Robert A Breffeilh, MD	Michael J. Tauriainen
	John T. Duddy, MD	Jean M. Tsigonis, MD
	Edward A Hall, Pa-C	

Dr. Kevin Tomera was absent from the meeting.

Staff Members present were Linda Sherwood and Colleen Wilson, licensing examiners, and Leslie Gallant, the board's executive administrator. Visitors Robert Janik and Mr. Tom Dale

AGENDA ITEM 12 **Special Applications for Consideration**

TAB 7 **In the Matter of Scott Roissing, MD**

Dr. Roissing was present to meet with the board and discussion his application.

Dr. Head offered executive session to Dr. Roissing. Dr. Roissing declined the executive session.

Dr. Head explained that Dr Roissing had discipline during his post-graduate training. He noted that Dr. Duddy had reviewed the application initially.

Dr. Duddy asked Dr. Roissing to explain and clarify his application and the events that occurred during his residency training.

Dr. Roissing explained that during his post-graduate training he made a mistake and harassed another student. He acknowledged that he had sent inappropriate emails to the other resident involved and was suspended from the program for one month. He expressed regret for his actions. He has had no further problems.

MOTION	DUDDY moved to grant Scott Roissing, MD, a full and unrestricted license.
2nd	TAURIAINEN
VOTE	7 Yea votes (Head, Breffeilh, Duddy, Hall, Puckett, Tauriainen, Tsigonis)
	0 Nay votes
	0 Abstentions

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AGENDA ITEM 8 **In the Matter of Glenn S. Hartig, MD**

Dr. Head offered executive session to Dr. Hartig. Dr. Hartig requests executive session.

MOTION	BREFFEILH moved that in accordance with AS 44.62.310(c) (2), the board go into executive session for the purpose of discussing the matter of Dr. Glen Hartig, MD.
2nd	TAURIAINEN
VOTE	7 Yea votes (Head, Breffeilh, Duddy, Hall, Puckett, Tauriainen, Tsigonis)
	0 Nay votes
	0 Abstentions

Off the record 1:32 pm; on the record 1:50 pm.

MOTION PUCKETT moved to restore the license of Glenn Hartig, MD under the terms of a memorandum of agreement with the stipulation that he be monitored by the Investigations Unit for at least the first year.

2nd
VOTE BREFFEILH
7 Yea votes (Head, Breffellh, Duddy, Hall, Puckett, Taurialinen, Tsigonis)
0 Nay votes
0 Abstentions

Permission was given for an Anchorage board member to sign the memorandum of agreement.

Brian Howes entered the meeting at 1:50 pm.

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AGENDA ITEM 12 Special Applications for Consideration

In the Matter of Brenda K. Hinton, MD

Dr. Breffeilh asked if anyone thought Dr. Hinton's situation rose to the level of requiring an MOA. Following discussion, board members determine an MOA would not be necessary as Dr. Hinton seems to have good control over her situation.

MOTION BREFFEILH moved to grant Brenda Hinton, MD a full and unrestricted license.
2nd
VOTE TSIGONIS
7 Yea votes (Head, Breffellh, Duddy, Hall, Puckett, Taurialinen, Tsigonis)
0 Nay votes
0 Abstentions

In the Matter of Dag A. Jensen, MD

MOTION HALL moved to grant the license of Dag Jensen, MD under the terms of a memorandum of agreement with a civil fine and a reprimand.
2nd
VOTE BREFFEILH
7 Yea votes (Head, Breffellh, Duddy, Hall, Puckett, Taurialinen, Tsigonis)
0 Nay votes
0 Abstentions

In the Matter of Adaeze C. N. Okeke, MD

MOTION BREFFEILH moved to grant the license of Adaeze Okeke, MD under the terms of a memorandum of agreement as written.
2nd
VOTE HALL
6 Yea votes (Head, Breffellh, Duddy, Hall, Puckett, Taurialinen)
1 Nay vote (Tsigonis)
0 Abstentions

In the Matter of, Daron L. Scherr, MD

Ms. Gallant reported that she discussed with the Investigations Unit whether Dr. Scherr should be put under a memorandum of agreement similar to the one he has with Idaho. It was decided not to pursue that because the nature of the agreement was such that the violation would not have been considered a violation of law in Alaska.

Dr. Scherr requested that only a letter be given him so he won't have to report this incident of failure to disclose.

