

FULL BOARD MEETING MINUTES
of the
MONTANA BOARD OF MEDICAL EXAMINERS
301 S. PARK, 4th FLOOR CONFERENCE ROOM, HELENA MT
NOVEMBER 16, 2012 9:30 a.m. – CONCLUSION

1. Call To Order - Establish Quorum - Introduction of Board & Staff Members Present (0:00)

Members Present: Dr. Kristin Spanjian (Acting Presiding Officer), Dr. Dean Center, Ms. Pat Bollinger, Ms. Tanja Brekke, Mr. Charles Farmer, Ms. Carole Erickson, Dr. Mary Anne Guggenheim, Dr. Bruce Hayward, Ms. Eileen Sheehy (by telephone), Mr. Don Sullivan, Dr. Nathan Thomas, Mr. Dwight Thompson (by telephone), and Dr. James Upchurch

Members Absent: Dr. Anna Earl

Staff Present: Mr. Ian Marquand, Ms. L'Joy Griebenow, Anne O'Leary, Esq., Ms. LaVelle Potter, Mr. Jack Kane, Ms. Maggie Connor, Ms. Donna Peterson, Ms. Jeannie Worsech, Dr. Harry Sibold, Mr. Ken Threet, Mr. David White, and Mr. Jerry Morse

Guests Present: Mr. Michael Ramirez, Dr. Paul Cook, Dr. Ronald Black, Dr. Vincent Pons, Mr. Ronald Solbert, Ronald Waterman, Esq., Mr. Bradley Williams, Ms. Margaret Dore, Ms. Emily Bentley, Mr. John Odell Cantrell, Everett Lynn, DDS, Mr. Tim Speyer, Ms. Linda Cantrell, Ms. Rosana Skelton, Ms. Barbara Kirkland, Ms. Maren Keener, Dr. Walter Knight, Ms. Janet Knight, Sen. Jim Shockley, Ms. Amy Hetzler, Dr. Susan Maier, Dr. Joost Gazendam, Ms. Jean Branscum, Dr. Patricia Evans, Ms. Patti Steinmuller, Ms. Kay Brown, and Mr. Matt Gouras

2. Approval and Modification of Agenda Order (3:04)

The Board reviewed the November 16, 2012 Agenda. It was agreed by consensus to move Dr. Joost Gazendam's matter to be considered immediately before consideration of non-routine applications because Dr. Gazendam was calling into the meeting from the Netherlands.

MOTION: Dr. Mary Anne Guggenheim made a motion to approve the November 16, 2012 agenda as amended; Ms. Pat Bollinger seconded the motion. Motion passed unanimously. (3:55)

3. Review and Approve Minutes (4:28)

i. September 21, 2012 Full Board Meeting Minutes

MOTION: Ms. Carole Erickson made a motion to approve the September 21, 2012 meeting minutes as amended; Ms. Pat Bollinger seconded the motion. Motion passed unanimously. (5:06)

ii. September 21, 2012 Executive Session Minutes

MOTION: Dr. James Upchurch made a motion to approve the September 21, 2012 executive session minutes as amended; Ms. Tanja Brekke seconded the motion. Motion passed unanimously. (5:50)

4. Public Opportunity to Comment (6:13)

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

Ms. Jean Branscum (Montana Medical Association) commended 1) Mr. Ian Marquand's recent "extraordinary efforts" to assist a physician and 2) the Board as a whole for its efforts over in the past few months in connection with physician licensing issues. No action was taken by the Board.

5. Board Action

a. Compliance Report — (8:26)

Ms. LaVelle Potter reported on the results from the morning screening panel meeting. The panel reviewed 5 cases of which one case was dismissed with prejudice, two cases were dismissed without prejudice, one case was found reasonable cause and was noticed for disciplinary action, and one case was dismissed without prejudice after the finding of reasonable cause was withdrawn. No action was taken by the Board.

e. Correspondence

i. (9:14) E-mails from Dr. Joost Gazendam (Netherlands) requesting acceptance of European Board Certification as a sufficient credential toward obtaining a Montana Physician License. Ms. Anne O'Leary observed that Dr. Gazendam has not yet taken the statutorily required ECFMG exam. The Board discussed the purview and requirements of specialized licensing. Mr. Marquand offered to collaborate with Ms. O'Leary to prepare a response to Dr. Gazendam's communications. No action was taken by the Board.

b. Non-routine Applications

i. Vincent Pons, M.D. (revisited) (25:23)

Dr. Pons was present in person before the Board. Ms. O'Leary briefly reviewed the Board's involvement to-date in connection with Dr. Pons' application. The Board discussed Dr. Pons' application and submissions with him.

