VERMONT BOARD OF MEDICAL PRACTICE
Minutes of the February 7, 2024, Board Meeting
108 Cherry St. Suite 206, Burlington, VT 05402
Remote via Teams

Unapproved

- **Call to Order; Call the Roll; Acknowledge Guests:**

  Dr. Rick Hildebrant, Board Chair, called the meeting to order at 12:03 PM

  Members Present:

  Rob Ciappenelli; David Coddaire, MD; Evan Eyler, MD; Gail Falk; Matthew Greenberg, MD; Rick Hildebrant, MD; Suzanne Jones, PA-C; Patricia King, MD; David Liebow, DPM; Stephanie Lorentz; Christine Payne, MD; Dawn Philibert; Judy Scott; Margaret Tandoh, MD; Robert E. Tortolani, MD; Scott Tucker.

  Others in Attendance:

  David Herlihy, Executive Director; Paula Nenninger, Investigator; Scott Frennier, Investigator; Jane Malago, Operations Administrator; Tracy Hayes, Public Health Specialist I; Justin Sheng, AAG; Megan Campbell, AAG; Kurt Kuehl, AAG; Bill Reynolds, AAG; Jessa Barnard, Vermont Medical Society.

- **Approval of the Minutes of the January 3, 2024, and January 17, 2024, Board Meetings:**

  S. Tucker moved to accept the minutes of the January 3, 2024, and January 17, 2024, meetings. D. Philibert seconded the motion. The motion passed; opposed: none; recused: none; abstained: none.

- **Board Issues (Dr. Hildebrant):**

  - Dr. Hildebrant shared about his recent trip to Washington D.C. for the Federation of State Medical Boards (FSMB) conference that discussed artificial intelligence (AI) in medicine. Dr. Hildebrant added that FSMB plans to release documentation with updated ethics guidelines as it pertains to AI in medicine. Additionally, an

executive summary is also expected to be available for review soon. Dr. Hildebrant recommended having an ADHOC committee to review the documentation provided by FSMB for consensus among the Board around associated AI materials and use in medicine.

- **Administrative Updates (David Herlihy):**

  - D. Herlihy told the Board that Dr. Payne's term expires at the end of February, which means there are two openings for physician members on the Central Committee. Members were asked to share recommendations for candidates.

  - Dr. Tortolani shared that Licensing Committee is currently recruiting for new public and physician members.

  - D. Herlihy shared that the Board office is scheduled to move on February 24th. The Board staff will be in WSOC on Monday 26th. The Board address will be changing to 280 State Drive, Waterbury, VT 05671. The Board offices with be in building D. It is also important to note that all Board of Medical Practice mail requires the full zip code of '05671-8320' at this new location.

  - D. Herlihy stated that the recruitment process has been completed for the hire of the new position. The candidate is expected to start on the 26th of February.

  - D. Herlihy said that on January 30th the request for proposals was issued for the IT project to update the BMP IT system. The bids are due at the end of February and will be evaluated in March.

- **Other Business:**

  - **Legislative issue – S.233 - An act relating to amendments to the scope of practice for optometrists.** The Board considered the draft statement (attached to the agenda) outlining the reasons underlying the motion passed at the January meeting that stated the Board's opposition to expansion of the optometry scope of practice. A number of members noted that the statement as written reflected the reasons discussed at the January meeting.

    PA Jones made a motion to approve the drafted statement as presented for the position of the Board (See Appendix A). Dr. Greenberg seconded the motion. The motion passed; opposed: none; recused: none; abstained: none.

- **Legislative Issue – S.263 - An act relating to expanding Vermont's health care workforce through graduates of international medical schools.** D. Herlihy explained that this bill was prompted by a law that was passed in Tennessee to create a program to allow international medical graduates (IMGs), who have not done residency training in the United States, to enter non-residency positions at a hospital where they can gain experience and if they complete five years, they can get a full license. The Board discussed this proposed bill, expressing concerns for how important residency is for people to be able to practice safely as physicians. It was also noted that there is no body that assesses international residency programs in the way that international medical schools are evaluated. The bill only proposes a study committee to be led by the Board of Medical Practice but D. Herlihy expressed concern about taking on that additional task at the same time that the Board's small staff already has several significant projects, given that the Board has concerns about whether these alternate pathways would support safe healthcare. The Board expressed significant concerns and decided to revisit the topic at next month's Board meeting.

