

VERMONT BOARD OF MEDICAL PRACTICE
Minutes of the January 5, 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:

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

Others in Attendance

David Herlihy, Executive Director; Scott Frennier, Investigator; Karen LaFond, Operations Administrator; Justin Sheng, AAG; Bessie Weiss, AAG; Megan Campbell, AAG; Kurt Kuehl, AAG; Bill Reynolds, AAG; George Belcher, Esq.

- 2. Call for Nominations for Board Officers:** Mr. Herlihy noted that Dr. Bernstein had indicated he would decline to run again for Chair to allow another member to serve. He added that Ms. McClain expressed interest in serving as Board Chair. Marga Sproul, MD stated she would consider serving as Vice-Chair or remain as Secretary. Dr. Tortolani, Dr. Liebow and Dr. Clattenburg volunteered to serve as members on the Nominations Committee in advance of the February 2 meeting when the election of officers will occur.

3. Approval of the Minutes of the December 1, 2021 Board Meetings:

Dr. Hildebrant moved to accept the minutes of the December 1, 2021 meeting. Dr. Liebow seconded the motion. The motion passed; opposed: none; recused: none; abstained: none.

4. Board Issues (Dr. Bernstein):

Dr. Bernstein thanked the members of the telemedicine subcommittee for their work to review the proposed Interstate Telehealth legislation.

5. Administrative Updates (Mr. Herlihy):

Mr. Herlihy noted that staff will be working remotely through January due to the current COVID-19 case count.

Mr. Herlihy informed members that Paula Nenner, Board Investigator, is missing the meeting because of the passing of her father.

Mr. Herlihy provided an update on the status of the physician assistant license renewal and the anesthesiologist assistant and radiologist assistant certification renewal. The renewal cycle

started with a combined total of 499 PAs, AAs, and RAs. As of the meeting, 312 have submitted their renewal information and of that group, 155 were incomplete and not yet renewed, and 157 were completed. 123 PAs had not yet submitted the on-line renewal and staff will continue with the outreach and reminders messages. Dr. Bernstein thanked Ms. Hayes for her work during the renewal cycle, noting that she is the sole staff member who processes all the licensing and renewal applications.

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.

Dr. Bernstein moved 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 Dr. Tortolani. The motion passed; opposed: none; abstained: none; recused: none.

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

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

7. Other Business:

- **Final Report of Interstate Telehealth Work Group – summary of final report and the Group's Recommendations for Legislation.**

Mr. Herlihy gave a brief overview of the final report to the Legislature on telemedicine. The report recommends a period from April 1, 2022 to July of 2023 when health care professionals licensed and in good standing in other states who are currently able to practice in Vermont without obtaining will be able to continue to practice, but would need to register with the Board. The report further recommends enduring changes to the law beginning in 2023 that would require that those practicing telemedicine would need to have a credential. It also proposes adding two new levels of credential: a registration that would allow practice for only 120 days and for a maximum of only 10 patients total. Such registrations could not be renewed until 3 years after obtained. The concept is that it would allow continuity of care for health care professionals who have patients who come to Vermont temporarily or permanently. It could also benefit Vermont patients who are in need of a remote specialty consultation. The other new credential proposed is a telehealth license, which would be less expense than a regular license and with somewhat fewer requirements for licensure, but that would allow only telemedicine practice and for only a maximum of up to 20 patients. Otherwise, professionals would be required to obtain a license, either through the normal process or by using a licensing compact. Mr. Herlihy added that the group's proposal did not conflict with the Board's interests. The House Health Care and Senate Health and Welfare Committees had already begun discussing the

proposal before the Board's meeting and appeared to be receptive.

- **Update on the process for formal approval of the proposed revisions to the Board's Rules.**

Mr. Herlihy noted the process for approval of the Rules continues. A public hearing was held, as required by law, but no one attended in person and only written comments were received. The Vermont Medical Society and the Physician Assistant Academy of Vermont submitted formal written comments. He has provided informal answers and adjustments are being made in response to all but one of their comments. The only issue remaining has to do with the Board Rules for Remote Hearings. Mr. Herlihy advised that he is working to add guidance about when hearings may be held remotely to the proposed rules. He hopes the rules will be approved at a meeting of the Legislative Committee on Administrative Rules by February.

- **USMLE Quarterly Report and Annual Report for 2021. No actions are required of the Board; there will be only a brief update regarding significant changes to the USMLE taken during the past year.**

Mr. Herlihy advised members that the USMLE reports contain important information about the many changes related to the examination process and how scores will be reported. As discussed at previous meetings, the Step 2 Clinical Skills examination for physicians has been permanently eliminated. In the wake of that major change there have been several minor issues regarding how scores will be reported going forward.

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

- **In re: Kenneth A. Johnson, MD – Stipulation and Consent Order – MPN 090-1020**

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

Ms. LaFond recorded the roll-call vote: The motion passed; Yeas: Dr. Burgee, Dr. Clattenburg, Ms. Falk, Dr. Payne, Mr. Heald, Dr. Hildebrant, Ms. Hunter, Dr. Liebow, Ms. Jones, Dr. Tortolani. Opposed: none; Abstained: none; Recused: North Investigative Committee.

- **In re: Vishal Verma, MD – Stipulation and Consent Order – MPC 014-0220**

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. Mr. Heald seconded the motion.

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

9. Reconvene meeting; Executive Session to Discuss:

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

Ms. Jones made a motion at 1:40 PM to go into Executive Session to discuss confidential matters related to investigations. Dr. Hildebrant seconded the motion. Ms. Campbell requested members allow Sarah Tewksberry, who is the paralegal that supports the AAGs, to observe the Executive Session. The motion passed; opposed: none; recused: none; abstained: none.

10. Return to Open Session; Board Actions on matters discussed in Executive Session:

Ms. McClain made a motion at 2:06 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:

MPN 031-0321 – Letter #1; Dr. Hildebrant recused
MPN 137-0921 – Special Letter #1

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

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

MPC 103-0821 – Special Letter #1
MPC 022-0320 – Special Letter #1; Dr. Sproul recused
MPC 104-0918 – Special Letter #2; Dr. Sproul recused
MPC 085-0721 – Special Letter #1

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

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

MPS 108-0821 – Special Letter #1; Dr. Sproul and Dr. Bernstein recused
MPS 109-0821 – Special Letter #1

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

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

None

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

- **January 13, 2022, North Investigative Committee Meeting, 9 a.m., [108 Cherry Street, Burlington, VT and remote via Teams](#)**
- **January 14, 2022, Central Investigative Committee Meeting, 9 a.m., [108 Cherry Street, Burlington, VT and remote via Teams](#)**
- **January 19, 2022, Board Meeting on pending applications, 12:10 p.m., [108 Cherry Street, Burlington, VT and remote via Teams](#)**
- **January 19, 2022, South Investigative Committee Meeting, 12:15 p.m., [108 Cherry Street, Burlington, VT and remote via Teams](#)**
- **February 2, 2022, Licensing Committee Meeting, 11:00 a.m., [108 Cherry Street, Burlington, VT and remote via Teams](#)**
- **February 2, 2022, Board Meeting, 12:00 p.m., [108 Cherry Street, Burlington, VT and remote via Teams](#)**

13. Open Forum:

14. Adjourn: Dr. Bernstein declared the meeting adjourned at 2:11PM.

APPENDIX A

INSERT Presentation of Applications