

ALASKA STATE PERSONNEL BOARD MEETING MINUTES

August 31, 2006

Division of Personnel

In person:

Debra English, Chairperson

Al Tamagni, Board Member

Dianne Kiesel, Director of Personnel, Secretary to the Board

Dennis Geary, Assistant Business Manager, APEA

Robert Gunther, Attorney for Dr. Bridges

Mark Bledsoe, Alaska Open Imaging Center

Judy Bockmon, Attorney, DOL

David Jones, Attorney, DOL

Stephen Porter, APEA/AFT

By teleconference:

Laura Plenert, Board Member

Janet Clarke, Department of Health and Social Services, Deputy Commissioner Finance and Management Services

Ron Adler, Department of Health and Social Services, Director of API

Julie Russo, Division of Personnel, Statewide Planning & Research

Inga Aanrud, Division of Personnel, Statewide Planning & Research

Kathy Nava, Division of Personnel, Statewide Planning & Research

1. CALL TO ORDER:

Chairperson English called the meeting to order at 12:00 P.M. on August 31, 2006. Board Member Tamagni and Secretary Kiesel were present. Member Plenert joined the meeting via teleconference.

2. APPROVAL OF AGENDA

Al Tamagni call to approve agenda, Laura Plenert second, Chairperson English moved and approved agenda. Revised to accommodate members of the public.

3. PUBLIC COMMENT

Mr. Robert Gunther, representing Dr. Bridges, addressed the board regarding the Department of Law's dismissal of the ethics complaint against Mr. Joel Gilbertson, former Commissioner of the Department of Health and Social Services. Mr. Gunther stated he submitted to the board members in writing their position on this matter with binders and an executive summary. Mr. Gunther wanted to highlight the following:

1. Commissioner Gilbertson received a fax from Paul Fuhs communicating to him the problems with the Certificate of Need Program. Two weeks later the CON went to Providence Alaska Medical Center. Mr. Fuhs issued an administrative appeal roughly one month later. Several weeks later, Mr. Gilbertson issued a moratorium saying he would not grant anymore certificates of need due to problems with the program.

2. Mr. Gunther feels it is the responsibility of the AG's office to investigate the issue further. He reasons that the AG's office has a right to issue subpoenas and Dr. Bridges does not. They feel Dr. Bridges should not bear the burden as his only authority is a public records request. Mr. Gunther also claims that the public records request from Department of Health and Social Services was unresponsive. They received over 10,000 documents from this request and claim it did not include documents that were later provided through the AG's office.
3. On May 13, 2005 Commissioner Gilbertson signed off on regulations that had been noticed to the public, the public had made comment on, and that contained the same definitions that had previously existed. May 13, 2005 they were adopted by Department of Health and Social Services. Then according to statute the regulations go to Department of Law, to the regulations attorney to make sure they comply with the statutory requirements. Mr. Gunther claims that Mr. Gilbertson made changes to the document removing the section that gives the public's right to appeal a certificate of need decision before sending it to the Department of Law. He also claims that this was sent to Department of Law with a cover sheet saying that he had not made any changes. Shortly after that Mr. Gilbertson took his job with Providence Health System-Alaska Region.

4. REVIEW OF ETHICS CASE

A. Case No. 661-06-0225

Chairperson English amended the agenda to move item 7 to item 4 on the agenda to follow the public comment. There was discussion between Mr. Gunther and Al Tamagni about what they expected to receive from the department in response to the public records request. Chairperson English and Mr. Gunther discussed the broad scope of the public records request. Mr. Gunther feels they were specific in the request. Chairperson English asked Mr. Gunther if they are saying Commissioner Gilbertson issued the CON to Providence in order to secure employment. Mr. Gunther responded that he does not have the evidence to prove that he did. Chairperson English gave Dave Jones the chance to add anything and he stated he feels he has already responded in all the information provided. There was discussion between Al Tamagni and Dave Jones on his investigation into this case. There was discussion on timeline of when the certificate of need was approved (9/16/2004) and when Commissioner Gilbertson sought advice from Barbara Richey on employment with Providence (May 2005). Chairperson English reminded the board that they have received direction from Sarah Felix, Board Attorney, regarding review of dismissals or settlements of ethics complaints made by the attorney generals office ethics attorney before formal proceedings. The Board does not approve or disapprove those decisions. However, they can make recommendations to the Department of Law. The Board agreed that they will not be making any recommendation to the Department of Law on the dismissal of this complaint.

5. EXPANSION OF PARTIALLY EXEMPT SERVICE :

Secretary Kiesel asked that we move item 8 on the agenda to item 5 due to time constraints of Ron Adler. Chairperson English approved the amendment to the agenda.

As per his memorandum dated August 7, 2006, Commissioner Scott Nordstrand recommended PCN 065048 (Hospital Administrator, API-ARC) be placed in the partially exempt service, in compliance with AS 39.25.130. Chairperson English, Secretary Kiesel, Janet Clark, Ron Adler and Steve Porter participated in the discussion. It was discussed that the two thresholds under AS 39.25.130 are not present in the duties outlined in the position description. The responsibilities do not come up until the classification analysis. There was agreement that the position description needed to include that the incumbent is a participating member of the API governing body which is key in determination of policy. Al Tamagni moved that they postpone the decision and let the department come back with a more satisfactory position description at the next meeting. Laura Plenert seconded the motion, all board members were in favor and it will pend until the next board meeting. Steve Porter mentioned that the union was going to oppose the movement. He also asked that the union receive more time to prepare in the future. It was decided that the procedures will now include a copy of the Commissioners memo to the union. It was also requested that the union give the Secretary of the Board one contact to send the information.

6. APPROVAL OF MINUTES

Chairperson English made the comment that the minutes were very well written and would like to see them like this in the future. Secretary Kiesel verified that the board members had received the amended minutes she had e-mailed to the board. Minutes were moved and approved.

7. ETHICS DISCLOSURE

None to report from any board members.

8. REVIEW OF PENDING ETHICS CASE LOG

The board discussed with Attorney Bockmon the possibility of more information in the comments portion of the log, such as a “violation occurred and action was taken, case closed”. There were some questions about a case that had been open for two years. Attorney Bockmon explained that a settlement had been reached in the case and then questions arose as to the compliance of the settlement. There was discussion about how often the departments provide an ethics summary to the Department of Law.

9. REVIEW ETHICS CASE:

Chairperson English had some questions on how often the departments report to the Department of Law on ethics complaints. The departments report quarterly with a summary that was provided to the board members at this meeting. Attorney Bockmon agreed that an attempt will be made to create a log for the complaints that are informally answered by the departments.

10. UPDATE FROM DIRECTOR OF PERSONNEL

Secretary Kiesel updated the board on the current status of the Division of Personnel

- Memo from Sarah Felix that was already discussed.
- Implementation of Market Based Pay is moving forward beginning with nurses.
- Hiring Freeze
- HR Payroll Solutions project has been cancelled.
- Data Warehouse project is still on track.

11. OTHER MATTERS THAT MAY COME BEFORE THE BOARD

- a. NEXT MEETING - Board members agreed to schedule the next meeting after an updated position description for PCN 0605048 had been submitted to classification.

12. ADJOURNMENT:

Chairperson English adjourned the meeting at approximately 1:51 P.M.