

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

May 9, 2015

The Minnesota Board of Medical Practice met on May 9, 2015, 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., President; Subbarao Inampudi, M.B., B.S., FACR, Vice President; Charles F. Moldow, M.D., Secretary; V. John Ella, J.D., Sarah L. Evenson, J.D., M.B.A.; Dr. Eduardo T. Fernandes; Rebecca J. Hafner-Fogarty, M.D., M.B.A.; Irshad H. Jafri, M.B., B.S., FACP; Kelli Johnson, M.B.A.; Gerald T. Kaplan, M.A., L.P.; Allen G. Rasmussen, M.A.; Maria K. Statton, M.D., Ph.D.; Jon V. Thomas, M.D., M.B.A.; 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 Board President Mark A. Eggen, M.D. Roll call was taken by Board staff.

Agenda Item 2: Minutes of the January 10, 2015, Board Meeting

The minutes of the March 14, 2015, Board meeting were received and approved as circulated.

Agenda Item 3: Updating Board Procedures and Practice Act

In follow-up to discussion at the March 5, 2015, joint Licensure and Policy & Planning Committee meeting, and initial discussion at the March 14, 2015, Board meeting, the Board resumed its discussion of whether and how to update the Medical Practice Act and Board procedures.

Discussion included:

- Each of the Board's committees (Licensure, Policy & Planning, and Complaint Review) could meet and identify specific changes to the Medical Practice Act, prior to a taskforce being created.
- The Policy & Planning Committee could develop a process for updating the Medical Practice Act and Board procedures, and bring it back to the Board for consideration.
- There should be an absolute time-line for any proposed process.
- Preliminary work should be done to prepare for changes, such as meeting with legislators and interested stakeholders to ensure an understanding of what and why the Board is requesting changes to the Practice Act.
- Board staff should review internal procedures and how staff is carrying out the Board's business.

Discussion regarding specific sections of the Medical Practice Act included:

- Review licensure requirements to determine if there should be any changes or clarifications made, including review of International medical graduate and telemedicine

language. If the Interstate Medical Licensure Compact passes this legislative session, it may prompt revisions to the Medical Practice Act.

- Language should be revised to allow appointment of more than one osteopath to serve concurrently on the Board and osteopathic references should be updated throughout the statute.
- Review disciplinary language to determine if there should be any changes or clarifications made, including review of grounds for disciplinary action.

Jon Thomas, M.D., M.B.A., made a motion for the Board to develop a process for reviewing potential improvements to the Medical Practice Act, Chapter 147 of Minnesota Statutes at the Board's upcoming committee meetings. Sarah Evenson offered an amendment that the Policy and Planning Committee, rather than the Board, should develop the process and present a recommendation to the Board at the September 12, 2015 Board meeting. The amendment was accepted and the amended motion passed unanimously.

Agenda Item 4: Public Outreach

At the March 14, 2015, Board meeting, V. John Ella, J.D., suggested that the Board approach Twin Cities publications to explain the mission of the Board or to provide a link to the Board's website in publications. The discussion was tabled until the May Board meeting.

Mr. Ella stated that Twin Cities publications are an entry way for the public to select a physician. Perhaps the Board should request that the magazines include a statement directing the public to the Board's website for disciplinary information regarding physicians. When Mr. Ella contacted one of the publications, they stated they do not check physicians for disciplinary action.

Ms. Martinez stated that, after listening to presentations on outreach activities at the FSMB Annual Meeting, she felt that the Board is behind the times when it comes to public outreach. Ms. Martinez suggested that a portion of the Board's budget should be directed toward public outreach.

