

**BOARD OF MEDICAL EXAMINERS  
FULL BOARD MEETING  
301 South Park Ave  
Helena, MT  
DATE: July 15, 2011**

**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**

Dr. Anna Earl called the meeting to order at 9:36 AM. Roll call was taken and a quorum was present.

**Members Present:** Dr. Dean Center, Dr. Mary Anne Guggenheim, Ms. Pat Bollinger, Dr. James Upchurch, Dr. Nathan Thomas, Dr. Bruce Hayward, Mr. Ryan Burke, Dr. Kristin Spanjian, Dr. Anna Earl, Ms. Carole Erickson, Ms. Eileen Sheehy, Mr. Dwight Thompson and Ms. Kay Bills-Kazimi, PA liason.

**Members Absent:** None

**Staff Present:** Ms. Maggie Connor, Ms. Anne O'Leary, Ms. Lavelle Potter, Mr. Ken Threet, Mr. Jerry Morse

**Guests Present:** Ms. Pat Murdo, Ms. Erika Grinde, Ms. Hollie Greenwood, Ms. Linda Greenwood, Mr. Tom Greenwood, Ms. Jean Branscum with the Montana Medical Association, Mr. Paul Robbins and Ms. Kristy Robbins, Dr. Kenneth Crawford, Dr. Jonathan Griffin, Ms. Jewels Kalkan, Mr. Merik Morgan, Ms. Esther Barnes, Ms. Pat Wilson

**ITEM #2: Approval of Agenda:**

The July 15, 2011 agenda was submitted for approval.

**MOTION: Ms. Pat Bollinger made a motion to approve the July 15, 2011 agenda. Dr. James Upchurch seconded the motion. The motion passed unanimously.**

**ITEM #3: Approval of Minutes**

The Board reviewed the May 19-20, 2011 minutes.

**MOTION: Dr. Bruce Hayward made a motion to approve the May 19-20, 2011 minutes. Dr. Nathan Thomas seconded the motion. The motion passed unanimously.**

The Board reviewed the May 20, 2011 Executive Session minutes.

**MOTION: Dr. Nathan Thomas made a motion to approve the May 20, 2011 Executive Session minutes. Dr. Mary Anne Guggenheim seconded the motion. The motion passed unanimously.**

**ITEM #4: Message from Chairperson**

Dr. Anna Earl and the members of the Board presented an appreciation plaque to Ms. Jean Branscum for her service as Executive Director.

**ITEM #5: Open Forum for Public Comments**

**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. Ms. Pat Murdo with the Economic Affairs Committee at Legislative Services was present and stated the committee is conducting a HB525 review of licensing boards and the department has agreed to put a survey on the board web site requesting comments from licensees and non-licensed individuals regarding licensing boards. The Board of Medical Examiners is scheduled for review on October 6<sup>th</sup>, 2011 and invited members of the board to attend for representation. Comments from the survey and board members will be reviewed and discussed at the meeting. The intent of the review is to determine the need for licensing boards in regards to public health safety welfare issues. The committee is also looking at complaints and unlicensed practice issues. Dr. Anna Earl stated this review is not on the agenda and will occur before the next scheduled board meeting. The Board agreed they would schedule a phone conference meeting sometime in late August to discuss their comments replies to questions from the committee. A report from the review meeting will be an agenda item on the October 7, 2011 board meeting.

**ITEM #6: Compliance Report**

Ms. LaVelle Potter presented the compliance report and stated the morning screening panel reviewed eight cases: three cases were dismissed with prejudice, three cases were dismissed without prejudice and two cases were noticed. The board had no further questions for Ms. Potter.

## **ITEM # 7: Licensee Administrative Action**

### A. Dr. Kenneth Crawford

Dr. Crawford was present in person for the meeting. Ms. Anne O'Leary stated Dr. Crawford was before the board at the March, 2011 meeting where it was motioned to allow Dr. Crawford to sit for the Special Purpose Exam and enroll in a Center for Personalized Education for Physicians educational plan. Dr. Crawford's educational plan is now in place and he has taken the Special Purpose Exam on July 5, 2011; however the results of that exam are not yet available. Dr. Crawford stated the results should be available in the next week or two. The Board reviewed and discussed the Center for Personalized Education for Physicians educational plan with Dr. Crawford who stated he plans on completing the plan in a year. Mr. Mike Ramirez with the Montana Professional Assistance Program stated it is important that Dr. Crawford has an agreement in place with the program while completing the program. Dr. Crawford will appear before the Board in one year for review of his progress in the proposed plan.

