

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

Approved

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

Sarah McClain, Chair, called the meeting to order at 12:03 PM

Members Present:

Richard Bernstein, MD; Maureen Bogosian; Brent Burgee, MD; Richard Clattenburg, MD; Gail Falk; Matt Greenberg, MD; Rick A. Hildebrant, MD; Patricia Hunter; Suzanne Jones, PA-C; Leo LeCours; David Liebow, DPM; Christine Payne, MD; Marga Sproul, 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; George Belcher, Esq.

2. Approval of the Minutes of the February 2, 2022 Board Meeting:

Dr. Hildebrant moved to accept the minutes of the February 2, 2022 meeting. Dr. Tortolani seconded the motion. The motion passed; opposed: none; recused: none; abstained: none.

3. Board Issues (Ms. McClain):

Ms. McClain informed members that Frank Heald, Public Member, submitted his letter of resignation. Mr. Heald had contacted Mr. Herlihy expressing concern that members were serving on the Board beyond their term limits and Mr. Herlihy had responded explaining that the law provides for Governor's appointees to serve for their terms and until replaced, and that it is common to have a lag in reappointments. That response also informed Mr. Heald that during the COVID response the staff in the Boards and Commissions Office had been assigned duties associated with the pandemic and for those members willing to continue to serve, reappointments had not been processed. Ms. McClain then asked Mr. Herlihy to summarize his communication with Mr. Heald. Mr. Herlihy explained that he had received an email from Mr. Heald saying that he was concerned about members being beyond their terms and that he had responded as noted by Ms. McClain, telling him that the law provides for members to serve until replaced. Approximately 10 days later he received an email from Mr. Heald in which he expressed his disagreement and that it was his opinion that "serve until replaced" was not allowed by law. Mr. Herlihy said that he had not sent the citation for the law in his response to Mr. Heald. He read the law in question to the Board: "26 V.S.A. § 2004. Terms of Governor's appointees. Notwithstanding any other provision of law, all commissioners of State departments and all members of State boards and commissions appointed by the Governor, with the advice and consent of the Senate when this provision so

applies, shall serve at the pleasure of the Governor until the end of the term, if any, for which they were appointed and until a successor has been appointed and qualified.”

Members discussed the statute and clarified their understanding of the language. Mr. Herlihy noted that the Boards and Commissions Office has been delayed in reappointing members during in the most recent two years due to staff being focused on the COVID-19 response. Members also expressed concerns about Mr. Heald’s resignation, wishing they knew of his frustration so they may have been able to have a deeper discussion with him. They requested a letter of appreciation to be sent to Mr. Heald. Dr. Hildebrant also offered to contact Mr. Heald for an exit interview.

Ms. McClain also brought up the agenda item under Other Business regarding the recent media inquiry on physician sexual misconduct. It was noted that the recent inquiry and the 2021 inquiry from a group reviewing medical board websites are indicative of the attention on how boards communicate with the public and the importance of the Board being effective in its communications, especially the website. She also noted that those inquiries asked about mission statements and that the Board does not have one. She said she believes that having a mission statement is important and asked for members to volunteer to serve on an ad hoc committee to draft one. Dr. Tortolani, Dr. Hildebrant, and Ms. Falk volunteered to serve with Ms. McClain; Ms. LaFond volunteered to assist the group. Ms. McClain added that along with establishing a mission statement the Board should review the website to find ways to improve that aspect of public communication. She acknowledged that there are constraints in the architecture of the Health Department platform that hosts the Board’s site but expressed her belief that improvements can be achieved.

4. Administrative Updates (Mr. Herlihy):

Mr. Herlihy shared with the Board that an appreciative applicant for a training license had sent a nice note to Ms. Hayes expressing her gratitude for assistance with the licensing process. The applicant wrote: “You truly are the guardian angel of licensing.”

Mr. Herlihy reviewed the 2022 physician assistant renewal statistics:

Active PAs: 426

- 365 use a Vermont address, noting that the address used does not necessarily indicate the state in which the PA practices, but may be a home address or some other location entirely, such as a credentialing company.
- 37 use a New Hampshire address.
- Other PAs who renewed use addresses in NY, MA, ME, CO, CA, FL, NJ, and WV.
- Approx. 300 have been licensed within the last decade and the rest were licensed in the early 2000s, with about 15 licensed between 1981 and 1999.

46 PAs allowed their licenses to lapse this year. Of those who lapsed:

- 32 used a Vermont address.
- 5 used a New Hampshire address
- Others had an address in New York, Maine, Massachusetts, or other more distant states.

- Approximately 30 had been licensed within the last decade and others were licensed in the early 2000s, with one initially licensed in 1991.