Suggestions for public outreach included:

- Social Media is now used by several states, including North Carolina, which employs two full-time staff members to conduct public outreach.
- An annual report summarizing what the Board has accomplished in the past year. The Iowa Board publishes an annual report. Ms. Martinez offered copies of Iowa's Annual Report for review.
- Newsletter, either electronic, hard copy, or both. Many states publish an e-newsletter. North Carolina publishes both a paper and an electronic newsletter.
- The Board needs to be responsive to licensees of all ages. Ms. Martinez suggested that the Board review methods for public outreach, either by a standing committee of the Board or by a committee of Board members interested in the subject.
- Sarah L. Evenson, J.D., M.B.A., suggested that, as a first step into social media, at least once a month a Board member could write a two or three paragraph paper on a topic. Topics could be determined on a yearly basis along with a set publication schedule. Topics should appeal to various audience members.
- Provide information on how to file a complaint with the Board.

- Contract with a part-time communication professional to advise the Board on public outreach and appropriate topics, such as:
 - Opioid prescribing
 - Interstate Medical Licensure Compact

Ms. Martinez stated that public relations and communication services have been added to the Board's annual plan for contracts.

Mr. Ella suggested that the Policy and Planning Committee meet and develop a list of recommendations for public outreach. Mr. Ella stated that there probably will be a Policy and Planning Meeting prior to the next full Board meeting.

Dr. Thomas made a motion that the Policy and Planning Committee review possible outreach efforts for the Board. Motion passed unanimously.

Agenda Item 5: Licensure and Registration

On recommendation of the Licensure Committee, physician applicants 1 – 255 of the agenda were approved for licensure subject to the receipt of verification documents.

On recommendation of the Licensure Committee, physician applicants 256 – 262 of the agenda were approved for Emeritus registration.

On recommendation of the Acupuncture Advisory Council, acupuncturist applicants 263 – 267 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 268 – 270 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 271 – 295 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 296 – 313 of the agenda were approved for licensure subject to the receipt of verification documents.

On recommendation of the Traditional Midwifery Advisory Council, traditional midwife applicants 314 – 316 of the agenda were approved for licensure subject to receipt of all verification documents.

Agenda Item 6: Licensure Committee

- Minutes of the April 16, 2015, Licensure Committee
Rebecca J. Hafner-Fogarty, M.D., M.B.A., Chair of the Licensure Committee, presented the minutes of the April 16, 2015, Licensure Committee Meeting.

The minutes and actions of the April 16, 2015, meeting of the Licensure Committee were received and approved as circulated.

Agenda Item 7: Executive Director's Report

Ruth Martinez, M.A., Executive Director, provided a summary of the Executive Director's Report.

- On March 19, 2015, the Legislative Auditor released a report (OLA Report) regarding the University of Minnesota, Department of Psychiatry. Board staff were interviewed as part of that audit. On March 26, 2015, a link to the OLA Report was e-mailed to Board members.
- On March 31, 2015, Medical Coordinator Alison Coulter, M.D., retired from her consulting work as a Medical Coordinator. Dr. Coulter had been under contract with the Board for over twenty-years. Dr. Coulter also served as a mentor and trainer to every medical coordinator since she came to the Board. Dr. Coulter will be invited to the September 12, 2015, Board meeting for formal recognition and to receive a Board Service Award.
- At the April 7, 2015, Executive Directors' Forum, executive directors of the health related licensing Boards were updated on the implementation of criminal background checks. Each health related licensing Board must implement background checks by January 2018.

Criminal background checks are underway and are incrementally being implemented at the health related licensing Boards. Recently, the first criminal background check was conducted for an applicant to the Board of Physical Therapy.

The Board of Medical Practice was initially slated to implement criminal background checks closer to the final implementation deadline; however, because criminal background checks are a requirement for the Interstate Medical Licensure Compact, which will likely pass this legislative session, the Board may seek to implement criminal background checks at an earlier date.

