

**VERMONT BOARD OF MEDICAL PRACTICE**  
**Minutes of the February 3, 2016 Board Meeting**  
**Gifford Medical Center, Randolph, Vermont**

**Approved**

**1. Call to Order; Introduce New Members; Call the Roll; Acknowledge Guests:**

William K. Hoser, PA-C called the meeting to order at 12:16 P.M.

**Members Present:**

Richard Bernstein, MD; Brent Burgee, MD; Richard Clattenburg, MD; Michael Drew, MD; Allen Evans; Faisal Gill; Robert Hayward, MD; Patricia Hunter; David A. Jenkins; Leo LeCours; David Liebow, DPM; Christine Payne, MD; Joshua Plavin, MD; Marga Sproul, MD.

**Others in Attendance:**

David Herlihy, Executive Director; Paula Nenninger, Investigator; Christiana Coyner, Board Investigator; Karen LaFond, Operations Administrator; Margaret Vincent, AAG; Elizabeth Tisher, AAG; Katherine Phoul, AAG.

**2. Call to Order; Introduce New Members; Call the Roll; Acknowledge Guests:**

**3. Public Comment:**

**4. Approval of Minutes of the January 6 and January 20, 2016 Board Meetings:**

Dr. Liebow moved to accept the minutes of the January 6, 2016 meeting. Dr. Hayward seconded the motion. The motion passed; opposed: none; recused: none; abstained: none.

Ms. Hunter moved to accept the minutes of the January 20, 2016 meeting. Dr. Hayward seconded the motion. The motion passed; opposed: none; recused: none; abstained: none.

**5. Board Issues (Mr. Hoser):**

Mr. Hoser thanked Mr. Herlihy, Ms. Nenninger and Ms. Coyner for attending the 34<sup>th</sup> Physician Assistant Annual Conference. He noted that it was an excellent opportunity to expose PAs to the Board and to gain a better understanding of the role, purpose, rules and licensure in VT. He also stated that out of the 216 attendees, 65 PAs were from VT.

Mr. Hoser spoke briefly about a task force that has been formulated to discuss the

recently proposed legislation regarding opioid prescribing. He stated that PAs have been invited to participate in the discussions.

**6. Administrative Update (Mr. Herlihy):**

Mr. Herlihy continued with Mr. Hoser's comments regarding the PA participation and noted that DOs and APRNs are also involved in the discussions.

Mr. Herlihy provided the members with the final numbers after completion of the PA Renewal, noting that more than 300 renewed and just over than 50 allowed their licenses to lapse. He stated that Tracy Hayes, Licensing Administrator, contacted each of the PAs who did not renew and determined that many had moved out of state, while others had simply chosen not to renew at this time.

Mr. Herlihy participated in an outreach event with Patricia King, MD at the University of Vermont Medical School. This was the latest session in a program begun by Dr. King for medical students to teach them about medical regulation, the licensing process, and introduce them to the Board's oversight role.

Finally, Mr. Herlihy noted that in the preceding week he had opened 17 new investigations so members could anticipate seeing new case assignments.

**7. Presentation of Applications (12:30 p.m. – 12:45 p.m.):**

Applications for physician and physician assistant licensure, and certifications of radiologist and anesthesiologist assistants were presented and acted upon as detailed in Appendix A, incorporated by reference into these minutes.

**8. Presentations to the Board (12:45 p.m. – 1:15 p.m.):**

**9. Recess; Convene hearing to discuss any stipulations or disciplinary matters that are before the Board (1:15 p.m. – 1:45 p.m.)**

None

**10. Reconvene meeting; Executive Session to Discuss:**

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

Ms. Hunter made a motion at 12:33 p.m. to enter into Executive Session to discuss confidential matters related to investigations. Dr. Plavin seconded the motion. The motion passed: opposed: none; abstained: none; recused: none

**11. Return to Open Session; Board Actions on matters discussed in Executive**

**Session:**

Dr. Hayward made a motion at 1:49 p.m. to return to Open Session. Dr. Bernstein seconded the motion. The motion passed; opposed: none; abstained: none; recused: none.

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

MPN 175-1115 – Special Letter #1  
MPN 164-1015 – Special Letter #1; Mr. Hoser recused  
MPN 129-0815 – Special Letter #1

Dr. Clattenburg made a motion to close the cases presented. Dr. Liebow seconded the motion. The motion passed; opposed: none; abstained: none; recused: 1 and North Investigative Committee.

Mr. LeCours asked to close MPN 092-0515 with a Special Letter #2. Dr. Liebow made a motion to close the case presented. Mr. Jenkins seconded the motion. The motion passed; 5 in favor; opposed: 4; abstained: none; recused: North Investigative Committee.

**Mr. Jenkins, Central Investigative Committee, asked to close:**

MPC 144-0915 – Special Letter #1  
MPC 158-1015 – Letter #1  
MPC 134-1114 – Letter #1; Mr. Hoser recused  
MPC 151-0915 – Letter #1; Dr. Sproul recused

Dr. Hayward made a motion to close the cases presented. Dr. Drew seconded the motion. The motion passed; opposed: none; abstained: none; recused: 2 and Central Investigative Committee.

**Dr. Reich, South Investigative Committee, asked to close:**

MPS 156-1015 – Special Letter #1; Dr. Sproul and Mr. Gill recused

Dr. Plavin made a motion to close the cases presented. Dr. Hayward seconded the motion. The motion passed; opposed: none; abstained: none; recused: 2 and South Investigative Committee.

