

FULL BOARD MEETING MINUTES
of the
BOARD OF MEDICAL EXAMINERS
301 S. Park Ave, 4th Floor, Helena MT
9:30 a.m. to 5:00 p.m.
JULY 19, 2013

Conference Call Information: Call Number: 1-877-820-7831 Passcode: 412064#

1. Call To Order - Establish Quorum - Introduction of Board & Staff Members Present (00:00:07) 1st recording

Dr. Spanijan opened the meeting at 9:35 a.m.

Board Members Present:

Dr. Kris Spanjian (Chair)
Mr. Charles Farmer
Dr. Nathan Thomas
Ms. Tanja Brekke
Dr. Bruce Hayward
Dr. Dwight Thompson
Dr. Jim Upchurch
Dr. Don Sullivan
Dr. Anna Earl
Ms. Pat Bollinger (via phone)

Board Members Absent:

Ms. Ana Diaz
Ms. Carole Erickson
Dr. Mary Anne Guggenheim

Staff Members Present:

Mr. Ian Marquand-Executive Officer
Ms. Anne O'Leary-Board Counsel
Dr. Harry Sibold-State Medical Director
Mr. Ken Threet-EMT Training Coordinator
Ms. Barb McAlmond-Board Management
Ms. Cynthia Gustafson-Executive Officer Board of Nursing
Mr. Adam deYong-Acting Division Administrator
Ms. LaVelle Potter-Compliance Specialist
Mr. Mike Fanning-Board Prosecuting Counsel
Ms. Judy Bovington-Chief Legal Counsel for the Department of Labor & Industry

Others Present:

Dr. Sanjeev Wasson (via phone)
Dr. Beth Liebowitz (via phone)
Dr. James Zubernis (via phone)
Dr. Susan Maier (via phone)
Dr. Raymond Rosario
Dr. Daniel Moullett
Dr. James Metzger (via phone)
Mr. Mike Ramirez

2. Approval and Tentative Modification of Agenda Order (00:04:33) 1st recording

a. July 19, 2013 Agenda

Motion: Dr. Earl made a motion to approve the July 19, 2013 agenda. Ms. Brekke seconded the motion. The motion carried.

3. Review and Approve Minutes (00:05:23) 1st recording

a. May 16-17, 2013 Minutes

Motion: Ms. Brekke made a motion to approve the May 16, 2013 meeting minutes as presented. Dr. Hayward seconded the motion. The motion carried.

Motion: Dr. Hayward made a motion to approve the May 17, 2013 meeting minutes as presented. Dr. Thomas seconded the motion. The motion carried.

b. June 27, 2013 Minutes (00:07:18)

Motion: Dr. Thomas made a motion to approve the June 27, 2013 meeting minutes as presented. Dr. Upchurch seconded the motion. The motion carried.

4. Public Opportunity to Comment (00:07:53) 1st recording

(Presiding Officer Statement) "Under this item, the Board will offer an opportunity to members of the public in attendance to comment on any public matter under the jurisdiction of the Board that is not on the agenda of this meeting. While the Board cannot take action on any issues presented, the board will listen to comments and may ask staff to place the issue on a subsequent agenda. The presiding officer may limit the comment period in order to proceed with the board meeting."

The Presiding Officer read the statement of public participation and opened the meeting for public comment.

Ms. Gustafson (00:08:44) - Ms. Gustafson offered to have a representative from the Board of Nursing attend a Board meeting to discuss the role of advanced practice registered nurses in chronic pain management.

-Mr. George Wuenschel- (00:12:26)

The board reviewed and discussed a letter sent from Mr. George Wuenschel.

Staff was instructed to send a letter thanking Mr. Wuenschel for his correspondence.

5. Department Update—Mr. Adam deYong (00:15:10) 1st recording

1) Mr. deYong informed the board that this agenda item will no longer be standard. If the board has a specific request that he attend future meetings he will be placed on the agenda. The Department update has been replaced with Mr. deYong's monthly Department Update emails to staff and board members.

2) Mr. deYong reported that the Department has been looking at the Medical Impairment Program and the possibility of contracted services being in-house because of the high cost. The board expressed their concerns regarding this and instructed Mr. deYong to provide to the board a copy of the fiscal packet that was prepared regarding this. Mr. deYong asked the board that after their review of the fiscal information they send a letter to him outlining their specific concerns and/or suggestions. Mr. Marquand will set up a meeting with the board as well as Ms. Connor and Mr. deYong to get the process started. Dr. Spanjian asked that the board be included in any future meetings the Department may have regarding this.

6. Compliance Report—Ms. LaVelle Potter (00:39:22) 1st recording

- a. **Screening Panel Report:** For informational purposes only; No Board action was required.

