

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

March 8, 2014

The Minnesota Board of Medical Practice met on March 8, 2014, at its offices in Minneapolis, Minnesota.

The following Board members were present for both Public and Executive Sessions, unless otherwise indicated: Mark A. Eggen, M.D., Vice President; V. John Ella, J.D., Secretary; Debbie J. Boe; Sarah L. Evenson, J.D., MBA; Rebecca J. Hafner-Fogarty, M.D., MBA; Subbarao Inampudi, M.D., FACR; Irshad H. Jafri, M.D., FACP; Kelli Johnson, MBA; Gerald T. Kaplan, MA, LP; Patricia J. Lindholm, M.D., FAAFP; Gregory B. Snyder, M.D., DABR; Maria K. Statton, M.D., Ph.D.; *Jon V. Thomas, M.D., MBA; and Joseph R. Willett, D.O., FACOI

*Jon V. Thomas, M.D., MBA was not present for the Executive Session of the meeting.

PUBLIC SESSION

Agenda Item 1: Call to Order and Roll Call

Keith H. Berge, M.D., was absent; therefore, the meeting was called to order by Vice President, Mark A. Eggen, M.D.

Agenda Item 2: Minutes of the November 9, 2013, Board Meeting

The minutes of the January 11, 2014, Board meeting were received and approved as circulated.

Agenda Item 3: Presentation by the Center for Personalized Education for Physicians (CPEP)

Beth Korinek, CPEP CEO and Gary Secino, Outreach and Communications Manager, made a presentation to the board on CPEP's Operations and Services.

Mr. Leach encouraged CPEP to continue offering the Learning Summit, a two-day overview of CPEP process. The Learning Summit is sponsored by CPEP and is intended for board members and staff. Ms. Korinek was grateful for the feedback and stated that the course is usually offered every year. The Board of Medical Practice has sent several board members and staff and all found it to be extremely beneficial in understanding how respondents are evaluated.

A question and answer session followed.

The board took a five-minute break.

Agenda Item 4: Licensure and Registration

On recommendation of the Licensure Committee, physician applicants 1 - 180 of the agenda were approved for licensure subject to the receipt of verification documents.

On recommendation of the Licensure Committee, physician applicants 181-185 of the agenda were approved for Emeritus registration.

On recommendation of the Acupuncture Advisory Council, acupuncturist applicants 186-190 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 191 - 201 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 202 - 241 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 242 - 255 of the agenda were approved for licensure subject to the receipt of verification documents.

On recommendation of the Naturopathic Advisory Council, naturopathic doctor applicants 256 - 257 of the agenda were approved for registration subject to receipt of all verification documents.

Agenda Item 5: Licensure Committee

- o Agenda Item 5a: Minutes of the February 20, 2014, Licensure Committee
Rebecca Hafner-Fogarty, M.D., MBA, was unable to attend the Licensure Committee Meeting, therefore, Irshad H. Jafri, M.D., FACP, member of the Licensure Committee presented the minutes of the February 20, 2014, Licensure Committee Meeting.

Dr. Jafri summarized the Licensure Committee actions and Administrative Issues.

The minutes and actions of the February 20, 2014, meeting of the Licensure Committee were received and approved as circulated.

Agenda Item 6: Discussion on the Federation of State Medical Boards' (FSMB) Report on the Model Policy on the Appropriate Use of Telemedicine Technologies in the Practice of Medicine

Greg Snyder, M.D., DABR, member of the FSMB State Medical Boards' Appropriate Regulation of Telemedicine (SMART) Workgroup, summarized the *FSMB Report on the Model Policy on the Appropriate Use of Telemedicine Technologies in the Practice of Medicine* (included in the board agenda).

Jon Thomas, M.D., MBA, FSMB Chair, summarized discussions held in the SMART Workgroup that led to the creation of the *FSMB Report on the Model Policy on the Appropriate Use of Telemedicine Technologies in the Practice of Medicine*.

Dr. Thomas also explained that when the *FSMB Report on the Model Policy on the Appropriate Use of Telemedicine Technologies in the Practice of Medicine* was sent out for comment to the state medical boards and other interested parties, it was stamped confidential/not for distribution because the FSMB did not want it published to the general public. The policy of the FSMB is to distribute documents to the Executive Directors and Presidents of state medical boards, not to individual board members. The FSMB leaves it up to the Executive Directors to decide whether or not to distribute the document to their board members.

