

**BOARD OF MEDICAL EXAMINERS
FULL BOARD MEETING
301 S PARK AVE, HELENA MT
DATE: MARCH 19, 2010
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

Members Present: Mr. Dwight Thompson, Dr. Anna Earl, Ms. Pat Bollinger, Dr. James Upchurch, Dr. Arthur Fink, Dr. Kristin Spanjian, Dr. Mary Anne Guggenheim, Dr. Dean Center, Dr. Michael LaPan, Mr. Ryan Burke, Ms. Eileen Sheehy, Mr. Don Sullivan

Members Absent: Ms. Carole Erickson

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

Guests Present: Ms. Lashelle Meidinger, Mr. Jim Gingery, Ms. Kally Wilson, Mr. Mike Ramirez, Ms. Sue O'Connell, Mr. Ron Klein, Mr. Joe Hansen, Ms. Casey Blumenthal, Mr. Ron Handlos, Ms. Starla Blank, Ms. Adrienne Landreth, Ms. Kelly Hubbard, Ms. Susan Carlson, Ms. Misty Carey, Ms. Bonnie White

ITEM # 2: Approval of Minutes

MOTION: Dr. Arthur Fink made the motion to approve the January 22, 2010 minutes. Dr. Mary Anne Guggenheim seconded. The motion passed unanimously.

ITEM # 3: Approval of Agenda

Mr. Dwight Thompson stated Item 21 (B) "EMT Report" would be heard early as per a request from Mr. Ken Threet. Item 9 "Physicians and Narcotics" would be scratched from the agenda. An e-mail from Dr. Geci-Black would be added to item 19 "Board Communications".

MOTION: Dr. Kristin Spanjian made the motion to approve the March 19, 2010 agenda as amended. Dr. James Upchurch seconded. The motion passed unanimously.

ITEM # 4: 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.

Mr. Dwight Thompson opened the meeting for public comment. Ms. Bonnie White with the Montana Nurses Association was present to make public comment concerning nurse's requirement to be licensed as an EMT in order to provide pre-hospital care. She stated Registered Nurses are trained for skilled nursing assessment and interventions. Nursing curriculum is structured differently than the EMT curriculum, but the critical elements are present. The nurse's basic training is much deeper and broader than the EMT curriculum. A nurse who functions in a specialty area receives additional training in that specialty area, for example, emergency department nurses have ACLS and other certificates to demonstrate their advanced training. The nurse's who transport critical patients are trained to perform this function. Every nurse has the responsibility to practice within his or her scope, every nurse is accountable to the Board of Nursing and they have the skills to practice safely. Nursing certification boards and employers have developed competency testing in different specialty areas to ensure that nurses are adequately prepared. Nurses are responsible for nursing practice. The proposed change would require nurses to be accountable to the Board of Medical Examiners for nursing practice. The Montana Nurses Association strongly opposes this change. One of the educators for Montana State University, when comparing curricula, stated EMTs work with equipment, especially in ambulances equipped for advanced life support. She thinks that perhaps nurses with adequate education and on-the-job training could become competent in this area. When a nurse is practicing in the field, are they an EMT practicing under the Board of Medical Examiners or a nurse practicing under the Board of Nursing? There are discrepancies that need to be clearly clarified.

ITEM # 5: Compliance Report

Ms. LaVelle Potter presented the report to the Board and updated them on the earlier screening panel activities. The panel reviewed ten cases, dismissed two cases with prejudice, five cases without prejudice, one case dismissed without prejudice with a letter of instruction and one case was tabled.

ITEM # 6: Unlicensed Practice

A. Vern Clark

Ms. Anne O'Leary stated Mr. Clark was investigated and a cease and desist order was issued previously by the Board. This complaint appears to be quite serious and she suggested the Board consider seeking an injunction against Mr. Clark as he is a serious threat to the public.

MOTION: Dr. Dean Center made the motion to go forward with an injunction against Mr. Clark. Dr. Anna Earl seconded. The motion passed unanimously.

