

VERMONT BOARD OF MEDICAL PRACTICE
Minutes of the January 8, 2014 Board Meeting
Gifford Medical Center, Randolph, Vermont

Approved

1. Call to Order; Introduce New Members; Call the Roll; Acknowledge Guests:

Patricia A. King, MD called the meeting to order at 12.17

Members Present:

Richard Bernstein, MD; Brent Burgee, MD; Michael Drew, MD; Allen Evans, Janice M. Gallant, MD; Robert G. Hayward, MD; William K. Hoser, PA-C; Patricia Hunter; David A. Jenkins; Leo LeCours; Sarah McClain; Joshua Plavin, MD; Toby Sadkin, MD.

Others in Attendance:

David Herlihy, Executive Director; Paula Nenninger, Investigator; Jassen Bluto, Investigator; Karen LaFond, Operations Administrator; Margaret Vincent, AAG; Robert McDougall, AAG; Kurt Kuehl, AAG.

2. Public Comment:

None

3. Approval of Minutes of the December 4, 2013 and December 22, 2013 Board Meetings:

Mr. Hoser moved to accept the minutes of the December 4, 2013 meeting. Dr. Sadkin seconded the motion. The motion passed; opposed: none; recused: none; abstained: none.

Mr. Jenkins moved to accept the minutes of the December 22, 2013 meeting. Dr. Hayward seconded the motion. The motion passed; opposed: none; recused: none; abstained: none.

4. Board Issues (Dr. King):

Dr. King welcome the two new Board members Richard Bernstein, MD and Gary Brent Burgee, MD. She advised that Dr. Bernstein would serve on the North Investigative Committee and Dr. Burgee would serve on the Central Investigative Committee.

5. Administrative Update (Mr. Herlihy):

Mr. Herlihy informed the members that a podiatrist, David Liebow, DPM, had been nominated to serve on the Board and would join the South Investigative Committee this month. He also stated that the Governor's office continues the search for a replacement for Carol Diamond, public member, and Toby Sadkin, MD. Dr. Sadkin has graciously agreed to serve until a replacement has been identified. Mr. Herlihy also advised that Dr. Plavin would officially switch from the South Investigative Committee to the Central Investigative Committee effective this month.

Mr. Herlihy stated that Jennifer Gagnon's last day was December 31, 2103 and we would be receiving a list of applicants and would conduct interviews over the next couple of weeks. He also

advised that Phil Ciotti officially retired and plans to attend the February Board meeting to say good-bye.

Mr. Herlihy stated that he hopes to send out the 2nd edition of the "News From the Board" in February and is accepting ideas and input.

Mr. Herlihy informed the members that the Rules of the Board will be reviewed and revised this year and it is his goal to have proposed revisions by May 2014. He will seek input from stakeholders such as the Vermont Medical Society and the Physician Assistant Academy.

Mr. Herlihy advised that the Physician Assistant renewal was well underway and Ms. Hayes was reporting only minor issues with CAVU. He stated that we will be receiving the updated version of CAVU that will include the module for Continuing Medical Education reporting, as mandated by the legislature for the Physician License Renewal for 2014. Another goal is to incorporate revisions to the questions for all applications, as discussed last year, and Ms. Hayes will be taking the lead on that.

Mr. Herlihy provided copies of the FSMB Model Policies for the members to review and provide him with feedback for the February and March Board meetings. He also distributed copies of a letter from William Stouch, MD and suggested the members be prepared to discuss the issues raised by Dr. Stouch at the February meeting.

Mr. Herlihy stated that Dr. Burgee has agreed to join the Licensee Committee and asked that the Board make a motion to formalize the appointment.

Mr. Jenkins made a motion to appoint Gary Brent Burgee, MD to the Licensing Committee. Ms. Hunter seconded the motion. The motion passed; opposed: none; recused: none; abstained: none.

6. Presentation of Applications (12:30 p.m. – 12:45 p.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. Appointment of Members of the Medical Marijuana Review Board:

Mr. Herlihy stated that the Medical Marijuana Review Board was in need of two Board members to be appointed to replace Dr. Thomashow and Dr. Stouch.

Mr. LeCours made a motion to appoint Robert G. Hayward, MD and Richard Bernstein, MD to the Medical Marijuana Review Board. The motion passed; opposed: none; recused; none; abstained: none.

8. Presentations to the Board (12:45 p.m. – 1:15 p.m.):

None

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

- **In re: William A. O'Rourke, MD – MPN 101-0707 & MPN 19-0302 – Request for Relief from Conditions**

Mr. McDougall addressed the Board, summarizing the facts leading up to the Request for Relief from Conditions. He stated that he consulted the North Investigative Committee and it was recommended that the Board honor the request to relieve Dr. O'Rourke from all conditions in MPN 101-0707.