MOTION PUCKETT moved to grant the license of Daron Scherr, MD under the terms of the

2nd
VOTE

proposed memorandum of agreement as written.

BREFFELH

7 Yea votes (Head, Breffelh, Duddy, Hall, Puckett, Taurialnen, Tsigonis)

0 Nay votes

0 Abstentions

In the Matter of Otis A. Plunk, MD

Ms. Gallant explained that this case is similar to another failure to disclose case the board reviewed at the April meeting. Dr. Plunk failed to complete CME for Florida and never paid the civil fine. It was a non-disciplinary action in Florida but they reported him as being investigated. Dr. Plunk's situation is expanded in that the Iowa board issued him a warning letter following the Florida situation. This case differs from an earlier, similar one in that with the earlier case, the doctor failed to complete the CME, Dr. Plunk did complete the CME. Florida has specific requirements for the CME. Dr. Plunk completed the specified CME on the Internet but later, after submitting to the Florida board, he was informed that the CME he completed was out of date. Unlike the previous case he did pay the fine, redid the same CME, and complied with everything Florida required. He is currently licensed in both states.

MOTION

2nd

VOTE

TSIGONIS moved to grant a full and unrestricted license to Dr. Otis Plunk.

PUCKETT

7 Yea votes (Head, Breffelh, Duddy, Hall, Puckett, Taurialnen, Tsigonis)

0 Nay votes

0 Abstentions

Off the record 2:15 pm; on the record 2:28.

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AGENDA ITEM 10

Gary S. Gerlay, MD

Joining the meeting via teleconference were Administrative Law Judge Stanley and assistant attorney general Robert Auth.

Judge Stanley explained he would be the advisor to the board on this matter. It would be up to the board to decide if they want executive session for their deliberations. It is also the board's choice if it wishes to hear from Dr. Gerlay. If Dr. Gerlay is to speak about the proposed order and sanctions, then he must speak on the record. He cannot participate in any executive session deliberation of the board.

Dr. Head advised that the board would give Dr. Gerlay five minutes to speak and would also give assistant attorney general Mr. Auth the same amount of time to speak to the board.

Dr Gerlay explained his actions to the board and defended what he has done. He further asserted that "bad testimony" was made against him during the hearing. He asserted that:

- Practice involved chronic pain patients.
- Practice bad reputation when he bought it and no one wanted to work there.
- He didn't write prescriptions for patients he didn't see.
- He had chronic health issues that kept him up at night.
- He did fall asleep at work, but that was not related to drugs.
- Bad testimony was accepted by the board.
- He denied that any blood draws or blood testing were done in his office.

Dr. Gerley felt that because, when he took over the practice, he started reducing quantities of drugs that patients had been receiving. That created a lot of animosity.

He felt that he has been suspended for two years and that is enough; he would like to get back to work.

Mr. Auth pointed out that Dr. Gerlay chose not to testify at his own hearing; he was not sworn under oath and was not cross-examined, by his own choosing. The board should give no weight to his comments at this time. All testimony at the hearing was from Dr. Gerlay's patients and employees.

Mr. Auth stated that there are three major, disturbing patterns to Dr. Gerlay's practice of medicine. First, that he has a pattern of engaging in sexual relations with two patients and made lewd sexual comments to a third patient. The division believes that Dr. Gerlay was grooming that patient when the board intervened with a summary suspension. The second major problem area with his practice was his multiple prescribing violations. Both of Dr. Gerlay's girlfriends testified that he would write phony prescriptions for them, they would obtain the drugs, and then give the drugs to him. He also dispensed drugs without prescriptions, failed to maintain records, and prescribed controlled substances to patients without obtaining adequate histories and performing examinations. The third major problem with Dr. Gerlay is his suspected drug use. Several years ago, he did have a documented drug problem in another state and has a licensing action connected to that event. There was much testimony at the hearing about his ingesting pills and looking sleepy and inebriated. At the hearing in 2005, the board ordered Dr. Gerlay to undergo an evaluation to determine whether he did have illegal or improper drugs in his system. Dr. Gerlay defied that order and refused to be evaluated. He stated that he did not believe it would be proper for the board to grant leniency now to Dr. Gerlay when he has defied a board order to be evaluated.

With this pattern of conduct, the division has filed a briefing recommended that the administrative law judge and the board revoke Dr. Gerlay's license. That is still the division's position.