B. Lashelle Meidinger

Ms. Anne O'Leary stated the complaints against Ms. Meidinger and Mr. Steve Gillis have been before the Clinical Lab Science Practitioners Board because, although Ms. Meidinger is trained and has a certificate in dark field microscopy, she is not licensed as a clinical lab science practitioner in any one of the categories in which that Board licenses. They are analyzing blood for the purpose of diagnosing diseases and medical conditions that would require licensure; is this the unlicensed practice of medicine? Ms. Adrienne Landreth and Ms. Kelley Hubbard with the Attorney General's office who filed the complaint were present for the meeting. Ms. Landreth stated the issue was discovered during an investigation and felt this was unlicensed practice under 37-3-102, MCA and provided a sample of advertising form Ms. Meidinger. Ms. Meidinger was present in person to discuss the complaint with the Board and stated the personnel at her place of business have never promoted themselves as medical doctors and the advertising in question was printed before the meeting where she was informed that she was not in compliance. When she found out she was not in compliance she immediately ceased doing live blood analysis and cancelled future appointments. The Board and Ms. Meidinger discussed the processes in which they do business and provide advice to their clients. The Board agreed that the process and advice given is the practice of medicine.

MOTION: Dr. Dean Center made the motion to issue Ms. Meidinger a cease and desist order for the diagnosis and suggestion of treatment as presented by analysis. Dr. Kristin Spanjian seconded. The motion passed unanimously.

C. Steve Gillis

Mr. Steve Gillis was not present for the meeting. The Board agreed that this is the same issue as with Ms. Meidinger and is considered the practice of medicine.

MOTION: Dr. Arthur Fink made the motion to issue Mr. Gillis a cease and desist order for the diagnosis and suggestion of treatment as presented by analysis. Dr. James Upchurch seconded. The motion passed unanimously.

ITEM # 7: Non-Routine Application

A. Dr. Robert Blankenship

Dr. Blankenship was present for the meeting by phone and was before the Board because he took a Kentucky state exam for his initial

licensure in 1965. He stated he has been practicing medicine since he graduated and is still practicing.

MOTION: Dr. Arthur Fink made the motion to grant Dr. Blankenship a full unrestricted physician license. Dr. Kristin Spanjian seconded. The motion passed unanimously.

B. Dr. Mary Wilson

Dr. Mary Wilson was not present for the meeting and was before the Board because she took an Arkansas state exam for initial licensure in 1963 and has been consistently practicing since that date. There were two civil cases filed against her that were dismissed without prejudice.

MOTION: Dr. Arthur Fink made the motion to grant Dr. Wilson a full unrestricted physician license. Ms. Pat Bollinger seconded. The motion passed unanimously.

C. Dr. Stephen Elliott

Dr. Stephen Elliott was present for the meeting by phone. Ms. Anne O'Leary stated he is not board certified and has not practiced since 1988. He has an active Colorado license and sees some patients, but not for fee service and at one time held an active license in Montana. Dr. Elliott stated he had an impairment incident following a divorce in 1981 and completed the Colorado physician assistance program. He stated he would like to practice in the primary care field part time or as a fill-in position, but may need some type of mentoring. Dr. Fink stated there are programs available that can evaluate knowledge and skills. Dr. Elliott stated he would be willing to go through the program if needed.

MOTION: Dr. Arthur Fink made the motion that Dr. Elliott would need to pass the SPEX exam and complete the PACE program and come back to the Board at that time for review or he may withdraw his application.

Dr. Arthur Fink withdrew the motion after further discussion with Dr. Elliott as his application was received in December of 2009 and he has the option to pursue licensure until December of 2010. Dr. Elliott stated he would come back to the Board at a later date if he chooses to continue his application process.

D. Dr. Geoffrey Booth

Dr. Geoffrey Booth was present for the meeting by phone. Ms. Anne O'Leary stated Dr. Booth is an internist, his California license was revoked but the revocation is stayed and he was placed on five-year probation with a partial controlled substance restriction. He completed a Physician Assessment & Clinical Education program in April 2009 and practice monitoring by another provider is required. He is in compliance with the stipulations at this time. He has a history of drug

and alcohol abuse. Mr. Mike Ramirez stated Dr. Booth has contacted him and they have had discussions about his self enrolled assistance program. Mr. Ramirez stated he would need to review more evaluations, monitoring documentation, counselor reports and a personal interview before he could make a decision about advocating for licensure. Dr. Booth stated he was looking at working at Community Medical Center in Missoula, but has since opened a private practice in California and is enrolled in a PhD educational program. The Board agreed that more information is to be sent to Mr. Ramirez for further review.