Dr. Drew made a motion to approve the request for relief from conditions. Dr. Hayward seconded the motion. The motion passed; opposed: none; abstained: none; recused: Mr. Jenkins and the North Investigative Committee.

10. Reconvene meeting; 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. Plavin made a motion at 12:49 p.m. to go into Executive Session to discuss confidential matters related to investigations. Mr. Hoser seconded the motion. The motion passed; opposed: none; recused: none; abstained: none. Mr. Hoser made a motion at 1:18 p.m. to return to Open Session. Dr. Gallant seconded the motion. The motion passed; opposed: none; recused: none; abstained: none.

Dr. Hayward made a motion at 1:45 p.m. to return to Executive Session to continue to discuss confidential matters related to investigations. Ms. Hunter seconded the motion. The motion passed; opposed: none; abstained: none; recused: none.

11. Return to Open Session; Board Actions on matters discussed in Executive Session:

Ms. Hunter made a motion at 2:19 p.m. to return to Open Session. Dr. Drew seconded the motion. The motion passed; opposed: none; abstained: none; recused: none.

12. Board Actions on Committee recommendations with regard to any non-confidential matters:

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

MPN 221-1013 – Letter #1
MPN 226-1113 – Letter #1; Dr. Sadkin recused.
MPN 225-1013 – Letter #1
MPN 222-1013 – Letter #1
MPN 220-1013 – Special Letter #1; Mr. Hoser recused.
MPN 29-0113 – Special Letter #1

Mr. Jenkins made a motion to close the cases presented. Ms. Hunter seconded the motion. The motion passed; opposed: none; abstained: none; recused: North Investigative Committee and 2 others.

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

MPC 136-1111 – Stan Burns Letter
MPC 85-0612 – Stan Burns Letter
MPC 216-1013 – Letter #1
MPC 202-0913 – Special Letter #1

Dr. Plavin made a motion to close the cases presented. Mr. Hoser seconded the motion. The motion passed; opposed: none; abstained: none; recused: Central Investigative Committee.

Mr. Hoser, South Investigative Committee, asked to close:

MPS 203-0913 – Letter #1

Dr. Hayward made a motion to close the cases presented. Dr. Gallant seconded the motion. The motion passed; opposed: none; abstained: none; recused: South Investigative Committee.

13. Other Business: Continued discussion of closing letters.

Mr. Herlihy stated that in absence of Dr. Reich, he suggested holding the discussion regarding the language of the Closing Letters.

Mr. Herlihy also advised the members that Robert McDougall, AAG has been selected to serve in the Environmental Division of the Attorney General's Office and will begin transitioning into his new role this month. He stated that Mr. McDougall will work with the new AAG who will take over his duties.

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

- **January 16, 2014, North Investigative Committee Meeting, 12 p.m., Vermont Department of Health, 108 Cherry Street, 3rd Floor, Conference Room 3B, Burlington, VT**
- **January 17, 2014, Central Investigative Committee Meeting, 9 a.m., Liquor Control Conference Room, Basement Floor, 13 Green Mountain Drive, Montpelier, VT**
- **January 17, 2014, Board meeting on pending applications, 12:10 p.m., Board of Medical Practice office, 108 Cherry Street, 2nd, Floor Burlington, VT (and via telephone)**
- **January 22, 2014, South Investigative Committee Meeting, 12:00 p.m., Asa Bloomer State Office Building, 4th Floor, Room #492, Rutland, VT**
- **February 5, 2014, Licensing Committee Meeting, 10:30 a.m., Gifford Medical Center, Red Clover Conference Room, Randolph**
- **February 5, 2014, Board Meeting, 12 p.m., Gifford Medical Center, Red Clover**

Conference Room, Randolph

15. Open Forum:

None

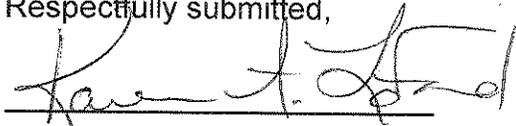
16. Adjourn:

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

Meeting adjourned at 2:32 p.m.

Attachments: Appendix A

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Karen A. LaFond", written over a horizontal line.

Karen A. LaFond
Medical Licensing & Operations Administrator

APPENDIX A

Presentation of Applications

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

Erin Flaherty, MD
Elizabeth Hoover, MD
Stefan Lischke, MD
Darrin Michalak, PA-C
Jeannette West, MD

Benjamin Gerson, MD
Suela Hysenaj, AA-C
Mark Lodespoto, MD
Sean O'Brien, PA-C

Amanda Hepler, MD
Doris LeBlanc, MD
Kang Lu, MD
Janis Petzel, MD

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