MOTION **DUDDY moved that in accordance with AS 44.62.310(c)(3), the board go into executive session for the purpose of discussing the matter of Dr. Gerlay.**
2nd **PUCKETT**
VOTE **7 Yea votes (Head, Breffeilh, Duddy, Hall, Puckett, Taurialinen, Tsigonis)**
 0 Nay votes
 0 Abstentions

All left room except board members, and Judge Stanley on teleconference.

Off record 2:55 pm; on record 3:49 pm.

In discussion a motion by Dr. Breffeilh, Dr. Head clarified that the drug testing would include at least two EtG tests and one hair test every two months.

Dr. Head advised Dr. Gerlay that one of the reasons the board is again requiring Dr. Gerlay to undergo an evaluation is that he did not do it back in 2005 when he was ordered by the Alaska board to have an evaluation.

Dr. Gerlay replied that he did not do it on the advice of his attorney. He also said that he did not testify at the hearing on the advice of his attorney.

MOTION **BREFFEILH moved to select option 3 which rejects the proposed decision under AS 44.62.500(c) and remands the case to the same or different hearing officer to receive additional information on the following issues:**
 1. that Dr Gerlay undergo a full psychiatric examination by a physician of the boards choosing;
 2. that supervised drug tests are to be done for 6 months at the patient's expense;
 3. those reports to be submitted to the administrative hearing officer for review and a new proposal will be offered to the board at that time.
2nd **TAURIAINEN**
VOTE **7 Yea votes (Head, Breffeilh, Duddy, Hall, Puckett, Taurialinen, Tsigonis)**
 0 Nay votes
 0 Abstentions

Dr. Head advised that it was the hope of the board that the judge's proposed decision will be ready by the January board meeting.

Judge Stanley confirmed that this is adequate time to complete the review of the new items.

Ms. Gallant asked if the board had selected a doctor to perform the evaluation. Dr. Head advised that since Dr. Dreiblatt is no longer practicing, a new person would need to be identified.

Ms. Gallant advised that Dr. Dreiblatt made a recommendation for someone and she will do some further checking on that person before scheduling.

Dr. Breffeilh suggested the possibility of finding someone in New Mexico. Ms. Gallant will look into that also.

Dr. Gerlay expressed his concern about the hair tests because he had a hip replacement in December 2006 and he did take pain medications at that time.

Dr. Head advised Dr. Gerlay that he should get with the board's staff and they will identify the person(s) who will do the evaluation; hopefully they can find someone in New Mexico. If not, it will be someone to whom the board refers him for the evaluation. He explained that option three of the proposed decision that the board selected directs the case to be remanded back to the judge for the consideration of additional evidence. The evaluations will be the additional evidence.

Dr. Gerlay stated that he has evidence to present that he was out of the country when one of the alleged victims said events occurred.

Dr. Head advised him to address that issue with the judge.

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Investigator Brian Howes requested the board go into executive session.

MOTION	TAURIAINEN moved that, in accordance with AS 44.62.310(c)(2)and (3), the board go into executive session for the purpose of discussing subpoena requests.
2nd VOTE	BREFFEILH
	7 Yea votes (Head, Breffeilh, Duddy, Hall, Puckett, Tauriainen, Tsigonis)
	0 Nay votes
	0 Abstentions

Off record 4:02 pm; on record 4:23pm.

The meeting recessed at 4:24 pm.

Friday July 20, 2007

CALL TO ORDER

The meeting resumed on the record at 9:06 am.

ROLL CALL

Present were:

David M. Head, MD, Chair
Robert A Breffeilh, MD
John T. Duddy, MD
Edward A Hall, Pa-C

Nancy Puckett
Michael J. Tauriainen
Jean M. Tsigonis, MD

Dr. Kevin Tomera was absent from the meeting.

Staff Members present were Linda Sherwood and Colleen Wilson, licensing examiners, and Leslie Gallant, the board's executive administrator.

Visitors Robert Janik and Tim Pampusch were also present.

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AGENDA ITEM 11 Co-Management of Post-Operative Patients

Ms. Gallant directed the board members to section 11, tab 3, of the board book, a single page email from between Michael Leavitt and her. Paragraph 14 is his proposed regulation language. She gave the proposed language to one of the assistant attorney generals who works with regulations and he said it will not pass review. The language referencing "health professional shortage area designation criteria" will not be accepted. The board will need to use plain language saying when it is acceptable to get co-management and when it is not. Assistant attorney general Bob Auth believes language already exists in the unprofessional conduct regulation to cover the problem, but the ophthalmologists would like more specific language.

