VERMONT BOARD OF MEDICAL PRACTICE Minutes of the February 2, 2022 Board Meeting 108 Cherry Street, Burlington, VT and remote via Teams

Approved

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

Richard Bernstein, MD, Chair, called the meeting to order at 12:03 PM

Members Present:

Maureen Bogosian; Brent Burgee, MD; Richard Clattenburg, MD; Gail Falk; Matt Greenberg, MD; Francis Heald; Rick A. Hildebrant, MD; Patricia Hunter; Suzanne Jones, PA-C; Leo LeCours; David Liebow, DPM; Sarah McClain; Christine Payne, MD; Marga Sproul, MD; Margaret Tandoh, MD; Robert E. Tortolani, MD.

Others in Attendance

David Herlihy, Executive Director; Paula Nenninger, Investigator; Scott Frennier, Investigator; Karen LaFond, Operations Administrator; Justin Sheng, AAG; Megan Campbell, AAG; Kurt Kuehl, AAG; Bill Reynolds, AAG; George Belcher, Esq.; Brad Salzman, PA-C; Carol Blackwood, MD; Mike Donoghue; Barbara M. Coates-Gordon; Shireen Hart, Esq.

2. Board Issues

Dr. Bernstein welcomed two new Board members: Maureen Bogosian, Public Member, and Matt Greenberg, MD.

Dr. Bernstein thanked the members for allowing him the privilege of serving as Chair of the Board.

3. Public Comment:

None

4. Election and Presentation of New Board Officers:

Mr. Herlihy noted there was only one nominee for each Board Officer position and that the Nominating Committee approved a slate: Sarah McClain, Chair; Richard Hildebrant, MD, Vice-Chair; Marga Sproul, MD, Secretary.

Mr. LeCours made a motion to accept the nomination of Board Officers as presented by the Nominating Committee and elect the three nominees. Ms. Hunter seconded the motion. The motion passed; opposed: none; recused: none; abstained: Dr. Greenberg.

5. Approval of the Minutes of the January 5, 2022 Board Meetings:

Dr. Hildebrant moved to accept the minutes of the January 5, 2022 meeting. Ms. McClain seconded the motion. The motion passed; opposed: none; recused: none; abstained: none.

6. Administrative Updates (Mr. Herlihy):

Mr. Herlihy provided a brief update on the result of the physician assistant license renewal. 464 PAs renewed, but approximately 30 had not. It appeared that none of the PAs whose licenses expired were working in Vermont after their licenses expired. He added that there was not yet information about the status of those who lapsed.

7. 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.

Dr. Bernstein asked for a motion for the issuance of physician licenses and physician assistant licenses. (See Appendix A)

Dr. Hildebrant made a motion to accept all applicants for licensure as presented. Seconded by Ms. McClain. The motion passed; opposed: none; abstained: none; recused: none.

Dr. Bernstein asked for a motion for the issuance of limited temporary licenses to practice medicine. (See Appendix A)

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

8. Other Business:

Mr. Herlihy thanked Dr. Bernstein for his leadership as Board Chair and noted that Dr. Bernstein would continue to serve as a physician member of the Board. Mr. Herlihy also extended congratulations to Ms. McClain, Dr. Hildebrant, and Dr. Sproul and thanked them for stepping up into these roles.

Mr. Herlihy referenced an email he sent to members summarizing proposed legislation that may be of interest to the Board. (See Appendix B) Updates covered bills as follows:

Two scope of practice issues that have previously been in the Legislature and that the Board has commented on have come up again. S.158 concerns the scope of practice of optometrists; it proposes to allow them to do procures. Unlike a past proposal, which had listed procedures that would be allowed, this bill would allow optometrists to perform procedures except for those listed in the bill. Mr. Herlihy indicated that the Board had opposed the prior proposal and could continue to rely on that as the Board's position. He asked if any members wished to revisit the issue; no members asked to further discuss the issue. The other scope of practice issue is in H.392, which proposes expansion of the scope of practice for certain doctoral-level psychologists to allow prescribing. He advised that a report to the Legislature by OPR on the issue is expected. If the report disfavors expansion of the scope of practice it will not be dispositive, but will influence the Legislature's decision. Mr. Herlihy advised that as with the

other scope issue, the Board had recently passed a motion opposing the proposal and that he would rely on that at this time and keep the Board informed of developments.

