

**VERMONT BOARD OF MEDICAL PRACTICE**  
**Minutes of the December 6, 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 12:25 p.m.

**Members Present:**

Richard Bernstein, MD; Brent Burgee, MD; Richard Clattenburg, MD; Michael Drew, MD; Allen Evans; Robert G. Hayward, MD; David A. Jenkins; Leo LeCours; David Liebow, DPM; Christine Payne, MD; Harvey Reich, MD; Marga Sproul, 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; Jessa Barnard, Vice President for Policy, Vermont Medical Society.

**2. Public Comment:**

None

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

Dr. Liebow moved to accept the minutes of the November 1, 2017 meeting. Dr. Hayward seconded the motion. The motion passed; opposed: none; recused: none; abstained: none.

Dr. Hayward moved to accept the minutes of the November 15, 2017 meeting. Dr. Liebow seconded the motion. The motion passed; opposed: none; recused: none; abstained: none.

**4. Board Issues (Mr. Hoser):**

Mr. Hoser reminded members that they need to submit applications to the Federation of State Medical Board (FSMB) this month if they are interested in serving on any of the committees.

**5. Administrative Update (Mr. Herlihy):**

Mr. Herlihy reminded members to submit their expense sheets and noted that the expenses for July through September are now over-due if they have not submitted.

Mr. Herlihy requested members notify Kelly Lawler if they are unable to attend any of the meetings, as she is the official attendance keeper.

Mr. Herlihy noted his support for members to participate on the FSMB committees.

Mr. Herlihy mentioned that he recently sent out an email to the members that highlighted a recent edition of Vermont Public Radio that discussed the participation of insurance carriers in responding to the opioid crisis. He also noted that former Board member, Joshua Plavin, MD, who is the current Medical Director for Blue Cross Blue Shield, participated in the discussion.

Mr. Herlihy gave a brief update to members on the statistics from the recent email message to all licensees, which included the changes to the Board Rules. The email was sent to 4391 individuals:

- 1691 opened the message (40% open rate; industry average is 22%)
- 573 clicked the links (34% click through rate; industry average is 9%)
- 472 clicked the link to the article on the Changes in Board Rules
- 65 clicked the link to the Board Rules

Mr. Herlihy mentioned that the Health Department's 2016 Workforce Census report on Vermont physicians has been completed. He will distribute it to Board members.

## **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.

Mr. Hoser presented a Withdrawal of Initial Application for George Shanlikian, MD. Dr. Drew made a motion to accept the Withdrawal of Initial Application for George Shanlikian, MD. Dr. Reich seconded the motion. The motion passed; opposed: none; abstained: none; recused: none.

## **7. Presentations to the Board:**

None

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

None

**9. Reconvene meeting; Executive Session to Discuss:**

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

Mr. LeCours made a motion at 12:46 p.m. to enter into Executive Session to discuss confidential matters related to investigations. Dr. Clattenburg 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:**

Dr. Liebow made a motion at 1:00 p.m. to return to Open Session. Dr. Hayward seconded the motion. The motion passed; opposed: none; abstained: none; recused: none.

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

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

MPN 133-0717 – Special Letter #1  
MPN 106-0617 – Special Letter #1

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

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

MPS 183-1216 – Special Letter #2; Dr. Payne and Dr. Sproul recused  
MPS 154-1017 – Special Letter #1

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

**12. Other Business:**

- **NPDB Continuous Query** – Mr. Herlihy presented information to the members regarding the National Practitioner Databank (NPDB) Continuous Query program. He noted that the Continuous Query costs \$2 per licensee per year and provides 24/7 monitoring of all reports made to NPDB. The current notification process is reliant upon the reporter entering the information for a medical professional licensed in Vermont, which is not always guaranteed if the reporter is unaware the medical professional has a Vermont medical license or simply fails to note that the subject of

the report holds a Vermont license. The Continuous Query option would require the Board to upload information into the NPDB databank. Then the Board would receive immediate notification whenever a report is made regarding a Vermont licensee. He summarized that while it is now free and the Board receives many NPDB reports of other state actions, malpractice payments, and employer/medical staff actions, use of the service would provide a higher level of confidence that the Board would learn of adverse information about licensees, which would support the Board's central mission of public protection. Mr. Herlihy inquired of member support to purchase and use Continuous Query.

Mr. LeCours made a motion to support the purchase and use of the National Practitioner Databank Continuous Query services. Dr. Drew seconded the motion. The motion passed; opposed: none; abstained: none; recused: none.

- **Upcoming Legislative Session** – Mr. Herlihy provided an overview of the Board's legislative proposals that have been submitted to the Administration for 2018.

First he noted that he anticipates the Interstate Medical Licensing Compact will be taken up for discussion this year and that interested stakeholders have indicated either support for the Compact, or at least a lack of opposition.

