Meeting Minutes

Emergency Medical Services Regulatory Board
April 21, 2022, 10:00 a.m.
335 Randolph Avenue, Suite 220
and on Microsoft Teams

Board members present: Dr. Aaron Burnett, J.B. Guiton, Brian Edwards, Dr. Paula Kocken, Scott Hable, Tim Held, Dr. Jeff Ho, Michael Jordan, Amber Lage, Kevin Miller, Dr. John Pate, Matthew Simpson, Tim Malchow, Ryan Kunst, Rep. John Huot, Sen. Andy Lang

Board member absent: Scott Saehr

Staff members present: Dylan Ferguson, Jana Carr-Weerts, David Rogers, Pattie Forsberg, Kathy Voss, Alex Minustin, Jamal Zayed (AAG)

1. Call to Order and Introductions
   Mr. Guiton called the meeting to order at 10:02 a.m. Mr. Edwards called the roll of members attending.

2. Review and Approve Agenda
   Mr. Guiton asked for approval of the agenda.
   Motion: Mr. Malchow moved approval the agenda Dr. Burnett seconded. A roll call vote was taken. Motion carried.

3. Review and Approve Board Minutes
   Mr. Guiton asked for review and approval of the minutes from the February 17, 2022, Board meeting. It was called out that there were some revisions and additions that were made after the first draft had been sent to board members.
   Motion: Mr. Malchow moved approval of the minutes. Dr. Ho seconded. A roll call vote was taken. Motion carried.

4. Public Comment
   A member of the public, who only identified herself as Jackie addressed the board. The nature of the comment was related to a complaint about an EMS provider that she had filed with the EMSRB. The commenter was asked not to identify any of the parties of the complaint by name, and the commenter so acknowledged. The commenter brought up multiple concerns related to the timeliness of interactions with her complaint, the severity of what had transpired with the patient, and her dissatisfaction with previous staff and members of the board.

5. Board Chair Report

The Mission of the EMSRB is to protect the public’s health and safety through regulation and support of the EMS system.

An Equal Opportunity Employer
Mr. Guiton reported that there is an MDSAC meeting scheduled for tomorrow April 22, 2022, that will have a packed agenda. Mr. Guiton additionally reported that there will no longer be regularly scheduled executive committee meetings due to the new monthly cadence of full board meetings.

6. Action Items

Mr. Ferguson led a discussion on a proposed licensure transfer from MEDS-1 to the City of Buhl. The proposed ownership transfer would transfer the license back to the City of Buhl, who at one time did own and operate the EMS license. MEDS-1 expressed a desire to exit the market April 1 but agreed to maintain coverage until the board could meet and decide on the transfer.

Mr. Ferguson highlighted the legal authority of the board to approve the transfer and went through those legal requirements and stated that all those requirements had been met. The city of Buhl did an RFP and selected Essentia Health as the winner of that RFP and the decision was ultimately made for the city to own the license and enter into an operations agreement with Essentia. Mr. Ferguson went on to specify that the base of operations location would not be changing, the license would remain a BLS license.

Mr. Ferguson highlighted the relation of this proposal to conflicting findings within the OLA audit between local control and more use of the initial licensure process. Because the license was going back to a municipality, existing law, and the fact that a competitive RFP was conducted Mr. Ferguson stated that he and agency staff were recommending the board approve the transfer. Mr. Ferguson also highlighted that representatives from both the City of Buhl and Essential Health were with us today to be able to answer any specific questions that board members might have.

Mr. Guiton called for a motion and announced that he was recusing himself due to his previous involvement in discussions.

**Motion:** Mr. Malchow motioned for the board to approve the transfer of a BLS license from MEDS-1 to the City of Buhl, MN. Dr. Pate seconded the motion. After discussion, a roll call vote was taken, motion carried with one recusal (Guiton)

Mr. Miller asked if this was a BLS license, and if it would be operated as such as he was under the impression that both MEDS-1 and Essentia were both ALS. Mr. Ferguson responded that the EMSRB has been told that it will be operated as a BLS license, as a transfer would not be permitted if the level of service changed per 144E.127.

