

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

November 10, 2012

The Minnesota Board of Medical Practice met on November 10, 2012, at its offices in Minneapolis, Minnesota.

The following Board members were present for both Public and Executive Sessions, unless otherwise indicated: Jon Thomas, M.D., MBA, President; Gregory Snyder, M.D., DABR, Vice President; Keith Berge, M.D.; Secretary; Ahsan Bhatti, M.D., FACP; Debbie Boe; Mark A. Eggen, M.D.; V. John Ella, J.D.; Sarah Evenson, J.D.; MBA; Rebecca Hafner-Fogarty, M.D., MBA; Kelli Johnson, MBA; Gerald Kaplan, MA, LP; Charles Moldow, M.D., and Joseph Willett, D.O., FACOI

PUBLIC SESSION

Jon Thomas M.D., MBA, welcomed the members of the public in attendance for the debate on the reporting of drug diversion.

The minutes of the September 8, 2012, Board meeting were received and approved as circulated with a correction noted by Dr. Thomas that his title was incorrectly stated in the minutes as President of the Federation of State Medical Boards (FSMB) Board of Directors. It should be Chair-Elect.

Dr. Thomas welcomed Charles Moldow, M.D., to the board. Dr. Moldow is currently a physician in the Primary Care Clinic at the University of Minnesota. Dr. Moldow represents Congressional District Five and replaces Ernest W. Lampe, II, M.D., on the board.

Dr. Thomas changed the order of the agenda; the debate on the reporting of drug diversion will be presented prior to the Health Professionals Services Program (HPSP) Fiscal Year 2012 Statistical Report.

Keith Berge, M.D., Board Member, Chair of the Medication Diversion Prevention Committee at the Mayo Clinic and the HPSP Program Representative for the Board of Medical Practice, Monica Feider, MSW, LICSW, HPSP Program Manager and Sheila Specker, M.D., HPSP Medical Consultant provided presentations on drug diversion.

Ms. Feider felt that this was a discussion not a debate because they share the goal of public safety. Dr. Berge agreed.

Last year legislation was introduced, authored by Senator Carla Nelson, which would require HPSP to violate their confidentiality and report a healthcare provider who has diverted drugs to that individual's health licensing board. Dr. Berge and HPSP thought that legislation was misguided and created a barrier to addicted healthcare professionals self-reporting to HPSP.

Richard Auld, Ph.D., Assistant Executive Director suggested a compromise which would require the individual's employer to report a healthcare professional who has diverted drugs to the responsible health licensing board.

Dr. Berge supports new legislation which would require employers to report diversion of drugs to the responsible health licensing board. HPSP agrees with this new legislation, however, they would like diversion defined and also define who is an employer.

Stewart Williams, J.D., public board member of the Board of Nursing and the Board of Pharmacy and the HPSP Program Representative for the Board of Nursing feels that in HPSP's statute and the Board of Nursing statute it is clear that employers are already required to report to the responsible health licensing board. The Board of Nursing feels that the current law does require HPSP to report diversion to them. The Nursing and Pharmacy boards are meeting with Kermit Fruechte, Assistant Attorney General, and Ms. Feider on November 13, 2012, to try to come to consensus on what the statutes mean. Mr. Williams stated that both the Board of Nursing and Board of Pharmacy have passed resolutions earlier this year to work with the Medical Board to obtain information about drug diversion.

After a lengthy discussion, Dr. Berge requested that board members think about this issue and in January make a decision to support legislation which would require an employer that becomes aware of a healthcare provider that has diverted drugs, to report them to the appropriate health licensing board; the reporting requirement would not apply to HPSP or any other chemical dependency provider.

Dr. Snyder asked if there are any consequences to the employer if they don't report. Mr. Leach stated that currently there are reporting obligations built into the Medical Practice Act, but there are no sanctions attached to it.

Dr. Hafner-Fogarty stated that if she were to support a change in the legislation, one of the requirements would be some significant financial penalties attached to hospital and health systems for failure to report and not just failure to report drug diversion, failure to report other kinds of patient care related disciplinary actions because those two impact patient safety.

