

**Vermont Board of Medical Practice  
Minutes of the November 6, 2013 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 12:17.

**Members Present:**

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

**Others in Attendance:**

David Herlihy, Executive Director; Paula Nenninger, Investigator; Karen LaFond, Licensing Administrator; Margaret Vincent, AAG; Robert McDougall, AAG; Kurt Kuehl, AAG, Robert Simpson, Esq., Presiding Officer; Stephanie Winters, Vermont Society of Anesthesiologists and VMS; Stephanie Taylor, MD & her husband, Alan Guazzoni.

**2. Public Comment:**

None

**3. Approval of Minutes of the October 2 and October 20, 2013 Board Meetings:**

Dr. Plavin moved to accept the minutes of the October 2, 2013 meeting. Dr. Hayward seconded the motion. The motion passed; opposed: none; recused: none; abstained: none.

Mr. Hoser moved to accept the minutes of the October 16, 2013 meeting. Dr. Hayward seconded the motion. The motion passed; opposed: none; recused: none; abstained: none.

**4. Board Issues (Dr. King):**

None

**5. Administrative Update (Mr. Herlihy):**

Mr. Herlihy updated the Board that there are 4 members retiring as of December and that he has had recent communications with the Governor's office regarding replacements. He also stated that there is shared concern about the renewal cycles and the number of members who will be ending their terms at once. Mr. Herlihy reported that the Governor's office has expressed a desire to make adjustments to the length of appointments for the purpose of making turnover more staggered. If any member who is reappointed notices a term of less than five years, it is not a reflection on the member but to better time expiration of terms.

Mr. Herlihy advised that he submitted reviews of Ms. Hayes's and Ms. LaFond's positions and both were granted an increase in pay grade. Both positions also now have job descriptions that more accurately describe the tasks and duties of the jobs.

Mr. Herlihy reminded members that the office will be closed on Veteran's Day (11/11/13) and will also be closed on Thanksgiving (11/18/13) and the day after (11/29/13).

**6. 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.

**7. Recess; Consideration of letter request regarding Stipulation and Consent Order, In re: Stephanie Taylor, MD, MPS 45-0304, 48-0304 (12:45-1:15)**

The Board heard the request of Dr. Stephanie Taylor to "consider allowing (her) to reapply for reinstatement of (her) Vermont Medical License." After hearing from both parties, the Board went into closed session to deliberate. After deliberating for approximately 30 minutes, the majority of the Board voted to require Dr. Taylor to abide by the terms of the Stipulation and declined to engage in any further consideration of her request.

**8. Convene Hearing to discuss any stipulations or disciplinary matters that are before the Board (12:45 p.m. – 1:15 p.m.): (Mr. Simpson)**

- **In re: Walter J. Griffiths, MD – MPC 16-0209 – Request for Consideration of Relief from Conditions**

Mr. Simpson and Mr. McDougall addressed the Board, summarizing the facts leading up to the request for consideration of relief from conditions. Dr. Reich made a motion to approve the request for relief from conditions. Mr. Hoser seconded the motion. The motion passed; opposed: none; abstained: none; recused: Central Investigative Committee.

**9. Executive Session to Discuss:**

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

The Board began discussion of this topic out of order, before the scheduled time for the beginning of the public hearing. Dr. Rinaldi made a motion at 12:33 p.m. to go into Executive Session to discuss confidential matters related to investigations. Ms. McClain seconded the motion. The motion passed; opposed: none; recused: none; abstained: none. Mr. Hoser made a motion at 1:02 to return to Open Session. Dr. Hayward seconded the motion. The motion passed; opposed: none; recused: none; abstained: none.

Dr. Hayward made a motion at 1:50 p.m. to return to Executive Session to continue to discuss confidential matters related to investigations. Dr. Plavin seconded the motion. The motion passed; opposed: none; recused: none; abstained: none.

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

Dr. Hayward made a motion at 2:56 to return to Open Session. Dr. Plavin seconded the motion. The motion passed; opposed: none; recused: none; abstained: none.

