



Fields of Opportunities

STATE OF IOWA

CHESTER J. CULVER  
GOVERNOR  
PATTY JUDGE  
LT. GOVERNOR

IOWA BOARD OF MEDICINE  
Mark Bowden  
EXECUTIVE DIRECTOR

IOWA BOARD OF MEDICINE  
TELECONFERENCE CALL  
Thursday, May 6, 2010, 7:15 a.m.

**PUBLIC MINUTES**

**MEMBERS PRESENT:**

**Siroos Shirazi, M.D., Chair**  
**Rod Zeitler, M.D., Vice-Chair**  
**Janice Galli, D.O., Secretary**  
**Tom Drew**  
**Analisa Haberman, D.O.**  
**Jeff Snyder, M.D.**  
**Colleen Stockdale, M.D.**  
**Paul Thurlow**  
**Joyce Vista-Wayne, M.D.**

**MEMBERS ABSENT:**

**Amber Mian**

**STAFF PRESENT:**

**Mark Bowden, Executive Director**  
**Theresa Weeg, Assistant Attorney General**  
**Kent Nebel, Director of Legal Affairs**  
**Russell Bardin, Chief Investigator**  
**John Olds, M.D., Medical Advisor**  
**Shantel Billington, Compliance Monitor**  
**Luann Brickei, Secretary**

**GUESTS PRESENT:**

**Jim Carney, Iowa Association of Nurse Anesthetists (IANA)**  
**Linda Goeldner, Iowa Nurses Association (INA)**  
**Heidi Goodman, Iowa Medical Society (IMS)**  
**Becki Brommel, Iowa Dental Association (IDA)**  
**Nick Mauro, Iowa Society of Anesthesiologists (ISA)**  
**Kevin Kruse, ISA**  
**Mary O'Brien, IANA**  
**Joe Kelley, Iowa Association of Nurse Practitioners (IANP), Iowa Nurse Practitioner Society (INPS)**  
**Leah McWilliams, Iowa Osteopathic Medical Association (IOMA)**  
**Jeanine Freeman, IMS**  
**Steve Harris, attorney for Dr. Burt, via telephone**  
**Tripti Burt, M.D., via telephone**

A teleconference was held as it was more feasible to have the Board members conduct business between regularly scheduled meetings via the telephone than to have them meet at the Board's office. Board members were meeting via a conference call set up by Board staff. Two members of the public, Tripti Burt, M.D., and Steve Harris, were allowed to dial into the conference call. Other members of the public were allowed to participate in the teleconference via a speaker phone in the Board's conference room at 400 SW Eighth Street, Suite C, Des Moines, IA.

**Dr. Shirazi called the teleconference to order at 7:15 a.m.**

**On a motion by Siroos Shirazi, M.D., and a second by Tom Drew, the following members voted by roll call vote to go into closed session according to Iowa Code Section 21.5(1)(a): Tom Drew, Janice Galli, D.O., Analisa Haberman, D.O., Colleen Kennedy, M.D., Siroos Shirazi, M.D., Jeff Snyder, M.D., Paul Thurlow, Rod Zeitler, M.D., and Joyce Vista-Wayne, M.D.**

**I. Approval of Open Public Board Minutes for April 8-9, 2010 Public Session**

On a motion by Rod Zeitler, M.D., and seconded by Colleen Stockdale, M.D., the Board voted to **approve** the April 8-9, 2010 Public Session of the Board meeting minutes.

**II. Consideration of the Approval of a Settlement Agreement concerning Robert F. Tobin, M.D., File No.: 02-2007-731**

Approval of Settlement Agreement

**III. Consideration of the Approval to a Combined Statement of Charges and Settlement Agreement concerning Henry W. Halling, M.D., File Nos.: 02-2007-288, 02-2007-302, 02-2007-556, 02-2008-360, 02-2008-396, 02-2008-429**

Approval of combined Statement of Charges and Settlement Agreement

**IV. Consideration and Review of the CPEP Report concerning File No.: 03-2000-999**

Leave open

**V. Consideration of the Approval of a Combined Statement of Charges concerning File No.: 02-2008-436**

Leave open

**VI. Consideration of the Approval for a Statement of Charges concerning Robert S. Cairns, M.D., File Nos.: 02-2009-110, 02-2010-028**

Approval of Statement of Charges

**VII. Consideration of the Approval of a Combined Statement of Charges concerning File No.: 02-2009-623. Shirazi, Stockdale, Vista-Wayne, and Zeitler recused.**

Leave open

**VIII. Consideration of the Approval of an Evaluation Order concerning File Nos.: 02-2008-473, 02-2008-601, 02-2008-606, 02-2009-001, 02-2009-677. Vista-Wayne and Zeitler recused.**

Leave open

**IX. Consideration of a Request for Termination concerning Patricia A. Allen, D.O., File Nos.: 03-2002-0003, 03-2004-149**