**MOTION: Dr. Kristin Spanjian made a motion to grant Dr. Crawford a one year probationary license to continue his educational plan. The license is conditional on the passing of the Special Purpose Exam and entering into an agreement with the Montana Professional Assistance Program. If Dr. Crawford needs to retake the exam, the Board will allow him to sit for the exam. Dr. Bruce Hayward seconded the motion. The motion passed unanimously.**

## **ITEM # 8: Unlicensed Practice**

Ms. Anne O'Leary referenced a memo from the Legal Unit that stated that any complaint against an unlicensed person should be held in executive session until such time, if any, that the complaint is corroborated via finding of reasonable cause. This item was held in executive session.

A. Complaint No. 2011-161-MED

B. Complaint No. 2011-171-MED

C. Complaint No. 2011-111-MED

## **ITEM # 9: Non-Routine Applications**

A. Dr. Jonathan Griffin

Dr. Griffin was present in person for the meeting. He was before the Board as a result of his enrollment and completion of the Washington Physicians Health Program. He is currently enrolled in the Idaho Physicians Recovery Network. The Idaho Board of Medicine placed a stipulation on his license in conjunction with the Network contract. He has met with Mr. Mike Ramirez with the Montana Professional Assistance Program who stated he had no concerns with Dr. Griffin and that he has agreed to be monitored for a year with a signed contract. The physician group he will be joining is aware of his situation and support his working with them.

**MOTION: Dr. James Upchurch made the motion to grant Dr. Griffin an active physician license. Dr. Dean Center seconded. The motion passed unanimously.**

B. Jewels Kalkan, Acupuncturist

Ms. Kalkan was present for the meeting by phone. She was licensed in Montana in 2001 and subsequently let her license terminate as she moved away to start a family and return to school. She is now applying for licensure again; however the Acupuncture school she attended is not accredited by the Accreditation Commission for Acupuncture and Oriental Medicine as required by statute as it is in British Columbia ,Canada. She is requesting that the Board approve the school for licensure.

**MOTION: Ms. Carole Erickson made the motion to grant Ms. Kalkan an active Acupuncturist license. Dr. Kristin Spanjian seconded. The motion passed unanimously**

C. Merik Morgan EMT-Basic

Mr. Morgan was present in person for the meeting. He was before the Board as a result of four driving under the influence (DUI) charges with the last charge being reduced to negligent endangerment. He has attended drug and alcohol classes and has been evaluated by a licensed addiction counselor who recommended outpatient treatment. He has met with Mr. Mike Ramirez with the Montana Professional Assistance Program who recommends Mr. Morgan return for a second evaluation, complete any treatments recommended and be monitored during treatment. Mr. Morgan agrees to Mr. Ramirez's terms. Mr. Morgan's employer has written a letter of support and they are aware of his situation.

**MOTION: Dr. Mary Anne Guggenheim made the motion to grant Mr. Morgan a one-year probationary license pending verification of a signed contract with the Montana Professional Assistance Program, entrance into a treatment program as recommended by the Licensed Addiction Counselor and the understanding that Mr. Morgan will not actively work on the mountain in the ski season prior to the Board hearing from Mr. Ramirez at the November meeting of his progress. If the report from**

**Mr. Ramirez is unsatisfactory, the Board will revoke the probationary license. Ms. Pat Bollinger seconded. The motion passed unanimously.**

**ITEM # 10: Administrative Rules**

A. HBO Rules

Ms. Anne O'Leary stated she has been working on these rules with Ms. Esther Barnes and Ms. Pat Wilson with Kalispell Regional Medical Center. Ms. O'Leary provided the Board with draft rules regarding Hyperbaric Oxygen Therapy to treat ailments of the human functional foot and ankle by Podiatrists. She stated this could be a simple rule to implement and that the portion of the rule that reads "as determined by the board" could be done with a position paper. Dr. Nathan Thomas agrees with the way the draft rules are written. Ms. O'Leary stated the position paper may be ready for the Board to review at the November meeting.