- **Legislative Issue – H.572 – An act relating to enacting the Physician Assistant Licensure Compact.** D. Herlihy provided members an overview of the PA Compact proposed in H.572. He summarized some of the many differences between what is proposed for PAs and what is in place for physicians under the Interstate Medical Licensure Compact (IMLC). D. Herlihy added that the proposal would create a "privilege to practice" for PAs in participating states, not licenses. The proposal does not offer the same qualitative filters as the IMLC. The IMLC is not available to physicians who have any board discipline, whereas H.572 would allow PAs with significant discipline history to practice in Vermont so long as any limitations or restrictions imposed by discipline had ended at least two years in the past. The IMLC is not available to physicians who are currently under investigation by a state licensing board or criminal law authorities; H.572 would allow a PA who is under investigation for unprofessional conduct or crimes to practice in Vermont. Other important differences are found in the provisions that address enforceability of subpoenas from other states and the obligations to share enforcement/compliance materials with other participating states. Those differences are particularly important because of Vermont's efforts to prevent other states from taking actions against health care professionals who provide legally protected health care. The Board did not take up a motion to establish a position on the bill but will monitor it and if necessary, discuss the bill further at a future meeting.

- **Legislative Issue – No bill yet – Naturopaths added to the list of those authorized to prepare a death certificate.** D. Herlihy shared that, although there is no bill yet, there are indications that this issue may come up again during the current legislative session. A number of members expressed concern about whether the education and training of naturopathic physicians prepares them to do a good job with death certificates. Some members questioned who does the death certificate if the deceased's primary care provider is a naturopath. D. Herlihy will check on who completes the death certificate for a person whose PCP is not authorized to do so. The Board did not take up a motion; D. Herlihy will provide input to the Health Department based on members' comments.

- **FSMB - Request for input on draft revisions of two FSMB policy documents:** D. Herlihy presented the information to the Board about the two FSMB policy documents, the Report of the FSMB Workgroup on Reentry to Practice and the Guidelines for the Structure and Function of a State Medical and Osteopathic Board. The Board had a discussion on the drafted revisions. The Board did not identify comments to be submitted on the drafts. D. Herlihy added that the deadline for comment submissions to FSMB is February 16th.

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

  D. Philibert made a motion at 1:47 PM to enter into Executive Session to discuss confidential matters related to investigations. Dr. Tortolani seconded the motion. The motion passed; opposed: none; recused: none; abstained: none.

- **Return to Open Session 3:00 PM; Board Actions on matters discussed in Executive Session:**

  D. Philibert, North Investigative Committee, asked to close:

  MPN 117-1222 – Special #1

  S. Tucker made a motion to close the cases presented. R. Ciappenelli seconded the motion. The motion passed; opposed: none; abstained: none; recused: North Investigative Committee.

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

MPC 145-0423 – Special #1
MPC 010-0123 – Letter #1

PA Jones made a motion to close the cases presented. Dr. Tortolani seconded the motion. The motion passed; opposed: none; abstained: none; recused: Central Investigative Committee.

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

MPS 212-1123 – Letter #1 – Recused: Dr. Payne and Dr. Greenberg
MPS 202-1023 – Letter #1

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

- **Upcoming Board meetings, committee meetings, hearings, etc.: Locations are subject to change. A notification will be provided if a change takes place.**
  - **February 15, 2023, North Investigative Committee Meeting, 9:00 AM, Remote via Teams and 108 Cherry St. Suite 206, Burlington, VT 05402**
  - **February 16, 2023, Central Investigative Committee Meeting, 9:00 AM., Remote via Teams and 108 Cherry St. Suite 206, Burlington, VT 05402**
  - **February 21, 2023, South Investigative Committee Meeting, 12:15 PM, Remote via Teams and 108 Cherry St. Suite 206, Burlington, VT 05402**
  - **March 6, 2023, Licensing Committee Meeting, 10:30 AM, Remote via Teams and 280 State Drive, D-305, Waterbury, VT 05671**
  - **March 6, 2023, Board Meeting, 12:00 PM, Remote via Teams and 280 State Drive, D-305, Waterbury, VT 05671**

- **Other Business Continued:**

    - **PA and DPM Pro Bono Licenses** – D. Herlihy shared that someone expressed interest in Physician Assistants being able to obtain pro bono licenses for volunteer work, similar to what is available for MDs. Noting that it is too late for the Board to pursue legislation to make such a change for this year, members were asked if they would object to such a change if others pursued it. It was noted that there would be minimal potential for fiscal impact on the Board, and that if this was done it would make sense to also include Doctor of Podiatric Medicine licenses. Members indicated general support should this come up; no members expressed opposition.

- **Open Forum:**

    - Dr. Greenberg confirmed that the Board will no longer be meeting regularly for mid-month meetings. J. Malago added that although there will no longer be regularly scheduled mid-month meetings, in the event of an urgent need for the Board to meet one may be scheduled. J. Malago reminded the Board that names of new licensees will no longer be read out at each meeting. Beginning in March, members will be provided a list of licenses granted during the preceding month.

