

**Vermont Board of Medical Practice
Minutes of the May 1, 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 12:20.

Members Present:

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

Others in Attendance:

David Herlihy, Executive Director; Paula Nenninger, Investigator; Philip Ciotti, Investigator; Karen LaFond, Licensing Administrator; Tracy Hayes, Licensing Technician; Margaret Vincent, AAG; Robert McDougall, AAG; Kurt Khuel, AAG; Robert Simpson, Esq., Presiding Officer.

2. Public Comment:

None

3. Approval of Minutes of the April 3, 2013 and April 17, 2013 Board Meetings:

Dr. Rinaldi moved to accept the minutes of the April 3, 2013 meeting. Dr. Drew seconded the motion. The motion passed; opposed: none; recused: none; abstained: none.

Dr. Drew moved to accept the minutes of the April 17, 2013 meeting. Ms. McClain seconded the motion. The motion passed; opposed: none; recused: none; abstained: none.

4. Board Issues (Dr. King):

Dr. King turned the floor over to Dr. Sadkin, Chair of the Nominating Committee, who made a motion to elect Patricia A. King, MD as Chair of the Board, William K. Hoser, PA-C as Vice-Chair, and Robert G. Hayward, MD as the Secretary of the Board. Ms. Diamond seconded the motion. The motion passed; opposed: none; recused: none; abstained: none.

5. Administrative Update (Mr. Herlihy):

Mr. Herlihy asked Ms. LaFond to provide an update on the HSIN site now that the iPads have been distributed. Ms. LaFond informed members that they will soon receive an e-mail from HSIN instructing them to log in and create their profile to have access to the system. She invited members to contact her for assistance with this process or if they have questions.

Mr. Herlihy advised members that one interview had been conducted for the additional investigator temporary position and another interview would be held the following week. He hopes to extend an offer of employment to one of the candidates this month.

Mr. Herlihy opened the discussion about a proposal by the Federation of State Medical Boards (FSMB) to modify the FCVS process to allow applicants to satisfy the requirement to prove identity by submitting a notarized form and a photocopy of a birth certificate or passport. He stated that FCVS asked for feedback on the proposal, which he provided on April 30, 2013 and noted in the response that he would be discussing the proposal with the full board today. In summary, his response stated that the current Board standard for identity is submission of certified birth certificate and the proposed revision would fall far short of the degree of assurance of proper identity provided by our current process. Mr. Herlihy also discussed this proposal with the Licensing Committee and it was the consensus of that committee to ask the board to consider continuing with the same level of documentation requirements that the board has currently.

Dr. Rinaldi made a motion to not approve the FSMB proposed change to allow a notary to take place of document verification and to continue with the existing standard of accepting an official copy of a birth certificate. Ms. Hunter seconded the motion. The motion passed; opposed: none; recused: none; abstained: none.

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; 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: Michael E. Schorsch, MD – MPC 96-0910 – Proposed Decision and Order**

Mr. Simpson and the Board closed the meeting for deliberations. The members of the Central Committee left the room. The Board reconvened in public session approximately 20 minutes later and the Final Proposed Decision and Order was presented. The Order was approved; opposed: none; abstained: none; recused: Central Investigative Committee.

- **In Re: Benjamin Holobowicz, PA-C – MPN 130-1110 – Stipulation and Consent Order**

Mr. Simpson and Mr. Kuehl addressed the Board, summarizing the facts leading up to the agreed-upon stipulation. Dr. Hayward made a motion to approve the Stipulation and Consent Order. Dr. Drew seconded the motion. The motion passed; opposed: none; abstained: none; recused: Mr. Hoser & North Investigative Committee.

- **In Re: Richard E. Kast, MD – MPS 102-0711 – Stipulation and Consent Order**

Mr. Simpson and Mr. Kuehl addressed the Board, summarizing the facts leading up to the agreed-upon stipulation. Dr. Hayward made a motion to approve the Stipulation and

Consent Order. Dr. Rinaldi seconded the motion. The motion passed; opposed: none; abstained: none; recused: South Investigative Committee.

8. Executive Session to Discuss:

- a. Investigative cases recommended for closure
- b. 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 12:51 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. Dr. Thomashow made a motion at 1:14 to return to Open Session. Ms. McClain seconded the motion. The motion passed; opposed: none; recused: none; abstained: none.

Ms. Diamond made a motion at 2:01 p.m. to go into Executive Session to discuss confidential matters related to investigations. Dr. Rinaldi seconded the motion. The motion passed; opposed: none; recused: none; abstained: none.

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

Dr. Gallant made a motion at 3:04 to return to Open Session. Dr. Hayward seconded the motion. The motion passed; opposed: none; recused: none; abstained: none.

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

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

MPN 8-0113 – Letter #1
MPN 42-0213 – Letter #1
MPN 40-0213 – Letter #1 – Dr. Plavin & Dr. Rinaldi recused.
MPN 1-0113 – Special Letter #1
MPN 36-0213 – Letter #1 – Dr. Thomashow recused.
MPN 41-0213 – Letter #1
MPN 82-0313 – Letter #1 – Dr. Plavin & Dr. Rinaldi recused.
MPN 055-0213 – Letter #1

Mr. Jenkins made a motion to close the cases presented. Dr. Hayward seconded the motion. The motion passed; opposed: none; abstained: none; recused: North Investigative Committee and 3 others.

