

FULL BOARD MEETING MINUTES
of the
BOARD OF MEDICAL EXAMINERS
301 S. Park Ave, 4th Floor, Helena
MT 9:30 a.m. to 5:30 p.m.
January 17, 2014

1. Call To Order - Establish Quorum (00:18)

Board Members Present:

Dr. Mary Anne Guggenheim (Chair), Dr. Kris Spanjian, Mr. Charles Farmer, Dr. Nathan Thomas (by telephone), Ms. Tanja Brekke, Ms. Ana Diaz, Dr. Bruce Hayward, Ms. Carole Erickson, Ms. Patricia Bollinger, Dr. Jim Feist, Dr. Jim Upchurch, Mr. Don Sullivan

Board Members Absent:

Dr. Anna Earl, Mr. Dwight Thompson

Staff Members Present:

Mr. Ian Marquand - Executive Officer
Anne O'Leary, Esq. - Board Counsel
Ms. L'Joy Griebenow – Board Management
Dr. Harry Sibold – State Medical Director (by telephone)
Mr. Ken Threet – EMT Training Coordinator
Jerry Morse – Licensing Specialist
LaVelle Potter – Compliance Officer

Guests Present (in person):

Mr. Mike Ramirez, Dr. Jim Bryan, Dr. Ned Vasquez, Ms. Jenny Wilson, Ms. Mary McCracken, Ms. Anna Crain, Ms. Brenna Fanning, Ms. Jean Branscum, Ms. Anna Bryn, Ms. Margaret Morgan, Mr. Ohrbach

Guests Present (by telephone):

Dr. Denny Orme, Dr. Maria Jarbrink-Sehgal, Ms. Danielle Devos, Peter Stockler, Esq., Dr. Brian Harrington, Ms. Alisson Carter, Mr. Brad McPherson, Anne Soat (??), Dr. Terry Flannery, Dr. Kiarash Mirkia

2. Approval and Tentative Modification of Agenda Order (4:16)

a. January 17, 2014 Agenda

MOTION: Dr. Spanjian moved to move Item 10 [medical Director and EMT Training Officer Reports] to follow the conclusion of the Executive Session and approve the January 17, 2014 agenda so amended; Dr. Hayward seconded the motion. Motion passed unanimously. (05:58)

3. Review and Approve Minutes (06:30)

a. November 15, 2013

MOTION: Ms. Brekke moved to approve the November 15, 2013 meeting minutes as presented; Ms. Diaz seconded the motion. Motion passed unanimously. (06:58)

MOTION: Dr. Spanjian made a motion to approve the minutes from the [November 15, 2013] Executive Session as written; Ms. Erickson seconded the motion. Motion passed unanimously. (08:10)

4. Public Opportunity to Comment (08:26)

The Presiding Officer read the statement of public participation and opened the meeting for public comment. No public comment was made.

5. Compliance Report (9:12)

a. Screening Panel Report

Ms. Potter reported on the results from the morning screening panel meeting. The panel reviewed five cases: one case was dismissed with prejudice, probable cause was found in one case, and three cases were tabled. This was for information only; no Board action was taken.

6. Board Action

a. Correspondence and Reports (9:44)

- i. Terry Anderson e-mails re: concern about epidural steroid injections (9:55)
- ii. Susan Jacky letter re: concern about prescribing and disabilities (9:55 and 13:18)

Mr. Marquand led the discussion.

MOTION: Dr. Spanjian moved [Board staff] to write a Board-generated letter thanking Ms. Anderson for her comments and remind her if there are specific abuses she believes are attributable to a physician or health care provider under [the Board's] jurisdiction that she can pursue that avenue [by filing a formal complaint]. Dr. Hayward seconded the motion. Motion passed unanimously (12:26)

MOTION: Ms. Brekke moved to have a similar letter which is to be [prepared and] sent to Ms. Anderson be sent to Ms. Jacky; Ms. Bollinger seconded the motion. Motion passed unanimously (14:16)

- iii. MMA Request for Attorney General opinion re: Board of Nursing APRN rules (15:11)

Dr. Guggenheim provided background. Ms. Branscum was invited to comment.