7. Board Action 1st recording

a. Compliance Request re: Jeremiah Kjensmo—Ms. LaVelle Potter (00:39:54)

Motion: Dr. Thomas made a motion to dismiss without prejudice. Dr. Upchurch seconded the motion. The motion carried.

b. Screening Panel Request re: ARM 24.156.619 (Reporting of malpractice settlements) (00:41:07)

Mr. Fanning and Ms. O'Leary will work to revise the language of the Board's online Physician renewal forms to match the language of the formerly used paper forms regarding the required reporting of medical malpractice lawsuits and the exemption from reporting of cases brought before the Montana Medical Legal Panel.

c. Licensee Administrative Action (00:52:28)

- i. **Susan Maier, M.D.** —Dr. Maier was issued a one year probationary license in March, 2013. She is requesting the board grant her a full and unrestricted medical license so the Indian Health Service could grant her credentialing privileges so that she may pursue completion of the CPEP recommendation as fully as possible.

Motion: Dr. Earl made a motion to grant a full and unrestricted license be issued and that she enter in a non-reportable contract with the board that restricts independent practice of medicine for a period of up to six months. She can come before the board sooner with a letter from her preceptor stating it is his opinion that she is capable to practice independently. Dr. Upchurch seconded the motion. The motion carried.

d. Non-routine Applications

- i. Raymond Rosario, M.D. (tabled May 17) (01:04:51) 1st recording**
Ms. O’Leary briefly reviewed the Board’s involvement to date in connection with Dr. Rosario’s application.
Motion: Dr. Earl made a motion to grant a full and unrestricted license. Dr. Thomas seconded the motion. The motion carried.
- ii. Daniel Moullet, M.D. (01:24:57) 1st recording**
Ms. O’Leary briefly reviewed the Board’s involvement to date in connection with Dr. Moullet’s application.
Motion: Dr. Upchurch made a motion to grant a probationary license for 1 year. He will be required to be in compliance with his agreed Washington license final order. Dr. Earl seconded the motion. The motion carried.
- iii. Stephen Foster, M.D. (01:35:29) 1st recording**
Ms. O’Leary briefly reviewed the Board’s involvement to date in connection with Dr. Foster’s application.
Motion: Dr. Thomas made a motion to send a letter to Dr. Foster explaining his application will terminate on 8/16. He will need to contact Mr. Marquand if he wants to extend his application and he will need to contact MPAP immediately. He will be required to come before the board at the September meeting. Dr. Hayward seconded the motion. The motion carried.
- iv. Deidre Redd, M.D. (01:45:20) 1st recording**
Ms. O’Leary briefly reviewed the Board’s involvement to date in connection with Dr. Redd’s application.
Motion: Dr. Upchurch made a motion to grant a full and unrestricted license. Dr. Earl seconded the motion. The motion carried.
- v. Sanjeev Wasson, M.D. (01:49:03) 1st recording**
Ms. O’Leary briefly reviewed the Board’s involvement to date in connection with Dr. Wasson’s application.
Motion: Dr. Hayward made a motion to grant a full and unrestricted license. Dr. Thomas seconded the motion. The motion carried.
- vi. James Zubernis, D.O. (01:55:17) 1st recording**
Ms. O’Leary briefly reviewed the Board’s involvement to date in connection with Dr. Zubernis’ application.
Motion: Dr. Earl made a motion to grant a full and unrestricted license. Dr. Hayward seconded the motion. The motion carried.
- vii. Paul Maher, M.D. (00:02:17) 2 recording**
Ms. O’Leary briefly reviewed the Board’s involvement to date in connection with Dr. Maher’s application.
Motion: Dr. Earl made a motion to inform him to take SPEX and do CPEP evaluation in primary care before his license can be issued. Dr. Hayward seconded the motion. The motion carried. .
- viii. James Metzger, M.D. (02:07:56) 1st recording**
Ms. O’Leary briefly reviewed the Board’s involvement to date in connection with Dr. Metzger’s application
Motion: Dr. Upchurch made a motion to grant a full and unrestricted license upon receipt of advocacy for MPAP contract. Dr. Hayward seconded the motion. The motion carried.
- ix. Joseph Lapp, EMT-F (00:10:44) 2nd recording**
Ms. O’Leary briefly reviewed the Board’s involvement to date in connection with Mr. Lapp’s application.
Motion: Dr. Earl made a motion to grant a full and unrestricted license. Ms. Bollinger seconded the motion. The motion carried.
- x. Tyler Johnson, EMT-B (00:23:39) 2nd recording**
Ms. O’Leary briefly reviewed the Board’s involvement to date in connection with Mr. Johnson’s application.

Motion: Dr. Earl made a motion to contact Mr. Johnson and inform him he would need to meet as soon as possible with MPAP and come back before the board at the September meeting. Dr. Upchurch seconded the motion. The motion carried.

