

**Vermont Board of Medical Practice
Minutes of the December 5, 2012 Board Meeting
Gifford Medical Center, Randolph, VT**

Approved

1. Call to Order; Call the Roll; Acknowledge Guests:

Patricia King, MD, PhD, Chair, called the meeting to order at 12:27. New public members Allen "Chip" Evans and Leo LeCours were welcomed to the Board. Each of them has been assigned to the North Committee.

Members Present:

William K. Hoser, PA-C ; Allen Evans; Peter Thomashow, MD; Janice Gallant, MD; Joshua Plavin, MD; Carol A. Diamond; Robert G. Hayward, MD; Leo LeCours; Patricia Hunter; Sarah McClain; David A. Jenkins; Robert Rinaldi, DPM; Harvey Reich, MD; William H. Stouch, MD.

Others in Attendance:

David Herlihy, Executive Director; Paula Nenninger, Investigator; Philip Ciotti, Investigator; Karen LaFond, Licensing Administrator; Margaret Vincent, AAG; Robert McDougal, AAG; Kurt Khuel, AAG; Robert Simpson, Esq, Presiding Officer; via phone: Bessie Weiss, AAG, Sarah Vose, State Toxicologist.

2. Public Comment:

None

3. Approval of Minutes of the November 7, 2012 Board Meetings:

Dr. Gallant moved to accept the minutes of the November 7, 2012 meeting. Dr. Reich seconded the motion. The motion passed; opposed: none; recused: none; abstained: none.

4. Board Issues (Dr. King):

Dr. King informed members that the Federation of State Medical Boards has inquired with the Board about whether or not Vermont is seeking to retain sponsorship status for Step 3 of the USMLE. She provided some history on the issue that included how there used to be 2 separate exam options, the FLEX exam and the NBME. These two exams were combined into the USMLE Step 1, 2 and 3, and in the early 1990s, some states opted to retain sponsorship of Step 3. Presently, exams are taken at testing centers around the country and the physician is not required to either reside in or work in the state where the test is administered. For instance, a physician living in Vermont can take the test in New Hampshire to then work in Florida. Most states have given up the sponsorship, but Vermont still has Step 3 sponsorship.

The FSMB is updating the exam and is revisiting the notion of sponsorship, and has posed three questions to Vermont: Does the Board wish to see the current sponsorship model continue for Step 3? Are there statutes or board rules/regulations you would have to amend if the state board sponsorship for Step 3 were discontinued? If yes, could the amendments be completed by mid-2014?

Questions raised by members focused on whether or not sponsorship related to licensure and whether the Board has any requirements that residents (Limited-Temporary Licensees) must pass Step 3 in order to maintain their LTL license.

Dr. Thomashow made a motion to discontinue Vermont sponsorship of Step 3 of the USMLE. Dr. Rinaldi seconded the motion. The motion passed; opposed: none; abstained: none; recused: none.

5. Administrative Update (Mr. Herlihy):

Mr. Herlihy informed members that the Board renewed 3145 physicians by 11/30/12 and approximately 355 physicians did not renew, 135 of which were Vermont physicians. Both Mr. Ciotti and Ms. Nenninger have been calling and e-mailing the VT physicians to confirm whether or not they meant for their licenses to lapse. Mr. Herlihy thanked both Tracy Hayes and Kelly Lawler for their hard work and efforts to renew all of the physicians and for enduring with the often challenging CAVU system. He also stated that the physician census survey that has been historically included in the paper renewal packet will not be conducted on line, and the e-mail will be sent from Dr. Harry Chen, Commissioner of the Vermont Department of Health.

Mr. Herlihy also updated members that the special committee for reviewing the rules for Continuing Medical Education and establishing criteria for Board sponsorship of CME events will meet in January. The members who have expressed interest in serving on this committee are Dr. Stouch, Dr. Reich and Dr. Gallant. Any other members interested in serving on this committee should contact him to join.

Mr. Herlihy advised that the hearing regarding Michael E. Schorsch, MPC 96-0910, will be held on January 22, 2012 and January 23, 2012 at the Gifford Medical Center, and the panel members will include Dr. Plavin, Ms. Hunter and Ms. McClain.

Mr. Herlihy stated that he has had additional discussion with the Office of Professional Regulation (OPR) regarding the rules about laser procedures for estheticians. In recent months it has come up a few times that there is a provision in the Estheticians Rules that might be read to imply that the State of Vermont approves of physicians delegating performance of medical procedures to individuals who are not licensed health professionals. Mr. Herlihy has had discussions with OPR representatives to request that they consider amending the rules to remove that language, which this Board has never been asked to consider. Recently OPR notified him that they will work to make that change

Mr. Herlihy welcomed new members Leo LeCours and Allen Evans to the Board and advised that they will both be serving on the North Investigative Committee and Ms. Diamond will transfer to Central Committee to replace Flo Young.

6. Designation of New Board Member to Have Access to VPMS Information (Mr. Herlihy):

Mr. Herlihy requested Board approval of adding Leo LeCours and Allen Evans to the list of designees permitted to receive information from the Vermont Prescription Monitoring System (VPMS). Mr. Jenkins made a motion to do so, and Dr. Plavin seconded the motion. The motion passed; opposed: none; abstained: none; recused: none.

7. Presentation of Applications (12:30 p.m. – 12:45p.m.):

Applications for physician licensure and physician assistant certification were presented and acted upon as detailed in Appendix A, incorporated by reference into these minutes.