MOTION: Dr. Spanjian moved to pose the two questions as presented to the Attorney General's office; Ms. Brekke seconded. (53:43) Discussion ensued. Chair called question. Hand vote taken: 2 votes in favor; 8 votes, including Dr. Thomas by telephone, against; Dr. Guggenheim refrained from voting. **Motion failed. (1:01:54)**

MOTION: Dr. Hayward moved to table this issue and request [Mr. Adam] deYong and [Commissioner Pam] Bucy to come to the next full board meeting to discuss issue; Ms. Bollinger seconded the motion. (1:03:56) Discussion ensued. Dr. Hayward withdrew motion; Ms. Bollinger withdrew second. **(1:07:54)**

- iv. Robert Murphy letter re: alleged errors in Board Notice of Action/Final Order (1:08:55)

Mr. Marquand led the discussion.

MOTION: Ms. Erickson moved that legal counsel issue a letter to Mr. Murphy reiterating that according to the Attorney General opinion the board cannot reconsider a previous board's decision; Ms. Brekke seconded the motion. Motion passed unanimously (1:19:19)

- v. Credentialing Update from Commission on Dietetic Registration (1:21:25)

Ms. Bollinger led the discussion. This was for informational purposes only; no board action was taken.

- vi. Montana Prescription Drug Registry reports for November/December (1:22:31)

Mr. Marquand led discussion. Dr. Hayward provided update as representative of Advisory Council to MPDR. Ms. Branscum was invited to comment about the MMA committee formed to consider prescription drug abuse. This was for informational purposes only; no board action was taken.

- vii. Kay Brown letter re: Physician Assistants and required chart reviews **(1:27:11)**

Ian led discussion. This was for informational purposes only; no board action was taken.

BREAK (1:33:37)

b. Non-routine Applications (1:43:23)

- i. Karl Silge, M.D. **(1:43:25)**

Dr. Silge was present before the Board by telephone. Ms. O'Leary briefly reviewed the Board's involvement to date in connection with Dr. Silge's application.

Dr. Silge explicitly withdrew his application. **(1:58:10)**

- ii. Danielle Devos, EMT-P **(1:58:29)**

Ms. Devos was present before the Board by telephone. Ms. O'Leary briefly reviewed the Board's involvement to date in connection with Ms. Devos' application.

MOTION: Dr. Upchurch moved that Ms. Devos be granted a full and unrestricted Montana paramedic license; Dr. Spanjian seconded the motion. Motion passed unanimously. (2:02:29)

- iii. Anna Crain, ACU **(2:03:40)**

Ms. Crain was present before the Board. Ms. O'Leary briefly reviewed the Board's involvement to date in connection with Ms. Crain's application.

MOTION: Ms. Brekke moved that Anna Crain be issued a one-year probationary [Montana acupuncturist] license, such probationary license to be issued upon receipt of a letter from the Acupuncture Clinic of Missoula a) agreeing to be a preceptor for Ms. Crain, b) agreeing to report any termination, and c) agreeing to provide written evaluation of Ms. Crain at the end of the probationary year, the probationary license to include a signed stipulation that there be 1) [preceptor] oversight by the practice of Acupuncture Clinic of Missoula and 2) a positive recommendation following a MPAP consult and entering into a formal agreement with MPAP if MPAP [deems it is warranted]; Dr. Hayward seconded the motion. (2:15:23) Discussion ensued. Motion passed unanimously. (2:18:56)

- iv. Terrence Flannery, M.D. **(2:19:16)**

Dr. Flannery was present before the Board by telephone. Ms. O'Leary briefly reviewed the Board's involvement to date in connection with Dr. Flannery's application.

MOTION: Dr. Spanjian moved that Dr. Flannery be granted a full and unrestricted Montana physician license; Ms. Bollinger seconded the motion. Motion passed unanimously. (2:20:44)

- v. Maria Jarbrink-Sehgal, M.D. (2:21:27)

Dr. Jarbrink-Sehgal was present before the Board by telephone. Ms. O'Leary briefly reviewed the Board's involvement to date in connection with Dr. Jarbrink-Sehgal's application.