MOTION: Dr. James Upchurch made the motion to grant Dr. Booth an unrestricted physician license pending advocacy from the Montana Professional Assistance Program. Dr. Kristin Spanjian seconded. The motion passed unanimously.

E. Dr. Lee Dorey

Ms. Anne O'Leary stated Dr. Dorey had requested to withdraw his application. The Board discussed the withdrawal request.

MOTION: Dr. Kristin Spanjian made the motion to accept the administrative application withdrawal request. Dr. Dean Center seconded. The motion passed unanimously.

F. Mr. Jeremy Tjensvold EMT, follow-up from last meeting

Ms. Jean Branscum stated at the last meeting Mr. Tjensvold was requested to contact the Montana Professional Assistance Program for consult. It was recommended by the program that he enter into a monitoring agreement. Ms. Anne O'Leary stated Mr. Tjensvold did enter into an agreement and Mr. Mike Ramirez is advocating for licensure on his behalf. Ms. O'Leary is in the process of drafting a stipulation for Mr. Tjensvold to sign.

MOTION: Dr. Dean Center made the motion to grant Mr. Tjensvold a full unrestricted license with MPAP agreement coherence. Mr. Ryan Burke seconded. The motion passed unanimously.

G. Dr. Richard Williams, application withdrawal

Ms. Anne O'Leary stated Dr. Williams had requested to withdraw his application. His application was discussed at the last meeting and Dr. Williams was requested to provide updated documents. Since that Board meeting, Mr. Mike Ramirez of MPAP had reviewed the case in light of new information and withdrew his support of Dr. Williams for licensure. There had also been another unlicensed practice complaint filed against him that involved other jurisdictions.

MOTION: Dr. Mary Anne Guggenheim made the motion to accept the application withdrawal request. Dr. James Upchurch seconded. The motion passed unanimously.

H. Brynn Bixby, Physician Assistant

Ms. Jean Branscum stated Ms. Bixby is a new Physician Assistant that had interviewed with Mr. Dwight Thompson for licensure. Mr. Thompson had approved Ms. Bixby for licensure, but denied approval of the supervision agreement requesting a full Board review. Mr. Thompson stated Ms. Bixby had no prior experience, especially in a rural acute care facility and felt there should be substantial supervised experience before allowing her to practice solely in that arena. Ms. Bixby and her supervising physician, Dr. Wilson-Pant, were present for the meeting by phone and discussed with the Board the supervision and experience options. It was agreed that certain stipulations should be in place to not only protect the public, but also to protect the licensee's career.

MOTION: Dr. Arthur Fink made the motion requiring three-months of direct supervision, three-months of readily available supervision with on site development and then reevaluation by her supervising physician as to the level of supervision that is appropriate for both patient safety and her future training. After the six-month time period Ms. Bixby and her supervising physician will interview with Mr. Dwight Thompson for further review. Dr. Dean Center seconded. The motion passed unanimously.

ITEM # 8: Dr. Philip Breen Complaint Dismissal

Ms. Anne O'Leary stated Dr. Breen was before the Board at a past meeting and was offered the opportunity to be issued a restricted license with non-surgical practice. Dr. Breen decided to withdraw his application rather than enter into a stipulation. Ms. O'Leary stated the complaint had an order of dismissal and asked that the Board accept the order.

MOTION: Dr. Arthur Fink made the motion to accept the order of dismissal. Dr. Dean Center seconded. The motion passed unanimously.

ITEM # 9: Physicians and Narcotics

Dr. Wight had withdrawn his request for the Board to discuss this item.

ITEM # 10: MPAP Report

Mr. Mike Ramirez presented the report to the Board during executive session.

ITEM # 11: MPAP Audit

Mr. Mike Ramirez presented information related to the MPAP Board of Directors' discussion of the performance audit that was conducted by Dr. Lynn Hankes. He stated the Board of Directors is currently discussing options of how to implement the organizational recommendations that came out of the audit. A plan is in development to add a Psychiatrist to the MPAP Board and a second clinician to MPAP staff to relieve some of the workload carried by Mr. Ramirez. It was noted that there would be a substantial financial impact with the recommended changes and that the MPAP Board is discussing options to generate more revenue, including seeking additional funding from the Board of Medical Examiners.

