

VERMONT BOARD OF MEDICAL PRACTICE
Minutes of the April 4, 2018 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 12:14PM

Members Present:

Richard Bernstein, MD; Brent Burgee, MD; Richard Clattenburg, MD; Michael Drew, MD; Allen Evans; Robert G. Hayward, MD; Patricia Hunter; David A. Jenkins; Leo LeCours; David Liebow, DPM; Harvey Reich, MD; Ryan Sexton, MD.

Others in Attendance:

David Herlihy, Executive Director; Paula Nenninger, Investigator; Scottie Frennier, Board Investigator; Karen LaFond, Operations Administrator; Margaret Vincent, AAG; Kassandra Diederich, AAG; Sarah Bushweller, PA-C, Committee Member, Physician Assistant Academy of Vermont.

Public Comment:

None

2. Approval of the Minutes of the March 7 and March 21, 2018 Board Meetings:

Dr. Liebow moved to accept the minutes of the March 7, 2018 meeting. Dr. Reich seconded the motion. The motion passed; opposed: none; recused: none; abstained: none.

Dr. Drew moved to accept the minutes of the March 21, 2018 meeting. Ms. Hunter seconded the motion. The motion passed; opposed: none; recused: none; abstained: none.

3. Report of the Nominating Committee:

The Nominating Committee recommended:
Chair – Will Hoser, PA-C
Vice-Chair: Patricia Hunter, Public Member
Secretary: Richard Bernstein, MD

4. Election of Officers:

Dr. Hayward made a motion to approve the recommendations for officers as presented by the Nominating Committee. Mr. Jenkins seconded the motion.

One member raised a concern as was presented to him regarding a perception that the board is a community of medical professionals that does not have physician leadership in place, despite the majority of licensees being physicians. He stated that there is concern that it is not a physician-led process and there is potential for tension. Other members responded stating that while the Chair and Vice-Chair are not physicians this year, the make-up of the Board is the same. The role of the Board is to ensure public protection. Full participation by all members supports achievement of that purpose and public confidence in the Board. Also, public members have served as Chair in previous years.

The motion passed unanimously; opposed: none; abstained: none; recused: none.

5. Board Issues (Mr. Hoser):

Mr. Hoser noted that he will be attending the annual Federation of State Medical Boards conference. He also asked members to be mindful that there will be a substantial turnover of members coming up, so it will be helpful to set a good example for new members

6. Administrative Update (Mr. Herlihy):

Mr. Herlihy invited Ms. LaFond to provide brief updates to the members on the change in conference rooms for the monthly meeting, which will now be the Maple Leaf Conference Room and the new process for visiting the Board's office in Burlington.

Mr. Herlihy noted that there are 4 members retiring in December 2018 and he will be working with the Governor's Office to attempt to stagger the replacements in order to reduce the impact of turnover.

Mr. Herlihy stated that the Board will again work with Boston University to provide the SCOPE of Pain CME training on opioids on September 29, 2018. The session will take place in Montpelier, VT and information will be included in the summer newsletter, as well as in the physician license renewal announcements.

Mr. Herlihy reminded members that the renewal cycle for the limited training licenses has begun and will conclude on June 30, 2018.

7. Presentation of Applications:

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.

Ms. Vincent addressed the members with a proposed waiver for an applicant applying for a physician license, Jennifer Black, MD. Dr. Black never failed any component of the USMLE, but did not pass all components within 7 years, as required by the Board Rules. She applied for a waiver of the Rule based on the fact that during medical school she was on an approved 3-year leave of absence for medical reasons. Ms. Vincent noted that the Licensing Committee discussed this matter and recommended approval of a waiver based upon the documented medical leave of absence during medical school.

Dr. Liebow made a motion to approve the request for a waiver for Dr. Black. Dr. Sexton seconded the motion. The motion passed; opposed: none; abstained: none; recused: none.

Dr. Hayward made a motion to approve Jennifer Black, MD for physician licensure. Dr. Liebow seconded the motion. The motion passed; opposed: none; abstained: none; recused: none.

8. 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 12:47 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.

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

Dr. Hayward made a motion at 1:30 p.m. to return to Open Session. Dr. Bernstein seconded the motion. The motion passed; opposed: none; recused: none; abstained: none.

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

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

MPC 016-0217 – Special Letter #1

MPC 007-0118 – Letter #1

MPC 006-0118 – Letter #1

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

Mr. LeCours made a motion to close the cases presented. Dr. Sexton seconded the motion. The motion passed; opposed: none; abstained: none; recused: South Investigative Committee.

MPS 046-0216 – Special Letter #3
MPS 045-0216 – Special Letter #1
MPS 097-0617 – Special Letter #3
MPS 177-1117 – Letter #1
MPS 089-0617 – Special Letter #3
MPS 140-0817 – Letter #1
MPS 169-1117 – Special Letter #1

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

11. Other Business:

Discussion of the report of the workgroup on the use of chaperones for intimate exams.

