

VERMONT BOARD OF MEDICAL PRACTICE
Minutes of the February 1, 2017 Board Meeting
Gifford Medical Center, Randolph, Vermont

Approved

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

William K. Hoser, PA-C, called the meeting to order at 12:14 p.m.

Members Present:

Richard Bernstein, MD; Brent Burgee, MD; Michael Drew, MD; Allen Evans; Faisal Gill; Robert G. Hayward, MD; David A. Jenkins; Leo LeCours; Christine Payne, MD; Harvey Reich, MD; Ryan Sexton, MD; Marga Sproul, MD.

Others in Attendance:

David Herlihy, Executive Director; Paula Nenner, Investigator; Scottie Frennier, Board Investigator; Karen LaFond, Operations Administrator; Margaret Vincent, AAG; Kassandra Diederich, AAG; Bill Reynolds, AAG; George Belcher, Esq; Commissioner Harry Chen, MD

Mr. Hoser recognized Vermont Department of Health Commissioner, Harry Chen, MD.

Dr. Chen advised that his visit was to extend his appreciation for the dedication and work of the Board one last time before the transition with the new commissioner, Mark Levine, MD on March 7th. He spoke briefly about continued health care reform efforts and uncertainty about what is to come given changes at the federal level. He also noted that about 70% of public health funding for VDH is from the federal government. While the current year budget is known, there may be changes coming. He predicted that there may be renewed efforts to reopen the discussion about OPR and the Board, and stated his belief that the Board belongs within VDH. He added that he believes there is a great partnership between the Board and VDH, noting that while the Board should be and has been independent, there has been excellent cooperation on issues such as efforts to control the opioid crisis and to revisions to the regulated drug list. Dr. Chen stated that he is comforted knowing Dr. Levine will be at the helm, with his extensive leadership and expertise to guide the work of the Health Department.

Mr. Herlihy thanked Dr. Chen for his support to the Board during his time as Commissioner of Health.

2. Public Comment:

None

3. Approval of the Minutes of the January 4 and January 18, 2017 Board Meetings:

Dr. Bernstein moved to accept the minutes of the January 4, 2017 meeting, subject to the need to correct the minutes by adding the time that the meeting was called to order. Mr. LeCours seconded the motion. The motion passed; opposed: none; recused: none; abstained: none.

Mr. LeCours moved to accept the minutes of the January 18, 2017 meeting. Dr. Reich seconded the motion. The motion passed; opposed: none; recused: none; abstained: none.

4. Board Issues (Mr. Hoser):

Mr. Hoser noted that Patricia King, MD has been nominated as the Chair-Elect of the Federation of State Medical Boards and she is running unopposed. He and Mr. Herlihy expressed their support and compliments of Dr. King in her soon-to-be new role.

5. Administrative Update (Mr. Herlihy):

Mr. Herlihy noted that the Board Rules have been posted on the VDH website for public comment until March 21, 2017. He stated that an email has been sent out to all licensees. He also noted that the Hospital Licensing Rules are being updated.

Mr. Herlihy asked members to submit their expense forms to Ms. Hayes in a timely manner, once for each calendar quarter. He added that a member had asked about the need for hardcopy submission of forms. He advised that he had looked into the matter and that originals with signatures will be required for the foreseeable future.

Mr. Herlihy informed members that annual election of Board officers is coming up, so it is time to nominate candidates for Board Chair, Vice-Chair and Secretary. He asked for volunteers to serve on the Nominating Committee. Mr. Gill, Mr. Evans and Dr. Sproul volunteered. Nominations will be made at the meeting in March.

6. Presentation of Applications:

Applications for physician, physician assistant, and limited temporary physician licensure were presented and acted upon as detailed in Appendix A, incorporated by reference into these minutes.

7. Presentations to the Board:

None

8. Recess; Convene hearing to discuss any stipulations or disciplinary matters that are before the Board:

• **In re: James Scott Stone, MD – MPS 77-0611 – Stipulation and Consent Order**

Mr. Belcher and Ms. Diederich addressed the Board, summarizing the facts leading up to the Stipulation and Consent Order. Mr. Gill made a motion to approve the Stipulation and Consent Order. Mr. LeCours seconded the motion. The motion passed; opposed: none; abstained: none; recused: South Investigative Committee.

