

**Vermont Board of Medical Practice  
Minutes of the November 2, 2011 Board Meeting  
Gifford Medical Center, Randolph, VT**

**Approved**

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

Patricia King, MD, Chair, called the meeting to order at 12:18.

**Members Present:**

William Hoser, PA-C; Margaret F. Martin; Michael Drew, MD; Robert G. Hayward, MD; Hon. David A. Jenkins; Sarah McCLain; Harvey Reich, MD; William H. Stouch, MD; Peter Thomashow, MD; Florence Young; John Webber, Esq.;

**Others in Attendance:**

David Herlihy, Executive Director; Paula Nenninger, Investigator; Philip Ciotti, Investigator; Karen LaFond, Licensing Administrator; Kurt Khuel, AAG; Margaret Vincent, AAG

**2. Public Comment:**

Madeline Mongan, Vermont Medical Society, briefed the board members on the recent VMS meeting. She stated that VMS held it's annual meeting on October 29, 2011 during which several resolutions were adopted: 1) Issuing an annual progress report on the state government's compliance with the Act 48 principles; 2) Patient education and incentives for health; 3) Opposition to a Medicaid tax on physicians' net revenue; 4) The dangers of distracted driving; 5) Reconvening the Vermont Medical Society Physician Policy Council.

**3. Approval of Minutes of the October 5 and October 19, 2011 Board Meetings:**

Dr. Reich noted that the minutes from the October 5, 2011 meeting as written did not accurately state who was present during the deliberative session for the hearing regarding John Bookwalter, MD. The members of the hearing panel remained in the room and Dr. Reich requested the minutes be amended to state that they were in attendance.

Dr. Reich moved to amend the minutes; Ms. Martin seconded the motion. The motion passed; opposed: none; recused: none; abstained none. She also stated that there is "transparency legislation" in the works which will require health care providers to identify themselves by license type. Minutes of this meeting will soon be available on the VMS website.

Mr. Webber moved to approve the amended minutes of the October 5, 2011 meeting. Dr. Reich seconded the motion. The motion passed; opposed: none; recused: none; abstained: none.

Dr. Hayward made a motion to accept the minutes of the October 19, 2011 meeting. Dr. Reich seconded the motion. The motion passed; opposed: none; recused: none; abstained: none.

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

Dr. King provided an update on the State Medical Society meeting that was recently held. Discussions focused on narcotic prescribing and she gave a 3 minute presentations along with Sy Jordan, John Brooklyn, MD, Eileen Elliott, Esq., and Barbara Cimaglio from the Department of Health. Each person commented on the issues facing Vermont and things to do in the future to help physicians with prescribing narcotics.

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

Mr. Herlihy advised that the CAVU go-live date is presently scheduled for November 14 and the only other space to move after that is the first week of December. We have reached the point of no return given the legislative changes for Physician Assistant licensure because the existing system has not been modified to be able to renew PAs to reflect those changes. PAs will be submitting their paper renewals and then Tracy will enter all of them once the new system is up and running.

Mr. Herlihy made special mention that we need to have a quorum at the mid-month meeting on November 16 to approve licenses because Tracy will be processing them in the new system. If licenses cannot be approved then we cannot test the system, so he requested members to please call in for that meeting.

Mr. Herlihy advised that that comments for re-entry requirements from the FSMB are due by December 12.

Mr. Herlihy updated the members about the VPHP Liaison Meeting which was held on October 18, 2011. He stated that he and Dr. King attended; Mr. Webber and Dr. Drew called in. Everyone agreed that there are a few items to work on to improve collaboration. The next meeting will be held in the winter of 2012.

He also raised a training opportunity for opioid prescribing. The Massachusetts Medical Board approached him about a successful program hosted by the Boston University Medical School. The MA Board partners with BU, supported by unrestricted educational grant funding from pharmaceutical companies. Review of the program financing arrangement and the Vermont ethical rules suggests that the Vermont Board could partner with them to provide this program for Vermont physicians. Contingent on approval by the Attorney General's Office and VDH, Mr. Herlihy asked for input from the Board members as to whether this training should be presented in Vermont. He stated that Board involvement would include having BMP as a named sponsor/host, someone to make opening remarks, and arrange for panelists to participate in a round table discussion. There would be no commercial benefit to the pharmaceutical company and it would be open to all prescribers.

Discussions focused on if this could be offered via satellite link to have more statewide participation; distinguishing carefully between the management of chronic pain and the treatment – acute pain vs. chronic pain; and whether or not FAHC would be able to participate given that they do not take any money from pharmaceutical companies even for education purposes. Ms. Mongan stated that VMS would be pleased to partner with the Board and Cy Jordan is currently seeking unrestricted grant funding to support a needs assessment for prescribing education.

Several members expressed a desire for more information on the program. Mr. Herlihy will coordinate with Dr. Drew to see if he can attend a presentation in Massachusetts. He will also obtain a copy of the course materials to share with members. This will be revisited once more information about the program is available.

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

Rob Stirewalt, Policy and Programs Coordinator for the Communications and Media Division at the Department of Health, gave a presentation to the Board about how to handle media and press calls. He provided examples about how light-hearted statements can be turned into negative comments in a press release or a news story, and educated members about the tactics news reporters may take to contact them about an issue. He stated that if ever someone is misquoted in an article or press release, he can contact the reporter to have a retraction or correction released, and stated that he would be available to the Board for advice about how to handle a press call. He also advised the members that they can always decline to speak with a reporter and refer that person to either him or Mr. Herlihy.