Joining the meeting via teleconference were Dr. Carl Rosen, ophthalmologist in Anchorage, and Michael Leavitt and Dr. Sinetti with the American Academy of Ophthalmology.

Dr. Rosen stated that this primarily involves ophthalmology, cataract surgery and laser surgery. He stated that it does occur with internists and with ENT docs who go out to the rural areas. They leave the post-surgical care to the local family practice doctors.

Dr. Head stated that the board is not aware of any place where post-surgical care is being delegated to a PA or other mid-level; it is always turned over to a physician. The reason this is important is that the board is trying to write the regulation in such a way that it does not impact the care being provided around the state.

Dr. Rosen agreed and stated that the language being proposed does allow for exceptions and that it is the more populated areas that the AAO is concerned about. [Their proposed regulatory language was in the board books.]

Dr. Head advised that the board will try to stay away from defining 'rural' or 'underserved area.' The board is looking at using language that would require that post-surgical care could only be delegated to another physician (MD or DP).

Dr. Head asked if anyone knew of any place in the state where post-surgical care was being delegated to a mid-level. No one was aware of such a circumstance.

Mr. Tauriainen asked, in the past five years, how many patients have suffered harm from this practice.

Dr. Rosen did not have exact numbers but he said it happens regularly that patients must go to the emergency room and be seen by local ophthalmologists because of complications they have suffered. Patients are being harmed.

Dr. Head noted that the reason that patients are not being harmed more is that the local physicians are stepping in and providing the needed care, mopping up the problems of the doctors who do not stay to provide care to their own patients.

Dr. Sinetti stated that the issue is not that the surgery being performed is substandard; the issue is that complications arise and must be dealt with immediately. When the surgeon is not there, someone else must step in and provide care. The extended issue is that because of the delegation of this care to mid-levels, those mid-levels go to their legislature and tell them that they are responsible for these patients

and they need more expanded scopes of practice; e.g., the use of narcotics, the use of injections, the use of antibiotics because they have to take care of these problems.

Dr. Rosen restated the problem: the surgeon comes into the state, performs over 1400 surgeries at a surgery center, and leaves the mid-level people to manage the patients aftercare.

Mr. Hall asked if they are referring to mid-levels as optometrists. He explained that PA who works with an ophthalmologist could get hospital privileges and practices within the scope of their collaborating physician's specialty.

Dr. Sinetti clarified that a physician assistant is directly supervised by a physician, unlike the relationship between the optometrist and the outside physician.

Mr. Tauriainen asked about compensation for physicians who take call. Dr. Rosen explained that physicians who take call do not get paid for that service.

Head propose that the regulation read:

"After performing surgery, failed to continue care of their surgical patients through a 72 hour post-surgical recovery and healing period by designating postoperative management to health care practitioners who are not medical or osteopathic physicians."

Dr Rosen and Michael Leavitt agreed with the proposal.

Dr. Head commented that the legal folks may want to make a revision that makes it clear that mid-levels are still able to round on patients and help manage post-surgical care of patients.

Mr. Tauriainen felt that the board is writing this regulation for one physician.

Ms. Gallant advised this situation has not involved only one surgeon; one of the biggest cases in the Alaska board's history involved a surgeon who routinely left the care of his post-surgical patients in the care of another doctor who was not in the same specialty and was not qualified to care for those patients.

MOTION	BREFFELH moved for proposed regulatory changes to unprofessional conduct regulation 12 AAC 40.967 (8), new subparagraph (A) to read "After performing surgery, failed to continue care of their surgical patients through a 72-hour post-surgical recovery and healing period by designating postoperative management to health care practitioners who are not medical or osteopathic physicians."
2nd VOTE	DUDDY 7 Yea votes (Head, Breffelh, Duddy, Hall, Puckett, Tauriainen, Tsigonis) 0 Nay votes 0 Abstentions

Ms. Gallant explained that this will be combined with another regulation project.

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AGENDA ITEM 12 Special Applications for Consideration

In the Matter of Richard T. Rougeux, MD

Dr. Head explains and offers executive session. Dr Rougeux requests executive session.

