

**VERMONT BOARD OF MEDICAL PRACTICE
Minutes of the December 7, 2016 Board Meeting
Gifford Medical Center, Randolph, Vermont**

Approved

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

William K. Hoser, PA-C called the meeting to order at 12:17 P.M.

Members Present:

Richard Bernstein, MD; Richard Clattenburg, MD; Michael Drew, MD; Allen Evans; Faisil Gill; Robert Hayward, MD; Patricia Hunter; David A. Jenkins; Leo LeCours; David Liebow, DPM; Sarah McClain; Christine Payne, MD; Marga Sproul, MD.

Others in Attendance:

David Herlihy, Executive Director; Paula Nenninger, Investigator; Karen LaFond, Operations Administrator; Margaret Vincent, AAG; Kassandra Diederich, AAG; Mark Davis, Reporter from 7Days.

2. Public Comment:

None

3. Approval of Minutes of the November 2 and November 16, 2016 Board Meetings:

Dr. Liebow moved to accept the minutes of the November 2, 2016 meeting. Dr. Hayward seconded the motion. The motion passed; opposed: none; recused: none; abstained: none.

Dr. Bernstein moved to accept the minutes of the November 16, 2016 meeting. Dr. Drew seconded the motion. The motion passed; opposed: none; recused: none; abstained: none.

4. Board Issues (Mr. Hoser):

Mr. Hoser noted that the Federation of State Medical Boards (FSMB) is asking for people to serve on committees, which he encourages.

5. Administrative Update (Mr. Herlihy):

Mr. Herlihy noted that Patricia King, MD (former Board Chair) presented Madaleine Mongon with the certificate of appreciation of her service from the Board at the

Vermont Medical Society Dinner last month, and Ms. Mongon genuinely appreciated the acknowledgment.

Mr. Herlihy mentioned that Dr. Sproul, and her husband, were recently recognized in the South Burlington local paper, The Other Paper, for their volunteer work with the Red Cross.

Mr. Herlihy informed members that Board Investigator, Scottie Frennier, took the administrative training in civil investigations, CLEAR, as has been required per statute. He also noted that Ms. LaFond is currently participating in the Vermont Certified Public Managers Program through the state and will be actively working on a project for graduation in June.

Mr. Herlihy updated members on the initial numbers from the physician license renewal and thanked staff for all of their extra efforts throughout the process. He noted that at the beginning of the renewal period, on August 30, there were 3731 licensed physicians and as of December 6, 3240 had renewed their license. He stated that Tracy Hayes, Licensing Administrator, knew roughly 100 were not going to renew and on December 1 called over 140 Vermont licensed physicians who had not renewed. Only two MDs had to be advised to stop practicing. During the renewal period, five email reminders were sent out and one week before the expiration date, staff mailed over 700 post cards with very few returned as undeliverable. The number of non-renewed is not for a lack of notification and staff are going to consider other options to improve the process overall, such as moving up the deadline and seeking a change to have late fees apply beginning at a deadline in advance of the expiration date. He will present a more in-depth analysis of the non-renewed population at the January meeting.

Mr. Herlihy informed members of an FSMB Webinar regarding an article and study finding a correlation between the amount of graduate medical education completed and the likelihood of having a disciplinary action by the Louisiana Medical Board. The study by the Louisiana Medical Board found that physicians with less than 3 years of GME are four times more likely to have a board action. Noting that the Board recently voted to maintain a requirement for at least two years of GME for US medical graduates and three years for international medical graduates, he observed that this study supports the choice the Board made not to relax standards when it approved the draft update of the Rules.

Mr. Herlihy reminded members that the FSMB recently announced the availability of scholarship funds for public members to attend the annual FSMB conference and encourages those members to consider going. He noted that other members who have gone in previous years have found it to be a very valuable experience.

Mr. Herlihy informed the board that Dr. Harry Chen announced that he will not be

pursuing continuing his position as the Commissioner of the Department of Health. He said that Dr. Chen had hoped to attend the meeting to speak to the Board in person, but will call into the mid-month meeting. A successor has not been named.

Finally, Mr. Herlihy reminded those members who are scheduled for Reappointment to their positions of the need to submit their paperwork to the Governor's office.

6. Presentation of Applications (12:30 p.m. – 12:45 p.m.):

Applications for physician and physician assistant licensure, and certifications of radiologist and anesthesiologist assistants 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.)

None

9. Reconvene meeting; Executive Session to Discuss:

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

Dr. Liebow made a motion at 12:42 p.m. to enter Executive Session 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:

Mr. Gill made a motion at 1:06 p.m. to return to Open Session. Dr. Liebow seconded the motion. The motion passed; opposed: none; abstained: none; recused: none.

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

MPN 113-0716 – Letter #1
MPN 112-0716 – Letter #1
MPN 139-0916 – Letter #1

Ms. McClain made a motion to close the cases presented. Dr. Liebow seconded the motion. The motion passed; opposed: none; abstained: none; recused: North

Investigative Committee.

Ms. McClain, South Investigative Committee, asked to close:

MPS 114-0816 – Special Letter #1; Dr. Sproul recused.

Dr. Clattenburg made a motion to close the cases presented. Dr. Bernstein seconded the motion. The motion passed; opposed: none; abstained: none; recused: 1 & South Investigative Committee.