MOTION: Dr. Dean Center made a motion to allow Dr. Pons' application to stay open and extend the time period during which the application can remain open for an additional 3 months [beyond its April 2013 deadline]; Dr. Bruce Hayward seconded the motion. The motion passed unanimously. (55:26)

ii. Paul Cook, M.D. (revisited) (56:14)

Dr. Cook was present in person before the Board. Ms. O'Leary briefly reviewed the Board's involvement to-date in connection with Dr. Cook's application. The Board discussed Dr. Cook's application with him.

MOTION: Dr. Mary Anne Guggenheim made a motion to extend Dr. Cook's application for 6 months [beyond its December 2012 deadline] to enable Dr. Cook to comply with the Board's requirements; Ms. Carole Erickson seconded the motion. The motion passed unanimously. (1:07:37)

iii. **Susan Maier, M.D. (revisited) (1:08:36)**

Dr. Maier was present by telephone before the Board. Mr. Marquand briefly reviewed the Board's involvement to-date in connection with Dr. Maier's application. The Board discussed Dr. Maier's application with her.

MOTION: Dr. Bruce Hayward made a motion to extend Dr. Maier's application for 2 months [beyond its November 2012 deadline] and to allow Board staff to grant a license automatically if the CPEP report does not have any recommendations for remediation or other required action; Dr. James Upchurch seconded the motion. The motion passed unanimously. (1:15:13)

viii. **Ronald Black, D.O. (1:16:50)**

Dr. Black was present in person before the Board. The Board discussed Dr. Black's application with him.

MOTION: Dr. James Upchurch made a motion to grant a full and unrestricted physician license to Dr. Black; Dr. Center seconded the motion. The motion passed unanimously. (1:23:40)

o. **Licensee Administrative Action – Pat Evans, M.D. (1:26:18)**

Dr. Evans was present by telephone before the Board. Ms. O'Leary briefly reviewed the Board's involvement to-date in connection with Dr. Evans. The Board discussed Dr. Evans' activities and active probationary medical license term with her.

MOTION: Dr. Nathan Thomas made a motion to extend Dr. Evans' probationary license for 6 months; Dr. Bruce Hayward seconded the motion. The motion passed unanimously. (1:30:01)

b. **Non-routine Applications (continued)**

iv. **Moriah Johnson, NUTR (1:30:44)**

Ms. Johnson was not present before the Board.

MOTION: Ms. Pat Bollinger made a motion to grant Ms. Moriah Johnson a nutritionist license; Dr. Jim Upchurch seconded the motion. The motion passed unanimously. (1:32:34)

vi. **Walter Kregel, M.D. (1:33:35)**

Dr. Kregel was not present before the Board.

MOTION: Dr. Mary Anne Guggenheim made a motion to grant Dr. Walter Kregel a full and unrestricted physician license and [Board staff] send to him a letter indicating strong admonition to carefully read licensure applications especially when he renews; Ms. Carole Erickson seconded the motion. The motion passed unanimously. (1:36:45)

v. **Ronald Sharp, M.D. (1:37:38)**

Dr. Sharp was present by telephone before the Board. The Board discussed Dr. Sharp's application with him.

MOTION: Dr. James Upchurch made a motion to grant Dr. Sharp a full and unrestricted physician license; Dr. Nathan Thomas seconded the motion. The motion passed unanimously. (1:40:10)

vii. **Jagjit Mangat, M.D. (1:40:54)**

Dr. Mangat was not present before the Board.

MOTION: Ms. Carole Erickson made a motion to request Dr. Mangat to have a consultation with MPAP followed by face-to-face interview with the Board of Medical Examiners at the January [2013] meeting; Dr. Mary Anne Guggenheim seconded the motion. The motion passed unanimously. (1:50:30)

ix. **Jeremy Springer, EMTB (1:51:12)**

Mr. Springer was not present before the Board. Mr. Mike Ramirez (MPAP) summarized his interaction with Mr. Springer.

