

**BOARD OF MEDICAL EXAMINERS  
FULL BOARD MEETING  
301 SOUTH PARK AVENUE, Helena, MT 59601  
DATE: SEPTEMBER 21, 2012  
TIME 9:30 AM to CONCLUSION  
MINUTES**

**AMERICANS WITH DISABILITIES ACT:**

The Department of Labor and Industry is committed to providing meeting access through reasonable accommodation under the Americans with Disabilities Act. Please contact the Board office prior to the proposed meeting date for further information.

**ITEM # 1: Call to Order and Introductions**

Dr. Anna Earl called the meeting to order at 10:45 a.m. Roll call was taken and a quorum was present.

**Members Present:** Dr. Anna Earl (Chair), Dr. Dean Center, Dr. Kristin Spanjian, Dr. Bruce Hayward, Dr. Nathan Thomas, Ms. Pat Bollinger, Mr. Ryan Burke, Ms. Eileen Sheehy, Dr. Mary Anne Guggenheim, Ms. Tanja Brekke, Ms. Carole Erickson, Mr. Don Sullivan, Dr. James Upchurch and Mr. Dwight Thompson

**Members Absent:** None

**Staff present:** Mr. Ian Marquand, Ms. L'Joy Griebenow, Anne O'Leary, Esq., Dr. Harry Sibold, Mr. Ken Threet, Mr. Jack Kane, Ms. Rebecca Zaharko

**Guests Present:**

**ITEM # 2: Approval of Agenda**

The Board reviewed the September 21, 2012 agenda. Ms. Tanja Brekke requested to move item 19f to after item 7 on the agenda. Ms. Anne O'Leary, Esq., requested Timothy Coe to be placed in executive session.

**MOTION: Ms. Tanja Brekke made a motion to approve the September 20, 2012 agenda as amended; Ms. Carole Erickson seconded the motion. Motion passed unanimously.**

**ITEM # 3: Approval of Minutes**

The Board reviewed the September 6, 2012 meeting minutes.

**MOTION: Dr. Nathan Thomas made a motion to approve the September 6, 2012 meeting minutes as presented; Dr. Kristin Spanjian seconded the motion. Motion passed unanimously.**

#### **ITEM # 4: Open Forum for Public Comments**

Dr. Anna Earl read the Public Comment Statement into the record.

#### **PUBLIC COMMENT STATEMENT:**

In accordance with 2-3-103(1), MCA, the Board will hold a public comment period. Please note that Open Forum is the public's opportunity to address the Board on any topic that is not on the agenda for this meeting. While the board cannot take action on the issues presented, the Board will listen to comments and may ask the issue be placed on a subsequent agenda for possible action by the Board. The Chairperson of the board will determine the amount of time allotted for public comment.

Dr. Anna Earl opened the meeting for public comment.

Mr. Jason Steffins, Executive Office of the Massage Therapy Board, addressed the Board about internal cavity therapy that will be discussed in the September 24, 2012 Massage Therapy board meeting. He just wanted the Medical Board to be aware that this issue may be bounced around between the boards.

#### **ITEM # 5: Compliance Report**

Ms. LaVelle Potter reported on the results from the morning screening panel meeting. She stated that the panel reviewed 5 cases, with the following dispositions:

1. Tabled
2. Tabled to be referred to MPAP for impairment evaluation/treatment
3. Tabled
4. Tabled
5. Dismissed without prejudice with a letter of instruction.

#### **ITEM # 6: Department Update**

Mr. Jack Kane addressed the board regarding the Department's reorganization. He also updated the Board on the Economic Affairs Interim Committee that did a follow up review on the Board of Medical Examiners on September 11, 2012. They were impressed with the changes that the Board has made regarding application processing.

The Board also discussed creating a subcommittee for workforce data collection. There is a state wide workforce investments board collecting data on numerous things like different of positions throughout the state. There are also grants available based on the data collected.

**MOTION: Ms. Tanja Brekke moved to create a subcommittee for workforce data collection chaired by Ms. Carole Erickson; Ms. Pat Bollinger seconded the motion. The motion carried.**

Dr. Mary Anne Guggenheim addressed Mr. Kane about the board book that was presented to the board for this board meeting. She stated that what is standard for other boards might not be standard for this board. Dr. Anna Earl questioned why the board would not receive a summary on applications going to the board. Mr. Ian Marquand informed the board that the decision was made by legal that application specialists would no longer write summaries for applications.