Mr. Herlihy next said that the Board's request for a fix to the Patient's Privilege statute has been forwarded by the Health Department and AHS and that legislative staff has already been working on possible language with the Health Department. The issue is that a Vermont court has interpreted the Patient's Privilege to apply to hospitals and other entities, which has sometimes been a barrier to obtaining medical records needed for investigations. At present it appears that the proposal will be to insert language resolving this for the Board in the section of statute that lays out the Board's powers and duties to make it clear that any individual or entity must comply with a subpoena from the Board notwithstanding the Patient's Privilege. While that will not resolve the issue for other Vermont regulatory bodies, they have not been interested in pursuing legislative action to fix this. As a result, a fix that is specific to the Board is the best option.

Mr. Herlihy informed members that he is currently working with legislative staff on language regarding the statute that mandates reports of disciplinary actions by hospital and other employers. Currently the law includes some imprecise language that forces hospitals and other reporters to make a judgement as to whether a disciplinary matter is reportable. His assessment is that there have been instances when reportable events were not reported, and the existing language prevents the Board from holding reporters accountable for failing to report discipline to the Board. The goal is to have more definite language that will relieve reporters of the burden of making discretionary calls and ensure that the Board is aware of discipline taken against its licensees.

Mr. Herlihy also informed the Board of H.280, a bill introduced in the first year of the biennium that would make it possible for doctorate-level psychologists to obtain privileges to prescribe controlled substances. He noted that this bill was not discussed in committee during the 2017 session, but may receive attention this legislative session and the Board may be asked for a position on it. He invited the Board to review the bill and asked if any members had comments. Dr. Reich noted

that when prescribing it is important to understand the whole patient and other conditions and diseases that may be present, and affected by a prescribed medication. Dr. Drew commented that he has heard that the requirements drafted by the APA for authorizing a psychologist to prescribe are stringent. Dr. Clattenberg noted that the bill includes a process for physicians approving prescriptions written by psychologists, and asked what a physician's responsibility or liability would be for approving such prescriptions. Jessa Barnard of VMS added that she believes another version of the bill will be introduced in the Senate, and that it is her understanding that a psychiatry association has opposed the concept.

- **Continuing Medical Education** – Mr. Herilhy informed members that questions have recently come to the Board as to whether a licensee may use the same CME credits to satisfy the two-different subject-specific requirements for CME. This arises because some CME presentations might cover subject matter that addresses both the safe prescribing requirement and the hospice/palliative care/pain management requirement, but total only two hours. Most physicians must complete a total of thirty hours, including two hours on safe prescribing (for holders of a DEA license for controlled substances) and at least one hour on hospice/palliative care/pain management. A clear majority of members commented that an hour of CME cannot be counted toward both of the subject requirements, so that a licensee who needs to meet both the subject requirements must have a total of three hours on the two subjects combined.

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

- **December 14, 2017, North Investigative Committee Meeting, 12 p.m., Vermont Department of Health, 108 Cherry Street, 3<sup>rd</sup> Floor, Conference Room 2C, Burlington, VT**
- **December 15, 2017, Central Investigative Committee Meeting, 9 a.m., Central Vermont Medical Center, Conf. Rm. 2, Berlin, VT**
- **December 20, 2017, Board meeting on pending applications, 12:10 p.m., Board of Medical Practice office, 108 Cherry Street, 2<sup>nd</sup>, Floor Burlington, VT (and via telephone)**
- **December 20, 2017, South Investigative Committee Meeting, 12:00 p.m., Asa Bloomer State Office Building, 4th Floor, Room #492, Rutland, VT**
- **January 3, 2018 Licensing Committee Meeting, 10:30 a.m., Gifford Medical Center, Red Clover Conference Room, Randolph**
- **January 3, 2018, 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 1:55 p.m.

**Attachments: Appendix A**

## APPENDIX A

### Presentation of Applications

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

Shawn Ahmad, MD	Marc Berezin, MD	Carolyn Boscia, MD
Esther Caballero-Manrique, MD	Susan Carol, MD	Alessandro Cavalcante, PA-C
James Dorsch, MD	Kenneth Egli, MD	James Enser, MD
Sumita Gokhale, MD	Casey Green, MD	Margaret Grimley, MD
Linne Humbargar, PA-C	Elizabeth Libby PA-C	Christopher Ma, MD
Sean Maloney, MD	Jamal Nabhani, MD	Isaac Noyes, MD
Brian Risinger, MD	Natalie Snodgrass, MD	Estela Sosa, MD
James St. Ville, MD	James Viapiano, MD	Laura Weiland, PA-C

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

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

James Alex, MD                      Caitlin Waters, MD

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