Mr. Guiton offered the City of Buhl an opportunity to speak. Mr. Pervenanse stated that the decision for MEDS-1 caught them off guard and appreciated the boards consideration.

Mr. Guiton noted that Rep. Huot had joined the meeting and Mr. Guiton asked both Rep. Huot and Sen. Lang on their thoughts about local control with the decision before us. Rep. Huot stated that it is a difficult question with all the different opinions within the Minnesota Legislature and stated that there is no flavor in the house for big changes this legislative session, but that they would be coming. Mr. Guiton clarified his question with regards to the question and motion before the board and asked for opinions on the transfer.

Mr. Ferguson stated that we are dealing with conflicting OLA recommendations with reducing transfers and allowing local government to have a bigger say in who provides service and reiterated his and staff recommendation and stated that is the paradox the board faces today. Rep Huot’s opinion is that the board has to make the decision and that the legislature has not yet taken action on the OLA report. Rep. Huot did like the fact that Mr. Ferguson was considering the local control
aspect of this and that the board has to continue to act but feels that right now the board is discerning this decision very well. Senator Lang agreed and stated that (we should?) pretend the OLA audit does not exist for the purposes of this discussion.

Dr. Pate asked if Buhl is a BLS service, do they stay in house or would it be paid on call with pagers. Mr. Guiton responded that under MEDS-1 was staffed around the clock but was often on assignment outside the city. Mr. Newton from Essentia said their plan is was to have an ambulance in the city 24/7 with paid staff on site and only outside the PSA during transport. Dr. Pate further questioned on the use of the variance medications; Mr. Newton responded that the license would be operated in the same condition including variances that came along with it. Mr. Ferguson reported that there were some previously approved variances to the license. Mr. Guiton asked a question related to part time ALS, and Mr. Ferguson responded that any change in licensure level would require the initial licensure process.

Dr. Ho stated that this decision doesn’t seem to be that big of an issue because the existing provider is abandoning the PSA and is different from a city trying to force a takeover of a PSA and highlighted the breakups of PSA’s that could have adverse consequences.

7. Vice-Chair Report
Mr. Miller stated that the legislative committee has not met. He asked Mr. Ferguson to provide an update related to current legislative activity. Mr. Ferguson reported that the legislative waiver language was included in both the house and senate HHS omnibus bills, and that we are optimistic that some degree of regulatory relief will become available. He discussed the regional system funding bill that would fix the “switcharoo” between 144E.50 and 144E.52, there was language that was previously discussed and introduced. There is new language that has been introduced that would point all the funding towards 144E.50, and this would ensure that the regional systems would continue to have an operational budget beginning in FY 2023-2024; this language was introduced into the senate HHS omnibus bill. Mr. Ferguson highlighted a legislative amendment that would reduce the boards membership from 17 to 12, which included 3 public members. Mr. Ferguson provided a broad overview of the amendment, Mr. Ferguson reiterated that his role is to keep the board informed and stated that this topic is likely to be discussed at MDSAC tomorrow after conversations with Dr. Burnett.

Mr. Miller stated that the board has not taken a position on the board composition or the regional funding bill since it has not been discussed.

Dr. Burnett stated that he has concerns to the change in board composition particularly related to the rural aspect of it and highlighted that the MDH rural EMS sustainability survey highlights that nearly half of EMS agency medical directors are family practice physicians and excluding them from the board will decrease the amount of influence that rural providers have on the board.

Rep. Huot stated that this amendment is not in the house, and that what is happening now is sausage making, he further stated that his goal is the waivers. He says we are going to have reform regardless of this bill, but that it needs to be done carefully. We are a long way off from what reform is going to look like and probably not this session.