- **Adjourn:**

    Dr. Greenberg declared the meeting adjourned at 3:10 PM.

PRESENTATION OF FULL APPLICATIONS THAT HAVE BEEN ISSUED THROUGH THE COMPACT

Note: Applicants listed below have already received a license through the compact.

February 7, 2024

Credential Number	Name
042.0017536-COMP	Kelly Marie Andrews
042.0017537-COMP	Clete Barrick
042.0017538-COMP	THOMAS NICHOLAS BOTTONI
042.0017539-COMP	Jennifer Casaletto
042.0017540-COMP	Rona Gazaway
042.0017541-COMP	Mariana Murguia Johnson
042.0017542-COMP	Michael Mai
042.0017543-COMP	Nina Katherine McCampbell
042.0017544-COMP	Ezinne Chieme Nwankwo
042.0017545-COMP	Garvin Patel
042.0017546-COMP	Nancy Sharma
042.0017547-COMP	Purushottam Tiwari
042.0017554-COMP	Olivia Afamefuna Ajaero
042.0017555-COMP	Kathleen Mary Berchelmann
042.0017556-COMP	Kushinga Matilda Bvute
042.0017557-COMP	Paul Emil Franks
042.0017558-COMP	Deborah Rogell Hoffer
042.0017559-COMP	Sunil Kurup
042.0017560-COMP	Karla Lopez
042.0017561-COMP	Brett R Murray
042.0017562-COMP	Hridayesh Nat
042.0017563-COMP	Janet Perkins-Howland
042.0017564-COMP	Sumera Ahmad Amin
042.0017565-COMP	Alix Ashare
042.0017566-COMP	Douglas Edward Brown
042.0017567-COMP	Tolulope Famuyiro
042.0017568-COMP	Nanna Oseitutu-Ebanks
042.0017569-COMP	Vikramaditya Reddy Samala Venkata
042.0017570-COMP	Ryan Ashley Stanton

042.0017571-COMP	Karen Stover
042.0017572-COMP	Landon Westlund Trost

APPENDIX A

Statement approved by unanimous vote of the Board of Medical Practice February 7, 2024

The Vermont Board of Medical Practice passed a motion on January 3, 2024 expressing opposition to an expansion of the scope of practice of optometrists as expressed in a revised report on the issue by the Office of Professional Regulation dated October 31, 2023. Since then, the recommendations of the OPR report have been put into a bill: S.233 -- An act relating to amendments to the scope of practice for optometrists. This statement sets forth factors underlying the Board's position.

The conclusions stated in OPR's 2023 report are contrary to those of OPR's 2019 report on the same subject, which concluded that the optometry scope of practice should not be expanded. As stated in the 2019 OPR Report:

> *After consulting with stakeholders and conducting extensive and thorough research, OPR cannot conclude that optometrists are properly trained in and can safely perform the proposed advanced procedures. Further, OPR finds that there is little need for, and minimal cost savings associated with, expanding the optometric scope of practice to include advanced procedures. For these reasons, OPR recommends against expanding the optometric scope of practice to include the proposed advanced procedures.*

Patient safety is the basis for the Board's position against expanding the optometry scope of practice to allow a number of "advanced procedures" that have not previously been within the scope of practice. The eyes and structures surrounding the eye are highly complex and delicate. For patients, the stakes are extremely high. The loss or impairment of vision is catastrophic for the patient – there are very few, if any, medical procedures that occur outside of an operating room in a licensed facility that offer similar risk of life-changing impairment in the event of a bad outcome. Because undertaking procedures on the eyes is highly specialized and the stakes so high, only ophthalmologists who have extensive training and experience do these procedures because to allow otherwise would simply not serve patient safety.

One indicator of the complexity of these procedures and the high stakes for the patient is that among physicians, only ophthalmologists do them. General surgeons do not do eye procedures. Primary care and emergency physicians do not do eye procedures. They all defer to ophthalmologists, treating only basic eye issues or providing only care that is necessary until ophthalmologic care is available. If these procedures could be done safely by a medical professional after receiving limited training about the procedures one would expect that general surgeons, primary care practitioners, and emergency physicians would receive such training and offer the procedures, but they do not because it is not providing patients the level of expertise they should have when receiving these very specialized services.