Mr. Kaplan asked about the requirements for an employer reporting diversion to law enforcement. Dr. Berge stated that if an employer becomes aware that a felony level crime has been committed, they should report it to law enforcement. Mr. Kaplan asked if that requirement should be included in the proposed legislation, with a penalty.

Ms. Boe suggested that Mr. Fruechte attend the January 12, 2012, board meeting to answer questions regarding law enforcement reporting requirements.

The board took a five minute break.

Ms. Feider gave a brief presentation on the HPSP Statistical Report for 2012. Ms. Feider apologized for including last year's statistical report and will forward the 2012 report as soon as possible.

Dr. Hafner-Fogarty stated that if the board supports the drug diversion reporting legislative change, she'd like to include language that would fully fund and staff HPSP so they have the resources they need to do their job. Ms. Feider thanked her.

On recommendation of the Licensure Committee, physician applicants 1 - 199 of the agenda were approved for licensure subject to the receipt of verification documents.

On recommendation of the Licensure Committee, physician applicants 200 - 203 of the agenda were approved for Emeritus registration.

On recommendation of the Acupuncture Advisory Council, acupuncturist applicants 204 - 213 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 214 - 253 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 254 - 299 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 300 - 321 of the agenda were approved for licensure subject to the receipt of verification documents.

On recommendation of the Naturopathic Doctor Advisory Council, naturopathic doctor applicants 322 - 326 of the agenda were approved for licensure subject to receipt of all verification documents.

Due to the absence of Licensure Chair, Subbarao Inampudi, M.D., FACR, Rebecca Hafner-Fogarty, M.D., MBA, member of the Licensure Committee presented the minutes of the October 11, 2012, Licensure Committee Meeting. The minutes and actions of the October 11, 2012, Licensure Committee Meeting were received and approved as circulated.

Dr. Hafner-Fogarty stated that the Athletic Trainers Advisory Council nominates Andrea Nelson, ATR to the Council as an athletic trainer member and asked for board approval.

Dr. Hafner-Fogarty stated that the Licensure Committee considered a number of excellent, well-qualified applicants. Dr. Hafner gave a brief summary on how the Licensure Committee selects individuals for council appointments.

A motion was made and passed unanimously to appoint Andrea Nelson, ATR to the Athletic Trainers Advisory Council as an athletic trainer member.

Mr. Leach presented the next agenda item, the Report of the Office of the Legislative Auditor's (OLA) Evaluation of the Board's Complaint Review Process and disciplinary process.

Mr. Leach stated that as a result of the articles in the Star Tribune on the board, the Sunset Commission's legislation required the board to undergo two separate evaluation processes.

The first was for the OLA to review the board's complaint review and disciplinary process. The second process requires a study of the Medical Practice Act by a Workgroup that was organized by the Department of Health, which will be the next agenda item.

Last July the OLA sent two auditors who reviewed the board for three weeks. They reviewed all of the complaint files that were addressed in the Star and Tribune articles, as well as some additional complaint files. They also attended the July Complaint Review Committee meetings as well as the July 14, 2012, board meeting, which included Executive Session and a contested case which was also held that day.

The report of the OLA has been received and has also been sent to the members of the Sunset Commission. Mr. Leach believes there will be a hearing on the results of the audit in the next legislative session. The preliminary audit found that the board exercises due diligence in its complaint review process and does not see a need for a more in-depth audit process.

Dr. Thomas gave an overview of the September 17 and October 8, 2012, meetings of the Workgroup to Study the Medical Practice Act. Board discussion followed.

At the November 20, 2012, meeting of the Workgroup, Jim Noble, the State Legislative Auditor, will present the OLA report and his evaluation of the board's process and Ms. Feider will give a presentation on how HPSP operates.

Ms. Boe requested that board staff send out an updated meeting schedule for the Workgroup to Study the Medical Practice Act.

Mr. Leach informed the board that the Executive Director's Report is for information only.