Board members raised several questions regarding the criminal background check process, including:

- Will there be an annual criminal background check after the initial background check? If not, does the statute prohibit the Board from doing background checks more often?
Jason Pleggenkuhle, Assistant Attorney General, stated that the statute doesn't appear to require an annual background check. The background check is done at the time of the initial application.
- Will background checks be run on all licensees or just initial applicants?
Mr. Pleggenkuhle believes that, as part of the implementation process, everyone who currently holds a license will have a criminal background check run. After that, the criminal background check will only be run on initial applicants.
- Can the language in statute be changed to include additional background checks?
Ms. Martinez stated that the language is written into Chapter 214, which affects all of the health licensing boards. If the Board wants to change the language, all of the health licensing boards would have to be supportive of changes to the language.
- Is the Board charging applicants for processing the criminal background check?
Ms. Martinez stated, yes.
- Ms. Martinez suggested that Sean McCarthy, Director of the Criminal Background Check Unit, be invited to a Board meeting to provide a presentation. Gerald Kaplan, M.A., L.P., suggested that the presentation regarding criminal backgrounds be scheduled soon.

- On April 13, 2015, the National Governor's Association met. The Department of Human Services has convened a state opioid oversight project (SOOP). The Board of Medical Practice along with other health licensing boards including the Boards of Nursing and Pharmacy, have been invited to participate. Ms. Martinez feels it is a very important topic and it is important to accept the invitation to participate.
- On April 17, 2015, Ms. Martinez met with attorney James Dorsey, of Fredrikson & Byron, P.A. Mr. Dorsey serves as Chair of the US Attorney's Forum on Criminal Justice regarding prescription opioid abuse. Mr. Dorsey has a slightly different perspective than the National Governor's Association on prescription opioid abuse. Ms. Martinez asked Mr. Dorsey to keep her informed on the Forum's progress.
- On April 21, 2015, Ms. Martinez attended the Administrators in Medicine (AIM) Annual Meeting in Fort Worth, Texas. Ms. Martinez felt it was a very good meeting this year.

Pertinent topics included:

- Presentation on the National Practitioner Databank.
The National Practitioner Databank stated that Boards should be reporting all Orders, including Orders based solely on illness or addiction. The Board has not been reporting these Orders based on an exemption in the Board's statute. The Board has previously been allowed to apply the exemption to include Databank reporting. Ms. Martinez will review the statutes and Databank reporting requirements to ensure that the Board is in compliance. This may require some housekeeping changes to the statutory language.
- Presentation from the American Health Information Management Association (AHIMA) on Electronic Health Records.
At a presentation by AHIMA regarding electronic health records, many people expressed frustration with accessing complete data and obtaining electronic health records in a format that is user friendly. The presenter, Catherine Downing, seemed surprised that regulators were experiencing these types of problems. Ms. Downing was very aware that the Board, as a regulatory Board, is exempt from HIPPA. Ms. Downing made recommendations for what and how the Board should request the legal electronic record. Ms. Martinez spoke with Ms. Downing after the presentation and obtained her contact information.
- From April 22 to 25, 2015, twelve Board members and two Board staff members attended the Federation of State Medical Boards' Annual Meeting in Fort Worth, Texas. Highlights from the FSMB Annual Meeting include:
 - Former Board member Dr. Gregory Snyder was elected to a three year term on the FSMB Board of Directors.
 - Current Board President Dr. Mark Eggen was elected to a one year term on the FSMB Board of Directors.
 - Current Board and Complaint Review Committee member Kelli Johnson, M.B.A., was elected to the FSMB Nominating Committee.
 - Current Board member and Licensure Committee Chair Dr. Rebecca Hafner-Fogarty was honored by the FSMB Foundation for her participation and contributions as a member of the FSMB Foundation's Board of Directors.
 - Dr. Jon Thomas completed his term on the FSMB Board of Directors. Dr. Thomas has actively participated in FSMB business for over twenty years.

Ms. Martinez congratulated and acknowledged the accomplishments of Minnesota's representatives at the FSMB. The Board gave a round of applause. Ms. Martinez noted how engaged Minnesota's Board members are at the FSMB. Ms. Martinez is very proud of the on-going efforts by members of the Board at both the state and national level.