- xi. **Allison Huguet, EMT-B (00:26:36) 2nd recording**
Ms. O'Leary briefly reviewed the Board's involvement to date in connection with Ms. Huguet's application.
Motion: Dr. Upchurch made a motion to contact Ms. Huguet and inform her she needs to meet as soon as possible with MPAP and come back before the board at the September meeting. Ms. Brekke seconded the motion. The motion carried.
- xii. **George Griffin, M.D.** -Mr. Griffin chose to have his application reviewed in Executive Session.
Ms. O'Leary briefly reviewed the Board's involvement to date in connection with Dr. Griffin's application.
Motion: Dr. Earl made a motion the board will sponsor him for the specs examination before his application expires on 4/15/16 and come back to the board at a future meeting. Ms. Brekke seconded the motion. The motion carried.
- xiii. **Beth Liebowitz, M.D. (02:17:52) 1st recording**
Ms. O'Leary briefly reviewed the Board's involvement to date in connection with Dr. Liebowitz's application.
Motion: Dr. Thomas made a motion to grant a full and unrestricted license. Ms. Bollinger seconded the motion. The motion carried.

Recessed at 12:06

8. Working Lunch (Executive Session) – Closed Meeting

Dr. Spanjian reopened the open meeting **(00:00:25)**
Dr. Earl made a motion to approve the MPAP Report presented by Mr. Ramirez.

9. Board Action (Continued) 3rd recording

- a. **Professional Assistance Program Status**—Mr. Marquand
- i. **Program Audit Report (from Dr. Gary Carr) (00:00:39)**
Mr. Marquand reported this report has not been received. Dr. Carr is requesting this be placed on the September agenda.
 - ii. **Contract Status (00:02:16)** Ms. Bovington
As discussed in Mr. deYong's presentation, Mr. Marquand will set up some meetings with the board, Ms. Connor, Ms. O'Leary and Mr. deYong regarding the board's concerns about their contracts.
- b. **EMT Protocols**
- i. **TXA Protocol Request – Dr. James Upchurch (00:36:15)**
Motion: Dr. Earl made a motion to approve the TXA protocol request for state wide use. Ms. Brekke seconded the motion. The motion carried.
 - ii. **Protocol Request from Dr. Simpson (00:40:38)**
Motion: Dr. Upchurch made a motion to send this request to the Medical Director's Committee for their review and opinion. Ms. Brekke seconded the motion. The motion carried.
- c. **Board Advisories (00:24:07)**
- Advisory 1-Chaperones in Examining Room
 - Advisory 2-Use of Controlled Substances for the Treatment of Pain
 - Advisory 3-Protocol for Addressing Disruptive Behavior
 - Advisory 5-Medication Control Procedures for EMS Services
 - Advisory 6-Physician obligation to Retain Patient Medical Records
 - Advisory 7-Physician-Patient Relationship
 - Advisory 8-Physician Prescribing for Self or Immediate Family
 - Advisory 9-Scope of EMT Tasks in Other Than Pre-Hospital Settings
 - Advisory 10-Physician Authority to Delegate Tasks & Responsibilities
 - Advisory 11-Mgmt. of Patient Records When Closing Office

Advisory 12-Licensure Required for Practice as Nutritionist in MT
Advisory 13-Dispensing of Outpatient Meds in Emergency Dept. by Licensed Nurses
Advisory 14-EMP Wilderness Education Programs
Advisory 15-Terminating Patient Relationship (00:00:00)
Advisory 16-Guidelines for Montana Health Corps (00:00:00)
Advisory 17-Physician's Written Cert. for Medical Marijuana & Bona Fide Phys-Patient Relationship (00:00:00)
Advisory 18-Guidance for MT Out-of-Hospital Providers (00:00:00)
Advisory 19-Ethics for Medical Professionals (00:00:00)
Advisory 20-Physician Aid in Dying (00:00:00)
Motion: Dr. Earl made a motion to table until the September full board meeting. Dr. Hayward seconded the motion. The motion carried.

d. Correspondence (00:49:40)

- i. **Question from MTAMSS: Will Board report "withdraw or deny" motions to NPDB? (00:50:25)**
Motion: Dr. Upchurch made a motion to approve the letter from the Outreach Committee. Dr. Thomas seconded the motion. The motion carried. .
- ii. **Question from MTAMSS: Must all reports of loss of staff privileges become complaints? (00:53:01)**
Motion: Dr. Upchurch made a motion to approve the letter from the Outreach Committee. Dr. Thomas seconded the motion. The motion carried.
- iii. **Advisory from MT Medical-Legal Panel re: change in rules of procedure (00:55:50)**
Informational/discussion- No board action required.
- iv. **E-mail from Alex Madsen about Physician license requirements (00:58:00)** Mr. Madsen is requesting a board respond to his questions regarding physician licensure requirement for the state of Montana.
-Staff was instructed to send a letter to Mr. Madsen thanking him for his letter but inform him that the board has no jurisdiction over his concerns.

