

**Vermont Board of Medical Practice
Minutes of the August 2, 2006 Meeting
Gifford Medical Center, Randolph, Vermont**

Approved

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

James D. Cahill, Chair of the Board, called the meeting to order at 12:19 p.m., at Gifford Medical Center, Randolph, Vermont.

Members Present:

James D. Cahill, MD; Ezekiel S. Cross; Russell P. Davignon, MD; Richard L. Guerrero, MD; Margaret F. Martin; John J. Murray, MD; Sharon L. Nicol; Alexander Northern; Toby Sadkin, MD; William H. Stouch, MD; John B. Webber

Others in Attendance:

James Arisman, Esq., Assistant Attorney General; Phil Ciotti, Investigator; Phil Cykon, Presiding Officer; Paula DiStabile, Executive Director; Peggy Langlais, Administrative Supervisor; Sharon Moffatt, RN, BSN, MSN, Acting Commissioner of Health; Paula Nenninger, Investigator; Joseph Winn, Esq., Assistant Attorney General

2. Public Comment

None.

3. Approval of the Minutes of the July 5 and 19, 2006 Board Meetings and the June 7, 2006 Executive Committee Meeting

Mr. Webber said that the July 5th minutes contained two errors in the Appendix - Presentation of Applications.

Mr. Webber made a motion to accept the minutes of July 5 and 19, 2006 with the changes. Ms. Martin seconded the motion. The motion passed, opposed: none, abstained: none

4. Board Matters

Dr. Cahill said that the Citizen Advocacy Center (CAC), an organization that describes itself as a network for public members of health care regulatory boards, has offered technical assistance for Boards interested in looking at an initiative that it has had ongoing for a couple of years. The initiative, called the "Practitioner Remediation and Enhancement Partnership (PreP 4 Patient Safety)" is one in which state medical boards and hospitals work in conjunction

to try to identify and remediate physicians and other licensed professionals in need of remediation before the issues rise to the level of discipline. He said that he participated in a teleconference with the CAC Director who is interested in coming to a future Board meeting to make a presentation. Dr Cahill would like to invite him to come to a Board meeting if that is of interest to the Board.

Discussion

- This sounds like something that the Vermont Program for Quality in Health Care is doing. Could it be teamed up with what they are doing?
- VPQ is more of a systems approach where this program would be more focused on the individual.
- We should get together and see if we can augment with what is already being done.

5. Administrative Update (Ms. DiStabile)

Ms. DiStabile provided the following updates.

- The license portability grant announcement has come out. The Federation of State Medical Boards is working hard on drafting an application. The money available is not as much as originally anticipated.
- Department of Health emergency planning staff suggested that the Board select a member to participate in discussions regarding advance planning for ethical issues that may arise in a flu pandemic. The Board has been invited as planning for such triage is viewed as raising the potential for altering standards of care. The issues include questions such as: What would happen in the event of the pandemic with a shortage of respirators? How would decisions be made as to which patients would get respirators? This topic will be discussed at the September 25th semiannual meeting of the VT/NH Ethics Committee Network at Dartmouth Hitchcock Medical Center. A planning meeting may take place in advance of this date with individuals who work in emergency preparedness and Dr. McCauley, an ethicist from Fletcher Allen Health Care.

Discussion

- What qualifications would someone need?
- Do you have to be an MD to participate?
- A lay person could bring a lot to the table.
- Mr. Northern volunteered to participate.
- Dr. Davignon will if he is able.
- Dr. Guererro expressed interest.
- Ms. DiStabile will share information as it becomes available. She will also find out if it is open to the public.

- The Vermont Department of Health has been working on a business continuity plan. One of our first assignments was to decide how we would manage critical functions in the advent of a pandemic with 40% of staff unavailable. (The definition of "critical function" is that someone may die if the function is unable to be carried out within 24 hours.) We have drafted a plan for the Board office but it is incomplete without components addressing the role of the Board and the Attorney General's Office. We have identified some Board functions as critical – for example, licensing a sudden influx of physicians coming to work in the area of the emergency. However, Ms. DiStabile has some remaining questions that would affect our plan, e.g. what authority would the Governor or Commissioner have to waive current law in such an emergency? It was decided that the plan would be worked on with the Executive Committee.