Dr. Thomas called for FSMB resolutions. Dr. Willet suggested a resolution on the issue of mandatory employer reporting of drug diversion and requested that Drs. Berge and Eggen craft it. Dr. Berge agreed to author the resolution but didn't know the procedure. Mr. Leach suggested he contact Dr. Auld for assistance with the resolution.

Dr. Hafner-Fogarty asked the board if they want to continue to sponsor the Woman's Network Reception at the FSMB Annual meeting, and if not, requested that they support some type of activity that gives women a place to gather and network. After board discussion, it was decided to reopen the discussion at the January 12, 2012, board meeting.

Dr. Thomas stated that the Nominating Committee, consisting of himself and John Ella, J.D., met by teleconference on October 30, 2012. Tracy Tomac, M.D., was unable to participate because she is no longer on the board.

The Committee recommended the following persons to the offices listed below:

President:	Greg Snyder, M.D., DABR
Vice President:	Keith Berge, M.D.
Secretary:	Sarah Evenson, J.D., MBA
Delegate to the Federation:	Joseph Willett, D.O., FACOI

A motion was made and passed unanimously to accept the recommendations of the Nominating Committee.

Dr. Thomas presented calendar year 2013 meeting dates. Mr. Leach noted that the September board meeting date has changed from September 14 to September 7, 2013.

A motion was made and passed unanimously to approve the following dates for its 2013 meetings:

<u>Regular Board Meetings</u>	<u>Contested Case Hearings</u>
January 12	February 9
March 9	April 13
May 11	June 8
July 13	August 10
September 7	October 12
November 9	December 14

Dr. Thomas informed the board of one Corrective Action Agreement that was implemented since the last board meeting.

End of public session.

EXECUTIVE SESSION

The following Board members were present for both Public and Executive Sessions, unless otherwise indicated: Jon Thomas, M.D., MBA, President; Gregory Snyder, M.D., DABR, Vice President; Keith Berge, M.D.; Secretary; Ahsan Bhatti, M.D., FACP; Debbie Boe; Mark A. Eggen, M.D.; V. John Ella, J.D.; Sarah Evenson, J.D.; MBA; Rebecca Hafner-Fogarty, M.D., MBA; Kelli Johnson, MBA; Gerald Kaplan, MA, LP; Charles Moldow, M.D., and Joseph Willett, D.O., FACOI

CHRISTINE A. COMMERFORD, R.T.

On recommendation of the Complaint Review Committee, the Stipulation and Order for indefinite suspension of license signed by Ms. Commerford was approved.

ANN K. FRIEDMANN, M.D.

On recommendation of the Complaint Review Committee, The Order for unconditional license signed by Dr. Friedmann was approved.

MARK W. A. HOLDER, M.D.

On recommendation of the Complaint Review Committee, The Order for unconditional license signed by Dr. Holder was approved.

MELANIE J. JOHNSON, M.D.

On recommendation of the Complaint Review Committee, the Stipulation and Order for reinstatement of license, stayed suspension and conditioned license signed by Dr. Johnson was approved. Debbie Boe abstained.

STEFAN J. KONASIEWICZ, M.D.

On recommendation of the Complaint Review Committee, The Order for unconditional license signed by Dr. Konasiewicz was approved.

DR. SAMUEL B. KRIEGLER

On recommendation of the Complaint Review Committee, The Order for unconditional license signed by Dr. Kriegler was approved.

JUAN R. LEWIS, M.D.

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

JENNIFER M. RAY, M.D.

On recommendation of the Complaint Review Committee, the Stipulation and Order for reprimand and conditioned license signed by Dr. Ray was approved. Debbie Boe abstained.

SHELLY M. WILLIAMS, M.D.

On recommendation of the Licensure Committee, the Stipulation and Order for conditioned and restricted license signed by Dr. Williams was approved.

There being no further business, the meeting was adjourned.



Keith Berge, M.D.
Secretary
MN Board of Medical Practice

December 31, 2012
Date