MOTION **DUDDY moved that, in accordance with AS 44.62.310(c)(2), the board go into**

2nd
VOTE

executive session for the purpose of discussing the application of Richard Rougeux.

TAURIAINEN

7 Yea votes (Head, Breffellh, Duddy, Hall, Puckett, Tauriainen, Tsigonis)

0 Nay votes

0 Abstentions

Off the record 9:57 am; on the record 10:12 am.

MOTION **TSIGONIS** moved grant license to Richard T. Rougeux, MD, with a memorandum of agreement to include quarterly visits with his treating physician with semi-annual reports to the board by his treating physician in New Mexico. If Dr. Rougeux moves to Alaska he would be expected to establish a relationship with an Alaskan physician.

2nd

VOTE

HALL

7 Yea votes (Head, Breffellh, Duddy, Hall, Puckett, Tauriainen, Tsigonis)

0 Nay votes

0 Abstentions

The board chair agreed that the memorandum of agreement can be signed by an Anchorage board member.

Dr. Duddy left the meeting 10:16 am and returned at 10:17 am.

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NEW AGENDA ITEM In the Matter of Alan Bree, PA-C

Ms. Gallant gave the board a summary of Mr. Bree's application:

- At the last meeting granted temporary permit pending a letter from his treating physician;
- The physician's letter has not been received;
- He did not disclose his health issues in the application. He responded 'no' to all the personal history questions in the application. His issues only came out during the board interview.
- When he applied for employment in Anchorage, he tested positive for THC.
- The drug test report is being subpoenaed.

MOTION

BREFFELH moved to deny the application of Alan Bree, PA-C based on
- 08.64.240 (A) (4) failure to comply with a board request
- 12 AAC 40.967 (18)(B) unprofessional conduct/illegal drug use
- 12 AAC 40.967 (2) (A) failure to disclose material information to obtain a license

2nd

VOTE

TAURIAINEN

7 Yea votes (Head, Breffellh, Duddy, Hall, Puckett, Tauriainen, Tsigonis)

0 Nay votes

0 Abstentions

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NEW AGENDA ITEM In the Matter of Joseph M. Mack, MD

Ms. Gallant gave a summary of Dr. Mack's application:

- He is a diagnostic radiologist;
- He is licensed in other states. There are four licenses that he did not disclose but those were granted after his application date.
- He received a warning letter from his post-graduate program on June 30, 2006.
- His violation was that he left a six-week training program three weeks early.

- He was reprimanded, prohibited from applying to fellowship programs, and required to attend an ethics program by his program. She confirmed that he did attend the ethics class.

Dr. Head asked the board if they wanted a full board interview. He felt it would not change the outcome of their decision. No one felt they needed an interview.

MOTION **BREFFELH moved to grant a free and unrestricted license to Joseph Mack, MD**
2nd **Hall**
VOTE **7 Yea votes (Head, Breffelh, Duddy, Hall, Puckett, Tauriainen, Tsigonis)**
 0 Nay votes
 0 Abstentions

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NEW AGENDA ITEM **In the Matter of Robert J. Boucek, MD**

Ms. Gallant explained that the investigations unit found they needed to amend the memorandum of agreement with Dr. Boucek due to an error in the original document. The board is being asked to approve the amended document.

MOTION **TAURIAINEN moved to accept the amended memorandum of agreement.**
2nd **HALL**
VOTE **7 Yea votes (Head, Breffelh, Duddy, Hall, Puckett, Tauriainen, Tsigonis)**
 0 Nay votes
 0 Abstentions

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NEW AGENDA ITEM **In the Matter of Author Castagno, MD**

At 10:39 am, Ms. Puckett left the meeting briefly and returned at 10:44 am.

Ms. Gallant explained that Dr. Castagno was diagnosed with depression. He works for a virtual radiology company and is not moving to Alaska.

Dr. Head would like a letter from his treating physician. His major problems are very recent and it is possible they are not resolved yet; he may not be stable yet.

Ms. Gallant stated that the board has a letter from his physician and she has spoken with him.

MOTION **BREFFELH moved and amended his motion to grant to Dr. Arthur Castagno temporary permit until the October 25-26, 2007 board meeting and request that he appear at the meeting for a full board interview. The permit can be extended if he is unable to attend the October meeting. The board also requests a current report from his treating physician.**
2nd **PUCKETT and accepted the amendment to the motion**
VOTE **7 Yea votes (Head, Breffelh, Duddy, Hall, Puckett, Tauriainen, Tsigonis)**
 0 Nay votes
 0 Abstentions

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AGENDA ITEM 15 **License Application Review**

Board members reviewed the application files.

