

**VERMONT BOARD OF MEDICAL PRACTICE
Minutes of the August 5, 2020 Board Meeting
Gifford Medical Center, Randolph, Vermont**

Approved

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

Richard Bernstein, MD, Chair, called the meeting to order at 12:05PM

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; George Belcher, Esq.

2. Approval of the Minutes of the July 1 and July 15, 2020 Board Meetings:

Ms. McClain moved to accept the minutes of the July 1, 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 July 15, 2020 meeting. Dr. Tortolani seconded the motion. The motion passed; opposed: none; recused: none; abstained: none.

3. Board Issues (Dr. Bernstein):

Dr. Bernstein thanked members for continuing to be active participants in the remote meetings and for their continued dedication to the work of the committees. He also thanked staff for all of their efforts and help to maintain the work of the Board.

Dr. Bernstein asked members if they would consider a proclamation to Mark Levine, MD, Commissioner of Health for the work he has done to keep Vermonters safe and healthy during this time of COVID-19. The members expressed unanimous support and asked Mr. Herlihy to draft language that would be approved at the next board meeting.

4. Administrative Updates (Mr. Herlihy):

Mr. Herlihy informed members that the physician license renewal period would open early this year to allow a few extra weeks for physicians to renew their license. The opening date is August 12, 2020.

Mr. Herlihy advised that a mass email had been sent to all licensees with information about the revised statutes, the changes to PA documentation, the physician renewal and CME reporting,

posting of investigative procedures, and the SCOPE of Pain CME course that will be held remotely on September 23 at from 6:00 to 8:30PM. He encouraged all Board members, including public members, to participate.

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.

6. Other Business:

- **Posted actions and profiles of deceased licensees** – The Chair opened the discussion of this item with a quote from Julius Caesar by William Shakespeare: “The evil that men do lives after them; The good is oft interred with their bones.” The Board then continued the discussion from the June 3, 2020 meeting regarding the question as to whether actions taken against licensees who subsequently die during the ten-year period when actions are posted on the Board website should continue to be posted after staff learns of the death. Members held a full discussion of the issue. Mr. LeCours shared the story of Senator Thomas Hart Benton, a 19th century Senator from Missouri who resisted having Missouri join the Confederacy. After the death of Senator John C. Calhoun of South Carolina, Benton declined to speak ill of his former political opponent and when asked about that said “No sir, when God Almighty lays his hands upon a man, sir, I take mine off, sir.” Mr. Herlihy noted that the Board’s posted decisions are the means by which the Board announces to licensees and the public the expectations for professional conduct. Dr. Clattenburg suggested that perhaps the Orders could continue to be posted, but with the names removed. Dr. Hildebrant said that he thought it more appropriate to keep Orders posted. Ms. Rosenstreich expressed her belief that government should be transparent, but noted the sensitivity associated with postings about deceased licensees. Ms. Rosenstreich moved that policy should be that the Orders remain posted, but with acknowledgement that the licensee is deceased. Mr. Heald seconded the motion. Ms. Hunter said she also supported finding a middle ground that would be sensitive to the families but still inform the public. Dr. Sexton said the Orders should remain posted after a licensee’s death. Dr. Payne stated her support for transparency, and agreed with the proposal to indicate when the licensee is deceased. Mr. LeCours added that he feels it is harsh to keep the Order posted and that once the licensee has passed away it does not protect the public to keep the Order posted. Dr. Clattenburg agreed with regard to the particular licensee, but said he sees value in keeping up information about unprofessional conduct. Dr. Sproul told the group that she had been the member to bring up the issue. When looking at the online orders she had noticed that an Order about a licensee she knew to have passed away remained posted. She said that she brought it up because of concern that the practice might cause bad feelings. She expressed support for Ms. Rosenstreich’s motion.

A vote was called. Ms. LaFond recorded the roll-call vote: The motion passed; Yeas: Dr. Bernstein, Dr. Sproul, Dr. Burgee, Dr. Clattenburg, Mr. Evans; Mr. Heald; Dr. Hildebrant; Mr. Hoser, Ms. Hunter, Dr. Liebow; Ms. McClain; Dr. Payne, Ms. Rosenstreich, Dr. Sexton, Dr. Tandoh; Dr. Tortolani. Opposed: none; Abstained: Mr. LeCours. The motion passed.
16-0-1.

