

**MEDICAL EXAMINING BOARD  
MEETING MINUTES  
APRIL 24, 2013**

**PRESENT:** James Barr; Gene Musser, MD; Kenneth Simons, MD; Greg Collins; Sheldon Wasserman, MD; Timothy Westlake, MD (*arrived at 10:00 a.m.*); Timothy Swan, MD (*arrived at 8:20 a.m.*); Mary Jo Capodice, DO; Russell Yale, MD

**ABSENT:** Sridhar Vasudevan, MD; Jude Genereaux; Rodney Erickson, MD; Suresh Misra, MD

**STAFF:** Tom Ryan, Executive Director; Matthew C. Niehaus, Bureau Assistant; and other Department Staff

**CALL TO ORDER**

Dr. Sheldon Wasserman, Chair, called the meeting to order at 8:07 a.m. A quorum of seven (7) members was present.

**ADOPTION OF AGENDA**

- **Item O (open session) – ADD “O. Board Retreat Planning”**
- **Item Y (closed session) – ADD “Y.2 Petition for Alcohol and Other Drug Abuse Assessment in the Matter of Case Number 11 MED 147 – Daniel T. Cabot, D.O.”**

**MOTION:** Mr. Jim Barr moved, seconded by Dr. Kenneth Simons, to adopt the agenda as amended. Motion carried unanimously.

**APPROVAL OF MINUTES OF MARCH 20, 2013**

**MOTION:** Mr. Jim Barr moved, seconded by, Dr. Kenneth Simons, to approve the minutes of March 20, 2013 as published. Motion carried.

*Dr. Gene Musser abstained from voting in the matter of approval of the minutes.*

**EXECUTIVE DIRECTOR MATTERS**

**Spring Newsletter Content Review**

**MOTION:** Dr. Greg Collins moved, seconded by Dr. Kenneth Simons, to approve the Spring Newsletter as amended and to designate Dr. Sheldon Wasserman to approve the final draft of the Spring Newsletter on behalf of the Board. Motion carried unanimously.

## **DISCUSSION AND CONSIDERATION OF CONTINUING EDUCATION AUDIT**

**MOTION:** Dr. Kenneth Simons moved, seconded by Dr. Timothy Swan, that the Department conduct an audit on continuing education credits every two years effective immediately. Motion carried unanimously.

**MOTION:** Dr. Kenneth Simons moved, seconded by Dr. Russell Yale, to request DSPS staff draft a Scope Statement to address continuing education audits. Motion carried unanimously.

## **CONSIDERATION OF THE FSMB REQUEST FOR DR. KENNETH SIMONS TO SERVE AS CHAIR OF FSMB COMMITTEE**

**MOTION:** Dr. Timothy Swan moved, seconded by Dr. Gene Musser, to approve Dr. Kenneth Simons' participation as chair of the FSMB telemedicine committee. Motion carried.

*Dr. Kenneth Simons abstained from voting in the matter of the FSMB Request for Dr. Kenneth Simons to Serve as Chair of FSMB Committee.*

**MOTION:** Dr. Kenneth Simons moved, seconded by Dr. Timothy Swan, to approve Dr. Gene Musser to continue to serve on the FSMB education committee. Motion carried unanimously.

## **REQUEST FOR SPEAKER – WISCONSIN SOCIETY OF HEALTH CARE RISK MANAGEMENT – APRIL 26**

**MOTION:** Dr. Kenneth Simons moved, seconded by Dr. Timothy Swan, to designate Dr. Sheldon Wasserman as the Board's representative to speak at the Wisconsin Society of Health Care Risk Management Presentation on April 26, 2013. Motion carried unanimously.

## **SPEAKING ENGAGEMENTS**

**MOTION:** Dr. Kenneth Simons moved, seconded by Dr. Gene Musser, to designate Dr. Sheldon Wasserman as the Board's representative to speak at the Medical College of Wisconsin graduating class PFI course on in May, 2013. Motion carried unanimously.