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

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

MPN 139-0513 – Letter #1  
MPN 38-0213 – Letter #1  
MPN 22-0113 – Letter #1  
MPN 3-0113 – Special Letter #2; Dr. King recused  
MPN 175-0813 – Letter #1; Dr. Reich recused  
MPN 112-0413 – Special #1  
MPN 164-0613 – Letter #1; Mr. Hoser recused  
MPN 162-0613 – Letter #1; Mr. Hoser recused  
MPN 161-0613 – Letter #1; Mr. Hoser recused  
MPN 88-0413 – Letter #1  
MPN 163-0613 – Letter #1; Mr. Hoser recused  
MPN 191-1112 – Letter #1  
MPN 146-0513 – Letter #1; Dr. Thomashow recused  
MPN 184-0813 – Letter #1; Dr. Thomashow recused  
MPN 167-0713 – Special Letter #1; Dr. King recused

Dr. Plavin made a motion to close the cases presented. Ms. McClain seconded the motion. The motion passed; opposed: none; abstained: none; recused: North Investigative Committee and 4 others.

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

MPC 185-0813 – Letter #1; Dr. Sadkin recused  
MPC 176-0813 – Letter #1; Dr. Reich & Dr. King recused  
MPC 117-0912 – Letter #1  
MPC 15-0113 – Special Letter #1; SM opposed

Dr. Reich made a motion to close the cases presented. Dr. Sadkin seconded the motion. The motion passed, opposed: 1; abstained: none; recused: Central Investigative Committee and 3 others.

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

MPS 168-0713 – Special Letter #2  
MPS 150-0613 – Letter #1; Dr. King recused  
MPS 169-0713 – Letter #1; Dr. Thomashow recused  
MPS 174-0813 – Letter #1; Dr. Reich recused  
MPS 181-0813 – Letter #1  
MPS 178-0813 – Letter #1; Dr. Hayward and Dr. Gallant recused  
MPS 159-1012 – Special Letter #2; Dr. Thomashow recused  
MPS 16-0113 – Special #2; Dr. Thomashow recused

MPS 201-0913 – Letter #1  
MPS 73-0313 – Stan Burns Letter  
MPS 170-0713 – Letter #1  
MPS 154-0613 – Letter #2  
MPS 179-0813 – Letter #1; Dr. Hayward recused  
MPS 180-0813 – Letter #1  
MPS 182-0813 – Letter #1  
MPS 171-0713 – Letter #1  
MPS 9-0113 – Letter #1; Dr. Sadkin recused  
MPS 69-0213 – Special Letter #1; Dr. Sadkin recused  
MPS 149-0613 – Letter #1  
MPS 190-0913 – Letter #1  
MPS 148-0513 – Letter #1; Dr. King recused  
MPS 143-0513 – Letter #1

Dr. Rinaldi made a motion to close the cases presented. Dr. Stouch seconded the motion. The motion passed; opposed: none; abstained: none; recused: South Investigative Committee and 6 others.

## **12. Board Approval of new question regarding completion of mandatory workforce survey**

Dr. Stouch made a motion to accept the new question in the renewal applications regarding the workforce survey. Mr. Evans seconded the motion. The motion passed; opposed: none; recused: none; abstained: none. (See Appendix B)

## **13. Continue discussion of “Opt-Out for CRNA” issue:**

The Board continued the discussion of the CRNA Opt-Out issue that began at the October meeting. Mr. Herlihy opened the discussion by providing the members the actual language of the question under consideration. Under § 482.52(c) of the CMS Manual, the Board is to consider making the recommendation based upon whether: “it is in the best interest of the State’s citizens to opt-out” considering “issues related to access to and the quality of anesthesia services in the state.” Mr. Herlihy also informed the Board that he had asked the Vermont Association of Hospitals and Health Systems for information about any staffing issues with anesthesiologists or CRNAs, and for comment on any access issues. They did not submit any information. There was no other information submitted regarding issues of access to anesthesiology or surgical services. The next question to consider was whether quality of care was an issue in Vermont and, again, there was no conclusive evidence regarding the impact on quality of care. No evidence was provided to suggest that quality of care would improve with removal of the supervision rule; the CRNAs had made arguments that care would be no worse. 17 states have opted-out, but there has been no evidence that access or quality has improved in those states. The members discussed that the Board exists to protect the public and concern was expressed of the capacity of the CRNAs to independently manage the bad scenarios or the times when things go wrong in the operating room.