6. Presentation of applications

See Appendix A

7. Comments by Sharon Moffatt, Acting Commissioner of Health

Ms. Moffatt thanked Board members for their dedication. She said the work the Board does is critical to health all around the state.

Ms. Moffatt updated the Board on the search for a Commissioner of Health.

- Ms. Moffatt will be the acting commissioner in the interim.
- Some candidates have been considered.
- The top candidate declined the offer.
- The search is now regrouping and looking at various options and opportunities.
- The position needs to be filled by a physician or dentist.
- If Board members know of anyone who would like to have Ms. Moffatt talk to them about the position, please let her know.
- The ideal candidate will have a history that includes work in population health, experience in policy development at a high level, experience working with legislators and experience managing a large organization.
- The Department, with the addition of mental health and the Vermont State Hospital now employs 850 multi-talented persons.

Ms. Moffatt said that the Department's priorities remain unchanged from when Dr. Jarris was here.

- Emergency preparedness, as it relates to pandemic flu and other possible emergencies
- Integration of physical and behavioral health
- Chronic care; the Vermont Blueprint for Health – Ms. Moffatt asked Board members to share their thoughts on this issue. She said that

this initiative is key and is receiving national attention as a systems approach around chronic disease that has not been addressed in this way in any other state.

- DETER – substance abuse issues, including the new prescription monitoring program

Ms. Moffatt went on to invite ideas from Board members. She said they should let her know if they wanted to connect with work ongoing in other areas of the Department

Ms. Moffatt discussed the upcoming legislative session. She said that the Department, in the late summer/early fall, considers potential legislative proposals for the upcoming session. She said that the Department is available to help the Board if there are particular changes the Board would like in the statute related to the Board. Ms. Moffatt offered the following.

- There are risks involved in opening any statute.
- Be particular about what you want changed.
- Once a statute is opened, the outcome could totally change the initial intent of a proposal.
- Be really sure that the change is what you want and need as changes may go in a direction you do not want or have not considered.
- The Department would work with the Executive branch and the Attorney General's Office to help evaluate possible risks.

Questions:

What is the status of the prescription drug monitoring program?

- VDH will be responsible for the rulemaking process.
- This week should bring the approval for the position and start of the hiring process.
- The information technology tools are already available and there may be a way to build a loop with the technology being used by the Blueprint for Health initiative.
- Time wise – full implementation is probably about a year away.
- The Department is looking at Maine's program as a model.

Ms. Moffatt again thanked the Board for their work.

8. Recess; Convene Hearing (Mr. Cykon)

Mr. Cykon convened a hearing to consider a matter before the Board at 1:04 p.m.

In re: Mark F.L. Silverstein, MD, MPC 52-0305 and MPC 103-0605
Stipulation and Order

Ms. Martin made a motion to go in to Executive Session. Dr. Stouch seconded the motion. The vote was all in favor, opposed: none.

Executive Session 1:07

Ms. Martin made a motion to return to Open Session. Dr. Guerrero seconded the motion. The vote was all in favor, opposed: none.

Open Session 1:14

Mr. Webber made a motion to accept the Stipulation and Order. Dr. Stouch seconded the motion. The vote was all in favor, opposed: none, abstained: Dr. Sadkin and Central Investigative Committee.

In re: Noelle Thabault, MD MPN 33-0206 Stipulation and Consent Order
Recused: Dr. Guerrero North Investigative Committee

Dr. Cahill made a motion to go in to Executive Session. Ms. Martin seconded the motion. The vote was all in favor, opposed: none.

Executive Session 1:27

Mr. Webber made a motion to return to Open Session. Dr. Cahill seconded the motion. The vote was all in favor, opposed: none.

Open Session 1:56

Dr. Cahill made a motion to reject the Stipulation and Consent Order In re: Noelle Thabault, MD MPN 33-0206. Dr. Davignon seconded the motion. The vote was all in favor, opposed: none, abstained: Dr. Guerrero and North Investigative Committee.

9. Break

Break 2:18 p.m.

Return to Open Session 2:23

Presentation of application
Dr Cahill

10. Executive Session to Discuss Investigative Matters

Dr. Davignon made a motion to go into executive session to discuss investigative matters. Mr. Webber seconded the motion. The vote was all in favor, opposed: none, abstained: none.