Termination denied

**X. Consideration of a Clarification in Reduction of Alcohol Anonymous (AA) Meetings concerning File No.: 02-2005-683. Shirazi recused.**

To be discussed during Monitoring Committee meeting at the June meeting

**XI. Consideration of the Approval of an Evaluation Order concerning File No.: 02-2009-196**

Leave open

**XII. Consideration of the Request to Rescind the Notice to Cease and Desist concerning Tripti Burt, M.D., File No.: 01-2008-549**

To be discussed during open session

**On a motion by Siroos Shirazi, M.D., and seconded by Rod Zeitler, M.D., the Board voted to accept the Board's action on the cases as stated above. The following members voted: Tom Drew, Janice Galli, D.O., Analisa Haberman, D.O., Colleen Kennedy, M.D., Siroos Shirazi, M.D., Jeff Snyder, M.D., Paul Thurlow, Rod Zeitler, M.D., and Joyce Vista-Wayne, M.D.**

**XIII. Rachel Solomon requested discussion with Board, (312) 280-0111 regarding Tripti Burt, M.D., File No.: 01-2008-549, Request to Rescind the Notice to Cease and Desist**

**Dr. Burt and Mr Harris, attorney for Dr. Burt attended via teleconference. Kent Nebel stated that the Board and members of the public were also present.**

Kent Nebel presented the scenario. Dr. Burt is a general and plastic surgeon who practices in Chicago area. She does not have an Iowa medical license. She has a financial interest in Skin Solutions, which operates a spa in West Des Moines. The West Des Moines Skin Solutions placed her photograph and biography on their website to promote her expertise. In a Board investigation of Dr. Burt's role at the spa, a spa employee stated that Dr. Burt was available to staff and/or patients as an advisor, as that Dr. Burt was the medical advisor for the spa. Based on information collected in the investigation, the Board issued a cease and desist letter to Dr. Burt because she was practicing medicine in Iowa without an Iowa license. Burt asked that the Board rescind the letter because the spa employee had inaccurately portrayed Dr. Burt's role in the spa.

Steve Harris, an attorney representing Dr. Burt, in asking that the cease and desist letter be rescinded, noted that the Board had subsequently received sworn affidavits from Dr. Burt that stated Dr. Burt is a passive investor in the company called Skin Solutions Laser Enhancement, but has never provided medical services or advice or assumed any duties that would connect her with practicing medicine in the state of Iowa.

Dr. Burt said the mischaracterization of her role at the spa began in November 2008 when the Iowa Board of Cosmetology Arts and Sciences investigated Ashley Van Zetten, an esthetician affiliated with the Skin Solutions spa. In December 2009, the Cosmetology Board contacted Dr. Burt. Between December 2008 and February 2010, the Cosmetology Board transferred the file to the Board of Medicine and in February 2010, the Board of Medicine voted to send a cease and desist letter. Dr. Burt said she did not know Skin Solutions was using her photograph and biography on the website until receiving the letter from the Cosmetology Board. She said she contacted Skin Solutions immediately and requested all information affiliating her with Skin Solutions be removed from the website.

The Board asked Dr. Burt numerous questions, including why she was interested in Skin Solutions as an investment. In addition, she was asked how the public might view her affiliation with the spa, given the facts that her photograph and biography were posted on the website and used in spa promotional materials.

Dr. Burt said her investment in the spa company came about because a laser company who was seeking investors approached her. Skin Solutions used the same type of laser equipment as she uses and she became interested. She said her contract with Skin Solutions does not contain any provisions for being a medical

advisory or to provide services to Skin Solutions. As far as the public viewing the website and materials with her photograph and biographical materials, Dr. Burt conceded the public may think she's a physician with Skin Solutions.

Dr. Galli stated that on February 16, 2009, per <http://www.clivedermatologist.com> Dr. Burt's picture and bio remained on the website and it stated, "Those looking for quality cosmetic dermatology should look no further than Skin Solutions Laser Enhancement Center Spa, located in Clive, Iowa, Dr. Burt and her staff are the professionals on hand to provide patients with the very best cosmetics dermatology and its treatment."

Dr. Burt stated that she has seen that advertisement.

The Board asked if she has sent a formal cease and desist letter to Skins Solutions, demanding that the spa discontinue using the advertisement. Attorney Harris stated that they (he and Dr. Burt) thought the advertisement had been taken down and no letter was necessary.

The Board also asked if she had researched Skin Solutions when she invested. Dr. Burt stated that yes; she had googled the website. The last time she reviewed the website was in November 2009, and she said it came to her attention again that her name and bio were on the website. She said she contacted Skin Solutions and was told that the website was being revamped and that all of her information would be removed.

The Board determined that new materials submitted just prior to the teleconference needed to be evaluated before a decision could be made on Dr. Burt's request that the cease and desist letter be rescinded.

