

VERMONT BOARD OF MEDICAL PRACTICE
Minutes of the August 1, 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

Members Present:

Richard Bernstein, MD; Brent Burgee, MD; Richard Clattenburg, MD; Michael Drew, MD; Allen Evans; Robert G. Hayward, MD; Francis J. Heald; Patricia Hunter; David A. Jenkins; Leo LeCours; David Liebow, DPM; Christine Payne, MD; Harvey Reich, MD; Ryan Sexton, 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; Physician Assistant; Marge Bower, Physician Assistant and Sarah Bushweller, PA-C, Physician Assistant Academy of Vermont; Jessa Barnard, Executive Director.

Public Comment:

None

2. Approval of the Minutes of the July 11, 2018 Board Meetings:

Dr. Reich moved to accept the minutes of the July 11, 2018 meeting. Dr. Liebow seconded the motion. The motion passed; opposed: none; recused: none; abstained: none.

3. Board Issues (Mr. Hoser):

Mr. Hoser noted that he, Mr. Herlihy, and Ms. Vincent participated in the Controlled Substance Pain Management Advisory Council meeting in July. The meeting began with an overview of the current state of the opioid crisis and information about prescribing in Vermont. Health Department representatives discussed proposed technical improvements and invited comments. The proposed changes will go through the Administrative Rule process, which will include public comment in October, and will be ready for consideration by the Legislature's Committee for Administrative Rules in January 2020. He also reported that some attendees raised questions about how prescribers taper patients who are on opioids and suggested that many prescribers lack knowledge on tapering. Mr. Herlihy added that in response to those concerns he

had commented that the Board would put out information about resources for information on tapering.

4. Administrative Update (Mr. Herlihy):

Mr. Herlihy provided an update on the Limited Training License renewal: 2 new DPMS and 4 renewed DMP-LTLs; 104 new MDs and 220 renewed MD-LTL. He was pleased to report there were no issues during the renewal cycle.

Mr. Herlihy reminded members that the S.C.O.P.E of Pain conference will be held on September 29, 2018 at the Capital Plaza in Montpelier. He stated he would inquire whether or not there will be information presented about tapering patients, as that had come up at the Controlled Substance Council meeting.

Mr. Herlihy noted that the Recommendations for Intimate Exams in an Outpatient Setting that were approved at the July meeting had been posted on the Board website, emailed to all licensees, and mailed to all hospital CEOs.

5. Presentation of Applications:

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

6. Presentations to the Board:

None

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

- **In re: Maria Henriette Clough, PA-C – Request for Relief from Conditions – MPS 158-1017**

Ms. Vincent addressed the Board, summarizing the facts leading up to the Request for Relief from Conditions in a non-disciplinary licensing matter concerning Ms. Clough's return to practice. Dr. Hayward made a motion to approve the Request for Relief from Conditions. Dr. Drew 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. Hayward made a motion at 12:49 p.m. to go into Executive Session to discuss confidential matters related to investigations. Dr. Liebow 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 1:06 p.m. to return to Open Session. Ms. Hunter seconded the motion. The motion passed; opposed: none; recused: none; abstained: none.

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

MPN 032-0318 – Letter #1; Dr. Reich recused

Ms. Hunter made a motion to close the cases presented. Dr. Sexton 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 027-0318 – Special Letter #1

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

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

MPS 25-0317 – Special Letter #2

MPS 33-0418 – Letter #1; Dr. Liebow and Dr. Sexton recused

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

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

11. Other Business:

- **Questions on Physician Renewal Application**

At its April 2018 annual meeting, the Federation of State Medical Boards adopted a policy document titled: **Physician Wellness and Burnout, Report and Recommendations of the Workgroup on Physician Wellness and Burnout** (online at: <http://www.fsmb.org/globalassets/advocacy/policies/policy-on-wellness-and-burnout.pdf>). It included recommendations for state medical boards regarding actions and policies that are related to wellness and burnout, including recommendations addressing how boards deal with mental health and substance issues on applications. The Board received questions from two different sources

about the questions on its applications and was asked to consider the new FSMB recommendations, the current questions, and to determine if the questions should be revised.