**ITEM #7: Presentation from Board of Respiratory Care Practitioners**

Mr. Leonard Bates, RCP Board Member, appeared before the Board. He brought the concern of EMS personnel not being properly qualified to transport patients on ventilators.

**MOTION: Dr. Kristin Spanjian moved to send the issue of EMS personnel transporting patients on ventilators to the Medical Direction Committee; Ms. Pat Bollinger seconded the motion. The motion carried.**

**ITEM #19f: Acupuncture Continuing Education Requirements:**

The board approved a rules package in November that included a new rule for continuing education for acupuncturist licensees. In rule 1409 the board shall appoint an education review committee to set standards and policies for audits and approval of continuing education.

**MOTION: Ms. Carole Erickson moved to form a Continuing Education Review Committee; Ms. Pat Bollinger seconded the motion and asked that the motion be amended to include the Chair of the committee be the Acupuncturist that currently serves on the full Board and the Chair of the Committee will appoint Committee members. The motion carried.**

**ITEM # 8: Non-Routine Applications**

**A. Alan Thorne, DO**

Dr. Thorne appeared before the Board via telephone. Dr. Thorne waived his right to privacy. The Board reviewed and discussed Dr. Thorne's application.

**MOTION: Dr. Kristin Spanjian made a motion to grant Dr. Thorne a full and unrestricted license to practice in Montana; Dr. James Upchurch seconded the motion and encouraged Dr. Thorne to follow the AOA guidelines in regards to CME. The motion carried.**

**B. Timothy Coe, EMT-B**

Mr. Coe appeared before the Board in person. The Board reviewed and discussed Mr. Coe's application.

**MOTION: Dr. James Upchurch made a motion to grant Mr. Coe a one year probationary license incumbent upon a successful agreement with MPAP; Dr. Anna Earl seconded the motion. Motion passed unanimously.**

#### **C. James Taylor, MD**

Dr. Taylor appeared before the Board in person. He waived his right to privacy. Dr. Taylor stated he would like to go back east and work with and do research in HIV. The Board explained to Dr. Taylor that there are many things he can do as a medical assistant he just has to find a licensed doctor to work under.

Dr. Taylor stated he would like to withdraw his application.

#### **D. Vincent Pons, MD**

Dr. Pons appeared before the Board in person. The Board reviewed and discussed Dr. Pons application. Dr. Pons stated to the Board that he does give his elderly neighbor prescription refills for high blood pressure. The board informed Dr. Pons that he must cease doing this since it is practicing medicine in Montana without a license.

**MOTION: Ms. Eileen Sheehy made a motion to have Dr. Pons submit information from California and to table Dr. Pons application review until November when the board can review the information from CA; Dr. James Upchurch seconded the motion. The motion carried.**

#### **E. Paul Cook, MD (status report)**

Dr. Cook was not present before the Board. Mr. Ian Marquand reported to the Board that Dr. Cook has passed his SPEX exam. The Board would like Mr. Ian Marquand to contact Dr. Cook and make sure he is looking at the physician reentry program. No board action required.

#### **F. Susan Maier, MD (status report)**

Dr. Maier was not present before the Board. Mr. Ian Marquand reported to the Board that Dr. Maier has passed the SPECS and her evaluation at CPAP is September 27 & 29, 2012. No board action required.

#### **G. Jonathan McNeely, MD**

Dr. McNeely was not present before the Board. The Board reviewed and discussed Dr. McNeely's application.

**MOTION: Dr. James Upchurch made a motion to grant Dr. McNeely a full and unrestricted license to practice in Montana; Dr. Bruce Hayward seconded the motion. The motion carried.**

**H. Jeffrey DeMare, MD**

Dr. DeMare was not present before the Board. The Board reviewed and discussed Dr. DeMare's application.

**MOTION: Dr. Mary Anne Guggenheim made a motion to grant Dr. McNeely a full and unrestricted license to practice in Montana; Ms. Pat Bollinger seconded the motion. The motion carried.**

**MOTION: Dr. Kristin Spanjin made a motion to send the 7 year rule to the Laws and Rules Committee for review to see if it is still acceptable to the Board; Dr. Nathan Thomas seconded the motion. The motion carried.**

At this time, Dr. Anna Earl transitioned the Board meeting into executive session by stating:

"IT IS MY DETERMINATION THAT THE FOLLOWING MATTERS RELATE TO A MATTER OF INDIVIDUAL PRIVACY AND THAT THE DEMANDS OF PRIVACY CLEARLY EXCEED THE MERITS OF PUBLIC DISCLOSURE. FOR THIS REASON THE BOARD WILL NOW BE CLOSED FOR EXECUTIVE SESSION TO CONSIDER THESE MATTERS."

