

**MINNESOTA BOARD OF MEDICAL PRACTICE  
BOARD MEETING  
2829 UNIVERSITY AVE. SE  
MINNEAPOLIS, MN 55414-3246**

**July 12, 2014**

The Minnesota Board of Medical Practice met on July 12, 2014, at its offices in Minneapolis, Minnesota.

The following Board members were present for both Public and Executive Sessions, unless otherwise indicated: Keith H. Berge, M.D., President; Mark A. Eggen, M.D., Vice President; V. John Ella, J.D., Secretary; Sarah L. Evenson, J.D., MBA; Rebecca J. Hafner-Fogarty, M.D., MBA; Subbarao Inampudi, M.B., B.S., FACR; Irshad H. Jafri, M.B., B.S., FACP; Kelli Johnson, MBA; Gerald T. Kaplan, MA, LP; Patricia J. Lindholm, M.D., FAAFP; Charles F. Moldow, M.D.; and Joseph R. Willett, D.O., FACOI

**PUBLIC SESSION**

Agenda Item 1: Call to Order and Roll Call

The meeting was called to order by President, Keith H. Berge, M.D. Roll call was taken by board staff.

Dr. Berge acknowledged that Mr. Leach is retiring as Executive Director of the board at the end of August. Dr. Berge thanked Mr. Leach for his years of good service. Board members gave Mr. Leach a round of applause.

Agenda Item 2: Minutes of the May 10, 2014, Board Meeting

The minutes of the May 10, 2014, Board meeting were received and approved as circulated.

Agenda Item 3: Board Member Reappointments/Appointments

Mr. Leach informed the board of the board appointments/reappointments.

Jon Thomas, M.D., M.B.A., V. John Ella, J.D., and Kelli Johnson, M.B.A., have been reappointed to the board with a term ending date of January of 2018.

Dr. Eduardo Fernandes has been appointed to the board to replace Gregory Snyder, M.D., DABR, with a term ending date of January of 2018. Due to a previous scheduled vacation, Dr. Fernandes was unable to attend this board meeting, but will be present at the September 13, 2014, board meeting. Dr. Fernandes' New Board Member Orientation will be done in August, prior to Mr. Leach's retirement.

Patricia Schommer was appointed to the board as a public board member to replace Debbie Boe (who is no longer eligible for reappointment due to redistricting). However, Ms. Schommer declined the appointment. The public board member vacancy will be reposted after a letter of resignation is received from Ms. Schommer.

Agenda Item 4: Report and Recommendation from the Executive Director Search Committee

Prior to this agenda item, Ruth M. Martinez, M.A., candidate for the position of Executive Director, left the conference room.

Mark Eggen, M.D., thanked the Executive Director Search Committee for all their hard work and effort they put forth. Dr. Eggen also thanked Lois Kauppila, Office Manager, for her help with staffing the process.

Dr. Eggen explained how the Committee narrowed down the original thirty-three applicants to two finalists (application materials for the two finalists were included in the board agenda). The two finalists were personally interviewed by the Committee. After the personal interviews were concluded, the Committee met to determine their recommendation for the next executive director to the full board. After Committee discussion, the Committee made a motion and the motion passed unanimously to recommend to the full board that the board offer Ms. Martinez the job of Executive Director.

Kelli Johnson, M.B.A., explained how the Committee determined the qualifications they desired in the next executive director. The Committee reviewed similar job postings for other executive directors in the health licensing boards in Minnesota, they reviewed requirements from when Mr. Leach was hired as executive director, and used Human Resources rules.

Board discussion followed regarding each candidate's qualifications.

Dr. Berge stated that Ms. Martinez had some concerns regarding the selection process being a competitive process, and not just an appointment. Mr. Leach assured the board that this was not an appointment and that it was a competitive process.

The board also wanted it noted that Mr. Leach's involvement in the process of the selection of a new executive director was minimal and that Mr. Leach did not try to influence the deliberations of the Search Committee. Mr. Leach stated that he spoke with both executive director candidates and treated them equally.

Dr. Berge thanked the Committee for their hard work.

A motion was made and passed unanimously to offer the Executive Director's position to Ruth Martinez, M.A.

Ms. Martinez returned to board meeting and accepted the position of executive director. The board gave her a round of applause. Ms. Martinez thanked the board. Ms. Martinez also thanked the Search Committee for doing a great job and challenging her to be the best she can be for the board.

Dr. Eggen will call the external candidate after the board meeting to relay the board's decision that Ms. Martinez has been selected and has accepted the position of executive director.

#### Agenda Item 5: Licensure and Registration

On recommendation of the Licensure Committee, physician applicants 1 - 333 of the agenda were approved for licensure subject to the receipt of verification documents.

On recommendation of the Licensure Committee, physician applicants 334 - 338 of the agenda were approved for Emeritus registration.

On recommendation of the Acupuncture Advisory Council, acupuncturist applicants 339 - 347 of the agenda were approved for licensure subject to the receipt of verification documents.