The discussion turned to the existing contract. Ms. Jean Branscum noted the Board had the option to renew the existing contract and stated the Montana Professional Assistance Program was requesting a three and a half percent increase or approximately \$5,000 more in payment. The cost of the contract had not been increased since the contract was put in place in 2005. Ms. Branscum and Mr. Ramirez reviewed with the Board the increase in costs experienced by MPAP since 2005 and the growth in revenues. The Board agreed the requested increase will be discussed later in the meeting after the budget discussions.

Ms. Branscum also provided a letter of concern sent to her from Dr. Michael Newman. Dr. Newman's concern related to MPAP's ability to intervene and monitor physicians with psychiatric illness. He had noted MPAP had the experience and expertise to address substance abuse issues. The Board discussed the letter and concerns with Mr. Mike Ramirez. Ms. Anne O'Leary was directed to send a letter to Dr. Newman thanking him for his input and concerns.

ITEM # 12: Montana Medical Growers Association

Mr. Jim Gingery provided an informational presentation to the Board that included the background of the Association, the Association's mission and statistics related to medical marijuana patient count, caregivers and participating physicians. He noted there was no code of ethics at this time and asked the medical community for guidance to develop a code. He noted the Association was also developing a Board of Advisors that would include representatives from all disciplines concerning medical marijuana, and invited a member from the Board of Medical Examiners to serve on the Board of Advisors. The Board declined the invitation to have a member on the Board of Advisors due to a possible conflict of interest. Dr. Arthur Fink expressed an appreciation for the information and suggested Mr. Gingery provide

Ms. Jean Branscum with any other information the Association would like the Board members to review.

ITEM # 13: Medical Marijuana, Board Position Paper

Dr. Dean Center requested this item be tabled until the May Board meeting to provide additional time to gather more information.

Ms. Sue O'Connell, Research Analyst with the Legislative Interim Committee, stated there will be a Children, Families, Health and Human Services Committee meeting on April 26 and 27, 2010 and part of the meeting will be devoted to the topic of medical marijuana. Ms. O'Connell invited a Board members or Ms. Jean Branscum to be part of a regulatory panel to share information and comment on the Board's experience with the existing law.

ITEM # 14: Adobe Connect, Telephone Conference Meeting

Mr. Jerry Morse and Ms. Jean Branscum presented a short demonstration on Adobe Connect. It was noted that Adobe Connect was a tool that that Board can now use when conducting telephone conference meetings. Benefits include enhancing the functionality of conference call meetings and saving money by reducing travel costs.

ITEM # 15: Rural Emergency Training Program for Mid-levels

Mr. Ron Handlos, Physician Assistant Certified, presented information on the creation of a rural emergency training program. He stated this effort is due to the possible rules changes that would require physician assistants to have one year of experience before they can work in a rural acute care setting. He noted he was working with physicians to provide acute care education to physician assistants so they may work in these rural areas as soon as possible and to provide quality care. The concept is to create a rural residency program for mid level providers that would provide one on one instructorship, Pediatric Advanced Life Support, Advanced Trauma Life Support and Advanced Cardiac life Support and would possibly be a six month, one thousand hour post graduate program. He noted funding options would be sought and the group would seek to obtain accreditation from the American Academy of Physician Assistants for category on credits. Mr. Handlos requested the Board's support in implementing this program. Mr. Handlos was thanked for the presentation and asked to send the curriculum to be sent to the Board office once completed for a review.

MOTION: Dr. Arthur Fink made the motion to refer the proposed curriculum to the Medical Director Subcommittee for review when it is completed. Dr. Dean Center seconded. The motion passed unanimously.

ITEM # 16: Montana EMS Work Force Survey

Mr. Joseph Hansen with the Department of Public Health and Human Services shared information about the EMS for Children Program. He explained the program was intended to improve pediatric care in both the pre-hospital setting and in emergency departments and there was an ongoing effort to improve educational opportunities for care providers. He noted they had developed transfer guidelines for hospitals and a recommended pediatric equipment list for hospitals based on their trauma designation category.

Mr. Hansen reviewed the results of a EMS work force survey that asked about educational and profession retirement issues. He noted that ninety percent of those interviewed stated they were happy with the quality of their Lead Instructors and they were adequately prepared to provide quality care. Responses indicated a preference for more training in pediatrics, triage, emergency childbirth, stroke, cardiac care, shock, trauma assessment and medical assessment. Nine percent of those interviewed noted they were considering retirement and approximately twenty-five percent were considering leaving the profession in the next five years.

