



Nevada State Board of Medical Examiners

*** * * MINUTES * * ***

OPEN SESSION EMERGENCY TELEPHONE CONFERENCE CALL BOARD MEETING

Board Office Conference Room
1105 Terminal Way, Suite 301, Reno, NV 89502

TUESDAY, NOVEMBER 27, 2007 – 12:00 noon

Board Members Present at Board Office

None

Board Members Present by Telephone

Javaid Anwar, M.D., President
Sohail U. Anjum, M.D., Vice President
Donald H. Baeppler, Ph.D., D.Sc., Secretary-Treasurer
S. Daniel McBride, M.D.
Benjamin J. Rodriguez, M.D.

Staff Present at Board Office

Drennan A. Clark, Executive Director/Special Counsel
Laurie L. Munson, Deputy Executive Director/
Information Systems Administrator/Chief of Administration
Bonnie S. Brand, J.D., General Counsel
Edward O. Cousineau, J.D., Deputy General Counsel
Lyn E. Beggs, J.D., Deputy General Counsel
Lynnette L. Daniels, Chief of Licensing
Pamela J. Castagnola, Deputy Chief of Investigations
Shawna M. Rice, Investigator
Monica C. Gustafson, Investigator
Angelia L. Donohoe, Legal Assistant

Also Present by Telephone

Christine M. Guerri-Nyhus, J.D., Chief Deputy Attorney General

CALL TO ORDER

The AT&T telephone conference call operator took roll call of those participating by telephone.

The meeting was called to order at 12:05 p.m.

IN THE MATTER OF KENT ALAN SWAINE, M.D.

Ms. Brand named those present in the Board office conference room in Reno. She stated the meeting had been convened pursuant to NRS 241.020, to consider a request for summary suspension of the license of Kent Alan Swaine, M.D. Ms. Brand then asked the participating Board members whether they had received and reviewed the materials sent to them prior to the meeting concerning this matter, and all indicated they had.

Dr. Rodriguez asked whether Dr. Mansky is the individual who has authority to determine when a physician who is participating in the Diversion Program can safely return to the practice of medicine, and Ms. Brand stated that he is.

Dr. McBride said that Dr. Mansky had called him during the summer concerning Dr. Swaine's privileges at Spring Valley when he was practicing there. Dr. McBride then called and spoke to Dr. Swaine. Dr. Swaine agreed to take an immediate leave of absence from Spring Valley, and did so.

Ms. Guerci-Nyhus stated that since Dr. McBride had had personal interaction with Dr. Swaine and had talked with Dr. Mansky concerning Dr. Swaine, he had personal knowledge of the case and should recuse himself from consideration of the matter.

Dr. McBride recused himself from the matter and left the meeting.

Dr. Anjum inquired as to the duration of Dr. Swaine's contract with the Diversion Program and whether Dr. Swaine was under contract at the time of the incidents alleged in the complaint. Ms. Brand confirmed that Dr. Swaine was under contract at the time of the incidents alleged and is still currently under the contract.

Ms. Brand stated that the complaint alleged two counts of engaging in conduct intended to deceive, for practicing medicine surreptitiously, and one count of dependency upon controlled substances.

Mr. Clark confirmed that the appropriate statutes had been referenced in each count of the complaint.

Dr. Baepler moved that the Board summarily suspend Dr. Swaine's license to practice medicine based on the allegations in the complaint.

Ms. Brand suggested adding to Dr. Baepler's motion, with his approval, the findings of the proposed order she had drafted, which she then read, as follows:

THEREFORE, being fully advised, the adjudicative members of the Board find and conclude by a preponderance of evidence:

1. That unforeseen circumstances have arisen and exist that pose a risk of impairment of the health and safety of the public and that require immediate Board action.

2. That Respondent was licensed in active status to practice medicine in the state of Nevada on July 1, 2001, by the Nevada State Board of Medical Examiners.

3. That Respondent is an actively licensed physician residing, but not currently practicing, in Las Vegas, Nevada, due to his participation in an out-of-state program for treatment of addiction and substance abuse.

4. That Respondent tested positive for controlled substances in May of 2007, in July of 2007 and in October of 2007.

5. That Respondent's positive test in October of 2007 occurred while he was on leave from his out-of-state program.

6. That Respondent practiced medicine surreptitiously after being told not to practice by Dr. Peter A. Mansky, pursuant to the terms of Respondent's Nevada Professionals Health Program ("NPHP") agreement, in October of 2007, while he was on leave from an out-of-state program.

7. That Respondent is currently at an out-of-state program, but has managed to obtain leaves of absence to return to Las Vegas on two separate occasions, and the Board is concerned that he may do so again and practice medicine again, against the professional advice of Dr. Peter A. Mansky, Executive Medical Director of NPHP.

8. That Respondent poses a risk to the health, safety and welfare of the public and the patients he sees and treats.

Dr. Baepler amended his motion to include the items enumerated by Ms. Brand from the proposed Order of Summary Suspension of License. Dr. Anjum seconded the motion, and it passed unanimously.

Ms. Brand stated the Order would be served on Dr. Swaine at the out-of-state program via Federal Express, and the matter would remain confidential until that time.

ADJOURNMENT

Dr. Anwar adjourned the meeting at 12:20 p.m.