Mr. Herlihy added that VMS had also raised the concept of “safe harbor,” which is a term used with regard to these disclosure of health conditions to mean that an applicant need not report an impairment or substance use issue so long as they are in a treatment program. He noted that the concept of safe harbor had been raised by the former policy director of the Vermont Medical Society and that he had responded that the wording of the question is such that if they are in treatment and do not have a current impairment, they would not need to answer that question “yes.”

Members were open to the idea of changing the language and agreed to remove the words “potentially impairs” from question #127. It had read: “Do you have a medical condition that in any way impairs or potentially impairs or limits your ability to practice medicine in your field of practice with reasonable skill and safety?”

Dr. Clattenburg made a motion to change the language to “Do you have a medical condition that in any way impairs your ability to practice medicine in your field of practice with reasonable skill and safety?” Dr. Sexton seconded the motion. The motion passed; opposed: none; recused: none; abstained: none.

Members were open to changing the language in question #128, which had read: “In explaining a “Yes” answer to the previous question, please provide reasonable assurances that your medical condition is reduced or ameliorated because, for example, you have received or do receive ongoing treatment (with or without medication) or have participated or do participate in a monitoring program.”

Mr. LeCours made a motion to change the wording to “If you answered yes to the preceding question please identify the impairment and explain how you address it in practice.” Dr. Drew seconded the motion. The motion passed; opposed: 1; recused: none; abstained: none.

Mr. Herlihy raised another issue with a profile question on the renewal applications, specifically the question asking about criminal convictions and civil matters such as a civil DUI. He proposed breaking the question out into 2 parts. The reason for the change is that the answers to that question feed the licensee profile pages, which are required by law to be made available to the public. The problem is that the civil matters asked about in that question are not something that is identified in the law to be made available to the public in the profile. In order to ask about those civil issues, the topic needs to be addressed in a separate question that is not in the profile portion of the application.

Dr. Sproul made a motion to split and separate the question into two parts. Dr. Bernstein seconded the motion. The motion passed; opposed: none; recused: none; abstained: none.

- **Opportunity for Consulting Project**

Mr. Herlihy and Ms. LaFond discussed the opportunity to propose a project to the Vermont Certified Public Managers Program, which is a two-year multi-seminar learning experience for current and emerging leaders in Vermont State Government. Each year the program offers state agencies the opportunity to submit proposals for consulting projects to be conducted by the VPCM participants. The projects are conducted over the course of several months. Agencies can submit proposals from now until the end of August. Mr. Herlihy inquired whether or not the members would support a proposal for a project to evaluate the Board's communications and make recommendations for a communications plan, to licensees, the public, and other interested parties. The Board was supportive and agreed it was a good idea.

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

- **August 9, 2018, North Investigative Committee Meeting, 12 p.m., Vermont Department of Health, 108 Cherry Street, 3rd Floor, Conference Room 2C, Burlington, VT**
- **August 10, 2018, Central Investigative Committee Meeting, 9 a.m., Central Vermont Medical Center, Conf. Rm. 2, Berlin, VT**
- **August 15, 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)**
- **August 15, 2018, South Investigative Committee Meeting, 12:00 p.m., Asa Bloomer State Office Building, 4th Floor, Room #492, Rutland, VT**
- **September 5, 2018, Licensing Committee Meeting, 10:00 a.m., Gifford Medical Center, Red Clover Conference Room, Randolph**
- **September 5, 2018, Board Meeting, 11 a.m., Gifford Medical Center, Red Clover Conference Room, Randolph**

13. Open Forum:

None

14. Adjourn:

Mr. Hoser declared the meeting adjourned at 2:15 p.m.

Attachments: Appendix A

APPENDIX A

Presentation of Applications

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

Jessica Baughman, PA-C
Shanti Jampani, MD
Corey Siegel, MD
Melissa VanSickle, MD

Mark Cerbone, MD
Corey LeBlanc, PA-C
Nathan Siegel, MD
Diana Wilson, MD

Amanda Grafstein, MD
Erica Marden, MD
Jeffrey Spencer, PA-C
Bradley Younggren, MD

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