**On a motion by Siroos Shirazi, M.D. and seconded by Rod Zeitler, M.D., the Board voted to leave open the request to rescind the Notice to Cease and Desist.**

#### **XIV. Approval of Disciplinary Actions**

**See above approvals**

#### **XIV. ICPM – Application for Declaratory Order**

- a. Iowa Association of Nurse Anesthetists, Petitioner-Applicant**
- b. Iowa Dental Board, Intervenor**
- c. Iowa Medical Society, Intervenor**
- d. Iowa Society of Anesthesiologists', Intervenor**

The Iowa Association of Nurse Anesthetists (IANA) has filed a Declaratory Order petition regarding ARC 8579B. The petition is asking the Iowa Board of Medicine (IBM) to declare whether it will interpret proposed rules ARC 8579B to mean that the practice of chronic interventional pain management (ICPM) is solely and exclusively the practice of medicine.

IBM Chair Siroos Shirazi, M.D., stated that all Board members have received written comments from all interested parties and have read the materials. Dr. Shirazi invited comments from public members present.

Jim Carney, representing the IANA stated he was aware of the three intervenors but was not aware of any materials received from the Iowa Podiatric Medical Society or other nursing entities or organizations representing physician assistants. He said the petition application for declaratory order provides the Board an opportunity to clarify something that is clearly an unquestionable ambiguity. He stressed that Joe Royce (counsel to the Administrative Rules Review Committee), noted in the Administrative Rules Review Digest that the assertion that ICPM is the practice of medicine is ambiguous because it does not indicate whether chronic pain management is exclusive to medical or osteopathic physicians.

Becky Brommel of the Iowa Dental Association (IDA) said her association supports the declaratory petition. She said the IDA understands that IBM is not intending to prohibit dentists from performing interventional chronic pain management that is within the scope of dentistry because that is the Iowa Dental Board's authority. Brommel said the statement is ambiguous, and "even though we trust that it would not be enforced as written, there is the possibility that in the future when all of those involved in this issue are gone, that it would be

interpreted as written.” She said if it’s broadly interpreted, then the rule could prohibit dentists and podiatrists and other health care providers from practicing pain management within the scopes of their respective professional licenses. Brommel also commented on Iowa Code Chapter 148.1, which defines the practice of medicine is not intended to cover podiatrists, chiropractors, physical therapists, nurses, dentist, ophthalmologists and pharmacists who exclusively engaged in the practice of their respective profession. She said the law adds some credence of the IBM’s authority to declare IPCM the practice of medicine, but she said there would still be questions without a declaratory order from the IBM.

Linda Goeldner of the Iowa Nurses Association said her association supports IANA’s petition to seek a declaratory order. She noted that her association did not file any written comment about the petition, but may do so.

Heidi Goodman of the Iowa Medical Society (IMS) urged the IBM to refuse the petition order on the question that is presented by petitioner based on the IBM’s rules providing for its refusal to respond as warranted on specific provisions 653-1.9(9) and provision set forth therein. The IMS feels the request is premature as the rule making is currently in process. She said IMS also believe that the petition question is more appropriately addressed in a different venue. She said the IBM has full authority to determine what medical procedures require performance by a duly licensed physician.

Nick Mauro of the Iowa Society of Anesthesiologists (ISA) stated that his association did not submit a petition to intervene because the IAS believes the rule is clear. He noted that Iowa Code Chapter 148.2(4) answers any ambiguity that could possible exist with the proposed rule’s assertion that ICPM is the practice of medicine. He stated he did find it odd that the Board of Nursing can say what the practice of nursing is, the Board of Dental can say what the practice of dentistry is but somehow the Board of Medicine can’t say what the practice of medicine is. He urged the IBM not grant a declaratory order for that reason alone.

Kent Nebel, the IBM’s legal director, briefed Board members with options they could consider in reacting to the request to issue a declaratory order on the proposed rule’s assertion that ICPM is the practice of medicine.

On a motion by Siroos Shirazi, M.D., and a second by Tom Drew, the following members voted by role call vote to deny the application for declaratory order per rule making 653-1.9(9)(a)(4): Siroos Shirazi, M.D., Rod Zeitler, M.D., Tom Drew, Colleen Stockdale, M.D., Analisa Haberman, D.O., Janice Galli, D.O., Jeff Snyder, M.D., Joyce Vista-Wayne, M.D., and Paul Thurlow. The Board’s decision to deny the application was based upon these administrative rules:

653-1.9(9)(a) “The board shall not issue a declaratory order where prohibited by Iowa Code section 17A.9(1) and may refuse to issue a declaratory order on some or all questions raised for the following reasons:

“(4) the questions presented by the petition are also presented in a current rule making, contested case, or other agency or judicial proceeding, that may definitively resolve them.”

The meeting adjourned at 8:50 a.m.

The minutes were taken by Luann Brickei, a secretary in the enforcement division, and prepared by Teena Turnbaugh, secretary for the Board.