Senator Lang stated that when we go from 14 to 8, you are going to lose representation, but that the proportions of rural and metro are going to stay the same and that there are still physicians on the board. Rep. Huot made a good point that we need to make sure that this isn’t knee jerk and needs to be done carefully, he also stated that waivers are his number one priority. He further states that he has never seen an OLA report that was written as critically and that the board needs to take a hard
look at itself, he stated that he is open to conversation, but that we need to respond to this report, and he feels that the board has begun that.

Dr. Burnett clarified that his commitment is to use the data, and his comments are limited only to the family practice physician role and how crucial that position is.

Dr. Pate agreed with Dr. Burnett and states that family practice doctors serving as medical directors have put in a lot of effort and time assisting EMS with minor and major problems and providing resources. To cut them out of the process would certainly be a statement and would be easier and more effective to have them on the board rather than at MDSAC which only meets 2 times a year.

Mr. Jordan asked Senator Lang his thinking for how the composition was ultimately. He stated that you start from zero and use the OLA report. Senator Lang walked through each of the positions and articulated how each representative serves the state as a whole and its specific committee of interest. He states he understands that it’s a departure from where we are at and that it may be a pill to swallow, but that is where we are at. Mr. Jordan responded that he agrees with the concept, but that he offers no comment on the input of Dr. Burnett and Dr. Pate, but that as the process moves forward to get the feedback of the communities to be removed to ensure that the reorganization is as effective as possible.

Mr. Guiton stated that in a personal capacity that except for the 2 commissioners, which we are the only HLB with, but that this is almost the exact intent of the initial proposed board in the mid 90’s before it went through the political process, he also stated that he has been asking for something like this for 20 years and can’t stop now. His only concern is one related to transition, and that we have so much traction now and moving in a positive direction with the new executive director. He wants to ensure that there is some degree of transition and continuity.

Senator Lang responded that this bill is essentially a place holder, and that the political process will be playing out over the course of the next couple of weeks. Senator Lang thanked everyone for the discussion and had to leave to get to the senate floor.

Mr. Miller stated that at this point the board does not have an official position on this and appreciated the legislative delegation being present to hear concerns, but at this point we have no position other than to be neutral, unless the board wanted to take an action. Dr. Burnett responded that the MDSAC would likely have an opinion and suggestions after its meeting tomorrow. Mr. Guiton stated that the board may react to the suggestion from the MDSAC. Mr. Miller led a similar suggestion related to the regional system dollars. Mr. Ferguson stated that we have been careful not to take a position and to focus on the process and leading discussions, if we stay neutral or stand silent on the editorial change that it would probably be best, and highlighted that discussion related to seatbelt dollars would be forthcoming. Mr. Miller for the minutes just wanted to state that there had been no official action and that it was an intentional choice.

8. Secretary/Treasurer Report

Mr. Edwards led a discussion on the motion chart and stated that anything on the chart that is older than a year either acted on or not would be pulled from the list to keep us focused.

Mr. Edwards also highlighted the manager financial reports. Mr. Ferguson led a discussion on some different strategies to simplify these reports, but that we wanted to initially provide all available data in the interest of transparency.
In response to a question from Mr. Edwards Mr. Ferguson provided an overview as to the definition and what each of the different columns reflected:

--Current Budget: the amount of funding currently allocated to a line item
--Pre-Encumbered: this column is almost never used
--Encumbered/Committed: funds in this column have been allocated to a specific purchase order, invoice, or contract but has not yet been spent.
--Expended: Amount of funding that has been spent from that line item
--Unobligated: is the current budget column, with the encumbered and expended columns subtracted from it.  (Reflects funding that has not yet been assigned to a priority and is available for reassignment as needed)
--Unexpended: is current budget minus the expended column (reflects funding in the bank so to speak)

Mr. Held appreciated these reports, and appreciated the information that Mr. Ferguson provided, and suggested some highlights and suggested that some columns are going to be more important depending on where we are in the biennium and that nuance would be helpful.  Mr. Ferguson suggested that on a quarterly basis that some type of balance sheet would be helpful to simplify the issue.  Mr. Ferguson stated that his goal was to send zero dollars back to the general fund.  Mr. Ferguson also stated that we are administratively strapped, and that a quarterly update is probably the best from a workload perspective.