**MOTION: Dr. Dean Center made the motion to approve the draft rules as written and add to the current Podiatry rules. Dr. Mary Anne Guggenheim seconded. The motion passed unanimously.**

B. MAR 24-156-76

Mr. Ken Threet advised the Board the rules approved at the last meeting are not scheduled for public hearing at this time but should be soon.

C. Status Report on EMT Rules

Mr. Ken Threet advised the Board the rules approved at the last meeting are not scheduled for public hearing at this time but should be soon.

**ITEM #11: EMT Testing Sites and Mobile Testing**

Mr. Ken Threet stated this has been talked about at prior meetings and requested direction from the Board where to go next. The National Registry of Emergency Medical Technicians is not encouraging it at this time as they were when they transitioned to computer based testing. Dr. James Upchurch stated Montana now has more available testing centers than in the past. This issue arose when a legislator requested that the Emergency Medical Services in his area be able to test locally and not travel to take the written portion of the exam. Chester, Montana set up a testing site in the past and is now not running it as it was not cost effective and there was not enough interest from other testing candidates to make it worthwhile. Dr. Upchurch will draft a letter to the representative advising that the Board looked into the issue and it is not cost effective. Mr. Ken Threet will send a letter to the Registry requesting a mobile testing unit and see what their response is.

## **ITEM #12: EMT Independent Learning Components/Distance Learning**

Dr. James Upchurch stated currently the National Registry of Emergency Medical Technicians limits the utilization of independent learning and distance learning to ten hours. With a state our size we should be allowed some latitude. The draft letter before the Board requests the Registry to remove the ten hour limit from initial and refresher courses as they are managed and overseen by the licensing agency of the state.

**MOTION: Dr. James Upchurch made the motion to send the letter to the National Registry of Emergency Medical Technicians signed by Dr. Anna Earl. Dr. Dean Center seconded. The motion passed unanimously.**

## **ITEM #13: Working Lunch and Executive Session**

Mr. Mike Ramirez with the Montana Professional Assistance Program presented the report to the Board during executive session.

## **ITEM #14: Department Update**

Ms. Maggie Connor stated the position of Executive Director for the Board is now closed and she hopes to start the interview process next week. She asked the Board members if one or more of them would like to sit in on the interview process for filling the position. The Board agreed when the process is down to the final two or three candidates Dr. Anna Earl would be contacted and they would try to designate a representative as they would like to have a voice in the hiring. Dr. Sibold, the new Medical Director for the Board, has signed the hiring contract and is officially starting on October 15, 2011. The contract with the Montana Professional Assistance Program has been awarded. The rules for the Medical Assistance program are in process and moving forward. The Board of Pharmacy is going forward with the fifteen-dollar fee for all professionals who hold a Drug Enforcement Agency license if needed to fund the Prescription Drug Monitoring Program. The Board of Pharmacy sent a letter asking who from the Medical Board would be the representative to sit on their advisory committee to develop and establish the monitoring program. The Board agreed Dr. Bruce Hayward would represent the Board on the committee: in his absence Ms. Kay Bills-Kazimi or another member would fill in for him. Ms. Connor asked if the Board is interested in weighing in with a position paper regarding the "Right to Life." The Board at this time does not have a position paper addressing this issue. The Board agreed they would like more information on this issue before they would consider a position paper as they are not certain if this is addressing "Right to Life" or "Death with Dignity." The Board thanked Ms. Connor for her information. Dr. Anna Earl asked if the peer review contract has been awarded. Ms. Connor stated there were two applicants, however, it has not been awarded at this time.

## **ITEM #15: SB 423 – Medical Marijuana Act**

### **A. Court Case**

Dr. Mary Anne Guggenheim stated she had participated at a hearing regarding SB 423, the revised medical marijuana act. She testified on behalf of the Board of Medical Examiners for informational purposes. The suit was filed by the Montana Cannabis Industry Association to dismiss the bill because a number of sections were unconstitutional. She stated the result of the hearing was that parts of the bill had a preliminary injunction imposed. One section of the injunction included section 3(10) providing in part: “the Board of Medical Examiners shall review practices of any physician who provides written certification for twenty-five or more patients within a twelve month period in order to determine whether the practices meet appropriate standards of care”. An official copy of the injunction was provided to the Board for review.