• **In re: Margarethe Chobanian, MD – MPN 184-1216 – Cessation of Practice Agreement**

Mr. Belcher and Mr. Reynolds addressed the Board, summarizing the facts leading up to the Cessation of Practice Agreement. Dr. Reich made a motion to approve the Cessation of Practice Agreement. Dr. Sexton seconded the motion. The motion passed; opposed: none; abstained: none; recused: North 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. Mr. LeCours made a motion at 12:32 p.m. to go into Executive Session to discuss confidential matters related to investigations. Dr. Hayward 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 12:54 p.m. to return to Open Session. Mr. Jenkins seconded the motion. The motion passed; opposed: none; recused: none; abstained: none.

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

MPN 154-1016 – Letter #1

MPN 157-1116 – Letter #1

MPN 165-1216 – Letter #1

MPN 164-1116 – Letter #1; Dr. Reich recused

MPN 052-0316 – Special Letter #1; Dr. Reich recused

Mr. Evans made a motion to close the cases presented. Dr. Drew 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 160-1116 – Letter #1; Dr. Hayward recused

MPC 169-1216 – Special Letter #1

MPC 153-1016 – Letter #1; Dr. Sproul recused

Dr. Hayward made a motion to close the cases presented. Mr. LeCours seconded the motion. The motion passed; opposed: none; abstained: none; recused: 2 and Central Investigative Committee.

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

None

12. Other Business: Mr. Herlihy presented summaries of bills of interest to the Board that have been submitted to date in the new session of the General Assembly.

- S.14 – Expansion of Scope for VPHP

Discussion of S.14 began at 1 p.m., before the hearings that were scheduled to commence at 1:15 p.m. S.14 addresses expanding the scope of VPHP, which is referred to in statute as the Vermont Practitioner Recovery Network. Mr. Herlihy first noted that the wording seen in the bill is almost certain to change, based upon discussions among the Vermont Medical Society, legislative staff, and him. MS and the Board did not like the language in the initial draft because it would limit the scope of the program. Legislators and their staff were concerned about the terminology surrounding individuals with mental health conditions. In recent years, there have been efforts to use respectful language and reflect parity in the way physical and

mental conditions are described in statute. Rep. Anne Donahue, Vice Chair of the House Health Committee, provided very helpful input, which refocused the discussion about wording on the impairment and capacity to practice, not the individual. With her assistance, the Board, VMS, and the assigned legislative staff member had tentatively agreed on using the term “impairment,” which avoids concerns about terminology relating to mental health and better addresses the Board’s concerns, as it will cover all forms of impairment that can affect ability to practice, including organic and neurologic conditions. The goal of the legislation is to give the Board a resource for evaluations by VPHP whenever judgment or cognitive ability to practice is in question and to provide an established process for monitoring to ensure that treatment and monitoring is provided for affected medical professionals in need of those supports to practice safely. This will expand the scope of VPHP to protect the public while allowing medical professionals to continue working while receiving services, if deemed appropriate. He stated that the cost of expanding the services would initially be supported by the Board using existing funds. He also noted that there are over 40 states that have this expanded scope for Practitioner Health Programs. The Board has previously expressed its support for the expansion of VPHP, so no formal action was taken.

- S.16 – Medical Marijuana Registry – Section 8, CME Requirements.

Mr. Herlihy also briefly discussed S.16, which generally amends the law regarding the Medical Marijuana Registry program. Section 8 would establish a requirement for all physicians to have an hour of CME on the Medical Marijuana Registry each licensing period. Mr. Herlihy noted that physicians are not legally able to prescribe marijuana, and that the role of the health care professional in the Registry process is only to provide information about how long they have been treating the patient, the patient’s diagnosis, and efficacy of other treatments attempted. Members expressed concern about imposing such a requirement on physicians when they cannot prescribe it, so it was felt training would not contribute to improving medical practice.

Dr. Hayward made a motion to oppose the statutory language requiring CME on benefits of Medical Marijuana Education by all physicians. Dr. Payne seconded the motion.

At that point the Board tabled the motion to conduct the hearings that were scheduled to take place at 1:15. When the Board reconvened after the hearings at 1:35, Dr. Hayward moved to withdraw the pending motion. Then, Dr. Hayward offered a new motion: for the Board to oppose the proposal to mandate one hour of CME devoted to the Medical Marijuana Registry. Further, the Board finds that time for physicians to receive training is finite and any mandated training should be on subjects that directly support safer and improved practice. In that physicians do not, and cannot, prescribe marijuana, the Board finds that the proposed subject does not meet that standard. Dr. Payne seconded the motion. The motion passed; opposed – none; abstained – none; recused – none.

