

VERMONT BOARD OF MEDICAL PRACTICE
Minutes of the April 5, 2017 Board Meeting
Gifford Medical Center, Randolph, Vermont

Unapproved

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

William K. Hoser, PA-C, called the meeting to order at 12:19 P.M.

Members Present:

Richard Bernstein, MD; Brent Burgee, MD; Richard Clattenburg, MD; Allen Evans; Robert G. Hayward, MD; Patricia Hunter; David A. Jenkins; Leo LeCours; David Liebow, DPM; Sarah McClain; Christine Payne, MD; Harvey Reich, 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; Cassandra Diederich, AAG.

2. Public Comment:

None

3. Approval of the Minutes of the March 1 and March 15, 2017 Board Meetings:

Mr. LeCours moved to accept the minutes of the March 1, 2017 meeting, with noted revisions. Ms. McClain seconded the motion. The motion passed; opposed: none; recused: none; abstained: none.

Dr. Bernstein moved to accept the minutes of the March 15, 2017 meeting. Mr. Jenkins seconded the motion. The motion passed; opposed: none; recused: none; abstained: none.

4. Board Issues (Mr. Hoser):

Mr. Hoser thanked Dr. Hayward for chairing the March meeting while he was out of state. He also reminded members that he will be attending the annual Federation of State Medical Boards (FSMB) conference this month with Ms. Hunter, Mr. Gill and Mr. Herlihy.

5. Administrative Update (Mr. Herlihy):

Mr. Herlihy informed members that Ms. LaFond has been working hard on exploring the option of a hosted solution for the elicense system. Presently the system resides on State of Vermont servers. It is believed that transitioning to a hosted environment would alleviate some technical issues and improve overall performance. He advised that he will keep members informed on developments.

Mr. Herlihy noted that Mr. Frennier has completed his 6-month probation and is officially a full-fledged state employee.

Mr. Herlihy informed the Board that he has attended two meetings of the Senate Government Operations Committee that were for the announced purpose of discussing the reports that were submitted by state agencies other than the Office of Professional Regulation that perform professional licensing. He advised that while there is no bill proposing moving boards at this time, it became clear that the Senate Government Operations Committee is interested in doing so. Members expressed concern over the prospect of moving from the Health Department. Mr. Herlihy agreed, noting his belief that being part of an organization that is focused on public health has significantly impacted the Board in a good way. He also noted that the Vermont Medical Society (VMS) had just issued a newsletter indicating its support for the Board staying at VDH and soliciting input from VMS members. Board members expressed concerns about this issue and discussed contacting legislative representatives to voice their support of the Board staying at VDH. Mr. Herlihy offered to send members information about how to contact their representatives. Mr. Evans observed that legislators receive a lot of email and that it may be more effective to fax, call, or mail their messages to legislators.

Mr. Herlihy noted that he will be out of the office at the FSMB conference from April 17 through April 22, and, that he is scheduled to be on military duty from April 23 through May 6, which will cause him to miss the May meeting.

Finally, Mr. Herlihy informed members that he attended a Grand Rounds in St. Johnsbury to provide training on the revised VDH Rules on Opioids and VPMS. He will be attending another Grand Rounds at Porter Medical Hospital on Wednesday, April 12th, to present on the same topics.

6. 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.

7. Reconvene meeting; Executive Session to Discuss:

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

Ms. McClain made a motion at 1:03 p.m. to enter into Executive Session to discuss confidential matters related to investigations. Dr. Hayward seconded the motion. The motion passed: opposed: none; abstained: none; recused: none

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

Dr. Hayward made a motion at 1:49 p.m. to return to Open Session. Dr. Clattenburg seconded the motion. The motion passed; opposed: none; abstained: none; recused: none.

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

MPN 014-0217 – Letter #1; Dr. Payne recused
MPN 144-0916 – Special Letter #2; Ms. McClain recused
MPN 138-0916 – Letter #1; Dr. Payne recused

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

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

MPS 021-0216 – Special Letter #1; Dr. Sproul recused
MPS 005-0117 – Special Letter #1; Dr. Sproul recused
MPS 079-0516 – Special Letter #1; Mr. Evans and Dr. Payne recused
MPS 078-0516 – Special Letter #1
MPS 179-1216 – Letter #1
MPS 013-0117 – Letter #1
MPS 141-0916 – Letter #1
MPS 158-1116 – Letter #1

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

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

Dr. Burgee presented a recommendation from the Licensing Committee regarding the timing of the issuance of Limited Training Licenses. In the past, licenses were issued upon completion of the file and receipt of the form completed by the medical school verifying satisfaction of graduation requirements. Within the past few years, the Board's practice had changed to delay issuance until after the actual date of graduation, which is included on the medical school verification form. The recommendation from the Licensing Committee arose because Tracy Hayes, Medical Licensing Specialist for the Board, asked the Committee to consider granting LTL licenses prior to the actual graduation date, if the direct verification of medical education has been received. It was noted that this is important for the residency

programs because they need time to enroll the residents for CMS payment after the LTL is issued, and that time is always tight with LTL licensing because of the short time between “match day” and the start of the programs on July 1. Mr. Herlihy added that Committee members had discussed what would happen if an applicant did something that resulted in not receiving the medical school diploma. LTL certificates are sent to the programs, not directly to the applicants. Mr. Herlihy noted that the LTL allows practice only within the program and that in a letter from UVM, the programs provided assurance that they perform due diligence confirming receipt of the medical school diploma before a resident is allowed to begin the program. Dr. Burgee made a motion to adopt the recommendation of the Licensing Committee to issue Limited Training Licenses upon receipt of the direct verification of medical education and a completed application file. Ms. Hunter seconded the motion. The motion passed; opposed: none; abstained: none; recused: none.