He added that the number of PAs lapsing was less than 2020, but otherwise up some from the trend over the last decade. Over that span the number of lapsed licenses had been: 2012: 20; 2014: 21; 2016: 26; 2018: 35; 2020: 66

Mr. Herlihy also informed member that he and Ms. LaFond had recently discussed the numbers of licenses being processed in recent years. They had noted that the trend is continuously increasing and that the workload on Ms. Hayes, the lone full-time licensing specialist, is unsustainable. That is in part because of the increasing number of applications, but also because of the departure of the long-time temporary employee who had assisted Ms. Hayes with scanning and filing. He explained that “temporary employee” is a category of state worker who may work on an ongoing basis for less than full time and without benefits. The staff had recruited for that temporary position but has been unable to fill it because of a lack of candidates. He added that he and Ms. LaFond had previously submitted a request to have the temporary position changed to a full-time, permanent state position with benefits, but the request had been denied. They are going to submit another request, but in the meantime will continue efforts to hire a temporary employee.

5. 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.

Ms. McClain moved for the issuance of physician licenses and physician assistant licenses. (See Appendix A)

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

Ms. McClain moved for the issuance of limited temporary licenses to practice medicine. (See Appendix A)

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

6. Other Business:

- **Media Inquiry** – much of this agenda item was covered during the Chair’s remarks. Mr. Herlihy added that the Board’s practices with regard to cases presenting physician sexual misconduct should put the Board in a good light. He noted two high points in the Board’s response. First, the Board has a practice of using plain language when describing offenses, as reflected in the actions shared with the reporter. Second, the Board’s decision to engage in training on trauma-informed response before the FSMB report on physician sexual misconduct recommended such training indicates the

Board's commitment to doing things right when these cases come up. A member asked if there were any materials from the 2020 session that could be shared with newer members who had not attended that training. Staff will look into the availability of those. Turning to the 2021 review of the Board's website by the Patient Safety Action Network he summarized the results that were recently released. The news was good in that the Board's site was near the top of the 64 rated. There were four states in the top group that were found to satisfy 12 of the review criteria and the Board's website was in the second group whose sites met 11 of the 16 criteria. That result was good by comparison to other boards, as more than two-thirds of the sites satisfied less than half the criteria used for the review. However, there clearly is room for improvement. Mr. Herlihy stated that he will work to keep making progress on these public communication issues and the handling of cases involving physician sexual misconduct.

- **Legislative Update** – Mr. Herlihy briefed the Board on the following legislative issues.
 - i. Psychologist prescribing. The OPR report on this issue has not been released yet. There are indications that OPR may support the proposal to allow prescribing, but with stricter requirements than sought by proponents. One example that uses stricter requirements is seen in Illinois, which requires, in addition to a doctoral degree, a master's degree in clinical pharmacology. Illinois also imposes substantial limits on the drugs that can be prescribed and the patients to whom they may be prescribed. The Board will be notified when the report is issued.
 - ii. H.654 - An act relating to extending COVID-19 health care regulatory flexibility – this bill, already passed by the House, was passed in concurrence by the Senate on February 24. If the House concurs in the amendments proposed by the Senate it will be passed by both chambers; if not, there will be a committee of conference to try and resolve any differences. The bill extends most of the flexibilities enacted for COVID through 2023, with some exceptions. Most notably for the Board, it carves out telehealth, which is covered in H.655.
 - iii. H.655 - An act relating to establishing a telehealth licensure and registration system – this bill was passed out of the House Health Care Committee, referred to House Ways and Means which passed it out with amendments for fees and funding, and then referred to House Appropriations. The bill would enact the recommendations of the Work Group on Facilitating Telehealth Practice. More specifically, it creates two new types of credentials for all health professions – a very limited telehealth registration and a telehealth license, which would be restricted compared to a full license but not so restricted as with the registration.
 - iv. S.158 – An Act relating to optometrists' scope of practice – Mr. Herlihy provided testimony on behalf of the Board on February 18th, telling the Senate Government Operations Committee that the Board continues to oppose the bill on the basis of patient safety because of the gap in education and training between ophthalmologists and optometrists. The bill is still in Senate Government Operations. If the Committee passes it out it will be taken up in Senate Health and Welfare.
 - v. S.206 - An act relating to planning for the care and treatment of patients with cognitive impairments. This bill was being followed because as introduced it included language that would create a work group to consider recommendations for mandatory CME about Alzheimer's Disease and related disorders. The Bill was passed out of the Senate Health and Welfare Committee on February 24, but with amendments that make it someone less of a concern for the Board. The

proposal to create a work group changed their assignment from recommending mandatory CME to working on recommendations for how to achieve a “dementia-capable workforce” and promote and expand opportunities for health care and human services providers and first responders to improve the diagnosis, treatment, and care of individuals with Alzheimer’s Disease. The amendment also directs the work group to consult with relevant stakeholders including licensing entities for the affected professions.