MOTION: Dr. Upchurch moved that Dr. Jarbrink-Sehgal be granted a full and unrestricted Montana physician license; Dr. Spanjian seconded the motion. Motion passed unanimously. (2:24:40)

- vi. Kiarash Mirkia, M.D. (2:25:24)

Dr. Mirkia was present before the Board by telephone. Ms. O'Leary briefly reviewed the Board's involvement to date in connection with Dr. Mirkia's application.

MOTION: Dr. Feist moved that Dr. Mirkia be granted a full and unrestricted Montana physician license; Dr. Spanjian seconded the motion. Motion passed unanimously. (2:51:01)

Dr. Mary Anne Guggenheim transitioned the Board meeting into executive session. (2:52:58)

7. Executive Session (working lunch)

Dr. Guggenheim returned the meeting back to open session. (2:53:41) A quorum was present. Dr. Guggenheim reported that the board received and accepted the MPAP report.

10. Medical Director and EMT Training Officer Reports (2:54:01)

- b. Training Officer Report—Mr. Ken Threet (2:54:28)
i. Recommendations re: audit of 2013 renewing EMT licensees

MOTION: Dr. Spanjian moved to forego the 2013 EMT renewal audit; Ms. Brekke seconded the motion. Motion passed unanimously. (2:58:14)

- ii. Recommendations re: audit of 2014 renewing ECP licensees

MOTION: Ms. Brekke moved to change the 25% audit rate be changed to 5% but to reassess if return is poor; Ms. Diaz seconded the motion. Motion passed unanimously. (2:59:30)

- a. Medical Director Report—Dr. Harry Sibold (3:01:36)

MOTION: Dr. Upchurch moved to authorize Dr. Sibold to travel and attend [the MedSTAR program in Dallas, TX]; Ms. Brekke seconded the motion. Motion passed unanimously. (3:05:01)

8. Board Action (Continued)

- c. Special Presentations (3:05:42)
i. Family Medicine Residency of Western Montana

Dr. Ned Vasquez made a presentation regarding this residency.

- ii. Genetic Counselors re: Licensure

[There was no presentation made.]

- a. **Request for Exception to Statewide EMT Protocols (3:32:51)**

- iii. LifeFlight Network

Dr. Jim Brian was present before the Board.

MOTION: Dr. Upchurch moved to accept the petition and initiate the first step [obtaining public comment at the March 2014 board meeting]; Dr. Spanjian seconded the motion. (3:39:47) Discussion ensued. Motion passed unanimously. (3:41:03)

- b. **Amendments to Statewide ECP Protocols (3:45:47)**

Dr. Upchurch led discussion.

MOTION: Ms. Brekke moved that the highlighted changes [to the statewide ECP Protocols] be accepted; Dr. Feist seconded the motion. Motion passed unanimously. (3:50:02)

- 9. **Board Committee, National Committee and Other Reports**

- a. **Medical Direction Committee (3:50:27)**

Dr. Upchurch led the discussion. This was for informational purposes only; no board action was taken.

- 8. **Board Action (Continued)**

- d. **Rulemaking**

- i. **Board Responses to Comments on MAR 24-156-79 (Physician Reactivation, Renewal, Retired Status) (3:51:53)**

Ms. O'Leary led the discussion.

MOTION: Ms. Erickson moved to have the responses added to the Secretary of State's notice of adoption, add that the board is contemplating adding an emeritus status, and anyone holding a retired status will have an opportunity to renew one last time; Dr. Spanjian seconded the motion. Motion passed unanimously. (4:00:45)

- ii. **New Rule re: Podiatry Residencies (4:01:35)**

Ms. O'Leary led the discussion.

- iii. **Amended Rules re: Approved Residencies (4:05:51)**

Ms. O'Leary led the discussion.

- iv. **Amended Rule re: Occasional Case Exemptions (4:07:58)**

Ms. O'Leary led the discussion.

MOTION: Dr. Spanjian moved that [the second sentence of] proposed 24.156.611(2) be amended from "...multiple patients on a given day or consecutive days not to exceed two days" to now read "...multiple patients not to

exceed five days”; Ms. Diaz seconded the motion. Motion passed unanimously. (4:16:32)

v. Amended Rules re: Nutritionists **(4:18:00)**

Ms. O’Leary led the discussion.

vi. Amended Rules re: Unprofessional Conduct **(4:19:28)**

Ms. O’Leary led the discussion.