Dr. Stouch called for a vote on the call: all in favor.

Dr. Plavin made a motion to advise against the request for Vermont to opt-out of supervision of CRNAs based upon the lack of evidence that to do so would improve the quality of service or

improve access to services in Vermont, which are the criteria identified in the CMS regulations. Dr. Stouch seconded the motion. The motion passed; opposed: 1; recused: none; abstained: none.

In response to the request from the Director of Health Care Reform, the Board of Medical Practice voted 15 to 1 to recommend against requesting the opt-out.

#### **14. Other Business:**

Mr. Herlihy provided an update on the concerns raised by Board members about a threatening statement posted on a website in September against the physician members of the Board. He stated that it is the opinion of the AGs that there is no criminal violation, but they are still trying to get a subpoena to obtain more information about the person who posted the comment.

Mr. Herlihy also updated the members about the FSMB annual meeting to be held April 24, 2104 – April 26, 2014 in Denver, CO. Public members can apply to get a scholarship to attend the conference.

Mr. Herlihy stated that he and Ms. Hunter attended the Vermont Ethics Network meeting in October about the End of Life legislation, and it was very informative.

Dr. Stouch addressed the Board expressing his concern about the Vermont Medical Society award granted to Dr. John Bookwalter. He stated that he will be submitting his letter of resignation from the VMS after serving 34 years as a member because he vehemently disagrees with the "Distinguished Service Award" granted to Dr. Bookwalter based upon the formal actions the Board has taken against him in 2009 and 2011. He stated that he will send his letter to Paul Harrington, Madeleine Mongon, Commissioner Harry Chen and David Jenkins, Chair of Central Investigative Committee.

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

- **November 14, 2013 North Investigative Committee Meeting, 12 p.m., Vermont Department of Health, 108 Cherry Street, 3<sup>rd</sup> Floor, Conference Room 3B, Burlington, VT**
- **November 15, 2013, Central Investigative Committee Meeting, 9 a.m., Liquor Control Conference Room, Basement Floor, 13 Green Mountain Drive, Montpelier, VT**
- **November 20, 2013, Board meeting on pending applications, 12:10 p.m., Board of Medical Practice office, 108 Cherry Street, 2<sup>nd</sup>, Floor Burlington, VT (and via telephone)**
- **November 20, 2013, South Investigative Committee Meeting, 12:00 p.m., Asa Bloomer State Office Building, 4th Floor, Room #492, Rutland, VT**
- **December 4, 2013, Licensing Committee Meeting, 10:30 a.m., Gifford Medical Center, Red Clover Conference Room, Randolph**

- **December 4, 2013, Board Meeting, 12 p.m., Gifford Medical Center, Red Clover Conference Room, Randolph**

**16. Adjournment:**

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

Meeting adjourned at 3:35 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:**

Christopher Anker, MD  
Jean Culver, MD  
Patrick Judson, MD  
Michelle Mertz, MD  
Jill Patton, MD  
Bradford Wagner, MD

Gavin Arnett, MD  
Thomas Fitzgerald, MD  
Osun Kwon, MD  
Hun Millard, MD  
Vicky Stephens, PA-C  
Peter Williams, MD

Nathaniel Burns, PA-C  
Mathew Hinge, PA-C  
Patrick Lyons, PA-C  
Craig Packard, MD  
Mark Suchowiecki, PA-C  
Barbara Ziv, MD

Recommended by Dr. Reich 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:**

Kenton Fibel, MD-LTL

Kristen Gerjevic, MD-LTL

Recommended by Dr. Rinaldi for licensure. Seconded by Dr. Plavin. The motion passed, opposed: none; recused: none; abstained: none.