

**Vermont Board of Medical Practice
Minutes of the October 2, 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.

Others in Attendance:

David Herlihy, Executive Director; Paula Nenninger, Investigator; Jassen Bluto, Investigator; Karen LaFond, Licensing Administrator; Margaret Vincent, AAG; Robert McDougall, AAG; Kurt Kuehl, AAG, Robert Simpson, Esq., Presiding Officer; David Reynolds, Director, Health Care Reform; Joel Mumford, MD, Secretary, Vermont Society of Anesthesiologists; Jane Fitch, MD, President Elect, National Society of Anesthesiologists; Stephanie Winters, Vermont Society of Anesthesiologists and VMS; Mark Greene, CRNA, former President CRNA Association; Nicole Stone, CRNA, President CRNA Association.

2. Public Comment:

None

3. Approval of Minutes of the September 4 and September 18, 2013 Board Meetings:

Ms. McClain moved to accept the minutes of the September 4, 2013 meeting. Dr. Reich seconded the motion. The motion passed; opposed: none; recused: none; abstained: none.

Mr. Hoser moved to accept the minutes of the September 18, 2013 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 regarding the Federation of State Medical Boards (FSMB) initiative to consider establishment of an interstate compact for Medical Licensing. Interstate compacts are formal agreements and processes that allow states to cooperate on issues that cross state borders. An example is the interstate compact on drivers' licenses, which establishes the rules for interstate recognition of drivers' licenses. The compact being considered would provide a simplified process for obtaining a medical license in the participating states once an MD has been licensed in any one of the participating states. Dr. King stated that she was asked to participate as a member of a group convened by FSMB to work on the issue. They met in June and September and an official statement will soon be issued. They are moving forward to develop the compact and will send it out for review and then approval at the House of Delegates. The goal of the compact would be to afford license portability and at the same time serve patient safety. Under a compact the individual states

will maintain authority and regulation over the practitioner when they are practicing medicine in the state, and the highest standards will be in place. One proposal being considered is to make Board Certification a requirement for a physician to be able to be licensed through the compact.

The group working on the compact examined the issues that had proven to be barriers to previous proposals to ease licensing in multiple states. . It would be voluntary for a state to join the Compact; each state's legislature would determine if the state would join the compact; it would be voluntary for the physician to make use of the compact process as it would allow for another pathway for licensure; the practice of medicine will occur where the patient is located and the jurisdiction will be where the patient is located and where services occur; the physicians will be bound to comply with state statute and rules; participating states would be required to share investigation materials and information; and the physician would be responsible for paying licensing fees in each state.

Mr. Herlihy added that the reason why there is a sense of urgency in working on the compact concept is that there is a strong lobbying effort going on to allow interstate practice via telemedicine. He was asked by Rep. Peter Welch's office to comment on a recently introduced bill that would allow for remote practice via telemedicine by physicians who are not licensed where the patient is located, for all services being paid for under Medicare. Mr. Herlihy indicated that he would provide comments opposing the bill, based upon the impact that it would have on state boards to work for patient safety. He noted that one example of why remote, unlicensed practice would be problematic is the inability of the states to then impose practice standards, such as the recently-enacted requirement to register for VPMS and use it in certain circumstances. The bill purports to address patient safety issues by providing that the licensing state can discipline for issues arising with care in the remote state. That ignores the fact that the Board already has the authority to oversee its licensees regardless of where they provide care and also the fact that the Board is not in a position to act as the primary regulator for cases that raise care issues in distant states. For example, if a Vermont licensee provided telemedicine services to a patient in Hawaii, no one would think it a good idea that the Board would need to send an investigator to Hawaii to investigate bad care – except perhaps the investigators. Dr. King stated that she will continue to provide updates on this issue as the process evolves.

5. Administrative Update (Mr.Herlihy):

Mr. Herlihy informed the members that information was reported to the office that there was a posting on a website by a physician and that the posting could be interpreted as a threat against the physician members of the Board. The physician's identity is unknown because the website allows users to post comments using a pseudonym. The website where it was posted is Sermo.com. He described the context of the comment and quoted it. Members expressed their concerns. There was discussion of what steps will be taken to identify the physician.

Mr. Herlihy stated that at the November meeting, he will be asking the members to make a motion to accept the addition of language in the physician renewal that would make the workforce survey a mandatory component of the renewal each year.

Mr. Herlihy informed the members that Carol Diamond, public member, has submitted her resignation from the Board due to personal reasons.

Mr. Herlihy advised that he has received positive feedback about the newsletter.

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: Edward Peter Durling, PA-C – MPC 172-0713 – Stipulation and Consent Order**

Mr. Simpson and Mr. McDougall addressed the Board, summarizing the facts leading up to the agreed-upon Stipulation and Consent Order. Ms. Hunter made a motion to approve the Stipulation and Consent Order. Dr. Drew seconded the motion. The motion passed; opposed: none; abstained: none; recused: Central Investigative Committee.

