

**BOARD OF MEDICAL EXAMINERS
ADJUDICATION PANEL MEETING
301 SOUTH PARK
4th FLOOR CONFERENCE ROOM
HELENA, MT
JANUARY 20, 2012
OPEN SESSION MINUTES
9:23 A.M. TO CONCLUSION**

AMERICANS WITH DISABILITIES ACT: The Department of Labor & Industry is committed to providing meeting access through reasonable accommodation under the Americans with Disabilities Act. Please contact the Board office prior to the proposed meeting date for further information.

PUBLIC COMMENT STATEMENT/PRIVACY STATEMENT:

In accordance with 2-3-103(1), MCA, the Board will hold a public comment period. Please note that Open Forum is the public's opportunity to address the Board on any topic that is not already on the agenda for this meeting. While the Board cannot take action on the issues presented, the Board will listen to comments and may ask that the issue be placed on a subsequent agenda for possible action by the Board. The Chairperson of the Board will determine the amount of time allotted for public comment.

MEMBERS PRESENT: Kristin Spanjian, M.D., Chair; Eileen Sheehy, Public Member; and Ryan Burke EMT-P; Bruce Hayward, D.O.; Nathan Thomas, DPM and Tanja Brekke, Acupuncturist

MEMBERS ABSENT: Carol Erickson, Public Member, and Dwight Thomas PA

STAFF PRESENT: Anne O'Leary, Board Counsel; Michael Fanning, Department Counsel; Ian Marquand, Executive Secretary; L'Joy Greibenow, Program Specialist; and LaVelle Potter, Compliance Specialist

CALL TO ORDER/QUORUM: Dr. Spanjian called the meeting to order at 9:25 a.m. Roll was called and a quorum of the Adjudication Panel was established.

REVIEW OF AGENDA:

Dr. Spanjian had an Adjudication Panel book with only one case in it. Ms. Potter polled the panel to see how many members had five cases in their books. Dr. Hayward, Ms. Brekke, Mr. Burke, and Ms. Sheehy had read the five cases in their books. Dr. Thomas did not have his book.

Ms. O'Leary suggested she go over the cases in detail, providing the facts and the terms of the Notices and Stipulations so that Dr. Spanjian would be provided with an oral recitation of the board book materials, have an understanding of the cases, and thus be able to vote.

MOTION 1: Dr. Hayward moved for the panel to adopt the agenda as presented. Mr. Burke seconded the motion. The motion passed unanimously.

FYI – COMPLAINT REGISTER: No discussion.

APPROVAL OF MINUTES FROM OCTOBER 7, 2011 MEETING:

The minutes of October 7, 2011 will be approved at the March 16, 2012 meeting.

DISCUSSION OF COMPLAINTS:

1. 2010-079-MED In the matter of the proposed disciplinary treatment of the license of EMILIO CRUZ III MD License No. 11130.

Ms. O'Leary reviewed the Factual Assertions of the Notice of Proposed Board Action and Opportunity for Hearing to the Adjudication Panel, as well as the Request for Entry of Default, Entry of Default, and Memorandum and Final Order.

MOTION 2: Dr. Hayward moved for the panel to adopt the Memorandum and Final Order for revocation of Dr. Cruz' medical license. Ms. Brekke seconded the motion. The motion passed unanimously.

2. 2011-102-MED In the matter of the proposed disciplinary treatment of the license of ALDO A BATTISTE JR MD License No. 12384. Dr. Battiste was present for the meeting.

Ms. O'Leary reviewed the Factual Assertions of the Notice of Proposed Board Action and Opportunity for Hearing to the Adjudication Panel, as well as the Proposed Stipulation and Final Order.

MOTION 3: Ms. Brekke moved for the panel to adopt the Stipulation and Final Order giving him 1 year credit for time served under his "No Practice Agreement" for his one-year restriction, to adopt the Final Order of perpetual monitoring by the Montana Professional Assistance Program (MPAP), and a \$1,000.00 fine paid within 60 from the date he is eligible to return to practice (signing of the Final Order). Mr. Burke seconded the motion. The motion passed unanimously.

3. 2011-117-MED In the matter of the proposed disciplinary treatment of the license of ARTHUR L HEFFELFINGER EMT-F License No. 7802.

Ms. O'Leary reviewed the Factual Assertions of the Notice of Proposed Board Action and Opportunity for Hearing to the Adjudication Panel, as well as the Stipulation and Final Order.

MOTION 4: Mr. Burke moved for the panel to adopt Stipulation and Final Order of immediate revocation of his EMT license. Dr. Hayward seconded the motion. The motion passed unanimously.

4. 2011-144-MED In the matter of the proposed disciplinary treatment of the license of CHANDLER MELTON EMT-B License No. 7476.

Mr. Melton was on the conference call.

Ms. O'Leary reviewed the Factual Assertions of the Notice of Proposed Board Action and Opportunity for Hearing to the Adjudication Panel, as well as Stipulation and Final Order.

MOTION 5: Ms. Brekke moved for the panel to adopt the Public Reprimand for failure to change his address of record with the board. Dr. Hayward seconded the motion. The motion passed unanimously.

Mr. Melton exited the meeting.

5. 2010-140-MED In the matter of the proposed disciplinary treatment of the license of WAYNE KAWALEK MD License No. 12290. Dr. Kawalek's attorney, Greg Van Horssen, attended the meeting personally.

Ms. O'Leary reviewed the Factual Assertions of the Notice of Proposed Board Action and Opportunity for Hearing to the Adjudication Panel, as well as the Proposed Stipulation and Final Order.

MOTION 6: Dr. Hayward moved for the panel to adopt the Stipulation and Final Order issuing a fine of \$250.00 for each of the 18 peer reviewed cases for a total of \$4,500.00. A payment of \$2,500.00 will be due within 90 days of the signing of the Final Order and the remaining \$2,000.00 will be due within 30 days of renewing his Montana license. If he does not renew his Montana license, the \$2,000.00 will not be due. Mr. Burke seconded the motion. The motion passed unanimously.

Mr. Van Horssen exited the meeting.

MOTION OF ADJOURNMENT: There being no additional business, Dr. Hayward moved to adjourn the meeting. Ms. Brekke seconded the motion. The motion passed unanimously. The meeting adjourned at 9:52 a.m.

March 16, 2012
Date Approved