Also of interest are H.654 and H.655. The two bills reflect the recommendations of the Interstate Telehealth Work Group. H.654 focuses on the immediate extension of COVID-19 emergency measures, including those relating to licensing of health care professionals. There are some adjustments to the emergency provisions allowing health care professionals to work at facilities in Vermont; most notably it limits the amount of time that an individual can work in Vermont under the COVID provision to a 6-month period. Time before passage of the bill would not count toward the 6-month limit. The bill also adopts the recommendations of the Telehealth Work Group by requiring all those performing telehealth without a Vermont license to become registered by April 1, 2022. H.655 further adopts the Telehealth Work Group's recommendations by proposing to create the two new proposed licensing categories for telehealth effective on July 1, 2023. Those are a very limited telehealth registration option and a limited telehealth license. H.654 had been passed by the House on January 28th and H.655 was moving toward passage.

Mr. Herlihy also noted *S. 206 – An act relating to planning for the care and treatment of patients with cognitive impairments.* There is an existing Commission on Alzheimer's Disease and Related Disorders. The bill is of interest because it includes a provision that would add to the duties of the Commission by having three Commission members appointed to a work group to make recommendations regarding CME requirements related to the diagnosis, treatment, and care of patients with cognitive impairments, including Alzheimer's and other forms of dementia. Vermont law already covers two topics that are required for CME (opioid prescribing and hospice/palliative care/pain management) and there is another study taking place to consider CME requirements for equity and diversity in health care.

Members expressed concerns about adding another required subject. It was noted that these requirements are piling up and having a group of required subjects is at the expense of other training that physicians need. Other comments brought up the ineffectiveness of one-time CMEs and the percentage of licensees who have little or no contact with the relevant population. Mr. Herlihy noted that he has a clear sense of the Board's concerns if he is called to testify.

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

In re: Jeffery Allyn, MD – Stipulation and Consent Order – Licensing Matter

Mr. Kuehl addressed the Board, summarizing the facts leading up to the Stipulation and Consent Order. Dr. Hildebrant made a motion to approve the Stipulation and Consent Order. Dr. Bernstein seconded the motion.

Ms. LaFond recorded the roll-call vote: The motion passed; Yeas: Dr. Bernstein, Mr. LeCours, Ms. McClain, Dr. Sproul, Ms. Bogosian, Dr. Burgee, Dr. Clattenburg, Ms. Falk, Dr. Payne, Dr. Greenberg, Mr. Heald, Dr. Hildebrant, Ms. Hunter, Dr. Liebow, Ms. Jones, Dr. Tortolani; Opposed: none; Abstained: none; Recused: none.

In re: Marzouq A. Qubti, MD – Stipulation and Consent Order – Licensing Matter

Mr. Herlihy addressed the Board, summarizing the facts leading up to the Stipulation and Consent Order. Ms. McClain made a motion to approve the Stipulation and Consent Order. Ms. Hunter seconded the motion.

Ms. LaFond recorded the roll-call vote: The motion passed; Yeas: Dr. Bernstein, Mr. LeCours, Ms. McClain, Dr. Sproul, Ms. Bogosian, Dr. Burgee, Dr. Clattenburg, Ms. Falk, Dr. Payne, Dr. Greenberg, Mr. Heald, Dr. Hildebrant, Ms. Hunter, Dr. Liebow, Ms. Jones, Dr. Tortolani; Opposed: none; Abstained: none; Recused: none.