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

MPS 206-1212 – Letter #1
MPS 10-0113 – Letter #1 – Dr. Thomashow recused.
MPS 68-0213 – Letter #1
MPS 5-0112 – Special Letter #1
MPS 51-0312 – Special Letter #1
MPS 163-1012 – Letter #1

MPS 225-1212 – Special Letter #1 – Dr. Thomashow recused.
MPS 83-0313 – Letter #1 – Dr. Thomashow recused.
MPS 6-0112 – Special Letter #1
MPS 47-0213 – Letter #1
MPS 109-0812 – Special Letter #1
MPS 162-1012 – Special Letter #1
MPS 46-0213 – Letter #1
MPS 18-0113 – Special Letter #1
PMS 84-0313 – Letter #1

Dr. Gallant made a motion to close the cases presented. Dr. Rinaldi seconded the motion. The motion passed; opposed: none; abstained: none; recused: South Investigative Committee and 1 other.

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

MPC 126-1011 – Special Letter #1
MPC 221-1212 – Letter #1
MPC 52-0213 – Letter #1

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

11. Other Business:

H. 123, the Lyme bill, is still pending. One possible amendment that has been circulated is modeled on a law that was passed in New Hampshire. The New Hampshire law forces the NH Board to post a statement on their web site declaring that no licensee will be disciplined for long-term antibiotic treatment of Lyme Disease. The possible amendment would also mandate 4 hours of Continuing Medical Education (CME) courses on the treatment for Lyme Disease. The statement on the website would be as objectionable as legislation of the standard of care; it would presumably estop the Board from disciplining physicians who engage in unprofessional conduct. Even if one were to accept that long-term antibiotic treatment can be appropriate care, the language proposed would, for example, prevent appropriate discipline of a physician for harming a patient by failing to screen for antibiotic allergies before prescribing. Mr. Herlihy will continue to work with Dr. Chen and monitor any developments on the bill.

Mr. Herlihy also provided an update on H. 522, which addresses some changes to laws that relate to the response to opioid misuse, VPMS, and other drug abuse issues. At one point the bill included objectionable language that would have forced the Board to disclose the names of physicians under investigation when requesting information from VPMS. That was changed to a requirement to provide only a case number, and in its present form the bill is not objectionable. It mandates registration for VPMS and specifies some standards for using it, among other things.

S. 77 – the end of life bill. Mr. Herlihy has continued to represent the Board's position that it is not taking a position on the merits of allowing physicians to participate in assisting a patient in ending his or her own life, but weighing in only with regard to the impact of the bill on the

ability of the Board to carry out its statutory mission. The version passed by the Senate was problematic; the lack of process would create the risk that there would be attempts to take advantage of the immunity offered by the bill in situations other than those contemplated by supporters. Mr. Herlihy has also been asked about a proposed amendment that would require a physician to have a special endorsement on his or her license to provide a fatal prescription. He has replied that the Board could administer such a requirement and would not object to that.

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

- **May 9, 2013 North Investigative Committee Meeting, 12 p.m., Vermont Department of Health, 108 Cherry Street, 3rd Floor, Conference Room 3B, Burlington, VT**
- **May 10, 2013, Central Investigative Committee Meeting, 9 a.m., Liquor Control Conference Room, Basement Floor, 13 Green Mountain Drive, Montpelier, VT**
- **May 15, 2013, Board meeting on pending applications, 12:10 p.m., Board of Medical Practice office, 108 Cherry Street, 2nd, Floor Burlington, VT (and via telephone)**
- **May 15, 2013, South Investigative Committee Meeting, 12:00 p.m., Asa Bloomer State Office Building, 4th Floor, Room #492, Rutland, VT**
- **June 5, 2013, Licensing Committee Meeting, 10:30 a.m., Gifford Medical Center, Red Clover Conference Room, Randolph**
- **June 5, 2013, Board Meeting, 12 p.m., Gifford Medical Center, Red Clover Conference Room, Randolph**

13. Adjournment:

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

Meeting adjourned at 3:18 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:

Christine Bilbrey, MD	Jennifer Borofsky, MD	Wendy Boucher, MD
Mark Brodie, MD	Steven Chen, MD	Kristen Connolly, MD
Kelly Cowan, MD	Nancy Dunbar, MD	Kevin Dwyer, MD
Dirk Elston, MD	Gary Felsberg, MD	Doreen Fukushima, MD
Myrna Gover Lepich, MD	Edgar Kahn, MD	Nirav Kapadia, MD
Charles Kinsey, MD	Debra McQuade, MD	Dwight Mirmow, MD
Ann Perry, MD	Sarah Schlein, MD	Regina Springer, PA-C
Daniel Tarver, MD		

Recommended by Dr. Hayward for licensure. Seconded by Dr. Stouch. The motion passed; opposed: none; recused: none; abstained.

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

Ziad Arabi, MD	Ariel Benimhon, MD	John Brunkhorst, MD
Esther Cabellero-Manrique, MD	Marc Champaloux, MD	Jennifer Covino, MD
Javier DeLuca-Johnson, MD	Dustin Dippen, MD	Mayo Fujii, MD
Nathan Grohmann, MD	Delia Horn, MD	Robert Jacobs, MD
Kelley Keefe, MD	Catherine Kelley, MD	Sherrie Khandaga, MD
Julia Knight, MD	Urszula Kowalik, MD	Xun Li, MD
Erin Maddy, MD	Andrew Matz, MD	Nathan Mauser, MD
Jamie Mehringer, MD	Lucas Mikulic, MD	Jill Miller, MD
Catherine Naber, MD	Dani Porter, MD	Gordon Powers, MD
Courtney Riley, MD	Michael Romano, MD	Andrew Reubens, MD
Tara Scribner-Metcalf, MD	Samuel Stoyak, MD	Susanne Thach, MD
Christopher Trevino, MD	Mario Velez, MD	Luke Vierthaler, MD
Matthias Wacker, MD	Stewart Weber, MD	Jonathan Wilfong, MD
Anthony Williams, MD		

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