What sets ophthalmologists apart from other physicians and from optometrists is the many years of education and training that qualify them to do the procedures in question. Ophthalmologists, like all MDs, complete four years of medical school after undergraduate education. During medical school all physicians learn human anatomy, including that of the eyes and supporting structures, and gain experience in a wide variety of medical fields through clinical rotations. Medical school includes hundreds of hours of observation of experienced physicians in practice, that are followed by the students themselves interacting with patients and performing many types of procedures, establishing a foundation of knowledge and experience examining, suturing, injecting, and cutting into the human body. All that occurs over a period of years, before an

ophthalmologist begins to be trained to do procedures on the eyes during residency. Ophthalmology residency consists of over 10,000 hours of specialized training.

Over the span of medical school and residency, when it comes to doing procedures on humans, the education and training follows a “crawl, walk, run” progression. Medical students and residents begin with work on human cadavers, to ensure that they are not gaining their introduction to performing procedures on human test subjects. In the highly structured environment of a medical school rotation they observe, then assist, then gradually progress to performing patient procedures. Over the ensuing years, to complete residency, ophthalmologists must document successful performance of an array of procedures over and over again, all in a setting where they are supported by experienced ophthalmologists who are available to ensure patients receive the care they deserve. It is only through this wealth of practical experience, all the time benefitting from the guidance and feedback of more experienced physicians, that an ophthalmologist develops the knowledge base, practiced hand, and confidence to attain the level of expertise that patients deserve.

The plan proposed in the report, and now in S.233, to train optometrists using model simulators and a handful of opportunities to perform a procedure on a human under supervision cannot possibly offer patients the level of expertise and safety offered by ophthalmologists. Patients should not be put in the position of making the choice to accept care from a provider who has so much less training and expertise doing the procedures at issue. The public counts on government, relying on the expertise of those who have the knowledge and understanding to assess the risks, to make appropriate decisions on matters such as this.

In assessing risk, the report erroneously accepts arguments from advocates for scope expansion who say that an absence of reporting about bad outcomes from states that have experimented with expansion of optometry scope of practice is evidence that there are not bad outcomes when optometrists do the procedures in question. That is not accurate. Of the limited number of states that have done this, many have done so only in recent years. The Board knows how long it typically takes for bad outcomes to come to light. The Board reviews all reports of adverse malpractice outcomes, employer discipline, and discipline by other states of licensees. Many bad outcomes come to light only through the process of malpractice litigation. Very seldom do those cases resolve quickly; that is especially true now, with the widely reported backlogs in the judicial system that arose during the pandemic. Perhaps someday with the passage of time and if many more states choose to accept the risks that come with this expansion of scope of practice there will be evidence that the harms are limited, but the evidence available now is inadequate to support such a conclusion.

Evidence that a small fraction of states has allowed optometrists to do some procedures is not a good reason to expose Vermonters to greater risks. Many of the states that have experimented with this concept face much greater challenges with access to care, in terms of population/provider ratios and in terms of geography. The revised OPR report simply does not offer any evidence about a lack of access to ophthalmological care that could possibly justify risking the vision of Vermont patients. There were no reliable studies of the relevant access issues; there was evidence that wait times for optometric care are as much an issue as wait times for ophthalmologic care. Advocates for expansion argue that patients who have waited for an optometry appointment must then wait for an ophthalmologist appointment if they must be referred to an ophthalmologist. That argument ignores the reality that even if an optometrist could do one of these procedures, the patient would have to wait for an opening in the optometrist’s schedule. Additionally, the argument ignores evidence from ophthalmologists about how they work to offer appointments with little wait to patients referred by optometrists who have a need for care.

Also on the access issue, while optometrists may be slightly more dispersed around the state than ophthalmologists, allowing optometrists to do procedures will not eliminate geographic disparities with regard to how far patients must travel for care. Optometrists in the most remote and least populated areas of the state are unlikely to offer procedures because of the investment needed to obtain equipment and training. Moreover, to the extent that any optometrist in those underserved areas opted to make the investment, they would be unlikely to see a patient volume that would support development of expertise. Having optometrists offer these procedures although performing a low number per year would only add to the risks inherent to having practitioners who have so much less training to begin with.

The conclusion of the revised report also fails to give appropriate consideration to another facet of access to care. Expansion of the optometry scope of practice also presents the risk of impairing access to optometry care. If their scope is expanded, any optometrists who makes the investment in training and equipment to start doing these procedures will have less capacity to meet the needs of patients for all the other forms of care that are now within the optometry scope of practice. There was evidence presented to OPR of long waits to obtain optometry care, and that situation can only be exacerbated by having optometrists take on the proposed procedures.

Vermont patients will not benefit if the optometry scope of practice is expanded to allow the proposed procedures. Patients deserve to have these procedures performed by ophthalmologists who have a significantly higher level of education, training, and experience. There is no valid reason based on access to care that supports a change in the optometry scope of practice.