 In re: John B. Coates III, MD – Proposed Findings of Fact, Conclusions of Law and Order Recommended by the Hearing Panel – MPS 001-0119 & MPS 027-0121

Mr. Belcher first asked about who would be acting as Chair because Dr. Bernstein had already been recused from the matter during the hearing process and Ms. McClain had been a member of the Hearing Panel. It was established that Dr. Sproul would be *ad hoc* Chair. Mr. Belcher then established on the record that the Respondent and his attorney had indicated that they would not participate in the hearing and that they were not present. He then invited Ms. Campbell to address the Board. She made a presentation asking the Board to approve the Findings, Conclusions of Law, and Order recommended by the Hearing Panel. The Board considered the Report, the evidence, the record, and the other material that was filed with the Board. The Board announced that it was ready to announce its decision. Mr. Belcher advised that there were two typographical errors and a request from Respondent to amend the wording of Finding 32; he advised correcting the errors and determined that there was no objection by Ms. Campbell to Respondent's request regarding Finding 32.

Ms. Falk made a motion to adopt the Findings of Fact and Conclusions of Law as submitted by the Hearing Panel, but with the amendments to correct two typographical errors and revise Finding 32 as requested by the Respondent, and to Approve and Enter the Recommended Order. Dr. Clattenburg seconded the motion.

Ms. LaFond recorded the roll-call vote: The motion passed; Yeas: Dr. Sproul, Ms. Bogosian, Dr. Burgee, Dr. Clattenburg, Ms. Falk; Opposed: none; Abstained: Ms. McClain, Mr. LeCours; Recused: Dr. Bernstein, Dr. Payne, Dr. Greenberg, Mr. Heald, Dr. Hildebrant, Ms. Hunter, Dr. Liebow, Ms. Jones, Dr. Tortolani.

- 9. Reconvene meeting; Executive Session to Discuss:
 - Investigative cases recommended for closure
 - Other matters that are confidential by law, if any

Dr. Hildebrant made a motion at 2:26 PM to go into Executive Session to discuss confidential matters related to investigations. Mr. LeCours 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. Hildebrant made a motion at 3:17 PM to return to Open Session Ms. Jones seconded the motion. The motion passed; opposed: none; recused: none; abstained: none.

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

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MPN 102-0821 – Special Letter #1
MPN 161-1021 – Special Letter #1; Dr. Tortolani recused
MPN 152-0921 – Special Letter #1
MPN 059-0721 – Letter #1
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Dr. Hildebrant made a motion to close the cases presented. Ms. Jones seconded the motion. The motion passed; opposed: none; abstained: none; recused: 1 and North Investigative Committee.

Dr. Payne, Central Investigative Committee, asked to close:

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MPC 136-0921 – Special Letter: Stan Burns Letter; Dr. Sproul recused MPC 168-1121 – Special Letter: Marga Sproul Letter; Dr. Hildebrant recused
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Mr. LeCours made a motion to close the cases presented. Dr. Bernstein seconded the motion. The motion passed; opposed: none; abstained: none; recused: 2 and Central Investigative Committee.

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

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MPS 038-0321 – Special Letter #1
MPS 115-1018 – Special Letter #2; Dr. Payne and Dr. Greenberg recused
MPS 142-1218 – Special Letter #2; Dr. Payne, Dr. Greenberg and Ms. Falk recused
MPS 112-0821 – Special Letter #1
MPS 157-1021 – Letter #1; Dr. Sproul and Ms. McClain recused
MPS 167-1121 – Letter #1; Dr. Burgee recused
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Mr. LeCours made a motion to close the cases presented. Dr. Bernstein seconded the motion. The motion passed; opposed: none; abstained: none; recused: 6 and South Investigative Committee.