- **Responding to Public Comments about Off-Label Use of Drugs to Treat COVID –** Mr. Herlihy noted that Dr. Tortolani shared a recent letter to the editor in a Vermont newspaper that inaccurately claimed that the State of Vermont sent out a letter threatening disciplinary action “if doctors attempt to treat their patients diagnosed with COVID with any of several promising, repurposed medicines, or deviate from the standard of care as defined by the Federation of State Medical Boards.”

Mr. Herlihy explained that he had shared the letter with a VDH Communications staff person who advised against any kind of direct response because a direct response would likely result in the false information being repeated in the media and tend to start a back-and-forth further perpetuating the discussion. The Communications staff person recommended that if the Board wants to do any response that it be in the form of a press release that sets forth accurate information about the topic.

Dr. Tortolani noted that medical professionals in his community contacted him to express their concerns about the misstatements in the letter to the editor. Mr. Herlihy asked if members felt a response from the Board was warranted. Five additional members commented; all agreed that when confronted with misinformation/disinformation as happened here the better course is to let it die. There was a clear consensus that the Board should not issue a response.

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

- **In re: Andrew M. Stoll, MD – Stipulation and Consent Order – MPS 054-0620**

Ms. Campbell addressed the Board, summarizing the facts leading up to the Stipulation and Consent Order. Mr. LeCours made a motion to approve the Stipulation and Consent Order. Dr. Clattenburg seconded the motion.

Ms. LaFond recorded the roll-call vote: The motion passed; Yeas: Dr. Bernstein; Mr. LeCours; Ms. McClain; Dr. Sproul; Dr. Burgee; Ms. Bogosian; Dr. Clattenburg; Ms. Falk; Dr. Payne; Opposed: none; Abstained: none; Recused: Central Investigative Committee

8. 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 1:29 PM to go into Executive Session to discuss confidential matters related to investigations. Dr. Clattenburg 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. Hildebrant made a motion at 1:55 PM to return to Open Session Dr. Bernstein seconded the motion. The motion passed; opposed: none; recused: none; abstained: none.

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

MPN 062-0721 – Letter #2

MPN 164-1021 – Special Letter #1

Ms. Hunter 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. Payne, Central Investigative Committee, asked to close:

MPC 033-0321 – Special Letter #1; Dr. Sproul recused

MPC 174-1221 – Special Letter #1

MPC 158-1021 – Letter #1; Dr. Sproul recused

MPC 125-0821 – Special Letter #1

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

10. Board Actions on Committee recommendations regarding any non-confidential matters:

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

- **March 10, 2022, North Investigative Committee Meeting, 9 a.m., [108 Cherry Street, Burlington, VT and remote via Teams](#)**
- **March 11, 2022, Central Investigative Committee Meeting, 9 a.m., [108 Cherry Street, Burlington, VT and remote via Teams](#)**
- **March 11, 2022, Board Meeting on pending applications, 12:10 p.m., [108 Cherry Street, Burlington, VT and remote via Teams](#)**
- **March 16, 2022, South Investigative Committee Meeting, 12:15 p.m., [108 Cherry Street, Burlington, VT and remote via Teams](#)**
- **April 6, 2022, Licensing Committee Meeting, 11:00 a.m., [108 Cherry Street, Burlington, VT and remote via Teams](#)**
- **April 6, 2022, Board Meeting, 12:00 p.m., [108 Cherry Street, Burlington, VT and remote via Teams](#)**

12. Open Forum:

Ms. Hunter asked about the process at the February 2nd meeting when the Licensing Committee agreed to have a stipulation that they approved presented without an AAG signature on the Order and to have Mr. Herlihy present it. Mr. Herlihy presented the Order to the Board and it was approved, but he omitted discussion of the absence of the AAG signature. Members noted there had been discussion of this concern during subsequent Investigatory Committee meetings and one take-away was that members wanted to better understand the process if this scenario comes up again. Mr. Herlihy apologized for neglecting to explain the change in signatures on the Order when he presented it at the hearing. He noted that the AGO did not have all the information reviewed by the Licensing Committee. The AGO's decision to not have the AAG's signature on the Order was based on not having reviewed the information known to the Licensing Committee and their concern was not raised until the evening before the Order was to be presented. He noted that an AAG signature is not a requirement for the type of Order in question, but that in hindsight, it would have been better to hold the presentation of the Order to allow the AAGs to provide more information to the AGO, even if that results in a month's delay in issuing a license for a physician who a hospital is anxious to have begin practice. .

