

VERMONT BOARD OF MEDICAL PRACTICE
Minutes of the June 3, 2020 Board Meeting
*****REMOTE CONFERENCE CALL*****

Approved

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

Richard Bernstein, MD, Chair, called the meeting to order at 12:10PM

Members Present:

Brent Burgee, MD; Richard Clattenburg, MD; Allen Evans; Francis Heald; Rick A. Hildebrant, MD; William K. Hoser, PA-C; Patricia Hunter; Leo LeCours; David Liebow, DPM; Sarah McClain; Christine Payne, MD; Judy P. Rosenstreich; Ryan Sexton, 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; Margaret Vincent, AAG; Megan Campbell, AAG; Kassandra Diederich, AAG; Bill Reynolds, AAG; George Belcher, Esq; Brad Salzmann, PA-C; Jessa Barnard, Vermont Medical Society.

2. Approval of the Minutes of the May 6 and May 20, 2020 Board Meetings:

Ms. McClain moved to accept the minutes of the May 6, 2020 meeting. Mr. Hoser seconded the motion. The motion passed; opposed: none; recused: none; abstained: none.

Ms. Rosenstreich moved to accept the minutes of the May 20, 2020 meeting. Dr. Tortolani seconded the motion. The motion passed; opposed: none; recused: none; abstained: none.

3. Board Issues (Dr. Bernstein):

Dr. Bernstein informed members of the three public hearings to be held for three cases from the Central Investigative Committee in which formal charges have been filed. He advised that members from the North and South Investigative Committees would be asked to volunteer to serve as hearing panel members. Ms. LaFond stated she would send an email to the members of the north and south committees to inquire of their availability on July 17th, July 29th and August 11th.

Dr. Bernstein informed members of the need to make a recommendation to appoint an IMLCC Commissioner to represent the Board at the IMLCC. He noted that each member state has two Commissioners to act as representatives on the IMLCC and states, such as Vermont, that have split allopathic and osteopathic boards have one Commissioner from each board. The statute calls for Commissioners to be public or MD members of member boards, or the executive director.

Dr. Clattenburg made a motion to recommend the appointment of David Herlihy, Executive Director of the Board, to serve as the IMLCC Commissioner to represent the Board on the IMLCC Commission. Mr. Hoser seconded the motion. The motion passed; opposed: none; recused: none; abstained: none.

4. Administrative Updates (Mr. Herlihy):

Mr. Herlihy reminded members to submit their expense sheets and asked they submit no later than June 10th, since it is the end of the fiscal year and the business office is asking for all remaining invoices to be submitted.

Mr. Herlihy also suggested that members who continue to have difficulty with Skype to contact Kelly Lawler for support. Staff continue to be available to help troubleshoot issues as needed.

5. Other Business:

- **Extension of Effective Date of Act 91 regarding emergency provisions for the COVID-19 state of emergency.** Mr. Herlihy informed members of the legislative consideration of a proposal to amend the current COVID-19 emergency provisions to be extended into 2021. He asked members for input and to establish a recommendation. He noted that some of the emergency authorities created in the law are in force only so long as there is a declared state of emergency. Members discussed concerns about the impact to the healthcare infrastructure if the state of emergency is lifted and the medical professionals who are operating under an emergency license are no longer licensed. There is a current and anticipated future need for telemedicine and additional staff at medical facilities, especially given the potential for a second wave of COVID-19 in the fall. Also, because many Vermont residents receive care from New Hampshire facilities, the provisions that allow the New Hampshire providers to continue care via telemedicine with Vermont patients are important. Mr. Herlihy advised that he had been following discussion of this issue in the House Health Care Committee. The Committee had initially seemed inclined to use December 31, 2020 as the date to extend the provisions regardless of whether a declared emergency is still in effect. However, they had moved the date out through January 31, 2021, to ensure that the Legislature would be back in session and able to respond if needed. Members discussed the issue, noting that while there are some risks inherent to having physicians who have not been through the full licensing process practicing, the risks of disruption in the health care system if the emergency provisions were to end without adequate forewarning would be greater. No vote was taken, but all members indicated support for extension of the provisions in Act 91 that are tied to the declared state of emergency be extended through at least January 31, 2021 since the General Assembly will be reconvening at that time and could either extend or reinstate the State of Emergency if needed.
- **Posted actions and profiles of deceased licensees** – Mr. Herlihy explained to members that a question had arisen as to the appropriateness of having copies of disciplinary actions remain on the Board's website once the Board has been informed the licensee has died. Actions are currently posted on the Board's website for 10 years and then removed after that time, even when the subject of the action has died. He told members that the law calling for posting of disciplinary actions for 10 years is worded in a way that does not resolve the question of whether the requirement remains in effect after the licensee is deceased. If the Board were to decide to remove the actions against deceased licensees, the former licensee's public profile

would continue to indicate “Board Action on File.” The actions are public records, so anyone could request a copy of an action. Members expressed several factors to consider. One was that once a licensee dies, information about an action does not serve the important interest in informing the public about physicians who treat them or might treat them. Another member commented that it would be respectful of the deceased to remove such actions. Another member noted that the Board’s actions are not just to inform the public about licensees, but also to communicate expectations to other licensees. After a period of discussion it was agreed to table the issue until the July meeting.