8. Presentation to the Board (12:45p.m. – 1:45 p.m.):

State Toxicologist, Sarah Vose, and Department of Health, AAG, Bessie Weiss presented another request for review and advice on the list of proposed substances in the Regulated Drugs Rule. The Board of Health asked the BMP and Pharmacy Board to take another look at Kratom, a plant native to Southeast Asia, and its active ingredient, 7-HM, which is an opioid receptor agonist. Kratom is currently banned in Thailand and Australia, banned in one U.S. state, and there are age restrictions imposed in other U.S. states on its use. Kratom was on the list of substances considered earlier this year, when the BMP was asked to provide advice, and had endorsed the addition of certain synthetic cannabinoids and substances marketed as "bath salts." BMP was asked to provide advice again, to be provided to the Legislative Committee on Administrative Rules (LCAR), because during the public process to modify the Regulated Drug Rule, there were several comments submitted regarding Kratom.

Dr. Rinaldi made a motion to advise the Board of Health and LCAR to continue regulation of Kratom and the synthetic 7-HM, and to keep Kratom/7-HM on the list of substances added to the Regulated Drug Rule. Dr. Hayward seconded the motion. The motion passed; opposed: none; recused: none; abstained: none. The proposal that was presented is attached and incorporated into these minutes.

9. Recess; Convene Hearing to discuss any stipulations or disciplinary matters that are before the Board (1:45 p.m. – 2:15 p.m.): (Mr. Simpson)

• **In re: MPS 78-0611 – Claudia Esther Lee, MD – Stipulation and Consent Order**

Dr. Hayward made a motion to accept the Stipulation and Consent Order. Dr. Stouch seconded the motion. The motion passed; opposed: none; recused: Central Investigative Committee; abstained: none.

10. Executive Session to Discuss:

- a. **Investigative cases recommended for closure**
- b. **Other matters that are confidential by law, if any.**

Dr. Plavin made a motion at 1:30 p.m. to go into Executive Session to discuss confidential matters related to investigations. Dr. Hayward seconded the motion. The motion passed; opposed: none; recused: none; abstained: none.

11. Return to Open Session; Board Actions on Matters Discussed in Executive Session:

Mr. Hoser made a motion at 2:42 to return to Open Session. Dr. Hayward seconded the motion. The motion passed; opposed: none; recused: none; abstained: none.

12. Board Actions on Committee Recommendations with Regard to any Non-confidential Matters:

Dr. Reich, South Investigative Committee, asked to close:

MPS 129-0912 – Special Letter #1
MPS 43-0312 – Special Letter #2: Dr. Hayward recused
MPS 30-0312 – Special Letter #1
MPS 124-0912 – Special Letter #1
MPS113-0912 – Letter #1: Dr. Thomashow recused
MPS 142-1012 – Letter #1
MPS 62-0412 – Special Letter #1
MPS 118-0912 – Letter #1
MPS 131-0912 – Letter #1

Dr. Hayward made a motion to close the cases presented. Mr. Jenkins seconded the motion. The motion passed, opposed: none; abstained: none; recused: 2.

Mr. Jenkins, Central Investigative Committee, asked to close:

MPC 115-0912 – Letter #1
MPC 92-0712 – Special Letter #1
MPC 127-0912 – Letter #1
MPC 93-0712 – Letter #1

Dr. Reich made a motion to close the cases presented. Mr. Hoser seconded the motion. The motion passed, opposed: none; abstained: none; recused: none.

Dr. King, North Investigative Committee, asked to close:

MPN 114-0912 – Letter #1
MPN 149-1211 – Letter #1: Dr. Reich & Dr. Hayward recused

Dr. Plavin made a motion to close the cases presented. Ms. McClain seconded the motion. The motion passed, opposed: none; abstained: none; recused: 2.

13. Other Business:

None

14. Upcoming Board meetings, committee meetings, hearings, etc.: (*Locations are subject to change, you will be notified if a changes takes place.*)

- **December 13, 2012, North Investigative Committee Meeting, 12 p.m., Vermont Department of Health, 108 Cherry Street, 3rd Floor, Conference Room 3B, Burlington, VT**
- **December 14, 2012, Central Investigative Committee Meeting, 9 a.m., Liquor Control Conference Room, Basement Floor, 13 Green Mountain Drive,**

Montpelier, VT

- **December 19, 2012, Board meeting on pending applications, 12:10 p.m., Board of Medical Practice office, 108 Cherry Street, 2nd, Floor Burlington, VT (and via telephone)**
- **December 19, 2012, South Investigative Committee Meeting, 12:00 p.m., Asa Bloomer State Office Building, 4th Floor, Room #492, Rutland, VT**
- **January 2, 2013, Licensing Committee Meeting, 10:30 a.m., Gifford Medical Center, Red Clover Conference Room, Randolph**
- **January 2, 2013, Board Meeting, 12 p.m., Gifford Medical Center, Red Clover Conference Room, Randolph**

15. Adjournment:

Dr. Hayward made a motion to adjourn. Dr. Plavin seconded the motion. The motion passed; opposed: none; recused: none; abstained: none.

Meeting adjourned at 2:47 p.m.

Attachments: Appendix A

Respectfully submitted,



Karen LaFond
Licensing Administrator

Appendix A

Presentation of Applications

Dr. King moved for the issuance of physician licenses and physician assistant licenses for:

Spencer Borden, IV, MD
Karl Jeffries, MD
Marios Prikis, MD
Zohair Raza, MD

Adam Buckley, MD
Lauren Macnee, PA-C
Clifford Pukel, MD
It is Toedt-Pingel, MD

Thomas Cochran, MD
Donald Miller, MD
Robert Quinn, MD

Recommended by Dr. Gallant for licensure. Seconded by Mr. Hoser. The motion passed; opposed: none; recused: none; abstained.

Dr. King moved for the issuance of Limited Temporary Physician licenses for:

Laura Panto, MD-LTL

Recommended by Dr. Plavin for physician licensure. Seconded by Dr. Reich, passed, opposed: none; recused: none; abstained: none.