11. Board Actions on Committee recommendations regarding any non-confidential matters: None

- 12. Upcoming Board meetings, committee meetings, hearings, etc.: (Locations are subject to change. You will be notified if a change takes place.)
 - February 10, 2022, North Investigative Committee Meeting, 9 a.m., 108 Cherry Street, Burlington, VT and remote via Teams
 - February 11, 2022, Central Investigative Committee Meeting, 9 a.m., 108 Cherry Street, Burlington, VT and remote via Teams
 - February 16, 2022, Board Meeting on pending applications, 12:10 p.m., 108 Cherry Street, Burlington, VT and remote via Teams

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- February 16, 2022, South Investigative Committee Meeting, 12:15 p.m., 108 Cherry Street, Burlington, VT and remote via Teams
- March 2, 2022, Licensing Committee Meeting, 11:00 a.m., 108 Cherry Street, Burlington, VT and remote via Teams
- March 2, 2022, Board Meeting, 12:00 p.m., 108 Cherry Street, Burlington, VT and remote via Teams

13. Open Forum:

14. Adjourn: Ms. McClain declared the meeting adjourned at 3:24PM.

APPENDIX A

PRESENTATION OF FULL APPLICATIONS February 2, 2022 – Updated 2/2/2022

Note: Applicants listed below have been notified that their applications for licensure appear to be complete and may be presented at the next scheduled Board Meeting.

^{**} Must pass through licensing prior to being presented.

Name	School	Specialty	Practice Location
**Allyn, Jeffery MD (do not read)	Tulane University	Family Practice (BC)	Gifford
**Ashoor, Isa MD	Arabian Gulf University (Bahrain)	Pediatrics (BC)	Telemedicine
Blonder, David MD	Tufts University	Radiology (BC)	NWVMC
Cooke, Brian MD	St. Louis University	Psychiatry (BC)	Forensic Psychiatry Cons.
**Corman, Adam MD	Eastern Virginia Medical School	Emergency Medicine (BC)	TBD
**Coughlin, Bret MD	University of Massachusetts	Diagnostic Radiology (BC)) NWVMC
Gabriel, Michael MD	Commonwealth Medical College	Family Practice (BC)	BCBSVT
Gergi, Mansour MD	Lebanese University (Lebanon)	Internal Medicine (BC)	UVMMC
Hill, Elisabeth MD	University of Pennsylvania	Psychiatry (BC)	Headway NYMBHS
Insko, Erik MD	University of Pennsylvania	Diagnostic Radiology (BC)) Radiology Partners
Kincaid, Rebecca MD	Indiana University	Pediatrics (BC)	Gifford Medical Center
Long, Nancy MD	University of Massachusetts	Family Practice (BC)	UVMMC
**McGowan, Mary MD	University of Massachusetts	Internal Medicine (BC)	Telemedicine
**Miglani, Jasdeep MD	Christian Medical College	Psychiatry (BC)	UVMMC
**Mogan, James MD	UVM	Orthopedic Surgery (BC)	TBD
Pengelly, Emily PA-C	University of Nebraska		TBD
Perrone, Jessica PA-C	Mercy College		TBD
**Qubti, Marzouq MD (do not read)	Tufts University	Internal Medicine (BC)	Gifford Medical Center
Russin, Danielle PA-C	Mass College of Pharmacy		NOTCH
**Schein, Adam MD	NY Medical College	Psychiatry (BC)	Hanover Psychiatry
**Sussman, Steven MD	Albert Einstein College of Medicine	Radiology (BC)	NWVMC

Yock, Torunn MD

**Zerbey III, Arthur MD

Harvard Medical School University of Minnesota Radiation Oncology (BC) Telemedicine
Radiology (BC) TBD

2/2/2022

Presentation of Limited Temporary License Applications for Board Approval

26 VSA Section 1391 (e) authorizes a limited temporary license to practice medicine/Podiatry in the State of Vermont for a period of one year only. The following persons have applied for limited temporary licenses:

Name	Program	Hospital	Start Date	<u>Type</u>
Burney, Charles MD	Surgery	DHMC	2/1/2022	MD
Cao, Aurora MD	Internal Medicine	DHMC	2/1/22	MD
Manuia, Emi MD	General Surgery	UVMMC	2/1/2022	MD

^{**} Must pass through licensing prior to being presented.

These applications appear to have met the requirements. The Board, pursuant to 26 VSA Section 1391 (e), grants to each of them a limited temporary license.