Mr. Guiton highlighted that this is the first financial report that we have had in years and that he is very excited.  Mr. Miller agreed with those remarks.

Mr. Edwards stated that his goal is transparency and thanked Mr. Ferguson and Ms. Carr-Weerts for their work.  He also hopes to be able to regularly report on the status of different grants and account for how that money is being spent.

Dr. Burnett appreciates the accountability and transparency.

Mr. Edwards also highlighted that the seat belt funding will be transitioning from a grant to pass through funds.  He also provided a report on the timeliness of payment report and that metric has increased from 88% to 94%, and that staff has gotten really good at processing payments, and that there has been significant progress.

9. **Executive Director Report**

Mr. Ferguson began a discussion of seat belt funding and taking time to address questions about seat belt funding that had been raised a few months back by a board member.  Seat belt funding continues to decrease significantly, and those projections are not recovering to any significant degree.  Calls a lot of things into question from a sustainability perspective.  Mr. Ferguson also discussed some of the different funding streams that go to the regions and asked if there should be a legislative discussion about broader questions of funding for the regional systems and alternatives, and that this is an issue that continues to escalate and places a squeeze on the regions.

Mr. Ferguson also discussed some of the restrictions that are on the funding and that there is a little ambiguity in this issue, and that it has been questioned by external non-EMS parties recently from a broad perspective.  He also highlighted the acceptable uses per 169.686 for the EMS relief account and the statute was read for the record, those areas of use included: personnel education and training, equipment, vehicle purchases, and operations expenses for emergency life support transportation.
services. We are in the middle of a grant year and are awaiting guidance that may come from legislative entities in the future and are taking a wait and see approach right now.

Mr. Kunst added that he met with Michael Hansen who is the Director of the Office of Traffic Safety at DPS at the request of Mr. Jordan. Mr. Hansen had some thoughts related to the decreased revenue, and how traffic volumes impact that, and have asked for some 2021 data. The seatbelt program began in 2009 and clarified that the actual citation that is received under the law by the EMSRB has not changed and has not kept up with inflation and that might be potential for legislative action. Additionally, based on some data that there are some fluctuations in the data and that there may be some funding that may have been left out over the years.

Mr. Ferguson reported that the specialists with the help of Rock County we were able to get all the unregistered MRUs in Rock County to become registered.

Mr. Ferguson also brought forth an issue with North Dakota pending rule change, which will change the naming nomenclature for EMS providers to the Canadian model, with calling them basic care paramedic, intermediate care paramedic, and advanced care paramedic. Mr. Ferguson reported that there is nothing in the law that specifically calls this out with required names. Mr. Ferguson did identify one section of law that could apply being 144E.28 Subd 5 (a) (5). Mr. Ferguson questions if this could be considered misrepresentation or deceitful given our established nomenclature.

Dr. Pate responded that he feels strongly that we have clearly delineated designations for our care providers are appropriate for Minnesota.

Mr. Guiton asked would we consider this unethical or deceitful, Mr. Ferguson responded that question was not for him to answer and that this was a determination for the board and not for him or staff. Mr. Edwards does not see this as an issue at all, and that there is no misrepresentation to the public.

Mr. Miller stated that there may be some past practice on this, where we may have sent a cease-and-desist order in the past, based on this issue and that we should review the past actions. There was some discussion on how to apply this based on where they are based vs licensed. Mr. Ferguson will have staff review past precedent and review. This will also be a matter that will be referred to the legislative workgroup.