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Dr. Earl returned to regular session at 1:39 p.m. Roll call was taken and a quorum was present.

**Members Present:** Dr. Anna Earl (Chair), Dr. Dean Center, Dr. Kristin Spanjian, Dr. Bruce Hayward, Dr. Nathan Thomas, Ms. Pat Bollinger, Ms. Eileen Sheehy, Dr. Mary Anne Guggenheim, Ms. Carole Erickson, Mr. Don Sullivan, Dr. James Upchurch

**Members Absent:** Mr. Ryan Burke, Mr. Dwight Thompson, Ms. Tanja Brekke

**ITEM #10: Report from Executive Session**

Ms. Anne O'Leary, Esq. reported two matters were heard during executive session.

- (1) Dismissed without prejudice
- (2) Cease and desist issued.

**ITEM #11: Update on MT Prescription Drug Registry**

Ms. Donna Peterson addressed the Board regarding the Montana Prescription Drug Registry. There are currently over one million prescriptions

entered. The Board members expressed interest in being able to test this registry during the "soft" launch before it goes public.

#### **ITEM #12: Presentation from POLST Coalition**

Dr. Sibold was present at the recent POLST meeting for strategic planning to gather information and to decide how this coalition wanted to structure it and what goals they would like to pursue. Table this topic until November so a POLST Coalition representative can present to the Board.

#### **ITEM #13: Administrative Rules**

- A. MAR 24-156-76 Public Hearing Report - The Board reviewed and discussed the public hearing report on MAR 24-156-76 Physician License Reactivation.

**MOTION: Dr. Kristin Spanjian moved to adopt MAR 24-156-76 as published; Ms. Eileen Sheehy seconded the motion. The motion carried.**

- B. MAR 24-156-77 Update – Mr. Ian Marquand updated the Board that the EMT rules have been sent to the Secretary of State. They were published on September 20, 2012 and notices have been sent out for the public hearing being conducted on October 19, 2012. No Board action required.

#### **ITEM # 14: Committee & Special Project Reports**

- A. Physician / Hospital Committee

Dr. Kristin Spanjian reported the SFMY has stated maintenance of the license pilot study is currently underway. The Physician/ Hospital Committee has not met.

- B. Medical Direction Committee

Dr. James Upchurch had no new information to report. The committee has not met.

- C. Outreach Committee / Board Liaison for Licensing

Ms. Carole Erickson reported that she has reviewed internal processes with the Department. She reported there were areas found that needed to be improved upon and that when new processes are implemented the Board and Department need to adequately train staff.

Dr. Anna Earl

- i. Report from EAIC Meeting
  - a. Physician Licensing – Discussion under Item #6.
  - b. Workforce Data Collection – Motion under Item #6.

D. Laws & Rules Committee

Dr. Mary Anne Guggenheim reported to the board the Laws and Rules Committee met on September 20, 2012 to review draft rules. Ms. Anne O'Leary Esq. will be revising the draft and the committee will meet again on September 27, 2012.

E. Chelation Position Paper Project (Position Paper #4)

Dr. Mary Anne Guggenheim stated that after her review and research she believes the position paper needs to be more in-depth or needs to be removed.

**MOTION: Ms. Pat Bollinger moved to withdraw the current chelation position paper number 4 and have issues addressed when and if a complaint is filed; Dr. Kristin Spanjian seconded the motion. The motion carried.**

**ITEM # 15: New Business: Physician Re-Entry to Practice**

Dr. Mary Anne Guggenheim presented to the board information she has collected and researched regarding physician re-entry.

**MOTION: Dr. James Upchurch moved to create a committee for physician re-entry chaired by Dr. Mary Anne Guggenheim; Dr. Kristin Spanjian seconded the motion. The motion carried**

**ITEM #16: Community Paramedicine**

Dr. James Upchurch presented to the board information regarding a community paramedicine course. He would like the Board to create a pilot program. Dr. Anna Earl would like Dr. James Upchurch and Ms. Anne O'Leary Esq. and DPHHS to discuss this further and bring it to the next board meeting.

