



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

WEDNESDAY, AUGUST 22, 2007 – 10:00 a.m.

Board Members Present at Board Office

None

Board Members Present by Telephone

Javaid Anwar, M.D., President
Sohail U. Anjum, M.D., Vice President
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
Terri L. Ward, Compliance Officer/Investigator
Heather L. Higgins, Investigator
Monica C. Gustafson, Investigator
Angelia L. Donohoe, Legal Assistant

Also Present by Telephone

Christine M. Guerici-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 10:00 a.m.

Ms. Brand asked all Board members participating by telephone to identify themselves, and they did. Ms. Brand then named those present in the Board office conference room in Reno.

IN THE MATTER OF SIDNEY THOMAS VAN ASSCHE, M.D.

Ms. Brand asked whether all participating Board members had received and reviewed the materials sent to them prior to the meeting concerning this matter. The Board members indicated they had received all materials with the exception of the second page of the Investigative Committee's July 30, 2007 Order, and that they had reviewed all materials they had received. Ms. Brand read the missing portion of the Investigative Committee's July 30, 2007 Order. She stated the Board had reasonable cause to believe there was drug impairment as a result of the information received from the two professionals who had filed complaints against Dr. Van Assche, one an M.D. and the other a Ph.D. Ms. Brand then explained that Dr. Van Assche had refused to submit to a Board-ordered observed urine test on August 1, 2007. He did obtain an independent urine test later on August 1st, which came back negative, but there were irregularities with the test, in that someone scratched out a form and filled in his name, there was an executive person involved in the chain of custody, which is out of the ordinary, and it was not an observed test. On August 6, 2007, Dr. Van Assche independently obtained a hair test. By that time, the Board had a subpoena to Lab Corp in place, and LabCorp notified the Board of the results of the hair test, which was positive for methamphetamine. Dr. Van Assche did not notify the Board of the results of the hair test.

Ms. Brand stated Dr. Van Assche had been referred to the Diversion Program in October by the two professionals who filed the complaints with the Board, but he never showed up for the program. The two professionals were his partners, who no longer work with him.

Dr. Anwar stated that as a matter of law, Dr. Van Assche refused to comply with the Investigative Committee's order to submit to an observed urine test, which he was required to do by law, his independent hair test had come back positive for methamphetamine, and he was functioning impaired during that time while continuing to see patients.

Dr. McBride moved that the Board suspend Dr. Van Assche's license on the grounds that he posed a danger to the safety of his patients, given his positive drug test, and his refusal to submit to an observed urine sample.

Ms. Brand then read the proposed Order of Summary Suspension:

This matter came on for hearing at an emergency meeting of the Nevada State Board of Medical Examiners convened pursuant to NRS 241.020 and conducted telephonically on the 22nd day of August 2007, to consider the request for summary suspension of the license of the above-named Respondent filed herein on August 21, 2007 by the Board's Investigative Committee. A quorum of the members of the Board who will constitute the adjudicative panel in this case, consisting of Javaid Anwar, M.D., President, Sohail U. Anjum, M.D., Vice President, S. Daniel McBride, M.D., and Benjamin J. Rodriguez, M.D., Board Members, were present telephonically. Bonnie Brand, J.D., General Counsel, appeared as counsel for the Investigative Committee. Also present was Christine Guerci, Chief Deputy Attorney General, as counsel for the Board.

The adjudicative panel reviewed the Investigative Committee's Complaint, the request for summary suspension contained therein, and the attached exhibits. Upon review of the Complaint and Request for Summary Suspension of License and the attached exhibits, as well as the presentation of counsel for the Investigative Committee, 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 is a Physician licensed to practice medicine in the State of Nevada;
3. That the Investigative Committee had reason to believe that Respondent could be practicing medicine under the influence of controlled substances and/or alcohol;
4. That the Investigative Committee's Order to provide a urine sample was properly served in person on August 1, 2007, at approximately 10:00 a.m., by Board Investigator Terri Ward, who was accompanied by Mark Rueckl, who observes urine provision for drug screens for the Nevada Health Professionals Assistance Foundation;
5. That on August 1, 2007, Respondent willfully refused to comply with the Order of the Investigative Committee to give a random urine sample upon demand, thereby violating NRS 630.3065(2)(a);
6. That Respondent was aware of the potential consequences of his failure to comply, due to the wording of the Order, as well as the explanation by Investigator Terri Ward at the time of service of the Order;
7. That during the evening of August 1, 2007, Respondent left a voice message for Investigator Terri Ward that he had submitted to a urine screen on his own at LabCorp, but did not mention a hair test;
8. That on August 15, 2007, Investigator Terri Ward obtained a copy of a hair test taken at LabCorp on Monday, August 6, 2007 at 8:35 a.m., by Respondent, again on his own;
9. That the hair test results showed that Respondent tested positively for amphetamine and methamphetamine;
10. That allowing Respondent to continue to practice medicine with the knowledge that he tested positively for methamphetamine presents an unacceptable risk to the citizens of Nevada;

Now therefore, pursuant to NRS 630.329:

IT IS HEREBY ORDERED that the license of Respondent, Sidney Thomas Van Assche, M.D., to practice medicine in Nevada is hereby suspended pending proceedings for disciplinary action pursuant to the Complaint filed herein and issuance of a final order, or until further order of this Board.

Ms. Brand then asked Dr. McBride whether the proposed Order complied with his motion, and he stated it did. Dr. Rodriguez seconded the motion, and it passed unanimously.

Ms. Brand stated the Order would be served on Dr. Van Assche and would remain confidential until that time. A hearing in the matter had been set for October and the two complaining witnesses would both be testifying at the hearing.

ADJOURNMENT

Dr. Anwar adjourned the meeting at 10:15 a.m.