

SOUTH DAKOTA BOARD OF MEDICAL AND OSTEOPATHIC EXAMINERS

Unapproved Draft Minutes

Thursday, March 10, 2021 - 9:00 am (CDT)

Public Board Meeting

NOTE: This meeting is being held in a physically accessible place. Individuals needing assistance, pursuant to the Americans with Disabilities Act, should contact the Legislative Research Council (605/367-7781) in advance of the meeting to make any necessary arrangements.

Unapproved Draft Minutes¹¹. Votes are roll call voice vote.

Board members present in the Board Conference Room: 101 N. Main Ave., Suite 306 Sioux Falls, SD 57104:
Christopher Dietrich MD; Mr. Richard Hainje; Laurie Landeen MD; Philip Meyer DO; Aaron Shives MD; Jennifer Tegethoff MD;
Gary Timmerman MD; Mrs. Suzanne Veenis
Board member absent: Jeffrey Murray MD
Board staff present: Ms. Margaret Hansen, Ms. Randi Sterling, Mr. Justin Reinfeld, Ms. Brooke Blaalid
Counsel present: General Counsel to the Board: Assistant AG Steven Blair, Counsel to the Staff and Prosecutor: Assistant AG
Caroline Srstka,
Other parties may have been in attendance for this public meeting.

President Meyer then called the meeting to order at 9:00 AM (CDT). Roll was called, and a quorum was confirmed. A motion that the Draft Agenda for today's meeting be removed from the Consent Agenda and amended to add another confidential physician hearing under an emergency summary suspension situation and to remove the public non-physician hearing for Dane Arredondo was ratified by roll call vote (Hainje/Landeen/unanimous) ²A call for public comment pursuant to SDCL 1-25-1 was made and there was no public comment. President Meyer called attention to the following documents: The Code of Conduct and Conflict of Interest Policy for Use by State Authority, Board, Commission, and Committee Members, and the BMOE member specific administrative rules: 20:78:05:09 Conflict of Interest and 20:78:05:10 Potential Conflict of Interest. A motion for unanimous approval of the consent agenda was ratified by roll call vote (Timmerman/Shives/unanimous)

A motion to go into executive session under SDCL 1-25-2(3) to consult with legal counsel (Dietrich/Tegethoff/unanimous)

Physician Hearings (closed confidential session pursuant to SDCL 36-4-31.5) and the following board action was taken in the public meeting:

- Dr. Virgil Waid McMillion-A motion to accept the surrender of Dr. McMillion's medical license was ratified by roll call vote (Landeen/Timmerman/unanimous)
- Dr. Morton Isaac Hyson-A motion to accept the amendment to the December 2021 settlement agreement that was entered into between Dr. Hyson and board staff was ratified by roll call vote (Timmerman/Landeen/unanimous)

Public Hearings

A motion to go into executive session under SDCL 1-25-2(3) to consult with legal counsel (Dietrich/Tegethoff/unanimous)

- Mr. Kyle Ferguson – A motion to accept the settlement agreement that was entered into between Mr. Ferguson and board staff regarding the public reprimand was ratified by roll call vote (Timmerman/Landeen/Dietrich abstained/7 ayes)

Public Administrative Rules Hearing convened at 10:49 AM to conduct a public hearing on the proposed rules of SD Board of Medical and Osteopathic Examiners, numbered §§20:64:01:01; 20:84:01:01; 20:84:02:01; 20:84:02:02; 20:84:03:01; 20:84:04:01; 20:84:05:01; 20:84:05:02; 20:61:01:02, adopted under the authority of SDCL 36-4B-35, 36-31-13. Proponent written testimony for §§20:64:01:01 was received from Vice President of Regulatory Compliance, Privacy Officer for CHS Therapy Mary Menard and Adaptive Rehab QA & Audit Manager Karissa A Lutz. There was no opponent written testimony and no oral testimony - proponent or opponent- for any of the rule changes.

Summary of Changes to Proposed Rules on Account of the Public Hearing

- §§20:64:01:01

¹ 1-27-1.17. Draft minutes of public meeting to be available--Exceptions--Violation as misdemeanor. The unapproved, draft minutes of any public meeting held pursuant to § 1-25-1 that are required to be kept by law shall be available for inspection by any person within ten business days after the meeting. However, this section does not apply if an audio or video recording of the meeting is available to the public on the governing body's website within five business days after the meeting. A violation of this section is a Class 2 misdemeanor. However, the provisions of this section do not apply to draft minutes of contested case proceedings held in accordance with the provisions of chapter 1-26.

² Format for motions, second and vote results: BMOE member Name (Making the motion/Second/Vote result is either unanimous or Yes: and No: results and abstentions noted by name)

- The definition of supervision was changed to the following: the treatment of a patient by an occupational therapist assistant in the presence of an occupational therapist. For purposes of this subdivision, "presence" means in-person presence or presence by telecommunications.
- Based on the recommendation of the LRC style and form.

A motion to accept the administrative rules changes as amended by the LRC (Landeem/Meyer/unanimous)

- §§20:84:01:01; 20:84:02:01; 20:84:02:02; 20:84:03:01; 20:84:04:01; 20:84:05:01; 20:84:05:02
 - The form of the section was changed in accordance of style and form for how repealed sections should look.
 - Based on the recommendation of the LRC style and form.

A motion to accept the administrative rules changes as amended by the LRC (Shives/Tegethoff/unanimous)

- §§20:61:01:02
 - Advanced life support personnel license was added, and student status, EMT-special skills, and emt-paramedic was removed. Along with removing State from the Board of Medical and Osteopathic Examiners.
 - Based on the recommendations of the LRC style and form along with follow-up with LRC to clarify advanced life support personnel license.

A motion to accept the administrative rules changes as amended by the LRC (Timmerman/Hainje/unanimous)

The Executive Director report was accepted for information. Update included 2022 Legislative changes.

President Meyer called the public meeting closed at 11:08 AM central time zone.