10. Other Business:

- **Update on the process to establish the Board’s Revised Rules - Summary of public comments submitted in writing or at the public hearing on April 3.**

Mr. Herlihy first said that he had conferred with Health Department staff and that the Board can take more time to provide input regarding public comments on the proposed Rules revision. The public meeting on the proposed Rules had to be rescheduled from March 14 to April 3 because of the snowstorm that caused state offices to close. He noted that written comments will be accepted through April 10th. After close of the comment period, he will make them available to members, prepare a summary, and draft proposed input for the Board’s consideration. Once the Board has agreed on its input, it will be provided to VDH staff who will complete the responses.

Mr. Herlihy summarized the comments received to date. He had comments from VMS, the Physician Assistant Academy of Vermont, UVMCMC, and one individual. Most of the comments fall into just a few categories. VMS proposed amending the Rules to include a fee waiver provision for practice limited to the Medical Reserve Corps, which is currently being discussed as an addition to S.14. VMS also commented on making the written procedures for investigations, which have been discussed at length with VMS, part of the Rules. Mr. Herlihy reminded members that he had originally envisioned doing that, but had been informed that investigation procedures are not considered a topic appropriate for rules. He advised that the final major topic of comments was a series of suggestions from PAAV to make changes to terminology relating to the MD-PA relationship and requirements for supervision. In general, PAAV is advocating for relaxing the standards for supervision because of perceptions among some MDs that there are fewer administrative burdens associated with employing APRNs than PAs. Mr. Herlihy advised that he thought many of the PAAV proposals needed to be addressed first in statute before the Rules could be changed in the way suggested because the Rules must comport with the statutes as they are written now.

- **CME Audit Update**

Mr. Herlihy mentioned that the CME Audit has entered phase two, per the plan previously approved by the Board. In the first round, 59 licensees were randomly selected for audit and, as of April 5, 10 failed to provide full documentation and 4 had not yet to responded. Based on those results, the approved audit process calls for audit of an additional group of 93 licensees. Responses from the second group are due by April 10th. He advised that of those responding to date, 4 licensees had failed. Members asked what was going to happen after the second round. He explained that the approved plan does not specify; it says only that second round results are to be presented to the Board.

- **Legislative update**

S.14: The bill passed in the Senate. Mr. Herlihy is continuing to work on the language with VMS and legislative staff to have the scope of the program focus on “impairment” rather than “mental illness.” The bill was also being amended to add a fee waiver for licensees who limit practice to the Medical Reserve Corps.

S.16: The bill passed in the Senate without the language requiring CME on the subject of medical marijuana. A similar bill introduced in the House that included the CME provision had not been acted upon.

Mr. Herlihy noted that several other bills of interest had not had any action and he did not anticipate any movement by the end of this legislative session.

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

- **April 12, 2017, South Investigative Committee Meeting, 12:00 p.m., Asa Bloomer State Office Building, 4th Floor, Room #492, Rutland, VT**
- **April 13, 2017, North Investigative Committee Meeting, 12 p.m., Vermont Department of Health, 108 Cherry Street, 3rd Floor, Conference Room 2C, Burlington, VT**
- **April 14, 2017, Central Investigative Committee Meeting, 9 a.m., Central Vermont Medical Center, Conf. Rm. 2, Berlin, VT**
- **April 19, 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)**
- **May 3, 2017, Licensing Committee Meeting, 10:30 a.m., Gifford Medical Center, Red Clover Conference Room, Randolph**

- **May 3, 2017, Board Meeting, 12 p.m., Gifford Medical Center, Red Clover Conference Room, Randolph**

12. Open Forum:

13. Adjourn:

Mr. Hoser declared the meeting adjourned at 2:50 p.m.

Attachments: Appendix A

DRAFT

APPENDIX A

Presentation of Applications

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

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|-------------------------|----------------------------|---------------------|
| Clark Andeline, MD | Lucas Carter, PA-C | Kenneth Dolkart, MD |
| Joseph Freedman, MD | David Harari, MD | Brian Joslin, PA-C |
| Martin Kasofsky, MD | Jennifer Kish, PA-C | Rony Lahoud, MD |
| Babs Levinstein, MD | Blake Lopes, PA-C | Lisa Maxwell, MD |
| Colleen Moran, MD | Juan Rodrigues Perdomo, MD | Lynne Portnoy, MD |
| Gil Rohald, MD | Martha Stagaman, MD | Talitha Travis, MD |
| Maria Acuna Velasco, MD | Frank Williams, MD | John Wilson, MD |
| Lia Wrenn, MD | | |

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

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

| | | |
|---------------------------|----------------------|---------------------|
| Dema Alniemi, MD | Sonja Dawsey, MD | Daniela DiMarco, MD |
| Gabriel Edwards, MD | Brett Erdreich, MD | Glenda Euceda, MD |
| John Fox, III, MD | Vanessa Garlick, MD | John Haines, MD |
| Sydney Hartman-Munick, MD | Margaret Infeld, MD | Waqas Jehangir, MD |
| Jordan Jones, MD | Dhimiter Kondili, MD | Matthew LeBoeuf, MD |
| Sahar Nozad, MD | Mark Perry, MD | Michael Pudenz, MD |
| Alexander Rand, MD | Daniel Silverman, MD | Kitty Victoria, MD |
| Michael Waisberg, MD | | |

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