- Former Board Executive Director Robert Leach, J.D., was honored at the FSMB Annual meeting and received the FSMB Distinguished Service Award. Ms. Martinez congratulated Mr. Leach.
- Minnesota hosted a Welcome Reception on Wednesday, April 22, 2015. Dr. Hafner-Fogarty thanked Ms. Martinez and Ms. Evenson for their work on the Minnesota Welcome Reception. The Board gave them a round of applause. It was noted that, after fifteen years, the Minnesota Welcome Reception is finally in the FSMB Official Program and was held in a desirable location.
- On April 29, 2015, a combined meeting of the Board's medical coordinators was held at the Board offices. Several members of the Board staff and the Attorney General's office also attended the meeting. Medical coordinators discussed how they approach case reviews, and how they develop recommendations for further investigation and case resolution. Because Dr. Coulter is no longer under contract with the Board, the workload has shifted and will be monitored to determine whether or not another medical coordinator should be hired.
- On May 5, 2015, Senior Licensure Specialist Pat Hayes retired from the Board after a twenty six year career. Ms. Hayes was an amazing resource both internally and externally. Although Ms. Hayes was not present, Ms. Martinez offered congratulations and the Board gave a round of applause.
- Ms. Martinez welcomed Tami Trinka to the Board. Ms. Trinka replaces Matt Heffron as a Senior Analyst. She has a wealth of experience as an investigator at the Attorney General's Office for twenty-two years. The Board gave Ms. Trinka a round of applause. Ms. Trinka thanked the Board for the opportunity and looks forward to a long career with the Board.

Jon V. Thomas, M.D., M.B.A., suggested that the Executive Director's Report be posted as a newsletter on the Board's website.

Agenda Item 8: Legislative Update

Ms. Martinez acknowledged the Minnesota Medical Association (MMA) for helping her get acquainted at the legislature, keeping her up to date on pending bills, and monitoring Board items of interest. Ms. Martinez requested that Theresa Knoedler, J.D., MMA's Policy Council, extend her thanks to MMA's lobbyists Dave Renner, CAE, and Erik Dick, who have been extremely helpful to Ms. Martinez.

Ms. Martinez provided an update on bills of relevance to the Board.

- Senate File 100, Right to Try Bill.
Passed and signed by Governor Dayton. This bill will allow patients who are terminally ill to try experimental medications. Twenty other states have enacted similar bills.
- Physician Assistant Bills
Two bills regarding physician assistants are moving through the legislature. Filing of the Notice of Intent to Practice is necessary to inform the Board of physician assistants' authority to prescribe. The Board negotiated out an attempt to repeal that section and, instead, revised language to allow additional time for the Notice to be filed with the Board. The bill also removes the cap on the number of physician assistants that a physician may supervise.

Ms. Martinez reminded the Board that failure to properly supervise a physician assistant is already included in the grounds for disciplinary action. The Complaint Review

Committee may also limit the supervision of other healthcare providers in a formal disciplinary order.

Ms. Martinez stated that the Board's Chapter 214 temporary suspension language clean up might be amended onto the physician assistant bill in the Senate.

The Minnesota Department of Health (MDH), Office of Unlicensed Complementary and Alternative Health practitioners is defined as a health related licensing Board in Chapter 214. MDH attached a fiscal note to the Chapter 214 temporary suspension bill, which almost terminated it. The Board engaged in negotiations to have the fiscal note removed. Ms. Martinez acknowledged Physician Assistant lobbyist Tom Lehman, who offered to amend the Chapter 214 temporary suspension bill to the physician assistant bill to get the Board's bill through this session. Ms. Martinez is hopeful that the bill will go to a floor vote the week of May 11, 2015.

➤ Genetic Counselors

A bill to license genetic counselors didn't get into committee hearings and did not progress.

➤ Traditional Midwives

A bill to move authority over traditional midwives from the Board of Medical Practice to the MDH is unlikely to pass this session, due to a significant fiscal note attached to the bill by the MDH. The cost for a license would have gone up to about \$2,000.00. The traditional midwives declined to move forward with the changes in jurisdiction, but did propose some minor housekeeping changes.

A bill may come up during the next legislative session, but a couple of points may cause problems, including:

- The Department of Health wants to make licensure mandatory rather than voluntary for the traditional midwives.
- The traditional midwives are proposing to amend the language to remove the requirement for the Minnesota Medical Association (MMA) to recommend the physician appointee to the Midwifery Advisory Council. Currently the MMA must recommend a physician for appointment to the Traditional Midwifery Advisory Council.