Invitation from NBOME to Visitation Day, Oct. 14 in Philadelphia (00:59:14)

Motion: Dr. Thompson made a motion to send Dr. Hayward to Philadelphia to attend the NBOME Visitation Day. Dr. Earl seconded the motion. The motion carried.

- v. **Request from Northern MT Hospital that Board make NPDB queries for PA applicants (01:02:07)**
Motion: Dr. Hayward made a motion to authorize expenditure of money for licensing staff to seek out National Practitioner DataBank reports on physician assistant applicants. Ms. Bollinger seconded the motion. The motion carried.

e. Rulemaking

- i. **Response to Public Comments and Adoption re: MAR 24-156-78 (Physician Licensing by Expedited Process) (01:05:20)**
The board reviewed and discussed the public comments for MAR Notice 24-156-79.
Motion: Dr. Hayward made a motion to adopt MAR 24-156-78 as proposed. Ms. Bollinger seconded the motion. The motion carried.
- ii. **Status Report on MAR 24-156-79 (Physician Reactivation, Renewal, Retired Status) (01:14:06)**
For informational purposes only; No board action required.

f. Committee and Panel Appointments (00:00)

- i. **Medical Direction Committee-Request by Ryan Burke to Resign (01:15:20)**
Mr. Burke is requesting he be replaced as a member of the Medical Director Committee.

Motion: Dr. Thompson made a motion to accept Mr. Burke's resignation and authorized Dr. Upchurch to seek out an ALS member for the Medical Direction Committee. Dr. Thomas seconded the motion. The motion carried

ii. **Acupuncture Committee-Request to Join (01:17:27)**-tabled for future meeting.

g. **Scheduling of Next Meeting (01:18:02)**

i. September 20, 2013, Helena

h. **Approval of Travel (01:18:31)**

10. **Board or National Committee Reports (01:18:54) 3rd recording**

a. **Medical Direction Committee—James Upchurch, M.D. (01:18:02)** For informational purposes only; No board action required

b. **Laws & Rules Committee—Nathan Thomas, D.P.M. (01:19:14)** For informational purposes only; No board action required

c. **Outreach Committee/Board Liaison—Ms. Carole Erickson (01:21:17)** Ms. Brekke made a motion to allow Mr. Marquand and Ms. Erickson to approach the Montana Hospital Association and request time to speak at their annual meeting. Dr. Upchurch seconded the motion. The motion carried.

d. **Physician Workforce Data Collection Subcommittee—Ms. Carole Erickson (01:27:34)** For informational purposes only; No board action required.

e. **Acupuncture Committee—Ms. Tanya Brekke, L. Ac. (01:27:38)** For informational purposes only; No board action required.

11. **Medical Director and EMT Training Reports 3rd recording**

a. **Medical Director Report—Dr. Harry Sibold (01:28:39)**

Dr. Sibold led the discussion.

Motion: Dr. Upchurch made a motion to accept the Medical Director Report. Mr. Farmer seconded the motion. The motion carried.

b. **EMT Training Report—Mr. Ken Threet (01:34:00)**

Mr. Threet led the discussion

Motion: Dr. Upchurch made a motion to accept the EMT Training Report. Dr. Hayward seconded the motion. The motion carried.

12. **Executive Officer Report—Mr. Ian Marquand 3rd recording**

a. **Budget Report for Fiscal Year 2013 (01:38:20)**

For informational purposes only; No board action required.

b. **Application Report (01:42:28)**

For informational purposes only; No board action required.

c. **Report to Legislature re: Medical Marijuana-related complaints (01:42:57)** For informational purposes only; No board action required.

d. **Occasional Case Exemptions (01:45:03)**

Motion: Ms. Bollinger made a motion instructing Ms. O'Leary to send a letter to the medical staff at St. James Hospital informing them the board is aware of them hiring a proctoring physician that does not hold a Montana license and if this continues the board will take action. Ms. Brekke seconded the motion. The motion carried.

e. **PDR REPORT (1:50:25)** For informational purposes only; No board action required.

13. **Legal Report (01:51:40) 3rd recording**

Ms. O'Leary reported there was no legal report for this meeting.

14. **Adjourn (01:52:04) 3rd recording**

Motion: Dr. Thomas made a motion to adjourn the full board meeting at 5:05 p.m. Dr. Thompson seconded the motion. The motion carried.

New agenda items may be added up to “three business days” before the meeting. For the most accurate agenda, please consult the web site at www.medicalboard.mt.gov. The board may reorder the agenda at the beginning of the meeting.