**ITEM # 17: Medical Director/EMT Report**

Dr. Harry Sibold presented his Medical Director report to the board, he also requested approval from the board to travel to NAEMSP in January.

**MOTION: Ms. Carole Erickson moved to send Dr. Harry Sibold to the National Association of EMS Positions in Bonita Springs,**

**Florida, January 10-12, 2013; Ms. Eileen Sheehy seconded the motion. The motion carried.**

Mr. Ken Threet presented his EMT report to the board. He also informed the board that he currently has an ethics complaint that will be going to hearing. No board action required.

#### **ITEM # 18: Legal Report**

Anne O'Leary, Esq.

- A. Attorney General Response to Opinion Request – Ms. Anne O'Leary Esq. stated that the Board of Medical Examiners requested an opinion from the Attorney General on whether naturopaths can use the initials NMD when in Montana. The use of MD is restricted to medical doctors. The Attorney General's office declines to offer an opinion and asked that BOME bring the issue to the Alternative Health Care Board for discussion and possible resolution.

**MOTION: Dr. James Upchurch moved to send Mr. Ian Marquand to the Alternative Health Care board meeting on Friday, September 28, 2012; Ms. Pat Bollinger seconded the motion. The motion carried.**

- B. Golobek v. State of Montana – Ms. Anne O'Leary Esq. updated the Board that Dr. Golobek refused to give the Board his social security number. Social security numbers are required by the Department by law. Ms. Anne O'Leary Esq. says she believes this issue has gone up to the Department's legal counsel.

#### **ITEM # 19: Executive Director Report**

- A. Executive Director Activity Report – Mr. Ian Marquand informed the board the brochures and display materials have been received and used recently in Bozeman with positive feedback.

**MOTION: Dr. Kristin Spanjian moved to send Dr. Mary Anne Guggenheim and Mr. Ian Marquand to the CPAP Learning Summit in Denver Colorado October 29-30, 2012; Dr. James Upchurch seconded the motion. The motion carried.**

- B. Budget Report – Mr. Ian Marquand stated that there are no issues with the budget, more money was spent this year than last year.
- C. Application Processing Update - Mr. Ian Marquand informed the Board that Ms. Jeannie Worsech, Licensing Bureau Chief, has determined it is inappropriate for one board member to make a

decision on a non-routine application. Once it is determined to be a non-routine application a quorum of the Board will need to make the decision of licensure.

- D. Application Report – Mr. Ian Marquand informed the Board the application summary sheets will not be prepared by application specialists but he will endeavor to find a way to get these into the board books.
- E. Renewals for ACU, NUTR, PAC, POD Licensees – Mr. Ian Marquand reported to the board that about 1/3 of the licensees have completed the renewal process.
- F. Acupuncture Continuing Education Requirements – Previously discussed.
- G. FCVS Fees Update – Mr. Ian Marquand informed the Board the Federation of State Medical Boards is raising the cost of FCVS profile and that physicians who choose to use this will be affected.

#### **ITEM # 20: Board Communications**

Mr. Ian Marquand

- A. Kirk Stoner Letter re: Critical Access Hospitals
- B. Missoula EMD Letter – The Board discussed the use of Emergency Medical Dispatch in Missoula County. Dr. Kristin Spanjian suggested sending these questions to the Medical Directors Committee for further research.

**MOTION: Dr. Kristin Spanjian moved to send the use of Emergency Medical Dispatch to the Medical Directors Committee; Dr. Nathan Thomas seconded the motion. The motion carried.**

- C. Letter from DPHHS re: EMS Reciprocity – The Board discussed allowing licensed ambulance services in Idaho, Wyoming and North Dakota the ability to respond into Montana and provide medical transportation without regard to the state border.

**MOTION: Dr. Kristen Spanjian moved that EMS in a 911 situation on a state bordering Montana does not need a license in Montana but would need to be licensed in their domicile state, excluding Canada; Dr. James Upchurch seconded the motion. The motion carried.**

**ITEM # 21: Meeting Planning**

- A. Meeting Calendar - Mr. Ian Marquand brought to the Board's attention that officers will be elected at the November meeting. The board meeting in January has been changed to Friday the 25<sup>th</sup>.

**ITEM # 22: Other Business**

**Adjournment**

**MOTION: Ms. Carole Erickson moved to adjourn the meeting at 5:36 p.m. on September 21, 2012; Ms. Eileen Sheehy seconded the motion. The motion carried**

**Next meeting: Friday, November 16, 2012**