PRESENTATION OF FULL APPLICATIONS THAT HAVE BEEN ISSUED THROUGH THE COMPACT

Note: Applicants listed below have already received a license through the compact. February 2, 2022

Credential Number	Name
042.0015699-COMP	Andrew Robert Crawford
042.0015700-COMP	Beth Ann Cureton
042.0015701-COMP	Steven Fein
042.0015702-COMP	Victoria LaVonne Moffatt
042.0015703-COMP	Anita Bhagat Patel
<u>042.0015704-COMP</u>	Melissa Saucedo Solis
<u>042.0015705-COMP</u>	Christian Anton Thomas
<u>042.0015706-COMP</u>	Sarat NMN Yalamanchili
<u>042.0015708-COMP</u>	Donald Ray Anderson
<u>042.0015709-COMP</u>	Dartmouth-Hitchcock Medical Center
<u>042.0015710-COMP</u>	Sushela S. Chaidarun
<u>042.0015711-COMP</u>	Amelia Morey Cullinan
<u>042.0015712-COMP</u>	Mary Drinane
<u>042.0015713-COMP</u>	David Richard Ehrenberger
<u>042.0015714-COMP</u>	Michael John Hafran
<u>042.0015715-COMP</u>	Brian Leslie Jones
<u>042.0015716-COMP</u>	Stephen Kelminson
<u>042.0015717-COMP</u>	Aalap Majmudar
<u>042.0015718-COMP</u>	Sam Sohrab Moss
<u>042.0015719-COMP</u>	ARLENE ELIZABETH JEAN RITZEN
<u>042.0015720-COMP</u>	Polina Yuryevna Sayess
<u>042.0015721-COMP</u>	Linda Serna
<u>042.0015722-COMP</u>	Dax C. Volle
<u>042.0015723-COMP</u>	Lynn Marie Westphal
<u>042.0015724-COMP</u>	Mark Willenbring
<u>042.0015725-COMP</u>	Gregory Vernon Williams
<u>042.0015726-COMP</u>	Matthew McEwen Wilson

APPENDIX B

From: <u>Herlihy, David</u>

To: AHS - VDH Medical Board; Maureen Bogosian; mattgrn

Cc: <u>LaFond, Karen</u>

Subject: Pending Bills in the Legislature

Date: Tuesday, February 1, 2022 12:10:56 PM

Hello Everyone –

This is to provide some information about the bills that will be discussed at Wednesday's meeting. For the most part this is only informational at this time. The exception is the second item, S.206. That is being discussed and the Board might want to take a position on it.

S.158 An act relating to optometrists' scope of practice - This issue was discussed as part of a bill during the 2019-2020 session; the proposal to expand the scope of practice of optometrists to allow certain procedures was not passed. That followed a study and report by OPR on the issue that did not recommend passage. That report has not been changed. This bill goes further than the earlier proposal in that rather than listing certain procedures that are allowed, it authorizes optometrists to perform procedures except for listed categories of procedures that are excluded. In 2019 the Board passed a motion expressing opposition to the proposal because of patient safety concerns. Those concerns were based on the significant differences in education and training between the professions, and also on the lack of evidence of any access to care problem that might justify the risks. The Senate Government Operations Committee took testimony on the bill on Thursday, January 27th. The Committee Chair and some members seem to favor the bill; it is unknown at this time if the Senate Health and Welfare Committee would support it.

S.206 - An act relating to planning for the care and treatment of patients with cognitive impairments

– there has been a Commission on Alzheimer's Disease and Related Disorders since 1999. The Commission is part of the Agency of Human Services and its role is to advise state agencies on matters of State policy relating to Alzheimer's disease and other dementia-related disorders in Vermont. I've not previously mentioned this bill. It was recently introduced and the Senate Health and Welfare Committee is taking testimony on it for the first time tomorrow, February 2nd. The bill is of interest because it includes a provision that would add to the duties of the Commission by having three Commission members appointed to a work group to make recommendations regarding CME requirements related to the diagnosis, treatment, and care of patients with cognitive impairments, including Alzheimer's and other forms of dementia. Vermont law already covers two topics that are required for CME (opioid prescribing and hospice/palliative care/pain management) and there is another study taking place to consider CME requirements for equity and diversity in health care.