Mr. Leach apologized to the board because the document was not distributed to board members. It was marked confidential/not for distribution and could not be discussed in the Public or Executive Session of the board meeting. . Therefore, the board didn't have a chance to provide their comments before the *FSMB Report on the Model Policy on the Appropriate Use of Telemedicine Technologies in the Practice of Medicine* went before the FSMB Board of Directors in February, 2014.

The board discussed how they could provide their comments on the *FSMB Report on the Model Policy on the Appropriate Use of Telemedicine Technologies in the Practice of Medicine* before the Report is finalized.

- Dr. Thomas noted that this is not the final version of the *FSMB Report on the Model Policy on the Appropriate Use of Telemedicine Technologies in the Practice of Medicine* and that changes could still be made. The FSMB Board of Directors will be meeting again to discuss this Report.
- The Board's Delegate, Joseph Willett, D.O., could present the board's recommended changes at the FSMB Reference Committee.
- Drs. Thomas and Snyder asked board members to give them their comments and they would bring them to the FSMB Reference Committee.

There was a lengthy discussion about the process of distribution of FSMB documents for comment:

- Mr. Leach suggested that the executive directors of state medical boards receive an e-mail not to distribute the document to anyone other than their board members.
- Board members suggested a mechanism to discuss private FSMB documents in either Public or Executive Session.
- The question was asked if the FSMB broke any policies by sending out confidential/not for distribution to executive directors so they could misinterpret this and not forward to their board members and was it unintentional.
- Sending a notification to all the FSMB Membership through the FSMB electronic newsletter with a link to a password protected site to view FSMB documents for comments.
- Dr. Snyder will bring Mr. Leach's suggestion that it be explicit that the FSMB wants feedback from board members and Dr. Thomas will speak with Hank Chaudhry, D.O., FSMB President/CEO, regarding the boards concerns with how FSMB documents for comment are distributed.

Possible changes discussed by the board on the *FSMB Report on the Model Policy on the Appropriate Use of Telemedicine Technologies in the Practice of Medicine*.

- Request clarifying the statements of establishing the physician/patient relationship being based on the standard of care.
- That a statement be included in the Report that the physician/patient relationship begins when a Consent for Care form is signed by the patient.
- Question if the statement "Hold harmless clause for information lost due to technical failures" needs to be in the Report:
- Request that the statement "Treatment, including issuing a prescription based solely on an online questionnaire, does not constitute an acceptable standard of care" either be removed or rewritten to clearly differentiate between a simple on-line questionnaire and an adaptive interview. Practice should be based on evidence based medicine.

It was pointed out that this is a guideline that each state medical board can decide how to modify and implement it. The board could then have a robust discussion about what is appropriate for this state and how the board can protect the public.

It was requested that Dr. Hafner-Fogarty bring up evidence based medicine in the context of telemedicine at the FSMB Annual meeting.

Additional Agenda Item: Legislative Update

House File 1898 and Senate File 1890, Changes to the Health Professional Services Program (HPSP)

Shirley Brekken, MS, RN, Executive Director of the Minnesota Board of Nursing, was asked to give an overview of the bill.

- The bill would change the structure and operation of HPSP. The bill is in response to a series of negative newspaper articles regarding the Board of Nursing from October to December of 2013. The bill was intended to fill some gaps in the disciplinary process that the newspaper articles focused on.
- It requires the health related boards to contract with HPSP. Currently, the health related boards operate HPSP through an Interagency Agreement. The bill would create a new Advisory Committee which would be comprised of appropriately 45 individuals.
- It requires that upon discharge from HPSP for violation of the Participation Agreement, the board issue a temporary suspension to the licensee. The board then has up to 60 days to investigate the matter. If it is not resolved within the 60 days, the temporary suspension is lifted.
- The Department of Administration would provide the oversight of HPSP.
- The bill was heard in the Senate on March 5, 2014 and received a lot of negative discussion. Senators, Eaton, Lourey, Nienow, and Marty were critical of some of the requirements of the bill. Senator Sheron offered some amendments and offered to discuss other concerns as well.
- The House File will be heard on March 11, 2014.
- Any drug diversion by a health care provider must be reported to their board. Currently, only diversion of a patient's drugs is required to be reported to the individual's board.