**MOTION:** Dr. Gene Musser moved, seconded by Dr. Kenneth Simons, to approve a Board Member to serve as speaker at the patient family and society medical class at UW-Madison. Motion carried unanimously.

**MOTION:** Dr. Gene Musser moved, seconded by Dr. Russell Yale, to designate Mary Jo Capodice as the Board's representative to speak at Central States Occupation and Environmental Medical Association in Milwaukee on September 20, 2013. Motion carried unanimously.

## LEGISLATIVE/ADMINISTRATIVE RULE MATTERS

**MOTION:** Dr. Kenneth Simons moved, seconded by Dr. Gene Musser, to approve the changes to MED 10 as amended. Motion carried unanimously.

**MOTION:** Dr. Timothy Swan moved, seconded by Dr. Timothy Westlake, to adopt the following for the definition of inadequate supervision:  
“Inadequate supervision. For the purposes of this section, to adequately supervise, a physician should be competent to perform the act in question, and must have reasonable evidence that the supervised individual is minimally competent to perform the act under the circumstances.”  
Definitions 1, 3, 4, and 5 in section 10.02 will be deleted.  
Motion carried unanimously.

**MOTION:** Dr. Kenneth Simons moved, seconded by Dr. Gene Musser, to adopt the following as the definition of patient abandonment:  
“Patient abandonment occurs when a physician without reasonable justification unilaterally withdraws from a physician-patient relationship by discontinuing a patient’s treatment regimen when further treatment is medically indicated and any of the following occur:

1. The physician fails to give the patient at least thirty (30) days’ notice in advance of the date on which the physician’s withdrawal becomes effective.
2. The physician fails to allow for patient access to or transfer of the patient’s health care record as required by law.
3. The physician fails to provide for continuity of prescription medications between the notice of intent to withdraw from the physician-patient relationship and the date on which the physician-patient relationship ends, if the prescription medications are necessary to avoid unacceptable risk of harm.
4. The physician fails to provide for emergency care during the period between the notice of intent to withdraw from the physician-patient relationship and the date on which the physician-patient relationship ends. Nothing in this section shall be interpreted to impose upon the physician a greater duty to provide emergency care to a patient than otherwise required by law.”

Motion carried unanimously.

## SCREENING PANEL REPORT

Ms. Jude Genereaux reported via e-mail that forty-one (41) cases were reviewed. Twenty (20) cases were opened. Four (4) ten day letters were sent.

## CLOSED SESSION

**MOTION:** Dr. Kenneth Simons moved, seconded by Dr. Gene Musser, to convene to closed session pursuant to Wisconsin State statutes 19.85(1)(a)(b)(f) and (g) for the purpose of conducting appearances, reviewing monitoring requests, requests for licensure, deliberate on stipulations, administrative warnings, proposed decisions and orders, consulting with Legal Counsel and Division of Legal Services and Compliance case status reports. Dr. Sheldon Wasserman read the language of the motion. The vote of each member was ascertained by voice vote. James Barr-yes; Gene Musser, MD – yes; Russell Yale, MD-yes; Greg Collins-yes; Timothy Westlake, MD-yes; Timothy Swan, MD-yes; Kenneth Simons, MD-yes; Mary Jo Capodice, DO-yes; and Sheldon Wasserman, MD-yes. Motion carried unanimously.

The Board convened into Closed Session at 12:02 p.m.

## CREDENTIALING MATTERS

*Dr. Suresh Misra joined the meeting by teleconference at 12:15 p.m.*

**MOTION:** Dr. Gene Musser moved, seconded by Dr. Timothy Westlake, to grant Yücel Yankol, M.D.'s request for licensure. Motion failed for lack of required number of votes.

