

COMMONWEALTH OF MASSACHUSETTS
BOARD OF REGISTRATION IN NATUROPATHY
GENERAL SESSION BOARD MEETING

Tuesday, August 22, 2023
250 Washington Street
Boston, MA 02108
VIA WebEx
1:00 PM

(Open Session)
MINUTES

Board Members Present: Paul Herscu, ND, MPH, Naturopathic Doctor 1, Chair
Anne Frances Hardy, ND, LAC, Naturopathic Doctor 2, Vice-Chair
Mattia Migliore, PhD, RPH, Clinical Pharmacologist, Secretary
Christina Bain, Public Member

Board Members Not Present: Darshan Mehta, MD Physician 1

Staff Present: Steven Joubert, Executive Director, Multi-Boards, BHPL
Catherine Goldrick, Assistant Executive Director, Multi-Boards, BHPL
Jessica Uhing-Luedde, Chief Board Prosecutor, DPH
Heather Engman, Chief Board Counsel, Office of the General Counsel, DPH
Judy Bromley, Board Counsel, Office of the General Counsel, DPH
Sarah Constantino, Office Support Specialist, Multi-Boards, BHPL
Kayla Mikalauski, Office Support Specialist, Multi-Boards, BHPL
Tracy Tam, Office Support Specialist, Multi-Boards, BHPL

Public Attendee: Jaclyn Gagne

I. Call to Order

At 1:00 PM Dr. Paul Herscu, Board Chair, welcomed everyone to the meeting and called the meeting to order. Dr. Herscu reminded the Board members the meeting was being recorded and asked for a roll call vote to determine quorum.

Roll call as follows: Paul Herscu: present; Anne Frances Hardy: present; Mattia Migliore: present.
Absent: Darshan Mehta, Christina Bain

II. Approval of Agenda

The Board reviewed the August 22, 2023, Regular Session Agenda.

DISCUSSION:

Dr. Herscu asked if anyone had a conflict of interest with the agenda as written. No conflicts of interests were noted.

ACTION:

Dr. Anne Frances Hardy made a motion to approve the agenda which was seconded by Dr. Paul Herscu. The vote carried unanimously by roll call vote as follows:

Paul Herscu: yes; Anne Frances Hardy: yes; Mattia Migliore: yes.

Opposed: none; Abstained: none; Recused: none

Absent: Darshan Mehta, Christina Bain

Document: August 22, 2023, Regular Session Agenda

Ms. Christina Bain joins the meeting at 1:04 PM.

III. Approval of Minutes

The Board reviewed the July 25, 2023, Regular Session Minutes.

DISCUSSION:

None.

ACTION:

Dr. Mattia Migliore made a motion to approve the minutes which was seconded by Dr. Anne Frances-Hardy. The vote carried by roll call vote as follows: Paul Herscu: yes; Anne Frances-Hardy: yes; Mattia Migliore: yes; Christina Bain: yes.

Opposed: none; Abstained: none; Recused: none

Absent: Darshan Mehta

Document: July 25, 2023, Regular Session Minutes

IV. Policies

A. Standard Consent Agreement Terms

DISCUSSION:

Ms. Jessica Uhing-Luedde, Chief Board Prosecutor, proposed a change to the Alford Plea language used in Standard Consent Agreements. Ms. Uhing-Luedde stated the consent agreements shall contain language indicating that the consent agreement does not contain admissions or findings and the consent agreement would still identify the underlying allegations that are supported by evidence.

Dr. Anne Francis Hardy asked how this would differ from the current language used in Standard Consent Agreements.

Ms. Uhing-Luedde stated this change would facilitate settlement and is the standard language offered in agreements by the Attorney General.

Ms. Heather Engman stated there are twenty-one Boards in the Bureau of Health Professions Licensure and each Board as their own approach to Alford plea

language. Ms. Engman stated this policy would create a unified approach so all Boards would handle disciplinary actions in the same manner.

Dr. Anne Francis Hardy asked if this change would harm or affect the Licensee.

Ms. Uhing-Luedde stated this would not harm the Licensee and would ease the settlement process. Ms. Uhing-Luedde also stated this language would still allow for reciprocal discipline if they hold a license in another state.

Ms., Engman stated this would separate the actions of the Board from a pending civil or criminal case.

ACTION:

Dr. Anne Frances Hardy made a motion to approve the Alford Plea Language Policy which was seconded by Dr. Paul Herscu. The vote carried unanimously by roll call vote as follows: Paul Herscu: yes; Anne Frances Hardy: yes; Mattia Migliore: yes; Christina Bain: yes.