- **In re: Teig D. Marco, MD – MPC 158-1012 – Stipulation and Consent Order**

Mr. Simpson and Mr. Kuehl addressed the Board, summarizing the facts leading up to the agreed-upon Stipulation and Consent Order. Mr. Hoser made a motion to approve the Stipulation and Consent Order. Ms. McClain seconded the motion. The motion passed; opposed: Dr. Plavin and Dr. Reich; abstained: none; recused: Central Investigative Committee.

- **In re: Theodore Johnson, MD – MPN 112-1010 – Consideration of Request to Approve CME**

Mr. Simpson and Mr. McDougall addressed the Board, summarizing the facts leading up to the request for approval of CME. There was discussion about whether the course met the requirement for a CME and the board agreed to approve the request contingent upon documentation that the course is in fact a CME. Mr. LeCours made a motion to accept the request to approve the CME. Ms. Hoser seconded the motion. The motion passed; opposed: none; abstained: none; recused: North Investigative Committee

- **In re: Christopher Bondi, MD – MPS 15-0209 – Consideration of Request to Approve Practice Monitor for Additional Work Site.**

Mr. Simpson and Mr. McDougall addressed the Board, summarizing the facts leading up to the request for approval of practice monitor for additional worksite. Dr. Rinaldi made a motion to approve the practice monitor for additional worksite. Dr. Gallant seconded the motion. The motion passed; opposed: none; abstained: none; recused: South Investigative Committee.

8. Discussion of "CRNA Opt-Out" and Presentation to the Board (2:00 p.m. – 3:00 p.m.):

Mr. Herlihy introduced the issue. The Board had been asked to provide an opinion on whether Vermont should opt out of the CMS Rule with regard to reimbursement for CRNAs who provide anesthesia services without being under the direct supervision of a physician. CMS will not reimburse for anesthesia services provided by CRNAs unless they are supervised by a physician. However, a state may "opt out" from that rule. The process calls for the decision on whether to ask to opt out to be made by the Governor, after consultation with the Boards of Medical Practice and Nursing.

Dr. Joel Mumford of the Vermont Society of Anesthesiologists and Dr. Fitch of the national group addressed the Board and answered member questions for an hour. Topics covered included the meaning of supervision, patient safety, cost, and impact of the "opt out" on anesthesiologist recruitment and retention.

Mr. Green and Ms. Stone presented the position of CRNAs and answered questions for an additional hour. They addressed similar issues, but their comments on recruitment and retention were with regard to CRNAs.

Questions were raised by Dr. Drew, Dr. Rinaldi, Dr. Reich, Dr. Gallant, Dr. Plavin, Dr. Hayward, Ms. Hunter, Ms. McClain, Dr. King, and Mr. Herlihy. The Board did not consider a motion on the issue. The issue will be discussed further at a later meeting.

9. Executive Session to Discuss:

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

The Executive Session was moved to an earlier time than scheduled because there were to be guests for the 2:00 agenda item. Dr. Plavin made a motion at 1:26 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 2:01 to return to Open Session. Dr. Gallant seconded the motion. The motion passed; opposed: none; recused: none; abstained: none.

Mr. Hoser made a motion at 3:55 p.m. to go into Executive Session again to discuss confidential matters related to investigations. Mr. Jenkins 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 3:56 to return to Open Session. Ms. McClain 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:

The Board did not close any cases.

12. Other Business:

None

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

- **October 10, 2013 North Investigative Committee Meeting, 12 p.m., Vermont Department of Health, 108 Cherry Street, 3rd Floor, Conference Room 3B, Burlington, VT**
- **October 11, 2013, Central Investigative Committee Meeting, 9 a.m., Liquor Control Conference Room, Basement Floor, 13 Green Mountain Drive, Montpelier, VT**
- **October 16, 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)**
- **October 16, 2013, South Investigative Committee Meeting, 12:00 p.m., Asa Bloomer State Office Building, 4th Floor, Room #492, Rutland, VT**
- **November 6, 2013, Licensing Committee Meeting, 10:30 a.m., Gifford Medical Center, Red Clover Conference Room, Randolph**
- **November 6, 2013, Board Meeting, 12 p.m., Gifford Medical Center, Red Clover Conference Room, Randolph**

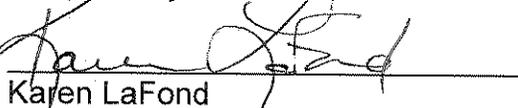
14. Adjournment:

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

Meeting adjourned at 3:57 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:

Joseph Boolbol, MD	Leslie Brooks, PA-C	Tracey Krasnow, MD
Fred Landes, MD	Kristin Kunkle, MD	Philip Lane, MD
Alan Lilly, MD	Robert Micley, MD	David Streets, MD
Heidi Yeh, MD		

Recommended by Dr. Reich for licensure. Seconded by ms. Hunter. The motion passed; opposed: none; recused: none; abstained.

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

Joshua Harris, MD-LTL	Stewart Blackwood, MD-LTL	Zora Zadabati, MD-LTL
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Recommended by Dr. Hayward for licensure. Seconded by Dr. Reich. The motion passed, opposed: none; recused: none; abstained: none.