Ms. McClain summarized next steps:

- A work group focusing on the Board's mission statement will convene.
- Mr. Herlihy will draft a letter of appreciation for Mr. Heald and Dr. Hildebrant will reach out to Mr. Heald to inquire of his desire for an exit interview.
- Process for preparation and presentation of hearing orders will be further considered.

13. Adjourn:

Dr. Hildebrant made a motion to adjourn at 2:34 PM. Dr. Tortolani seconded the motion. The motion passed; opposed: none; recused: none; abstained: none.

APPENDIX A

PRESENTATION OF FULL APPLICATIONS

March 2, 2022 - **UPDATED**

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
**Alexeeva, Vlada MD	Moscow Medical (Russia)	Cytopathology (BC)	UVMHC
**Ames, Bethany MD	Dartmouth	Pediatrics (BC)	DHMC
Bal, Simrun MD	Dartmouth	Internal Medicine	WRJ VA Med Ctr
Bernard, John MD	Jefferson Medical College	Emergency Medicine (BC)	DTG II, PLC
Bryant Connah, Marthe MD	University of Maryland	Family Practice (BC)	Middlebury Primary Care
**Chamberlain, Laura MD	University of Massachusetts	Family Practice (BC)	UVMHC
Chapman, Daniel PA-C	Northeastern University		TBD
**Comi, Richard MD	Harvard	Endocrinology (BC)	Telemedicine
Crowley, Brittany MD	Drexel University	Child and Adol Psy. (BC)	TBD
Dean, Julia PA-C	Mass College of Pharmacy		NOTCH
**Dovin, Kimberly MD	University of Pittsburgh	Family Practice (BC)	DHMC
Gan, Yujun MD	Shanghai HJiao Tong Univ. (China)	Pathology (BC)	DHMC
**Grant, Heather MD	SUNY Stonybrook	Internal Medicine	Prospero Health
**Kaftan, Adam MD	University of Nebraska		SWVMC
LaChance, Avery MD	University of Connecticut	Dermatology (BC)	Brigham and Women's
Lahey, Joseph MD	UVM		NWVMC
Mello, Alice PA-C	Yale University		
Morris, Douglas MD	Indiana University	Psychiatry (BC)	innovaTel
**Nocera, Jina MD	University of Pennsylvania	Internal Medicine (BC)	SWVMC
Ross, Eric MD	University of Michigan	Psychiatry (BC)	UVMHC
Smith, Samantha MD	University of Chicago	Internal Medicine	Craftsbury Green

Spratt, Eve MD	University of North Carolina	Psychiatry (BC)	UVMMC
Sturgis, Cheryl PA-C	Quinnipiac University		TBD
Vleugels, Ruth MD	Vanderbilt University	Dermatology (BC)	Brigham and Women's
**Warren, Alyssa MD	Eastern Virginia Medical School		UVMMC
Waterman Manning, Sarah MD	UVM		Copley Hospital
Young, Robert MD	Virginia Commonwealth University	Radiology (BC)	Radiology Alliance

3/2/2022

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:

<u>Name</u>	<u>Program</u>	<u>Hospital</u>	<u>Start Date</u>	<u>Type</u>
Corbett, John MD	Psychiatry	DHMC	2/1/22	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.
March 2, 2022***

Credential Number	Name
042.0015746-COMP	Michael Harold Anderson
042.0015747-COMP	Robert Aranson
042.0015748-COMP	Emily Ruth Baker
042.0015749-COMP	Sarah E. Billmeier
042.0015750-COMP	Sarah Clare Cook
042.0015751-COMP	Michael Joseph Fallon
042.0015752-COMP	Courtney Rae Farrell
042.0015753-COMP	Kenneth Allen Vatz
042.0015762-COMP	Luke Archibald
042.0015763-COMP	Benito William Aubergine
042.0015764-COMP	Emily Beth Crockett
042.0015765-COMP	Mary Beth Palko Dinulos
042.0015766-COMP	William Harless
042.0015767-COMP	Kelly H Hayday
042.0015768-COMP	Lawrence Campbell Levy
042.0015769-COMP	Auden Curtis McClure
042.0015770-COMP	Archana Deepak Naran
042.0015771-COMP	E. Rebecca Pschirrer
042.0015772-COMP	Tyler Shane Reynolds
042.0015773-COMP	Corey Joseph Thompson
042.0015774-COMP	Edward Allen Walton
042.0015775-COMP	Lauren Rachel Tuchman Wilson