### **B. Physician Practice Review Process**

Dr. Mary Anne Guggenheim stated she was asked at the hearing how the Board was planning to handle the review process when a physician was referred to them according to the statute. Her reply was the Board has not discussed the process at this time. Dr. Anna Earl stated the Board could talk about the review process at the August or October meetings pending the outcome of the upcoming formal hearing.

## **ITEM #16: Board Communications**

### **A. Vernon E. Grove, MD – Fish/Human-Environmental Poisons**

Ms. Anne O’Leary stated Dr. Grove has sent a letter explaining his concerns regarding the poisoning of fish in Montana’s lakes and streams and asks that the information provided to the Board be forwarded to Montana state officials.

**MOTION: Dr. James Upchurch made the motion to send Dr. Grove a thank you letter for his concerns and forward the information to the Governor’s office as requested. Dr. Dean Center seconded. The motion passed unanimously.**

### **B. Montana Pain Initiative, Sponsorship Request**

Mr. Jerry Morse stated Ms. Kaye Norris with the Montana Pain Initiative sent a request for sponsorship at their upcoming conference and that the Board has sponsored them in the past for five-hundred dollars.

**MOTION: Dr. James Upchurch made the motion to send a five-hundred dollar sponsorship to the Montana Pain Initiative. Ms. Pat Bollinger seconded. The motion passed unanimously.**

### C. FSMB Bylaws, Request for Revisions or Amendments

Ms. Anne O'Leary stated the Federation of State Medical Boards provided a copy of their bylaws for Board review and is requesting any comments or concerns. The Board agreed they would review the bylaws further and send any comments to Dr. Anna Earl to be put on the August Board meeting.

### **ITEM #17: Committee Reports**

#### A. Outreach Committee

Ms. Carole Erickson stated the committee has not met since the last Board meeting and has nothing to report.

#### B. Laws and Rules Committee – Disruptive Physician Behavior Position Paper

Ms. Carole Erickson stated she was on a committee to look at this position paper and that it was decided to change the word “physician” to “healthcare professional” as providers other than physicians are also involved. Also in paragraph one, the committee changed “behavior in” to “behavior by” and in paragraph three changed “perform their job” to “perform his/her job”. Dr. Dean Center also noted the need to change “medical assistance” to “professional assistance” in paragraph three.

**MOTION: Dr. Kristin Spanjian made a motion to approve the position paper as amended. Dr. James Upchurch seconded. The motion passed unanimously.**

#### C. Medical Director Committee

Dr. James Upchurch stated the committee will meet to discuss the new EMT rules draft that addresses the implementation of the Educational Guidelines of the Future.

### **ITEM#18: Board Security**

Dr. Anna Earl stated in the past there have been a few instances where some of the members and staff have felt uncomfortable with topics on the agenda and are concerned about their safety. Dr Earl referenced the car bombing in Arkansas. The Board discussed options to address Board security and how best to approach it. The Board directed staff to look into different security methods such as reserve deputies, private security or Capital Security. Ms. Carole Erickson stated the arrangement of the meeting room is not a good setup for security issues; possibly narrower tables arranged for better security and large enough to seat all members and staff. The Board also directed staff to look into a short class on recognizing possible disruptive or threatening behavior.

**MOTION: Ms. Carole Erickson made a motion to request the division to rearrange the tables in the meeting room for security reasons. Dr. Dean Center seconded. The motion passed unanimously.**

**ITEM #19: Office Staff Reports**

A. Executive Director Report

1) Budget Report

Dr. Mary Anne Guggenheim stated she found one item on the report that is probably a data entry error. Staff will check on the report.

2) State Medical Director Update

C. Legal Report

Ms. Anne O'Leary stated she had nothing to report.

D. EMT Report

Mr. Ken Threet presented the report to the Board. He stated the Educational Agenda implementation plan that was approved at the last meeting and submitted by the Medical Director subcommittee will include draft rules to address the plan. The committee felt the draft rules addressing the implementation plan should be provided to the EMT's in the field for informal input. Mr. Threet provided a proposed timeline for the implementation and approval of the rules.

D. Program Manager Report

1) License Application Report

The report was provided to the Board for their review.

**Adjourn: Dr. Dean center made a motion to adjourn the meeting. Dr. Kristin Spanjian seconded. The motion passed unanimously.**