MOTION: Dr. James Upchurch made a motion to grant Mr. Springer a full and unrestricted EMT license; Dr. Dean Center seconded the motion. The motion passed unanimously. (1:57:41)

x. **Montie Page, EMTB (1:58:18)**

Mr. Page was not present before the Board.

MOTION: Dr. James Upchurch made a motion to refer Mr. Page to MPAP for an evaluation assessment prior to the Board acting on his application and prior to seeing Mr. Page at the next [January 2013] meeting; Dr. Nathan Thomas seconded the motion. The motion passed unanimously. (2:00:00)

xi. **Stephen Bernard, M.D. (2:00:50)**

Dr. Bernard was not present before the Board.

MOTION: Dr. Dean Center made a motion to refer Dr. Bernard to MPAP for quarterly reporting and low intensity monitoring by MPAP. There was no second to this motion; motion died. (2:01:58)

MOTION: Ms. Carole Erickson made a motion to refer Dr. Bernard to MPAP for an evaluation assessment and prior to seeing Dr. Bernard in person before the Board; Dr. Mary Anne Guggenheim seconded the motion. The motion passed unanimously. (2:04:34)

xii. **Thomas White, M.D. (2:06:18)**

Dr. White was not present before the Board.

MOTION: Dr. Dean Center made a motion to grant Dr. White a full and unrestricted physician license; Dr. Bruce Hayward seconded the motion. The motion passed unanimously. (2:11:20)

Dr. Kris Spanjian transitions the Board meeting into executive session. **(2:15:57)**

Dr. Kris Spanjian returned the meeting back to open session. **(2:17:21)** Roll call was taken and a quorum was present.

Members Present: Dr. Kristin Spanjian (Acting Presiding Officer), Dr. Dean Center, Ms. Pat Bollinger, Ms. Tanja Brekke, Mr. Charles Farmer, Ms. Carole Erickson, Dr. Mary Anne Guggenheim, Dr. Bruce Hayward, Ms. Eileen Sheehy (by telephone), Mr. Don Sullivan, Dr. Nathan Thomas, Mr. Dwight Thompson (by telephone), and Dr. James Upchurch

Members Absent: Dr. Anna Earl

Report from the Executive Session: The Board heard the report from the Montana Professional Assistance Program; no motions were made and no actions taken. **(2:18:35)**

c. Petition for Revision to State Approved Protocols/Educational Curriculum for EMTs—
James Upchurch, M.D. **(2:18:52)**

Matter was informational only. No action taken by Board.

d. Petition from Montanans Against Assisted Suicide requesting vacating of Position Paper #20 (2:23:25)

(2:24:33) Mike L. Fanning, Esq., an attorney with Montana Department of Labor, Business Standards Division, began to explain the petition from Montanans Against Assisted Suicide.

(2:24:58) Mr. Brad Williams stated that he represents Montanans Against Assisted Suicide.

(2:28:20) Mr. Brad Williams explained his role in the Montanans Against Assisted Suicide organization. He said that the organization is now incorporated and that he is the president. He said that he received notice and that he informed his counsel [Cory Swanson, Esq.] about the meeting.

(2:29:02) Mr. Fanning continued with the explanation of the petition, and possible options for the Board to pursue in response,

MOTION: Ms. Pat Bollinger made a motion to deny the petition, based on the petition and the remarks presented today by Mr. Fanning, because the petitioning party is not entitled to declaratory action or to have Position Paper 20 repealed; Dr. Bruce Hayward seconded the motion. (2:50:02)

(2:52:52) Motion summarized for benefit of telephonic audience that the Board does not want to repeal nor declare Position Paper 20 to be invalid or entitled to be repealed

because the petitioner is not entitled to relief under their Petition. Further remarks ensued.

(2:54:40) Motion called. Motion passed unanimously.

MOTION: Dr. Mary Anne Guggenheim made a motion to accept the Order as presented to the Board by Mr. Fanning; Dr. James Upchurch seconded the motion. Motion passed unanimously. (2:56:15)

MOTION: Ms. Carole Erickson made a motion to bring position papers before the Outreach Committee to be reviewed and provide recommendations to the Board at a future meeting; Ms. Pat Bollinger seconded the motion. Motion passed unanimously. (3:02:36)

e. Correspondence

- ii. Communication from FSMB re: State Participation in USMLE Step 3 **(3:05:06)**