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AGENDA ITEM 14

Meeting Schedule

The following schedule for the 2008 Alaska State Medical Board Meetings was approved.

January 24 - 25, 2008	Anchorage	July 24 - 25, 2008	Dillingham
April 10 -11, 2008	Juneau	October 23 - 24, 2008	Anchorage

Mr. Tauriainen suggested having the January meeting in Wasilla. Other board members agreed so the meeting schedule will be changed to reflect that the October meeting will be held in Wasilla.

MOTION **TAURIAINEN moved to have the January 2008 meeting at the Mat-Su hospital.**
2nd **TSIGONIS**
VOTE **7 Yea votes (Head, Breffellh, Duddy, Hall, Puckett, Tauriainen, Tsigonis)**
 0 Nay votes
 0 Abstentions

Off the record at 12:07 pm; on the record 1:31 pm.

Present were:	David M. Head, MD, Chair	Nancy Puckett
	Robert A Breffellh, MD	Michael J. Tauriainen
	John T. Duddy, MD	Jean M. Tsigonis, MD
	Edward A Hall, Pa-C	

Dr. Kevin Tomera was absent from the meeting.

Staff Members present were Linda Sherwood and Colleen Wilson, licensing examiners, and Leslie Gallant, the board's executive administrator.

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PUBLIC COMMENT FORUM

The board connected to the teleconference that had been arranged for public comment forum but no callers connected to the call nor did anyone present in person at the meeting to speak.

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AGENDA ITEM 15

License Application Review

MOTION **TAURIAINEN moved to approve the following physicians for licensure in Alaska:**

Alexander, John Edward	Jamous, Abdulasalam
Ariz, Charles	Jessup, David Blackwell
Babb, Terrence Elliott	Johnson, Katherine Elizabeth
Baker, Thomas Edward	Johnson III, Raleigh Francis
Baumgartner, Jennifer Matthews	Jones, Noah Jesse
Behrndt, Valerie Jean	Khan, Aman Ullah
Bennett III, Andrew	Koeller, David Martin
Botson, John Kenneth	Latham, Ricky Dwayne
Boyum, Jon Daniel	Little, III, John Wesley
Brick, Steven Howard	Michel, Eduard
Buetow, Peter Christopher	Millan, Juan Alejandro
Buetow, Stephen John	Naylor, Katherine Lynn

Burkholz, Kimberly Joyce
 Burman, Harrison Emory Guy
 Butler, Jaime Kristin
 Carpenter, Kenneth Dan
 Carrigan, William Thomas
 Caylor, Mark Todd
 Caylor, Tonya Lee
 Cloutier, Charles Garrison
 Copass, Michael Keys
 Cork, Randall Charles
 Devers, Allison Lee
 Dressel, Laura Erin
 Ellemberger, Herman Roy
 Faliszek, James Edward
 Franklin, Jonathan Turner
 Graber, John Daniel
 Guerzon, Robert S
 Gulizia, James Martin
 Haghighi, Douglas Badie
 Head, Linda Suzanne
 Heid, Gretchen Kristen Ela
 Hilt, Robert John
 Howell, Nicole Renee
 Hynes, Melissa Ann

Novins, Douglas Keith
 Paul, Marc Howard
 Peters, Donald Roy
 Philip, Shailendri Eswar-Rao
 Reed, Christopher Mark
 Reese, Catherine Elaine
 Reiley, Thomas Trevor
 Riter, Benjamin Dean
 Robinson, Jeffrey David
 Ruinick, Adam David
 Sanzenbacher, Larry James
 Shaw, II, John Austin
 Shore, James Henry
 Spencer, Roberto Rafael
 Stella, John Phillip
 Talaga, Ronald Norbert
 Topliff, Andrew Ross
 Tung, Chia-Ling
 Varallo, John Edward
 Wang, Andrea Susan
 Wargula, Jennifer Carrie
 Warren, Angus McRae
 Woller, Heather Lea
 Zapawa, Jeffrey Edward

2nd
 VOTE

BREFFEILH
 7 Yea votes (Head, Breffellh, Duddy, Hall, Puckett, Tauriainen, Tsigonis)
 0 Nay votes
 0 Abstentions