- **VPHL Liaison meeting scheduled** – Mr. Herlihy advised that the annual liaison meeting with representatives of VPHL has been scheduled for October 14, 2020, at 4:30 pm. Four members have volunteered to take part in the meeting: Dr. Bernstein, Ms. McClain, Ms. Rosenstreich, and Dr. Tortolani. Any other members interested in participating are welcome. All Board members are encouraged to submit comments, questions, and concerns to be shared.
- **Posting of investigation procedures** – Mr. Herlihy provided a brief history of the formation of the investigation procedures and the work that was undertaken with stakeholder involvement to share insight into how investigations are conducted by the Board. He stated that Act 126 of 2020 calls on the Board to post written procedures for investigations and these are now posted on the Board's website.
- **Ms. Hunter summary of Coalition for Physician Accountability meeting** - Ms. Hunter provided a summary of information shared during a recent virtual meeting of the Coalition for Physician Accountability (CPA). The group includes many organizations interested in physician training, regulation, credentialing, and oversight, such as the American Medical Association, Association of American Medical Colleges (AAMC), ECFMG, USMLE, NBME, American Osteopathic Association (AOA), FSMB, and many others. The AMA had presented on the economic impact of the pandemic and noted its focus on shortages of personal protective equipment for healthcare professionals. Also discussed were issues associated with remote testing, including challenges for specialty board certification exams, as well as the USMLE process and the suspension of Step 2 CS that the Board has discussed. ECFMG presented on alternatives to Step 2 CS for testing English proficiency, including an Occupational English Test administered by Cambridge University in New Zealand that assesses ability to communicate in English in a medical setting. She also introduced the Board to a pending discussion of how USMLE scores should be reported. Medical boards can anticipate being asked to consider proposals to have USMLE reported on a pass/fail basis. During the CPA meeting the NBME and USMLE representatives had described how the numerical scores for the exam have been used for purposes beyond assessing the basic competency to practice of participants, which is the concern of licensing boards. Scores have been used as factors in the competition for admittance to residency programs. There is concern that the focus on the exam and preparation for it may be adversely affecting medical students and the learning process in medical school.

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

- **In re: Kristin Scott, PA-C – Stipulation and Consent Order – MPC 055-0618 and MPC 056-0419**

Ms. Campbell addressed the Board, summarizing the facts leading up to the Stipulation and Consent Order. Mr. Heald made a motion to approve the Stipulation and Consent Order. Dr. Tandoh seconded the motion. The motion passed; opposed: none; abstained: none; recused: Central Investigative Committee.

Ms. LaFond recorded the roll-call vote: The motion passed; Yeas: Dr. Bernstein, Dr. Sproul, Mr. Heald; Dr. Hildebrant; Mr. Hoser, Ms. Hunter, Mr. LeCours, Ms. McClain; Dr. Liebow; Dr. Tandoh; Dr. Tortolani. Opposed: none; Abstained: none.

- 8. 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 1:43 PM to go into Executive Session to discuss confidential matters related to investigations. Mr. Hoser 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. Liebow made a motion at 2:11 PM to return to Open Session Dr. Hildebrant seconded the motion. The motion passed; opposed: none; recused: none; abstained: none.

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

MPC 036-0420 – Letter #1

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

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

MPC 005-0120 – Letter #1; Dr. Bernstein recused
MPC 008-0118 – Special Letter #1

Mr. Heald made a motion to close the cases presented. Mr. Hoser seconded the motion. The motion passed; opposed: none; abstained: none; recused: 1 and Central Investigative Committee.

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

MPS 023-0320 – Letter #1; Dr. Payne recused
MPS 011-0220 – Special Letter #1
MPC 061-0618 – Special Letter #3
MPS 046-9620 – Special Letter #1 – Dr. Tandoh recused

Ms. McClain made a motion to close the cases presented. Dr. Sexton seconded the motion. The motion passed; opposed: none; abstained: none; recused: 1 and South 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.)***

- **August 13, 2020, North Investigative Committee Meeting, 9 a.m., (Remote)**

- **August 14, 2020, Central Investigative Committee Meeting, 9 a.m., (Remote)**
- **August 19, 2020, Board meeting on pending applications, 12:10 p.m., (Remote)**
- **August 19, 2020, South Investigative Committee Meeting, 12:00 p.m., (Remote)**
- **September 2, 2020, Licensing Committee Meeting, 11:00 a.m., (Remote)**
- **September 2, 2020, Board Meeting, 12 p.m., (Remote)**

12. Adjourn: Mr. Hoser made a motion to adjourn at 2:21 PM. Ms. McClain seconded the motion.

APPENDIX A

Presentation of Applications

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

Ahmed Ali, MD Alexander Fuld, MD Gunter Krauthamer, MD
Samuel McCord, MD Estela Ogiste, MD Jane Roberts, MD
Jennifer Wisdom-Behounek, MD

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

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

Mark Abel, MD Michael Heinz, MD

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