*Dr. Suresh Misra left the meeting at 12:40 p.m.*

**MOTION:** Dr. Timothy Swan moved, seconded by Mr. Greg Collins, to issue an intent to deny in the matter of Yücel Yankol, M.D.'s request for licensure as visiting professor. The Board requests that Applicant provide documentary evidence of noteworthy attainment in a specialized field of medicine within 45 days. Motion carried unanimously.

**MOTION:** Dr. Timothy Westlake moved, seconded by Dr. Mary Jo Capodice, to find that Esin Çakmakçı Midia, M.D.'s post-graduate training is equivalent to a year of ACGME accredited training and grants a license after all other requirements are met. Motion carried.

*Dr. Kenneth Simons abstained from deliberation and voting in the matter of Esin Çakmakçı Midia.*

## MONITORING MATTERS

**MOTION:** Dr. Timothy Westlake moved, seconded by Dr. Russell Yale, to grant the request of Dale Thomas Bertram, M.D. for removal of limitations and grant full licensure. Motion failed.

**MOTION:** Dr. Timothy Swan moved, seconded by Dr. Kenneth Simons, to limit the license of Donald Eugene Riemer, M.D. with the following terms and conditions:

- 1) Dr. Riemer may not engage in the practice of medicine until such time as he is compliant with Board Order.
- 2) Dr. Riemer may not engage in independent practice.
- 3) Dr. Riemer may not practice without direct face-to-face supervision.
- 4) Dr. Riemer must complete the SPEX with a passing score.

The Board designates the Chair as the Board's representative to review and sign the modified Order on behalf of the Board. Motion carried unanimously.

**MOTION:** Dr. Russell Yale moved, seconded by Dr. Kenneth Simons, to refer the matter of Donald Eugene Riemer, M.D. to DLSC for consideration as a violation of Board Order and possible summary suspension proceedings, if appropriate. The Board designates the Chair to select the Board representatives in any summary suspension proceedings. Motion carried unanimously.

### **DELIBERATION OF PETITION FOR REVIEW OF ORDER DENYING MOTION FOR SUMMARY JUDGMENT IN CASE NUMBER 12 MED 140, PERI L. ALDRICH, M.D.**

**MOTION:** Dr. Gene Musser moved, seconded by Dr. Kenneth Simons, that the Board has jurisdiction to consider the petition. The Board denies the petition for review of order denying motion for summary judgment in case number 12 MED 140, Peri L. Aldrich, M.D. Motion carried unanimously.

### **PROPOSED STIPULATION AND ORDER FOR DISMISSAL (WITHOUT PREJUDICE) IN THE MATTER OF CASE NUMBER 11 MED 123, PERI L. ALDRICH, M.D.**

**MOTION:** Dr. Gene Musser moved, seconded by Dr. Russell Yale, to issue the order for dismissal, without prejudice. Motion carried.

*Dr. Sheldon Wasserman left the room at 2:10 p.m. and abstained from voting in the matter of order for dismissal (without prejudice) for case number 11 MED 123. Dr. Kenneth Simons acted as Chair.*

*Dr. Sheldon Wasserman returned to the room at 2:15 p.m.*

**PETITION FOR ALCOHOL AND OTHER DRUG ABUSE ASSESSMENT IN THE  
MATTER OF CASE NUMBER 11 MED 147 – DANIEL T. CABOT, D.O.**

**MOTION:** Dr. Kenneth Simons moved, seconded by Mr. Jim Barr, to find that the results of an alcohol and other drug abuse assessment may be useful to the Board at hearing where the issues include a determination of whether the Respondent, Daniel T. Cabot, D.O. presents a risk of harm to patients and, if so, possible discipline to protect the public and rehabilitate the Respondent. The Board therefore grants the Petition for an Alcohol and Other Drug Abuse Assessment pursuant to Wis. Stat. sec. 448.02(3)(b) and orders such assessment on the terms set forth in the proposed Order. Motion carried unanimously.