MOTION: Dr. James Upchurch made a motion to direct Mr. Marquand to respond to FSMB that Montana Board of Medical Examiners does not wish to change its current practice regarding sponsorship of USMLE Step 3; Dr. Bruce Hayward seconded the motion. Motion passed unanimously. (3:10:12)

- iii. Communication from FSMB re: Offer to Send Representative to Montana **(3:10:36)**

MOTION: Dr. Bruce Hayward made a motion to direct Mr. Marquand to respond to FSMB that Montana Board of Medical Examiners is interested in having FSMB visit and make a presentation to the Board; Dr. James Upchurch seconded the motion. Motion passed unanimously. (3:13:55)

- iv. Letter from Matt Kuntz re: NAMI Request for Rule Change on Professional Assistance **(3:14:53)**

MOTION: Dr. Mary Anne Guggenheim made a motion to direct the Laws and Rules Committee consider the request for rule change re: professional assistance and provide a recommendation to the Board at its next meeting; Dr. Dean Center seconded the motion. (3:17:50) Discussion ensued.

Motion was called. **Motion passed unanimously. (3:19:06)**

- v. Two communications from L. Terry Pynes, MD re: Treating MT patients from out-of-state with a Physician License **(3:19:17)**

Staff was directed to reply to Dr. Pynes. No action taken by Board.

- vi. Communication from Craig Eddy MD re: whether a physician on voluntary medical leave may supervise a PA **(3:23:05)**

The Board noted that if a physician assistant is not receiving adequate backup for whatever reason, including impairment of physician, that licensee can bring a complaint to the Board's screening panel. **(3:35:00)**

MOTION: Dr. James Upchurch made a motion to direct staff to respond to Dr. Craig Eddy reminding him of the statutory and rule obligations to report if a physician is impaired and unable to perform supervisory duties; Dr. Bruce Hayward seconded the motion. (3:35:23) Further remarks ensued.

Motion passed unanimously. (3:37:05)

- vii. Letter from Board of Alternative Health Care re: use of initials N.M.D. **(3:37:16)**

MOTION: Dr. Mary Anne Guggenheim made a motion to direct staff to reply to the Board of Alternative Health Care, thanking that Board for their communication and expressing the Board of Medical Examiners' understanding that the N.M.D. abbreviation should accurately reflect the degree conferred; Ms. Pat Bollinger seconded the motion. Motion passed unanimously. (3:40:54)

Dr. Kris Spanjian recessed the Board. **(3:41:34)**

Dr. Kris Spanjian reconvened the Board **(3:41:49)**

g. Legislation (3:42:01)

The Board requested staff to alert the Board as to bills that may be of relevant interest to its licensees. **(3:46:57)**

(3:48:20) Mr. Jack Kane explained the legislative process with respect to the Board's involvement with legislation in general and the current Department's bill specifically.

6. Committee and Special Project Reports

e. Board Liaison for Physician Licensing (3:52:19)

Informational report provided by Ms. Carole Erickson. No Board action taken.

f. Physician Workforce Data Collection Subcommittee (3:55:11)

Informational report provided by Ms. Carole Erickson, with additional comments provided by Mr. Jack Kane. No Board action taken.

5. Board Action (continued)

m. Presentations to the Board

iii. Licensing Bureau Update (4:07:51)

Ms. Jeannie Worsech updated the Board regarding numerous efforts being made to streamline the physician licensing process. For information purposes only; no action taken by the Board.

i. Montana Prescription Drug Registry (5:04:00)

Ms. Donna Peterson advised the Board that the Registry is up and running. The Board discussed the Registry with her. For information purposes only; no action taken by the Board.

h. Rulemaking

i. MAR 24-156-76 (Physician Reactivation)—Update on Publication of Rules (5:10:25)

Mr. Marquand reported concerning MAR 24-156-76. For information purposes only; no action taken by the Board.

ii. MAR 24-156-77 (EMT Rules)—Report on Hearing & Public Comment; Board Action (5:13:08)

Mr. Marquand reported concerning MAR 24-156-77.