On recommendation of the Athletic Trainers Advisory Council, athletic trainer applicants 348 - 355 of the agenda were approved for registration subject to the receipt of verification documents.

On recommendation of the Physician Assistant Advisory Council, physician assistant applicants 356 - 412 of the agenda were approved for licensure subject to the receipt of verification documents.

On recommendation of the Respiratory Therapist Advisory Council, respiratory therapist applicants 413 - 426 of the agenda were approved for licensure subject to the receipt of verification documents.

On recommendation of the Naturopathic Advisory Council, naturopathic doctor applicants 427 - 429 of the agenda were approved for registration subject to receipt of all verification documents.

On recommendation of the Midwifery Advisory Council, midwifery applicants 430 and 431 of the agenda were approved for licensure subject to receipt of all verification documents.

#### Agenda Item 5: Licensure Committee

- Agenda Item 5a: Minutes of the June 12, 2014, Licensure Committee  
Rebecca J. Hafner-Fogarty, M.D., MBA, Chair of the Licensure Committee, presented the minutes of the June 12, 2014, Licensure Committee Meeting.

Dr. Hafner-Fogarty stated that for the board's information, the person listed in the Application Review Section declined to sign the Committee's proposed order and was given the opportunity to withdraw their licensure application, which the applicant did.

Dr. Hafner-Fogarty explained that a temporary permit is necessary when an applicant is going through the reentry process and is refreshing their clinical skills.

The minutes and actions of the June 12, 2014, meeting of the Licensure Committee were received and approved as circulated.

#### Agenda Item 7: Fiscal Years 2013 and 2014 Statistical Report

Robert Leach, JD, Executive Director, presented the 2013 and 2014 Fiscal Year Statistical Report.

Mr. Leach noted that the Statistical Report is usually presented at the September board meeting, but because of improvements in technology, the statistical report is and will be presented at every July board meeting. This will allow the Minnesota Medical Association to present the Statistical Report to its Reference Committee at its Annual Meeting in September.

The number of credentials that were issued last fiscal year continues to grow, as well as the number of total of professionals that are regulated.

There was a significant decrease (28%) in the number of complaints the board received last fiscal year; it is unclear why.

The number of board actions taken during fiscal year 2014 (73) increased slightly over fiscal year 2013 (68). The board may anticipate a reduced number of disciplinary actions over the next biennium, as the decreased number of complaints filed in fiscal 2014 reach resolution.

The board continues to resolve the majority of complaints within the 180 day target period. Dr. Hafner-Fogarty attributed the drop in pending cases to the hard work of the Complaint Review Committees; Mr. Leach agreed.

A motion was made and passed unanimously to accept Fiscal Years 2013 and 2014 Statistical Report.

Agenda Item 8: Executive Director's Report

Mr. Leach gave a summary of the Executive Director's Report.

Agenda Item 9: New York Times Article Regarding the Federation of State Medical Boards' Interstate Medical Licensure Compact

Mr. Leach stated that he was contacted by Robert Pear, a journalist with the New York Times, for input on an article regarding the Federation of State Medical Boards' Interstate Medical Licensure Compact. Mr. Leach referred him to Jon V. Thomas, M.D., M.B.A., because Mr. Leach felt he was a better resource on the issue. Dr. Thomas agreed to speak with Mr. Pear. The article (included in the agenda) has been published and Dr. Thomas is quoted in it.

Agenda Item 10: 2014 Statutory Changes to Minnesota Statutes Chapter 214 Regarding the Health Licensing Boards' Process for Temporary Suspension of Licensure

Mr. Leach stated that on July 1, 2014, at the Health Licensing Board Executive Directors Forum, Jason Pleggenkuhle, J.D., Assistant Attorney General, gave an overview of the statutory changes regarding the Health Licensing Boards' process for temporary suspension of licensure in Minnesota Statutes, Chapter 214. This legislation passed last session in response to the Board of Nursing articles that appeared in the Star Tribune. Currently, there is also a section in the Medical Practice Act regarding temporary suspension. The language in Minnesota Statutes, Chapter 214 is different than the language in the Medical Practice Act and it's somewhat problematic.

Sara P. Boeshans, J.D., Assistant Attorney General gave an overview of the new statutory language in Chapter 214 regarding temporary suspension.

- In the Medical Practice Act Statute, the board *may* do a temporary suspension if the board finds a risk of serious harm to the public. It is discretionary. Under the new statute, it is *required* and it is no longer discretionary.
- In the Medical Practice Act Statute, it is a *serious risk of harm*. In Minnesota Statutes, Chapter 214, it is an *imminent risk of harm*.
- In the Medical Practice Act Statute, *if the board finds*. In Minnesota Statutes, Chapter 214, *there must be probable cause*.
- In Minnesota Statutes, Chapter 214, the board has the discretion to hold the hearing for a contested case in front of an independent Administrative Law Judge, or hold the hearing itself. Ms. Boeshans advised the board against holding its own contested case hearings.
- In Minnesota Statutes, Chapter 214, it is not entirely clear on the length of time to make a decision. It states *if the board has not completed its investigation and issued a final order within 30 days, the temporary suspension shall be lifted*. It isn't clear when the 30 day count begins.

