

VERMONT BOARD OF MEDICAL PRACTICE
Minutes of the October 1, 2014 Board Meeting
Gifford Medical Center, Randolph, Vermont

Unapproved

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

William K. Hoser, PA-C, Vice-Chair, called the meeting to order at 12:10 p.m.

Members Present:

Richard Bernstein, MD; Brent Burgee, MD; Michael Drew, MD; Allen Evans, Janice M. Gallant, MD; Faisal Gill; Robert G. Hayward, MD; William K. Hoser, PA-C; Patricia Hunter; David A. Jenkins; Patricia A. King, MD; Leo LeCours; David Liebow, DPM; Sarah McClain; Joshua Plavin, MD; Marga Sproul, MD.

Others in Attendance:

David Herlihy, Executive Director; Paula Nenninger, Investigator; Karen LaFond, Operations Administrator; Margaret Vincent, AAG; Kassandra Aristide, AAG; Bill Reynolds, AAG.

2. Public Comment:

None

3. Approval of Minutes of the and the September 3 and September 17, 2014 Board Meetings:

Dr. Plavin moved to accept the minutes of the September 3, 2014 meeting. Dr. Gallant seconded the motion. The motion passed; opposed: none; recused: none; abstained: none.

Mr. Jenkins moved to accept the minutes of the September 17, 2014 meeting. Dr. Hayward seconded the motion. The motion passed; opposed: none; recused: none; abstained: none.

4. Board Issues (Mr. Hoser):

None

5. Administrative Update (Mr. Herlihy):

Mr. Herlihy updated the members on the status of hiring a full-time investigator. He and Ms. Nenninger were conducting interviews and hoped to soon identify candidates for the second round of interviews.

Mr. Herlihy provided an update on the physician renewal period: to date, 852 renewals had been submitted, 504 had been reviewed, and 398 had been processed. He asked for members to submit any suggestions about the wording of communications about the renewal process. He also asked that if members hear that there are physicians who have not received notification about the renewal cycle to contact the office to ensure their email address is correct in the system,

as all communication about the renewal is being sent via email.

Mr. Herlihy reminded members that the S.C.O.P.E of Pain conference will be held on November 15, 2014 at the Hilton in Burlington. He stated that if any members wish to attend to contact him and he will ensure they are registered at no cost.

Mr. Herlihy advised members of the recent change in the DEA Schedule III drugs. Effective October 6, 2014, hydrocodone combination products will move from Schedule III to Schedule II on the DEA Schedules of Controlled Substances. He stated that notification of this change went out in an email communication that also provided the policy issued by the Vermont Board of Pharmacy. Dr. Hayward added that Tramadol is being moved from Schedule V to Schedule IV.

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

None

8. 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: Loren Anthony Landis, MD – MPN 208-1212 and MPN 210-1013 – Stipulation and Consent Order**

Mr. Simpson and Mr. Reynolds addressed the Board, summarizing the facts leading up to the Stipulation and Consent Order. Ms. Hunter made a motion to approve the Stipulation and Consent Order. Dr. Hayward seconded the motion. The motion did not pass; opposed: 16; abstained: none; recused: North Investigative Committee. Mr. Reynolds was directed to seek to amend the terms of the stipulation for future approval.

- **In re: Mitchell R. Miller, MD – MPC 76-1100 – Petition to Modify Stipulation and Consent Order**

Mr. Simpson and Mr. Reynolds addressed the Board, summarizing the facts leading up to the Petition to Modify Stipulation and Consent Order. Mr. LeCours made a motion to approve the Petition to Modify Stipulation and Consent Order. Dr. Liebow seconded the motion. The motion passed; opposed: Dr. Reich; recused: Central Investigative Committee.

9. 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. Bernstein made a motion at 12:45 p.m. to go into Executive Session to

discuss confidential matters related to investigations. Dr. Gallant seconded the motion. The motion passed; opposed: none; recused: none; abstained: none. Dr. Reich made a motion at 1:05 p.m. to return to Open Session. Ms. Hunter seconded the motion. The motion passed; opposed: none; recused: none; abstained: none.

Dr. Liebow made a motion at 1:59 p.m. to return to Executive Session to continue to discuss confidential matters related to investigations. Ms. McClain seconded the motion. The motion passed; opposed: none; abstained: none; recused: none

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

Dr. Hayward made a motion at 2:23 p.m. to return to Open Session. Dr. Gallant seconded the motion. The motion passed; opposed: none; abstained: none; recused: none.

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

Mr. LeCours, North Investigative Committee, asked to close:

MPN 74-0714 – Letter #1
MPN 70-0714 – Letter #1; Dr. Reich recused
MPN 78-0814 – Letter #1; Dr. Reich recused
MPN 108-0812 – Special Letter #1
MPN 99-0413 – Special Letter #1
MPN 80-0814 – Letter #1

Dr. Drew made a motion to close the cases presented. Dr. Plavin seconded the motion. The motion passed; opposed: none; abstained: none; recused: 1 and North Investigative Committee.

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

MPC 006-0114 – Letter #1
MPC 056-0614 – Letter #1
MPC 057-0614 – letter #1
MPC 064-0714 – Letter #1
MPC 072-0714 – Letter #1
MPC 073-0714 – Letter #1

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

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

MPS 13-0214 – Special #2
MPS 82-0814 – Letter #1
MPS 69-0714 – Special #1

Mr. Jenkins made a motion to close the cases presented. Mr. LeCours seconded the motion. The

motion passed; opposed: none; abstained: none; recused: South Investigative Committee.