Opposed: none; Abstained: none, Recused: none

Absent: Darshan Mehta

Document: Alford Plea Language 5-22-23

Policies

B. Prosecutorial Discretion

DISCUSSION:

Ms. Jessica Uhing-Luedde stated some Boards currently require the Prosecuting Counsel to appear before the Board and ask for permission to delete certain factual allegations or regulatory violations from Standard Consent Agreements. Ms. Uhing-Luedde stated the first change proposed in the policy would drop that requirement for the Prosecution Counsel to appear before the Board and allow the Prosecution Counsel to delete certain factual allegations or regulatory violations from Consent Agreements after meeting with the Executive Director as long as it does not change or affect the disciplinary outcome of the matter.

Dr. Anne Francis Hardy asked if Board members would be notified of the change.

Ms. Uhing-Luedde stated the Board could request to be notified if a Licensee entered into a Consent Agreement that differed from the grounds for discipline that the Board members had voted on.

Mr. Paul Herscu stated he would like to receive notification of the changes and asked Ms. Heather Engman for her opinion on this policy.

Ms. Engman recommends the Board to adopt this policy because it gives the Board staff flexibility to move through cases in a more efficient manner.

Ms. Uhing-Luedde stated the second change proposed in the policy asks Board members to provide the Prosecuting Counsel with a range for the settlement terms instead of a specific

number. Ms. Uhing-Luedde also stated this will allow the Prosecuting Counsel to negotiate with Respondents and/or their attorneys within a range of discipline voted upon by the Board without appearing before the Board again for a formal reconsideration.

Ms. Uhing-Luedde stated the third change proposed in the policy allows the Prosecuting Counsel to issue an Order to Show Cause in which the cited deficiencies and/or grounds for discipline differ from the deficiencies and/or grounds for discipline authorized by the Board. Ms. Uhing-Luedde stated this will allow the Prosecuting counsel to add or remove violations from the Order to Show Cause based on supporting evidence after consulting with the Executive Director.

Dr. Hardy asked if Board members would review and vote on the Order of Show Cause after the changes.

Ms. Uhing-Luedde stated the Board would vote before the matter goes to Prosecution and Prosecution would draft an Order to Show Cause based on the evidence in the case file. Ms. Uhing-Luedde also stated once the matter is in the Order to Show Cause, it will either reach a decision or a Consent Agreement so there will not be an opportunity to vote on the Order to Show Cause afterwards, but they could provide a report to the Board for any changes made to the Order to Show Cause.

Dr. Herscu asked if there is a Licensee with a violation, would Prosecution look into their practice to find other violations to add on.

Ms. Uhing-Luedde stated any additional violations added on by Prosecution would be limited to the casefile that is prepared by the Board Investigator.

Ms. Hardy asked whether a Licensee would be subjected to additional penalties due to the additional violations added on by Prosecution.

Ms. Uhing-Luedde stated a Licensee could have increased penalties but the sanctions in the Consent Agreement would ultimately be determined by the Board.

Ms. Engman stated Board members will always determine the sanction and Board Counsel or Prosecution will never be able to adjust the sanction requested by the Board.

Ms. Christina Bain stated she would need more time to consider this policy.

Dr. Herscu stated he would also like to defer this policy.

Dr. Mattia Migliore asked to have a meeting going over the process for complaints, how to handle complaints, and the type of penalties that could be imposed.

Ms. Engman recommended the Board to defer action on this policy and revisit this policy in the future when there is a complaint.

ACTION:

Dr. Anne Frances Hardy made a motion to defer action on the Prosecutorial Discretion Policy until brought forth again by Board Counsel which was seconded by Ms. Christina Bain. The vote carried unanimously by roll call vote as follows: Paul Herscu: yes; Anne Frances Hardy: yes; Mattia Migliore: yes; Christina Bain: yes.
Opposed: none; Abstained: none; Recused: none
Absent: Darshan Mehta

Document: Prosecutorial Discretion Policy 5-25-23

V. Flex Session Schedule

DISCUSSION:

Dr. Paul Herscu stated the PowerPoint slides have been uploaded to the website. Dr. Herscu asked for the status on the one-page summary document.

Mr. Steven Joubert stated it is being prepared for the next Board meeting.

Dr. Paul Herscu asked for the attendance of the next board meeting scheduled on August 22, 2023, at 1:00 PM. All Board members present stated they would be able to attend. Dr. Mattia Migliore stated she would only be available until 3:00 PM.

VI. Adjournment

There being no other business before the Board, Dr. Anne Frances Hardy motioned to adjourn the meeting which was seconded by Dr. Mattia Migliore. The vote carried unanimously by roll call vote as follows: Paul Herscu: yes; Anne Frances Hardy: yes; Mattia Migliore: yes; Christina Bain: yes.

Opposed: none; Abstained: none; Recused: none.

Absent: Darshan Mehta

Let the records show the meeting adjourned at 1:45 PM

The next meeting of the Board of Registration in Naturopathy is scheduled for Tuesday, September 26, 2023, at 1:00 PM via WebEx.

Respectfully submitted by:
The Board of Registration in Naturopathy