Ms. Boeshans recommended that the board use the new statute Chapter 214 for issuances of temporary suspensions.

Mr. Pleggenkuhle recommended to the Health Licensing Board Executive Directors Forum that the boards, as a unit, go to the legislature next year and clarify the 30 day provision. Mr. Leach felt that the temporary suspension in statute in the Medical Practice Act should also be removed at that time.

Ms. Boeshans stated that the Attorney General's Office is willing to work on suggestions for language and to help clarify what needs to be done.

Dr. Hafner-Fogarty suggested that the Policy and Planning Committee discuss this and create effective language changes to the new statute.

Mr. Leach stated that at the Health Licensing Board Executive Directors Forum it was decided to put together a workgroup to determine what language needs to be changed. Mr. Leach agreed that the Policy and Planning Committee should meet to provide some recommendations to the full board and Ms. Martinez can work with the workgroup of the Executive Directors Forum.

Agenda Item 11: Corrective and Other Actions

An Order for Temporary Suspension and an Order after Hearing included in the agenda are for information only.

Additional Agenda Item: Use of the Degree, M.D., Used by Physicians Without Degrees or With Other degrees From Other Countries

Mr. Leach apologized for not providing this agenda item to board members prior to the board meeting.

Mr. Leach stated that he has recently been contacted by two different physicians who have gone to accredited foreign medical schools that would like to use the title M.D. One has an M.B., B.S., degree and the other graduated from a medical school that doesn't grant degrees (which is not uncommon).

Mr. Leach stated that he, Ms. Martinez, and Elizabeth Huntley, J.D., of board staff recently discussed this issue and thought it may clear up confusion in the mind of the public if all physicians used the title M.D. Mr. Leach stated that it would require a statutory change. This wouldn't mean that the board is conferring the degree M.D., but it would allow physicians that do not hold an M.D. degree, once they are licensed in the state of Minnesota, to use the M.D. title.

After a lengthy discussion, the board decided it does not want to allow physicians that were not granted a M.D. degree, to use the title of M.D.

A motion was made and passed unanimously to adjourn from public session.

*End of public session.*

**EXECUTIVE SESSION**

The following Board members were present for both Public and Executive Sessions, unless otherwise indicated: Keith H. Berge, M.D., President; Mark A. Eggen, M.D., Vice President; V. John Ella, J.D., Secretary; Sarah L. Evenson, J.D., MBA; Rebecca J. Hafner-Fogarty, M.D., MBA; Subbarao Inampudi, M.B., B.S., FACR; Irshad H. Jafri, M.B., B.S., FACP; Kelli Johnson, MBA; Gerald T. Kaplan, MA, LP; Patricia J. Lindholm, M.D., FAAFP; Charles F. Moldow, M.D.; and Joseph R. Willett, D.O., FACOI

**KEVIN J. BARDWELL, M.D.**

On recommendation of the Complaint Review Committee, the Board approved the Stipulation and Order for reprimand signed by Dr. Bardwell.

**CHENG L. CHI, L.Ac.**

On recommendation of the Complaint Review Committee, the Board approved Stipulation and Order for reinstatement of license with conditions signed by Mr. Chi.

**ALICIA A. FRANKWITZ, D.O.**

On recommendation of the Complaint Review Committee, the Board approved the Stipulation and Order for reprimand and conditioned license signed by Dr. Frankwitz.

**ANN K. FRIEDMANN, M.D.**

On recommendation of the Complaint Review Committee, the Board approved the Stipulation and Order for voluntary surrender of license signed by Dr. Friedmann.

**FLETE W. GRAY, P.A.**

On recommendation of the Complaint Review Committee, the Board approved the Stipulation and Order for reprimand and conditioned license signed by Mr. Gray.

**KARLA R. JOHANNING, P.A.**

On recommendation of the Complaint Review Committee, the Board approved the Stipulation and Order for reinstatement of license with conditions and stayed suspension signed by Ms. Johanning.

**KEVIN A. KIMM, D.O.**

On recommendation of the Complaint Review Committee, the Board approved the Stipulation and Order for reinstatement of license with conditions and restrictions signed by Dr. Kimm.

**JOSEPH J. PIETRAFITTA, M.D.**

On recommendation of the Complaint Review Committee, the Board approved the Stipulation and Order for restricted license signed by Dr. Pietrafitta.

**MEHGABHUTI ROTH, M.D.**

On recommendation of the Complaint Review Committee, the Board approved the Stipulation and Order for reinstatement of license, with restrictions and stayed suspension signed by Dr. Roth.

There being no further business, the meeting was adjourned.



V. John Ella, J.D.  
Secretary  
MN Board of Medical Practice

September 5, 2014  
Date