Ms. Vincent told members to refer reporters to the minutes of a meeting they are inquiring about so issues discussed in Executive Session are not mixed up with issues discussed in Open Session. She also advised members to stay away from discussing their thought process on a decision, especially for those who serve on hearing panels, because, although there is an ethical duty to provide information to the public, it would be problematic if something a board member stated was either misinterpreted or misconstrued as "Board opinion" rather than the opinion of that individual. She stated that if a member is contacted by the press while they are serving on a hearing panel then they need to refer the inquiry to Mr. Herlihy or VDH Communications. She encouraged members to be general and be careful when speaking with members of the press about quasi-judicial proceedings, and if ever they feel uncomfortable speaking with the press to simply refer the reporter to Mr. Herlihy or VDH Communications.

**8. 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)**

None

**9. Reconvene Meeting; Executive Session to Discuss:**  
**a. Investigative cases recommended for closure**  
**b. Other matters that are confidential by law, if any**

Hon. Jenkins made a motion at 1:53 p.m. to go into Executive Session to discuss confidential matters related to investigations. Dr. Reich 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:**

Mr. Webber made a motion at 2:36 to return to open session. Dr. Reich 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. Reich, South Investigative Committee, asked to close:**

MPS 112-0911 – Letter #1  
MPS 109-0811 – Letter #1  
MPS 111-0911 – Letter #1  
MPS 63-0511 – Special Letter #1

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

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

None

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

MPN 46-0411 – Special Letter #2  
MPN 67-0611 – Letter #1; Special Letter to Complainant

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

**12. Other Business:**

Mr. Herlihy provided a draft of the Rules Regarding Pro-Bono Licensure, specifically related to the presentation last month by members of the Good Neighbor Health Clinic. He stated that the draft is a proposed response to the Legislature for the

assignment to review the Pro Bono process and suggest revisions. Mr. Herlihy sought a resolution from the Board to grant permission for him to move forward with this draft. He summarized the draft, which establishes criteria that determine eligibility to use a special Pro Bono application process. The criteria are designed to identify those applicants who have unblemished records. Qualifying Pro Bono applicants would then be able to have certified copies of required documents provided by other state licensing boards. That would address the complaint that Pro Bono applicants are deterred by the burden of obtaining direct verification of education, residency, examinations, and other state status. The Board would follow the same standards for licensure, but this would be a relaxation of the procedural requirements.

A question was posed as to whether or not the Board is being required to do this. Mr. Herlihy stated that the Legislature is seeking input from the board and it would be better for the Board to propose what will be acceptable rather than being told what to accept. This draft will be subject to the rule making process so there will be ample room for discussion prior to a final version being established.

Discussion also focused on sections 1b and 3b1. Mr. Herlihy stated he would make changes to clinical practice; criminal/misdemeanor language; references need to be current; and add hospital privileges to be requested.

Mr. Hoser made a motion to propose a resolution allowing Mr. Herlihy to move forward with corrections. Dr. Drew seconded the motion. The motion passed; approved: 9; opposed: 1; recused: none; abstained: none.

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

- **November 10, 2011, North Investigative Committee Meeting, 12 p.m., Vermont Department of Health, 108 Cherry Street, 2<sup>nd</sup> Floor, Conference Room 2D, Burlington, VT**
- **November 16, 2011, 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 18, 2011, South Investigative Committee Meeting, 12 p.m., Asa Bloomer State Office Building, 4<sup>th</sup> Floor, Room #492, Rutland, VT**
- **November 18, 2011, Central Investigative Committee Meeting, 12 p.m., Liquor Control, Conference Room 13, Green Mountain Drive, Montpelier, VT**
- **December 7, 2011, Licensing Committee Meeting 10:30 a.m., Gifford Medical Center, Red Clover Conference Room, Randolph, VT**
- **December 7, 2011, Board Meeting, 12 p.m., Gifford Medical Center, Red Clover Conference Room, Randolph, VT**

**14. Adjournment:**

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

Meeting adjourned at 3:05 p.m.

**Attachments: Appendix A**

Respectfully submitted,



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Karen LaFond  
Licensing Administrator

## Appendix A

### Presentation of Applications

#### **Dr. King moved for the issuance of physician licenses for:**

James Ames, MD	Brigitte Dargis, MD	Benjamin Lange, MD
Marian Madden, MD	Craig Nachbauer, MD	Erinn Noeth, MD
Anders Rhodin, MD	James Stafford, MD	Sara Swift, MD
Christopher Yelverton, MD		

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

#### **Dr. King moved for the issuance of limited temporary licenses for:**

Carlos Morales, MD LTL	Stacy Strouse, MD LTL
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Recommended by Mr. Hoser for limited temporary physician licensure. Seconded by Dr. Hayward. The motion passed; opposed: none; recused: none; abstained: none.

#### **Dr. Drew moved for the board to accept the withdrawn application from David Cohen, MD.**

Dr. advised the board that Dr. Cohen send an e-mail stating his employment changed and he would no longer be working for the Group with business in Vermont. There was a discussion as to whether or not the board had received confirmation from the employer that Dr. Cohen would not be working there or if there was any reason not to accept the notification.

Recommended by Mr. Webber to accept the withdrawn application from David Cohen, MD. Seconded by Dr. Hayward. The motion passed; opposed: none; recused: none; abstained: none.