H.392 An act relating to prescribing by doctoral-level psychologists - this was discussed last year and the Board passed a motion stating opposition to the concept; that was presented during a study conducted by OPR to consider this requested expansion of the scope of practice of doctoral-level psychologists. The report of the OPR study is expected to be released at any time. There has not been any activity on this bill yet during the current session. The Board of Psychological Examiners passed a motion on this issue at its December 10, 2021 meeting. The minutes of the meeting show: Dr. Huitt moved, seconded by Dr. Turcotte, to approve the following statement regarding the petition to expand the scope of practice for doctoral psychologists in Vermont to include prescribing

authority: "The Board opposes H. 392 as currently drafted and to state that the legislative efforts in Iowa and Illinois, which include enhanced educational requirements, enhanced supervision requirements, and population limits, offer benefits to the public that justify associated risks. The Board is also concerned that establishing laws distinguishing the scopes of practice of masters and doctoral level licensees undermines the original legislative intent that these licensees have the same scope of practice. Should the legislation be amended, the Board would appreciate the opportunity to review it again and offer its perspective." Motion approved.

<u>H.654 An act relating to extending COVID-19 health care regulatory flexibility</u> - This link is to the version of the bill that was passed by the House on Friday, January 28th. It addresses many different aspects of health care. The portions of most direct interest to the Board begin a page 8. Generally, it extends the provisions that have allowed health care professionals licensed in other states or who left active practice in Vermont recently to practice here through March 31, 2022, however there are some adjustments as noted below.

- It cuts out the authorization for out-of-state health professionals to practice by telemedicine and moves that to a separate section later in the bill. There is language on pages 17-18 that for telemedicine covers the period from passage to March 31, 2022 and then on pages 18-19 it provides for the Board and OPR to register out-of-state licensed health professionals from April 1, 2022 through June 30, 2023. That temporary registration is to provide a transition period for all those health care providers who are currently providing telehealth services in Vermont pursuant to the special COVID exemptions. The long-term plan for telemedicine is addressed in H.655.
- The provision allowing out-of-state professionals to practice here with the Medical Reserve Corps, in licensed facilities, and FQHCs is extended through March 31, 2022, however, for all but those practicing with the Medical Reserve Corps, it is limited to a period of 6 months beginning from the effective date of the bill. The limit of six months was added to address those who have taken permanent jobs here and just not bothered to become licensed yet. The MRC volunteers were not included in that limiting provision because they are volunteers and engaged in well-defined and highly structured practice.

H.655 An act relating to establishing a telehealth licensure and registration system. - the link is to the latest version of the bill being discussed in the House Health Care Committee. This bill would enact the recommendations of the Telehealth Work Group. The overall concept is to provide two new options that would allow telemedicine practice. One is a telehealth license that would have a lower fee and, to the degree established by the Board through rules, could have less of an application process. The telehealth license would be good for the same licensing period as the full license and would be renewable. It would be limited to 20 Vermont patients. The registration option would be for a fee lower than the telehealth license and have a very limited application process. It would be good for only 120 days, would not be renewable until three years after issuance, and would allow for practice with a total of only 10 patients. For the Board these two new options would be available only to MDs, podiatrists, and PAs. It does not include AAs and RAs. When asked about the professions that should be included AA and RA were left out. There are two main reasons for that. First, given the nature of their practice, there is little potential for someone to engage in

practice only using telehealth. An AA or RA who has a full license in Vermont might have some patient interactions by telehealth, but that probably would only be an extension of in-person services. Second, unlike PAs, for AAs and RAs their authority to practice is derived from their supervising physician and supervision is quite close. At the end of the bill there is a section that would give OPR the ability to issue provisional licenses to applicants who are missing certain, limited pieces of documentation. As decided by the Board last month, we did not ask for the BMP to be included in that section.

There are many other bills that relate to health care in one way or another. This list is limited to those bills that are of most interest and that have some prospect to "come off the wall" and be discussed in at least one Committee.

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