MOTION

TAURIAINEN moved to approve the following physicians for licensure in Alaska pending completion of their application files:

Janson, Stephen Randle
 Kantorowitz, David Abraham
 Martindale, Madeleine Rebecca
 Naylor, John Grant
 Strel, Jr., Robert Paul

2nd
 VOTE

BREFFEILH
 7 Yea votes (Head, Breffellh, Duddy, Hall, Puckett, Tauriainen, Tsigonis)
 0 Nay votes
 0 Abstentions

MOTION

TAURIAINEN moved to approve the following doctors of osteopathy for licensure in Alaska:

Anderson, Paula Elizabeth
 Burden, Kyland Irlie
 Freed, Cindy Maree
 Hyla, Michelle Leigh
 Imperato, Crystal Jean
 Majors, Carolyn Cristine
 Reynolds, Daniel Fielding
 Wang, Neil Pey-Ning

2nd
 VOTE

BREFFEILH
 7 Yea votes (Head, Breffellh, Duddy, Hall, Puckett, Tauriainen, Tsigonis)
 0 Nay votes

0 Abstentions

MOTION TAURIAINEN moved to approve the following doctor of osteopathy for licensure in Alaska pending completion of his application file:
Possehn, Daniel Russell

2nd VOTE BREFFEILH
7 Yea votes (Head, Breffelh, Duddy, Hall, Puckett, Tauriainen, Tsigonis)
0 Nay votes
0 Abstentions

MOTION TAURIAINEN moved to approve the following mobile intensive care paramedics for licensure in Alaska:

	Babcock, Daniel M.	Kenny, Heidi
	Craig, Michael	Lawyer, Julia Anne
	Cruse, Travis Edward	Rustan, Peter Cary
2nd VOTE	7 Frisby, Anne	Skoff, Sara Wynn
Yea votes (Head, Breffelh, Duddy, Hall, Puckett, Tauriainen, Tsigonis)	Hebrilee Jr., James	Turner, Traye J.
	0 Nay votes	
	0 Abstentions	

MOTION TAURIAINEN moved to approve the following physician assistants for licensure in Alaska:

	Brittill, Barbara Mary	Miller, Richard Dale
	Froiland, Christina Mary	Morgan, Royce Alan
	Gaines, Tangela Melba	Timmons, Sean Michael
	Jones, Michael David	Walker, Norman Lee
	Komulainen, Anne Anttila	Weight, Melissa Lynn
2nd VOTE	BREFFEILH	
	7 Yea votes (Head, Breffelh, Duddy, Hall, Puckett, Tauriainen, Tsigonis)	
	0 Nay votes	
	0 Abstentions	

MOTION TAURIAINEN moved to approve new collaborative plans for the following physician assistants:

	Barnes, Jacquelyn	Masslofsky, Anthony Paul
	Bosshart, Cora Sue	Ok, Tae Duk
	Brittill, Barbara Mary	Parrott, Beverly Faythe
	Chan, Cynthia	Plymire, Rebecca Dawn
	Day, Kelly A	Sandquist, Kent Michael
	Glofelty, Bethany Crittendon	Simm, Kendell Ann
	Goniotakis, Steven T	Stramecky, Christopher Michael
	Gwayi-Chore, Mary Owenga	Trotter, Robert C.
	Hampton, Craig Scott	Wagendorf, Tina Jean Smith (2)
	Jakiemiec, Kristine Marie	
2nd VOTE	BREFFEILH	
	7 Yea votes (Head, Breffelh, Duddy, Hall, Puckett, Tauriainen, Tsigonis)	
	0 Nay votes	

0 Abstentions

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MOTION
2nd
VOTE

TAURIAINEN moved to adjourn the meeting of the Alaska State Medical Board.
PUCKETT
7 Yea votes (Head, Breffelh, Duddy, Hall, Puckett, Taurainen, Tsigonis)
0 Nay votes
0 Abstentions

Respectfully submitted:

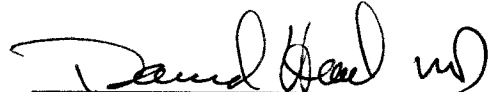
Approved:



Leslie A. Gallant
Executive Administrator
Alaska State Medical Board

26 Oct 2007

Date



David M. Head, MD
Chair
Alaska State Medical board

10/26/07

Date