- S.37 – Access to Treatment for Patients With a Terminal Illness

Mr. Herlihy noted that this bill is similar to one put forth in a previous session and that it is referred to as “the right to try.” The proposal would seek to make new, unapproved treatments available to patients during the early stages of review. He noted that the Board has not yet been asked for a position on the matter and that he will provide more information about the proposal at the March meeting.

- S 31 -- Circulating Nurses in Hospital Operating Rooms

Mr. Herlihy explained that this bill proposes to revise the hospital licensing statute to mandate the presence of an RN who is “trained and educated in perioperative nursing” throughout any “invasive or surgical procedure.” He asked if any members had thoughts on bill. Members questioned the intent, as “invasive or surgical procedures” would include many minor procedures probably not intended to be included by those who support this bill. Another members expressed concern that the legislation could inadvertently impact quality of care or access to care, if a circulating RN who meets the requirement is not available when a procedure must be done. No proposal for a position on the bill was put forth.

Mr. Herlihy brought up another issue that may come up in a bill, but that has not yet. The Vermont Medical Society had asked for the Board’s position on extension of the pro bono exemption that currently provides a waiver of the licensing fee for physicians who limit practice to only free or reduced-fee clinics. The concept is to add a fee waiver for physicians who limit practice to the Medical Reserve Corps. The Medical Reserve Corps is an organization supported by the State and VDH that provides physician services in the event of an emergency. Members were generally supportive. There had not been a formal proposal as of the time of the meeting, so no formal action was taken on a position.

The last item was not a legislative proposal, but rather a possible change to the Board rules that are currently going through the process for adoption. Mr. Herlihy told members that he participated in a recent meeting to discuss a cooperative effort by VDH, VMS, the Board, and other stakeholders such as UVMMC and the Pharmacy Board to offer training on the Vermont Prescription Monitoring System and the rules regarding prescribing of opioids, which have been expanded to include prescribing for acute pain. One thing that discussed at that meeting was ways to provide licensees incentives to take the training, including making the training qualify for mandatory CME credit. Noting that the current Board Rule on CME grants credit only for training that qualifies for AMA PRA Category 1 credit, he suggested that he Board consider amending the proposed changes to rule to include courses that are prepared by the Board and/or VDH and approved by the Board. Members supported that change to the Rule, but suggested that the organizers of the training should still try for approval as AMA PRA Category 1 training, as licensees need credits for other purposes such as maintenance of specialty board certification. Mr. Herlihy advised that he would make this addition to the proposed rule revision at the end of the public comment period, and that he would work with the group organizing the training to obtain AMA PRA Category 1 credit for the program.

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

- February 9, 2017, North Investigative Committee Meeting, 12 p.m., Vermont Department of Health, 108 Cherry Street, 3rd Floor, Conference Room 2C, Burlington, VT
- February 10, 2017, Central Investigative Committee Meeting, 9 a.m., Central Vermont Medical Center, Conf. Rm. 2, Berlin, VT
- February 15, 2017, Board meeting on pending applications, 12:10 p.m., Board of Medical Practice office, 108 Cherry Street, 2nd, Floor Burlington, VT (and via telephone)

- **February 15, 2017, South Investigative Committee Meeting, 12:00 p.m., Asa Bloomer State Office Building, 4th Floor, Room #492, Rutland, VT**
- **March 1, 2017, Licensing Committee Meeting, 10:30 a.m., Gifford Medical Center, Red Clover Conference Room, Randolph**
- **March 1, 2017, Board Meeting, 12 p.m., Gifford Medical Center, Red Clover Conference Room, Randolph**

14. Open Forum:

Adjourn: Mr. Hoser declared the meeting adjourned at 2:02 p.m.

Respectfully submitted,

Karen A. LaFond

Medical Licensing & Operations Administrator

Attachments: Appendix A

APPENDIX A

Presentation of Applications

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

Thomas Anderson, MD	Sarah Blair, MD	Bronwyn Bryant, MD
Tyler Cooke, MD	Codrin Iacob, MD	Kulsoom Khan, MD
Christopher Lawton, MD	William Lin, MD	Sethuraman Muthiah, MD
Katie Owens, PA-C	Wendy Regal, MD	Scott Sher, MD
Perry Stafford, MD	Maureen Suter, MD	Anje Van Berckelaer, MD
Rochak Varma, MD	Daniel Zapson, MD	

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

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

Andrew McGregor, MD Luay Mrad, MD

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