Mr. Ferguson provided an update on progress related to the OLA workplan that was approved at the last meeting. Mr. Ferguson provided an overview of three different dashboards. One that was related to EMS licensee inspections, regulatory and compliance investigation statistics, and a separate dashboard that was created and dedicated to the EMS workforce to help support the recruitment and retention workgroup. Al of these dashboards will be put onto the website in the name of transparency and showcasing the good work that the EMSRB does. He also highlighted the impending release of an EMS workforce report.

Mr. Edwards stated that he had been asking for this type of information, especially the inflow outflow graph and was very appreciative.

Dr. Pate asked a clarifying question about the rate of certified EMT engagement rate. Mr. Ferguson responded that half the certified EMT’s did not appear on a PCR from 2019-2022 YTD, Mr. Ferguson provided some technical information for how the figures are calculated and emphasized the importance of the accuracy of EMS patient care reporting data. He went on to say that there are a lot of providers who are not working as EMS providers for any number of different factors.
Sherriff Hable asked if the inflow outflow could be broken down by certification level and stated that this data is gold and should absolutely be shared widely.

Mr. Ferguson responded that there might be a way to do it by level, but that we then lose the ability to truly look at first time entrants due to the complexity of accounting for the upgrade applications and other technological limitations.

Mr. Miller commented that he has seen the report that Mr. Ferguson has written and that it is truly comprehensive and is really well done.

Mr. Jordan wanted to briefly discuss about the dashboards and how it interfaces with the executive director evaluation process. He stated that there could be different performance measures that monitor the overall progress and effectiveness of the agency and putting benchmarks in the ground to make sure that we are timely with our work. These reports are exactly what we need to make sure that we are meeting the needs of the board. Mr. Guiton did state that he had asked for this information in the past from previous executive directors and it was never provided. Mr. Ferguson agreed with Mr. Jordan but cautioned that the underlying data must exist, and that every report is built from an excel file. There are some technological limitations, but Mr. Ferguson will continue to work to provide additional information as the technology will allow. Mr. Jordan clarified that ultimately the board had the responsibility to get this information in the past when asked. Mr. Guiton agreed with Mr. Jordan’s remarks.

Dr. Kocken asked some clarifying questions on the workforce dashboard on the dates of the PCRs that were considered. A brief discussion ensued, and Dr. Kocken stated that some additional title changes with the time changes would be best. Dr. Kocken also asked some clarifying questions on the regional bar graph. Mr. Ferguson clarified that it included all positions of the crew and not only the person signing off on the chart. Dr. Kocken felt that the titling may not be reflective of what was being presented and could be cleaned up to be less muddy.

Mr. Guiton clarified that all this information was done outside the ImageTrend suite and are resources that might not have been available in the past. Mr. Ferguson stated that was correct and that we continue to make technological improvements to do more. Mr. Ferguson also highlighted the crucial role that Mr. Rogers and the specialists have played in bringing these items to fruition.

Mr. Held suggested that from the workforce perspective to provide a small summary with conclusions and assumptions, maybe 3 or 4 bullet points. Mr. Ferguson replied that in the written report there is a great executive summary. The issue with the dashboard is that it is designed to be live and updated frequently and may not be able to have analysis written for each update, and that if we can make it live and interactive, we will be in a better place.

Dr. Pate concluded that he thinks that the data is inherently valid, because of his review of thousands of PCR reports. Mr. Ferguson agreed, and that overall, 97% of the calls had at least one valid certified person.

Mr. Guiton raised that with services of volunteer or paid on call that 10% of rostered staff do 90% of the work.

Mr. Ferguson highlighted that the data use agreement with MDH had been executed, and thanked Mr. Rogers and AAG Zayed in getting that project to the finish line.
Mr. Ferguson then transitioned the conversation to the proposed base of operations policies that the executive director had been directed to write during the March meeting. Mr. Ferguson stated he was not looking for a formal approval, but rather for any feedback that board members might have. Mr. Ferguson provided a summary of the first policy which focused on the criteria to be considered a base of operations. Mr. Ferguson asked for feedback, and none was received.