**12. Board Actions on Committee recommendations with regard to any non-confidential matters:**

**13. Other Business:**

- **Continuation of Discussion of the VDH Policy Memo on Analysis of Opioid Prescribing Patterns**

Dr. Chen has been unavailable because of scheduling conflicts. It was agreed that this item, which was continued from the January 2016 meeting, would be postponed to be taken up at the March 2016 meeting. Members indicated they remain interested in hearing more about this subject from Dr. Chen or other VDH representative.

- **Continuation of Discussion of the Board Statement on Use of Lasers**

As discussed at the January meeting, proposed language regarding the acceptability of delegation by physicians of the use of lasers in a manner that comes within the definition of practice of medicine to individuals not licensed or certified in any relevant health care profession was prepared. However, Ms. Vincent noted that when the Board established a position on this in 2008 they had received information from an expert about use of lasers and that suggested that it would be advisable to have an expert speak to the Board regarding the current use of lasers before updating the Board position. This matter will be taken up again when arrangements can be made for an expert presentation.

- **Interstate Compact**

Mr. Herlihy informed the Board that he was asked to testify on February 4, 2016 regarding the Interstate Compact. He noted that nothing has changed since the Board issued a statement of support in 2015, and that he expected to be asked to comment on some of the concerns voiced in 2015 about specialty board certification and about the financing of the Compact.

- **Legislative Update: Athletic Team Physicians H.559**

Mr. Herlihy informed the Board that H.559 proposed to add an exemption to the existing exemptions from the law on unlicensed practice of medicine to allow MDs and DOs who are licensed in another state and who are employed by or formally designated as a team physician to treat members of the athletic team, coaches, and staff when the team is visiting in Vermont for a specific sporting event. He referred members to the information he sent out prior to the meeting that included the Federation of State Medical Boards (FSMB) Report of the FSMB Workgroup on Innovations in State Based Licensure and an excerpt from the Board minutes of August 2015, at which time the Board discussed this issue at length. Board members raised questions regarding: whether there should be language limiting the exception to the individuals' usual scope of practice; whether the bill should include other professions licensed by the Board, specifically podiatrists and physician assistants; and, whether the exemption should include Canadian physicians.

Several members commented on each of those concepts. Mr. Herlihy stated that he would draft language to modify the amendment to: limit only Physicians, Physician Assistants and Podiatrists; to include language regarding the scope of practice of the licensed individuals; and to add Canadian physicians.

Dr. Liebow made a motion to support H.559 with modifications as discussed. Dr. Hayward seconded the motion. The motion passed; opposed: none; recused: none; abstained: none.

- **Bills Regarding Prescribing Issues**

Mr. Herlihy briefly reviewed the recent discussions at the Senate Health & Welfare Committee surrounding S.201 and S.243. Issues of concern discussed by members focused on unintended consequences of the legislation, such as increases in medical costs, a decrease in access to general medical care and increased pressure on the HUBs. Dr. Sproul commented in detail how several parts of the proposed legislation would impact her practice. Mr. Herlihy noted that it would be likely that the Senate Health and Welfare Committee would hear from more witnesses and suggested that Dr. Sproul could well represent the Board's concerns about the bills. Board members expressed agreement, but no motion was taken up. He also stated that he would draft language regarding a Board position on the bills based on member comments, which he would circulate prior to the March meeting.

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

- **February 11, 2016, North Investigative Committee Meeting, 12 p.m., Vermont Department of Health, 108 Cherry Street, 3<sup>rd</sup> Floor, Conference Room 2C, Burlington, VT**
- **February 12, 2016, Central Investigative Committee Meeting, 9 a.m., National Life – North Building: Calvin Coolidge Conference Room – 6<sup>th</sup> Floor of the Deane C. Davis Building, Montpelier, VT**
- **February 17, 2016, Board meeting on pending applications, 12:10 p.m., Board of Medical Practice office, 108 Cherry Street, 2<sup>nd</sup>, Floor Burlington, VT (and via telephone)**
- **February 17, 2016, South Investigative Committee Meeting, 12:00 p.m., Asa Bloomer State Office Building, 4th Floor, Room #492, Rutland, VT**
- **March 2, 2016, Licensing Committee Meeting, 10:30 a.m., Gifford Medical Center, Red Clover Conference Room, Randolph**
- **March 2, 2016, Board Meeting, 12 p.m., Gifford Medical Center, Red Clover Conference Room, Randolph**

**15. Open Forum:**

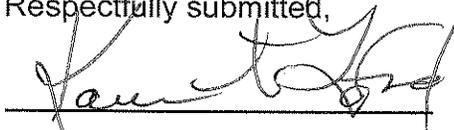
**16. Adjourn:**

Dr. Sproul made a motion to adjourn. Dr. Liebow seconded the motion. The motion passed; opposed: none; abstained: none; recused: none.

Meeting adjourned at 3:37 p.m.

**Attachments: Appendix A**

Respectfully submitted,

A handwritten signature in cursive script, appearing to read "Karen A. LaFond", is written over a horizontal line.

Karen A. LaFond  
Medical Licensing & Operations Administrator

## APPENDIX A

### Presentation of Applications

**Mr. Hoser moved for the issuance of physician licenses and physician assistant licenses for:**

Walter Astorne, MD	Randolph Brown, MD	Winton Chung, MD
Elizabeth Farnum, MD	Mark Franklin, MD	Alan Garber, MD
Jude Germaine, MD	John Koella, MD	Noah Kolb, MD
Margaret Mahoney, PA-C	Lee Morissette, PA-C	Sabina Morissette, MD
Chidi Nwizu, MD	Arvin Santos, MD	Louis Vaickus, MD

Recommended by Me. LeCours for licensure and certification. Seconded by Dr. Bernstein. The motion passed; opposed: none; abstained: none; recused: none.