Ms. Martinez informed the Board that the Traditional Midwifery Advisory Council questioned whether Dr. Terrell, the MMA recommended and Board approved physician appointee to the Traditional Midwifery Advisory Council, is qualified to serve on the Council. They will discuss Dr. Terrell's qualifications at the next Advisory Council meeting on June 1, 2015.

• Prenatal Trisomy Diagnosis Awareness Act

Ms. Martinez mentioned this bill because it may impact practicing physicians. The bill passed in the House but not in the Senate. This bill would require health care practitioners for pregnant women to screen for trisomy conditions and to provide positive results to pregnant women.

• Minnesota Telemedicine Act

The Board didn't have to take a position on this bill. The bill is moving through the legislature, but hasn't passed yet.

• Interstate Medical Licensure Compact

The bill continues to do well. It has passed unanimously in the Senate and is waiting to go to the floor for a vote in the House. Ms. Martinez is very optimistic that it will also pass in the House.

- **Bill on International Medical Graduates**
The bill went through revisions and the current language is more in line with what the Board was hoping for. Ms. Martinez believes that the language on the Senate side is better than the language on the House side. Negotiations will be worked out in the Omnibus bill. Ms. Martinez doesn't think that this bill will affect the Board's Practice Act. Ms. Martinez will keep the Board updated.
- **Osteopathic Physician Legislation to Update Language**
This bill was introduced too late to meet committee deadlines. The bill was not introduced in the Senate. Ms. Martinez is optimistic that the changes will pass in the next legislative session.

Agenda Item 9: Federation of State Medical Boards' (FSMB) Annual Meeting

The FSMB Annual Meeting was previously discussed under agenda item 7, Executive Director's Report.

Ms. Martinez reminded Board members to submit reimbursement requests as soon as possible for expenses that were incurred to attend the FSMB Annual Meeting. Payments are issued by the end of the Board's fiscal year, June 30, 2015. If Board members have reimbursement questions, they should contact Accounting Officer Deb Milla or Ms. Martinez.

Agenda Item 10: Minnesota Welcome Reception

The Minnesota Welcome Reception was discussed under agenda item 7, Executive Director's Report.

Dr. Eggen thought the Reception was fabulous and wants to see the Board sponsor it again at the FSMB Annual Meeting next year.

Agenda Item 11: July 18, 2015, Board Meeting

Ms. Martinez informed the Board that the July 18, 2015, Board meeting will be held at the University of Minnesota, McNamara Alumni Center. Ms. Martinez thanked Cheryl Johnston, Board staff, for locating the room at the University of Minnesota.

Ms. Evenson may present at the meeting. Ms. Martinez is trying to schedule a presentation on misdiagnosis and missed diagnoses by Dr. Laurie Drill-Mellum.

Ms. Martinez requested that Board members send her names and contact information of people at the University who could assist the Board in promoting the meeting to the medical students and medical residents.

Dr. Hafner-Fogarty suggested contacting Kathy Brooks, M.D, M.B.A., M.P.A., Associate Professor, Department of Family Medicine and Community Health. Charles F. Moldow, M.D., suggested contacting Kathleen Watson, M.D., Senior Associate Dean for Undergraduate Medical Education or Mark Rosenberg, Vice Dean for Medical Education.

Mr. Ella requested that Dr. Eggen provide a brief overview of the Board's mission at the beginning of the July 18, 2015, Board meeting. Dr. Eggen and Ms. Martinez felt that would be appropriate.

Parking will be available at the University of Minnesota or the Green Line Light Rail is available from the Board's office. Board staff will provide information in advance of the Board meeting.

Agenda Item 12: Corrective and Other Actions

Corrective and other actions were presented for Board information only.