MOTION: Dr. James Upchurch made a motion to table consideration of comments to the MAR 24-156-77 rules until a special telephone conference of the Board to be called; Ms. Tanja Brekke seconded the motion. Motion passed unanimously. (5:15:21)

i. Scheduling of Next Meeting - January 25, 2013 (5:16:04)

For information purposes only; no action taken by the Board.

j. Election of Officers (5:18:20)

i. President

MOTION: Ms. Pat Bollinger nominated Dr. Kris Spanjian for the office of President; Dr. Mary Anne Guggenheim seconded the nomination. The vote was unanimous in favor. (5:20:44)

ii. Vice-President

MOTION: Ms. Carole Erickson nominated Dr. Dean Center for the office of Vice-President; Dr. James Upchurch seconded the nomination. The vote was unanimous in favor. (5:21:35)

iii. Secretary

MOTION: Ms. Tanja Brekke nominated Dr. Mary Anne Guggenheim for the office of Secretary; Dr. Nathan Thomas seconded the nomination. The vote was unanimous in favor. (5:22:34)

MOTION: Dr. James Upchurch made a motion that the term of office for the slate of officers would commence January 1; Dr. Dean Center seconded the motion. Motion passed unanimously. (5:23:45)

k. Committee and Panel Appointments (5:24:33)

The Board discussed how the new slate of officers might affect panel compositions. For informational purposes only; no Board action taken.

l. Approval of Board/Staff Travel (if any) (5:26:18)

No specific travel currently proposed. For informational purposes only; no Board action taken.

k. Committee and Panel Appointments (revisited) (5:29:32)

The Board discussed further how the new slate of officers might affect panel compositions. For informational purposes only; no Board action taken.

m. Presentations to the Board (continued)

ii. Update from POLST Coalition – Kathryn Borgenicht, M.D. (5:35:38)

This presentation was tabled by consensus as Dr. Borgenicht was not available and this matter is for information only.

n. Reporting Unlicensed Practice Case and Desist Letters (5:35:55)

MOTION: Ms. Tanja Brekke made a motion to table this agenda item and asking Ms. O’Leary to place this item on the agenda for Legal consideration; Dr. Nathan Thomas seconded the motion. Motion passed unanimously. (5:36:41)

6. Committee and Special Project Reports (continued)

a. Physician-Hospital Committee (5:37:50)

No report.

b. Medical Direction Committee (5:38:00)

No report.

c. Laws and Rules Committee (5:38:24)

Dr. Mary Anne Guggenheim reported that because of the changes to the internal licensing process, further work on rules for expedited licensing is, by consensus, on hold. No further report.

d. Acupuncture Continuing Education Subcommittee (5:38:47)

Ms. Tanja Brekke reported that members have been selected for the Subcommittee. No further report.

e. Outreach Committee / Board Liaison for Physician Licensing (5:39:22)

No further report.

f. Physician Workforce Data Collection Subcommittee (5:39:33)

No further report.

g. Physician Re-entry Project (5:39:48)

Dr. Mary Anne Guggenheim provided an update. Discussion ensued.

MOTION: Dr. Bruce Hayward made a motion to table the physician re-entry project until after the [April] FSMB meeting and query the FSMB representatives that meet with the Board of Medical Examiners as to how to proceed; Ms. Tanja Brekke seconded the motion. Motion passed unanimously. (6:07:10)

h. Hyperbaric Oxygen & Podiatry Project (6:08:10)

No report.

i. Concussion Project (Jointly with Board of Athletic Trainers) (6:09:11)

Dr. Harry Sibold reported about a recent conference call of the Board of Athletic Trainers deciding to have an in-depth discussion at its next Board meeting.

7. EMT & Medical Director Reports (6:10:23)

MOTION: Dr. James Upchurch made a motion to accept Dr. Harry Sibold's report; Dr. Bruce Hayward seconded the motion. Motion passed unanimously. (6:11:46)

MOTION: Dr. James Upchurch made a motion to accept Mr. Ken Threet's report; Ms. Tanja Brekke seconded the motion. Motion passed unanimously. (6:15:53)

8. Executive Officer Report (6:16:14)

- a.** Budget Report
- b.** Application Report
- c.** Renewal Report
- d.** Executive Officer Activity Report, August-September 2012

MOTION: Ms. Tanja Brekke made a motion to accept Mr. Ian Marquand's report; Dr. James Upchurch seconded the motion. Motion passed unanimously. (6:30:01)

9. Legal Report –Anne O'Leary, Esq. (6:30:20)

- a.** *Golobek v. Board of Medical Examiners*

10. Adjourn (6:32:50)

MOTION: Ms. Pat Bollinger made a motion to adjourn; Ms. Tanja Brekke seconded the motion. Motion passed unanimously. (6:31:59)

Meeting adjourned (6:32:24)