House File 2803, Creation of a Partnership between the Board of Nursing and the Board of Medical Practice Regarding the Regulation of Advanced Practice Nursing

Representative Liebling introduced HF 2803 which would create a partnership in regulating advanced practice nurses between the Board of Medical Practice and the Board of Nursing. The Board of Nursing would still be responsible for licensing. The advanced practice nurse licensed by the Nursing Board would also be required to register with the Board of Medical Practice. The Board of Medical Practice would be responsible for appointing physicians who work with advanced practice nurses to a sub-committee to review disciplinary cases and make recommendations for disciplinary action to the Board of Nursing. It's unclear if the members for this sub-committee would come from the current board members or if the Medical Board would have to contract with the physicians.

Removal of the Cap on the Number of Physician Assistants a Physician can Supervisor

Mr. Leach stated that there is a bill pending that would remove the cap on the number of physician assistants that a physician can supervise.

Mr. Leach informed the board that the Lieutenant Governor has an interest in ensuring that returning military members have the opportunity to expeditiously receive professional licenses when they return home. The Board of Medical Practice already has a provision to issue a temporary permit prior to full licensure.

Mr. Leach excused himself; he had a funeral to attend and asked Ruth Martinez, MA, Complaint Review Supervisor, to take over his duties.

Agenda Item 7: FSMB Minnesota Welcome Reception Update

Ms. Martinez stated that she has been working with Dr. Hafner-Fogarty and Sarah Evenson, J.D., MBA, to organize the Reception. Ms. Martinez stated that the Reception will be held on Wednesday, April 23, 2014, from 5:30 P.M. to 6:30 P.M. The token give-aways this year are miniature SPAM banks.

It was noted that Ms. Evenson did an excellent job on the flyer, which will also be made into a poster, for the Reception.

Ms. Martinez requested that board members inform her as soon as possible whether or not they will be attending and if they are bringing a guest to the Thursday, April 24, 2014, board dinner.

Agenda Item 8: FSMB Annual Meeting Instructions

Dr. Eggen informed board members that the annual meeting of the Federation of State Medical Boards will be held April 24 – 26, 2014, in Denver, Colorado at the Hyatt Regency Denver. Dr. Eggen instructed board members on the reservation procedures and advised them to follow the instructions provided in their agenda books.

Agenda Item 9: Status Update on the FSMB Department of Health's Practice Demographic Survey and the FSMB Minimum Data Set

At the January 11, 2014, board meeting, it was requested that Dr. Eggen contact the Minnesota Department of Health, Office of Rural Health for an update on the progress of moving the survey questionnaire before the payment in the on-line renewal rather than after. Dr. Eggen informed the board that the Department of Health received some grant money to upgrade their server and they revised their questionnaire to be before the payment rather than after. It is now in the beta testing phase with the Board of Social Work and Behavioral Health. The update should be released to the Medical Board shortly.

End of public session.

EXECUTIVE SESSION

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*Jon V. Thomas, M.D., MBA was not present for the Executive Session of the meeting.

MICHAEL V. BAICH, M.D.

On recommendation of the Complaint Review Committee, the Order for unconditional license was approved.

RUSTY BURRESS, P.A.

On recommendation of the Complaint Review Committee, the Stipulation and Order for indefinite suspension signed by Mr. Burress was approved.

WENDELL C. DANFORTH, M.D.

On recommendation of the Complaint Review Committee, the Stipulation and Order for indefinite suspension signed by Dr. Danforth was approved.

VERN E. ERICKSON, M.D.

On recommendation of the Complaint Review Committee, the Order for unconditional license was approved. Dr. Willett abstained.

TODD J. GAVIN, M.D.

On recommendation of the Complaint Review Committee, the Order for unconditional license was approved.

CHRISTOPHER N. MOGA, M.D.

On recommendation of the Complaint Review Committee, the Order for unconditional license was approved.

SEAN T. O'GRADY, M.D.

On recommendation of the Complaint Review Committee, the Stipulation and Order for conditioned license signed by Dr. O'Grady was approved.

There being no further business, the meeting was adjourned.



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

May 1, 2014
Date