Agenda Item 13: New Business

Ms. Evenson stated that every year after the Federation of State Medical Boards' (FSMB) Annual Meeting, she sends a letter to the Governor of Minnesota detailing what issues were discussed at the FSMB Annual Meeting, explaining Minnesota's leadership role at the FSMB, and thanking the Governor for allowing her to continue to serve on the Board. She also explained how proactive the Minnesota Board of Medical Practice is at the FSMB. Ms. Evenson strongly encouraged other Board members to send a letter to the Governor to increase awareness on how active and proactive the Board of Medical Practice is and to make him and his staffers aware of what the Board is doing. Board members thought it was a great suggestion.

Jon V. Thomas, M.D., M.B.A., suggested that the Board invite the Governor to a Board meeting as an outreach effort, and perhaps invite some legislators as well.

A motion was made and passed unanimously to invite Governor Dayton to the July 18, 2015, Board meeting which will be held at the University of Minnesota, McNamara Alumni Center.

Dr. Thomas suggested an educational component at a future Board meeting on the Board's regulated allied professions. Specifically, he suggested an overview of what they do and what the educational requirements are for each profession.

The Board briefly discussed concerns about a new medical school planned to open in Gaylord, Minnesota.

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

EXECUTIVE SESSION

The following Board members were present for both Public and Executive Sessions, unless otherwise indicated: Mark A. Eggen, M.D., President; Subbarao Inampudi, M.B., B.S., FACR, Vice President; Charles F. Moldow, M.D., Secretary; V. John Ella, J.D., Sarah L. Evenson, J.D., M.B.A.; Dr. Eduardo T. Fernandes; Rebecca J. Hafner-Fogarty, M.D., M.B.A.; Irshad H. Jafri, M.B., B.S., FACP; Kelli Johnson, M.B.A.; Gerald T. Kaplan, M.A., L.P.; Allen G. Rasmussen, M.A.; Maria K. Statton, M.D., Ph.D.; Jon V. Thomas, M.D., M.B.A.; and Joseph R. Willett, D.O., FACOI

BYRON C. HOLTH, M.D.

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

MELANIE J. JOHNSON, M.D.

On recommendation of the Complaint Review Committee, the Board approved the Stipulation and Order for indefinite suspension of license signed by Dr. Johnson.

BLAIR A. NELSON, M.D.

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

GARRICK B. OLSEN, M.D.

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

STEVEN J. SCHULZ, M.D.

On recommendation of the Complaint Review Committee, the Board approved the Stipulation and Order for stayed suspension, reprimand, conditioned and restricted licensed signed by Dr. Schulz.

HEARINGS BEFORE THE BOARD

S. FRED EVERETT, M.D.

S. Fred Everett, M.D., appeared before the Board on May 9, 2015, for a Hearing to consider his Motion for Stay Pending Appeal of the March 18, 2015, Stipulation and Order revoking his license.

After Board deliberation, the Board issued an Order Denying Respondent's Motion for Stay Pending Appeal. Mark A. Eggen, M.D., Gerald T. Kaplan, M.A., L.P., and Maria K. Statton, M.D., Ph.D., were members of the Board's Complaint Review Committee that initially reviewed this matter and, therefore, they did not participate in deliberations and did not vote in the matter. Also, V. John Ella, J.D., did not vote in the matter.

JONATHAN G. PETERSON, M.D.

Jonathan G. Peterson, M.D., appeared before the Board on May 9, 2015, pursuant to a Notice of Hearing for Alleged Noncompliance with the Stipulation and Order adopted by the Board on January 11, 2014.

After Board deliberation, the Stipulation and Order dated January 11, 2014, is rescinded and Dr. Peterson's license is indefinitely suspended. Mark A. Eggen, M.D., Gerald T. Kaplan, M.A., L.P., Irshad H. Jafri, M.B., B.S., FACP, and Maria K. Statton, M.D., Ph.D., were members of the

Board's Complaint Review Committee that initially reviewed this matter and, therefore, they did not participate in deliberations and did not vote in the matter.

There being no further business, the meeting was adjourned.

Charles F. Moldow M.D.

Charles F. Moldow, M.D.
Secretary
MN Board of Medical Practice

July 10, 2015
Date