ITEM # 17: Administrative Rules

SB 174, Clinical Pharmacist Practitioner

Mr. Ron Klein with the Board of Pharmacy and Ms. Starla Blank with the Montana Pharmacy Association were present for the discussion. Ms. Jean Branscum provided the background information noting the rules had been discussed with the Board of Pharmacy and within the Laws and Rules Committee. The Board of Pharmacy had accepted the draft as written at their last meeting. Dr. Arthur Fink stated the Laws and Rules Committee had reviewed the rules and recommend the Board approve the rules as presented.

MOTION: Dr. Arthur Fink made the motion to accept the draft rule as written. Dr. James Upchurch seconded. The motion passed unanimously.

ITEM # 18: Committee & Sub Committee Reports

A. Nurse / EMT Dual Role Task Force

Dr. James Upchurch explained the task force had passed a recommendation that nurses working in a pre-hospital setting be required to be licensed as an EMT. Previously, the task force had discussed developing a skill set that would be required for nurses to complete and from which the Medical Director would authorize a nurse to function. The discussion at the last meeting ended with requiring nurses to be licensed as an Emergency Medical Technician. Licensing jurisdiction and disciplinary issues were also

discussed. Dr. Upchurch noted the Medical Director is responsible for pre-hospital care, but cannot oversee or provide medical direction to individuals not licensed by the Board of Medical Examiners. The Board reviewed and discussed the recommendation.

MOTION: Dr. Arthur Fink made the motion that nurses working in the pre-hospital setting will be required to be licensed as an Emergency Medical Technician. Dr. Dean Center seconded. The motion passed unanimously.

B. Laws and Rules Committee

Dr. Arthur Fink reported a PA Subcommittee had met and provided an overview of the discussions related to two physician assistant rules. He noted the proposed rule change to require a new physician assistant to have one year experience or equivalent before they could work in a rural acute care or emergency room facility generated some concern about access and reviewed other suggestions. The Board discussed the time intervals of having a physician physically available in a certain amount of time, or a establishing a certain amount of time with direct supervision. Also discussed was having new applicants with plans to work in this arena to appear before the Board to discuss options based on the work situation. The Board agreed the proposed new rule is a mechanism to address a safety issue for the provider and the public. It was suggested that interested stakeholders and Board legal counsel meet and draft rule language that is universal and agreeable to all stakeholders, and that the draft rule be submitted to the Laws and Rules Committee for review before coming back to the full Board. It was determined that the rule related to chart reviews could be discussed at the Committee meeting as well.

MOTION: Dr. Arthur Fink made the motion that Ms. Anne O'Leary along with a representative from the Montana Hospital Association will draft language to address the Physician Assistant rules changes and send the draft to the Laws and Rules Committee for review. Dr. Dean Center seconded. The motion passed unanimously.

Ms. Jean Branscum stated that the Acupuncturist Subcommittee had met and were in the process of drafting proposed rule changes which will be presented to the Laws and Rules Committee. She also stated there is an Inactive Physician Subcommittee that will meet on April 13 to begin work on the rules addressing inactive physicians. Both subcommittees include include representatives from interested associations.

C. Outreach Committee

Dr. Dean Center reported that he is writing a newsletter article for the Montana Medical Association. Dr. Mary Anne Guggenheim stated she and Ms. Jean Branscum attended the Montana Medical Association meeting. Ms. Jean Branscum stated the website has been updated to include the new official Board seal, a home page button for easier navigation back to the Board's main web page, and a web page devoted to the Health Corps program.

D. Physician / Hospital Committee

Dr. Kristin Spanjian stated the committee was working on medical spas to determine if there is an issue evolving. They requested Board staff to conduct a survey of medical spas within the state to gather more information. The survey findings generally showed there were not any problems, there were no complaints, and the medical spas surveyed had physician oversight. One question that arose was related to the level of physician supervision of assistants working in the facilities. Dr. Dean Center will include in his newsletter article for the Montana Medical Association a reminder to physicians on their supervisory responsibility to the medical assistants. A second question that arose was the definition of a medical spa. Dr. Dean Center researched and found a publication that defines a medical spa as anything that alters the skin, penetrating the skin or permanently alters the skin is considered a medical spa which would require physician oversight. At this point, unless the Board receives any complaints, the Committee recommends the Board does not need to pursue this topic any further.