Mr. Ferguson again provided a summary of the second policy on when a base of operations is legally required. Mr. Ferguson asked for feedback. Mr. Edwards stated that these policies meet the intent that he set out with his motions and asked Mr. Jordan if these policies as proposed were acceptable to him. Mr. Jordan replied in the affirmative. Mr. Ferguson stated that these policies would be formally implemented some time next week, and that these polices will be posted on the website.

10. Staff Report and Updates
No updates

Mr. Simpson reported that the investigations group is doing well and that there would be a closed session today to address cases and appreciates the work of staff and the CRP members.

12. Data Policy Standing Advisory Committee Report
Mr. Held reported that the group has been reconvened and recently met. The main items were a clarity of the purpose and mission of the committee and how that interfaces with the Minnesota Data Practices Act and HIPAA. There was a presentation from the data practices office, to put everyone on the same page. The Committee also voted on a change to the charge and mission as it related to the IOP with a focus on collection aspects, and not necessarily how the data is used. There was also a historical review of different data requests and a significant discussion on Hospital Hub. The big action item was the establishment of a short-term subcommittee with a charge to focus on the NEMSIS 3.5.0 data set. Anyone who wants to participate in this short-term group should contact Mr. Rogers of Mr. Ferguson. Mr. Rogers reiterated that this could be accomplished with one or two meetings.

13. Medical Direction Standing Advisory Committee Report
Dr. Burnett gave a preview of the MDSAC meeting tomorrow, including a focus on clinical performance measures as a result of the OLA audit. Dr. Burnett stated that the starting point will be the National EMS Quality Alliance, formerly knowns as the COMPASS project. There would be a focus on both BLS and ALS measures.

There will also be multiple presentations from veterinary medicine, stroke, EMS for Children, along with a pediatric mental health group.

Dr. Burnett also highlighted some of the different clinical and operational data that were published to the website during COVID. This data led to an article that got published that identified an association between EMS patient care data and COVID hospitalization surges.

Mr. Rogers also provided an update that the EMSRB was beginning to revisit the potential implementation for Biospatial as a performance management tool.

14. Workgroup Reports

   Internal Operating Procedures
Group has been busy in finalizing the 90-day review process for the executive director and have been working with Ms. Voss. They will be working on some additional specifics next week. After that
they will begin work the group that will be doing the evaluation. A date has been set to deliver that evaluation.

Work continues on the standardized format of the IOP complete rebuild. Mr. Guiton thanked Mr. Malchow for his work

*Recruitment and Retention*
Mr. Saehr was absent and there was no report.

15. **Regional Program/System Updates**
Mr. Edwards reported that Mr. Greg Hayes has accepted the position of EMS Director for the Metro region.

16. **Old Business**
Mr. Guiton led a discussion on the task list for the board including that DPSAC items along with the MDH DUA are completed. Mr. Edwards asked when a completed item should be dropped before it becomes too cumbersome. Mr. Ferguson recommended that accomplishments should stay on for a couple of months to show progress and to be able to quickly reference that.

Mr. Guiton recommended potentially having 2 versions one for current and one for historical purposes but felt that one year would be good. Mr. Edwards and Mr. Guiton will have an offline discussion. Mr. Edwards asked for legal clarification as to what legally must be posted, the AAG responded that the agenda and the minutes are what is required to be posted.

Mr. Ferguson commented that the base of operation policy, and the waiver provisions could be removed due to where we are with the legislative session.

17. **New Business**
No new business came before the board

18. **Closed Session**
The board adjourned to a closed session to potentially take disciplinary action on three separate cases referred from the Complaint Review Panel, and then reconvened in an open session

19. **Adjourn**
Mr. Guiton asked for a motion to adjourn the meeting.

**Motion:** Sheriff Hable moved to adjourn the meeting. Dr. Ho seconded. A roll call vote was conducted, and the motion carried.

Meeting adjourned

**Next Board Meeting:**
May 19, 2022, 10:00 a.m.
**Location:** EMSRB Office
and by Microsoft Teams