Executive session began at 2:29 p.m.

11. Return to Open Session

Dr. Stouch made a motion to return to open session. The motion was seconded by Dr. Murray. The vote was all in favor, opposed: none, abstained: none.

Open session: 2:57 p.m.

12. Open Session

Dr. Cahill, South Investigative Committee, moved to close

MPS 92-0606

MPS 22-0106

MPS 23-0106

MPS 81-0606

Seconded: Dr. Davignon. Passed, opposed: none. Abstained: none.

Dr. Davignon, Central Investigative Committee, moved to close

MPC 71-0506

MPC 80-0606

MPC 82-0606

MPC 66-0406

MPC 29-0206

Seconded: Mr. Cross. Passed, opposed: none. Abstained: none.

Ms. Nicol, North Investigative Committee, moved to close

MPN 65-0406

MPN 89-0606

Seconded: Dr. Stouch. Passed, opposed: none. Abstained: none.

In re: Daniel S. Sax, MD, MPAH/MPN 166-0803, Mr. Arisman presented a petition for relief of conditions

Dr. Stouch made a motion that the petition for relief of conditions be approved. Mr. Webber seconded the motion. The vote was all in favor, opposed: none, abstained: North Investigative Committee.

In re: Richard K. Hacker, MD, Licensing Matter, Ms. Martin presented a petition for relief of conditions

Dr. Stouch made a motion to approve the petition for relief of conditions. Dr. Davignon seconded the motion. The vote was all in favor, opposed: none, abstained: none.

In re: Mark E. Logan, MD, Licensing Matter, Ms. Martin presented a petition for a reduction in the frequency of therapy visits

Mr. Webber made a motion to approve the petition for relief of conditions. Dr. Stouch seconded the motion. The vote was all in favor, opposed: none, abstained: none.

Withdrawal of physician license application - Ms. Martin presented a petition for withdrawal that had been approved by the Licensing Committee.

Stanely Whitemore MD

Dr. Murray made a motion to approve the withdrawal. Mr. Webber seconded the motion. The vote was all in favor, opposed: none, abstained: none.

13. Next meetings

Upcoming meetings

- September 8, 2006, Central Investigative Committee Meeting, 12 p.m., Montpelier
- September 14, 2006, North Investigative Committee Meeting, 12 p.m., Vermont State College, Waterbury
- September 20, 2006, South Investigative Committee Meeting, 12 p.m., Asa Bloomer Building, Rutland
- September 20, 2006, Board meeting on pending applications, 12:10 p.m., Board Office, 101 Cherry Street, Burlington, (and via telephone)

Next Regular Board meetings September 6, 2006, 12 p.m., Gifford Hospital, Randolph, Vermont, September 20, 2006, 12:10 p.m., teleconference meeting, with public access at the Board offices, 101 Cherry Street, Burlington, Vermont

14. Any Other Business

The Executive Committee meeting scheduled for this afternoon was cancelled.

15. Adjournment

Adjourned at 3:11PM

Respectfully submitted,


Peggy Langlais, Administrative Supervisor

Attachment

Appendix A

Presentation of Applications

Dr. Davignon reported on interviews Dr. Thomashow conducted with
Roger Young, MD
Kathryn Schwarzenberger, MD
Brita Reed, MD
Douglas Newton, MD
Recommended for physician licensure
Seconded by Ms. Martin, passed, opposed: none, abstained: none

Dr. Davignon reported on interviews with
Michael Black, MD
Stewart Slomowitz, MD
Joseph Loskove, MD
Recommended for physician licensure
Seconded by Ms. Martin, passed, opposed: none, abstained: none

Dr. Cahill moved on limited temporary licenses for
Julio Lemos, MD
Seconded by Mr. Cross, passed, opposed: none, abstained: none.

In re: Jacqueline C. Snyder, PA-C, Licensing Board Matter, Stipulation and
Consent Order

Dr. Cahill made a motion to approve the Stipulation and Consent Order.
Dr. Guerrero seconded the motion. The vote was all in favor, opposed:
none, abstained: Licensing Committee

Dr. Cahill reported on an interview with
Jacqueline Snyder, PA
Recommended for physician assistant certification
Seconded by Dr. Stouch, passed, opposed: none, abstained: none