Dr. Hayward presented the draft guidelines for intimate exams. He noted that the project had started with the topic of chaperones, but the group felt that was too narrow a focus and expanded their discussion to intimate exams in general. Dr. Hayward stressed that these will be guidelines, not rules. Mr. Herlihy suggested that the process should be to get member input, make revisions to the draft, and have the Board approve a draft at the May meeting to be shared with stakeholders for input before final establishment of guidelines.

Topics discussed included: adding the term “outpatient setting,” as the definition in the draft would make the guidelines apply to most inpatient hospital encounters; whether there should be an “opt-out” or “opt-in” for chaperones; whether personnel acting as chaperones should be licensed, and if that issue should be addressed in the guidelines; refining language about private discussions in #6 to account for patients who have representatives; refining the language regarding the objective; adding guidance regarding use of gloves. Members suggested that the guidelines be shared with the public as well as licensees. Mr. Herlihy stated that the guidelines will be shared with stakeholders such as the Vermont Medical Society and, once finalized, he and Ms. LaFond will work with the VDH Communications Office to devise a plan for spreading the word.

Legislative update on bills of interest to the Board.

Mr. Herlihy noted that the Interstate Medical License Compact legislation passed the Senate and continues to move forward to the House for further consideration. He does not anticipate any barriers to passage this session and stated, if passed, the legislation would not be effective until January 2020.

H684: Mr. Herlihy stated that he will be providing additional written comments to the Senate Health and Welfare Committee, based upon previously submitted comments, to which members had no objections. The members remain concerned that the language proposes to remove practice guidelines and limits APRNs to act only within their limits and knowledge of experience, without any specified required hours of training. The Board is concerned that these changes to APRN regulation will not ensure the protection of the public.

Mr. Herlihy also noted that the proposed bill on reporting of actions to the Board has stalled. One problem with that is that the bill also included the fix for the technical problem with the patient's privilege statute. There is a problem with the patient's privilege law in that it lacks clarity as to whether the Board has authority to subpoena records from parties other than licensees of the Board. He will work with Health Department Staff to explore adding the language regarding the patient's privilege to another bill, which is the only option at this point to get a fix this year. The language regarding reporting of disciplinary actions against licensees will need to be brought up again next year, perhaps as part of a broader effort to revise the Board statutes.

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

- **April 12, 2018, North Investigative Committee Meeting, 12 p.m., Vermont Department of Health, 108 Cherry Street, Conference Room 2C, Burlington, VT**
- **April 13, 2018, Central Investigative Committee Meeting, 9 a.m., Central Vermont Medical Center, Conf. Rm. 2, Berlin, VT**
- **April 18, 2018, South Investigative Committee Meeting, 12:00 p.m., Asa Bloomer State Office Building, 4th Floor, Room #492, Rutland, VT**
- **April 18, 2018, Board meeting on pending applications, 12:10 p.m., Board of Medical Practice office, 108 Cherry Street, 2nd, Floor Burlington, VT (and via telephone)**
- **May 2, 2018, Licensing Committee Meeting, 11:00 a.m., Gifford Medical Center, Maple Conference Room, Randolph**
- **May 2, 2018, Board Meeting, 12 p.m., Gifford Medical Center, Maple Conference Room, Randolph**

13. Open Forum:

None

14. Adjourn:

Mr. Hoser declared the meeting adjourned at 2:26 p.m.

Attachments: Appendix A

APPENDIX A

Presentation of Applications

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

Begly, John, MD	Rebecca Evans, MD	Kara Hankes, PA-C
Kathryn Jarrett, MD	Waqas Jehangir, MD	John Karl, MD
Steven Levine, MD	Hannah Perry, MD	George Rudy, MD
Neal Saxe, MD	Jessica Sisto, MD	Regan Stanger, MD
Authrine Whyte, MD		

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

*** Jennifer Black, MD was approved for licensure during a separate motion related to her application for initial licensure. See section 7 for details.***

Mr. Hoser moved for the issuance of limited temporary physician licenses for:

Shruti Bala, MD	Nathaniel Bowling, MD	Alexandra Charos, MD
Jan Denkmann, MD	Anna DiCarlo, MD	Angela Doswell, MD
Brittany Duchene, MD	Mead Ferris, MD	Charles Fry, MD
Prateek Ghatage, MD	Nicole Habel, MD	Jason Heffley, MD
Lucy Ledyard, MD	Ma Marquez, MD	Drew Messerschmidt, MD
Ryan Overby, MD	William Parkinson, MD	Sammy Pham, MD
Newton Phuong, MD	Kathryn Potter, MD	Taunia Rifai, MD
Pragma Roy, MD	Angela Yuan, MD	

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