E. Medical Director Subcommittee

Dr. James Upchurch stated the committee reviewed and discussed the protocol change request from Helena. The protocols have been revised by the Helena group and now needs Board approval.

MOTION: Mr. Ryan Burke made the motion to accept the Helena St. Peter's protocols as written. Dr. James Upchurch seconded. The motion passed unanimously.

Dr. Upchurch reported that he, Mr. Dwight Thompson, Ms. Jean Branscum, Mr. Ken Threet and Ms. Anne O'Leary had met with Mr. Jack Kane, Division Administrator, and other management staff to further explain the reasoning behind the Board's request to add a part-time EMS state medical director to the Board staff. The response was positive and Mr. Kane indicated he would carry the request forward.

Funding was discussed and it was noted the additional cost would require a license fee increase. The Board discussed fee increase options that could accommodate the needed funds for this position.

It was suggested that the affected licensees be queried by a survey. .

MOTION: Dr. Dean Center made the motion to support license fee increases to obtain the Medical Director position. Dr. Anna Earl seconded. The motion passed unanimously.

ITEM # 19: Board Communications

A. Creston Rural Fire District

Ms. Jean Branscum stated the fire district sent a letter to the Board requesting EMT license renewal parameters and dates be made consistent with the National Registry of Emergency Medical Technicians. The Board discussed the concern of having to track two different expiration dates and agreed it was the responsibility of the licensee to manage their certifications and licenses. The Board directed staff to draft a letter of explanation to the Creston Rural Fire District.

B. American Dietetic Association

Ms. Jean Branscum stated the Association sent a letter requesting the Board to communicate actions taken against licensed Nutritionists to their Ethics Committee. The Board directed Ms. Branscum to direct the Association to the compliance unit where information related to licensee actions are issued.

C. John Stowers, M.D.

Ms. Jean Branscum stated Dr. Stowers had submitted a position paper addressing medical marijuana to the Board for review and discussion. The Board agreed that this letter and others received be considered during the discussions addressing this issue. The Board directed Ms. Branscum to send a thank you letter to Dr. Stowers advising they have discussed his concerns and that the Board is currently developing a position paper on this subject.

D. Billings Clinic

Ms. Jean Branscum stated Yvette Frey with the Billings Clinic submitted concerns related to the statute requiring successful completion of a residency program. This was causing a delay in the start date for residents who were hired, but can't get a license until July 1. Ms. Branscum noted Board staff had contacted the residency programs to see when a resident would be deemed to have successfully completed the program and every program stated the date is June 30. She also noted the division management was supportive of the Board's request to address this issue legislatively as it was just modified in the last legislative session. The Board discussed the concern.

E. K Allan Ward, M.D.

Dr. Ward contacted the Board requesting an opinion on how he should proceed legally to give advice to his patients who hold a medical marijuana registration card. He also stated that he would be available for more discussion when the Board discusses these issues. The Board agreed the medical marijuana issue will be discussed further at the May meeting and the e-mail will be reviewed again during the discussion.

F. Dr. Geci-Black

Dr. Geci-Black contacted the Board to express his frustration on the medical marijuana issue. Dr. Geci-Black had provided information to the Board on medical marijuana at the November 2009 meeting and had requested the Board provide a position on standard of care. The Board agreed to advise him to seek his own legal counsel about the use of teleconference equipment and to convey the Board's appreciation for his concerns.

ITEM # 20: Legal Report

Ms. Anne O'Leary stated there was nothing to report at this time.

ITEM # 21: Office Staff Reports

A. Executive Director Report

1) Budget Report

Ms. Jean Branscum presented the report to the Board and stated projections show the Board will likely be in a deficit situation at the end of the fiscal year. This is the result of unexpected costs such as additional EMT course and exam audits, MPAP audit, and trial cases.

2) EPP/Legislation

Ms. Jean Branscum returned the Board to the discussion on the MPAP contract renewal and request to increase the payment.

MOTION: Dr. Mary Anne Guggenheim made the motion to plan to increase the cost of the MPAP contract by three and a half percent for fiscal year 2011. Dr. Dean Center seconded. The motion passed unanimously.

MOTION: Dr. Dean Center made the motion to move forward and draft legislation to mandate a state medical director. Dr. Anna Earl seconded. The motion passed unanimously.