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

12. Other Business:

- **Update on status of Board Rules:** Mr. Herlihy noted that the rules did not go to the December ICAR meeting because the office of the Secretary of the Agency of Human Services needed more time to review the proposed changes. He is hopeful that the rules will be scheduled for the January ICAR meeting and then be presented at the LCAR meeting as early as March. He also noted that there will be a requirement to allow for a public comment period before the LCAR meeting. He will continue to navigate the rules through the process and will keep members updated.
- **Legislative report on implementation of the CME requirement and consideration of a plan for audit of licensee certification of CME on renewal:** Mr. Herlihy stated that he has been working on a report to the legislature regarding the impact of implementing the CME requirement. He noted that he needs approval of a CME Audit Plan from the board and will include this audit process in his final report. He discussed that the target audience is approximately 3200 and he researched what would be considered an appropriate sample size, based upon information from the Office of the State Auditor's office. First, an assumption is made regarding the risk of non-compliance, which we can conclude would be low due to the number of physicians who are Board Certified and the requirement to complete CME requirements to maintain Board Certification. For any sample size of over 2000, with the low risk of non-compliance assessed in these circumstances, a sample of 59 randomly selected individuals will confirm if licensees were compliant with 95% confidence. He further recommended assessing the results of that group and acting based on the outcome. If five or fewer are found to be non-compliant, this audit would be accepted as a verification of compliance with the CME requirement. If six or more are found to be non-compliant, the sample size would be increased, asking 93

additional licensees to submit documentation of activities. If audit of the second group of 93 is necessary, the results will be presented to the Board for further guidance.

Member inquired about the timeframe for a response from the physicians who will be audited, and Mr. Herlihy discussed the option of allowing for 60-90 days. He also noted that the names of the 3240 physicians would be listed and then randomized on an excel spreadsheet for selection of the 59 individuals who will undergo the audit. Mr. Herlihy added that physicians needing to use the make-up plan provision to complete CME would be audited in a separate group, as noted in the written plan. He also noted that the audit plan would not prevent requesting documentation for cause.

Mr. LeCours motioned to approve the audit plan. Dr. Sproul seconded the motion. The motion passed; opposed: none; abstained: none; recused: none.

Ms. Vincent gave a brief update on the lawsuit pending in the United States District Court for the District of Vermont, noting that on November 8th, the VT Alliance for Ethical Health Care sought an injunction and we are awaiting a decision from the Judge.

- **Request from VDH Epidemiology to consider making a statement on prescribing prophylactic antibiotics to non-patients who are close contacts of pertussis patients. The Board considered this issue in January 2013 and declined to make a statement. The minutes of that meeting, the VDH Pertussis Protocol, and CDC guidance on the subject are attached:** Mr. Herlihy and members discussed the request and reviewed the information provided. Much discussion concerned the risk to an extremely small number of individuals who have certain cardiac arrhythmia conditions who may be harmed by the recommended prophylactic antimicrobials, and the fact that the risk to them is greater when they receive a prescription written by a physician who is not their own treatment provider. Several members took note of the significant public health advantages of following the VDH and CDC protocols.

Dr. Payne made a motion for the Board to make a statement that:

The Board of Medical Practice does not consider nonpatient prescribing of post-exposure antimicrobial prophylaxis to be unprofessional conduct when done in accordance with the Vermont Department of Health and Centers for Disease Control protocols for pertussis. Ms. Hunter seconded the motion. The motion passed all in favor.

Ms. LaFond reminded members that the 2017 meeting schedule was included

in the board packets and that the new VDH website would be going live on January 1st.

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

- **December 15, 2016, North Investigative Committee Meeting, 12 p.m., Vermont Department of Health, 108 Cherry Street, 3rd Floor, Conference Room 2C, Burlington, VT**
- **December 16, 2016, Central Investigative Committee Meeting, 9 a.m., National Life – Central Vermont Medical Center, Boardroom, Barre VT**
- **December 21, 2016, Board meeting on pending applications, 12:10 p.m., Board of Medical Practice office, 108 Cherry Street, 2nd, Floor Burlington, VT (and via telephone)**
- **December 21, 2016, South Investigative Committee Meeting, 12:00 p.m., Asa Bloomer State Office Building, 4th Floor, Room #492, Rutland, VT**
- **January 4, 2017, Licensing Committee Meeting, 10:30 a.m., Gifford Medical Center, Red Clover Conference Room, Randolph**
- **January 4, 2017, Board Meeting, 12 p.m., Gifford Medical Center, Red Clover Conference Room, Randolph**

14. Open Forum:

15. Adjourn:

Mr. Hoser declared the meeting adjourned at 2:32pm.

Attachments: Appendix A

Respectfully submitted,
Karen A. LaFond
Medical Licensing & Operations Administrator

APPENDIX A

Presentation of Applications

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

Charvi Cassano, MD	Kristiyan Chervenkov, MD	Sarah Church, AA-C
Jorge Crespo, MD	Donald Doynow, MD	Christopher Golembeski, MD
Jerome Henley, AA-C	Neal Keeshin, MD	Mark Kiessling, PA-C
Robyn Miller, MD	Kelli O'Loughlin, MD	Therese Rivard, PA-C
George Stasior, MD	William Weiss, MD	Patrick Wolfgang, MD

Recommended by Mr. Gill for licensure. Seconded by Ms. McClain. The motion passed; opposed: none; abstained: none; recused: Mr. Hoser.

Mr. Hoser moved for the issuance of Limited Temporary Physician licenses for:

Lindsey Collins, MD	Benjamin Grimmnitz, MD	Catherine Naden, MD
Michael Seifert, MD	Kimberly Sikule, MD	

Recommended by Mr. Gill for licensure. Seconded by Ms. McClain. The motion passed; opposed: none; abstained: none; recused: none.