- **CME requirements and renewal process for MD licenses expiring on November 30, 2020**
– Mr. Herlihy reviewed with members the information about modifications that other state licensing boards implemented for CME requirements during the COVID-19 state of emergency. Some states have extended licenses or delayed the expiration date/renewal process for licenses. Members discussed options for the Vermont CME requirements, in light of the upcoming physician license renewal period that will commence August 30th and proposed to be generous with make-up plans in addition to the formal motion.

Dr. Sproul made a motion: In recognition of the time and effort of learning and education involved during this time of COVID-19, the Board will reduce CME hours for the current physician license renewal period from 30 hours to 15 hours and maintain the requirements for palliative care and pain management. The Board will notify all licensees of this change in the CME requirement for the 2020 renewal period. Ms. McClain seconded the motion. The motion passed; opposed: none; recused: none; abstained: none.

- **FSMB notice regarding suspension of USMLE Step 2 CS (Clinical Skills) portion of the USMLE.**
Mr. Herlihy reviewed the announcement by FSMB that in-person clinical skills testing (Step 2 CS) for the USMLE has been suspended entirely for at least 12 to 18 months. The announcement indicated that over the next 12 to 18 months the issue of how to test clinical skills will be studied. Ms. Hunter shared with members that even before the COVID-19 pandemic forced suspension of Step 2 CS, there were questions about revising the process for testing clinical skills. There had long been concerns about the high cost to the new physicians for the test, as well as logistical issues with testing sites. No state’s law specifically requires Step 2 CS, so this action will not prevent new physicians from becoming licensed. More information on clinical skills testing will be provided as it becomes available.

6. 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.

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

- **In re: Robert Mitchell, PA-C – Stipulation and Consent Order – MPC 059-0618 & MPC 009-0219**

Mr. Reynolds 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, Dr. Sproul, Mr. Heald, Dr. Hildebrant, Ms. Hunter, Mr. LeCours, Dr. Liebow, Ms. McClain, Dr. Tandoh, Dr. Tortolani; Opposed: none; Abstained: none; Recused: Mr. Hoser and Central Investigative Committee.

- **In re: Jessica Biggie, MD – Request for Relief of Conditions – Licensing Matter**

Mr. Reynolds addressed the Board, summarizing the facts leading up to the Request for Relief of Conditions. Dr. Clattenburg made a motion to approve the Request for Relief of Conditions. Dr. Hildebrant seconded the motion.

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

8. Reconvene meeting; Executive Session to Discuss:

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

Mr. Hoser made a motion at 1:50 PM to go into Executive Session to discuss confidential matters related to investigations. Dr. Hildebrant 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. Tortolani made a motion at 2:41 PM to return to Open Session Ms. McClain seconded the motion. The motion passed; opposed: none; recused: none; abstained: none.

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

MPN 018-0219 – Special Letter #1

MPN 158-1019 = Letter #1; Mr. Hoser and Dr. Clattenburg recused

MPN 032-0320 – Letter #1; Dr. Tortolani recused

MPN 027-0320 – Special Letter #1; Dr. Payne recused

Mr. Heald made a motion to close the cases presented. Dr. Hildebrant seconded the motion. The motion passed; opposed: none; abstained: none; recused: 4 and North Investigative Committee.

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

MPC 151-1019 – Special Letter #2

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

MPS 054-0618 – Special Letter #3
MPS 140-0919 – Special Letter #2
MPS 189-1219 – Letter #1
MPS 092-0619 – Special Letter #1
MPS 073-0519 – Special Letter #2

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

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

None

11. Other Business

Legislative Updates: Mr. Herlihy told members that he expects that several bills of interest to the Board will be passed, including H.438 (the BMP bill) and S.128 (the bill changing PA supervision).

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

- June 11, 2020, North Investigative Committee Meeting, 9 a.m., **(Remote)**
- June 12, 2020, Central Investigative Committee Meeting, 9 a.m., **(Remote)**
- June 17, 2020, Board meeting on pending applications, 12:10 p.m., **(Remote)**
- June 17, 2020, South Investigative Committee Meeting, 12:00 p.m., **(Remote)**
- July 1, 2020, Licensing Committee Meeting, 11:00 a.m., **TBD**
- July 1, 2020, Board Meeting, 12 p.m., **TBD**

APPENDIX A

Presentation of Applications

Dr. Bernstein moved for the issuance of physician licenses and physician assistant licenses for:

Daniel Alsheimer, MD	Matthew Cohen, MD	Robert DeSimone, MD
Giancarlo DiMassa, MD	Nicole Habel, MD	Kerilynn Hennessey, MD
Amalia Kane, MD	Richard Knudsen, MD	Yao Li, MD
Celeste Madden, MD	Conor O'Neill, MD	Matthew Patton, MD
Daniel Atratz, MD	Sherley Valdez Arroyo, MD	

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

Dr. Bernstein moved for the issuance of limited temporary licenses to practice medicine for:

Jacqueline Baca, MD	Fili Bogdanic, MD	York Chen, MD
Caroline Chung, MD	Jordon Conroy, MD	Heather Conway, MD
Emily Cross, MD	Lefan He, MD	Daniel Lecours, MD
Patrick Puliti, MD	Rebecca Robbins, MD	

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