The Board discussed adding an Acupuncturist to the Board as a voting member. Ms. Branscum stated the division was in support of this addition, but legislative language needs to be drafted to be

more specific on what the Board wants to achieve in terms of adding a member and/or maintaining a balance within the membership. The Board discussed various options.

Ms. Branscum discussed the need for a statutory change to accomplish the Board's intent to issue a resident license. In September, the Board decided a rule change should be pursued to allow for a license to be issued to a resident after two years and this should be opened up to all residents. Ms. Anne O'Leary suggested to change the language in 37-3-305 1(c) and 3(c) from "internship" to post graduate and change "Montana family practice residency program" to Montana family medicine residency program in 4(b). The Board agreed.

The Board discussed drafting legislation to develop a Resident license type as this license type is not defined in statute and there was discussion on issuing a temporary license or develop a different license type such as "transitional" or "limited".

MOTION: Dr. Kristin Spanjian made the motion to support a statutory change that would not allow a resident physician to practice independently until completion of two years of an approved residency program and is still in good standing in that program. A temporary license may be issued after the two-year requirement is met. A full unrestricted physician license will not be granted until after successful completion of the residency program and an application for full licensure is received. Ms. Pat Bollinger seconded. The motion passed unanimously.

Ms. Branscum stated the Board's request to amend 50-6-317, MCA to provide liability protection for the volunteer physician medical directors will not be pursued by the department as this is a DPHHS statute.

MOTION: Dr. James Upchurch made the motion to share the concept and ideas of the statute change with the appropriate authorities that could address this issue. Ms. Pat Bollinger seconded. The motion passed unanimously.

Ms. Branscum stated 37-6-302, MCA "Podiatry, Qualifications for Licensure" may need some clean-up work as this was not included in the clean-up bill during the last legislative session. She suggested striking section 2(f) regarding examination administered by the Board and striking the word "diplomate" from 2(e) as was a term no longer used by the national body. Dr. LaPan noted the term "diplomate" was still used within the state.

MOTION: Ms. Pat Bollinger made the motion to strike 2(f) from statute 37-6-302, MCA concerning examination administered by the Board. Dr. Mary Anne Guggenheim seconded. The motion passed unanimously.

Ms. Branscum reviewed the request to require licensees to notify the Board of any e-mail changes within a certain time period. The division will not carry forward this item.

Ms. Branscum stated statute 37-2-107, MCA concerning unreadable prescriptions needs a Board decision of what they want to do regarding rules for this statute. The statute has not been problematic.

MOTION: Dr. Arthur Fink made the motion that this item will not be acted upon at this time and should not be included in the clean-up bill. Dr. Dean Center seconded. The motion passed unanimously.

Ms. Branscum stated that the legislative wish list included further amendments to the Telemedicine statutes. The details of the needed changes were not specified and this would need to be done for this to proceed.

MOTION: Dr. Mary Anne Guggenheim made the motion to take no action on this item at this time. Dr. Dean Center seconded. The motion passed unanimously.

3) Online Application

Ms. Jean Branscum stated Board staff is working with FSMB to try to go live with the application by the end of April.

4) FSMB Communication

Ms. Branscum explained the communication pieces are provided in the Board book for member review. Dr. Anna Earl and Ms. Branscum will be attending the annual meeting in April.

5) MMA Report

The Montana Medical Association report was provided in the Board book for member review.

B. EMT Report

Mr. Ken Threet presented the EMT report to the Board. He shared that he had met with the new EMS county council who are attempting to coordinate all county EMS activities under one jurisdiction. The council was formed to distribute monies available through taxes and mil levies and are also attempting to develop county wide medical direction. Dr. James Upchurch requested an informational session be put on the May agenda addressing the new EMT educational guidelines.

MOTION: Dr. Mary Anne Guggenheim made the motion to accept the report as presented. Dr. Anna Earl seconded. The motion passed unanimously.

C. License Application Report

The Board was provided a copy of the application report for their review.

ITEM # 22: Board Meetings

A. Board Retreat: Set agenda
May 20 and 21, 2010

The Board agreed the meeting will be May 20 from 1:00 to 5:00 PM and full Board all day Friday May 21, 2010. Mr. Jerry Morse will find three prospective facilities to choose from and send the information to the members for their decision on a location for the meeting.

Adjourn

MOTION: Dr. Dean Center made the motion to adjourn the meeting and Dr. Kristin Spanjian seconded. The motion passed unanimously.