12. Other Business:

- **Introduction of the proposed Interstate Compact on Medical Licensure forwarded by the Federation of State Medical Boards.**

Mr. Herlihy introduced the proposed Interstate Compact on Medical Licensure, focusing on the difference in Vermont requirements for licensure and the proposed requirements in the compact. Questions raised by members surrounded potential implications of changes in process for approving a “compact” licensure and a “regular” license in VT, potential need for additional funding of resources to process a new type of license, potential changes in the renewal process and tracking of actions taken in other states for licensees with a compact license. Further discussion of this topic and the questions raised will continue at the November 5, 2014 Board meeting.

- **Discussion of changes proposed to the Board of Nursing Rules, in particular the rules regarding licensing and oversight of APRNs.**

Mr. Herlihy updated Board members on proposed changes to the Rules of the Board of Nursing. He provided a brief summary of the history regarding APRNs and the Board’s involvement in discussions about changes to the Rules that allowed certain APRNs to practice independently, without a collaboration agreement with a physician. He explained that the Board had not objected to the elimination of the collaboration agreement for some APRNs so long as the Board’s concerns about patient safety and the differences in the amount of supervised clinical practice prior to independent practice were addressed. As a result the statutes and rules were changed two years ago. He advised the Board that he would adhere to the concept that there should not be any relaxation of the standards that apply to independent practice in the revisions to the Board of Nursing Rules.

- **Discussion of potential issues to be raised during the upcoming legislative session.**

Mr. Herlihy informed the Board of 4 issues that had been submitted to the Health Department as issues that might be raised during the 2015 legislative session:

- 1) Correction of a technical error in Medical Practice Act (T.26, Ch. 23): one big change made in the 2011 revision to the statute was to provide for the statewide licensing of Physician Assistants (PAs), but it created a problem with the definition of “licensee” as found in 26 VSA § 1311. PAs used to be included in the definition of licensee because they were “holders of certificates”, but they no longer hold certificates. This oversight in wording makes references in Ch. 23 less than accurate and can be easily corrected by amending the second sentence of 26 VSA § 1311 to read “licensed under this chapter and chapters 7 and 31 of this title.”
- 2) Patient’s Privilege and Medical Board Obtaining Records: revision of the Medical Practice Act (Ch. 23 of Title 26) to clarify the Board’s power to subpoena medical records. The law now provides that the Board can subpoena records from licensees, but the way in which that power is stated causes confusion and prevents the Board from obtaining records in some instances. It needs to be added to the

section laying out the Board's powers that the Board has the power to subpoena all records needed to carry out its duties notwithstanding 12 VSA § 1612 or any other provision of law.

- 3) Interstate Compact for Medical Licensure: Mr. Herlihy noted this was submitted only as a placeholder in the event the proposed compact was moved forward for consideration by the legislature.
- 4) Reporting of Actions Regarding Medical Staff: Hospitals and other health care institutions are required to report to the Board of Medical Practice certain actions taken on the status or privileges or members of the medical staff and holders of privileges. The problem is that the wording of the statute is too restrictive, which leads to two problems: confusion about when actions must be reported and instances in which it seems some institutions shape their actions specifically to avoid informing the Board. The proposal would revise the language regarding reporting to require reports of all actions. That would ease compliance for hospitals and improve public protection.

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

- **October 9, 2014, North Investigative Committee Meeting, 12 p.m., Vermont Department of Health, 108 Cherry Street, 3rd Floor, Conference Room 3B, Burlington, VT**
- **October 10, 2014, Central Investigative Committee Meeting, 9 a.m., Liquor Control Conference Room, Basement Floor, 13 Green Mountain Drive, Montpelier, VT**
- **October 15, 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)**
- **October 15, 2014, South Investigative Committee Meeting, 12:00 p.m., Asa Bloomer State Office Building, 4th Floor, Room #492, Rutland, VT**
- **November 5, 2014, Licensing Committee Meeting, 10:30 a.m., Gifford Medical Center, Red Clover Conference Room, Randolph**
- **November 5, 2014, Board Meeting, 12 p.m., Gifford Medical Center, Red Clover Conference Room, Randolph**
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14. Open Forum:

None

15. Adjourn:

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

Meeting adjourned at 3:34 p.m.

Attachments: Appendix A

Respectfully submitted,

Karen A. LaFond
Medical Licensing & Operations Administrator

DRAFT

APPENDIX A

Presentation of Applications

Mr. Hoser moved for the issuance of physician licenses and physician assistant licenses for:

Patrick Anderson, PA-C

Yvonne Cheung, MD

James Frame, MD

Sandra Hoyte, MD

Yaohua Lu, MD

MacKenzie Monahan, PA-C

Christopher Sidford, MD

Eric Baker, MD

Julianna Czum, MD

Dagmar Hoegemann Savellano, MD

Sarah Iacobovici, MD

Maeve Lyons, PA-C

Richard Roberts, MD

Susan Tubens, PA-C

James Celestin, MD

Tania Elliott, MD

Matthew, Hoerth, MD

Mikhail Lisovsky, MD

Sandra Machado, MD

Urmila Sandhu, PA-C

Carol Young, MD

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