**DELIBERATION OF PROPOSED STIPULATIONS AND FINAL DECISIONS AND  
ORDERS**

**MOTION:** Dr. Kenneth Simons moved, seconded by Mr. Jim Barr, to adopt the Findings of Fact, Conclusions of Law, Final Decision and Order in the disciplinary proceedings against Michael J. Panzer, M.D. (11 MED 312.) Motion carried unanimously.

**MOTION:** Dr. Kenneth Simons moved, seconded by Dr. Gene Musser, to adopt the Findings of Fact, Conclusions of Law, Final Decision and Order in the disciplinary proceedings against Barbara G. Nelson, M.D. (12 MED 418.) Motion carried unanimously.

## **DELIBERATION OF ADMINISTRATIVE WARNINGS**

**MOTION:** Dr. Timothy Westlake moved, seconded by Mr. Greg Collins, to issue an administrative warning in the matter of case number 12 MED 230. Motion carried unanimously.

**MOTION:** Mr. Greg Collins moved, seconded by Dr. Timothy Westlake, to issue an administrative warning in the matter of case number 12 MED 419. Motion carried.

*Dr. Sheldon Wasserman abstained from voting in the matter of case number 12 MED 419. Dr. Kenneth Simons acted as Chair.*

**MOTION:** Dr. Kenneth Simons moved, seconded by Mr. Greg Collins, to issue an administrative warning in the matter of case number 12 MED 436. Motion carried.

*Dr. Sheldon Wasserman abstained from voting in the matter of case number 12 MED 419. Dr. Kenneth Simons acted as Chair.*

**MOTION:** Dr. Kenneth Simons moved, seconded by Dr. Russell Yale, to issue an administrative warning in the matter of case number 13 MED 021. Motion carried.

*Dr. Timothy Westlake recused himself from deliberation and voting in the matter of case number 13 MED 021.*

## **CASE CLOSINGS**

*Dr. Gene Musser left the meeting at 2:25 p.m.*

**MOTION:** Dr. Timothy Westlake moved, seconded by Dr. Timothy Swan, to close the case #12 MED 168 for No Violation (NV). Motion carried unanimously.

**MOTION:** Dr. Timothy Swan moved, seconded by Dr. Kenneth Simons, to close the case #12 MED 372 for No Violation (NV). Motion carried unanimously.

**MOTION:** Dr. Timothy Westlake moved, seconded by Dr. Russell Yale, to close the case #12 MED 414 for No Violation (NV). Motion carried unanimously.

**MOTION:** Dr. Kenneth Simons moved, seconded by Dr. Timothy Swan, to close the case #12 MED 328 for Prosecutorial Discretion (P2). Motion carried unanimously.

**MOTION:** Dr. Kenneth Simons moved, seconded by Mr. Jim Barr, to close the case #12 MED 170 for Insufficient Evidence (IE). Motion carried unanimously.

## **RATIFY ALL LICENSES AND CERTIFICATES**

**MOTION:** Dr. Kenneth Simons moved, seconded by Dr. Timothy Swan, to ratify all licenses and certificates as issued. Motion carried unanimously.

## **RECONVENE TO OPEN SESSION**

**MOTION:** Dr. Kenneth Simons moved, seconded by Dr. Timothy Swan, to reconvene into open session. Motion carried unanimously.

The Board reconvened into Open Session at 2:39 p.m.

## **VOTE ON ITEMS CONSIDERED OR DELIBERATED UPON IN CLOSED SESSION, IF VOTING IS APPROPRIATE**

**MOTION:** Dr. Kenneth Simons moved, seconded by Dr. Timothy Swan, to affirm the motions made in closed session regarding Yücel Yankol, M.D. Motion carried unanimously.

**MOTION:** Dr. Kenneth Simons moved, seconded by Dr. Timothy Swan, to affirm all other motions made in closed session. Motion carried unanimously.

## **ADJOURNMENT**

**MOTION:** Dr. Kenneth Simons moved, seconded by Dr. Timothy Swan, to adjourn the meeting. Motion carried unanimously.

The meeting adjourned at 2:41 p.m.