MOTION: Ms. Diaz moved that all changes [as proposed and amended/discussed during today’s meeting] be accepted and whole package [items from agenda 8d(ii)-(vi)] be moved forward to be noticed; Ms. Brekke seconded the motion. Motion passed unanimously. (4:33:22)

vii. New Rule on Military Training **(4:34:12)**

Ms. O’Leary led the discussion.

MOTION: Dr. Spanjian moved that [the Board] approve the language of the new Rule 1 - Military Training or Experience; Ms. Erickson seconded the motion. Motion passed unanimously. (4:36:26)

BREAK (4:37:14)

viii. SB 139 Review and Statements **(4:37:20)**

MOTION: Ms. Brekke moved to accept the small business impacts statements that accompany the rules considered during today’s meeting; Dr. Hayward seconded the motion. Motion passed unanimously. (4:38:14)

e. Legislation for 2015 (4:43:26)

- i. Review of 2013 proposals, direction for 2015
- ii. New legislative proposals

Mr. Marquand led this discussion. This was for informational purposes only; no board action was taken.

f. Committee and Panel Appointments (5:20:40)

- i. Appointments by the President

Dr. Guggenheim led this discussion. This was for informational purposes only; no board action was taken.

g. Scheduling of Next Meeting/Meeting Planning (5:21:28)

- i. March 21, 2014, Helena
- ii. Update on other meeting dates and locations

MOTION: Dr. Feist moved to [shift the Board’s] July 2014 meeting from July 18 to July 25 to allow informal meeting with the Board of Nursing; Ms. Diaz seconded the motion. Motion passed unanimously. (5:29:50)

h. Approval of Travel (5:36:36)

- i. Additional attendees for FSMB Annual Meeting, April 24-26 Denver CO

Mr. Marquand led the discussion.

MOTION: Ms. Erickson moved that Dr. Anna Earl, Dr. Bruce Hayward, and Ms. Tanja Brekke be approved to attend the FSMB meeting; Dr. Spanjian seconded the motion. Motion passed unanimously. (5:41:26)

9. Board Committee, National Committee and Other Reports (5:43:57)

- b. Laws & Rules Committee **(5:44:08)**

Mr. Marquand gave the report. This was for informational purposes only; no board action was taken.

- c. Outreach Committee/Board Liaison **(5:44:34)**

Ms. Erickson gave the report. This was for informational purposes only; no board action was taken.

- d. Acupuncture Committee **(5:45:22)**

Ms. Brekke gave the report. This was for informational purposes only; no board action was taken.

- e. Montana POLST Coalition Report **(5:47:00)**

Mr. Morse gave the report. This was for informational purposes only; no board action was taken.

- f. FSMB Reports **(5:49:36)**

Mr. Marquand gave the report. This was for informational purposes only; no board action was taken.

11. Executive Officer Report (5:52:43)

Mr. Marquand gave the report.

- a. Application Report
b. Budget Report

MOTION: Ms. Bollinger moved that Dr. Guggenheim appoint an *ad hoc* committee relative to budgetary issues; Dr. Spanjian seconded the motion. Motion passed unanimously. (6:06:55)

- c. Update on Change Control Requests for Licensing/Renewals
d. Newsletter
e. 125th Anniversary of BOME

MOTION: Dr. Spanjian moved to authorize Mr. Marquand to begin working with the Outreach Committee (or a subcommittee thereof) to begin the planning process for a September 18, 2014 evening event to celebrate the 125th anniversary of the Board of Medical Examiners; Dr. Feist seconded the motion. Motion passed unanimously. (6:24:34)

12. Legal Report (6:27:44)

Ms. O'Leary led the discussion. This was for informational purposes only; no board action was taken.

13. Adjourn

MOTION: Ms. Brekke moved to adjourn; Ms. Erickson seconded the motion. Motion passed unanimously. (6:28:30)

Meeting adjourned. (6:28:47)